GOVERNMENT OF INDIA
MINISTRY OF FINANCE

DIRECT TAXES ENQUIRY COMMITTEE

FINAL REPORT

DECEMBER 1971

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CHAPTER 1

INTRODUCTION

On 19th December, 1969, Shri Lokanath Misra, M.P. moved the following resolution in the Rajya Sabha on behalf of Shri Sundar Mani Patel, M.P.:—

> "This house is of opinion that Government should constitute a Committee consisting of experts and Members of Parliament to go into the failure of the Central Board of Direct Taxes, Ministry of Finance, in the timely collection of taxes and to suggest remedial measures for improving the collection system."

Replying to the resolution, Shri R. K. Khadilkar, Minister of State in the Ministry of Finance, announced the Government's decision to appoint a Committee of experts to suggest means for tackling problems of black money, tax evasion and tax arrears. Accordingly, this Committee was constituted by a Resolution dated 2nd March, 1970 of the Government of India which reads as under:

"RESOLUTION

The Government of India have decided to appoint a Committee of Experts to examine and suggest legal and administrative measures for countering evasion and avoidance of direct taxes. The Committee will consist of the following:—

1. Shri Justice K. N. Wanchoo, Retired Chief Justice of the Supreme Court of India—Chairman.
2. Shri M.P. Chitale, Hamam House, Hamam Street, Bombay-1—Member.
3. Shri S. Prakash Chopra, Chartered Accountant, 1, Prithviraj Road, New Delhi—Member.
4. Shri P. C. Padhi, Former Chairman, Central Board of Revenue and Deputy Comptroller & Auditor General, New Delhi—Member.
5. Shri D. K. Rangnekar, Economist and Editor, Economic Times, Bombay—Member.

   Shri S. Narayan, Commissioner of Income-tax—Secretary.

2. The Committee will:

   (a) recommend concrete and effective measures;

   (i) to unearth black money and prevent its proliferation through further evasion;

   (ii) to check avoidance of tax through various legal devices, including the formation of trusts; and

   (iii) to reduce tax arrears;

   (b) examine various exemptions allowed by the Tax Laws with a view to their modification, curtailment, or withdrawal,

   (c) indicate the manner in which tax assessment and administration may be improved for giving effect to all its recommendations.

3. The Committee will function in the Department of Revenue and Insurance of the Ministry of Finance.

The Committee will submit its report to the Ministry of Finance."

Background of enquiry

1.2 During the last two decades, two acute problems have come to the forefront in the field of tax administration in our country. One is the problem of black money, tax evasion and avoidance, and the other of continuous increase in arrears of uncollected taxes. Tax evasion and avoidance are as old as the tax laws themselves. We do not, by this observation, mean to justify an attitude of complacency towards this problem. As long as tax evasion or avoidance is indulged in only by few individuals on a small scale and the administration is both alert and efficient in dealing with them, there need be no cause for anxiety. But when the malady becomes endemic and manifests itself even in quarters where it is least expected, there arises the need not only for greater vigilance but also for drastic preventive and remedial measures. In recent years, the extent of black money and tax evasion has assumed such dimensions that no section of the community seems to be quite immune from their virulent grip. Even an enlightened class like the members of the legal profession does not seem to be free from this malady as has been

pointed out by M. C. Setalvad in his autobiographical work :

> "Standards of professional conduct have woefully fallen and tax evasion is freely practised by prominent seniors."[1]

Today, even honest persons, who would normally prefer to keep themselves on the right side of the law, are unwittingly or unwillingly dragged into the quagmire of black money deals. Tax arrears pose a similar challenge. There has been scathing criticism in the Parliament and the press of the failure of the administration to realise the tax dues in time. These problems have in recent years become so acute that they seem to have shaken the confidence of the public in the tax administration.

Procedure of enquiry

1.3 In order to obtain well-considered views and suggestions from the public, we issued a detailed Questionnaire on 15th May, 1970, identifying the numerous issues arising from our terms of reference. While replies to the Questionnaire were invited from the public by a press note, individual letters were addressed to State Governments, Members of Parliament, universities, eminent public men, leading lawyers, accountants, bankers and economists, top officers of some Government Departments and public sector undertakings, and senior officers of the Income-tax Department, requesting them to favour us with their replies to the Questionnaire. Similar requests were also made to Chambers of Commerce, trade and professional associations and representative bodies of income tax employees. In addition, a Supplementary Questionnaire was sent to the senior officers of the Income-tax Department so as to elicit from them first-hand information about the practical difficulties that face them and their suggestions for solving them. We also issued a Special Questionnaire to the Central Board of Direct Taxes asking for a variety of information and statistics. The response to our Questionnaires has been gratifying. The replies received have been of immense help to us in understanding the extent and depth of the problems and in formulating our recommendations. The Questionnaires and a list of persons who responded to them appear in Appendices I to IV to this report.

1.4 As we felt the need to seek clarification about certain matters arising out of some of the replies to the Questionnaires, we visited some important places for recording the views of the persons who sent replies to our Questionnaires. The venues and the duration of our visits and a list of persons who appeared before us are given in Appendix V.

1.5 We made specialised studies of various matters having a bearing on our terms of reference, as also of the procedures and practices relating to the administration of tax laws. In these studies, we also took note of the latest developments in other countries with regard to legal and administrative aspects relating to direct taxes. One of our Members, Shri S. Prakash Chopra, in the course of his private visits to U.K., West Germany and Japan, had useful discussions with senior officers of the tax administrations in those countries and studied their methods and organisation. These studies have been of considerable assistance to us. We also made on-the-spot studies of the different aspects of the working of tax offices at Delhi, Bombay, Calcutta, Madras and some other places. We visited the Indian Revenue Service (Direct Taxes) Staff College at Nagpur to have a first-hand knowledge of the facilities available for training of the officers.

1.6 Our first meeting was held at New Delhi on 16th and 17th of March, 1970. Thereafter, we met frequently and discussed the numerous legal, procedural and organisational problems that face the tax administration. In all, we met and discussed for 95 days. Our later meetings were devoted mainly to taking decisions and finalising our report.

Interim Report

1.7 Towards the end of 1970, we submitted an interim report to the Government, recommending certain immediate measures for unearthing black money and countering tax evasion. The Taxation Laws (Amendment) Bill, 1971, recently introduced in the Parliament, seeks to implement one of our recommendations.

Plan of the Report

1.8 The problems of black money, tax evasion, tax avoidance and tax arrears figure prominently in our terms of reference and we have dealt with them at length in the following three Chapters of this report. The terms of reference also require us to review the various exemptions in the direct tax laws and our recommendations in this regard are contained in Chapter 5 of the report. We have further been required to indicate the manner in which tax assessment and administration may be improved for giving effect to all our recommendations. Successful implementation of tax laws depends entirely on the efficiency of the administrative machinery which, in turn, depends on the men, methods and necessary facilities. We have closely examined the administrative set-up and procedures of the Income-tax Department and have suggested measures for toning up the administration and improving its effectiveness. These recommendations are mainly contained in Chapter

[1] Motilal C. Setalvad—My Life, Law, and other things—p. 622.

6 of the report, though several recommendations having a bearing on tax administration will be found interspersed in the other Chapters as well.

Acknowledgements

1.9 We take this opportunity to thank all individuals, chambers, associations and other organisations who found it possible to send in their well-considered views and suggestions in reply to our Questionnaire. We are also grateful to all those who so readily responded to our invitation to meet the Committee for oral discussions. Our thanks are due to the Department of Economic Affairs and the Central Board of Direct Taxes, Ministry of Finance, for supplying us with detailed information on various points as required by us. We are thankful to the State Governments of Andhra Pradesh, Gujarat, Himachal Pradesh, Kerala, Maharashtra, Tamil Nadu, Uttar Pradesh and West Bengal for the facilities they provided in connection with our tours. We are also thankful to the officers of the Income-tax Department who made excellent arrangements for our stay and for the holding of meetings.

We are grateful indeed to the High Commissions of Australia, Canada, Ceylon, New Zealand and the United Kingdom and to the Embassies of Federal Republic of Germany, Japan, Sweden and the United States of America for the valuable assistance rendered by them. We take this opportunity to thank the senior officers of the Tax Administrations of U.K., West Germany and Japan and also officers of our Embassies in those countries for enabling one of our Members, Shri S. Prakash Chopra, to make studies of their tax administrations.

We are deeply indebted to our Secretary, Shri S. Narayan, who brought to bear on the work his wide knowledge and experience of direct taxes administration, law and procedure. With his vast knowledge of economics and allied subjects, capacity and zeal for research work, tact of the highest order and great organising ability, he has been a perfect leader of the secretariat team. Arrangements made for the tours of the Committee and for the preparation and circulation of notes and other papers could not have been better. We are also grateful to the three Deputy Secretaries, Sarvashri S. Dwivedi, M. L. Choudhry and S. I. Tripathi for their devoted labour which contributed in no small measure to the successful conclusion of the work of the Committee. Shri Dwivedi had to leave us in the middle but a large part of the work had been done before he left. His contribution in this behalf was invaluable. Shri Choudhry has been with us throughout and his deep knowledge of all aspects of law, administration and procedure has been of the greatest assistance to us. Shri Tripathi, who succeeded Shri Dwivedi, has in his quite way, contributed to the work of the Committee, and his practical experience and knowledge of law, administration and procedure has been of the utmost use to us. There has been perfect team work amongst the senior officers and their aides; and their contribution to the deliberations of the Committee has been of an outstanding nature.

We wish also to express our sincere appreciation of the very high quality of technical assistance provided by the Under Secretaries, Sarvashri T. S. Krishna Murthy and K. N. Balasubramanian. The Officers on Special Duty, Sarvashri K. K. Bajaj and K. N. Dhingra made a painstaking collection and processing of a variety of data and assisted us in every way. We would also like to commend the unremitting efforts of all members of the staff, particularly the Private Secretaries, Personal Assistants and Stenographers, attached to the Committee, which enabled it to complete its work in time.

CHAPTER 2

BLACK MONEY AND TAX EVASION

INTRODUCTORY

'Black money' is an elusive term. It is, as its name suggests, 'tainted' money—money which is not clean or which has a stigma attached to it. Different persons have understood this expression differently and the term has not yet acquired a precise definition or connotation. However, black is a colour which is generally associated with evil. While it symbolises something which violates moral, social or legal norms, it also suggests a veil of secrecy shrouding it. The term 'black money' consequently has both these implications. It not only stands for money earned by violating legal provisions—even social conscience—but also suggests that such money is kept secret and not accounted for.

2.2 It was during the Second World War that the terms 'Black market' and 'black money' came into vogue. Due to imposition of various controls on distribution and prices, a clandestine market had sprung up in which things were still available, but at prices higher than the controlled ones. The term 'black money' became current to describe the money received or paid in such 'black market' deals. Since disclosure of these deals, which were entered into in violation of rules and regulations, would have invited severe penalties, these were naturally not entered in the regular books of account and, consequently, remained concealed from the gaze of the tax authorities as well. Afterwards, though black market in the commonly understood sense of the term became rare with the lifting of several controls, transactions still continued to be carried on by the unscrupulous elements in trade and industry outside their books of account, as this practice helped the parties concerned to evade, or substantially reduce, the payment of taxes thereon. With the passage of time, 'black money' acquired a wider connotation—wider than its association with black market transactions alone.

2.3 Today, the term 'black money' is generally used to denote unaccounted money or concealed income and/or undisclosed wealth, as well as money involved in transactions wholly or partly suppressed. Some consider only that as black money which had its origin in clandestine transactions and is currently in circulation. There are others who assert that this is taking too narrow a view of black money. According to them, black money denotes not only unaccounted currency which is either hoarded or is in circulation outside the disclosed trading channels, but also its investment in gold, jewellery and precious stones made secretly and even investments in lands and buildings and business assets over and above the amounts shown in the books of account.

2.4 As mentioned above, tax evasion and black money are closely and inextricably inter-linked. While tax evasion leads to the creation of black money, the black money utilised secretively in business for earning more income inevitably leads to tax evasion. While all tax-evaded income represents black money in a broad sense, all black money does not necessarily originate in tax evasion. Black money is also made through surreptitious use of 'white money'. In this sense, the proliferation of black money derives an additional impetus from the inter-mixing of 'black income' and 'white income'. This phenomenon arises essentially from the dual nature of the national economy. Thus, there is the "official" economy functioning on the basis of the official monetary system, involving open transactions financed through identifiable sources of funds, generating ascertainable income and wealth, and operating generally in conformity with government rules and regulations and the levy system. But there is another economy, a 'parallel' economy, operating simultaneously and competing with the "official" economy. This parallel economy has ramifications which go beyond one's imagination. It derives its nourishment, strength and support from a secretive, defiant, and an unscrupulous element in our society; it is based not on the official monetary system, but on a secret understanding, and involves a complex range of undisclosed deals and transactions pushed through secretly with unaccounted sources of funds, generating, in the process, income and wealth which escape enumeration or cannot be easily ascertained.

2.5 Over the years, the parallel economy has grown in size and dimensions. Almost every sign of distress and human misery would appear to have been manipulated by anti-social elements to boost the parallel economy. Black money operations and tax evasion multiplied several-fold in the wake of India's partition which resulted in an influx of refugees, untold sufferings and scarcity conditions. Strange as it may seem, planning, which gave a spur to nation-building activities, was also taken advantage of by tax evaders and black money makers. For example, the population of sundry contractors, unautho-

rised suppliers and agents, and a host of racketeers has multiplied; and their sole occupation is to discover ever-increasing vistas of secret operations, striking secret deals, and obtaining cuts and commissions, and pushing through black money operations. Almost every attempt by the Government to regulate production and distribution appears to be manipulated in some way or the other, by these elements, in their effort to extract illegal gains. In this parallel economy, there is apparently no shortage of anything, no lack of facilities, and certainly no lack of 'money', provided the price is suitably 'black'.

2.6 With the surge of planned expenditures came large government orders, massive industrial outlays, defence programmes, construction and other investments, all creating a boom psychology—one which gave a further thrust to illegal cuts, commissions and transactions and the generation of more black incomes. To mention one example, the cost of land and buildings went up resulting in new rackets; property dealings thus became a significant avenue of illegal deals, with ratios of 'white' and 'black' payments being freely mentioned. In Bombay, for example, during the period of our enquiry, the commonly quoted ratio was 60:40, that is to say, that 40 per cent. of the total amount for land or buildings had to be paid in 'black', and receipt might be issued only for 60 per cent of the payment. In some cases, the ratio may have been 50:50 or 40:60. Consequently, a significant portion of the payment remained concealed at both ends and even wealth-tax dodged. In the worst days of inflation, the artificial element of shortages has always been large; but as black money multiplied, the area of artificial shortages seems to have grown. Even otherwise, the distortions in the industrial economy, the periodic foreign exchange crisis and the rigorous import curbs have all provided a fertile field to anti-social elements to ensure that their parallel economy is kept flourishing. In an environment such as this, the smuggling of foreign goods, gold and gems, speculation in commodities and land and properties, and surreptitious money lending have by now become the main props of the black money economy.

2.7 Worse still, these illegal operations have induced a considerable amount of leakage of foreign exchange through under-invoicing and over-invoicing of foreign trade deals, and also through secret cuts and commissions on joint ventures and collaboration agreements involving Indian and foreign parties. Small wonder then that there is, in this black money economy, a regular list of quotations covering items even where transferability is denied or restricted. These include industrial licences, import licences, allocations of materials, foreign exchange permits, etc. For example, import licences, particularly for certain raw materials and intermediates, are known to fetch high premiums in the illegal market, ranging from 300 to 500 per cent. The popularity of certain banks in Switzerland, Algeria, Kenya, Indonesia, Beirut and Hong Kong is a living proof of this phenomenon.

2.8 The problem of tax evasion is, however, not peculiar to our country. It exists the world over, as is evident from a study of the tax laws of the various countries and the administrative set-up for effective enforcement of such laws. The number of penalties imposed and persons prosecuted for tax frauds in some of the developed countries bears ample testimony to the existence of tax evasion in those countries. In our country, however, tax evasion and black money have now reached a stage which can only be described as a menace to the economy and a challenge to the fulfilment of the avowed objectives of distributive justice and setting up of an egalitarian society.

2.9 The effects of 'Black money' on the economy of the country cannot but be described as disastrous. As black money is largely generated by, or associated with, unaccounted deals, its first casualty is the revenue because it loses the tax which would have come to the Exchequer if such transactions had been done in the open and duly accounted for. Though the problem of black money has been faced by many countries in recent times, its consequences in a country like ours have a special significance in the context of our planned programme for economic progress within a democratic framework. Today, the country is seriously handicapped in its endeavour to march forward, when the resources needed for development are not adequately forthcoming for the reason that business is carried on in the 'black'.

2.10 Black money and tax evasion, which go hand in hand, have also the effect of seriously undermining the equity concept of taxation and warping its progressiveness. Together, they throw a greater burden on the honest taxpayer and lead to economic inequality and concentration of wealth in the hands of the unscrupulous few in the country. In addition, since black money is in a way 'cheap' money too, because it has not suffered reduction by way of taxation, there is a natural tendency among those who possess it to use it for lavish expenditure and conspicuous consumption. The existence of black money has, to a large extent, been responsible for the inflationary pressures, shortages, rise in prices and economically unhealthy speculation in commodities. Part of black money, which is not utilised in lavish consumption, goes into the purchase of bullion, precious stones and other valuable articles. This in

turn, encourages large-scale smuggling of gold, etc., into the country, causing considerable strain on its already tight balance of payments position. Further, by keeping their ill-gotten gains outside the country as deposits in foreign banks or with their own associate concerns, whether earned in deals abroad or transferred out of India through clandestine channels, the tax evaders deprive the country of a part of its wealth which could have been put to productive use here. Besides, the leakage of foreign exchange makes our balance of payments rather distorted and unreal. There is also the oddity that a country, where capital and more particularly foreign exchange resources are scarce, becomes a *de facto* lender of aid and capital to economically advanced and wealthier nations, with the concealed outflow of funds.

2.11 Not infrequently, part of the black money is also hoarded within the country either in specie or in other forms after conversion, so that it may escape detection. This results in immobilisation of investible funds, which could have helped in the economic growth of the country and in fostering the welfare of the common man in turn. Moreover, as black money cannot be utilised openly, many are tempted to put it into production of certain non-essential goods in the hope that the risk of detection would be less there.

2.12 Black incomes and tax evasion defeat Government's economic policies and at the very least make the implementation of the policies ineffective; for example, in the field of credit and investment. Monetary policy involving severe restrictions or a curb on disbursement of credit comes straight in the face of a parallel economy functioning outside the purview of the authorities. When a dear money policy is pursued or the Government desires to impose selective control on disbursement of finance to certain sectors, the black money economy can frustrate this by opening up alternative sources of credit at 'free market' rates. This source of credit is available even to what the Government may consider as the non-priority sectors on whom the credit squeeze is to be applied. One of the reasons why the Government's management of credit and money in recent years has been ineffective is the proliferation of black money and rampant tax evasion which provide a free access to surreptitious funds to those who desire them. The impact of this may be somewhat less when the curbs are officially relaxed. It is our view that black money and tax evasion are even otherwise encouraging overfinancing of business which is as dangerous as underfinancing. These trends add further to the inflationary pressures in the country. They can undo also some of the major investment targets and objectives of Government's planning. Apart from the fact that this situation results in an under-estimation of resources available in the country, thereby inhibiting investment planning, there is reason to believe that the operation of the black money economy has already upset the momentum of our development and distorted the pattern of saving and investment in India.

2.13 Black money and tax evasion have an adverse economic effect in yet another sense, in that they divert the energy of taxpayers and their advisers from productive activities to the non-productive object of manipulation of accounts, creating camouflage around their deals and devising all sorts of facades to escape their legitimate tax liability. In the process, they also compel the administration to spend a lot of its time and resources on tackling their devious ways of tax evasion—time and money which could have been put to more purposeful use.

2.14 One of the worst consequences of black money and tax evasion is, in our opinion, their pernicious effect on the general moral fibre of society. They put integrity at a discount and place a premium on vulgar and ostentatious display of wealth. Many of the newly rich, who enjoy material prosperity and social prestige, owe their existence really to anti-social activities. This shatters the faith of the common man in the dignity of honest labour and virtuous living. It is, therefore, no exaggeration to say that black money is like a cancerous growth in the country's economy which, if not checked in time, is sure to lead to its ruination.

Extent of Black-Money and Tax Evasion

2.15 Before considering measures for fighting tax evasion, we felt that we should have an idea of the extent of black money and tax evasion in the country as it would help us guage the dimensions of the problem. While tax evasion in the country is believed to be substantial, the estimates furnished in the course of replies to our Questionnaire varied widely from Rs. 100 crores to Rs. 15,000 crores. We are fully conscious of the inherent, difficulties involved in attempts to quantify tax evasion. The Taxation Enquiry Commission had observed that "... the quantum of the evasion which actually takes place and goes undetected could rightly be estimated at a very high figure indeed[1]." An estimate was made in 1956 by Nicholas Kaldor. According to him, the income-tax loss through tax evasion was of the order of Rs. 200 to Rs. 300

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1. Report of the Taxation Enquiry Commission (1953-54), Vol. II—p. 189.

crores in 1953-54.[1] As against Kaldor's estimate, the Central Board of Revenue, as it then was, expressed the opinion that tax evaded in the year 1953-54 could not have exceeded Rs. 20-30 crores. The Direct Taxes Administration Enquiry Committee (1958-59) also considered the extent of tax evasion in the country and observed that the quantum of tax evasion, though undoubtedly high, was not of the magnitude indicated by Kaldor.[2]

2.16 Research work on tax evasion in this country is extremely limited; also, attempts to estimate and study tax evasion suffer from some basic infirmities owing to the insufficiency or non-availability of reliable data. Unless a detailed break-down of the total assessed income generated in each year is available, it is difficult to make a scientific study of the trend of tax evasion. Income-tax is assessed over a period of years, particularly in the case of larger incomes. The year-wise break-up cannot be deduced from the available statistics. Furthermore, a large number of returns are filed towards the closing period of the fiscal year or the beginning of the next financial year; but these are not fully reflected in the published data. However, we were able to obtain some data for 1961-62 from the Directorate of Inspection (Research, Statistics and Publications). An exercise on the basis of these data is given in Table I.

2.17 This study is based on an adoption of the Kaldor method with suitable modifications bearing in mind the structural changes in the economy and certain other developments. The conclusion of this study is that the assessable non-salary income and the actually assessed non-salary income for the financial year 1961-62 were Rs. 2,686 crores and Rs. 1,875 crores respectively. Accordingly, the income which escaped tax for that year would appear to be of the order of Rs. 811 crores. In order to ascertain the position for the financial year 1965-66 (assessment year 1966-67), being the latest year for which detailed revenue statistics are available, we arrived at the assessable non-salary income for that year, on the basis that was adopted for 1961-62 financial year, at a figure of Rs. 4,027 crores (vide Table II). Applying the ratio of evaded income to the assessable non-salary income of 1961-62 to the assessable non-salary income of 1965-66, the evaded income for 1965-66 works out to Rs. 1,216 crores. However, we should like to qualify these estimates for three reasons:

(i) The income which can be related to the assessment year 1966-67 does not

TABLE I

Sector-wise distribution of assessable non-salary income for 1961-62 (*Assessment Year* 1962-63)

(Rs. Crores)

Sector	National income*		Assumed proportion of non salary income above exemption limit (%)	Assessable non-salary income
	Total salary income	Non-salary income		
	Rs.	Rs.		Rs.
1. Mining and Quarrying	60	89	60	53
2. Manufacturing (*a*)	1,247	1,523	60	914
3. Railways and Communications ..	286	67	..	..
4. Other transport ..	151	151	60	91
5. Trade, Hotels and Restaurants ..	278	1,111	70	777
6. Banking and Insurance	134	49	100	49
7. Public Administration and Defence ..	475	118	100	118
8. Miscellaneous (*b*) ..	..	1,369	50	684
Total ..	2,631	4,477	..	2,686
9. Agriculture ..	1,030	6,025		
GRAND TOTAL ..	3,661	10,502		

NOTE—(*a*) Includes large-scale, small-scale, construction, electricity, gas, water supply, etc.

(*b*) Includes real estate ownership and other services.

**Source*—Estimates of National Product (Revised Series)—March, 1969.

Assessed non-salary income referable to the year 1961-62 (*Assessment Year* 1962-63)

Income referable to assessment year 1962-63 was assessed during the financial year 1962-63 to 1966-67. The break-up is as under:

(Rs. Crores)

1962-63	1,022·9
1963-64	373·3
1964-65	155·8
1965-66	168·0
1966-67	507·7
Total ..	2,227·7
Deduct—salary income assessed during the financial year 1962-63	352·6*
Non-salary income of financial year 1961-62 which was actually assessed to tax ..	1,875·1

*This is assumed to represent the salary income of financial year 1961-62.

1. Indian Tax Reform—Report of a Survey by Nicholas Kaldor—p. 105.

2. Report of the Direct Taxes Administration Enquiry Committee (1958-59)—para 7·5.

TABLE II

Sector-wise distribution of assessable non-salary income for 1965-66 (*Assessment Year* 1966-67)

(Rs. Crores)

Sector	National income		Assumed proportion of non-salary income above exemption limit (%)	Assessable non-salary income
	Total salary income	Non-salary income		
	Rs.	Rs.		Rs.
1. Mining and Quarrying	94	140	60	84
2. Manufacturing (*a*) ..	1,890	2,310	60	1,386
3. Railways and Communications ..	416	97	..	..
4. Other transport ..	223	222	60	133
5. Trade, Hotels and Restaurants ..	445	1,784	70	1,249
6. Banking and Insurance	245	90	100	90
7. Public Administration and Defence ..	1,040	260	100	260
8. Miscellaneous (*b*) ..	..	1,651	50	825
Total ..	4,353	6,554	..	4,027
9. Agriculture ..	1,575	8,271		
GRAND TOTAL ..	5,928	14,825		

NOTE : (*a*) Includes large-scale, small-scale, construction, electricity, gas, water supply, etc.

(*b*) Includes real estate ownership and other services.

fully represent the income generated in or related to the financial year 1965-66. Accounting years and on varying dates and a certain backlog is also involved in the routine assessments. Larger income cases needing more scrutiny may not always be completed within the relevant years and many such cases may have been carried forward.

(ii) The national income figures cannot be strictly compared with incomes assessed because the Income-tax Act allows a large number of exemptions and deductions (for example, casual and non-recurring receipts, income of new industrial undertakings and priority industries, and deduction for development rebate, etc.). No adjustment is possible in the case of such exemptions and deductions.

(iii) No adjustment has been made in respect of certain incomes which are subject to income-tax twice due to provisions of the income-tax law. For example, the income of a firm suffers tax not only in the hands of the firm, but also in the hands of its partners. Due to lack of data, no adjustment has been made in respect of such items also.

Even after taking all these limitations into account and after making rough adjustments on the basis of information available, the estimated income on which tax has been evaded would probably be Rs. 700 crores and Rs. 1,000 crores for the years 1961-62 and 1965-66 respectively. Projecting this estimate further to 1968-69 on the basis of the percentage of increase in the national income from 1961-62 to 1968-69 (during which period the national income increased nearly by 100 per cent.), the income on which tax was evaded for 1968-69 can be estimated at a figure of Rs. 1,400 crores.

2.18 As regards the extent of tax evasion, we find that the average rate of tax on the income assessed for 1965-66 was around 25 per cent. But considering that the size of the problem of black money and tax evasion has grown over the years and tax evasion is more widely practised at higher levels of income, it would be appropriate to adopt the rate of tax applicable to evaded income at not less than 33 1/3 per cent for 1968-69. On this basis, the extent of income-tax evaded during 1968-69 would be of the order of Rs. 470 crores, being one-third of Rs. 1,400 crores. The money value of deals involving black income may, therefore, be not less than Rs. 7,000 crores for 1968-69. We would, however, wish to emphasize that the amount of tax-evaded income for the year 1968-69 is only a guesstimate based on certain assumptions about which substantial difference of opinion exists for want of adequate data. In addition, we would also like to dispel a possible impression that the tax-evaded income is all lying hoarded which can be seized by the authorities; much of it has been either converted into assets or spent away in consumption or else is in circulation in undisclosed business dealings.

Avenues for Black Money

2.19 The multiplicity of avenues in which black money in the country gets channelised is matched only by the ingenuity of the devices through which it is earned. It is found widely used for conducting business transactions in 'Account No. 2', smuggling of gold, diamonds and luxury articles, indulging in unauthorised transactions involving foreign currency and purchasing scarce commodities for the purpose of hoarding, speculation, profiteering and black-marketing. It is also spent in purchasing illegally

quotas and licences at premia, financing secret commissions, bribes, litigation, etc., giving 'on-money' in business transactions, buying industrial peace, financing election expenses and giving donations to political parties. Black money is also utilised in call deposits, bogus hundi loans, acquisition of movable and immovable assets, e.g., jewellery, tax-free Government securities, deposits in Indian and foreign banks in 'ghost' or benami accounts and land and buildings purchased in real or benami names, often with 'on-money' payments. Not infrequently, contributions to charity in anonymous and pseudonymous names also come out of black money. Behind the vulgar display of wealth which is evidenced by ostentatious living and lavish expenditure on weddings, festivals, etc., is this scourge of black money.

Causes of Tax Evasion, Creation of Black Money and its Proliferation

2.20 To be able to suggest remedial measures, we considered it necessary to be clear in our minds as to the causes which have led to this malaise of black money and tax evasion. It was for this purpose that we had included in the Questionnaire a specific question about the causes of tax evasion and creation and proliferation of black money. In the replies received, a variety of causes have been listed. We also questioned at some length the persons, who appeared before us, on this point. The following are said to be the major factors responsible for this evil: —

(a) *High rates of taxation under the direct tax laws*

We had posed the question whether tax evasion is dependent on the rates of taxation and whether it increases with the increase in the tax rates. An overwhelming majority of the persons, who responded to the Questionnaire, have voiced the opinion that tax evasion is dependent on the rates of taxation and rises with increase in the rates. The chambers and other bodies representing trade and industry have been unanimous in their view that rates of taxation, which have reached expropriatory levels—the marginal rate for income-tax alone reaching 97.75 per cent.—breed tax evasion and generate black money. Most of the economists, professors, departmental officers and others, who replied to the Questionnaire or who appeared before us, have also subscribed to this view. Even those who did not concede that high rates led to evasion admitted before us that high rates did make tax evasion much more attractive and profitable. When the marginal rate of taxation is as high as 97.75 per cent., the net profit on concealment can be as much as 4,300 per cent. of the after-tax income. The implication of 97.75 per cent income-tax is that it is more profitable at a certain level of income to evade tax on Rs. 30 than to earn honestly Rs. 1,000. We will not be surprised that placed in such a situation, it would be difficult for a person to resist the temptation to evade taxes.

(b) *Economy of shortages and consequent controls and licences*

The Indian economy before the Second World War was not marked by any significant shortages. This was so not because production was plentiful but because demand in an economy, which was stagnant, was small. During the War, however, things began to change. The Government had to incur vast expenditure on defence and had to divert the existing inadequate resources to meet the urgent and pressing needs of the War. As a result, imbalances in the economy and acute shortages of various goods developed. Shortages had to be regulated by imposing controls on distribution and prices. Controls led to abuse, black-marketing, profiteering and tax evasion.

Shortages and controls did not, however, end with the War. With the advent of independence, to fulfil its promises to the people, the Government had to launch various economic schemes in order to achieve planned progress. With the ever-increasing population and the scarce resources position, it became inevitable for the Government to regulate foreign exchange, imports and exports, to control distribution of scarce commodities and to resort to licensing of industry in order to achieve planned development. In spite of the vigilance exercised by the Government, controls and regulations came to be used by the unscrupulous for amassing money for themselves. Since considerable discretionary power lay in the hands of those who administered controls, this provided them with scope for corruption—'speed money' for issuing licences and permits, and 'hush money' for turning a blind eye to the violation of controls. All this gave rise to trading in permits, quotas and licences, malpractices in distribution and, in the process, it generated sizable sums of black money. As the transactions in violation of statutory restrictions had to be entered into secretively, these had necessarily to be kept back from the tax authorities. In consequence, evasion of tax on incomes thus made illegally followed inevitably.

(c) *Donations to political parties*

It has been represented before us that the political climate in India is none too conducive to checking black money transactions. Rather, it is contended that it provides opportunities for generation of black money. In this connection, it has been pointed out that large funds are required to meet election expenses and it is common knowledge that these are financed to a great extent by wealthy persons with lots of

black money. According to some, this is not the cause but an outlet for black money. The situation is stated to have been further aggravated by the ban imposed recently on donations by companies to political parties.

(d) *Corrupt business practices*

Many of the corrupt practices in business seem to lead to an ever-increasing need for keeping on hand funds in black. Payments of secret commissions, bribes, on-money, pugree, etc., in a variety of situations have been referred to us in this connection. It has been particularly mentioned that the manufacturers of popular goods which are in short supply not only exact from parties large sums initially for appointment as selling agents but also demand recurring secret commission on the sale of goods. Undoubtedly, such corrupt practices are responsible to a considerable extent for the creation of 'black money' in the economy.

(e) *Ceilings on, and disallowances of, business expenses*

It has been represented that the Income-tax Act either completely disallows or imposes ceilings on certain expenses which are required to be incurred on principles of commercial expediency, with the result that such expenses, though actually incurred, are not allowed to be deducted in arriving at the taxable income. It has been pointed out that this artificial limitation adds to the tax burden, particularly in the context of the present day high rates of taxation. The examples usually cited in this regard are those relating to expenses on entertainment, advertisement, guest houses, travelling and perquisites to directors.

(f) *High rates of sales-tax and other levies*

Many of those who sent replies to our Questionnaire or who appeared before us were of the view that the high rates of Central and State imposts, other than income-tax, are contributory factors to evasion of income-tax in the country. It was stated that the high rates of sales-tax, stamp duty, excise duty on certain items, octroi, cess and the like, induce many persons to avoid recording the transactions altogether and in the process they evade income-tax as well. We concede that there are persons who find evasion of these taxes to be quite attractive and profitable, as evasion of one tax offers them relief from the burden of another.

(g) *Ineffective enforcement of tax laws*

Yet another important cause of tax evasion is said to be the lack of an effective enforcement machinery. It is pointd out that the income-tax administration has not been able to achieve a major breakthrough in fighting evasion for certain technical as well as administrative reasons. In this connection, some have even pointed out that tax administration is not able to function independently and also that the set-up of the Department itself is not quite conducive to effective enforcement of laws. There are others who feel that taxation laws and administrative policies themselves have certain loopholes which water down their efficacy. It is contended that frequent resort to voluntary disclosure schemes to net in untaxed income, absence of an effective intelligence machinery in the Income-tax Department and lack of a vigorous prosecution policy for tax offences provide encouragement to tax evaders to carry on with their nefarious activities with impunity in the belief that the Department will not detect them. We agree with this view substantially and do feel that there is need and scope for more vigorous enforcement of tax laws.

(h) *Deterioration in moral standards*

Another important cause of tax evasion which has been mentioned is the general deterioration in moral standards of our people, lack of tax consciousness and the absence of social stigma against tax evasion. There has been lately a marked tendency towards putting greater premium on material values and, consequently, a growing craze for getting rich quick, by resorting to all possible means—fair or foul. This naturally tempts people to resort to violation of tax laws, for the most obvious means of retaining more money is by not paying tax thereon. In such an atmosphere, no wonder evasion of taxes is not considered by many as undesirable or unethical. Not infrequently, one comes across persons who boast privately of their 'achievements' in the field of tax evasion. The lack of social stigma against tax evaders plays an important contributory role in this over-all lack of tax consciousness. Sharing this general atmosphere of moral laxity, it is not surprising that even some tax advisers do not hesitate to lend their support in shielding, and even assisting, the tax dodgers.

Steps taken in the past to unearth black money

2.21 Though tax evasion and black money assumed significant dimensions in our country only during and after the Second World War, the problem as such has always been there and has continuously engaged the attention of the Government. As far back as 1936, the Ayers Committee reviewed the Income-tax system in India in all its aspects, and large-scale amendments to the law were made in 1939 to give effect to its recommendations which, it was claimed, were "designed to secure the fairest possible treatment of the honest taxpayer and at the same time to strengthen the Department in dealing with fraudulent evasion and what is known as 'legal avoidance'."[1] For dealing with

1. Income-tax Enquiry Report, 1936—p. (v).

the mounting tax evasion during the war period, the Income-tax Investigation Commission was appointed in 1947 to investigate individual cases of tax evasion referred to it and also to report on the state of the law and administration and to suggest measures for its improvement with a view to prevent tax evasion. The Taxation Enquiry Commission (1953-54) also went into the question of tax evasion and recommended several legal and procedural changes. In 1956, Nicholas Kaldor made a specialised study of the Indian tax system, particularly with reference to personal and business taxation and the prevalence of tax evasion. The years 1957-58 witnessed several amendments and new legislation based on his report. The Direct Taxes Administration Enquiry Committee, which was appointed in 1958 to advise the Government on the administrative organisation and procedures necessary for implementing the integrated scheme of taxation with due regard to the need for eliminating tax evasion and avoiding inconvenience to the public, also made substantial contribution to the re-organization of the legal and administrative set-up. In 1968, a Committee of Departmental officers was constituted by the Government to undertake a study of the problem of tax evasion and to suggest ways and means of tackling it. The Administrative Reforms Commission, based on a study of the problem of tax evasion made by the Workng Group, suggested certain measures in its report submitted in January, 1969.

2.22 Consequent on the recommendations of these various Commissions, Committees and experts, several changes have been made in the law dealing with tax evasion. The scope of provisions relating to the reopening of past assessments has been progressively widened. Penalties have been made stiffer and deterrent provisions for criminal prosecutions and for awarding exemplary punishment have been introduced. The administrative powers of the authorities for securing information have been enlarged and officers of the Department have been given the powers of search and seizure, and also of spot survey. Simultaneously, the secrecy provisions in the law have been relaxed and greater publicity is now given in respect of tax offences. Several other legislative measures for curbing certain malpractices resulting in evasion or avoidance of tax have also been introduced.

2.23 There have also been changes from time to time in the administrative set-up of the Department and its procedures to gear it up to the changing role it has to play in tackling tax evasion. For a detailed and thorough investigation of difficult cases of tax evasion, Central Charges were created at Bombay in 1939 and at Calcutta in 1941 on the basis of the recommendations of the Ayers Committee of 1936. In 1940, the Directorate of Inspection (Income-tax) was set up, and in 1943-44 a Special Branch was set up under the direction and control of that Directorate to do investigation and collation work in connection with the assessment of contractors who were making colossal profits during the war time. The Directorate of Inspection (Investigation) was set up in 1952 for undertaking and co-ordinating investigation in difficult and complicated cases of tax evasion. This Directorate was later entrusted with the technical supervision and control of the various Special Investigation Circles. Following the decision of the Supreme Court which struck down the Taxation on Income (Investigation Commission) Act, 1947, as *ultra vires*, the Directorate of Inspection (Special Investigation) was formed in 1954 to take over and complete the work of the Investigation Commission. In 1966, an Intelligence Wing was created and placed under the charge of the Directorate of Investigation. Special Investigation Branches, which function at the headquarters of the Commissioners for collection, collation and dissemination of information, and survey units have been reorganized from time to time to improve the quality of internal and external survey. On the assessment side, group charges were created to facilitate better investigation and assessment under the guidance of senior officers. More recently, the functional scheme and the small income assessment scheme have been introduced to release the time and energy of senior and experienced officers for the more important work of investigation and tackling of tax evasion.

2.24. Apart from these legal and administrative measures meant to curb evasion of tax, certain steps were also taken to tackle the black money built up out of past evasions. In 1946, just at the close of the war, high denomination notes were demonetised so as to bring into the tax net black money earned during the war. A voluntary disclosure scheme was announced in 1951 to facilitate the disclosure of suppressed incomes. The penal provisions of the law were suitably relaxed for the purpose. After the lapse of nearly a decade and a half, a second scheme of voluntary disclosure was introduced by section 68 of the Finance Act, 1965. This scheme, popularly known as the '60—40 Scheme', enabled the tax evaders to pay 60 per cent. of the concealed income as tax and bring the balance of 40 per cent. thereof into their books. Closely on the heels of this scheme, came another under section 24 of the Finance (No. 2) Act, 1965, popularly known as the 'Block Scheme', according to which tax was payable at rates applicable to the block of concealed income disclosed, and not at a flat rate as under the '60—40 Scheme'.

Measures for unearthing black money

2.25 Despite the aforesaid steps taken by the Government from time to time, the twin problems of black money and tax evasion have, if

anything, continued unabated. It was in this background that we were called upon to recommend remedial measures, both legal and administrative, to unearth black money and to prevent its proliferation through further evasion.

Interim Report

2.26 After a preliminary study of the problem, and on going through the replies to the Questionnaire received from several important and knowledgeable persons, we came to the conclusion that the malady was not only widespread but also severely acute, and called for some immediate and drastic measures for controlling it. We accordingly submitted to the Government an interim report towards the end of 1970, recommending therein some important steps of a radical nature for immediate implementation. We have, since, received replies to our Questionnaire from several other quarters and have also held discussions with members of various chambers of commerce, other representative bodies, economists, public men and officers of the Department. We also discussed some important aspects with senior officers of the Government of India. After detailed deliberations and careful consideration of the valuable suggestions offered by them, we are still fully convinced about the efficacy and feasibility of the measures recommended by us in the interim report.

We now proceed to discuss some additional measures to supplement our earlier recommendations.

Voluntary disclosure scheme

2.27 We had in the Questionnaire issued by us posed the question whether it would be desirable for the Government to announce another scheme of general amnesty for the declaration of black money. Majority of the persons who have replied to the Questionnaire do not favour another scheme of voluntary disclosure. The general feeling is that such schemes place a premium on fraud and are unfair to the honest taxpayers. Majority of the Departmental officers and some chambers and other representative bodies of the trading community have expressed themselves categorically against the introduction of any further disclosure schemes. A large number of the persons who appeared before us also echoed similar sentiments.

2.28 The principal argument against the introduction of another disclosure schemes is that the results of the three earlier schemes have been disappointing. The total income disclosed in all the three schemes put together was a mere Rs. 267 crores which, to say the least, is only a small fraction of even the most modest estimate of concealed income for the period of 15 years from 1951 to 1965. As against this, it was stated that the concealment detected by the Department in the ordinary course during a period of 5 years from 1965 to 1969 was Rs. 161 crores and the taxes and penalties in respect of such concealed income worked out to Rs. 105 crores or about 65 per cent., of the income detected. Moreover, much of the income disclosed during the course of the three schemes had been either already detected or was about to be detected and the schemes did not make any real contribution to bringing to surface concealed incomes. The taxes realised out of the disclosures were even more unimpressive. The 60—40 scheme produced only Rs. 30.80 crores. The other two schemes yielded tax of hardly 15 per cent. of the disclosed income. The total tax yield of all the three schemes put together was a mere Rs. 61.23 crores.

2.29 All the three earlier schemes were found defective in one respect or another. They were more or less schemes for converting black money into white on payment of, what turned out to be in most cases, a small amount of conscience money. Disclosures made in the names of minors, ladies and benamidars have, on the other hand, contributed to perpetuating evasion, and rendered investigation in many a case of suspected tax evasion difficult or even futile. The fact that in the last of these three schemes, namely, the block scheme, as many as 77 thousand and odd out of the total of 1,64,226 disclosures were from persons not previously assessed to tax would bear ample testimony to this misuse of the scheme. We were informed by the Central Board of Direct Taxes that there were several instances of the same set of persons taking advantage of all the three disclosure schemes, which would belie the theory that such schemes help to rehabilitate the repentent tax evader who is desirous of mending his ways.

2.30 An argument usually advanced in favour of announcing another disclosure scheme is that it would help, to broaden the base of investment and accelerate the growth rate. This proposition is, in our view, based on the erroneous assumption that the amounts which disclosures bring out are not already invested. As happens in most cases, the disclosed amounts are already invested surreptitiously in business or property through various devices, and the contribution of disclosure schemes as such to fresh investment is hardly worthwhile.

2.31 We consider that a disclosure scheme is an extraordinary measure, meant for abnormal situations such as after a war or at a time of national crisis. Resorting to such a measure during normal times, and that too frequently, would only shake the confidence of the honest taxpayers in the capacity of the Government to deal with the law breakers and would invite contempt for its enforcement machinery. *We*

are convinced that any more disclosure schemes would not only fail to achieve the intended purpose of unearthing black money but would have deleterious effect on the level of compliance among the taxpaying public and on the moral of the administration. We are therefore, strongly opposed to the idea of the introduction of any general scheme of disclosure either now or in the future.

Settlement machinery

2.32 This, however, does not mean that the door for compromise with an errant taxpayer should for ever remain closed. In the administration of fiscal laws, whose primary objective is to raise revenue, there has to be room for compromise and settlement. A rigid attitude would not only inhibit a one-time tax-evader or an unintending defaulter from making a clean breast of his affairs, but would also unnecessarily strain the investigational resources of the Department in cases of doubtful benefit to revenue, while needlessly proliferating litigation and holding up collections. We would, therefore, suggest that there should be a provision in the law for a settlement with the taxpayer at any stage of the proceedings. In the United Kingdom, the 'confession' method has been in vogue since 1923[1]. In the U.S. law also, there is a provision for compromise with the taxpayer as to his tax liabilities[2]. A provision of this type facilitating settlement in individual cases will have this advantage over general disclosure schemes that misuse thereof will be difficult and the disclosure will not normally breed further tax evasion. Each individual case can be considered on its merits and full disclosures not only of the income but of the *modus operandi* of its build-up can be insisted on, thus sealing off chances of continued evasion through similar practices.

2.33 To ensure that the settlement is fair, prompt and independent, we would suggest that there should be a high level machinery for administering the provisions, which would also incidentally relieve the field officer of an onerous responsibility and the risk of having to face adverse criticism which, we are told, has been responsible for the slow rate of disposal of disclosure petitions. *We would, therefore, recommend that settlements may be entrusted to a separate body within the Department, to be called the Direct Taxes Settlement Tribunal.* It will be a permanent body with three Members. The strength of the Tribunal can be increased later, depending on the work-load. To ensure impartial and quick decisions, and to encourage officers with integrity and wide knowledge and experience to accept assignments on

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[1] The "White Paper Concession" was elaborated as follows by the Financial Secretary to the Treasury before the House of Commons in 1923 :

> "Where the taxpayer takes the initiative and voluntarily discloses the fact of his past frauds and their full extent, and is also prepared to facilitate investigations, and to furnish full evidence (including not only the business books and records but also private bank books) as may be required on behalf of the Board as to the amount of the correct liability, the Board will not institute criminal proceedings, but will accept a pecuniary settlement.
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> *** *** ***

The Chancellor of Exchequer, Sir John Anderson, made the following statement in the House of Commons on 5th October 1944 :

> "They can, however, give no undertaking to a taxpayer in any such case that they will accept such a settlement and refrain from instituting criminal proceedings even if the case is one in which the taxpayer has made full confession and has given full facilities for investigation of the facts. They reserve to themselves complete discretion in all cases as to the course which they will pursue, but it is their practice to be influenced by the fact that the taxpayer has made a full confession and has given full facilities for investigation into his affairs and for examination of such books, papers, documents or information as the Commissioners may consider necessary."

[2] Section 7121 of the U. S. Internal Revenue Code, 1954 reads as under :

"Sec. 7121. *Closing Agreements*

(a) *Authorization*—The Secretary or his delegate is authorized to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) *Finality*—If such agreement is approved by the Secretary or his delegate (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded."

the Tribunal, *we recommend that its members should be given the same status and emoluments as the members of the Central Board of Direct Taxes.*

Any taxpayer will be entitled to move a petition before the Tribunal for settlement of his liability under the direct tax laws. We do not think that it is necessary to provide for cases being referred to the Tribunal by the Department. However, *we wish to emphasize that the Tribunal will proceed with the petition filed by a taxpayer only if the Department raises no objection to its being so entertained.* We consider that this will be a salutary safeguard, because otherwise the Tribunal might become an escape route for tax evaders who have been caught and who are likely to be heavily penalised or prosecuted. Once a case is admitted for adjudication, the Tribunal will have exclusive jurisdiction over it and it will no longer be open to the taxpayer to withdraw the petition. The Tribunal will take a decision after hearing both the assessee and the Department. The Tribunal should be vested with full powers as regards discovery and inspection, enforcing the attendance of any person, compelling production of books of account or any other documents and issuing commissions. It should also have the power to investigate cases by itself or, in the alternative, to have investigation carried out on any specific point or generally, in any case through the Income-tax Department. The terms of the award will be set down in writing and it will be open to the Tribunal to determine not only the amount of tax, penalty or interest but also to fix date or dates of payment. The quantum of penalty and interest will be in the discretion of the Tribunal, Similarly, the Tribunal may also in its discretion grant immunity from criminal prosecution in suitable cases. The award will be binding both on the petitioner and on the Department. The application of its decisions on questions of law will, however, be confined to the case under settlement and will not in any way interfere with the interpretation of law in general. No appeal will lie against the decision of the Tribunal by the petitioner or the Department, whether on questions of fact or of law.

2.34 The success of this measure will, to a very large extent, depend on the confidence which this Tribunal can inspire in the minds of the taxpayers as to its fairness and impartiality. For this reason, *we consider it to be of paramount importance that only persons who are known for their integrity and high sense of justice and fairness are selected for appointment on the Tribunal.*

Bearer bonds

2.35 Another suggestion that has been made to bring out black money and canalise it into productive channels is a scheme of 'bearer bonds'. In brief, the suggestion is that the Government should issue long-term bearer bonds carrying a low rate of interest, say, 3 per cent. Bearer bonds are normally transferred by delivery but these bonds will be negotiable only by endorsement and thereafter they will cease to be bearer bonds. The Government should give the assurance that the source of moneys invested in such bonds by the original holder, so long as they are not endorsed, will not be questioned. The advantages claimed for the scheme are that persons who have unaccounted money, will find it a safe avenue of investment, while at the same time the country will stand to benefit by the utilisation of such black money for development projects. The low rate of interest which the Government would pay on the investment is claimed to represent an indirect levy of tax on the moneys invested and, as in all disclosure schemes, the Government would realise the tax on the amounts disclosed, though indirectly and at somewhat concessional rates. For the investor, the investment would offer anonymity, security and liquidity. He can borrow against the investment or sell it in the market. By providing that after endorsement the bonds will cease to be bearer bonds, the scheme ensures that it does not invite a chain of black money investments. It is contended by the protagonists of the suggestion that the anonymity which the scheme offers would encourage tax evaders to come out with their cash hoards without fear, proliferation of black money will be checked, inflationary tendencies will be curbed and productive investments will get a fillip.

2.36 We have carefully considered the pros and cons of this suggestion. The Bearer Bond Scheme is a poor substitute even for a disclosure scheme, as it can cover only black money which is not invested and is lying in cash. Further, the investment of black money in such bonds will not connect it up with any particular source of income and as such, it does not offer to the investor immunity from investigation and proper assessment of the income from that source and the penal consequences. The investor cannot also remain completely anonymous from the Income-tax Department when he sells the bonds or raises loans on their security or offers the interest from such bonds for taxation. These aspects will militate against the success of the scheme even within the limited sphere of persons having unaccounted cash. Making the interest tax-free would tantamount to allowing high rate of interest and would defeat the very purpose of offering a low yield on the investment. On the other hand, if the interest is taxable, the chances are that most of the investors, taking advantage of their anonymity would not disclose the interest income and the scheme might in fact lead to further evasion and build up of black money. The possibility of

transfer of bearer bonds from hand to hand in violation of the stipulation of endorsement cannot be ruled out and in that event, the bearer bonds will become a parallel currency. It may be that in view of the low rate of interest, the market value of a bond of Rs. 100 comes down to Rs. 50 or Rs. 60. But the difference accrues only to the buyer and not to the Government which will eventually have to redeem the bonds at their full face value. We will not be surprised, if after the expiry of the issue period, which will be limited, these bonds start selling at a premium or being lent as short-term accommodation for a consideration, to enable tax evaders to explan away the concealments which might be detected by the Department in their cases. The more we think of it, the more *we feel convinced that the so-called benefits claimed for the bearer bond scheme are illusory.*

Swiss type bank accounts

2.37 Bank accounts of the 'Swiss type' have been advocated as another means of channelising 'black money' now circulating almost as a parallel currency in the country with all its consequent deleterious effects on the economy. Swiss banks with their stringent rules of secrecy have in recent years become known as repositories of black money owned by tax evaders in various countries. The argument is that if India were to offer similar facilities, the Government might be able to mobilise substantial deposits of unaccounted moneys, both from inside India and from abroad. We are not convinced by this argument. Switzerland occupies a unique position—geographically, historically, politically and economically. There is now a growing concern among many countries that the manner in which the Swiss banks operate provides facilities for tax evasion by the nationals of other countries and this tends to facilitate the flight of capital to Switzerland. To combat the threat posed by the system, countries like the U.S.A. have in their tax treaties with Switzerland included clauses for exchange of information for countering fiscal evasion. Recently, the Federal Tribunal, Switzerland's highest court, authorised Swiss federal authorities to give information to the Internal Revenue Service in Washington about an American citizen's account with a Swiss Bank. The Federal Tribunal ruled that Switzerland was obliged under its double taxation agreement with the United States to give competent U.S. authorities information to prevent or detect crime or fraud. They also said that the 'Swiss Banking Agency'—enshrined in the Swiss code since 1934—protected a bank's customer from routine enquiries about possible tax evasion but not if there were grounds for suspecting more serious offences of tax fraud. In this context, *we do not consider it worthwhile to experiment with the Swiss type of bank accounts in India.*

Canalising black money into certain specified fields

2.38 It has been suggested that black money floating in India could be canalised into social and desirable fields of activity by giving immunity from rendering any explanation about the sources of investment. Such desirable fields of activity could be building water works, roads, bridges, etc., in rural areas which may be thrown open to private initiative and enterprise, and the construction of tenements for slum dwellers in the cities. It is pointed out that in Belgium such an experiment was successfully tried after the Second World War by giving incentives to people to invest in building houses with the twin object of stimulating construction activity and bringing to surface black money. We find that this suggestion has not evoked any enthusiastic response from the persons who have replied to our Questionnaire. The general view is that such schemes cannot turn philistines overnight into philanthropists. It is unlikely that persons who were unwilling to pay a portion of their income as taxes would volunteer to give away the whole of it for a purpose of general public utility. ***We are, therefore, of the view that sponsoring official schemes for canalising black money into specified fields will not be desirable.*** Elsewhere[1] we have suggested that public conscience should be roused against the evil of tax evasion, and that tax evaders should be made to feel like social outcastes. It will be highly inconsistent with such an attitude and approach if tax evaders were to be allowed to assume in the public eye the role of benefactors.

Searches and seizures

2.39 *Increased use of power of search and seizure*—As stated earlier, black money and tax evasion have their origin in clandestine circumstances. The activities of the tax evaders and their acquisition of black money are naturally shrouded in secrecy. The aim of investigation is to lift this veil in order to unearth black money and discover the true state of affairs. Searches form a necessary and powerful adjunct to investigation as they bring to light assets and information, which would otherwise be beyond the reach of the Department through its normal channels of enquiry and examination of accounts. We consider the power of search under the Income-tax Act as a potent instrument in the hands of the Department to provide direct and clinching evidence about tax evasion and the existence of black money. Searches not only lead to unearthing of black money in kind, but also to getting hold of hidden books of account which would clearly show that what has been disclosed is only part of what has been earned, invested or accumulated. That searches have been found to be useful in the fight against tax evasion is

1. paras 2.237 to 2.243.

apparent from the following information supplied to us by the Central Board of Direct Taxes:

Year	No. of searches and seizures conducted	No. of successful searches	Amount of assets seized (Rs. lakhs)
1	2	3	4
1964-65	397	393	147
1965-66	306	293	130
1966-67	189	186	58
1967-68	109	106	90
1968-69	81	79	59
1969-70	170	169	95
1970-71	195	192	120
	1447	1418	699

We recommend that the Department should make an increasing use of its powers of search and seizure in appropriate cases.

2.40 In their memoranda as well as statements before us, several persons have pointed out some glaring anomalies in the existing provisions and have also marked out certain problem areas. We have carefully considered the various suggestions made in this behalf. *We recommend below changes, which we would like to be made, so as to render this instrument more effective.*

(a) *Commissioner's power*—Sub-section (1) of section 132 of the Income-tax Act, 1961, empowers a Commissioner of Income-tax to authorise searches and seizures only in respect of assessees who are within his jurisdiction. Moreover, the search is to be confined to the premises mentioned in the search warrant. It has been brought to our notice that considerable difficulty is being experienced in cases with all-India ramifications when during the course of conducting the search at places in the jurisdiction of another Commissioner of Income-tax, the 'authorised officer' finds it necessary to search some other premises of the same assessee not mentioned in the search warrant. He cannot readily obtain another warrant from the Commissioner of Income-tax who is available locally as the latter has no power under sub-section (1) of section 132 to authorise a search in respect of the proposed premises since they are not connected with any assessee in his jurisdiction. This results in the postponement of the search of such other premises till a warrant can be obtained from the Commissioner of Income-tax who had originally authorised the search. As time is of the essence in these matters, this delay quite often defeats, wholly or partially, the purpose of the search. As the difficulty pointed out is genuine, *we recommend that a Commissioner of Income-tax should have power to authorise search and seizure, irrespective of whether the taxpayer is assessed in his jurisdiction or not.*

Inspecting Assistant Commissioners to have power of search—We have also considered the desirability of empowering Inspecting Assistant Commissioners to authorise searches and seizures. As the headquarters of the Commissioners of Income-tax are at quite some distance from Income-tax Offices, particularly in mofussil charges, and as the success of a search and seizure lies in secrecy and prompt action, *we recommend that the power of authorising searches and seizures should be available to the Inspecting Assistant Commissioners as well.* In fact, the power to authorise searches and seizures is available under the Customs Act, 1962 and Foreign Exchange Regulation Act, 1947 to officers who are lower in rank than an Assistant Commissioner of Income-tax. We do not apprehend that empowering these officers would result in any harassment to tax-payers. However, an Inspecting Assistant Commissioner should have this power only in respect of cases falling within his jurisdiction.

(b) *Search to cover persons, vehicles and vessels*—Premises of any person who is suspected to have concealed income or items of wealth can be searched in pursuance of a search warrant issued under section 132 of the Act. We understand that there have been several occasions when searches of persons, vehicles and vessels became inevitable, and yet nothing could be done due to the non-availability of powers of search in this regard. We appreciate that on certain occasions the lack of power to search persons, vehicles and vessels can be a serious handicap. We find that similar powers are available to officers of the Customs Department under sections 100, 101 and 106 of the Customs Act, 1962. *We recommend that the existing powers of search under the Income-tax Act be extended to cover persons, vehicles and vessels.*

(c) *Period for making order for retention of seized assets*—In case of seizure of an asset, the Income-tax Officer is required to estimate the undisclosed income in a summary manner to the best of his judgment and pass an order under sub-section (5) of section 132 within ninety days of the seizure. Such an order can be made only with the previous approval of the Commissioner of Income-tax after affording a reasonable opportunity to the persons concerned of being heard and making an enquiry as prescribed under Rule 112A of the Income-tax Rules, 1962. It has been represented to us that this period of ninety days is too short because the assessees, whose premises are searched, generally adopt dilatory and obstructionist tactics in order to stall the enquiry contemplated before passing such an order. This period is also stated to be inadequate for scrutiny of

important materials vital for the enquiry. We agree that placed in such a situation, any conscientious officer would find it an exasperating experience to adhere to this time-limit. On the one hand, he is expected to make a well-reasoned order which should stand the test of assessee's appeal to the Board, and on the other, he has to reckon with the tactics of a recalcitrant assessee. *We recommend that the period for making an order under sub-section* (5) *of section* 132 *may be extended from the present ninety days to one hundred and eighty days.* As the enquiry proceedings for the purpose of making an order under sub-section (5) of section 132 have to be commenced within fifteen days of the seizure, the tax administration is already committed to initiate proceedings without delay. In a way, this change would also be useful to the assessees as they will have enough time and opportunity to vindicate their stand-point in the matter satisfactorily.

(d) *Tax liability to include interest and penalty*—Under clause (ii) of sub-section (5) of section 132 the assets seized in the course of a search can be retained for the purpose of meeting the tax liability on the estimated undisclosed income. However, the existing provision does not permit retention of assets in order to satisfy the liability on account of interest and penalty that might be determined on such undisclosed income. This appears to us to be an omission and *we recommend that the law may be amended to permit retention of seized assets in order to meet the liability of interest and penalty, in addition to the tax, that may become due on the estimated undisclosed income.*

(e) *Definition of 'authorised officer'*—Under sub-section (8) of section 132 of the Income-tax Act, 1961, account books and documents seized in the course of search cannot be retained by the 'authorised officer' for a period exceeding one hundred and eighty days unless he records the reasons in writing for the retention, and obtains approval of the Commissioner of Income-tax in this behalf. We are told that this requirement has led to some practical difficulties. Usually the 'authorised officer', i.e., the officer authorised to conduct search and seizure, hands over the seized material to the Income-tax Officer having jurisdiction over the assessee's case. Thereafter, the authorised officer is in no position to decide whether or not the seized records should be retained beyond 180 days. The practice obtaining at present is that the assessing Income-tax Officer records the reasons for retention and requests the 'authorised officer' to endorse the proposal for retention before the same is forwarded to the Commissioner of Income-tax for approval. In many a case, it so happens that the person who acted as an 'authorised officer' goes out on transfer to a far off station or is otherwise not readily available to sign the retention proposal. In some cases, the 'authorised officer' may not be available with the Department, having either retired or resigned, with the result that it becomes impossible to comply strictly with the provisions of sub-section (8) of section 132 of the Act. To resolve these difficulties, *we recommend that the law be amended to provide that the 'authorised officer' and/or the Income-tax Officer having jurisdiction over the case may apply for retention of the seized material beyond the period of* 180 *days. Similarly, sub-section* (9) *of section* 132, *which contemplates copies etc., of seized documents being made in the presence of the 'authorised officer', or any other person empowered by him in this behalf, may be suitably amended.*

(f) *Year of concealment*—We learn that in several cases of substantial cash seizures, assessees took the plea that the seized assets were referable to the income of the year of seizure and would accordingly be explained or offered for tax in the return to be filed for the relevant assessment year. This opens up an escape route and gives them an opportunity either to cook up evidence during the remaining portion of the year to explain the possession of the seized assets, or to avoid the penal consequences under the Income-tax Act by including the amount in the return of income as unexplained earnings of the year in which the cash was seized. This loophole naturally waters down the efficacy of the powers of search and seizure, which are intended to act as a deterrent. To remedy this situation, *we recommend that the law may be amended to raise a presumption to the effect that, unless proved to the contrary by the assessee, the assets which are seized in the course of a search will be deemed to represent the concealed income and wealth of the previous year/valuation date immediately preceding the date of the search.*

(g) *Onus of proof*—At present, the onus is on the Department to prove that the assets, account books or documents found at the premises of an assessee in the course of a search relate to the assessee. In the very nature of things, it is often difficult for the Department to get independent evidence to prove that the assets, account books and documents found at the assessee's premises belong to him and relate to his affairs. After all, this is a matter within the exclusive and personal knowledge of the assessee himself. Our attention has been drawn to section 24A of the Foreign Exchange Regulation Act, 1947, which provides for certain presumptions as to the documents seized in the course of a search. The absence of an analogous provision in the Income-tax Act is stated to be causing considerable difficulty to the Department. We agree that when an asset, account book or document is found at the premises of an assessee, it would only be reasonable to pre-

sume that it belongs to the assessee and relates to his affairs. The onus, in these circumstances, should be on the assessee to prove that it is not so. *We recommend that the law may be amended to provide a rebuttable presumption both for estimating the undisclosed income, and also for prosecution of an assessee or an abettor.*

2.41 *Need for cautious approach*—Having recommended more powers of search and seizure and their extensive use by the Department, we would be failing in our duty if we were not to add a word of caution here. Several persons, who appeared before us, complained against the arbitrary and high-handed manner in which some of the searches were conducted. It was also repeatedly pointed out that whenever a search takes place, there is always inordinate delay in completing the assessment. We have looked into the statistics furnished by the Department and we are satisfied that even after making allowance for the dilatory tactics which the assessees may adopt in such cases, and to which we have referred earlier, there is considerable truth in the representations made to us in this behalf.

We would like the Department to ensure that the actions of its officers in the matter of searches and seizures do not leave any room for complaint and whenever any officer is found, in his misplaced enthusiasm, to err and over-step the limits of reasonableness, he should be promptly and adequately dealt with. With a view to avoiding hardship to the assessees as also to safeguard the interests of revenue, *we consider it to be of paramount importance that assessments in cases where seizures have been made in the course of searches are finalised expeditiously and are not allowed to drag on unnecessarily.* Any avoidable delay not only places impediments in the conduct of even the normal business of the taxpayers but also considerably dilutes the desired impact of searches on tax-evaders and gives them more time to invent fresh explanations.

2.42 We are separately recommending strengthening of the Intelligence Wing and investigation circles which, we expect would enable the Department to tackle the problem of black money and tax evasion more effectively. The power of search, if it is to be purposeful, must be backed by a far better system of intelligence than what obtains today. Unless the information procured is definite, thorough and reliable, searches would not only serve no useful purpose but may become instruments of harassment to the honest taxpayers or a handy tool for those who come to the Department not because they have any specific information to give but because either they want to gamble on rewards, or settle their own scores with particular taxpayers. Further, *this provision can act as a deterrent only if really big tax evaders are uncovered and the exercise of this power is not confined to relatively small and less important assessees,* as the latter course is bound to undermine the confidence of the public in the fairness and efficiency of the Department, besides being not worthwhile from the point of revenue.

Measures to fight tax evasion

2.43 Having discussed measures for unearthing black money and for bringing it out into the open, we now proceed to make suggestions which seek to tackle the causes that lead to tax evasion and creation of black money. While doing so, we propose to deal with the problem both in its legal as well as administrative aspects.

Reduction in tax rates

2.44 Among the causes which have contributed to the spread of tax evasion and build up of black money in our country, we had listed the prevalence of high tax rates as an important factor. We would rank it as the first and the foremost reason because this is what makes tax evasion so profitable and attractive in spite of the attendant risks. As pointed out by us earlier, with the maximum marginal rate of tax at 97.75 per cent., the rewards of tax evasion in the case of an individual can be as high as 4,300 per cent. of the after-tax income. We were reminded time and again by the persons who appeared before us, whether they were businessmen or economists or officers of the Department or social workers, that tax evasion rises with the rising rates of taxation. At the end of our enquiry, we were left with little doubt in our minds that such high rates of taxation are tolerable or are tolerated mainly because of the widespread evasion and avoidance that take place. To many, they provide adequate justification for resisting the attempts of the State to snatch away almost the entire fruits of their labour. Even in the fight against tax evasion, we feel that the case for taking any drastic action against tax evaders gets on to a low key because the marginal rates of taxation are themselves so nearly expropriatory.

2.45 The present combination of high rates of taxation and widespread evasion has created a vicious circle. With the additions made to the returned income on account of estimates of profit or dis-allowance of expenses, statutory and otherwise, the tax can conceivably exceed the returned income. Even without such additions or disallowances, the effective marginal rate of tax, taking income-tax and wealth-tax together, may well exceed 100 per cent. of the income. After all, levy of wealth-tax even at the rate of one per cent. is equivalent to 10 per cent. additional income-tax, assuming a 10 per cent. yield. In these conditions, tax evasion almost gets elevated to the status of a defen-

sive weapon in the hands of taxpayers. If public conscience is to be aroused against tax evasion and if tax evaders are to be ostracized by the society at large, the public needs to be convinced that tax evasion is anti-social. This objective is difficult to achieve so long as the marginal rates of taxation are confiscatory.

2.46 One reason often given for adopting high tax rates in our country is that they would narrow down inequalities of income and wealth. In theory, this might be a valid proposition, but in practice, high rates of taxation are apt to make the rich richer and the poor poorer, thereby widening the gap between the two classes. As one eminent person who appeared before us quipped high tax rates can at best reduce the gap between the poor and the honest rich, but not between the poor and the dishonest rich. Today, a person in the income bracket of over Rs. 2 lakhs, who earns an extra Rs. 1,000 and declares it honestly in his return of income, is worse off under our tax system than an unscrupulous person who evades tax on only Rs. 30. In such a situation, honesty becomes the first casualty and not many would find it easy to resist the temptation.

2.47 To an honest citizen, high rates of taxation are a disincentive to productive effort and higher earnings. The alternative seems to be either to stop earning after reaching a certain level of income or to take recourse to evasion or avoidance. The tax system should certainly operate to reduce inequalities of income and wealth, but in our opinion, it would be wrong to press it to a point where it could have serious repercussions on economic activity by discouraging honest effort. Dealing with the subject of "Requirements of a tax structure in a developing economy", John F. Due has observed as under:—

> "In view of the primary importance of increasing economic activity, the impact of taxes at the margin must be minimised; for example, with any form of income-tax, it is desirable to avoid high marginal rates. The basic rates tend to encourage additional work, the marginal rates to discourage it."[1]

2.48 Another objection to the high marginal rates of taxation is that they can erode the capacity and sap the incentive to save and invest. This is relevant to our present economic situation where the need to encourage savings and investment has assumed greater significance than ever before for stepping up production and for providing larger employment opportunities.

2.49 Besides, high marginal rates of taxation tend to promote wasteful consumption expenditures. Apart from the fact that evaded income is more often spent than invested, there is the tendency to spend more when expenses are allowable in the computation of income and are in effect heavily subsidized by the Government on account of the high tax saving. Grant of tax free or nominally taxed perquisites to employees is another instance of avoidance developing under the pressure of high rates of taxation. This encourages excessive spending and thereby generates inflationary tendencies.

2.50 We are convinced that high marginal rates of taxation are a powerful contributory factor towards evasion inasmuch as they make the fruits of evasion so attractive that a less scrupulous person would consider the incidental risks worth taking. In addition, the high rates of taxation create a psychological barrier to greater effort, and undermine the capacity and the will to save and invest. The Second Inter-regional Seminar on Development Planning held at Amsterdam in September, 1966 under the auspices of the United Nations had sounded the following note of caution against stepping up rates of tax too stiffly:—

> "Every effort should be made to guard against placing too heavy a tax burden on the more productive sectors of the economy. Not only would unduly high tax rates reduce incentives to increase output and productivity, but they would also encourage tax evasion."[2]

2.51 We do not consider it advisable, for another reason, for our country to resort to such high rates of taxation in normal times. The country has to leave some tax potential in reserve for an emergency. The present high level of taxation leaves the Government with little scope for manoeuvrability for raising additional resources in times of emergency.

2.52 Having considered the matter in all its aspects, *we recommend that the maximum marginal rate of income-tax, including surcharge, should be brought down from its present level of* 97.75 *per cent. to* 75 *per cent. We further recommend that some reduction in tax rates be also given at the middle and lower levels. In order to create an impact, the reduction in the rates of taxation should be at one stroke. We give below a rate schedule which*

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1. Quoted in the Report of the Second Inter-regional Seminar on Development Planning, September 1966 (U. N.)- p. 81.
2. Report of the Second Inter-regional Seminar on Development Planning, September 1966 (U. N.)— p. 14.

we would recommend for adoption by the Government:

Income slab	Rate of tax
0—5,000	*Nil*
5,001—10,000	10%
10,001—15,000	500+15%
15,001—20,000	1,250+20%
20,001—25,000	2,250+25%
25,001—30,000	3,500+35%
30,001—40,000	5,250+45%
40,001—50,000	9,750+50%
50,001—60,000	14,750+55%
60,001—70,000	20,250+60%
Over—70,000	26,250+65%

Surcharge @15% in respect of incomes over Rs. 15,000.

2.53 We would like to state here our reasons for keeping the highest marginal tax rate at 75 per cent The alternatives before us were (a) a fairly low rate of tax with no exemptions and deductions, and (b) not so low a tax rate but a structure of rates incorporating some incentives for savings and investment, and for giving direction to the economic development of the country. After careful consideration of the pros and cons of the alternatives, we came to the conclusion that, in the context of the existing economic conditions, it was advisable to adopt the latter course. Looking at the rate structure of income-tax, we feel that at no stage of income, however high, should a taxpayer be left with less than 25 per cent. of the additional income after payment of income-tax.

Next, we gave our careful consideration to the level of income at which the maximum marginal rate should apply. Not so long ago, this level was Rs. 70,001 in 1967. Recently, under the Finance (No. 2) Act, 1971, the maximum salary and perquisites allowable as deduction in the computation of business income have been fixed at Rs. 5,000 p.m. and Rs. 1,000 p.m. per employee. Even in Government, the maximum salary is Rs. 5,000 plus free residential accommodation. Taking into consideration all these factors, we felt that it would be appropriate to fix Rs. 70,001 as the level of income at which the maximum marginal rate should apply.

2.54 When this recommendation is implemented, we would not be the first country to resort to tax cut as a measure of boosting the economy. Japan, West Germany and United States have done it in the recent past with very significant results. Even a developing country like Ceylon has cut the tax rates; the maximum marginal rate was slashed from 80 per cent. to 65 per cent. The U.K. has also embarked on a programme of tax reforms which, *inter alia*, includes a reduction in tax rates. For a long time, the tax system in U.K. was under severe criticism because of its high marginal rate of 91.25 per cent. (ours is 97.75 per cent. and in addition, we levy wealth-tax). It has been said that the greatest blemish of the British tax system is the height of marginal rates of taxation. They do not produce worthwhile revenue, they are costly to administer, they are making little progress towards achieving equality of wealth. They are so high that avoidance is regarded by many as not only morally justified but even as economically necessary if the right people are to be given the incentives they need, not only in their own interests but in the interests of the economy as a whole.[1] In the latest British budget, a beginning has been made to meet this criticism. The top rate on earned income has been brought down to 75.4 per cent. The Chancellor of the Exchequer, Anthony Barber, while presenting his Budget, admitted that the existing top rates were confiscatory having no parallel in any western community and having no fiscal purpose, no social purpose and no economic purpose. The Chancellor later claimed that the experts had called his Budget the biggest reform of the tax system of this century, and he added:—

> "During these past few years, I have travelled around the country a great deal, and everywhere I have been, people said the same thing: That taxes were so high that it just didn't seem worth trying. It didn't seem worth doing overtime."

2.55 While making our recommendation for rationalisation of tax rates, we have also kept in mind the objections that are likely to be raised against it on account of its possible adverse effect on the budget collections. The immediate revenue loss cannot, in our opinion, exceed even on a liberal estimate Rs. 45 crores. But we are confident that better compliance with tax laws that would follow such a reduction and the stimulus that the economy would receive on account of increased savings and investments will more than offset any immediate revenue loss in not too distant a future. There will be a considerable boost to the revenue when black money is unearthed and evasion is plugged. The recommendations we have made elsewhere in this report for reducing the area of tax avoidance and for withdrawing certain tax exemptions would also help augment the

1. The 'Economist' dated 18—24 April, 1970.

revenue. The suggestions we have made for improving the assessment and collection machinery would result in better collections that would wipe off any small shortfall that might still remain uncovered. We feel confident that the beneficial results of the measures we have recommended will catch up and more than offset any immediate fall in the revenues.

Minimisation of controls and licences

2.56 Controls and black money constitute a vicious circle. Even as controls generate black market, black market generates black money and tax evasion. Controlled goods carry a premium and the premium is always given and demanded in cash to escape detection. Not only goods but certain entitlements and rights in the form of licences and permits command a premium on the sly. In fields like import licences, the practice of paying unofficial premium is so widespread and common that commercial circles have given recognition to it by having the rates regularly quoted in some newspapers. Rent controls have given rise to the 'Pugree system' where a substantial sum is received in cash before the premises are let out at controlled rent. The clandestine deals and undisclosed investments arising from black money have caused a serious problem of tax evasion which increases in geometric progression as black money generates more black money and evasion breeds further evasion.

2.57 Most of the persons, who replied to our Questionnaire, said that controls gave rise to black-marketing, black money and tax evasion. When controls seek to remedy an evil and in the process generate another, which of the two evils is greater? In a developing economy like ours, controls cannot be avoided and in some cases might be necessary or desirable even at the risk of some abuse. However, over the years some controls outlive their utility; others turn out to be difficult to administer, and while the ills they seek to cure persist, there is the added problem of black money and tax evasion; some become redundant in that they affect or benefit only a small section of the community, which tends to acquire a vested interest in their continuance. Some controls even inhibit or hamper production, thereby perpetuating shortages. Still others might be so open to abuse that it is not worthwhile having them at all. In some cases, the economic situation might have so changed that rethinking is necessary on the utility of retaining such controls. There has in fact been some rethinking from time to time in this regard, as is evidenced by the control, decontrol and recontrol of cement; control, partial decontrol and full decontrol of sugar.

2.58 What appears to be necessary now is a comprehensive review of the existing controls so that those which are ineffective, redundant or irksome might be eliminated or modified to suit the needs of the changed situation. There is also scope for streamlining some of the controls to make them more effective and to ensure a fairer deal to the common man, and for modifying some of the procedures so as to eliminate the irritants, bottlenecks and above all, scope for abuse. For instance, there appears to be need for modifying the import control regulations to eliminate certain malpractices such as the sale or transfer of licences, without adversely affecting the interests of the actual user. Perhaps, import entitlements which are offered as incentives for export performance could be replaced by cash subsidies. Elimination of unwanted and ineffectively enforced controls would considerably reduce the area of black money and tax evasion. *We would recommend that a committee of experts be appointed to enquire into the utility of all existing controls, licensing and permit systems, and suggest elimination of such of these as are no longer considered necessary. This committee may also suggest changes in law and procedures so as to ensure that the controls which are absolutely essential for the health of the economy are administered more effectively and with the least harassment to the public.*

Regulation of donations to political parties

2.59 Political parties and elections are a necessary adjunct to a democratic set-up. A majority of the persons who sent replies to our Questionnaire, and those who appeared in person before us, stated that political factors were also responsible to a considrable extent for the generation and proliferation of black money in the country. In this context, one item which was particularly criticised by them was the incongruity existing between the present ban on donations to political parties by companies on the one hand and the enormous funds required to meet election expenses on the other. This ban on donations to political parties by companies was imposed only in 1969 by an amendment to the Companies Act, 1956[1], since it was considered that such contributions "tended to corrupt political life and to adversely affect the healthy growth of democracy in the country". We recognize the need to keep political institutions free of corruption. We are, therefore, not in favour of the ban on donations by companies to political parties being removed, particularly when the shares of many companies are held by public institutions like the Unit Trust of India, Life Insurance Corporation, nationalised banks, etc.

2.60 Nevertheless, it is an accepted fact of life that in a democratic set-up, political parties

[1] Section 293A of the Companies Act, 1956.

have to spend considerable sums of money, and that large sums are required for elections. In this connection, it may be pertinent to refer to the manner in which this problem has been tackled in countries like West Germany and Japan. In West Germany, political parties are financed by the Government on the basis of votes polled by them at the preceding election. In Japan, Government finances election expenses of the national parties on the basis of the size of a constituency and also gives financial assistance for research and party publicity. It is said that such measures largely ensure that political parties do not have to lean heavily on rich patrons or indulge in underhand dealings. *We are of the opinion that in our country also, the Government should finance political parties. We recommend that reasonable grants-in-aid should be given by the Government to national political parties and suitable criteria should be evolved for recognizing such parties and determining the extent of grant-in-aid to each of them. For according recognition to a political party for this purpose, it should be necessary,* inter alia, *that it is registered under the Societies Registration Act,* 1860 *and its yearly accounts are audited and published within a prescribed time. Irrespective of the decision of Government on the question of financing political parties, we recommend that the parties be required to get their accounts audited and published annually.*

2.61 Inasmuch as the grants-in-aid by the Government may not meet fully the requirements of political parties, they will have to look for additional contributions from other quarters. The considerations which weigh against large donations by big industrial and trading units in the corporate sector do not, however, apply to smaller donations by individuals. *We therefore, recommend that donations by taxpayers, other than companies, to recognized political parties should be allowed as a deduction from the gross total income, subject to certain restrictions. The maximum amount eligible for deduction on account of donations to political parties should be* 10 *per cent. of the gross total income, subject to a ceiling of rupees ten thousand. The deduction to be allowed should be* 50 *per cent. of the qualifying amount of the donation.* We may mention that donations made for political purposes are allowed in West Germany as deductions from total income, subject to certain limits[1].

Creating confidence among small taxpayers

2.62 There is a widespread belief that much of the tax evasion at lower levels of income is due to fear of the Income-tax Department, or because of lack of confidence in its fairness. This is generally attributed to the practice of estimating income in small cases, pitching up estimates of income almost as a matter of routine, and disallowing expenses indiscriminately. It is stated that many assessees return lower incomes as a cushion against higher estimates of income and disallowance of expenses by the Department. Similarly, it is mentioned that many taxpayers avoid filing of returns of income for fear of harassment by departmental officers.

2.63 Whether such fears and mistrust have any real basis or not, it is amply clear from the evidence given before us that many taxpayers do genuinely apprehend unfair treatment at the hands of departmental authorities. The practice of being too meticulous in small cases, where no worthwhile revenue is involved, has done much to damage the image of the Department in the public eye. The initiative for undoing the damage lies with the Department. One concrete step suggested for restoring public confidence is to dispense with detailed scrutiny in small income cases and accept the returns of income in such cases in large numbers.

2.64 It is not that the Department itself has not been alive to this issue. The small income scheme was introduced, following the recommendations of the Direct Taxes Administration Enquiry Committee.[2] However, in the actual formulation of the scheme several 'ifs' and 'buts' were introduced with the result that it did not achieve any significant success. The scheme did not evoke any great enthusiasm among taxpayers, and the assessing officers' reluctance to take the responsibility for accepting any return stood in the way of its success. Subsequently, some improvements were made in the scheme and this helped in reducing the pendency of assessments in small cases to some extent. However, the position in law remained unchanged that a return could be accepted only if the Income-tax Officer was satisfied that it was correct and complete. Thus, the small income scheme lacked legal sanction.

2.65 Recently, the law has been amended so as to facilitate assessments being made on the basis of returns without the requirement that the Income-tax Officer should be satisfied that the return is correct and complete. Such an assessment can be re-examined either at the instance of the assessee or where the Income-tax Officer considers it necessary or expedient to verify the correctness and completeness of the return by requiring the presence of the assessee or the production of evidence in this behalf. In the latter case, the Income-tax Officer has to

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1. **World Tax Series—Taxation in the Federal Republic of Germany (1963)– Harvard Law School—p. 272.**
2. **Report of the Direct Taxes Administration Enquiry Committee—paras 2·26 to 2·30.**

obtain the previous approval of the Inspecting Assistant Commissioner[1].

2.66 Following this amendment of the law, the small income scheme, as it existed, has been scrapped with effect from 1st April, 1971 and the Central Board of Direct Taxes have issued fresh instructions on the new procedure for making assessments in small income cases. We have looked into these instructions. They make a bold departure from the past and are likely to achieve more significant results than the earlier small income scheme. *While broadly approving the general principles underlying these instructions, we have to observe that we see no reason why assessees in certain income groups at some places should be given a preferential treatment by having their returns accepted under section* 143(1), *whereas elsewhere assessees in these income groups will have to face annual scrutiny. We feel that the basic criteria for selecting cases for annual scrutiny should be uniform throughout the country.* While selecting cases for scrutiny out of those already disposed of summarily, varying percentages might have to be adopted, depending on the workload and manpower available. *We would suggest that the work be so programmed, and the manpower supplemented, if necessary, as to ensure that at the end of each financial year the carry over of work should not be more than what can be disposed of in the next four months.*

2.67 We find that it is proposed to discontinue the procedure of issuing notice under sub-section (2) of section 139 in every case. *We suggest that, notwithstanding this change in procedure, the Department should mail the return forms together with instructions for filling them to all existing taxpayers on the general index registers in the first week of May every year.* This would serve as a timely reminder to the taxpayer of his obligation under the law to file his return of income, would save him the time and trouble in obtaining the form, and would facilitate prompt filing of returns. This taxpayer service is done in most of the countries, even though under the law responsibility for the filing of the return is cast on the taxpayer himself. For the Department also, this would save the time which it would otherwise have to spend in attending to individual requests from taxpayers for forms.

Allowance of certain business expenses

2.68 While discussing the causes of tax evasion we had referred, *inter alia*, to disallowances and ceilings on certain expenses which are required to be incurred in view of commercial expediency. We had mentioned that this unduly adds to the tax burden on the assessees when such expenses, though actually incurred, are not allowed to be deducted in arriving at the total income. The expenses commonly mentioned in this connection are those relating to entertainment and maintenance of guest houses.

We consider that certain curbs on lavish entertainment are necessary and certain restrictions are also desirable to prevent the unscrupulous amongst the assessees from claiming deduction for personal or non-business expenses. However, a blanket disallowance of entertainment expenses appears to us to be an unduly stringent measure not warranted by a realistic appraisal of commercial considerations. Business is a highly competitive venture and it cannot be denied that occasions do arise when a person carrying on business has to provide food, drinks and other hospitality to prospective buyers or persons otherwise helpful in promoting his business. Such expenses have to be incurred in the ordinary course of business out of sheer commercial expediency, particularly when they relate to overseas customers. Any prohibition of such expenditure has the effect of driving it underground to re-appear in more acceptable forms. In the ultimate analysis, it is only the honest taxpayer who suffers.

2.69 We find that the U.S. tax law also prohibits allowance of entertainment, amusement or recreation expenditure, but the prohibition does not operate when the expenditure is primarily meant for furtherance of the taxpayer's trade or business or is directly related to the active conduct of such trade or business[2]. In Japan, social and entertainment expenses related to business are allowed to be deducted, subject to certain monetary limits.[3] Even the U.K. law[4] permits deduction of expenses incurred for entertaining overseas customers within reasonable limits. The general restrictions imposed there on allowance of entertainment expenses also do not apply to expenses incurred by a person in providing, in the ordinary course of business, anything which it is his trade to provide. We feel, therefore, that there is no justification for a blanket ban on the deduction of all types of entertainment expenditure. *We recommend that entertainment expenditure which is incurred primarily for the furtherance of the taxpayer's business and is directly related to its active conduct should be allowed to be deducted, upto the ceiling prescribed under sub-section*

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1. Section 143. of the Income-tax Act, 1961 as substituted by the Taxation Laws (Amendment) Act, 1970 with effect from 1-4-1971.
2. Internal Revenue Code of 1954—Section 274.
3. An Outline of Japanese Taxes 1969—p. 72.
4. Income and Corporation Taxes Act, 1970—Section 411.

(2A) *of section 37 of the Income-tax Act,* 1961. Of course, the deduction should be allowed only if the taxpayer proves by adequate evidence not only the actual expenditure incurred but also the business purpose of the expenditure and business relationship of the person entertained to the taxpayer.

2.70 Notwithstanding sub-section (1) of section 37 of the Income-tax Act, 1961, which provides for deduction of expenses which are incurred wholly and exclusively for the purpose of business, the Income-tax law imposes certain restrictions in respect of maintenance of guest houses by assessees having income from business or profession. These restrictions were first imposed in 1964. From 1st April, 1964, expenses on the maintenance of guest houses incurred by an assessee were to be disallowed unless the expenses were within the prescribed limits and fulfilled certain specified conditions. In 1970, the law in this regard was tightened. By the Finance Act, 1970, it was provided that no allowance shall be made in respect of any expenditure incurred by an assessee on the maintenance of any residential accommodation in the nature of a guest house and also in respect of depreciation of any building or asset used for the purpose of a guest house. The second proviso to sub-section (4) of section 37 of the Income-tax Act, 1961, however, provides an exception to such restrictions in respect of any guest house maintained as a holiday-home for the exclusive use of employees while on leave. We feel that it will also be reasonable to give the benefit to guest houses maintained in the nature of transit houses for employees on duty. *We, therefore, recommend that the exception contained in the second proviso to sub-section* (4) *of section 37 of Income-tax Act,* 1961 *should be made applicable to guest houses maintained in the nature of transit houses for employees on duty, provided the stay is temporary and rent is charged. Where no rent is charged, the daily allowance admissible to the employee should be restricted on the same lines as for Government servants.*

Changes in penal provisions

2.71 As the number of taxpayers increases, the tax administration has of necessity to rely more and more on voluntary compliance of tax laws by the assessees. Appropriate penal provisions form a necessary complement to this approach as they impel compliance with the tax laws by imposing additional monetary burden on those who happen to go astray either inadvertently or by design. It is in this context that we have considered it necessary to review the penal provisions in the direct tax laws.

Iniquity and severity of penal provisions

2.72 Considerable criticism of the existing penalty provisions has been voiced before us. Our attention has been drawn particularly to the fact that the law provides for levy of interest and penalty, and also prosecution for the same default. Similarly, objection is taken to the penalty for concealment being levied with reference to income or wealth concealed instead of the tax sought to be evaded. The main criticism levelled is that these provisions are unrealistic and iniquitous, especially from the point of view of small taxpayers. It has been urged that instead of aiding the administration in the enforcement of tax laws, these draconian provisions compel a taxpayer to go underground or practise under-cover operations.

2.73 Under clause (c) of sub-section (1) of section 271 of the Income-tax Act, 1961, a person who has concealed the particulars of his income or furnished inaccurate particulars thereof, is liable to pay a minimum penalty equal to the concealed income and maximum penalty of twice that amount. This provision has been the subject of widespread criticism both in the replies to the Questionnaire as well as in the statements made before us. It has been pointed out that apart from the penalty itself acting very harshly on the taxpayers, its severity is enhanced by the Explanation to sub-section (1) of section 271 which is to the effect that where the income returned by any person is less than eighty per cent. of the assessed income, he will be deemed to have concealed the particulars of his income or furnished inaccurate particulars thereof, unless he can prove that the failure to return the income as assessed did not arise from any fraud or any gross or wilful neglect on his part.

We think this criticism is not without merit. Penalty serves its purpose only so long as it is within reasonable limit. Once it crosses that limit, it is more likely to increase the rigidity of a taxpayer's recalcitrance than to reform him. If a tax evader is really unable to pay a heavy penalty, he would prefer to go underground and start business in benami names. Unduly harsh penalties thus breed only defiance of the law and have to be eschewed. No other country in the world appears to have adopted such a basis for levying penalty for concealment. A penalty based on income instead of tax hits the smaller taxpayers more harshly. The iniquity of this provision is evident from the fact that while the minimum penalty is over nine times the tax sought to be evaded in the case of a taxpayer with income upto Rs. 10,000, it is just about equal to the tax in the case of a person with income above Rs. 2 lakhs. In the desire not to let off the fraudulent tax evaders lightly, it is not correct to penalise the small taxpayer more harshly. The objective can be better served by prosecuting tax evaders in higher income brackets, which would be far more effective than loading everyone with heavy penalties. Later in this report, we have ourselves recommended a vigorous prosecution policy to be ad-

opted by the Department. The purpose of penalty should, however, be only to bend and not to break the taxpayer. *We recommend that the quantum of penalty imposable for concealment of income should be with reference to the tax sought to be evaded, instead of the income concealed. Moreover, the minimum penalty imposable for concealment of income should be the amount of tax sought to be evaded and the maximum penalty imposable should be fixed at twice the said amount. It may also be clarified that 'tax sought to be evaded' in this context means the difference between the tax determined in respect of total income assessed and the tax that would have been payable had the income other than the concealed income been the total income.* This would ensure that taxpayers are not made to pay penalty in respect of certain additions to income, which are not in the nature of concealment but are made only for certain technical reasons.

2.74 We are not unaware that linking concealment penalty to tax sought to be evaded can, at times, lead to some anomalies. *We would recommend that in cases where the concealed income is to be set off against losses incurred by an assessee under other heads of income or against losses brought forward from earlier years, and the total income thus gets reduced to a figure smaller than the concealed income or even to a minus figure, the tax sought to be evaded should be calculated as if the concealed income were the total income.*

Explanation to sec. 271(1)(*c*)

2.75 Several persons who appeared before us urged the need for deleting the Explanation to clause (c) of sub-section (1) of section 271 of the Income-tax Act, 1961 for various reasons. The primary objection against this Explanation is that it is being invoked indiscriminately and penalty proceedings are initiated in all cases where the income shown in the return is less than eighty per cent. of the assessed income.

This Explanation was introduced in order to cast on the assessee the burden of proving that the omission to disclose true income did not proceed from any fraud, or gross or wilful neglect. A similar Explanation was also introduced in the Wealth-tax Act, 1957. This was a sequel to the recommendation[1] made by the Direct Taxes Administration Enquiry Committee (1958-59), based on a similar provision in the United Kingdom law. We understand that in a number of cases that came up on appeal, the appellate authorities were not inclined to uphold the penalties imposed on the basis of this Explanation, since they were of the view that the Department was still under obligation to prove the concealment. The difference between the assessed income and the returned income can be due to a variety of reasons—some technical, like estimate of gross profit and others purely arithmetical—and in our opinion, it would not be correct to initiate proceedings in every case where the difference exceeds twenty per cent. In the United Kingdom itself, the provision on which this Explanation was based has now been dropped. In any event, if past experience is any indication, we feel that this Explanation has failed to serve any useful purpose. On the other hand, it has resulted in unwarranted harassment to the taxpayers, and too much of paper work caused by indiscriminate initiation of penalty proceedings and consequent appeals.

We recommend that Explanation to clause (c) of sub-section (1) *of section* 271 *of the Income-tax Act,* 1961 *and also Explanation* 1 *to clause (c) of sub-section* (1) *of section* 18 *of the Wealth-tax Act,* 1957 *may be deleted.*

2.76 While we are of the view that penalties should not be draconian, we also strongly feel that those who are tempted to resort to concealment of income should not be allowed to get away with tenuous legal interpretations. We would recommend the following changes in the Income-tax Act in this regard:

(a) *Presumption of concealment where explanation found false*—Several officers of the Department invited our attention to the Supreme Court's decision in the case of Commissioner of Income-tax, West Bengal *vs.* Anwar Ali (76 ITR 696). It has been held by the Court that penalty for concealment of income cannot be imposed merely because the explanation given by an assessee is found to be false. While this decision was given in the context of clause (c) of sub-section (1) of section 28 of Indian Income-tax Act, 1922, it is not reasonably certain that it would not apply to penalties under the Income-tax Act, 1961. *We would, therefore, recommend, as a measure of abundant caution, that an Explanation to sub-section* (1) *of section* 271 *of the Income-tax Act,* 1961 *may be inserted to clarify that where a taxpayer's explanation in respect of any receipt, deposit, outgoing, or investment is found to be false, the amount represented by such receipt, etc., shall be deemed to be income in respect of which particulars have been concealed or inaccurate particulars have been furnished, within the meaning of clause (c) of sub-section* (1) *of section* 271 *of the Income-tax Act,* 1961.

(b) *Intangible additions*—Additions to income are frequently made by the Income-tax Officers for purely technical reasons, e.g., application of

[1] Report of the Direct Taxes Administration Enquiry Committee —para. 7·61, p. 169.

a presumptive rate of gross profit or of yield, or on account of estimated disallowance of certain expenses, shortages, wastage, etc. These are commonly referred to as 'intangible additions' and normally no penalty is levied—and rightly so—for want of adequate material to establish that these additions represent the taxpayer's concealed income. We are, however, informed that these intangible additions are exploited by some taxpayers as a means of escape from tax and penalty in assessments pertaining to subsequent years. Instances are said to be common when a taxpayer, confronted with the need to explain the source of some of his funds, assets, etc., takes the plea in the absence of any other evidence, that the said funds, assets, etc., had emanated from income represented by intangible additions made in earlier assessments. Such explanations also find favour with appellate authorities, with the result that the taxpayer gets away with admitted utilisation of concealed income without paying any penalty. We do not consider this to be justifiable. *We recommend that law should be amended to provide that where intangible additions made in earlier years are cited by an assessee as the source of his funds, assets, etc., in a subsequent year, the said funds, assets, etc., would be deemed to represent the assessee's income, particulars in respect of which have been concealed within the meaning of clause (c) of sub-section (1) of section 271 of the Income-tax Act, 1961, and the quantum of penalty would be determined with reference to the total income of the said assessment year, which shall be computed for this limited purpose by including the value of such funds, assets, etc., to the extent they are claimed to be out of past intangible additions.*

(c) *Presumption of concealment in case of failure to file the return*—Tax evasion can be attributed to acts of either commission or omission of an assessee. A taxpayer may file his return but may not disclose his income in full. On the other hand, he may decide not to file the return at all, thereby concealing all his income. As stated earlier, penalty is imposable under clause (iii) of sub-section (1) of section 271 of the Income-tax Act, 1961 if an assessee has, in the return filed by him, concealed particulars of his income or furnished inaccurate particulars thereof. Where, however, an assessee does not submit the return of his income, though he had taxable income and this fact is established on assessment, no penalty for concealment of income is leviable under the law. At best, the income-tax Officer can levy penalty under clause (i) of sub-section (1) of section 271 of the Act for assessee's failure to submit the return of income. While the maximum penalty under clause (iii) of sub-section (1) of section 271 is twice the concealed income (which we are recommending to be changed to twice the tax sought to be evaded), the maximum penalty for belated filing of return or non-filing of return is 50 per cent. of the tax payable on assessment. We consider it to be highly unsatisfactory that a complete concealment of income should entail a lighter punishment than partial concealment. *We accordingly recommend that where an assessee does not file a return of income within the normal period of limitation for completion of assessment, and the Income-tax Officer establishes that he had taxable income, the assessee should be deemed in law to have concealed his total income for the purpose of clause (c) of sub-section (1) of section 271 of the Act, notwithstanding that he had subsequently, in response to notice under section 148, filed a return stating his correct income. This will apply only to those who have not hitherto been assessed.*

Other Penalties

2.77 In regard to other penalties under section 271, which do not relate to concealment of income, our recommendations are as under:

If an assessee fails to furnish his return of income under sub-section (1) of section 139 of the Income-tax Act, 1961 within the prescribed time, he is liable to pay penal interest and penalty for the period of default, apart from being liable to be prosecuted, in certain circumstances, under section 276C of the Income-tax Act, 1961. We consider that the policy of levying interest and penalty, in addition to making the assessee liable to prosecution is not warranted in all such cases. In our opinion, assessees who furnish returns of income, though belated, should be treated more leniently than assessees who do not furnish returns of income at all. Similarly, the treatment to be meted out to a case of failure to file return of income where no notice under sub-section (2) of section 139 of the Act has been served should be less severe than that to a case where such a notice has been served. Accordingly, we make the following recommendations:

(i) *Where a return of income is filed under sub-section (1) of section 139 of the Income-tax Act, 1961, after the prescribed time-limit but within the period of limitation for completion of assessment, the assessee should be liable to pay only interest at the rate of 1 per cent, per month on the tax due for the period of delay. There should be no liability for penalty or prosecution.*

(ii) *Where a return of income is filed beyond the time prescribed under sub-section (2) of section 139 or section 148, but within the time allowed, if any, by the Income-tax Officer, the assessee should be liable to pay interest at the rate of 1 per cent. per month on the tax due for the period of delay.*

(iii) *Where a return of income is filed beyond the time prescribed under sub-section* (2) *of section* 139 *or section* 148 *and also beyond the time allowed, if any, by the Income-tax Officer, the assessee should be liable to pay interest at the rate of* 1 *per cent per month and, in addition penalty at the rate of* 1 *per cent. of the tax due for every month during which the default continued.*

(iv) *Where a person fails to submit a return of income in response to a notice under sub-section* (2) *of section* 139 *or section* 148 *and on assessment his income is found to be above taxable limit, he should be liable to pay interest at the rate of* 1 *per cent per month and, in addition, penalty at the rate of* 1 *per cent. of the tax due for every month during which the default continued. He should also be liable to prosecution.*

(v) *Where a person fails to submit a return as required under sub-section* (1) *of section* 139 *but submits it in response to a notice under sub-section* (2) *of section* 139 *or section* 148, *he should be liable to pay interest at the rate of* 1 *per cent. of the tax due for every month during which the default continued.*

In the case of a person not hitherto assessed to tax, where the failure has continued beyond the normal period of limitation for completing the assessment under section 143, *he should, in addition to interest, be liable to a penalty under clause* (c) *of sub-section* (1) *of section* 271 *as recommended earlier, as also prosecution.*

(vi) *For the purpose of levy of interest at the rate of* 1 *per cent., the period of delay or default should always be counted from the due date for filing the return of income under sub-section* (1) *of section* 139, *notwithstanding the extension of time, if any, granted by the Income-tax Officer.*

Penalties under Wealth-tax Act

2.78 Now coming to the penalties under the Wealth-tax Act, 1957, we find that the quantum of penalty for defaults under sub-section (1) of section 18 and the nature of punishment for offences under sub-section (1) of section 36 of the Wealth-tax Act, 1957, substantially differ from those of the Income-tax Act, 1961, even though the nature of default or offence sought to be penalised is more or less the same. To illustrate, the penalty under clause (i) of sub-section (1) of section 18 of the Wealth-tax Act, 1957 for failure to submit the return of net wealth within the prescribed period is one-half per cent. of *the net wealth* for every month of default, subject to a *maximum of an amount equal to the net wealth*, whereas the penalty prescribed under clause (i) of sub-section (1) of section 271 of the Income-tax Act, 1961, for a similar default is two per cent. of *the tax*, for every month of default, subject to a *maximum of fifty per cent. of the tax*. We consider this position to be anomalous. *We, therefore, recommend that the provisions in clauses* (i) *and* (ii) *of sub-section* (1) *of section* 18 *and clauses* (a), (b) *and* (c) *of sub-section* (1) *of section* 36 *of the Wealth-tax Act,* 1957 *should be respectively brought in line with the corresponding provisions of the Income-tax Act.*

As regards clause (iii) of sub-section (1) of section 18 of the Wealth-tax Act, 1957, the minimum penalty for concealment of wealth is equal to the concealed wealth and the maximum penalty is twice that amount. Explanation 1 to sub-section (1) of section 18 of the Wealth-tax Act, 1957, which we have elsewhere[1] recommended for deletion, further provides that where the value of any asset returned is less than seventy five per cent. of its value as determined in the assessment, or where the value of any debt returned exceeds the value of such debt as determined in the assessment by more than twenty five per cent., the assessee shall be deemed to have concealed his wealth to the extent of under-valuation of asset or over-valuation of debt, unless he can prove that the failure to return the value as determined in assessment did not arise from any fraud or any gross or wilful neglect on his part. Apart from the quantum of penalty itself being quite harsh, we consider that this Explanation makes it all the more stringent. *We recommend that penalty for concealment of wealth should be restricted to only those cases where there is a total omission to include an asset in the return of net wealth. Further, in order to avoid gross under-valuation, the Government may be given the power to acquire the properties, which are considered to be grossly under-valued, on payment of the value put by the assessee plus* 15 *per cent. thereof by way of compensation.*

Regarding the quantum of penalty on concealment of wealth, we do not approve of the existing provision linking it to the amount of wealth concealed as it leads to inequitable and intolerably oppressive results. For example, if an assessee wants to disclose an asset worth Rs. 50,000, which he had not done earlier, he will be liable to minimum penalty of Rs. 50,000 and maximum penatly of Rs. 1,00,000 under the Wealth-tax Act, apart from penal consequences under the Income-tax Act. If the omission had occurred in returns of net wealth for more than

[1] Para 2·75.

one year, this penalty will get multiplied by the number of years. Thus, omission to disclose an asset worth Rs. 50,000 for three years would entail minimum penalty of Rs. 1,50,000 and maximum penalty of Rs. 3,00,000. In addition, he will be exposed to the threat of prosecution. All this, we think, is likely to prompt a taxpayer to remain underground rather than make a clean breast of the whole affair and start paying taxes honestly. In line with our earlier[1] recommendation with regard to the penalty for concealment of income under the Income-tax Act, *we recommend that the penalty for concealment of wealth should be linked to the amount of tax sought to be evaded instead of the concealed wealth.* However, we would prefer a minor departure from our earlier recommendation in so far as the maximum penalty leviable for concealment of wealth is concerned. We consider that maximum penalty equal to twice the tax sought to be evaded may not make the penal provision as effective under the Wealth-tax Act as under the Income-tax Act. *We recommend that the minimum penalty for concealment of wealth under the Wealth-tax Act, 1957 should be equal to the tax sought to be evaded and the maximum penalty should be five times the tax sought to be evaded.*

Penalties under Gift-tax Act

2.79 Under clause (i) of sub-section (1) of section 17 of the Gift-tax Act, 1958, if a person fails to furnish his return of gifts which he is required to file, he is liable to pay penalty equal to two per cent. of the tax for every month during which the default continued, but this is subject to a ceiling of fifty per cent. of the tax due. Filing of a gift-tax return is a very simple matter, unlike the filing of the return of income under the Income-tax Act, 1961, which has to depend on various factors, including the accounts being written up-to-date. Moreover, filing of gift-tax returns will assume far greater importance with the introduction of the provision for aggregation of gifts recommended by us elsewhere[2] We consider, therefore, that the delayed submission of return of gifts under the Gift-tax Act, 1958 should be subject to a higher penalty than the penalty prescribed for the belated filing of the return of income. Accordingly, *we recommend that while the present rate of penalty at 2 per cent. per month prescribed under clause (i) of sub-section (1) of section 17 of the Gift-tax Act should continue, the ceiling of fifty per cent. of the tax due should go.*

Mitigation of penalties and interest

2.80 Another aspect to which our attention was invited by several persons who appeared before us related to the need for mitigating the rigours of the penal provisions, which instead of encouraging a one-time tax evader to come back to the path of rectitude, drive him to become a confirmed tax dodger. Even sub-section (4A) of section 271 of the Income-tax Act, 1961, under which Commissioner of Income-tax has the power to reduce or waive penalty, does not cover all the penalties imposable under the Act. Even the reduction or waiver of penalty imposable under clauses (i) and (iii) of sub-section (1) of section 271 of the Act is subject to certain conditions. Some of the conditions are that the assessee should have made voluntary and full disclosure of income *before* the notice calling the return of income was issued to him, and that in cases of liability to penalty under clause (iii) of sub-section (1) of section 271 of the Act, his voluntary disclosure of income should have been made *prior* to the detection of concealment by the Department. There is a similar provision in the Wealth-tax Act, 1957 as well.

Apart from the scope of this provision being very limited, the conditions required to be fulfilled for getting its benefit may not be fully satisfied in certain cases, though facts and circumstances may otherwise justify mitigation of penalty. We consider that it would be advantageous to have a comprehensive provision under which mitigation or remission of penalties is made possible, where facts and circumstances of the case so warrant. We find that a similar provision[3] exists in the Taxes Management Act, 1970 of the United Kingdom. *We recommend that the existing provisions for waiver and reduction of penalties may be deleted and, instead all the direct tax laws should contain a provision enabling the Commissioner to mitigate or entirely remit any penalty, or stay, or compound any proceedings for recovery thereof, in cases of genuine hardship.* However, this power should be available only in respect of cases other than those which are the subject of settlement proceedings before the Direct Taxes Settlement Tribunal.

2.81 Notwithstanding our recommendation for a comprehensive provision enabling the Commissioner to mitigate penalty in appropriate cases, we consider that there is need for a provision which would mitigate the impact of penalty and interest for belated returns in respect of small income cases at the level of Income-tax Officer himself *suo motu. We, therefore, suggest that where a return of income is filed belatedly by an assessee and his income in no year during a period of four years immediately preceding the year exceeded Rs. 15,000, the Income-tax Officer should be under a statutory*

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1. para 2·73.

2. para 3·76.

3. "Section 102—The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery thereof, and may also after judgment, further mitigate or entirely remit the penalty."

obligation to consider waiver or reduction of both penalty and interest and should record a note giving reasons for the decision taken by him in the matter.

Minimum penalty

2.82 In view of the comprehensive mitigation provision recommended by us, we do not consider it necessary to delete, as suggested by some, the statutory minimum prescribed for levy of penalties under the direct tax laws, or to have fixed but graded penalties only for various kinds of defaults. *We are of the opinion that the present policy of having a statutory minimum for penalties has, on the whole, had salutary effect and it should, therefore, continue.*

Vigorous prosecution policy

Need for vigorous prosecution policy

2.83 In the fight against tax evasion, monetary penalties are not enough. Many a calculating tax dodger finds it a profitable proposition to carry on evading taxes over the years, if the only risk to which he is exposed is a monetary penalty in the year in which he happens to be caught. The public in general also tends to lose faith and confidence in the tax administration once it knows that even when a tax evader is caught, the administration lets him get away lightly after paying only a monetary penalty—when money is no longer a major consideration with him if it serves his business interests. Unfortunately, in the present social milieu, such penalties carry no stigma either. In these circumstances, the provisions for imposition of penalty fail to instil adequate fear of the law in the minds of tax evaders. Prospect of landing in jail, on the other hand, is a far more dreaded consequence—to operate *in terrorem* upon the erring taxpayers. Besides, a conviction in a court of law is attended with several legal and social disqualifications as well. In order, therefore, to make enforcement of tax laws really effective, we consider it necessary for the Department to evolve a vigorous prosecution policy and to pursue it unsparingly.

2.84 The tax laws of our country contain numerous provisions for prosecuting tax offenders. Significantly, however, the Department did not draw upon these provisions hitherto in a big way. It is only recently that some attempts have been made to prosecute tax evaders for concealment of income, as is borne out by the following information furnished to us by the Central Board of Direct Taxes:—

Prosecutions under section 277

	1965-66	1966-67	1967-68	1968-69	1969-70
1. No of prosecutions launched during the year	1	4	8	31	27
2. Convictions	—	1	3	7	6
3. Acquittals	—	—	1	2	2
4. Compositions	1	1	1	1	2
5. Withdrawals	—	—	—	1	—

The performance, as seen from the figures above, can by no means be said to be impressive.

In the United States of America, successful prosecution of tax fraud cases forms a far more important plank of the tax enforcement activity. The details of prosecutions in tax fraud cases concluded there during the years 1967 to 1969 are as under[1]:—

	1967	1968	1969
Plea, guilty or nolo contendere..	520	475	447
Convicted after trial ..	62	89	79
Acquitted	31	31	19
Nol-prossed or dismissed ..	83	65	81
Total disposals ..	696	660	626

The position of criminal proceedings in U.K. for offences relating to concealment of income during the past four years as given in the Report of the Commissioners of Inland Revenue is as under[2]:—

	1966-67	1967-68	1968-69	1969-70
No. of persons convicted	102	66	79	135
No. of persons acquitted	3	2	5	4
Total ..	105	68	84	139

Nearer home, the Japanese tax administration places considerable reliance on prosecution as a means of achieving voluntary compliance with its tax laws. The results of prosecutions for

1. Includes income, estate, gift and excise taxes other than wagering, alcohol, tobacco and firearms taxes. Source:—Annual Report of the Commissioner of Internal Revenue—1968 and 1969.

2. Report of the Commissioners of Her Majesty's Inland Revenue for the year ended 31st March 1970—Hundred and thirteenth Report—Table 26, p. 39.

evasion of direct taxes during the years 1967 and 1968 are as given below[1]:—

	1967	1968
No. of cases brought forward ..	163	193
No. of cases instituted during the year	108	113
No. of cases disposed of during the year	78	113
(a) Judged guilty	76	112
(b) Judged not guilty	—	—
(c) Lapse of appeal right ..	2	1

As mentioned earlier though some shift in the attitude of the tax administration in India towards prosecutions is discernible, we consider the present record as none too happy. *We recommend that the Department should completely reorient itself to a more vigorous prosecution policy in order to instil fear and wholesome respect for the tax laws in the minds of the taxpayers. Further, where there is a reasonable chance of securing a conviction, the tax dodger should invariably be prosecuted.*

2.85 For a successful enforcement programme, it is not enough that adequate number of cases are taken to court every year. In selecting cases for prosecution, the Department should ensure that these represent a cross-section of the society and are picked up from different regions and all walks of life viz., persons in employment, profession, trade, industry, etc. *While the power to compound offences presently available to the Department under sub-section* (2) *of section* 279 *of the Income-tax Act,* 1961 *may continue, we recommend that it should be used very sparingly. We also wish to emphasize that flagrant cases of tax evasion, particularly of persons in the high income brackets, should be pursued relentlessly.*

Person behind tax evasion to be prosecuted

2.86 We have examined the adequacy of section 277 of the Income-tax Act, 1961, which deals with prosecution for false statement in declaration, etc. We consider that this provision is not adequate to bring to book those persons who are in fact responsible for false returns being furnished to the Department. Section 140 of the Act authorises the return of income being signed in the case of a company by its 'principal officer'. Clause (35) of section 2 defines a 'principal officer' as the secretary, treasurer, manager or agent of the company or any person connected with the management or administration of the company upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer. Section 277 as it stands at present contemplates prosecution of that person only who knowingly makes a false statement in any verification under the Act. In the case of a company, the return is usually signed by the secretary who is merely an employee and thus it is he who can be prosecuted under section 277 of the Act. The managing director and other directors who are in fact the persons in charge of running the concern, and in that capacity are normally responsible for commission of tax offences, escape prosecution. Similarly, in the case of partnerships, the managing partner escapes prosecution if the return is signed by a partner who does not actively participate in managing the business. In order to get at the persons who are really responsible for tax offences, *we recommend that the definition of 'principal officer' for the purposes of signing of the return should be amended so as to provide that the return of income of a limited company should be signed by the person mainly responsible for the management or administration of the affairs of the company. In other words, the liability for signing the return should be fixed primarily on the managing director, failing which on the working director. Similarly, in the case of a partnership, the responsibility to sign the return should rest on the managing partner or the partner in charge of the financial affairs of the firm.*

2.87 Cases may, however, still crop up where a person in charge of, and responsible to, a company for the conduct of its business may have managed to avoid signing the return. It will be desirable to bring him also within the reach of the long arm of the law. Section 140 of the Customs Act, 1962, contains a useful provision to meet such a situation. It provides that where a company commits an offence, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of its business, shall be held guilty of the offence and be liable to be prosecuted. It further provides that if the offence is found to have been committed with the consent, connivance or negligence of any director, manager, secretary or other officer of the company, the said person shall also be liable to be prosecuted. *We recommend that a provision analogous to section* 140 *of the Customs Act,* 1962 *be incorporated in the Income-tax Act. Further, it should also cover the case of a partner who is really responsible for the tax offence of the firm, although he has not signed the return himself. We would like the choice of person who should be proceeded against to be left to the discretion of the Commissioner of Income-tax.*

Scope of sec. 277 *to be widened*

2.88 The present section 277 of the Income-tax Act, 1961 is very limited in its scope inasmuch as it deals only with cases of signing false verifications and delivering false accounts or statements and does not make tax evasion itself an offence punishable under the Act. We examined the proposal to have a comprehensive legislative provision within the Income-tax law

[1] An outline of Japanese Taxes—1969 and 1970.

in order to deal effectively with tax evasion and attempts to evade or defeat taxes. There are provisions to this effect in the East African Income-tax (Management) Act, 1958. In the United States of America, tax offences committed with criminal intent are treated as felony under section 7201 of Internal Revenue Code which reads as under:—

> "Any person who wilfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution."

Evidently, this provision has a much wider scope than section 277 of the Income-tax Act, 1961 and covers all situations of attempts to evade or defeat taxes, or the payment thereof. *We have no doubt in our minds that a provision on the lines of Section 7201 of U.S. Internal Revenue Code will be extremely helpful in countering devices of tax evaders, and we recommend that such a provision should be incorporated in the Indian tax laws also.*

Probation of Offenders Act not to apply to tax offences

2.89 It has been pointed out to us that the Probation of Offenders Act, 1958, has proved a stumbling block in the way of the Department securing convictions under section 277 of the Income-tax Act, 1961. Under section 3 of the Probation of Offenders Act, an offender can be released by the court on probation of good conduct, or even otherwise after due admonition if, *inter alia*, the offence committed is punishable with imprisonment for not more than two years. This provision is stated to have set at nought certain prosecutions launched by the Department under section 277 of the Income-tax Act, 1961, as the offence mentioned in this section is punishable with imprisonment for not more than two years. A suggestion has been made that in order to get over this difficulty, section 277 of the Income-tax Act, 1961 should be amended by suitably enhancing the sentence of punishment to a period which is more than two years. We consider that the remedy for this situation lies elsewhere. *We recommend that section 118 of the Probation of Offenders Act, 1958 should be suitably amended to include all the direct tax laws among the statutes which are saved from the operation of the Probation of Offenders Act.*

Fines for certain offences by departmental officers

2.90 Offences of various kinds are at present committed with impunity in the course of proceedings before the Income-tax Officers, since cognizance of these offences can be taken only by resorting to the Indian Penal Code and complying with the attendant formalities. A suggestion has been made before us that provisions corresponding to some of the relevant sections of the Indian Penal Code should be incorporated in the Income-tax law itself so that the Income-tax Act is made comprehensive enough to deal with such offences. We have examined the feasibility of the suggestion. We are of the opinion that this suggestion is fraught with certain far-reaching consequences and we, therefore, do not approve of it. Nonetheless, there are certain offences, such as those specified in sections 179 and 180 of the Indian Penal Code, which can be incorporated in the Income-tax law itself. Section 179 of the Indian Penal Code makes it an offence for a person to refuse answering a question put to him by a public servant authorised to record statement, and section 180 of the Indian Penal Code relates to punishing a person who refuses to sign any statement made by him before a public servant. We also find that the Customs Act, 1962 contains a comprehensive residuary penalty provision in section 117, which is to the effect that if any person contravenes any provision of the Customs Act or abets any such contravention or fails to comply with any of its provisions, he shall be liable to a penalty not exceeding Rs. 1,000 in case no express penalty is elsewhere provided for such contravention or failure. *We recommend that similar provisions should be incorporated in Chapter XXI of the Income-tax Act, 1961 and these contraventions be made liable to a penalty only.* We consider that these changes in law would strengthen the hands of the Department and also relieve the officers of the need of going to the courts and complying with the attendant formalities.

In this connection, we also considered the provisions of section 276 of the Income-tax Act, 1961, which prescribes only monetary fines for the offences specified therein. We see no reason why the Department itself should not be empowered to impose penalties in such cases. *We recommend that the present section 276 of the Income-tax Act, 1961, may be deleted from Chapter XXII dealing with 'Offences and Prosecutions' and may be incorporated with suitable amendments in Chapter XXI of the Income-tax Act, 1961, dealing with 'Penalties imposable'.* We may mention that a provision enabling the imposition of penalties by the officers of the Department would not be a new one. Sub-section (2) of section 131 already empowers an Income-tax Officer to impose penalty, though the word used there by oversight is 'fine' and not 'penalty'.

2.91 *We recommend that the penalties suggested by us above should be imposed by officers not below the rank of Inspecting Assistant*

Commissioner. If the defaults in question are committed in the course of any proceeding or enquiry before the Income-tax Officer, the penalty should be imposed by the Inspecting Assistant Commissioner of Income-tax on the basis of a complaint made by the Income-tax Officer. However, if these defaults are committed before an Inspecting Assistant Commissioner, or Appellate Assistant Commissioner, or Commissioner of Income-tax, as the case may be, the penalty may be imposed by the Inspecting Assistant Commissioner, or the Appellate Assistant Commissioner or the Commissioner concerned. *The orders imposing penalty may be made appealable to the Appellate Tribunal by suitably amending section 253 of the Income-tax Act,* 1961.

Exclusion of prosecution period for limitation

2.92 At present, a prosecution can be commenced either before or after the completion of assessment proceedings. Normally, a person is proceeded against only after the assessment has been completed. However, cases do arise where documents seized in the course of a search or discovered during assessment proceedings clearly indicate that a taxpayer has suppressed certain receipts, sales, purchases or expenses. There are also cases where materials obtained show that the taxpayer has altogether failed to disclose a particular source of income. Any delay in launching prosecution can provide opportunity to a taxpayer to temper with the evidence, to cook up fresh evidence or to tutor witnesses. In such a case, it becomes desirable to launch prosecution even before the completion of assesment, and soon after the relevant evidence about the commission of an offence has been collected. Since prosecution proceedings are generally time-consuming, filing complaints during the pendency of assessment proceedings would present considerable difficulty to tax authorities in the matter of completion of assessments within the period of limitation prescribed under section 153 of the Income-tax Act, 1961. *We, therefore, recommend that the law be suitably amended to exclude the time spent on prosecution, from the institution of the complaint to its final disposal, from the period of limitation prescribed for making an assessment or re-assessment.*

2.93 In view of the difficulties involved in getting ample and necessary direct evidence to establish tax fraud, it has been suggested that there should be a provision in the Income-tax Act to the effect that possession of assets, disproportionate to disclosed income, would raise a rebuttable presumption of tax evasion for purposes of persecution. We are elsewhere[1] in this report recommending that the return of income of an assessee should be accompanied by a net worth statement. If the Department is able to discover assets not disclosed in such a statement, it could then be in a position to prosecute the taxpayer for filing a false return. In view of this, such a provision is unnecessary.

Appointment of special magistrates and judges for tax offences

2.94 Coming now to the administrative aspect of the prosecution policy, we wish to stress the need for elimination of delays in prosecution proceedings. As prosecutions are intended to act as effective deterrents, it is necessary that those who are charged with the commission of tax offences are either convicted or exonerated as expeditiously as possible. With this end in view, *we recommend that certain magistrates and judges should be specially empowered to try prosecution cases connected with the direct tax laws, so that these cases are heard and decided expeditiously.* This would not only expedite the disposal of cases but would also bring in the necessary specialisation in dealing with tax offences.

Adequate legal assistance

2.95 It is desirable to also have a separate legal branch within the Income-tax Department to enable it to process the prosecution cases expeditiously. However, looking to the number of complaints filed at present, we do not think the creation of such a separate legal branch would be justified. *For the present, we consider it adequate if each Commissioner of Income-tax is provided with a panel of competent lawyers having necessary experience in dealing with criminal cases, so that the complaints are promptly filed and are carefully pursued. The Commissioner of Income-tax should also be provided with expert staff assistance to enable him to give instructions to subordinates and also to follow up every prosecution case to its logical end.* We understand that in the Customs and Central Excise Departments, every Collector is provided with such a Legal Cell staffed by its own officers, who are qualified in law.

Intensive training

2.96 Finally, we would like to emphasize the need for giving intensive training to the investigation officers of the Department so that they get the necessary expertise for selecting the cases for prosecution, developing them and following them to a successful conclusion. In this connection, we are informed that the

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1. para 2·184.

officers have been provided with comprehensive prosecution manuals so that the basic assistance for developing cases for prosecution is available to them. This is a step in the right direction, but in our view, mere supply of manuals is not enough. *We consider that the officers should also be given practical training with reference to case studies so that they are fully equipped to work up and process cases for prosecution. They may also be put through special course in court procedures, mock trails, etc.* We will advert to this topic while dealing with intelligence and investigation.

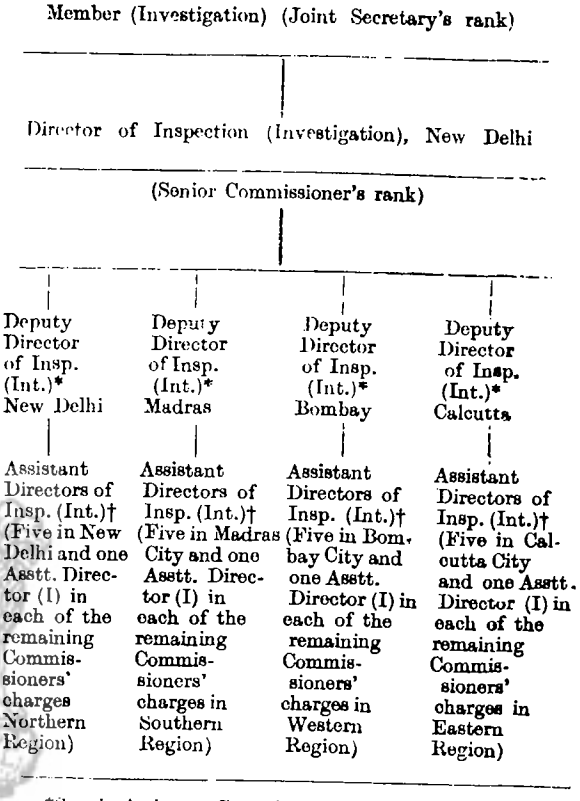
Intelligence and investigation

2.97 The success of a vigorous prosecution policy depends, in a large measure, on the ability and effectiveness of the investigation agency. While maximum possible voluntary compliance has to be encouraged on the part of taxpayers to relieve the Department of unfruitful work, stern and skilful measures have to be devised to defeat the machinations of astute tax evaders. The investigation machinery of the Department should be capable of striking terror in the hearts of tax evaders, making it abundantly clear to them that once a case of tax evasion is picked up by it, nemesis will overtake the offender. To cope with the increasing refinement and sophistication of the techniques of tax evasion, there is a need for complete re-orientation in the Department's approach to its methods of intelligence and investigation. The machinery for intelligence and investigation at the command of the Department should also be thoroughly overhauled and streamlined to tackle adequately the menace of tax eavsion.

Background and existing set-up of Intelligence Wing

2.98 Prior to the constitution of the Intelligence Wing, the Directorate of Inspection (Investigation) was expected to meet effectively the challenge of big tax evaders. In the field formations, there were Special Investigation Circles and Central Circles to which cases of suspected tax fraud were specifically assigned. The role of the Directorate was to give guidance in individual cases and to lay down broad lines of investigation. In addition to this Directorate, there was a 'Special Invstigation Branch' in each Commissioner's charge. But this was primarily meant to collate and disseminate routine information for verification in the course of assessment proceedings. This set-up was not found to be adequate to undertake any intelligence work. Intelligence Wing was, therefore, set up in 1966 to fill up this gap. Broadly, the functions of this Wing are collection and dissemination of information regarding tax evasion, study of techniques of tax evasion prevalent in various trades and industries, locating concealed assets, forestalling fraudulent transfers to defeat taxes and processing specific cases for prosecution.

2.99 The set-up of the Intelligence Wing is at present as under:—



*Senoir Assistant Commissioners.

†Senior Class I Income-tax Officers.

The methods of work adopted by the Intelligence Wing are stated to be maintenance of contact with informers, scrutiny of anonymous and pseudonymous petitions, maintenance of liaison with allied agencies and other Government Departments, conducting *suo motu* enquiries, initiating survey operations under section 133A of the Income-tax Act, 1961 and organising and conducting searches independently of, or in association with, allied agencies.

2.100 Although the Intelligence Wing has only been in existence for five years and can thus be said to be in its infancy, the achievements to its credit are not inconsiderable. Its units have reported concealment of income/wealth in 826 cases during the period from 1966 to 1969. These include 150 cases involving concealed income of approximately Rs. 42 crores and the tax sought to be evaded in each of these cases exceeds Rs. 10 lakhs. The searches conducted by the Wing have led to a breakthrough in several rackets involving wide

inter-State ramifications, e.g., customs clearance permits, hundi hawalas, etc. In addition, a sum of Rs. 95 lakhs had been seized upto 1969. The four main Intelligence units at Calcutta, Bombay, Madras and Delhi have launched 38 cases of prosecution for concealment, out of which convictions have been secured in 13 cases. Prosecutions were also launched under the Indian Penal Code in four cases, two of which have resulted in convictions.

2.101 It has been stated before us by a number of senior officers of the Department that the Intelligence Wing, though it has done some useful work, is yet far from achieving its objectives. This is said to be so because the officers of the Intelligence Wing have kept themselves largely confined to their own offices, receiving information from outsiders, mostly informants, or scrutinising anonymous or pseudonymous complaints about tax evasion. They have not yet taken the initiative to venture out into the din and bustle of the market-place or to try to enter the inner sanctuaries and the closed precincts of big tax evaders, wherein all the nefarious schemes of evasion are hatched and practised with impunity in the confident belief that the Income-tax Department is incapable of reaching and detecting them. We, therefore, consider it necessary to analyse the causes and to suggest measures which will enable the Intelligence Wing to play a more dynamic and effective role.

Proposed set-up

2.102 A major criticism against the Intelligence Wing relates to its organisational pattern. It is said that the guidance and control emanating from the top is itself neither adequate nor effective. Another shortcoming stressed by the officers of the Department is that the functioning of the Wing is seriously impeded by duality of control over the Wing exercised by Commissioners of Income-tax and the Director of Inspection (Investigation). We have considered the merits and demerits of the various suggestions offered in this behalf. At the outset, we may observe that the Member, Central Board of Direct Taxes, who is in charge of Intelligence and Investigation is saddled with multifarious other duties. *We are of the opinion that intelligence and investigation should receive exclusive attention of a senior Member of the Central Board of Direct Taxes, and we accordingly suggest that the Member concerned should be freed of all other work. This Member should be designated as Member (Intelligence and Investigation). He should lay down the policy in matters relating to intelligence and investigation, indicate the lines on which efforts of the officers working in these fields should be directed and provide them with overall guidance and supervision. He should also be responsible for (a) developing expertise generally for hnadling investigation concerning different trades and industries: (b) collecting and disseminating information regarding commercial and industrial trends, economic malpractices, tax evasion techniques; (c) keeping liaison with the various investigating agencies at Delhi; and (d) giving publicity to the Department's performance in the field of detection of concealments. He should, however, be assisted by two senior officers of the rank of Additional Commissioners. They may be designated as Director (Intelligence) and Director (Investigation). In addition, he should be assisted by a group of specialists for developing expertise, as recommended by us later in this Chapter*[1]. As for eliminating the duality of control by the Director of Inspection (Investigation) and Commissioner of Income-tax, we suggest that *the present Directorate of Inspection (Investigation) should be abolished* in view of our recommendation for an exclusive Member in charge of intelligence and investigation. *As regards the organisational pattern at the Commissioner's level, the ideal position according to us would be to create a separate division for intelligence and investigation under each Commissioner of Income-tax However, in major cities like Bombay, Calcutta, Delhi and Madras, looking to the workload involved, the intelligence and investigation work should be assigned to Commissioner of Income-tax (Central).* All the Commissioners of Income-tax, whether of Central charges or otherwise, should be assisted by appropriate number of Inspecting Assistant Commissioners of Income-tax to exclusively look after intelligence and investigation work, the number varying according to the needs of each charge. They may be designated as Inspecting Assistant Commissioners (Intelligence) or Inspecting Assistant Commissioners (Investigation), according to the work handled by them. The Income-tax Officers working under them will be similarly designated Income-tax Officers (Intelligence) and Income-tax Officers (Investigation), depending upon the duty allotted.

2.103 As both intelligence units and investigation circles will be placed under the guidance and supervision of the same Commissioner of Income-tax in the proposed set-up, except in cities like Bombay, Calcutta, Delhi and Madras, we consider that such a change will bring about a better co-ordination between the two agencies and will also eliminate duality of control. This will also do away with the unsavoury friction which exists today between the territorial Commissioners and the

[1] Para 2·114.

Commissioners (Central) in the matter of transfer or retransfer of cases. As regards the Central charges in Bombay, Calcutta, Delhi and Madras, *we recommend that in the matter of transfer or retransfer of cases, the views of the Commissioner (Central) should alone prevail as it will be his responsibility to work up an adequate number of tax fraud cases every year.*

Functions of Income-tax Officers (Intelligence)

2.104 The functions to be assigned to the Income-tax Officers (Intelligence) may be divided broadly into three groups. Firstly, one or more Income-tax Officers (Intelligence) should be put on the job of procuring general information likely to be useful in detecting concealment. They should maintain liaison with the field formations of the allied agencies like Directorate of Revenue Intelligence, Central Bureau of Investigation and Special Police Establishment. These officers should further keep a vigilant eye on the madpractices prevailing in the commercial word. They may study the latest tax evasion techniques adopted by evaders in a particular business or locality. They may also obtain and pass on information regarding property deals and constructions, transfer of concerns, issue of big licences and permits, large loans and advances by financial organisations, speculation, cornering of shares, etc., other unusual happenings in the business world and fresh avenues for sudden abnormal profits.

2.105 The second group of Income-tax Officers (Intelligence) should devote themselves exclusively to specific cases of tax dodgers. Not only will they follow up the information received through informants and anonymous petitions, but also collect information pertaining to the particular cases from all possible sources. They will also resort to surveillance so as to shadow the suspect tax evaders, discover their clandestine financial operations and keep track of any large expenditure, for example, on marriages, entertainment, holiday travel and foreign tours. The duty of conducting searches and seizures in specific cases will also be assigned to them.

2.106 The third group of Income-tax Officers (Intelligence) will follow up the leads in cases suspected of serious tax fraud, process them for prosecution and pursue them till the stage of conviction. We may add that *where an Income-tax Officer (Intelligence) has made elaborate enquiries in a particular case over a long period, the jurisdiction for assessment over such a case may also be assigned to him.*

Powers of Income-tax Officers (Intelligence)

2.107 We have been told that at present the Assistant Directors of Inspection (Iintelligence) are not able to make proper investigations as they lack statutory powers of compelling attendance, production of accounts and documents, etc. We can well visualize the occasions when it becomes necessary for an Income-tax Officer (Intelligence) to do so. *We, therefore, recommend that the Income-tax Officers (Intelligence) should be given the requisite powers under sections 131 and 133A of Income-tax Act, 1961 to enable them to work up cases effectively. This power should be available to them in respect of all the cases falling within the jurisdiction of the Commissioner of Income-tax under whom they are posted, and not only in respect of assessees, whose cases are specifically allotted to them for assessment.*

Basic equipment and facilities

2.108 Both in their written replies to the Supplementary Questionnaire issued by us and in the statements made before us, several officers of the Department have attributed the present inability of the Intelligence Wing to show better results to the lack of basic facilities. We agree that the Intelligence Wing can function more effectively if certain equipment and facilities not available now are provided to the officers and staff working in the Wing. We set out below some of these which we consider as being essential for their work.

(a) The officers of the Intelligence Wing obviously stand in need of a conveyance in the course of their day to day duties of keeping liaison with other agencies, obtaining information and carrying out searches, etc. We are told that in every Commissioner's charge, there is only one staff car, except in some City charges where there are two cars for three or four Commissioners. This can hardly be said to be conducive to effective field work. *We recommend that one staff car should bt placed exclusively at the disposal of the Intelligence Wing in each charge.*

It has also been pointed out to us that at the time of searches and seizures, a large number of officials have to be carried over long distances, and hiring or arranging a bus from external sources seriously jeopardizes the success of such operations as their essence lies in speed and secrecy of movement. *We, therefore, recommend that the Intelligence Wing should be provided with one pick-up each, at least in bigger stations like Delhi, Bombay, Calcutta, Madras, Ahmedabad and Kanpur.*

(b) It has been brought to our notice that during search and seizure operations, the officials of the Intelligence Wing experience a pressing need for adequate police protection, but collaboration with another Department

on such occasions runs counter to the requirements of secrecy and urgency. We are recommending elsewhere[1] the setting up of an independent constabulary within the Income-tax Department to assist and aid the tax recovery units. The services of this constabulary can be utilised by the Intelligence Wing as well.

(c) If prosecutions are to be vigorously pursued, as we have proposed, the Intelligence Wing will be increasingly called upon to procure and preserve various documents, to decipher them and examine their genuineness, and to produce them frequently in courts and elsewhere. *We recommend that the officers of the Wing in each Commissioner's charge, or to begin with at least in bigger charges, should be supplied with requisite equipment like magnifying glasses, tele-photo cameras, tape-recorders, photostat machines, ultra-violet and infra-red lamps and micro-filming apparatus, etc.* The variety and importance of such equipment would increase with the growing complexity of the ways of tax evasion.

(d) Since situations are bound to arise when officers of the Intelligence Wing have to move secretly and expeditiously to distant places, their movements should not be hampered by routine rules. We understand that the Enforcement Directorate and Customs Department permit their officers liberally to travel by air, depending upon the urgency of the situation. *We recommend that similar facility be extended to all officers of the Intelligence Wing, subject to prior approval of the Commissioner of Income-tax concerned.*

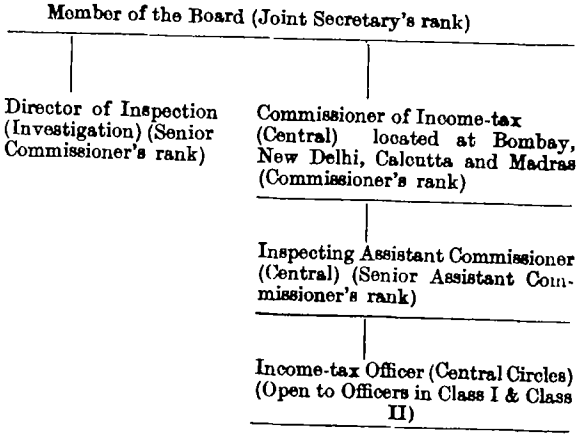
(e) The Assistant Directors of Inspection (Intelligence) are at present not provided with residential telephones. *We consider that all officers of the Intelligence Wing should be provided with residential telephones* to increase their accessibility and facility of communication after office hours.

(f) The main function of the Intelligence Wing being collection of valuable information about tax evaders, we feel that the Wing should be in a position to purchase information without difficulty. No doubt, care has to be exercised in spending public funds, but at the same time, lack of funds should not be allowed to inhibit the effective functioning of the Wing. We also understand that the officers of the Wing are called upon to defray numerous on-the-spot expenses at the time of searches and seizures and other secret errands. *To enable the Intelligence Wing to cope with the enlarged activities, as proposed by us, we recommend that adequate funds be placed at its disposal.*

(g) Looking to the size of the country and the scope of work of the Intelligence Wing, the present field assistance to officers cannot by any standard be considered adequate, especially at the level of Inspectors. It is essential that the Inspectors should frequently go out *suo motu* to scout for information from various sources. *We would therefore, recommend that the strength of Inspectors should be suitably increased.*

Present set-up of Investigation machinery

2.109 It will not be enough merely to have a powerful intelligence organisation. It has to be accompanied by an equally powerful wing for thorough and complete investigation of suspect cases so that the fear of the law is instilled into the hearts of the tax dodgers. The present set-up of the administrative machinery for investigation is as under:—



Proposed organisation and functions

2.110 We have already set out above our recommendations pertaining to the post of the Member in charge of intelligence and investigation, the Director of Inspection (Investigation) and the Commissioners of Income-

tax (Central). We have also recommended that the Investigation Circles should be placed under the Commissioner of Income-tax having normal jurisdiction over these cases in all Commissioners' charges except in the city charges of Bombay, Calcutta, Delhi and Madras and that each Commissioner of Income-tax, whether of Central Charge or otherwise, should be provided with the assistance of a necessary complement of Inspecting Assistant Commissioners of Income-tax to look after intelligence and investigation exclusively. So far as the Inspecting Assistant Commissioners in Central charges are concerned, it appears to us that they do not at present make any active contribution to investigation of big cases but play only an advisory role—and that too in a limited way. In order to improve the quality of investigation, *we recommend that the Inspecting Assistant Commissioners should be drafted for assessment of big cases so that their experience is available for meeting the challenge of the toughest tax evaders.* For this purpose, the investigation cases may be divided into three categories. The normal investigation cases may be handled by the Income-tax Officers (Investigation) individually. Large groups of cases having vast ramifications, and requiring concerted action, should be assigned jointly to the Inspecting Assistant Commissioner (Investigation) and one or two Income-tax Officers (Investigation), with concurrent jurisdiction. Other investigation cases, which are suspected to involve serious tax fraud, and have high revenue potential, should be assigned to the Inspecting Assistant Commissioner (Investigation), to be dealt with by him with the assistance of one or two Income-tax Officers.

This will enable some Inspecting Assistant Commissioners (Investigation) to act as leaders of investigating teams and others to play an active role in assessment proceedings. *We recommend that law may be suitably amended to vest concurrent jurisdiction in the Inspecting Assistant Commissioners (Investigation) and Income-tax Officers (Investigation).*

Workload

2.111 It has been mentioned that the efficiency of Investigation Circles is hampered by the heavy workload assigned to the Income-tax Officers (Central). It is stated that the officers in these circles have usually a large number of cases on hand which are about to get time-barred, and they are constantly goaded into fulfilling certain informally prescribed heavy quotas. All this deters them from undertaking the work in the right spirit and embarking upon thorough and detailed investigations. The following information has been furnished to us by the Central Board of Direct Taxes which shows the extent of work-load in the Central Circles:—

Workload in Central Circles

C. I. T. Charges	No. of cases	No. of assessments for disposal	No. of assessments disposed of during the year	No. of Income-Tax Officers	Average No. of assessments for disposal per Income-tax Officer	Average disposal per Income-tax officer
		(000)	(000)			
Bombay						
1968-69	1401	7	3	23	304	112
1969-70	1523	7	3	29	241	103
Delhi						
1968-69	1157	6	2	25	240	72
1969-70	1120	5	3	28	178	104
Calcutta						
1968-69	1135	7	3	26	269	105
1969-70	1175	7	3	32	218	93
Madras						
1968-69	1488	7	3	18	389	162
1969-70	1665	6	3	23	261	130

We think the criticism voiced by the officers of the Department is well-founded. If the Investigation Circles are to be effective, it has to be made clear to the officers that their job is to examine the cases in depth and, even though they may take time where necessary, they should prove the concealments to the hilt, rather than be satisfied with making *ad hoc* additions or presumptive assessments. To enable them to work in this manner, they need to be relieved of the pressure of heavy disposals. In the United States of America, for example, though 9,739 tax fraud investigations were completed and 1,620 prosecutions recommended in the calendar year 1968, it took as many as 1,731 special agents to accomplish this task. This would show that a special agent, by and large, could handle during the year only five to six investigation cases, including on an average one prosecution case. We are of the opinion that while quota of disposal is useful as a norm for work measurement, it should not be the sole yardstick to judge the efficiency of officers working in Investigation Circles. It should be reasonable and flexible enough and fixed on a quarterly/yearly basis. *We recommend that an officer doing investigation cases should not normally be expected to handle more than 40 to 50 assessments in a*

year, and where the cases are especially complicated or involve prosecution, the number may be reduced to four or five.

Criteria for selection of cases

2.112 Another matter in which considerable care needs to be exercised is that of assigning cases to the Investigation Circles and transferring them back to the territorial Income-tax Officers. It has been pointed out to us that frequently cases assigned to the Investigation Circles continue to remain there for a long time even though no specific investigation is being carried out or the process of investigation is over. On the other hand, some notable cases of tax fraud are not passed on to these Circles at all. We consider this to be a highly unsatisfactory state of affairs. *We recommend that the following factors should be taken into account in diciding transfer of cases to the Investigation Circles:—*

(a) *The likelihood of establishing tax fraud for a successful prosecution.*

(b) *The necessity of covering all direct taxes and different kinds of tax offences within each charge and also all strata of society and geographic areas.*

(c) *The necessity of placing emphasis on cases involving racketeers, profiteers, black-marketeers and notorious tax evaders in upper income brackets.*

(d) *The necessity of giving priority to cases where the available evidence indicates repeated or flagrant violations of law.*

(e) *The necessity of giving priority to cases where tax payers have already been convicted for serious economic offences.*

(f) *The necessity of giving priority to cases where assessees are frittering away or transferring their assets to escape proper liability.*

(g) *The necessity of laying emphasis on cases having vast ramifications and involving deftly organised manoeuvres and malpractices.*

In short, the approach in this regard should be judicious and based on consistent and established standards so that the generality of taxpayers has cofidence in the administration.

Normally, it should be possible to complete investigation in any case in three or four years; thereafter, it should be transferred out of the Investigation Circle. However, if it is desired to retain the case in the Investigation Circle beyond a period of four years, approval of the Member should be obtained.

Training of Intelligence and Investigation Officers

2.113 To match the skill and uncover the frauds of seasoned tax evaders, it is essential for the officers of the intelligence and investigation division to get highly specialised training in the techniques of detection and prosecution. We are surprised to note that, apart from the foundational training given to all the directly recruited Income-tax Officers at the beginning of their career, no specialised training is at present imparted by the Department to officers of any rank entrusted with intelligence or investigation work. Each officer put on this job is left to his own resources and skill. This state of affairs is unsatisfactory. *We consider that the officers selected to man the intelligence and investigation jobs should be imparted thorough and intensive training, at the central staff training college, so as to equip them with the necessary expertise for satisfactory performance of their onerous and responsible tasks.* These officers should be fully conversant with the specific tax evasion techniques practised in various lines of trade and industry. They should be taught methods of analysis and summarisation of data, report writnig, testifying in court, interrogation and interviewing of witnesses and investigation principles, practices and procedures. They should further be suitably trained in practical psychology, various aspects of criminology, examination of documents, detective techniques and methods of shadowing and surveillance. It would also be necessary to train them in organising searches and seizures and use of fire arms.

The training of these officers may be arranged in co-ordination with other allied agencies like the Directorate of Revenue Intelligence, Central Bureau of Investigation, Criminal Intelligence Department, Special Police Establishment and Central Excise and Customs Department. There should be periodical refresher courses, and officers showing exceptional ability should also be sent abroad to learn advanced techniques of intelligence and investigation in developed countries. We would like to observe that in devising the training programme, care must be taken to ensure that the training is meaningful, purposive and comprehensive. *The Central Board of Direct Taxes should also circulate a confidential quarterly report giving these officers guidance on techniques of investigation and details of actual cases of remarkable detection and concealment.* This will promote exchange of ideas and experience among these officers.

Specialists at Central office

2.114 The nature of income-tax investigation work is so intricate and its range so wide

that an investigating officer is expected to know many more things than what he is normally able to gather in the course of his day to day work. Methods of tax evasion are also becoming so ingenious and skilful that they vary from business to business and person to person. In these circumstances, the needs of the investigation officers cannot be fully met by training alone. *We, therefore, recommend that a group of senior and capable officers may be constituted under the Central Board of Direct Taxes to act as specialists for guiding investigation in various important businesses and industries,* e.g., iron and steel, engineering, mines and minerals, textiles, banks, paper, cement, sugar, chemicals and pharmaceuticals, speculation, import/export, trade agencies, etc. They should possess thorough knowledge in their respective fields of specialisation about the working processes, stages of operations, proportions of yields, wastages and by-products, major technical, commercial and administrative difficulties, the ways adopted by assessees to solve them and their financial implications. They should also be in the know of the peculiar accounting methods pertaining to particular businesses and the special tax dodging devices prevailing therein. These officers should be encouraged to visit the industrial and commercial establishments to acquire first-hand knowledge and to undergo advanced courses of study in their respective spheres. They should keep abreast of all the technical advances, current trends in the particular business/industry and prepare monographs, issue general instructions and guidance to the officers handling investigation cases. *We recommend that the specialists should work under Member (Intelligence and Investigation) and should be selected from among officers who have handled assessments of a particular business or industry over a long period of time and have acquired special ability in that field.*

Role of informers

2.115 We would like to make some observations here regarding informers, who constitute an important link in the intelligence and investigation chain. The system of purchasing information and giving rewards to informers is generally resorted to by all departments and agencies dealing with intelligence work. It has been followed by the Central Board of Direct Taxes also for quite some time now. According to the new rules framed by the Board in 1964, the rewards are payable upto 10 per cent. of the tax realised as a result of the information furnished. The Commissioners are also empowered to give interim rewards, pending decision on the cases in appeal. Considerable criticism has been voiced before us against this system of monetary rewards on the ground that it tends to encourage blackmail. Some have even suggested complete discontinuance of the system. Although the system is capable of being misused by black-mailers, and the Department is also frequently pestered by many informers in possession of no more than vague, exaggerated and even cooked up information, we are of the opinion that the system is not without some utility. We find that the information supplied by the informers has led to successful detection of concealment in quite a number of cases. In view of the prevailing large-scale tax evasion, we do not think it would be desirable to put an end to the practice of giving monetary inducements. At the same time, we consider it equally necessary for the Department to ensure that undesirable informers are kept away by prosecuting persons giving false information. *We recommend that provisions of section* 182 *of the Indian Penal Code be invoked in flagrant cases of informers furnishing false information. We also recommend that the existing reward rules should be made more flexible. While there should be no fixed percentage for payment of rewards, the rules may stipulate that if information furnished by an informer is correct and leads to additional tax, or is otherwise useful in checking tax evasion, the Commissioner of Income-tax, and the Central Board of Direct taxes may, in their discretion, pay rewards upto Rs.* 5,000 *and Rs.* 25,000 *respectively.*

It has been suggested by some that rewards given to informers should also be liable to tax like other items of income. Under the existing law, these rewards, being in the nature of casual and non-recurring receipts, are normally exempt, except in the case of persons who are professional informers. Elsewhere[1] we have recommended amendment of the law for taxing even casual and non-recurring receipts, but *we would suggest that a specific statutory provision should be made to exempt rewards to informers. This would not only continue the existing inducement available to them but also preserve the secrecy of information and anonymity of the informers.*

Selection of officers

2.116 A suggestion has been made that, considering the importance and specialised nature of work handled by the officers of intelligence and investigation division, it would be advisable to constitute a separate cadre of these officers. It is contended that apart from developing the necessary expertise, such a set-up would also provide an incentive for these officers as they can look up for promotion quickly within this cadre. We are, however, of the opinion that it is not desirable to have such divisions within a single service, as it is likely to affect the *'esprit de corps'* of the officers. *We recommend that*

[1] **Paras 3·14 and 3·15.**

instead of constituting a separate cadre, the personnel for the intelligence and investigation division should be selected out of the general cadre on the basis of high integrity, proven ability and special flair for investigation.

Special pay

2.117 We find that the special pay enjoyed by these officers at present is not adequate, considering the arduous nature of their work and the risk and responsibility involved in it. The Assistant Directors of Inspection (Intelligence) and the Income-tax Officers (Central) get a special pay of Rs. 75 only and the special pay of the Deputy Directors of Inspection (Intelligence) and the Inspecting Assistant Commissioners (Central) is Rs. 150 only. *We recommend that the special pay of the Income-tax Officers and the Inspecting Assistant Commissioners put on investigation and intelligence work should be raised to Rs.* 200 *and Rs.* 300 *respectively.* This will bring these posts on a par with the posts of Under Secretaries and Deputy Secretaries and will remove from the minds of these officers the lure for Secretariat jobs. In fact, we would suggest that even on promotion, the officers working in intelligence and investigation division should preferably be posted in the same field so that the Department is not deprived of their expert knowledge and experience.

2.118 While discussing intelligence, we have recommended certain facilities to be provided to the officers working in that Wing for increasing their efficiency. For similar reasons, *we recommend that the officers working in Investigation Circles should also be given facilities regarding staff assistance, staff car, air travel and residential telephones.*

Publicity

2.119 Lastly, we would like to emphasize that the deterrent impact on tax evaders can be considerably enhanced by giving adequate publicity to the achievemnets of the intelligence and investigation division. We find that publicity is not at present given to several cases where searches and prosecutions have been conducted by the Department successfully. This is said to be due to the provision in sub-section (2) of section 287 of Income-tax Act, 1961, which is to the effect that penalties imposed and convictions secured in respect of tax offences cannot be published by the Department unless, the time for first appeal has expired without an appeal having been presented or the appeal, if presented, has been disposed of. *We recommend that the Department should widely publicise in newspapers, by way of paid advertisements if necessary, factual details of searches, seizures and prosecutions, without waiting for the result of appeals; and for this purpose, the law may be suitably amended.*

Time-limit for reopening cases of tax evasion

2.120 It was represented to us that as in civil law, there should be no time-limit on reopening of assessments in cases of tax fraud. Instances were cited where in the course of searches, double sets of books of account, or leads to investments made more than 16 years earlier were found, but nothing could be done in view of the time-limit laid down in section 149 of the Act. Australia, Canada, United States of America, United Kingdom and some other countries have no statutory time-limit for reopening assessments in cases of tax evasion. The greatest merit claimed for such a change is the psychological effect it will have on the would-be tax evaders. At least they will have to pause and ponder before resorting to tax evasion, as they would remain under perpetual fear of detection.

2.121 The need for such a change has been carefully considered by us. It is quite possible to justify in theory the case for removing existing time-limits for reopening assessments in cases of tax evasion. It may be that the present time-limit permits some tax evaders to escape their proper tax liability. However, we consider that the period of 16 years presently available gives to the Department a long enough time to tackle cases of tax evasion. In trying to get at stray cases by the removal of time-limit, we are afraid such a change may lead to harassment of the tax-payer or laxity in administration. Any honest tax-payer would find it irksome to retain indefinitely his books of account and supporting documents because he never knows when an over-zealous tax man may allege fraud on his part. Besides, absence of such a time-limit will only promote administrative slackness in tackling tax evasion. *We are, therefore, not in favour of any change in the law relating to time-limit for reopening of cases.*

Taxation of agricultural income

2.122 Agricultural income, which is at present outside the Central tax net, offers plenty of scope for camouflaging black money. In recent years agricultural farms, vineyards and orchards have been acquired by many film artistes, industrialists and others, not for the love of agriculture, but to convert their black money into 'white' money. Instances abound where income-tax payers, confronted with the need to explain certain deposits, investments or expenses not converted by their incomes disclosed to the Department for tax purposes, resort to explaining them as entirely or partly financed from their agricultural income. Even where the tax-payer does not have any agricultural income of his own, he manages to find some agriculturists ready to lend their names, for a consideration

or otherwise, for explaining deposits, etc. The explanation that agricultural income is the source of such deposits, etc., is offered readily for two reasons. Firstly, the Department finds it difficult to rebut the assessee's claim on account of inadequate means of verification. Secondly, and more importantly, the persons professing to possess considerable agricultural income expose themselves to no liability to tax on that account as there is no tax on agricultural income in several States and even where there is one, the exemptions available are large.

2.123 There is urgent need for agricultural income being subjected to a uniform tax more or less on par with the tax on other incomes so as to eliminate the scope for evasion of direct taxes imposed by the Union Government. Since agriculture is an item falling under the State List of our Constitution, levies pertaining to agricultural income or holdings have baffling variations from State to State and there is no uniformity regarding the tax base or the rate structure. Many State Governments are gradually abolishing even the existing land revenue. There is also a great inequity between the incidence of tax on agricultural income and that on the non-agricultural one. Although agriculture accounts for nearly half of India's national income, the taxes contributed by it are around Rs. 113 crores[1] only, whereas the contribution by the non-agricultural sector is over six times as much. In fact, tax burden on the urban income is relatively so high that a taxpayer having urban income of Rs. 10 lakhs is left after paying income-tax with almost as much income as another person having an agricultural income of Rs. 1 lakh only. There is no justifiable reason for this vast disparity between the tax burden on the two sectors, particularly when, as a result of the 'green revolution' and the price-support policy of the Government, income from agricultural holdings has been progressively rising in recent years. In the wake of planning, the urban taxpayers have been subsidizing agricultural income by bearing the full burden of the agricultural development schemes and also sustaining high prices of food-grains, raw materials and other agricultural produce. Consequently, there has been a one-sided flow of resources from the urban economy to agriculture. In view of the larger objective of achieving a self-sustaining economic growth, there is pressing need for larger and larger resources, and this is another good reason why agriculture should also contribute to the national Exchequer in much the same way as the other sectors are doing.

2.124 The present system of land revenue or tax on agricultural income is neither uniform nor rational. Besides, the benefits of the 'green revolution' have intensified inequalities of income and wealth in the rural sector. This is also confirmed by a study made by Martin E. Abel of the Ford Foundation, who has observed as under:—

> "The record of the 1960s on changes in income distribution has not yet been written. But one thing is clear. The technological change that has been taking place in recent years in Indian agriculture has worked strongly to accentuate inequalities in the distribution of income in Indian agriculture".[2]

We consider that uniform and progressive taxation of agricultural income is urgently necessary for the purpose of ensuring that agricultural income ceases to offer any scope for tax evasion, and also on grounds of equity and distributive justice.

2.125 The main difficulties and objections generally advanced against the suggestion for uniform and progressive agricultural income-tax are as under:—

(a) The tax on agricultural income will act as a positive disincentive to increased agricultural production. This may not be desirable at present, when the country is just beginning to have a break-through in agriculture.

(b) The per capita income of rural population is very low, and it will only add to poverty of the rural folk.

(c) Maintenance of accounts by the rural population is very difficult.

(d) Such a change cannot be brought about unless the Constitution is suitably amended.

However, on analysis, these difficulties do not seem to us to be insurmountable.

2.126 As the net fiscal burden on the agricultural sector is small at present, we consider that the levy of a uniform income-tax on agricultural income will not adversely affect the production in the farm sector. In fact, a tax on agricultural income, as any other tax, is likely to motivate farmers to increased agricultural production, by the adoption of improved technology for augmenting their income to meet the tax liability.

2.127 Again, in examining the feasibility of subjecting agricultural incomes to income-tax, considerations of per capita income have very little relevance. At present, 18.36 per cent. of

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[1] Report of the Fifth Finance Commission, 1969—para. 8·9, p. 82.

[2] 'Agriculture in India in 1970s' by Martin E. Abel, Programme Advisor in Economics, Ford Foundation, Published in 'Economic and Political Weekly', Review of Agriculture, March 1970—Vol. V, No. 13.

the number of operational holdings have under their control 61.75 per cent. of the total area under cultivation in the country.[1] The agricultural income is concentrated in the hands of a small section of the farmers in India. An attempt to tax only the richer farmers cannot be said to promote poverty among the rural folk. To allay lurking fears, if there be any, we suggest that a higher exemption limit should be provided for agriculturists. We consider that an additional deduction of Rs. 5,000 may be given for agricultural income. Thus, in the case of an agriculturist, no tax will be payable where his income does not exceed Rs. 10,000. It may also be provided that, in any event, no income-tax will be charged on agricultural income if the total agricultural holding of an assessee does not exceed five acres (2.02 hectares). As a result of these exemption limits, all small agriculturists will be excluded from the purview of income-tax.

2.128 As regards the difficulties relating to maintenance of accounts, it may be observed that with the basic exemption limits as suggested above, only assessees having large agricultural holdings will be called upon to prove the extent of their agricultural income. We feel that there should be no difficulty for these persons in maintaining accounts. In any case, if no proper accounts are produced, assessments can be completed on the basis of local information regarding crops and prices. Such presumptive assessments of agricultural income are being made in other countries like Chile, Ceylon and France.

2.129 Now, as regards the constitutional difficulty, the Parliament has exclusive power to make laws with respect to taxes on income other than agricultural income by virtue of Article 246(1) of the Constitution read with Entry 82 of the Union List. Similarly, Article 246(3) of the Constitution read with Entry 46 of the State List empowers a State Legislature to make laws with respect to 'taxes on agricultural income'. Thus, these two entries are to be read as complementary to each other. It would, therefore, follow that if agricultural income is to be taxed, in the manner we desire it to be done, two main courses are open to the Government. Either the Central Government should itself assume the power to levy tax on agricultural income, or request the State Governments to levy agricultural income-tax in accordance with a common code duly drawn up by the Central Government. We are, however, of the opinion that though the alternative to Central administration of tax on agricultural income seems, at first sight, to be easy and attractive, it may pose serious difficulties in persuading all the State Governments to adopt a common pattern of taxation of agricultural incomes. *We, therefore, recommend that in the interest of uniformity and stability, the Central Government should assume the power to levy and administer tax on agricultural income.*

2.130 Towards this end in view, we suggest that the Government may choose any of the following courses, as it deems feasible:

(a) The Constitution may be amended by deleting the words 'other than agricultural income' appearing in Entry 82 of the Union List. Entry 46 of the State List which empowers the State Governments to legislate on matters concerning 'Taxes on agricultural income' may also be deleted. Such a constitutional amendment will unambiguously empower the Union Government to impose taxes on agricultural income.

(b) The Union Government may impose income-tax on agricultural income, provided State Legislatures empower the Union Government in this behalf by necessary resolution in accordance with the provisions of Article 252 of the Constitution. It would be pertinent to mention here that estate duty has been extended to agricultural lands in certain States by resorting to this procedure.

(c) Article 269 of the Constitution may be amended to include taxes on agricultural income in the list of taxes levied and collected by the Union, and the taxes so collected may be assigned to the States in accordance with the procedure outlined therein. The advantage of this course of action is that the State Governments are more likely to agree to concede the power to impose tax, as their financial interests will be statutorily protected.

Unexplained expenditure

2.131 Under sections 69, 69A and 69B of the Income-tax Act, 1961, any unexplained money, or value of any unexplained investment, bullion, jewellery or other valuable article, or the amount of any investment, etc., not fully disclosed in the books of account of an assessee, is deemed to be his income for tax purposes. At present, the law does not expressly stipulate that when any expenditure incurred by a taxpayer is not recorded in the books of account, or is only partly recorded, and the source of such expenditure remains unexplained, the amount of such expenditure would be treated as the income of the assessee. We had,

[1] India 1969—Table 68—p. 164.

therefore, included a question in our Questionnaire whether such a provision was necessary. In the replies received, divergent views have been expressed in this behalf. While some are of the view that such a provision would be clarificatory, reasonable and logical, there are others who feel that the taxability of such expenditure is implicit even otherwise in section 4 of the Act and there is, therefore, no need for a new provision to bring to tax such expenditure. There are still others who apprehend that such a provision might be misused by the tax authorities, resulting in harassment of the taxpayers.

2.132 We have carefully considered the pros and cons of having such a provision in the income-tax law. We feel that though the income out of which the 'unexplained' expenditure has been incurred, is intended to be taxed under the present law, the existing legal provisions do not make this quite clear. In the context of the ostentatious living that we see around, made possible mostly due to the availability of black money, we consider that there should be a specific provision in law which will assist the tax authorities in effectively tackling this problem. Apart from being supplemental to the existing sections 69, 69A and 69B of the Act, such a provision would highlight the need to examine expenditure. It would give statutory recognition to the existing practice of treating 'unexplained' expenditure as income from undisclosed sources. Further, it would also fix by statute the financial year in which such income is to be assessed. *We recommend that a separate legal provision, analogous to sections 69, 69A and 69B, be made in the Income-tax Act, 1961, which would enable the tax authorities to bring to tax the amount of 'unexplained' expenditure.* It would, however, be necessary for the administration to ensure that this provision is not used to harass the small taxpayers by making them explain petty items of expenditure.

Substitution of sales-tax by excise duty

2.133 In our country, evasion of income-tax is closely linked with evasion of sales-tax. Though differences of opinion are bound to be there whether evasion of income-tax is the cause or consequence of evasion of sales-tax, it is generally true that since both the purchaser and the seller stand to gain, transactions in many a case are kept out of records.

2.134 Sales taxation in our country has taken multitudinous forms and it has generally "tended to become excessively complex"[1]. The present assorted systems of sales-tax in the country thus provide ample opportunities for evasion of sales-tax and, in turn, lead to evasion of income-tax as well. We consider that more revenue with broadly the same incidence of tax can well be secured by the substitution of sales-tax by excise levy in respect of many more items. *We are, therefore, of the opinion that the best way to get over the problem posed by the existing sales-tax systems would be to replace sales-tax levy on various commodities, as far as possible, by additional duty of excise, but in the selection of commodities, care should be taken to minimise the cascading effect on prices.* We consider that such a measure is desirable for tackling evasion of both income-tax and sales-tax. As sales-tax will still continue to be levied on some commodities, *we feel that there should be greater co-ordination between the Income-tax authorities and Sales-tax authorities in the matter of exchange of information, collection of intelligence about evasion of these taxes and also in taking preventive measures for checking tax evasion.*

Compulsory maintenance of accounts

2.135 One of the devices which tax dodgers often adopt to escape proper liability to tax and penal consequences is to take shelter behind the plea that no accounts have been maintained. The law no doubt provides for 'best judgment' assessments on estimated income in such cases but this provision can hardly be considered as a deterrent, and instances are not wanting where taxpayers, particularly traders and persons in profession, invite best judgment assessments year after year on such a plea. Similarly, the tax dodgers, when confronted with the prospect of a probe, often advance the plea of having no accounts. Even taxpayers with substantial incomes, such as contractors executing large contracts, take the stand that no accounts are maintained. In these circumstances, cross verification of important items of receipts, sales, purchases or expenses becomes difficult and this defeats the object of detailed scrutiny. In cases where the Department strongly suspects that some accounts must in fact exist, it finds itself quite helpless as even powers of search can be exercised only when the Commissioner has, in consequence of information in his possession, reason to believe that books of account exist but will not be produced, if summoned.

2.136 If maintenance of accounts is made a statutory obligation, it would be a potent weapon in the fight against circulation of unaccounted money. Maintenance of faithful accounts at least by some would offer a starting point for uncovering unaccounted money in other cases. While the absence of a legal requirement to maintain accounts enables tax evaders to escape proper assessment and punishment for concealment, it impedes the introduction of a real self-assessment system or others.

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1. Walter R. Mahler, Jr.—Sales and Excise Taxation in India—p. 267.

Compulsory maintenance of accounts would facilitate acceptance of returns, eliminate the evil of arbitrary 'best judgment' assessments and would contribute to improving the relationship between the taxpayers and the taxation department.

2.137 The question of compulsory maintenance of accounts was examined by the Income-tax Investigation Commission, but it did not favour the suggestion in the face of overwhelming public opinion that no such legal obligation should be imposed, particularly in the context of widespread illiteracy in the country[1]. Two decades have since passed and there has been considerable improvemnet in the standards of literacy. A distinct change in public opinion is also visible. Many persons, who answered a specific query on this subject in our Questionnaire, have expressed themselves in favour of compulsory maintenance of accounts. We feel that the grounds on which the Income-tax Investigation Commission rejected the idea are no longer valid.

2.138 Today, any person earning a worthwhile income from business or profession maintains some sort of accounts as he would like to know whether he is losing or making a profit. Where such a person is assisted by others in his business or profession, he needs accounts all the more as he has also to make sure that he is not being cheated by his associates or assistants. These days even a petty trader running a one-man show is quite often required to make purchases or sales on credit and he has necessarily to maintain some records. Thus, it is reasonable to presume that accounts are by and large maintained in most cases of business and profession, but in the absence of a provision in law requiring maintenance of accounts, it becomes difficult to deal with the plea, when advanced, that no accounts are actually maintained. In most cases, the legal requirement will not cast any additional burden on the taxpayers but will help to bring out in the open the accounts already maintained.

2.139 As regards the argument of widespread illiteracy in our country, it is to be noted that income-tax payers constitute less than one per cent. of the population. The mere fact that there is widespread illiteracy does not mean that most of the taxpayers are also illiterate. The exemption limit which is fairly high in comparison with the per capita income eliminates the possibility of any sizable section of the taxpayers being illiterate. This argument of illiteracy is patently inapplicable to professional men many of whom do not at present maintain accounts or at any rate claim that they do not. As regards businessmen, they are already subject to a variety of requirements under various laws for maintaining records, registers and for filing frequent periodical statements. The excise laws and municipal laws are a case in point. The Sales-tax law in some of the States requires compulsory maintenance of accounts.[2] A requirement for maintenance of accounts under the Income-tax law should not by itself cause hardship to the public or pose any insurmountable problems.

2.140 Tax laws of several foreign countries include a provision for compulsory maintenance of accounts. For example, in the United States, Canada and New Zealand, every person who carries on a trade or business is required to maintain books and records[3]. We are of the veiw that a provision for compulsory mainte-

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1. Report of the Income-tax Investigation Commission—para. 201.

2. The Bombay Sales Tax Act, 1959—sec. 48.

3. *Provisions of U.S.A. Internal Revenue Code of 1954—*

Sec. 6001—*Notices or regulations requiring records, statements and special returns.*

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe, Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

Reg. 1·6001—1.

(a) In general, except as provided in paragraph (b) of this section, any person subject to tax under sub-title A of the Code, or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such persons in any return of such tax or information.

Provisions of the Canadian Revenue Act, relating to maintenance of books of account.

Sec. 125—*Books and Records*:

Sec. 125 (1)—

(1) Every person carrying on business and every person who is required by or pursuant to this Act, to pay or collect taxes or other amounts shall keep records and books of account (including an annual inventory kept in prescribed manner) at his place of business or residence in Canada or at such other place as may be designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act or the taxes or other amounts that should have been deducted, withheld or collected, to be determined.

nance of accounts would facilitate tackling of tax evasion and help in checking circulation of black money. Any hardship that the provision might cause to some of the taxpayers has to be considered in the over-all context of the benefits to the taxpayers in general that would arise from self-assessment being made easier and from the reduced need to make best judgment assessments. Hardship to small businessmen, some of whom might not be familiar with the intricacies involved in maintaining accounts to the satisfaction of the authorities, could be eliminated by making the provision applicable only to persons having a prescribed minimum income or turnover. *We recommend that a statutory provision be made requiring maintenance of accounts by all persons in profession, and by businessmen where the income from business is in excess of Rs.* 25,000 *or turnover or gross receipts are in excess of Rs.* 2.5 *lakhs in any one of the immediately three preceding years. In the case of a new business, the provision will apply if the income or turnover is likely to exceed these limits.*

2.141 In the initial stages, the form in which accounts are to be maintained and the type of books and records that are to be kept may be left to the discretion of the taxpayers, the Department merely exercising a broad check to ensure that the assessee's income and claims for deductions, exemptions, etc., are correctly and faithfully recorded. In due course, the Central Board of Direct Taxes might settle the form of accounts for different types of businesses and professions in consultation with the Institute of Chartered Accountants, bar associations, medical associations, etc.

2.142 We feel that a provision for mandatory maintenance of accounts might not itself serve the objective in view, unless it is also supplemented by a provision requiring their preservation for a minimum period. The U.S., Canadian and New Zealand laws contain such a provision. *We recommend that the law should provide that ledgers and cash books should be preserved for a period of* 16 *years and other accounts and records for* 8 *years.*

2.143 There might be difficulties in enforcing the statutory requirements regarding compulsory maintenance of accounts and their retention for a minimum period unless any failure to comply with them involved penal consequences. Both the Canadian and U.S. laws carry penal sanctions which can be invoked against any taxpayer who wilfully fails to maintain books and records required by law. *We recommend that monetary fines should be provided in the law for failure to maintain accounts in the manner required or to preserve them for the prescribed period.* In the initial stages, the Department should mount a massive publicity programme to educate the public in this behalf. A mild and conciliatory approarh will be needed for some years to come and the penal provisions should be invoked only in flagrant cases of deliberate failure to miantain books or records or to preserve them.

Compulsory audit of accounts

2.144 We think it would facilitate the administration of tax laws to a considerable extent if, simultaneously with the compulsory maintenance of accounts, there is a statutory provision for their mandatory audit, at least in the bigger cases. Audit would ensure that the books and records are properly maintained, and that they reflect faithfully the taxpayer's income (as shown in the books of account) and claims for deductions. Audit would also help in the proper presentation of the accounts before the tax authorities, thereby making assessment proceedings more meaningful. Further, in a vast majority of cases, it would save considerable time of the assessing officers which is at present spent on carrying out routine verification, like correctness of totals and whether purchases and sales are properly vouched or not. The time thus saved could then be utilised for attending to more important investigational aspects of a case. The information which the auditor could be required to furnish with his certificate would also enable building up of information exchange for purposes of cross verification which will be invaluable in detecting tax evasion and spotting new assessees. Audit would also help to check fraudulent practices such as concoction of accounts at later dates, maintaining duplicate sets of accounts, etc.

2.145 In his report, Nicholas Kaldor had expressed the view that malpractices like the presentation of false and misleading accounts could be checked to a great extent if it were made compulsory for taxpayers to present audited accounts in all cases in which income or property exceeded certain limits[1]. The idea of compulsory audit of accounts in large income cases has found support even in quarters which were not otherwise quite favourably inclined towards the suggestion of compulsory maintenance of accounts. The Income-tax Investigation Commission, while not favouring the imposition of a legal obligation on all to maintain accounts, was of the view that compulsory audit in the case of businesses with large incomes would be desirable[2]. The Direct Taxes Administration

1. Indian Tax Reform—Report of a Survey by Nicholas Kaldor—para. 197.

2 Report of the Income-tax Investigation Commission—para. 205.

Enquiry Committee also recommended that in the interest of expeditious and proper assessment of taxpayers in higher income group, audit of accounts in all cases of business, profession and vocation, where the total assessed income in any one of the last three years exceeded Rs. 50,000, should be made compulsory by law and that audit should also be made compulsory in those cases of business, profession and vocation where the returned income for the first time exceeds Rs. 50,000[1]. The Working Group of the Administrative Reforms Commission also favoured compulsory audit by Charated Accountants of cases with income over Rs. 50,000[2]. However, the Administrative Reforms Commission, while agreeing that audit by qualified Chartered Accountants would be helpful in relieving the assessing authority of the need to make routine checks and enabling him to concentrate on the broader aspects of determination of the assessees' correct liability, felt that the number of Chartered Accountants being limited, it may not be possible for all assessees to secure their services except at heavy cost and that the requirement of compulsory audit might delay the submission of returns. The Commission, therefore, recommended only an amendment of the provisions of Rule 12A of the Income-tax Rules, 1962, so as to provide for furnishing of certain additional information in all cases in which the returned income from business exceeds Rs. 50,000 and the returns are prepared by Chartered Accountants[3].

2.146 In the Questionnaire issued by us, we had specifically elicited views on this subject. Most of the departmental officers, who appeared before us, welcomed the suggestion and there was near unanimity among them that this would also go a long way in fighting tax evasion. Even among taxpayers, we found a sizable support for the measure, which they felt would smoothen proceedings before the income-tax authorities. Some of the persons who appeared before us have, however, expressed their fears that a provision for compulsory audit of accounts might put an undue burden on the taxpayer. We concede that this may no doubt be true in the case of small business or professional men or persons deriving income from other sources. We are, therefore, of the view that such persons should not be required to get their accounts audited. The requirement of compulsory audit of accounts should be applicable to persons engaged in business or profession where the income or turnover/receipts exceed certain specified limits.

2.147 Doubts have also been expressed whether enough qualified auditors will be available for undertaking audit in all cases where it is mandatory. Companies are already statutorily required to get their accounts audited. We feel that if suitable limits are prescribed for the non-corporate sector, the work-load may not be too great to be tackled by the existing professional accountants. We understand that the number of Chartered Accountants has increased from eight thousand in April, 1967 to over twelve thousand in October, 1971. Further, during the same period the number of Chartered Accountants solely in practice has risen significantly from 2,900 to 5,400. From the concern voiced from time to time in the press and elsewhere about a few well-known firms of Chartered Accountants monopolising bulk of the audit work relating to the corporate sector, it appears that there is a considerably large number of practising Chartered Accountants who can undertake additional work-load of audit in the non-corporate sector without much difficulty.

2.148 We are conscious that determination of taxable income is altogether different from that of commercial profits. The scope of audit and examination of accounts for the purpose of determination of taxable income has, therefore, to be wider. Apart from examining the evidence for a particular item of expense or income, an auditor has to ascertain whether the expenditure is allowable or the income taxable. Allowance of a certain expenditure turns on its being reasonable or in consonance with fair market price for similar goods or services. This is a matter which depends on the subjective judgment of the Income-tax Officer. Similarly, about cash credits and other items, inference from facts is likely to differ from person to person. Further, there could well be cases where some bank accounts in the name of the taxpayer or his benamidar were not disclosed to the auditor, or where some receipts and payments were omitted to be entered in the books. In the case of non-corporate assessees, imperfect methods of record keeping in many a case may well hinder the auditor in applying normal audit procedures.

We consider that all these limitations should be taken into account in availing of the services of Chartered Accountants. None-the-less, as an auditor can devote more time to examination and verification of accounts than an Income-tax Officer, auditor's services could be

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1. Report of the Direct Taxes Administration Enquiry Committee—para. 2·50.

2. Report of the Working Group on Central Direct Taxes Administration—Administrative Reforms Commission—para. 2·21.

3. Report of the Administrative Reforms Commission on Central Direct Taxes Administration—Chapter II—Recommendation 1(4)—p. 7.

usefully harnessed for obtaining facts and figures that could be relied upon. To the extent the time and effort of the Income-tax Officer now spent on gathering requisite information and verifying its correctness is saved, he would be enabled to apply himself more fruitfully to complicated aspects of law and investigation.

We, therefore, recommend that a provision be introduced in the law making presentation of audited accounts mandatory in all cases of business or profession where the sales/turnover/receipts exceed Rs. 5 lakhs or the profit before tax exceeds Rs. 50,000. We further recommend that a form of audit report be prescribed taking due note of the manner in which documents, records and books are maintained in the non-corporate sector. Auditor's report should include, among other things, pertinent information like the following:

1. *Scope of examination—whether full check, test-check or mere reconciliation—in order to satisfy that purchases, sales, income and expenses are properly accounted for and balance-sheet is properly drawn up.*
2. *Nature of security offered for obtaining secured loans. Particulars of security not recorded or accounted for in the books to be stated.*
3. *Computation of admissible allowance by way of depreciation.*
4. *Brief particulars of expenditure on entertainment, advertisement, guest house, etc., and the amount, if any, disallowable under section 37 of the Income-tax Act, 1961.*
5. *Particulars of expenses in respect of which payments have been made to directors, partners or persons substantially interested in the concern and their relatives. The amount, if any, not deductible under sections 40 and 40A of the Income-tax Act, 1961.*
6. *Particulars of amounts, if any, chargeable as profits under section 41 of the Income-tax Act, 1961.*
7. *Particulars of payments in respect of which income-tax has not been deducted at source and paid in accordance with the requirements of sections 192—200 of the Income-tax Act, 1961.*

The Government may also, in due course, evolve a proforma of information to be furnished by the auditors which would facilitate completion of assessments.

Permanent account number

2.149 The absence of a uniform system of indexing all taxpayers in the country on a permanent basis has to some extent been responsible for the difficulties experienced by the Department in tackling tax evasion. It has prevented proper linking of information expeditiously to the assessee to whom it relates and has also resulted in the records and the accounts of the taxpayers not being properly maintained. There is no gainsaying the fact that both the taxpayers and the Department will stand to benefit by the introduction of a system of permanent account numbers. The advantages to the taxpayer will be easy linking up of all papers relating to his case and facility in the introduction of a ledger account in respect of his tax liabilities and payments. For the Department, the facility in collation of information relating to a taxpayer will help investigation of tax evasion and discovery of new assessees who have hitherto escaped the tax net. Benami transactions will get discouraged if account numbers are required to be quoted in documents relating to transfers of property, etc. A permanent numbering system will also facilitate wider use of computers, adoption of modern methods of accounting and cross verification of information.

2.150 The question of introducing permanent account numbers has engaged the attention of several experts, and expert bodies in the past. Nicholas Kaldor had in his report, while suggesting the introduction of a comprehensive reporting system in respect of all transactions in property, stressed the need to allot a code number to every taxpayer and every other person entering into such transactions.[1] S. Bhoothalingam has in his final report, while dealing with the problem of tax arrears, recommended that each taxpayer should be assigned a distinctive and permanent number.[2] The Administrative Reforms Commission has also recommended that steps should be taken to introduce a system of registration of assessees in an all-India list on the lines suggested by the Working Group.[3] Some of the experts engaged by the Government had also conducted studies in this behalf and made recommendations, e.g., Staunton Calvert, an American expert. All these experts and expert bodies were unanimous in their view that the Department should introduce a permanent code for identifying the taxpayers

1. Indian Tax Reform—Report of a Survey by Nicholas Kaldor—p. 53, para. 93.
2. Final Report on Rationalisation and Simplification of the Tax Structure—p. 72, para. 16·1.
3. Administrative Reforms Commission—Report on Central Direct Taxes Administration—p. 24.

all over the country. Notwithstanding such unanimity of views and the fact that the earliest of these recommendations was made some 15 years ago, no progress had been made in evolving and implementing a scheme of allotting permanent account numbers or identification codes to all taxpayers. We felt that the absence of a simple but suitable code and the attendant administrative and procedural problems had perhaps stalled the adoption of a measure about the advantages of which there were no two opinions. We had, therefore, drawn up a scheme for the allotment of permanent account numbers, devoting considerable attention to the various problem areas. We had the blueprint of a workable scheme ready when we learnt that the Central Board of Direct Taxes have also been developing a scheme on their own and have decided to introduce it in a few charges with effect from 1st October, 1971. We are glad to note that steps have at last been taken to fulfil a long-felt need.

We are including in our report the scheme that we had drawn up, in the hope that it may help the Government in modifying, developing or extending the scheme which has been introduced on an experimental basis. *We give below an outline of the scheme as drawn up by us and also our reasons for deciding to adopt the pattern suggested by us. The entire blueprint of our scheme is given in Appendix VI to this report.*

2.151 While selecting a suitable type of code which would meet the requirements of the Income-tax Department, we have kept in mind the following factors:

(a) The length of the code should be minimal. Unduly long codes are likely to lead to serious errors in reproduction, particularly in the existing manual system.

(b) The system should, however, be capable of covering the entire section of the population which it is intended to cover and also provide sufficient room for expansion over the projected useful life of the code.

(c) The code should be permanently assigned to an entity to provide historical continuity and to facilitate data processing operations.

(d) The code should have a fixed number of characters so that, while being suitable for manual processing, it could be adopted without change when machine processing is widely introduced.

We have also considered the advantages and disadvantages of different coding systems—numeric, alphabetic and alpha-numeric. Alphabetic or alpha-numeric codes create various problems in administration and data processing. In the matter of productivity and accuracy also numeric transcription is superior to alphabetic or alpha-numeric transcription. This is the reason why countries like the United States have numeric codes for their taxpayer identification. In India we have the added problem of language. *We are, therefore, of the view that the code to be adopted for taxpayer identification should be numeric.*

2.152 The next choice that has to be made is between an assigned code and a generated code. In the former, the individual code values have no intrinsic meaning and are arbitrarily assigned to entities and such a code is basically a mere serial number. On the other hand, a generated code is theoretically superior to an assigned code inasmuch as it provides a unique and unambiguous identification of a particular individual by inclusion therein of codes identifying his personal attributes. Such a system also permits easy regeneration, i.e., each subsequent time the description of the particular individual or entity is furnished, the original code can be reproduced. In a system of assigned code with sequential numbers, such regeneration is not possible. However, practical considerations are heavily in favour of an assigned code. The personal attributes which form the basis for a generated code cannot be common for individuals and other entities like firms, companies, etc. It will, therefore, be necessary to evolve different codes for different entities. Moreover, such personal attributes are not invariant and a generated code is inherently unstable. Each change will necessitate the generation of a new code number, the resequencing of the records, establishment of cross reference records and notifying the individual about the change in the code. By contrast, an assigned code is a permanent code which avoids all these problems. Further, though considerable research work has been carried out in developing practical systems for digital coding of invariant personal characteristics such as finger prints and voice prints, such coding is a highly skilled job not suitable for easy adoption in our country. Coding of personal characteristics such as finger prints or voice prints is also bound to meet with a considerable amount of resistance from taxpayers, particularly in regard to the former which is often associated with illiteracy and crime. Another important consideration is that generated codes are bound to grow to impracticable lengths especially when the population to be covered is large. It is also important to note that generated codes cannot be grouped serially; even indexing the numbers in some sort of sequence will be a problem. An assigned code has also this advantage that the range of allowable codes being known, techniques can be established to distinguish possible from impossible code combinations. *We would, therefore, recommend the adoption of an assigned numeric code with a uniform number of digits.*

2.153 We have also considered the question whether it will be desirable to have, as part of the permanent account number, a checking code consisting of one or more numerical digits derived by a processing of the digits in the permanent account number according to some secret formula. Such an identification or checking code might facilitate detection of wrongly quoted or bogus numbers. But considering the fact that further increase in the number of characters in the account number will make it lengthy and more complicated, *we do not favour the addition of a checking code to the permanent account number.*

2.154 We have also considered the suggestion that the entire population of the country should be allotted numbers. We are of the view that this suggestion is not feasible. Further, in our country where less than 1 per cent. of the population is liable to direct taxes or is likely to enter into transactions which could possibly attract tax liability, it will be a tremendous waste of time, energy and money to attempt to allot numbers to the whole population. *We would suggest that numbers be allotted, at any rate in the initial stage, only to the taxpayers who are already on the registers of the Department or who come on to the registers subsequently. There should of course be a provision to enable any one desirous of obtaining an account number to do so. Perhaps numbers could also be allotted to all those who were on the registers of the Department till recently before the exemption limit was raised to Rs.* 5,000. This will facilitate watch being kept over persons who, with increasing income, may become liable to tax.

2.155 *We are of the view that account numbers once allotted should remain unchanged as long as the entity continues to exists as such.* Thus, changes in the constitution of a firm, association of persons or a Hindu undivided family should not affect the number but when a new entity comes into existence, a fresh number will have to be allotted. Similarly, when a partnership is converted into a limited company, a fresh number will have to be taken but when a private company becomes a public company or when a company changes its name there will be no change in the account number.

2.156 While the account number once allotted to a taxpayer will remain permanent, *it will be necessary to have an additional code, a 'Records Locator Code', to help locate the records of a taxpayer when the case is transferred from one circle to another after the permanent account number has been allotted. To avoid confusion with the permanent numeric code, this records locator code may be a short alphabetic code. It will not be a part of the permanent code and will not in any way vitiate its permanent character.*

2.157 Though the permanent account number could be put to a variety of uses, it will be most used by the Income-tax Department and as such it will only be appropriate if the requisite legislation is incorporated in the Income-tax Act itself. The law or any scheme framed thereunder will have to prescribe the occasions when, and the documents wherein, the permanent account number will have to be quoted. The law will also have to provide that all income-tax assessees should quote their permanent account numbers in all statutory returns, applications etc., submitted by them. In the case of partnerships, associations of persons and Hindu undivided families, the account numbers of the partners or members may also be required to be furnished wherever prescribed. In its turn the Department should make it a practice of quoting the account number in all its correspondence with the taxpayer and in all notices, orders etc. issued. These requirements will make the account number fulfil its role of a permanent identifying number for record keeping.

The permanent account number can also serve as an effective tool for combating tax evasion, detecting fraud and spotting new assessees, if legal provisions are introduced requiring persons to quote on the documents relating to specified transactions, their own account numbers and in certain situations also the account numbers of the parties with whom they enter into such transactions. Thus, if permanent account numbers are required to be quoted on documents relating to transactions in immovable properties over prescribed value, on applications for licences, contracts, etc., or for opening bank accounts or entering into specified transactions with banks over prescribed limits, the scope for tax evasion through benami deals or by total suppression of the transactions will get considerably reduced. If in the information returns furnished to the Department the permanent account numbers of the persons to whom the information relates are required to be quoted, collation of information and its linking to the person concerned will be greatly facilitated. This would help in spotting new assessees and in detecting concealment by existing ones. Permanent account numbers can also be useful in collecting information relating to expenses which would thus facilitate the checking of expenditure statements furnished by taxpayers. The fact that information could be linked easily would have a deterrent effect and ensure better voluntary compliance by taxpayers.

The utility and effectiveness of the permanent account number would be considerably enhanced if the same were adopted as a common code by other Departments also like Central Excise and Sales Tax.

The scope for extending the requirement of quoting the permanent account numbers to various types of transactions is, as indicated in Appendix VI, very wide indeed but in the interest of administrative efficiency we feel that it would be desirable to make only a small beginning and widen the field gradually. Legal provisions will also be necessary to make it obligatory for all permanent account number holders to intimate any change in their addresses to the appropriate authorities.

The law will have also to provide penal measures for ensuring compliance. In particular, penalties will have to be provided for failure to quote the account number where required by law, for fraudulent practices such as obtaining more than one account number or deliberately quoting wrong number, for failure to intimate change of address, for making a wrong statement that no account number has been allotted, etc. The penal provisions will, however, have to be leniently administered in the initial stages.

2.158 The persons who appeared before us to give their views were generally in favour of introduction of a system of allotting permanent account numbers. However, most of them felt that considerable harassment would be caused to the public if obtaining account numbers is made a pre-condition for entering into transactions. *We agree that, for the present at least, it should not be obligatory for anyone to obtain an account number before entering into a transaction. The legal requirement should be that persons entering into specified transactions should quote their account number, if they have one. If they do not have an account number, they should be required to say so.*

2.159 We, however, consider that in certain situations it would be desirable to make obtaining a permanent account number obligatory. It is a common practice among the business community to use business names in their account books, sale memos, letter heads and other documents, instead of the names of the owners of the business. In the absence of any indication on such documents as to the ownership of the business, it becomes difficult to co-relate later any transaction to the person who entered into it and reaped the benefit out of it. There being no law against the user of different business names or for compelling businessmen to divulge the ownership of the business, there is considerable scope for malpractices leading to tax evasion. At times, a businessman carries on business under a trade name for a short duration and then winds it up to emerge under another business name.

The law should require all persons carrying on business, where the turn-over in a year is likely to exceed Rs. 30,000, to apply for allotment of permanent account numbers within the prescribed time—if they are not already taxpayers. The law may also provide that any subsequent change in the business name should be forthwith intimated to the concerned authorities. To save any hardship to the public arising out of delay in allotment of permament account numbers, it could be provided that if a proper application for allotment of a number has been made within time, entering into transactions even before allotment of the permanent account number will not entail penal consequences.

2.160 Considerable amount of planning and gearing up of the administrative machinery will be essential if the scheme is to be successfully introduced. The departmental personnel will have to be trained and the public will also have to be properly educated. An effective organisational set-up and procedure for allotting permanent account numbers will have to be evolved. *We have, in the scheme outlined by us in Appendix VI, given our suggestions on the administrative and procedural aspects of the proposed system.*

2.161 While recommending the scheme, we would like to make it clear that we are not unaware of the limitations of the system and the problems it might throw up, e.g.,

(i) Some persons might intentionally quote wrong numbers and may not be traceable at all.

(ii) Some persons might not intimate changes in their addresses or might intimate wrong addresses so that it becomes well-nigh impossible to get at them later, after they have obtained a permanent account number.

(iii) Statutory requirement to quote the permanent account number in the documents relating to certain transactions might contribute to increasing the volume of unrecorded or unaccounted transactions, thus breeding further evasion of tax.

(iv) The reporting systems might so increase the volume of information available to the Department that a discriminate use thereof becomes difficult.

Nonetheless, we are convinced that a system of permanent account numbers will be useful and will help the Department to deal with tax evasion more effectively and also improve its accounting and maintenance of records. The system is not a substitute for a vigilant and watchful administration but an aid to make its efforts more rewarding.

Power of survey

2.162 Under section 133A of the Income-tax Act, 1961, an Income-tax Officer or any Ins-

pector of Income-tax authorised by him, may enter any premises in which a business or profession of an assessee is carried on. He can inspect such books of account or other documents as may be available there. Besides, he is empowered to place marks of identification on such books of account or documents, and to take extracts, if considered necessary. The main purpose of this provision is to enable the Income-tax Officer to make surprise checks at the business premises of the assessee, especially when he suspects the existence of incriminating documents or books of account. This also enables the Income-tax Officer to ensure that the books of account which are currently in use are produced at the time of assessment.

2.163 It has been pointed out that the power available under section 133A of the Act is subject to certain serious limitations. For example, the existing provision does not authorise the Income-tax Officer to check cash, stocks or other valuables. Besides, the present power of survey is exercisable only at the premises where business or profession is carried on. It is not uncommon for businessmen to keep stocks, books of account and cash at residential premises also where strictly speaking, no business is carried on. It may be argued that in such cases, the Department should use the powers of search available to it under the law. But it has to be noted that a search under the Income-tax law can be authorised only if certain pre-conditions are fulfilled and that, in any case, it can be authorised only by the Commissioner of Income-tax. We consider that the power of survey, though limited in scope, is, all the same, a useful tool in the hands of the Income-tax Officer to enforce compliance with tax laws. *We recommend that a new provision may be introduced as an adjunct to section 133A of the Income-tax Act,* 1961, to *enable the Income-tax Officer to visit any premises of an assessee for the purposes of counting cash, verifying stocks, and inspecting such accounts or documents, as he may require and which may be available there. He may also obtain any additional information and record statement of any person who is found at the premises, in respect of matters which would be relevant for making a proper assessment.* In order to ensure that this provision does not give room for harassment, we would like this power to be exercised only by an Income-tax Officer and not by any lower official.

We also recommend that the law may be amended to confer powers of survey on the Inspecting Assistant Commissioners as well.

Increasing survey operations

2.164 In any tax system, the work of locating new assessees and collecting additional information about the taxpayers already on the registers of the Department is of considerable importance from the view-point of fighting tax evasion. We have already recommended introduction of permanent account numbers and also a requirement that businesses where the turnover in a year is likely to exceed Rs. 30,000 should obtain permanent account numbers within a prescribed time if they are not existing taxpayers. But this by itself is not enough. It has to be supplemented by combing operations to locate new assessees and to get more information about existing ones—generally referred to as survey operations. Under the existing set-up, the Income-tax Department conducts external as well as internal surveys for this purpose. External survey brings information leading to discovery of new assessees and of concealed incomes and assets of assessees who are already on the registers of the Department. It involves door to door survey in cities and big towns and survey of important localities in small towns and villages. Internal survey consists mainly in gathering useful information from the accounts and other records of the assessees. In view of the widespread feeling that a considerable number of persons in our country escape the tax net in spite of having taxable income and wealth, and need for increasing the survey operations by the Income-tax Department acquires special significance.

2.165 Deterrent legal provisions supplemented by adequate publicity should no doubt impel most persons to file their returns of income voluntarily. However, the Department has also to gear up its own machinery and make concerted efforts to detect persons who, though having taxable income or wealth, are not yet on its registers. External survey, if organised properly and conducted effectively, could play a very vital role in this regard.

2.166 Considering the importance of survey for fighting tax evasion, a special survey drive for discovering new cases was launched by the Income-tax Department in 1964, but these operations were suspended in 1966 in view of the huge pendency of assessments. It was later decided by the Central Board of Direct Taxes in 1969 that external survey should be resumed only on a selective basis. During the last two years, the number of effective cases discovered as a result of survey was only 48,073 and 53,942 respectively. The total number of income-tax assessees on the register of the Department in 1970-71 was 30,13,676 only in a population of 55 crores, which is a mere 0.6 per cent. It is thus obvious that survey has not received the attention it deserves. In our opinion, 'survey circles', even where organised, have not been able to give the desired results because of the faulty system of control and the lack of adequate work programming. With a view to making external survey really effective, *we recommend that adequate number of survey circles should be set up*

to ensure comprehensive and continuing survey on rotational basis. Further, an officer, of the rank of Assistant Commissioner should be placed in over-all control of survey operations in each Commissioner's charge and he should also hold charge of the Special Investigation Branch. As he would have materials with him coming from different sources in regard to new assessees, he should be in a position to draw up, and also implement, a well-planned programme of general and selective survey. Besides, *in the bigger cities like Delhi, Bombay, Calcutta and Madras, a survey Range should be created under an Inspecting Assistant Commissioner who will have a contingent of survey circle Income-tax Officers and the necessary complement of Inspectors under him. In other mofussil towns, the survey squad should be under the local Inspecting Assistant Commissioner,* who will have one or more Income-tax Officers for survey operations and adequate number of Inspectors for this work. He should be in overall control of the survey programme so as to ensure that every town and locality in his Range is properly surveyed. The Inspecting Assistant Commissioner will also have to ensure that survey reports submitted by the Inspectors are promptly processed and acted upon so that there is no loss of revenue due to departmental delays. He should review the performance of the survey circles every month and report to the Commissioner of Income-tax.

2.167 *The Income-tax Officer in charge of a survey circle should have territorial jurisdiction* and he should be in complete control of the team of Inspectors working under him. To improve the quality of survey, these Income-tax Officers should frequently go out in the localities surveyed by the Inspectors and make test-checks in a fairly large number of cases with a view to ensure the reasonableness of the estimates made by the Inspectors and the comprehensiveness of the survey. *It should be the responsibility of these Income-tax Officers to ensure that all persons having taxable income/wealth within their respective jurisdictions are brought on the registers of the Department.*

2.168 The Inspectors who are posted for survey work will need to be briefed about the nature of trades and businesses in the area and normal profits that are expected in those trades and businesses. They will also have to be given training in the methods of proper valuation of assets, particularly immovable properties.

2.169 Though the primary duty of survey Inspectors is to discover new cases, they would in the course of survey operations come in possession of information relating to taxpayers already on the registers of the Department. As this information can be of considerable use in checking the returns of the existing taxpayers, it will have to be ensured that it is passed on promptly to the Special Investigation Branch for being transmitted to the concerned assessing officers. In turn, the information received from the special Investigation Branch relating to persons who are not assessed to tax, will have to be verified by the survey squad in the course of survey operations or otherwise, and this would be an important additional source for detecting new cases.

2.170 The problem relating to the first assessment in respect of new cases discovered as a result of survey was also examined by us. We are of the opinion that it would not be proper to saddle the Income-tax Officers in survey circles with the task of completing the first assessments, for in that event, survey work would suffer. *We recommend that the work relating to the first assessment in cases discovered on survey should be done by a separate officer or set of officers who will be entursted solely with such cases. However, these assessing officers should not be under the Assistant Commissioner of Income-tax in charge of survey.*

2.171 We also consider that the officers and Inspectors working in the survey circles should be encouraged to maintain conveyance and should be given conveyance allowance. Priority in allotment of vehicles should be arranged by the Central Board of Direct Taxes. Officers/Inspectors for whom priority is arranged should be retained in survey circles for reasonable periods. It would also be desirable to give a staff car or jeep to each survey squad, particularly in the bigger cities.

Collection, collation and dissemination of information

2.172 An efficient machinery for collection, collation and dissemination of information is a *sine qua non* for an efficient tax administration charged with the function of collecting taxes and countering tax evasion. At present, a separate cell, called the Special Investigation Branch, functions under each Commissioner of Income-tax for the purpose of collection, collation and dissemination of information. The work programme of this branch is quite impressive. The branch is expected to deal with anonymous petitions, payment intimation slips, newspaper cuttings, information received from other departments like Sales-tax, Central Excise, Registrar of Immovable Properties, Director-General of Supplies and Disposals, Transport authorities, Chief Controller of Imports and Exports, Reserve Bank, Life Insurance Corporation of India, etc. In addition, Income-tax Officers in the field are required to collect data from the statutory information returns furnished by the assessees and also from the account books of the taxpayers.

2.173 The Special Investigation Branch functions under the direct control of the Commissoiner of Income-tax, but the Commissioner himself being loaded with multifarious duties can devote little or no time to the work of the branch. The result is that the work is carried on mostly by junior officers or at times, by Inspectors. We understand that there is no system of regular inspection of this work either. Small wonder then that the work is in a state of complete neglect. This branch is neither doing any investigation nor is there anything special about it; it is even a misnomer to call it Special Investigation Branch.

2.174 At the lower levels in the field formations, it is very rarely that the Income-tax Officer effectively utilises the information received from various sources. Intimation slips received from the Special Investigation Branch are very often not recorded, though a register is required to be maintained for the purpose, and even if they are recorded, they are not promptly verified with the result that such slips go on piling up in the office to be summarily disposed of by the Inspector at a later date. The Income-tax Officer's half-hearted efforts in this direction are stated to be mainly due to lack of time at his disposal and lack of proper emphasis by the senior officers on this aspect of the work.

2.175 The Administrative Reforms Commission has adversely commented on the performance of the Department in this field. It recommended *inter alia* that the Special Investigation Branches should be strengthened and their energies should not be dissipated on work other than collection, collation and dissemination of information. It suggested that these branches should be placed under the immediate supervision of an Inspecting Assistant Commissioner, who will also be in charge of Internal Audit Department, and that their work should be periodically inspected by the Director of Inspection. The Public Accounts Committee obviously felt unhappy at the working of the Special Investigation Branches when in its 117th Report, it observed as under:—

> "There are Special Investigation Branches in Commissioners' charges which are responsible for collecting information from Government agencies, municipalities and other organisations like banks, financing companies etc., so as to discover new assessees or sources of income not disclosed by existing ones. The Administrative Reforms Commission reported that the working of these Special Investigation Branches is 'unsatisfactory' due, amongst other things, to lack of adequate supervision and their being saddled with items of work not relevant to their main functions. These defects in the working of these branches should be removed. The Committee feel that if all the available information is collected from these sources and systematically analysed and promptly processed in each Commissioner's charge it would lead to the discovery of most of the persons liable to assessment."[1]

2.176 The importance of collection, collation and dissemination of Information or what is known as 'Information Matching Programmes' is recognized in many countries and elaborate provisions and procedures exist in several of them. The system is known to be well-developed in Sweden. In Canada too, elaborate forms and procedures have been prescribed. In U.S.A. the programme known as WAID (Wage and Information Document Matching Program) ensures an internal annual check of information from returns filed within the data system to uncover potential tax violators. The flexible issuance system introduced a few years back involves having the ADP (Automatic Data Processing) system retain the compliance history and dollar liability of each taxpaying entity. A combination of flagrant non-compliance and high monetary delinquency causes the computer to set aside normal notice processing and issue an immediate notice for a delinquency investigation.

2.177 While the ultimate goal for the Income-tax Department should be to develop an information-matching programme which fully covers all aspests of the economic activities of the country, it would not be expedient, and it may also not be practicable, to set up such an all-embracing machinery all at once. We consider that it would be better to first set up a moderately sized organization and as it starts running efficiently and is perfected, it should be feasible to build gradually a sound, systematic, efficient and comprehensive machinery for this purpose. The routine and off-hand manner in which the job is handled at present has to give place to a systematic approach. *We recommend that the Central Board of Direct Taxes should lay down each year a programme and specify targets for collection, collation and dissemination of information. It should also ensure that the programme is strictly adhered to and efforts are made to reach the targets fixed. The sources to be tapped every year should be decided at the national level by the Board at the beginning of each year, to be followed and implemented strictly at all levels. Different types of information may be collected in different years so as to keep an element of surprise.*

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[1] Public Accounts Committee—117th Report (Fourth Lok Sabha)—para. 1·11—p. 7.

2.178 In evolving any scheme, which would invariably entail a lot of additional work and employment of more staff, the existing situation in the Department has to be duly taken note of. It would be much better to collect only important information and utilize it properly than go in for a mass of data which is not sifted at all. Further, it should be ensured that intimation slips are duly recorded on receipt and are taken up promptly for verification. With the introduction of the system of permanent account numbers suggested by us elsewhere[1], it should be possible to press computers into service for matching information, at least in bigger city charges.

2.179 With a view to securing efficient functioning of the set-up, *we recommend that standards of work and performance should be laid down, without which it would not be possible to judge the requirements of manpower nor to measure the adequacy or otherwise of the output given by the persons at various levels. The Special Investigation Branches, to be renamed as Central Information Branches, should be suitably strengthened and they should be placed under the supervision of the Inspecting Assistant Commissioner in charge of survey operations as suggested by us elsewhere[2]. They should be located at the stations where the headquarters of the Commissioners are but should not form part of their offices. The work of the Special Investigations Branch should be inspected at least once a year by the Commissioner of Income-tax himself.*

Co-ordination between banks and the Income-tax Department

2.180 It has been brought to our notice that the banking channels are utilised for putting through transactions calculated to evade taxes largely because the bank authorities do not insist on proper identification of parties and, in many cases, do not even preserve adequate information on record to enable the Income-tax Department to ascertain the identity of the parties to these transactions. There is need for a better liaison between the banks and the Income-tax Department from the point of view of fighting tax evasion. We have recommended elsewhere[3] in this report a system of permanent account numbers for all taxpayers to facilitate collation of information to help investigation in cases of tax evasion. One of the important ways in which this system can be profitably utilised is to make it obligatory for all taxpayers to quote permanent account numbers in their financial transactions through banks. This will help connect the transactions to the relevant parties. *We accordingly recommend that the legal provisions under which the system of permanent account numbers is introduced should also include that taxpayers should quote their permanent account numbers in applications for bank drafts, mail transfers, telegraphic transfers, etc., if the amount involved in such transactions exceeds five thousand rupees.* Where a party to such transaction has no permanent account number, it should be required to state so specifically. This will limit the scope for benami transactions and clandestine dealings.

2.181 The second point which has engaged our attention concerns banking transactions which are *prima facie* of a suspicious nature, because they are either inconsistent or incommensurate with the customary conduct of the business, industry or profession of the person or the organisation concerned. In the United States of America, the Code of Federal Regulations contains provisions[4] under which banks are required to report unusual and suspicious transactions to revenue authorities *suo motu*. The existing position in our country on the other hand protects the privacy of the transactions with the result that even if the banks come to know that all is not well with certain transactions, they do not bother to alert the Income-tax Department. Such a position permits tax evaders, foreign exchange violators and black-marketeers to continue their activi-

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[1] paras 2·149 to 2·161.

[2] para. 2·166.

[3] paras 2·149 to 2·161.

[4] 102·1—*Reports of currency transactions required* :

Commencing with transactions occurring in the month of August, 1959, every financial institution in the United States shall file monthly reports on Form TCR—1 concerning each transfer, effected by, through or to such financial institution, which involves transactions in United States currency as follows:

(a) Transactions involving $ 2,500 or more of United States currency in denominations of $ 100 or higher;

(b) Transactions involving $ 10,000 or more of United States currency in any denomination, and

(c) Transactions involving any amount in any denominations,

which in the judgment of the financial instutution exceed those commensurate with the customary conduct of the business, industry or profession of the person or organisation concerned.

102·3 *Identification required*

No financial institution shall effect any transaction with respect to which a report is required unless the person or organisation with whom such transaction is to be effected has been satisfactorily identified.

ties without the fear of being caught. *We accordingly recommend that a suitable provision be introduced in the Banking Regulation Act, 1949, by which all banking institutions coming within the purview of that Act should be under a statutory obligation to report to the Reserve Bank of India all financial transactions in cash over twenty-five thousand rupees which, in the judgment of the banking company concerned, are suspicious or unusual.* The Reserve Bank of India may also be enabled to report all these transactions to the Central Board of Direct Taxes, to be followed up by the officers of the Intelligence Wing of the Department.

2.182 Although sub-section (6) of section 133 of the Income-tax Act, 1961, empowers the officers to obtain any information which will be useful for or relevant to any proceeding under the Act, this provision does not give them the power to ask for general information without reference to any proceeding under the Income-tax Act, 1961. Divergent views have been expressed before us about the desirability of introducing such a measure. We consider that it will not be appropriate to cast a statutory obligation on all the banks to send information about various transactions generally to the Department *suo motu*. However, *we recommend that officers of the Department should be statutorily empowered to obtain from banks information of general nature, i.e., without reference to any particular taxpayers, provided the information that is sought is in respect of transactions over specified amounts.* The broad nature of information to be obtained could be as under:

(i) Names and addresses of the parties having 'term' or 'call' deposits exceeding fifty thousand rupees during a year.

(ii) Names and addresses of parties to whom advances exceeding fifty thousand rupees have been granted, with details as to the nature of the security.

(iii) Names and addresses of parties in whose cases bills of lading/lorry receipts/railway receipts have been cleared, where the value exceeded fifty thousand rupees.

(iv) Names and addresses of parties who have kept boxes, containers, etc., for safe custody.

(v) Names and addresses of persons who purchased bank drafts and/or remitted funds through telegraphic transfers and mail transfers, where the amount involved exceeded fifty thousand rupees.

Changes in the form of income-tax return

2.183 Another suggestion often made for countering tax evasion is that a comprehensive return form for income-tax, wealth-tax, gift-tax and expenditure-tax should be prescribed. It was Kaldor who first suggested such a comprehensive return. He conceived it as a powerful weapon for combating tax evasion. More recently, the Public Accounts Committee expressed itself in favour of introduction of an integrated return form for wealth-tax payers[1]. Those who favour such a form argue that apart from constituting a self-checking document, a comprehensive return would facilitate simultaneous completion of the assessments under the various direct tax laws.

We have examined the implications of this proposal. The introduction of a comprehensive return will involve integration of all the direct tax laws, which is neither feasible nor contemplated at present. Further, a very small percentage of those who are liable to income-tax are also liable to gift-tax and wealth-tax. It is, therefore, unnecessary to burden all income-tax assessees with a comprehensive return. Even now all assessments under the direct tax laws relating to a particular assessee are dealt with by the same Income tax Officer and it should, therefore, be possible to carry out cross-checking by simultaneous disposal of assessments. We are, therefore, not in favour of introducing a comprehensive return form.

2.184 The form of tax return is, however, an important document and is the very basis of assessment proceedings under our direct tax laws. The scheme introduced by the Department recently, where assessments of a vast majority of taxpayers will be based on returns without detailed scrutiny, makes the tax return more important. It is, therefore, necessary to ensure that the return form contains all the information required for making a proper assessment so that a taxpayer is prevented from shifting his stand at his convenience. It should also contain a self-checking mechanism which would help to test the correctness of the return and to decide whether it requires further scrutiny. *We, therefore, recommend that the form of return of income should be made more elaborate than what it is at present by incorporating a schedule of exempted income, net worth, personal expenditure and other outgoings. To start with, the requirement to furnish this additional information should be applicable only when the total income exceeds Rs.* 15,000. In Appendix VII to this report, we give a draft schedule for adoption. Without being too elaborate, the proposed schedule would substantially serve the purpose of a comprehensive re-

[1] Public Accounts Committees' Reports (see para 1·50 of 73rd Report, para 1·23 of 100th Report and para 1·89 of 117th Report).

turn. It would also present a broad picture of he taxpayer's financial status and commit him o certain admissions and claims from which it will not be easy for him to resile at a later date. Being part of the return form, the information would be on proper verification and any false statement therein would attract penalty or prosecution and also a re-assessment of the assessee's tax liability. Without such checks, a scheme of restricting scrutiny to selected cases is liable to be misused and selection of cases for scrutiny will also be a problem. We consider that incorporation of the proposed schedule in the return of income would secure the essential advantages sought from an integrated tax system without entailing the legal and administrative difficulties involved therein.

2.185 Before leaving the subject, we would like to deal with another problem that has been brought to our notice in this context. Under the present law, the return of income has to be filed in a statutorily prescribed form which is often required to be revised to be in line with the changes in law. It has been stated that prosecution proceedings launched by the Department against taxpayers for furnishing false returns of income are, at times, vitiated merely because the returns in question are found to have been furnished in a form not applicable for the year concerned. As the forms of return of income do not contain any clear indication of the year to which they pertain, such mistakes cannot be easily detected at the stage of assessment. A suggestion offered to obviate this difficulty is to print the assessment year in bold figures at the top of the return forms, as is done in some countries like the United Kingdom, Australia, the United States of America and New Zealand. We do not consider this suggestion to be helpful as it is likely to lead to either avoidable waste of stationery or lack of requisite number of forms pertaining to a particular year at a later date. *We consider that a better solution would be a provision on the lines of sub-section*[1] (1) *of section* 114 *of the Taxes Management Act,* 1970 *of U.K. which states that the validity if proceedings purported to be made under the taxing statute cannot be questioned for want of form or affected by reason of a mistake defect or omission therein. We recommend that a similar provision be incorporated in our direct tax laws as well.*

Reintroduction of Expenditure Tax

2.186. It has been suggested before us that tax on expenditure should be re-introduced as a measure to fight tax evasion. We are not unaware that a tax on personal expenditure has certain distinct advantages, especially for a country like India, because it is likely to promote savings, which are so vital for the country's economic development. Evasion of income-tax can also be checked to a limited extent by such a tax, since substantial portion of the unaccounted money gets frittered away in wasteful expenditure. However, the relative merit of any of the taxes depends upon the objective sought to be achieved and the merit of each of the taxes has to be weighed in the balance along with other relevant considerations, when a general decision as to the imposition or modification of a tax is being taken. In the Second Inter-Regional Seminar on Development Planning held at Amsterdam (Netherlands) in 1966 under the auspices of the United Nations, John F. Due had this to observe about Expenditure Tax:—

> "But there are some rather serious objections to its use in the typical developing economy. Perhaps the most important is purely administrative; the tasks of enforcement are more severe than those of the usual income-tax, since additional information is required . . . ."[2]

We have recommended separately introduction of an expenditure statement as a part of the form of return of income[3]. *We consider that this measure should be quite effective in checking evasion through consumption expenditure, without disturbing the existing tax structure.*

Uniform accounting year

2.187. Of the many provisions in the Income-tax law that provide scope for evasion and avoidance of taxes, the one which allows the taxpayers to choose as many accounting years as there are sources of income is particularly noteworthy for its undesirable consequences.

2.188. Under the Income-tax Act, tax is imposed on the income accrued or earned in the 'previous year' as defined in section 3 of the Act. The law at present permits an assessee to have a separate 'previous year' for each source of income, though the income from all the sources is

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[1] Sub-section (1) of section 114 of the Taxes Management Act, 1970 of U. K. reads as under:—

"An assessment, warrant or other proceeding which purports to be made in persuance of any provision of the Taxes Acts shall not be quashed, or deemed to be void or voidable for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of the Taxes Acts, and if the person or property charged or intended to be charged or affected thereby is designated therein according to common intent and understanding."

[2] Planning Domestic and External Resources for Investment—Report of the Second Inter-regional Seminar on Development Planning (U.N.) —p. 102.

[3] para 2·184.

assessed with reference to a single assessment year. As a result, an assessee can have for one assessment year a number of 'previous years' ending on several dates.

2.189. Such a position necessarily results in complexity in assessment procedure. Moreover, it gives scope for various manipulations and malpractices on the part of some taxpayers, thereby facilitating tax evasion and tax avoidance. Absence of a uniform 'previous year' provides scope for collusive transactions, especially by companies in preparation of their balance-sheets. It also seriously hinders cross-verification of transactions between various parties, comparison of profit margins and other processes of investigation.

2.190. The adoption of a uniform accounting year has often been suggested as a measure to check the existing malpractices. The question of having a uniform accounting year was considered by S. Bhoothalingam in his reports on rationalisation and simplification of tax structure[1] and also by the Administrative Reforms Commission[2]. In his report, S. Bhoothalingam finally suggested adoption of a uniform tax year beginning on the 1st of July. The Administrative Reforms Commission also preferred adoption of a uniform standard previous year, to remove the existing complexities. However, having regard to the practical difficulties involved, it recommended the introduction of a standard previous year not for all assessees but for companies only.

2.191. We have taken into consideration the various view-points on the subject. In our opinion, the existing practice of allowing an assessee to adopt as many previous years as there are sources of income is neither desirable nor necessary. We considered whether as a first step towards the adoption of a uniform accounting year, the Government could prescribe four accounting years ending on 31st March, 30th June, 30th September and 31st December, leaving the option to each taxpayer to choose any one of them. Though attractive at first sight, the suggestion has to be rejected as the undesirable consequences flowing from the multiplicity of 'previous years' will continue to exist even in such a situation. Further, this will neither satisfy the taxpayer's religious sentiment nor subserve the interests of revenue.

2.192. No doubt, prescribing a uniform accounting year will present certain problems. It is likely to be opposed on the ground that it amounts to interference with the time-honoured right of the businessman to adopt an accounting year of his choice—based on religious sentiment or business convenience. Besides, certain laws regulating the working of co-operative societies, banks and insurance companies prescribe different periods for closing their accounts. A uniform accounting year is also likely to cast a heavy burden on the auditors in one part of the year.

2.193. In spite of these and other possible objections, we are of the opinion that the advantages that would accrue from the adoption of a uniform accounting year would far out-weigh the disadvantages. It will facilitate investigation and cross-verification of transactions and restrict the scope for collusive manipulations. White-washing of balance-sheets in collusion with one another will become difficult. Income earned during the same period by different taxpayers will be taxed at the same rate and not at different rates, as at present. Budgeting would be more accurate, for a boom or depression in a particular industry can be duly taken note of in the same year in case of all the assessees running that industry. Disposal of assessments can be planned in a better manner because all the returns would be received about the same time. It will also accelerate completion of assessments because economic conditions pertaining to a particular class of assessees would be common. Given sufficient time for the change-over, businessmen are also likely to get accustomed to it. *We would, therefore, suggest that the Government should seriously consider the expediency of prescribing a uniform accounting year for all taxpayers. In that case, the accounting year should coincide with the budget year.*

Whatever might be the objections to the prescription of a uniform accounting year for all taxpayers, we see absolutely no justification for the same person being allowed to adopt different accounting years for different businesses carried on by him. *We, therefore, recommend that, in any event, the law should permit adoption of only one 'previous year' in respect of all businesses carried on by one person.*

Checking under-valuation of immovable properties

2.194. Evasion of direct taxes in our country is closely linked with the practice of under-valuation of properties by the taxpayers, whether in the transfer documents relating to immovable properties, or in their returns of net wealth, or when explaining the source of cost of construction. The absence of a proper valuation machinery in the Income-tax Department helps the tax dodgers in more than one way. It facilitates utilisation of unaccounted money in in-

[1] First Interim Report (pp. 19—21) and Final Report (pp. 56—58) on Rationalisation and Simplification of Tax Structure by S. Bhoothalingam.

[2] Report of the Administrative Reforms Commission—Central Direct Taxes Administration—pp. 13—14.

vestments. It also provides scope for reduction of liability to direct taxes, whether on income, capital gains, wealth or gifts. Due to the opportunities available for understating the value of assets in the guise of honest difference of opinion, tax dodgers are able to evade the penal consequences and merrily continue their game of tax evasion.

2.195. There are no two opinions that correct valuation of assets can contribute to an effective administration of income-tax and other direct taxes. Proper valuation of assets also seems necessary for the purpose of effectively implementing the levy of additional wealth-tax on urban properties.

2.196. We examined the adequacy of the existing administrative structure and procedures for arriving at the fair market value of various assets for the purposes of assessment under the direct tax laws. Some time back, Valuation Cells were set up by the Government to make available technical assistance to the officers of the Income-tax Department. At present, there are 8 Executive Engineer, 2 Appraisers and 16 Overseers in these Valuation Cells. We however, note from the Taxation Laws (Amendment) Bill, 1971, recently introduced in the Lok Sabha, that the Government contemplate strengthening the valuation machinery on an elaborate basis, giving statutory powers to 'Valuation Officers' to be appointed by the Government under the direct tax laws. The Bill also provides for the procedure to be adopted by Valuation Officers in determining the value of assets. We approve of these measures which, in our opinion, should go a long way in narrowing down the scope for differences between the taxpayers and the Department on valuation of assets.

The role of valuers approved by the Government for the purpose of arriving at proper value of assets has also been considered by us. The Taxation Laws (Amendment) Bill, 1971 contains provisions for registration of qualified valuers and also for regulation of their conduct. We are glad that the Government propose to take powers to regulate the conduct of approved valuers some of whom, we were told, used to help the taxpayers in understanding the value of properties.

2.197. In our interim report to the Government, we had recommended compulsory acquisition of immovable properties in cases where the sale deeds did not reflect their fair market value. This recommendation has since been accepted and legislation has been introduced in the Parliament. However, the problem of undervaluation is not limited only to understatement of sale consideration in the transfer deeds. Considering the scope for tax evasion through understatement of cost of construction of property by the taxpayer, we examined whether the recommendation made by us earlier in the interim report for compulsory acquisition of immovable properties should be extended to such cases also. *We are of the opinion that it would be expedient for the Government to assume powers to acquire immovable properties in cases of understatement of cost of construction as well. However, as this would be an extension of our recommendation in the interim report, we feel that the Government should consider such extension only after it has had some experience of acquisition of immovable properties in cases of understatement of sale consideration.*

2.198. In this context, we considered the adequacy of the proposed provisions relating to acquisition of immovable properties, as contained in the Taxation Laws (Amendment) Bill, 1971, introduced in the Parliament. However, there may still be certain cases where it may not be expedient to follow the procedure laid down in the Bill. In order to meet this situation, the Land Acquisition Act, 1894 may be invoked and the property acquired for specific public purposes. To avoid unnecessary controversy on the question of valuation of the property, *we recommend that the Land Acquisition Act,* 1894 *may be amended to the effect that where an immovable property to be acquired under that Act, was the subject matter of a transfer within one year preceding the notification under section 4 of the Land Acquisition Act,* 1894, *the sale consideration stated in the transfer deed relating to that property will be deemed to be the market value for the purpose of determining compensation under section 23 of the Land Acquisition Act,* 1894.

2.199. We also considered the suggestion that in computing income from house property, depreciation based on the cost of property should be allowed instead of repairs at 1/6th of the annual letting value. It is stated that this would encourage taxpayers to disclose correct cost of construction or purchase price for the purposes of assessment under the various direct tax laws. We are of the opinion that the odds against this suggestion are heavy, and it may not be a sufficient incentive for tax evaders to come out with the true value of immovable properties. *We do not, therefore, favour this suggestion for replacement of deduction in respect of repairs by depreciation.*

Ownership flats

2.200. With the increasing pace of urbanisation in the country and the consequent pressure on housing, the system of having what are commonly known as 'flats on ownership basis' or 'ownership flats' has become very popular, especially in bigger cities. Such flats are often constructed through the medium of co-operative housing societies. A person desirous of owning a flat becomes a member of such a society and

the purchase of a specified number of shares of the society entitles him to a flat. The flat is transferable by the mere transfer of the shares. Thus, what is acquired or transferred in case of these flats is not the ownership of the flat as such, but the ownership of the shares of the housing society. These transfers are, therefore, not treated as transactions in immovable property and are consequently not required to be registered under the Indian Registration Act, 1908. Even where such flats are purchased from an entity other than a co-operative society, e.g., a limited company, the rights acquired are described as merely rights of occupancy in respect of a tenement. The position regarding requirement of registration under the Indian Registration Act, 1908, therefore, remains the same. For this reason, these transactions will also be outside the purview of the proposed legislation for compulsory acquisition of immovable property in case of understatement of consideration for the transfer.

2.201 The absence of a statutory requirement of registration of these transactions, coupled with the increasing demand for such flats, has led to considerable opportunities for tax evasion and proliferation of black money. Receipt of 'on-money' on transfer of flats, holding flats in bogus and benami names, deriving unaccounted rental therefrom, and ante-dating transactions in them to thwart tax recovery proceedings, etc., have thus become quite common.

2.202 The Maharashtra Government had noticed that consequent on the acute shortage of housing in several areas, certain malpractices and difficulties relating to construction, sale and transfer of flats taken on ownership basis had cropped up. The State Government, therefore, appointed a Committee in 1960 to enquire into these matters and advise the Government. On the basis of the recommendations of this Committee, the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act was passed in 1963. This Act provided, *inter alia*, that where a person constructs such flats for sale, he must enter into a written agreement with the intending buyer before accepting any advance or deposit from him and the agreement should be registered under the Indian Registration Act, 1908. Recently, the Government of Maharashtra has enacted another statute, viz., The Maharashtra Apartment Ownership Act, 1970. The preamble states that the Act has been enacted in order to provide ownership rights to persons who buy apartments in a building and also to make such apartments heritable and transferable property. Each apartment owner can avail of these benefits if he executes the prescribed documents and gets them registered under the Indian Registration Act, 1908. No doubt, these enactments are likely to be of some help in checking tax evasion in Maharashtra State, but in our opinion, even these do not go far enough. As indicated above, the first enactment covers only agreements with the promoter and not the subsequent transactions. So far as the second enactment is concerned, it does not apply to co-operative societies, which hold a large number of such flats. Secondly, it leaves non-residential flats out of its purview and, what is more, the option to be governed by this Act is left wholly to the discretion of the owners of the apartments.

2.203 We consider that evasion of taxes through transactions in ownership flats can be checked only if there is all-India legislation providing that such transactions shall be treated as transactions in immovable property and shall consequently have to be registered under the Indian Registration Act, 1908. Such a measure would also be of considerable help to the Department even in the matter of collection of taxes. It will extend the scope of seciton 230A of the Income-tax Act, 1961 to the flats and will also enable such property being attached in certificate proceedings for recovery of taxes.

We, accordingly, recommend that it may be provided by law that ownership flats, whether acquired through the medium of co-operative housing societies or otherwise, would be deemed to be immovable property for purposes of the Transfer of Property Act, 1882 and that transfer of such flats shall be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property.

'Pugree' payments

2.204 'Pugree' is a premium paid at the time of change of tenancy of premises and this payment, being illegal, is made outside the account books and usually out of unaccounted money. The system of 'pugree' payments has its origin in rent control legislation in force in the various States. Rent control was introduced mainly to curb the practice of charging exorbitant rents. Consequently, the various Rent Control Acts put a prohibition on claiming or receiving any sum as premium or pugree, in addition to rent[1]. In spite of the prohibition, 'pugree' system is widely prevalent, particularly in the bigger cities, and leads to tax evasion and circulation of black money.

2.205 'Pugree' normally represents a lump-sum commutation of the difference between the market rent and the standard rent fixed under the Rent Control Act. It has been suggested that the problem could be solved through legislation of 'pugree'. We have carefully considered

1. Delhi Rent Control Act, 1958—Section 5.

the suggestion but we do not find it feasible. Even if receiving 'pugree' is legalised, the receiver would be reluctant to account for it in view of the large tax he would have to pay on the lumpsum receipt. From the revenue point of view also, no useful purpose would be served. Further, legalising 'pugree' would completely defeat the objective of rent control which is to offer protection to tenants against exploitation by landlords. A better course peraps would be to do away with all rent control rather than have it and render it meaningless by regularising 'pugree'. This would also be better from the revenue point of view because a landlord would find it difficult to conceal any part of the rent received month after month, whereas in case of lumpsum payment, received once and for all, the chances of detection are relatively remote.

At present, rent control applies to both residential and non-residential premises. This would mean that doing away with all rent control would result in lifting control in respect of residential buildings also. We are convinced that in view of the larger social objectives, there is justification for protection against exorbitant rents to continue in respect of residential tenancies. No such considerations, however, prevail in the case of non-residential premises. Moreover, any higher rent charged by landlords for letting out non-residential premises is an admissible deduction in computation of income from business or profession. *We recommend that the present legislative control on rent which operates in respect of both residential and non-residential premises be amended so as to restrict its operation to residential premises only.*

Tightening provisions of the Stamp Act

2.206 A convenient device frequently adopted for secretly utilising black money is to invest it in immovable property by understating the purchase consideration. This not only saves stamp duty but also results in evasion of income-tax and wealth-tax in the hands of the investor, while the vendor escapes his proper liability to capital gains tax. In addition, it creates a fresh nucleus of black money in the hands of the vendor, which leads to its proliferation in the economy. It was for this reason that we had recommended in our interim report, a detailed scheme for the take-over of immovable properties by the Government in cases of understatement of purchase consideration. We had stated, *inter alia,* that this measure would act as an effective deterrent and curb the tendency to understate the consideration in documents relating to transfer of immovable properties. While recommending this measure, however, we had ourselves made it clear that it will have to be applied only to cases of substantial understatement. It is in this context that we recommend below another measure to help deter investment of black money in immovable property.

2.207 We think it will go a long way to achieve this objective if adequate machinery is provided under the Stamp Act for valuation of properties which are the subject of transfer. The Indian Stamp Act, 1899, no doubt provides for impounding instruments not duly stamped and for levy of penalty for the insufficiency of stamps. However, the stamp duty payable on an instrument has to be determined with reference to the terms of the document and the court is not entitled to take into consideration evidence *de hors* the instrument itself.[1] Even where a deed relating to a property is impounded by an authority under section 33 of the Indian Stamp Act, and proceedings are started by the Collector under section 40 of the Act for judging the sufficiency of the stamps and levying penalty where necessary, the Collector has no power to embark upon an enquiry regarding the market value of the property and to require payment of further stamp duty according to the valuation arrived at by him. It is true that a penalty can be imposed under section 64 in case of fraud but, in the very nature of things, it is easier to allege fraud than to establish it, with the result that the provisions of section 64 have almost become a dead letter.

2.208 It is worthwhile to refer in this connection to the institution of Valuation Office in the United Kingdom. The Valuation Office originally came into being for Revenue purposes, but over the years it has acquired such a reputation for efficiency and independence from both the Government authority and the taxpayer, that it has become now the official organisation for ascertaining the value of land and interests in land for all Government purposes generally.[2] We at first examined the desirability of having a similar set-up in India but came to the conclusion that it would not be practical to have such an omnibus institution at the Centre for various reasons.

2.209 We find that in 1967 the then Madras State Government had introduced certain measures to curb the evil of understatement of purchase consideration. By an amendment to the Indian Stamp Act, 1899, the Registering Officers

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1. In re C.R.M.M.L.A. Chettayar Firm, 13 Rang. 613: 157 I.C. 732 : 1935 Rang. 243 (S.B.); Raman Chetty v. Mahomed Ghouse, 16 Cal. 432; Sakharam Shankar v. Ramchandra Babu, 27 Bom. 279; 5 Bom. L. R. 28; Ramprasad Shivlal v. Shrinivas Balmukund, 27 Bom. L. R. 1122 : 90 I. C. 685:1925 Bom. 527.

2. Sir Alexander Johnston—The Inland Revenue—1965 edition, Chapter XVIII—pp. 170—185.

within Madras State were empowered to refer cases of suspected understatement of market value in the deeds requiring registration, to the District Collector, for determining the market value of the property mentioned therein.[1] We are of the opinion that it would be advantageous to have similar machinery in other States also. *We recommend that the Indian Stamp Act may be suitably amended in this behelf on the lines of the Madras enactment.*

2.210 Another change we would like to recommend, with a view to checking tax evasion, is in relation to the sale of stamps and stamped papers. At present, the stamps are sold only by licensed stamp vendors who are required to maintain a register of sales showing name and address of the purchaser and the date of sale. These details are also required to be recorded by the vendors on the back of the stamped paper at the time of sale. This entry on the stamped paper is an important means of verifying the genuineness of the transaction sought to be evidenced by the document. However, this procedure is open to considerable abuse. Unscrupulous persons obtain illegitimate tax advantages or defeat certain controls and regulations imposed by other legislation by ante-dating certain transactions. The entry regarding the name of purchaser and the date of sale is not enough to prevent such ante-dating manoeuvres. Stamped papers of earlier dates can still be used for such purposes because details regarding the nature of transaction sought to be recorded on the stamped paper and names of the parties to the transaction, are nowhere mentioned at the time of purchase of the paper. In view of the widespread misuse of the stamped papers to evade taxes, *we recommend that in addition to indicating the date of sale and name and address of the purchaser, the stamp vendors may be required to state on the stamped paper the purpose for which the paper was purchased and also the names of the parties to the transaction sought to be recorded thereon, except in the case of an agreement or a memorandum of agreement under article 5 of schedule I of the Indian Stamp Act, 1899 and power of attorney under article 48 thereof.* Such a change in the procedure with regard to sale of stamped papers would render it difficult to record on stamped paper a transaction not contemplated at the time of its purchase.

Foreign exchange violations

2.211 In our present economic situation, earning and conservation of foreign exchange are of considerable importance to the development of our country. That foreign exchange violations are of considerable magnitude is perhaps to state the obvious. An official study team appointed by the Government of India has estimated in its report recently submitted that the extent of leakage of foreign exchange is about Rs. 240 crores yearly. *Since foreign exchange violations are possible only through clandestine dealings, these necessarily result in evasion of income-tax and other allied taxes. We understand that the Government is examining the report of this study team and is proposing to initiate necessary remedial measures in this regard, including certain amendments to the Foreign Exchange Regulation Act. We expect that the appropriate authorities would deal with this matter effectively.*

Tax treaties for exchange of information relating to tax evasion

2.212 Tax evasion in our country cannot be said to be confined only to transactions taking place within the country; it is closely linked with transactions such as over-invoicing and under-invoicing in import and export business, operations through secret foreign bank accounts and smuggling of valuable articles into and out of India. Moreover, there are cases of taxpayers who thwart the attempts of tax administration to collect tax dues by either retaining their assets abroad, or transferring them secretly outside India. The only answer to these problems appears to us to be to enlarge the field of international co-operation in dealing with tax dodgers, by entering into comprehensive tax treaties with other countries, particularly those with whom we have economic relations and trade on a substantial scale. The United States of America has entered into comprehensive tax treaties with several countries, including Canada and Switzerland.

2.213 We consider that to be of assistance in tackling tax evasion, tax treaties should have a provision for automatic exchange of routine information relating to payment of interest, commission, royalty, rent, etc., to residents of one of the contracting countries in cases where such payments are likely to attract tax liability in that country. The agreements should also provide for exchange of commercial intelligence which is vital for dealing with international tax evasion. This is necessary because it will otherwise be difficult to establish fraud successfully, particularly when it relates to under-invoicing or over-invoicing. The agreements should also facilitate exchange of general information relating to tax laws and fiscal policies. The most important role which such agreements can play is, however, in the field of investigation of specific cases of tax fraud and recovery of tax dues from those who have migrated to the other country or who have assets in the other coun-

[1] The Indian Stamp (Madras Amendment) Act, 1967 inserted a new section 27A to Indian Stamp Act, 1899—vide Madras Act 24 of 1967.

try, by providing for exchange of information relating to such cases and by making the administrative machinery for investigation and recovery of one country available to the other. The agreements between France and U.S.A. include clauses providing for such mutual assistance. We area of the view that our agreements with other countries should also provide for mutual assistance and should no longer be mere double taxation avoidance agreements as envisaged by section 90 of the Income-tax Act as it stands at present. *We, therefore, recommend that section 90 of the Income-tax Act be suitably amended to enable the Government to enter into agreements with foreign countries not only for the avoidance of double taxation of income but also for prevention of fiscal evasion. We further recommend that our existing agreements should be revised so as to provide for exchange of routine information and market intelligence as also specific information in individual cases to facilitate investigation of tax evasion and recovery of taxes. The agreements should also enable courts in both the contracting countries to entertain rogatory, commissions or letters of request from the tax authorities of the other country for the purpose of securing the evidence of persons resident therein. The agreements should further provide for mutual assistance in investigation of tax frauds and recovery of taxes by making the administrative machinery of each available to the other.*

Tax evasion in film industry

2.214 It is generally said that in the film industry, a lot of 'on-money' is paid to artistes and that this practice leads to a chain reaction in the case of producers, financiers, exhibitors, etc., resulting in evasion of proper tax liability at all levels. We had sought views on this matter through a question in our Questionnaire and an overwhelming majority of persons, who sent their replies, was of the opinion that considerable amount of black money passes in transactions in the film world at different stages. It was, however, pointed out that the peculiar features of the film industry, such as the short and uncertain span of the artiste's working life and the need to preserve his glamour in the public eye, were responsible to a considerable extent for the degree of tax evasion in the film industry.

2.215 A suggestion was made before us that the income of film artistes from each film should be allowed to be spread over a period of years by a suitable legal provision. While we recognize the need for a liberal tax treatment of the income of film artistes, we do not favour this proposal as it is bound to present numerous practical difficulties.

Another suggestion that was put before us was that in the case of film artistes, flat rate deductions for certain out-of-pocket expenses should be allowed from their gross earnings in arriving at their taxable income. This is based on the argument that film artistes, by the very nature of their profession, have to incur certain expenses which are more of the character of personal expenses in respect of which it may not always be possible to maintain proper accounts. We apprehend that acceptance of this suggestion would amount to putting a premium on ostentatious living and may also, instead of checking evasion, increase the scope for it.

2.216 There was, however, yet another suggestion which in our opinion should, by and large, meet the plea by film artistes that they should have concessional tax treatment in view of short span of their working life. We learn that the Central Board of Direct Taxes had some time back, in an individual case, approved the principle of taxing the remuneration of a film artiste over a period of years if the film producer, instead of paying the amount directly to the film artiste, purchased irrevocable deferred annuities by an agreement with the Life Insurance Corporation of India and assigned the same in favour of the artiste. It was decided that the artiste would be taxed each year only to the extent of the amount of annuity received. Such tax treatment not only frees the artiste from the burden of paying tax at high rates on the large income earned during a short spell of popularity but also ensures that he will have a steady income over a period of years. We consider that if this scheme is statutorily introduced, the film artistes would find it quite useful. Besides, we feel that such a concessional tax treatment would encourage the film artistes to disclose their true incomes. *We accordingly recommend that the law should be suitably amended to provide that where under an irrevocable annuity policy, though taken by the producer in his name but assigned in favour of the artiste, the remuneration is paid to the artiste in the form of an annuity spread over a number of years, the artiste should be taxed only on the amount of annuity received during the year. The present value of annuities due in future should be exempt from wealth-tax. Of course, the producer would be entitled to claim the entire amount paid to the Life Insurance Corporation towards taking out such a policy as a deduction in the year of payment.*

2.217 While on this subject, we also considered the adequacy of the existing system of giving concessional tax treatment to the artistes, etc., under section 80C of the Income-tax Act, 1961, read with rule 11A of the Income-tax Rules, 1962, in the matter of deductions for life insurance premia and provident fund contributions. *We recommend that in view of the enhancement of the ceilings under clauses (ii) and (iv) of sub-section (4) of section 80C of the Income-tax Act, 1961, in recent years, the percentage of gross total income and the qualify-*

ing amount prescribed for artistes, playwrights, authors etc., under rule 11A of the Income-tax Rules, 1962 should also be suitably enhanced.

2.218 In the course of our enquiry, another suggestion was made that copies of all agreements between film producers and film artistes regarding the latter's remuneration should be required to be sent to the Department within a specified period so as to eliminate the scope for subsequent manipulations and spurious claims. We agree that such a measure will help in checking tax evasion in the film industry. *We, therefore, recommend that where the remuneration payable to an artiste under an agreement exceeds Rs. 5,000, both the film producer and the artiste should be under a statutory obligation to furnish a copy of the agreement to their respective Income-tax Officers, within a period of one month from the date of execution of such an agreement.*

Payment by crossed cheque or crossed bank draft

2.219 Sub-section (3) of section 40A of the Income-tax Act, 1961, provides for the disallowance of any business expenditure in respect of which payment is made in a sum exceeding Rs. 2,500, otherwise than by a crossed cheque or crossed bank draft. This provision was introduced in order to check the tendency to claim fictitious business expenses. With a view to avoiding genuine hardship to tax-payers and others, certain exceptions to this provision have been notified from time to time. We consider these exceptions to be unduly wide. It is true that insistence on payment by cheques in respect of all business expenses above Rs. 2,500 would cause problems, particularly when payments have to be made across the counter and the seller is not in a position to fully rely on the credit-worthiness of the payer. To facilitate transactions of this nature, a possible approach could be that the payer obtains from his bankers a cheque marked 'good for payment'. In practice, however, this may become difficult, partly on account of hesitation on the part of the banker and partly due to the payer not knowing in advance the quantum of payment involved. We are aware of the prevalence of travellers' cheques which normally could be used for this purpose, but in this case also a complication would arise in that the holder of a traveller's cheque would be obliged to sign it in the presence of the receiver: and ordinarily such a receiver has to be either a banker or a person approved by the bank in this behalf. *We, therefore, consider that an endeavour should be made to evolve a new instrument in the form of a Bank Bill of Exchange which is readily transferable but also contains an obligation for it to be encashed through a bank account. A suitable pay order/draft of different denominations may be designed and introduced for this purpose. In brief, this instrument should contain the following three essentials:*

(i) *that it is an equivalent of a pay order or draft, without the name of the payee at the time of issue;*

(ii) *that the name of the payee is entered on the instrument by the payer at the time of payment; and*

(iii) *that the instrument is marked 'account payee only' by the issuing bank so that it cannot be encashed except through a bank account of the payee.*

We recommend that after the introduction of the new instrument as suggested above, the exceptions provided in rule 6DD of the Income-tax Rules may be suitably curtailed.

'Hundi' loans

2.220 Until some time back, 'hundi' loans provided one of the important outlets for profitably investing or utilising black money. As a result of sustained efforts by the Department, the 'hundi' racket is stated to have been tackled to a considerable extent. *We would, however, recommend that Permanent Account Numbers, which are to be assigned to taxpayers by the Department, should be statutorily required to be quoted on hundi papers and further that advances of loans on hundi and their repayments, including interest, should be made through 'account payee' cheques only. This should serve as an effective check on bogus hundi loans.*

Checking tax evasion among contractors

2.221 What we have said elsewhere about the need for compulsory maintenance of accounts, compulsory audit of accounts, registration of businesses and allotment of permanent account numbers to taxpayers applies to the case of contractors as well. In addition, we have also recommended[1] that in the case of contracts given by Government, local authorities and public sector undertakings or companies, 3 per cent. of the amount billed should be deducted as tax from each bill at the time of payment. We have further recommended that tax at the rate of 2 per cent. should be deducted by contractors, other than individuals or Hindu undivided families, from payments made to subcontractors in certain cases. Dealing with compulsory maintenance of accounts, we have observed[2] that in the initial stages the form in which accounts are to be maintained and the

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1. para. 4·51.
2. para. 2·141.

type of books and records to be kept may be left to the taxpayers themselves, but that in due course, the Central Board of Direct Taxes might settle the proforma of accounts for different types of businesses, etc., in consultation with the concerned professional or business associations as also the Institute of Chartered Accountants. We would like to add here that *in the case of contractors, including sub-contractors, a register for recording daily receipts and payments would be essential and should be in a prescribed form in due course.* The maintenance of such a register, we think, will limit the scope for inflation of expenses by manipulating the account books at a later date. It will, however, have to be ensured that such a register is periodically inspected and signed by the Income-tax Officer or Inspector under the provisions of section 133A of the Income-tax Act, 1961.

2.222 Apart from the practice of inflating expenses, it has been said that contractors try to evade proper tax liability through the device of 'sub-contracts'. This is often resorted to for the purpose of diversion of income, as it enables transfer of a portion of taxable income to a different entity. We feel that tax evasion through sub-contracts can be substantially checked if the contractors are compelled to make payments to sub-contractors only by 'account payee' cheques. Such a measure would, in any case, limit the scope for bogus claims of sub-contracts. Accordingly, *we recommend that the income-tax law may be amended to provide that payment to a sub-contractor will not be allowed as deduction in computing the taxable income of the contractor unless it has been made by an 'account payee' cheque.*

2.223 A person undertaking a contract for construction of a building or for supply of goods or services in connection with it, for more than fifty thousand rupees, is required under section 285A of the Income-tax Act, 1961 to furnish particulars of the contract to the Income-tax Officer concerned within a month. We see no reason why this requirement should not be made applicable to all contractors generally. *We, therefore, recommend that the scope of this provision should be extended to apply to all contractors.*

2.224 We have elsewhere[1] recommended that Government patronage should be denied to tax evaders. In conformity with that recommendation, we consider it would be necessary to ensure that contractors who are found to have evaded taxes are denied the opportunity to earn profit from Government contracts. *We, therefore, recommend that contractors who have been penalised or convicted for concealment of income/wealth should not be awarded Government contracts for a period of three years. For this purpose, the form of tax clearance certificate applicable to contractors may be suitably amended to include information whether the contractor was penalised or convicted for concealment of income/wealth during the immediately preceding three years.*

Blank transfer of shares

2.225 The system of blank transfer of shares has been in vogue for quite some time in our country. As this has led to considerable abuse, the desirability of continuing this system has become a controversial issue. We are here concerned with this matter as it still provides considerable scope for tax evasion.

2.226 The controversy with regard to the utility of blank transfer of shares has been examined by various expert bodies. In 1923, the Atlay Committee on Stock Exchanges recommended complete abolition of the system of blank transfer of shares and this view was also later endorsed by the Morison Committee in 1937. This recommendation was not, however, implemented by the Government. Shortly after the war, a one-man study team of P. J. Thomas was appointed to recommend proposals for reform of Stock Exchanges. P. J. Thomas defended the system in his report to the Government in 1947. The controversy again came to the forefront with the appointment of Gorwala Committee in 1951. This Committee, however, left the decision to the Government, as there were sharp differences of opinion among the members on the subject. The Vivian Bose Inquiry Commission had also considered the need for certain restrictions in order to regulate and control the currency of blank transfer of shares and it had made certain recommendations in this regard. Following these recommendations, the Companies Act, 1956 was amended once in 1965 and again in 1966. The present position in law is that every instrument of transfer should be in a prescribed form and, before it is signed by or on behalf of the transferor and before any entry is made therein, it should be presented to the prescribed authority who will be required to stamp such an instrument or otherwise endorse thereon the date on which it is so presented. It further requires that such a blank instrument of transfer should be delivered to the company at any time before the date on which the register of members is closed, in accordance with law, for the first time after the date of the presentation of the form to the prescribed authority or within two months from the said date, whichever is later; this is for shares dealt in or quoted on a recognized stock exchange. In any other case (i.e., where shares are not dealt in or quoted on a recognized stock exchange), the instrument of trans-

1. para. 2·238.

fer must be delivered to the company within two months from the date of such presentation to the prescribed authority. However, these restrictions do not apply to shares held by a company or Government corporation in the name of a director or a nominee, and also in respect of shares which are deposited with the State Bank of India, scheduled banks or any other financial institution approved by the Government by way of security for the repayment of loan. While making these amendments, it was made clear by the Government that the object underlying the new provisions was not to prohibit blank transfers altogether but only to restrict their currency.

2.227 We examined the system of blank transfer of shares to see how far it still facilitates tax evasion. It is generally considered that the practice of blank transfer of shares encourages anti-social activities in a variety of ways. Firstly, it facilitates a person with black money to hide his ill-gotten wealth, since blank transfer helps investment in shares anonymously. Secondly, it enables evasion of income-tax since the tax evader can also escape his full income-tax liability in respect of his income from such shares. Thirdly, this system enables persons to obtain control over companies clandestinely by cornering their shares. The companies themselves have the opportunity to reshuffle shares held on blank transfer between their associates with the object of window-dressing their balance-sheets. It also leaves scope for creation of fictitious losses by ante-dating transactions in the books of the companies. While we are not in a position to confirm the extent of these abuses, we are very clear in our minds that they facilitate tax evasion and black money operations.

2.228 In the Questionnaire issued by us, we had posed the question whether prohibition of blank transfer of shares would curb the opportunity for tax evasion. While there were some who wanted the *status quo* to be allowed to continue, there were others who favoured total prohibition or, in any event, further tightening of the existing provisions. It has been contended that the provisions under the Stock Exchange Rules, Bye-laws and Regulations framed under the Securities Contracts (Regulation) Act, 1956 coupled with the provisions in the Companies Act, 1956 and sub-section (5) of section 133 of the Income-tax Act, 1961, are more than sufficient to curb the possible malpractices under this system. Accordingly, it is said that further restrictions on the blank transfer of shares are not only unnecessary but also undesirable, since they are capable of serious repercussions.

2.229 We have carefully considered the pros and cons of the problem. In our opinion, the existing provisions of the Companies Act with regard to the system of blank transfer of shares are not adequate to check misuse. The existing provisions only require an attestation or an endorsement by the prescribed authority prior to the transferor signing the instrument of transfer. In view of this, it is possible to take out more than one blank instrument of transfer in respect of the same transaction. This leaves scope for persons acting in collusion to extend the period of blank transfer by taking out forms on different dates, without having to move the Government for the grant of extension as envisaged by the Companies Act, 1956. The system, as in vogue, encourages speculative transactions and serves as a cover for black money. In order to effectively curb the misuse of the system, certain changes need to be introduced in the Companies Act, 1956. *We recommend that the law be suitably amended to provide that before an instrument of transfer is presented to the prescribed authority, the transferor should be required to state in the instrument itself his name, the distinctive numbers and value of shares proposed to be transferred, and the instrument of transfer should be duly signed by the transferor and bear the requisite stamp duty. The prescribed authority should be required to cancel the stamps on the instrument of transfer at the time of stamping or otherwise endorsing thereon the date on which it is so presented. The instrument of transfer should be valid for a period of two months only from the date of its presentation to the prescribed authority. However, in order to protect the interest of genuine share-holders who want to borrow funds from banks on the security of shares, we recommend that such blank instrument of transfer should be valid for the period the shares are held by the bank as security for an advance or overdraft to a registered shareholder.*

Benami investments

2.230 The practice of benami investments, which is peculiar to Indian law, has been widely exploited for evasion of taxes. This matter has been receiving attention of earlier Committees. The form of verification appearing in the returns of income and wealth was amended recently to affirm that the income or wealth returned covered not only the sources of income or assets held in the name of the taxpayer but also those which were beneficially held for him by others.

2.231 In pursuance of the recommendation of the Administrative Reforms Commission, the Government has also sponsored legislation through the Taxation Laws (Amendment) Bill, 1971 to discourage benami holding of property. Under the proposed provision which is sought to be inserted as section 281A of the Income-tax Act, 1961, no suit shall be instituted in any court to enforce any right in respect of any property held benami unless the claimant has either disclosed the property in question or the income therefrom in connection with

his wealth-tax or income-tax assessments or given notice to the Income-tax Officer about the particulars of such property in the prescribed form. We consider this to be a step in the right direction.

Denial of credit facilities to tax evaders

2.232 One of the effective methods of preventing tax evasion would be to choke the flow of finance to tax evaders by denying them credit facilities from banks. We do not deny that such a measure is drastic and it may affect business activity in the country to some extent. But, in the fight against tax evasion, we feel there should be no room for sympathy with tax evaders. This apart, denial of credit facilities to tax evaders is also in the interest of the banks themselves. It is common knowledge that banks generally look to the creditworthiness and financial integrity of the person concerned before sanctioning an advance. Since tax evasion is a serious blemish on a person's conduct, it is only in the fitness of things that persons who have cheated the Government in respect of their tax dues are considered unworthy of credit by the banks also. In any case, it is necessary for the Government to ensure that persons who evade taxes do not flourish while persons who pay their taxes correctly suffer due to unfair competition with tax evaders. As the benefits accruing from such a measure would far out-weigh the possible adverse impact that it might have on the extent of business activities, *we recommend that all scheduled banks should be barred from providing credit facilities above Rs. 25,000 at any point of time to any person, unless he gives an affidavit to the effect that he has not been subject to any penalty or prosecution for concealment of income/wealth during the immediately preceding three years.* This prohibition shall not, however, apply to cases covered either by sub-section (4A) of section 271 of Income-tax Act, 1961, or by an order of settlement passed by the Direct Taxes Settlement Tribunal proposed by us elsewhere[1].

Tightening up vigilance machinery

2.233 It is often said that a large share of the responsibility for the prevalence of black money and tax evasion in the country should fall on the shoulders of the administration itself which, by its acts of omission, commission and connivance, has allowed such a situation to develop and continue. Tightening up the vigilance machinery so as to tone up administration and deal with its lapses has been suggested as an effective, though indirect, method of tackling black money and tax evasion. We have, while discussing the role of 'controls' in the creation and proliferation of black money, referred to the practice of paying 'speed money' and 'hush money' which creates black money in the hands of the officials administering the controls, as also of the beneficiaries of their actions or inaction. The same is true of many other departments or agencies of the Government, whether they are executing national projects or raising resources for the Government. The Committee on Prevention of Corruption had whole-heartedly endorsed the view that the existence of large amounts of unaccounted black money was a major source of corruption[2]. As black money and corruption go hand in hand, any attempt at tackling black money and tax evasion is likely to yield results only if simultaneously adequate steps are taken to prevent corrupt practices in the administration and also to detect and punish corrupt officials.

2.234 Political corruption is another manifestation of the same disease. We have earlier[3] discussed the question as to how black money, heavy expenditure on elections and contributions to political parties are closely interlinked. Administrative vigilance will not by itself be fully rewarding without similar vigilance at the political level as well.

The Administrative Reforms Commission recommended the appointment of a Lokpal with the power to investigate an administrative act done by or with the approval of a Minister or a Secretary to the Government. The Commission felt that the answer to the oft-expressed public outcry against the prevalence of corruption, the existence of widespread inefficiency and the unresponsiveness of the administration to popular needs lay in the provision of an institution of the 'Ombudsman' type. The Lokpal and Lokayuktas Bill, 1968 was introduced in the Lok Sabha on 9th May, 1968 seeking to give effect to the recommendations of the Commission. In its scope, it differed from the draft Bill as proposed by the Commission in two major respects. It did not extend to public servants in the States. Secondly, it did not confine itself to Ministers and Secretaries alone. The Bill was passed by the Lok Sabha on 20th August, 1969 and transmitted to the Rajya Sabha. However, it lapsed in 1970 on the dissolution of the Lok Sabha. A revised Bill has now been reintroduced in the Parliament which, except for modification of a formal nature, is identical with the one that lapsed.

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1. Para. 2·33.
2. Final Report of the Committee on Prevention of Corruption—para. 16·17.
3. Paras 2·59 to 2·61.

2.235 Elsewhere in this report, we have given our recommendations with regard to prevention of corruption among Government servants generally and in particular, we have given our views on steps needed for prevention or detection and punishment of corruption in the Income-tax Department.[1] We have stated in that context that the existing requirements under the Government Servants Conduct Rules for submission of annual immovable property returns and intimation of all transactions in movable properties over Rs. 1,000 are not adequate. We have recommended that in order to have an effective control in this regard, all Government officers should be required to submit an annual statement of net worth to their respective Heads of Departments. *As regards the question of dealing with corruption at higher levels in public life and redressal of public grievances, we trust that the appointment of Lokpal and Lokayuktas after passage of the necessary legislation would take adequate care of the situation.*

Arousing social conscience against tax evasion

2.236 Arousing social conscience against evasion of taxes has been generally advocated as one of the measures to fight tax evasion. In fact, the Direct Taxes Administration Enquiry Committee (1958-59) had noted that the public attitude against tax evasion in India was largely ineffective and observed that in the ultimate analysis tax evasion could be eliminated only by arousing public conscience against it[2]. More recently, the U.N. Expert Group on 'Tax Reform Planning' has stressed that tax evasion was not only a function of tax rates but also a matter of attitude among the taxpayer community[3] Many persons who replied to our Questionnaire have, in view of the peculiar social, economic and political conditions prevailing in the country, pointed out the need for rousing public conscience as a positive measure for fighting tax evasion. It was strongly urged that so long as the tax evaders continue to enjoy social status and Government patronage, the social climate against tax evasion cannot change.

2.237 We consider that tax evasion cannot be tackled by stringent legal measures alone. In our opinion, it can be dealt with effectively only if such measures are backed by strong public opinion against black money and tax evasion. In helping to build up such public opinion, we feel the Government can play a vital role. The foremost measure that comes to our mind in this regard is denial of the privileges which are still available to tax evaders. Cases have not been unknown where national awards were given to persons whose record before the Income-tax Department with respect to concealment of income was not absolutely clean.

2.238 We consider that if a strong public opinion against tax evasion is to be built up, the Government should take a policy decision that tax evaders will not get any sympathy, patronage, licence or facility from the Government and the public sector undertakings. With this end in view, *we recommend that tax evaders who have been penalised or convicted for concealment of income/wealth should be disqualified for the purpose of getting national awards. The law should also be suitably amended to disqualify such persons from holding any public elective office for a period of six years. In addition, we suggest that Ministers and senior officers of the Government should avoid attending social functions sponsored or organised by known tax evaders.* Elsewhere[4] we have also recommended that such persons should be denied credit facilities by the scheduled banks. *We would like to add that a person who has been penalised or convicted for concealment of income/wealth should not be eligible to be a director of a limited company for a period of six years. The Companies Act, 1956, may be amended accordingly.*

2.239 Apart from the above measures, we consider that the Government should also embark upon a massive publicity programme to make the public tax-conscious. The Government should press into service the mass media of publicity, e.g., press, radio, films, television, etc. In our opinion, the existing publicity by the Income-tax Department is neither adequate nor satisfactory. The Department should ensure that the publicity is sufficiently imaginative and attractive. For instance, a documentary film showing how a tax evader casts a heavier burden on an honest taxpayer and is responsible for injecting unhealthy and harmful trends in the economy, like circulation of black money and price rise, would carry the message with telling effect.

2.240 In this connection, it is pertinent to point out the fruitful experience of countries like the United States of America and Philippines where tax consciousness is instilled into

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1. Paras 6·98 and 6·99.
2. Report of the Direct Taxes Administration Enquiry Committee—para. 7·89.
3. Tax Reform Planning—Report of the Expert Group, Department of Economic and Social Affairs, United Nations, New York, 1971.
4. Para. 2·32.

the mind of the citizen even when he is young and at school. We are impressed with the utility of such a programme and would, therefore, recommend that *tax education should be imparted in our schools as part of a course in civics.* We are sanguine that such a measure would make the future citizens of the country aware of the need for compliance with tax laws and that it would be useful in the long run.

2.241 We feel further that publicity by the Government should also effectively demonstrate that tax evaders are being dealt with severely. The U.N. Expert Group on Tax Reform Planning has suggested that the Governments should publish assessments "that might generate action and reaction among the taxpayer community conducive to minimizing tax evasion."[1] The abrogation of secrecy provisions in our direct tax laws and assumption of powers by the Government under section 287 of the Income-tax Act, 1961 to publish names of persons who have been penalised or convicted for tax offences are steps in the right direction. Some of the persons who appeared before us criticised the contents and mode of publicity. They felt that it was not correct for the Government to publish only the incomes without giving details of the taxes payable on such incomes. Others pointed out that the mere publication of lists in the official gazette failed to serve the purpose which the Government had in mind. We agree that this criticism is valid. In Italy, the published figures include declared income and assessed income and these lists are placed on notice boards in tax offices. This enables the public to know how much gap there is between the two and how effective the Department has been in its enforcement programme. *We recommend that lists of taxpayers published by the Government should include figures of income declared, income assessed and the tax payable. Such lists should, in addition to being published in the official gazette, be publicised in local papers and be also put up on notice boards in Income-tax Offices.*

2.242 In addition to the measures suggested above, which can be implemented only at the initiative of the Government, we consider that public conscience against black money and tax evasion could also be aroused by certain voluntary agencies. For example, in the United States of America, certain organisations of businessmen ostracise their members if they are found to be indulging in malpractices, including evasion of taxes. In the context of the non-too-happy situation prevailing in India, it is heartening to note that here also a beginning has been made in this behalf, and recently an association called Fair Trade Practices Association has been established. *We recommend that the Chambers of Commerce and the Federation of Chambers should take the lead and evolve methods by which businessmen resorting to corrupt trade practices, including tax evasion, are ostracised.*

2.243 While on this subject, we considered the need for encouraging honest assessees and also how best honesty among assessees could be recognized by the Government. We find that in Japan, 'blue return'[2] system has been introduced to improve tax-payers book-keeping and to encourage proper tax compliance. *We recommend that taxpayers who have been filing correct returns and have been prompt and regular in meeting their tax obligations should be treated by the Department as starred assessees.* The officials of the Department should extend extra courtesy to such assessees for their truthful returns and accounts and co-operative attitude, and all reasonable facilities should be offered to them in matters like submission of return, grant of adjournment, payment of tax, etc. This will enable them to realize that their honest dealings with the Department are appreciated by it. The privileged treatment accorded to such starred assesees should gradually attract an increasing number of other taxpayers to their fold.

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[1] Tax Reform Planning—Report of the Expert Group, Department of Economic and Social Affairs, United Nations, New York 1971.

[2] An Outline of Japanese Taxes—1969—pp. 56 and 57.

CHAPTER 3

TAX AVOIDANCE

Introductory

While tax evasion is universally condemned, the attitude of the courts and the common man towards 'tax avoidance' has not been uniformly critical. According to one view, the difference between 'avoidance' and 'evasion' of taxes is one of degree only, since both result in loss of revenue to the Exchequer. It is stated that taxpayers, who indulge in tax avoidance, shift their legitimate share of the tax burden to others who are unable or unwilling to profit by it. The grievance is that tax avoidance erodes tax morality among the taxpayers in general. The following observations of Lord Chancellor Viscount Simon are representative of this approach:

> "There is, of course, no doubt that they (i.e. tax avoiders) are within their legal rights, but that is no reason why their efforts, or those of the professional gentlemen who assist them in the matter, should be regarded as a commendable exercise of ingenuity or as a discharge of the duties of good citizenship. On the contrary one result of such methods, if they succeed, is of course to increase *pro tanto* the load of tax on the shoulders of the great body of good citizens who do not desire, or do not know how, to adopt these manoeuvres."[1]

There is another view, however, which finds nothing objectionable in a taxpayer arranging his affairs in a manner so as to minimise his tax liability. Lord Clyde, for example, observed:

> "No man in this country is under the smallest obligation moral or other, so to arrange his legal relations to his business or to his property as to enable the Inland Revenue to put the largest possible shovel into his stores. The Inland Revenue is not slow—and quite rightly—to take every advantage which is open to it under the taxing statutes for the purpose of depleting the taxpayer's pocket. And the taxpayer is in like manner entitled to be astute to prevent, so far as he honestly can, the depletion of his means by the Revenue."[2]

3.2 The same divergence of opinion is discernible in the replies received to the Questionnaire issued by us. The difference between these attitudes is probably explained, to some extent, by the fact that the term 'tax avoidance' is not understood and interpreted by everyone in the same light. We have, therefore, carefully considered what the expression 'tax avoidance' stands for and how far attempts at tax avoidance need to be curbed.

3.3 An eminent jurist philosopher, Mr. Justice Oliver Wendell Holmes, stated, "I like to pay taxes. With them I buy civilisation."[3] But persons with such idealism and high public spirit are rare. In an acquisitive society, it is more common for a taxpayers to regard taxation as a burden and to seek all possible means to escape it. The distinction between 'evasion' and 'avoidance', therefore, is largely dependent on the difference in methods of escape resorted to. Some are instances of merely availing, strictly in accordance with law, the tax exemptions or tax privileges offered by the Government. Others are manoeuvres involving an element of deceit, mis-representation of facts, falsification of accounts, including downright fraud. The first represents what is truly tax planning, the latter tax evasion. However, between these two extremes there lies a vast domain for selecting a variety of methods which, though technically satisfying the requirements of law, in fact circumvent it with a view to eliminate or reduce tax burden. It is these methods which constitute 'tax avoidance'. The Royal Commission on Taxation for Canada explained the significance of this term as under:

> "For our purposes, ...the expression 'tax avoidance' will be used to describe every attempt by legal means to prevent or reduce tax liability which would otherwise be incurred, by taking advantage of some provision or lack of provision in the law. It excludes fraud, concealment and other illegal measures."[4]

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1. Latilla v. I.R.C. 1943 I.T.R. Suppl. 78, 79 (H.L.)
2. Ayrshire Pullman Motor Services & Ritchie v. The Inland Revenue Commissioners (1929) 14 T.C. 754.
3. Randolph E. Paul—Taxation for Prosperity (1947) p. 277.
4. Report of the Royal Commission on Taxation for Canada—1966—Vol. 3, p. 538.

There is, however, a large variety of shades in the methods of tax avoidance itself, depending upon the ingenuity of the device adopted, the degree of violation of the spirit of the law sought to be circumvented, and the genuineness of the financial arrangement arrived at. Some of the arrangements may be quite genuine, fair and legal and may be nearer to tax planning. In other cases, the taxpayer may go a step further and shape the events affirmatively or negatively not so much for a genuine commercial purpose as with an eye to escape tax by exploiting a defect or loophole in the law, or an intentional or unintentional failure of the law to impose tax upon a certain type of transactions.[1] And then, there may also be claimed as tax avoidance, devices far too devious, elaborate and artificial, even virtually outrageous in violating the spirit of law, though technically still within its letter. It was while dealing with such a case that the U.S. Court of Appeals observed:

> ". . . It is one thing for a dog to have a tail. It is quite another for the tail to wag the dog. It is one thing to say that when a taxpayer has a choice of methods for accomplishing a business result, all of them real, genuine and *bona fide*, and one of them will minimize his taxes more than another, he can employ that one. It is quite another thing to say that a purely synthetic expedient, having no real function as to the taxpayer and the sale, and serving no genuine purpose as to him except to reduce his taxes, may not be condemned as ineffective for that purpose."[2]

3.4 Now, since the courts have held that in construing fiscal statutes one must have regard to the strict letter of the law and no tax can be imposed by inference or analogy or by considering the substance of the matter or intention of the legislature, there may be no option but to condone legally many of such contrivances too, so long as certain loopholes in the law exist. After all, the statutes cannot be drafted with divine prescience and the subtle ingenuity of taxpayers can always discern flaw in the imperfect medium that language is. That, however, is no reason why the Government should not adopt measures to plug the existing loopholes in law.

3.5 We do not think that attempts at tax planning or methods such as availing of the various benefits and concessions provided under the tax laws should be shunned as unethical or anti-social. But we certainly disapprove of those types of tax avoidance which violate the spirit and intention of the law and at times border on tax evasion.

In the following paragraphs, we proceed to discuss some of the existing loopholes in our tax laws, which provide scope for tax avoidance, and make suitable recommendations to plug them.

Concept of taxable income

3.6 One of the criticisms commony levelled against our income-tax law is that it neither defines 'income' nor subjects to tax all incomings. It merely specifies broadly the various sources of income which are liable to tax and enumerates certain items of income which are exempt. This nebulousness about the concept of income and the omission of certain types of incomings from the ambit of taxation is stated to provide plenty of opportunities for tax avoidance.

3.7 No doubt, in U.K. also, there is no definition of the term 'income' in the income-tax law, and apart from the specified sources of taxable income, the taxability of a receipt there largely depends on judicial interpretation. In Canada, however, though no definition of the term 'income' is provided, the tax law states clearly that "a taxpayer's income for a taxation year is his income for the year from all sources"[3] and that it includes income from certain specified sources. In U.S.A., similarly, the law provides that tax is imposed on "all income from whatever source derived". The Supreme Court of the United States has indicated that under this provision, it is prepared to treat all receipts which constitute an accession to a taxpayer's wealth as income, except those receipts excluded by specific legislative provisions or by settled custom.[4] In New Zealand, 'assessable income' is defined in law as meaning income of any kind which is not exempted from income-tax otherwise than by way of a special exemption, and the law further specifies number of items which are deemed to be included in the term 'assessable income'.[5]

3.8 The current trend is thus to treat all receipts as income subject to specified exemptions for the purpose of levying income-tax. The question of having a comprehensive tax base was also considered recently by the Royal

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1. Randolph E. Paul—Studies in Federal Taxation.
2. Deal v. Morrow, 197 F. 2nd 821 (5th Cir. 1952).
3. Report of the Royal Commission on Taxation for Canada—Vol. 3, p. 61.
4. Taxation in the United States, World Tax Series (Harvard Law School)—(1963)—p. 367.
5. Taxation in New Zealand—Report of the Taxation Review Committee (Oct. 1967)—pp. 262-263.

Commission on Taxation for Canada and after analysing the pros and cons of the proposal, it recommended a comprehensive base for income-tax. It observed:

> ". . . it will be clear that what we mean by income is the net value of virtually all receipts, gains and benefits realised during the year. By this definition, we intend to bring into tax, the value of the realised changes in the capacity of an individual to command goods and services for his own use . . . . . It seems to us that in any legislation that may implement our proposals, the term income should be defined in such a way as to give effect to the basic concept we have just mentioned, that is, to include in the tax base all realised changes in ability to pay."[1]

3.9 *It appears reasonable to us that our income-tax statute should contain a comprehensive definition of income whereby all incomings are brought to tax, subject to specified exemptions provided therein.* Such a measure would remove much of the present complexities and uncertainties of the income-tax law and would limit the scope for tax avoidance as well. It also appears to be justified from the point of equity that all receipts in cash or kind are brought to tax since each of them, after all, adds to the economic power of the recipient. In any case, the various recommendations made by us pertaining to taxation of agricultural income, casual and non-recurring receipts, capital gains, etc., would go a long way in this direction.

Casual and non-recurring receipts

3.10 Under the Income-tax Act, casual and non-recurring receipts are completely exempt from tax unless they are—

(i) capital gains;

(ii) receipts arising from business or the exercise of a profession or occupation; or

(iii) receipts by way of addition to the remuneration of an employee.

The Taxation Enquiry Commission (1953-54) noted that there was considerable weight in the argument that the present exemption in favour of casual receipts was not equitable as these receipts do add to the disposable income of the recipient. However, it observed as follows:

> ". . . . . practical considerations would seem to rule out any modification of the present law. We are impressed by the difficulty of selecting the types of receipts to be taxed and, even more, of defining them or the criteria applicable for their selection in terms which will be sufficiently precise to elude attempts at legal avoidance. It would also not be equitable to bring them to charge in the year of accrual; they will have to be either spread over a number of years or charged at a lower rate. The likelihood of receipts taxable at normal rates being passed off as casual receipts chargeable at lower rates cannot be overlooked. It would also not be easy to determine admissible expenses relating to receipts of this type. . . . .
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> We would, however, recommend that certain types of casual receipts, which are obviously an addition to one's ability to pay should be charged to tax at a flat rate but this should be done through a separate tax levied under item 97 of the Union Legislative List in the Seventh Schedule to the Constitution of India. We have in mind receipts from the winning of cross-word puzzles, lotteries, etc."[2]

Nicholas Kaldor had in his Report advocated that all capital gains on realization and all casual gains and capital receipts should be charged to income-tax at 45 per cent. where the combined income exceeded Rs. 25,000 and that individuals be charged at reduced rates where their aggregate beneficial receipts were less than Rs. 25,000. He observed that the "tremendous advantage of this, both as regards administrative simplicity and the prevention of evasion and manipulation of all kinds, cannot be over-emphasized."[3] S. Bhoothalingam did not suggest any change in the existing position because he thought that disputes in regard to the taxing of casual gains were few and generally inconsequential.[4]

3.11 Some of the persons who appeared before us opposed taxing of casual receipts. They argued that taxation of casual receipts would create hardship because taxpayers get such receipts only once in a while and subjecting them to the present high rates of tax will be rather

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1. Report of the Royal Commission on Taxation for Canada—Vol. 3, p. 68.
2. Report of the Taxation Enquiry Commission, 1953-54—Vol. II, pp. 43-44.
3. Indian Tax Reform—Report of a Survey by Nicholas Kaldor—p. 15.
4. Final Report on Rationalisation and Simplification of the Tax Structure—p. 48.

unfair. They argued further that the position in this regard is by now well settled by judicial pronouncements and that no change in law need be made as the problem involved is not of any significant magnitude. Some of them, however, agreed that windfall gains like winnings of crossword puzzles, races and lotteries may be taxed at concessional rates.

Quite a large number of persons, on the other hand, stated that it was wrong to exempt casual receipts from tax. They argued that if hard-earned income is taxed heavily, there is all the more reason for these casual and non-recurring receipts being subjected to tax in a like manner.

3.12 We find that casual receipts are taxed in quite a number of countries. In U.S.A., tax is imposed on "all income from whatever source derived", subject to certain specified exemptions. In Japan, 50 per cent. of the net income from casual receipts is taxed, subject to a basic deduction of 3,00,000 yen (approx. Rs. 6,300). In Ceylon, though profits of casual and non-recurring nature are exempt, the value of a prize won at a sweep or at a lottery, excepting certain State-sponsored lotteries, are included in the taxable income. Netherlands taxes prizes received on lottery bonds. In Denmark, betting and gambling winnings as well as certain lottery prizes are taxed. Winnings from the State lottery are, however, subjected to a 15 per cent. levy if they exceed 200 Kroners. In Norway, municipal lottery prize winnings are included in the taxable income. In Sweden, there is a category of income known as 'income from casual economic activities' which includes foreign lottery prizes in excess of 100 Kroners. Winnings of Swedish lotteries and premium bonds are not subjected to income-tax but instead are subjected to a special lottery tax which is 20 per cent. in respect of premium bond prizes and 30 per cent. in respect of other prizes. These taxes are deducted at source.

The Royal Commission on Taxation for Canada recommended taxation of windfall gains as ordinary income. It observed as under:—

> "It is clear that many items which increase the economic power of the recipient, i.e., his ability to pay, and which in our view, should in equity be taxed, are not included in the present income-tax base. These include, as we have noted, certain gains from the disposition of property. . . and windfall receipts . . . The omission of these items from the present tax base is, we are convinced, most inequitable . . . . . windfall gains of all kinds should, in our opinion, be included in income. These would include sweepstake winnings and gambling gains."[1]

3.13. We have given considerable thought to this problem. We are not impressed by the arguments advanced in support of the casual receipts being exempt from tax. On the other hand, we feel that this exemption provides scope for tax avoidance as there is always a tendency to claim some of the incomes, which would normally be taxable, as falling within the category of casual and non-recurring receipts. This tendency is all the more pronounced if the tax rates are high.

3.14 *We recommend that the exemption now available to the casual and non-recurring receipts under the Income-tax Act should be withdrawn.* In arriving at this conclusion, we have been influenced mainly by the following considerations:

(a) Taxation of these receipts would be very much in keeping with the principle of taxing equally persons who have equal capacity to pay.

(b) It would remove considerable vagueness that surrounds the concept of taxable income and would thereby bring in simplicity in the tax law and administration.

(c) Of late, lottery schemes are being announced with substantial prizes. There is no reason why these prizes should not be subjected to tax.

(d) Persons having black money are said to be buying prize-winning lottery tickets at premium in order to convert their 'black' money into 'white'.

3.15. *We suggest the following scheme of taxation of receipts of casual and non-recurring nature:—*

(i) *Receipts which are of a casual and non-recurring nature and are in excess of Rs. 1,000 in a year should be included in the total income to be taxed at normal rates. Reasonable expenses should be allowed. Exemption upto Rs. 1,000 would relieve the taxpayer of the resposibility to account for petty receipts.*

(ii) *Winnings from State lotteries may be taxed on a concessional basis as applicable to long-term capital gains on assets other than lands and buildings.*

(iii) *Casual losses should be set off only against the same type of income. For instance, losses in respect of racing would be set off only against income from racing.*

(iv) *Tax @ 33 per cent. should be deducted at source from prizes in crossword puzzles, race winnings and lotteries, where the amount exceeds Rs. 1,000.*

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[1] Report of the Royal Commission on Taxation for Canada—Vol. 3, pp. 66, 70.

3.16. In conclusion, we wish to make it clear that what we have in mind, while making this recommendation, is that only those casual receipts which are in the nature of income but cannot be taxed in view of the existing exemption, should be brought to tax. We do not intend at all that receipts in the nature of personal gifts and sums received under policies of life insurance should be brought to tax.

Capital gains

3.17. Under the existing law, gains arising from the transfer of short-term capital assets (assets held for a period of not more than 24 months) are treated like ordinary income and taxed at normal rates. However, gains arising from the transfer of capital assets other than short-term capital assets are in effect subject to tax at lower rates.

3.18. Preferenital tax treatment to long-term capital gains is generally sought to be justified on the ground that they relate to genuine investments as distinct from speculative ones, and that such gains are in any case only illusory, being mainly due to the continuous decline in the value of money. Further, these gains, though realised in one year, are actually attributable to several years of ownership of the asset by the taxpayer.

3.19. On the other hand, those who oppose preferential tax treatment to long-term capital gains point out that these are just like any other income and equally add to the economic power of the recipient and should, therefore, be taxed accordingly. Nicholas Kaldor had observed that "so long as, and to the extent that, taxation is based on 'income', the only impartial concept of income is that which treats all realised gains equally."[1] The Royal Commission on Taxation for Canada, which also considered this point, has made the following observations:—

> "Although property gains are generally taxed at preferential rates in other countries, we have concluded that because taxable capacity depends on the amount of a receipt, and not at all on its source, equity requires that all receipts, including property gains, should be taxed at full rates."
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> ".....Arguments have been advanced that a reduced rate of tax for the gain on long-term assets gives recognition to the fact that a gain when realised may represent a value that has accrued over a long period of time.
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> We reject this line of reasoning. The phenomenon of a large amount of income being realised in one year after accuring for many years is not an unusual one.....".[2]

3.20 Several persons who appeared before us stated that the existing tax treatment of long-term capital gains is proper and fair. Apart from mentioning the reasons stated above, they pointed out that such preferential treatment encourages savings and capital formation and is thus conducive to the growth of the country's economy. Others, however, expressed themselves strongly against it. They saw no justification for not treating all capital gains like other income. They thought that law has been unnecessarily complicated in this regard and there was scope for simplification.

3.21 We have carefully considered this matter. We are of the opinion that such gains should not be treated on a par with other income. Capital gains may be partly attributable to inflationary pressures and, in any case, represent income which has accrued over a period of time. We are, however, of the view that the qualifying period for which an asset is held to be eligible for such treatment should not be too short. The qualifying period for concessional treatment of gains from long-term capital assets is 5 years in Finland and 10 years in Norway. For real property, the holding period is stated to be 3 years in Spain, 5 years in Austria and 10 years in Finland. In our country, the qualifying period of holding is 24 months only in all cases. Such a short period of holding encourages speculative deals instead of promoting capital formation and contributing to a healthy growth of the economy. *We, therefore, recommend that concessional treatment of capital gains should apply only to capital assets held for more than five years. Accordingly, the definition of short-term capital asset will have to be changed.*

Hindu undivided family

3.22 The present system of taxation gives certain advantges to the Hindu undivided family and its members. Subject to certain exceptions, the income and wealth of the Hindu undivided family are taxed separately from the income and wealth of the members. The Hindu undivided family also enjoys higher exemption limit and higher monetary limit for deductions from taxable income in respect of sums paid as life insurance premia, etc. Further, salary paid to the members and even to the Karta is allowed as deduction in computing the taxable

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[1] Indian Tax Reform—Report of a Survey by Nicholas Kaldor—p. 30.

[2] Reportof the Royal Commission on Taxation for Canada—Vol. 3, pp. 344 and 34.7

income of a business conducted by the Hindu undivided family.

3.23 All too frequently, members of a Hindu undivided family have their separate incomes/ wealth, and yet neither are the proportionate shares of their wealth or incomes belonging to the family considered in their respective assessments even for the rate purposes nor, alternatively, are their separate incomes or wealth taken into account for determining the tax or the tax rate applicable to the Hindu undivided family. Members of a Hindu undivided family are thus able to enjoy the economic benefits of both kinds of income and wealth without any additional tax liability.

No wonder, the institution of the Hindu undivided family is widely used for tax avoidance. The normal modes by which Hindu undivided family has been utilised by taxpayers for purposes of tax avoidance may be stated as under:—

(a) create as many smaller Hindu undivided families within the main family as possible so that each one of the sub-branches in the main family becomes a separate unit of assessment and thereby has its income and wealth subjected to lower rate of tax;

(b) where the Hindu undivided family has enormous properties, have partial partition of family assets, as many times as possible, so that neither the family nor the individual faces higher tax liability;

(c) whether there is ancestral property or not, have the self-acquired property thrown into the family hotchpot so that individual's income liable to higher tax rate is reduced and also liability arising due to clubbing of income under section 64 of the Income-tax Act, 1961 is avoided; and

(d) retain the ancestral property as the property of joint family as otherwise the property as well as the income from such property will be assessed in the hands of the members along with their individual incomes and wealth at a much higher rate.

3.24 Preferential tax treatment of the Hindu undivided family has been commented upon by various Committees appointed by the Government of India.

The Taxation Enquiry Commission (1953-54) noted that there were certain anomalies in the tax treatment of the Hindu undivided family but came to the conclusion that it would be inexpedient to make any far reaching changes in this regard, particularly for the reason that the Hindu Code Bill was then pending before the Parliament[1].

In his Final Report on Rationalisation and Simplification of the Tax Structure, S. Bhoothalingam has stated that there has always been some scope to use the institution of the Hindu undivided family as a means of lowering the tax liability of individuals and that "in economic terms it would be justifiable to restrict or diminish the tax benefits which can thus be acquired in a perfectly legal way."[2]

3.25 The Questionnaire issued by this Committee contained a question whether the Hindu undivided family was being used for tax avoidance and if so, what changes in law were required for plugging the loophole. A number of persons who sent replies stated that the Hindu undivided family is being used as a medium for tax avoidance and that, therefore, a change in the mode of its assessment is necessary. Others preferred the *status quo* being maintained. In their statements before us, however, some of these persons conceded that benefits of lower taxation were being achieved through the medium of the Hindu undivided family. The preferential tax treatment was none-the-less sought to be justified mainly on the ground of deep-rooted sentiment and social security which this institution provides to its members.

3.26. We notice that the Taxation Laws (Amendment) Act, 1970 and the Finance (No. 2) Act, 1971 have plugged the leakage of tax through the device of throwing self-acquired property into the common hotchpot by suitably amending the Income-tax Act, 1961, the Wealth-tax Act, 1957 and the Gift-tax Act, 1958. However, these amendments have only limited application and have not fully met all the problems in this behalf.

3.27 To have some idea about the extent of tax avoidance by the Hindu undivided families and their members by splitting up their incomes in a number of hands, we arranged studies to be made in certain Commissioners' charges. For this purpose, five or six big families were selected in each charge. The studies revealed that tax avoided by the members of these families was quite substantial. The number of income-tax files in respect of each family was found to be more than the total number of

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[1] Report of the Taxation Enquiry Commission—Vol. II, p. 118.

[2] p. 43.

members in the family and in one case, the income-tax and wealth-tax avoided for a particular assessment year was as high as 60 per cent. and 50 per cent. respectively.

3.28 We feel convinced that the Hindu undivided family as a unit of assessment is retained in most cases only when it enables the persons concerned to reduce their tax liability and that in other cases, it is promptly partitioned without considerations of sentiment coming in the way. Several suggestions were made before us in regard to the treatment of Hindu undivided family for tax purposes. One suggestion was that the family should be treated like an unregistered firm or association of persons. The other was that it should be treated like a company. The third suggestion was that the family should be treated like a registered firm without the registered firm tax and its income should be apportioned among those of its members who would be entitled to a share on partition on the last day of the accounting year. Yet another suggestion was that while no change need be made in the mode of assessment of the Hindu undivided family, a stepped-up slab rate should be made applicable to it, if any of its members has independent income above the maximum not liable to tax.

3.29 Acceptance of the first suggestion would lead to double taxation inasmuch as proportionate shares of members in the income of the Hindu undivided family will have to be included in their individual assessments for rate purposes. Also, it would increase the administrative burden because the workload in the matter of assessments, re-assessments, revisions, rectifications, etc., of the Hindu undivided family and its members would considerably go up without any corresponding reduction in the number of files to be handled. It is also likely to lead to delays in completion of assessments of members of the family. The second suggestion would act very harshly on families in the lower income brackets and has to be ruled out on that consideration alone. The third suggestion appeared to be quite attractive initially inasmuch as it casts a more equitable tax burden on the family and renders ineffective the various techniques of tax avoidance adopted by the Hindu undivided family and its members. It would also put an end to the widely prevalent practice of simultaneously claiming two status, viz., that of Hindu undivided family and individual. However, this suggestion also suffers from the same disadvantages of administrative burden and delay as have been referred to by us with regard to the first one. We, therefore, decided against its acceptance.

3.30 The last suggestion is considered by us to be reasonable and a good practical alternative. We find that in Ceylon, a separate rate schedule is prescribed with regard to the income of Hindu undivided families. We are of the opinion that the availability of Hindu undivided family as a unit of assessment for the purposes of tax avoidance should be largely neutralised. *We, therefore, recommend that a Hindu undivided family should be taxed at a special rate if any of its members has independent income above the maximum not liable to tax. We suggest that such Hindu undivided families should be taxed at the following rates:*

Income Rs.	Rate %
5,001—10,000	15
10,001—15,000	25
15,001—20,000	35
20,001—30,000	45
30,001—50,000	55
Over 50,000	65

In addition, 15 per cent. surcharge should also be leviable where the income exceeds Rs. 15,000.

Similarly, under the Wealth-tax Act, there should be a separate schedule with higher rates applicable to Hindu undivided families where any member of family has independent wealth above the exemption limit.

3.31 We consider that the above recommendation made by us does not suffer from any of the disadvantages of the other suggestions. Though the above rates are higher than the corresponding rates suggested for individuals, there is adequate justification as these rates would be applicable only to cases where the members of a Hindu undivided family have more than one 'pocket' of assessment. While limiting the scope for using the Hindu undivided family for purposes of tax avoidance, our proposal would not hurt the sentiments of those who oppose any change in the mode of assessment of the Hindu undivided family. Administration would also not be faced with any additional burden as a result of our proposal.

Clubbing income of husband, wife and minor children

3.32 Since the income-tax law at present in our country generally recognizes an individual as a separate unit of assessment, there is a widespread practice among taxpayers to divert their incomes to as many family members as possible with a view to avoiding their appropriate tax liability. The common modes resorted to for the purpose are: employment of the spouse as a highly-paid employee or the sole selling agent, creation of separate nuclei for spouse and

children, formation of trusts for minor children and admission of minors to the benefits of partnership by circumventing the existing provisions for clubbing the income of the minor with that of a parent, and formation of private limited companies with wife, minor children and other close relatives as the principal shareholders, etc. It has been suggested by many that in order to check tax avoidance of these types, the income of husband, wife and minor children should be clubbed together for purposes of assessment.

3.33 We find that the problem of tax avoidance through family arrangements is not peculiar to our country alone. The Royal Commission on Taxation for Canada[1] considered this question and was in favour of a system of clubbing of incomes of family members. The Taxation Inquiry Commission (1968) of Ceylon[2] also observed that the principle of aggregation of family incomes was a satisfactory feature of Ceylon's tax system. In our country, the Working Group of the Administrative Reforms Commission recommended clubbing of incomes of husband and wife, but the proposal did not find favour with the Commission. The Government also appears to have been considering such a measure as is evident from the following extract from the Prime Minister's Budget Speech for 1970-71:

> "Those who are united in Heaven should not be put as under by a mere tax collector. On this view, the income and wealth of husband, wife and minor children should be aggregated for purposes of income and wealth taxation. But in matters like this, enforced unity sometimes leads to sharper division. It is, therefore, proposed to examine the matter in greater detail and to bring forward the necessary legislation subsequently, giving opportunity for discussion in this House and outside."[3]

3.34 In view of the foregoing, we have given considerable thought to the suggestion for clubbing the incomes of husband, wife and minor children for tax puroses. While such a change in the law is likely to be useful in checking various types of tax avoidance, we feel that it would present numerous difficulties. If a family is treated as a unit of assessment, it will be necessary to provide for sutiable need-based allowances, particularly for the benefit of taxpayers in the lower income brackets. The determination of such allowances may pose several problems and if the allowances were to be admissible in all cases irrespective of whether the wife or minor children have any income of their own, it might entail considerable loss of revenue. Moreover, the clubbing of the earned income of wife with the income of her husband and minor children will, in our opinion, result in unnecessary hardship to lower and middle class families where women take up employment only out of sheer economic necessity. On the other hand, if earned income of wife is excluded from the aggregation of incomes of members of the family, the measure will fail to check the common device of diverting income through bogus payments to wife by way of salaries, fees, commission or other forms of remuneration. Besides, there appears to be no justification for aggregating the earned income of husband if the earned income of wife is to be excluded from such aggregation. Further, even if earned incomes of both husband and wife are excluded from aggregation for purposes of levy of tax, it will still be necessary to take them into account for determining the rate of tax applicable to the unearned income of the family. This would lead to unnecessary complications. We find that even in countries where incomes of family members are generally aggregated, the pattern of taxing the aggregated income varies from country to country, which shows the difficulty in arriving at any standard or uniform basis for treating the family as a taxable unit. In our country the tax laws have the additional feature of treating Hindu undivided family also as a taxable unit. If family consisting of husband, wife and minor children is added as another unit of assessment, it might lead to confusion. In view of these considerations, *we are, therefore, not in favour of family consisting of husband, wife and minor children being treated as a unit of assessment.* At the same time, we do recognize that taxpayers in our country adopt various devices to create separate pockets of assessment for purposes of tax avoidance. We have taken note of some of these devices and have suggested suitable measures to meet this problem of division of income.

Measures to check diversion of income

3.35 As stated earlier, tax avoidance is largely practised in our country through diversion of income or assets to different taxable entities. Though the existing provisions in law, coupled with the changes suggested by us elsewhere in this report, would help check such diversion of income to a considerable extent, there are still a few additional points that we would like to deal with here.

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1. Report of the Royal Commission on Taxation for Canada—Vol. 3, pp. 12-13.
2. Report of the Taxation Inquiry Commission (Ceylon)—April, 1968—p. 90.
3. Speech of Prime Minister and Minister of Finance—28th February, 1970—para. 29.

3.36 The first is concerning the scope of clause (v) of sub-section (1) of section 64 of the Income-tax Act, 1961. This provision seeks, *inter alia,* to club with the income of an individual the income which arises directly or indirectly to any other person from assets transferred by such individual otherwise than for adequate consideration. A similar provision in the Indian Income-tax Act, 1922 has been interpreted to mean that the income of the other person can be clubbed with the income of the individual only if it arises from assets transferred *directly*[1]. The non-inclusion of income from assets transferred indirectly seems to us to be a loophole in the existing provision, giving scope for avoidance of tax. *We, therefore, recommend that clause (v) of sub-section (1) of section 64 of the Income-tax Act, 1961, should be suitably amended, by introducing a deeming provision, if necessary, to cover income arising from assets transferred indirectly.*

3.37 The next point considered by us was with regard to transfer of assets by a parent-in-law in favour of a daughter-in-law or by a paternal grandparent in favour of a minor grandchild. The existing provisions in section 60 of the Income-tax Act, 1961 do not cover such situations. *We recommend that sub-section (1) of section 64 of the Income-tax Act, 1961 should be suitably amended to provide that in computing the income of a parent-in-law or a paternal grandparent, there shall also be included such income as arises directly or indirectly through assets transferred by him/her directly or indirectly otherwise than for adequate consideration to or for the benefit of a daughter-in-law or a minor grandchild, as the case may be.*

3.38 We considered the question whether for bringing income within the ambit of clauses (iii) and (iv) of sub-section (1) of section 64 of the Income-tax Act, 1961, the connection between the transfer of assets and the income arising as a result of such transfer must be proximate. That was the view expressed by the Supreme Court in a recent case[2]. We feel that the scope of the provisions of clauses (iii) and (iv) of sub-section (1) of section 64 of the Income-tax Act, 1961, should be widened. *We recommend that by a suitable Explanation to sub-section (1) of section 64 of the Income-tax Act, 1961, the effect of the judgment of the Supreme Court should be taken away.*

3.39 Of the various devices to divert income, one that is most frequently resorted to by a taxpayer in business or profession is the practice of remunerating substantially the spouse by having the spouse as an employee, purchasing/selling agent, consultant, etc., in respect of a business in which he or she has a substantial interest. Remunerating the spouse in this manner is often nothing but an attempt to camouflage one's own income as the income of the spouse *We recommend that it should be provided in law that in computing the total income of an individual there shall be included all such income as arises directly or indirectly to the spouse of such individual by way of salary, commission, fees or any other form of remuneration from a concern in which such individual has substantial interest. For this purpose, an individual may be deemed to have a 'substantial interest' (a) in the case of a limited company, if its shares carrying not less than 20 per cent. of the voting power were, at any time during the previous year, owned beneficially by such individual either singly or alongwith his relatives and (b) in the case of any other concern, if such individual either singly or alongwith his relatives was entitled in the aggregate at any time during the previous year, to not less than 20 per cent, of the profits of such concern. For this purpose, the term 'relative' should have the same meaning as in clause (41) of section 2 of the Income-tax Act, 1961.*

Tax treatment of firms and partners

3.40 Partnership as an entity of taxation is yet another medium which provides scope for tax avoidance in this country. The provision permitting admission of minors to the benefits of partnership is mentioned as a particularly fruitful source for reduction of tax liability by their parents. Since, under the Indian Partnership Act, minors can be admitted only to the benefits of partnership, they are entitled to a share in the profits of partnership business while not being liable for its losses. This advantage available to the minors has unfortunately been misused widely. Tax avoidance in this field is practised normally through the following modes:

(a) In order to circumvent the provision relating to the clubbing of the income of minor children with that of the parent, if both are partners in a firm it is so arranged that partners of one firm get their minor children admitted to the benefits of partnership in another firm, in exchange for admitting in their firm the minor children of the partners of the other firm, so that it is not possible to club the income of the minors with that of the parents.

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[1] Commissioner of Income-tax vs. Framji H. Commissariat—(1967) 64 I.T.R. 588.

[2] Commissioner of Income-tax vs. Prem Bhai Parekh and others—(1970) 77 I.T.R. 27.

(b) As the minors can be admitted only to the benefits of partnership, the rich partners of a firm take in as many minors as possible, so that while gains in the business get distributed over a number of persons, losses suffered by the firm get distributed to the partners other than minors, thereby reducing the tax burden of such wealthy partners.

(c) Taxpayers generally so arrange their affairs by what are euphemistically known as "cross transfers" and other ways that it becomes difficult to prove that there has been a direct or indirect transfer of assets to the minor children within the meaning of section 64 of the Income-tax Act, 1961. Amount received by the minor as a result of such a cross transfer and in other ways is shown as capital contributed by him in a firm where neither of his parents is a partner and the minor's share income has consequently to be assessed in his hands, and cannot be clubbed with the income of his parent.

(d) Separate nucleus is built up for a minor ever since his birth so that his share from a firm in which capital is contributed out of such nucleus cannot be included in the income of his parent.

To meet this situation, *we recommend that the Partnership Act should be so amended as to preclude the admission of minors to the benefits of partnership. However, in order to avoid hardship, an exception may be made in the case of succession on the death of a parent. Further, until such an amendment is made to the Partnership Act, we suggest that the Income-tax Act should be amended to provide for inclusion of a minor's share from a firm in the income of that parent whose total income is higher.*

3.41 Another problem brought to our notice is that of bogus sub-partnerships. After due consideration, however, we have come to the conclusion that this is a matter depending entirely on factual evidence. It cannot, therefore, be checked by a legal provision. It has to be tackled only by sustained investigations. *We would, therefore, recommend that claims of sub-partnership, should be investigated in depth to uncover collusive arrangements.*

3.42 We also considered the problem posed by the practice of having benami partners in firms in order to avoid proper tax liability. We find that it has already been provided by the Taxation Laws (Amendment) Act, 1970, that if any partner of a firm is found to be a benamidar of any other partner, the firm shall be denied the benefit of registration. The Taxation Laws (Amendment) Bill, 1971, seeks to provide further that if a property is held benami, any person claiming to be its real owner shall not be entitled to enforce his claim in a court of law unless either he has disclosed the property or the income therefrom in his return or has given notice in the prescribed form to the Income-tax Officer. While these two amendments, in our opinion, should help to remedy the situation, *we recommend that where a partner in a firm is an undisclosed benamidar of an outsider, and any one or more of the other partners knew or had reason to believe that it was so, the firm should not be treated as a validly contituted partnership.*

3.43 In this connection we have also considered the question of tax treatment of registered firms. The need for levy of a separate tax on registered firms arose primarily from the consideration that many taxpayers found it easy and convenient to reduce their tax liability by setting up firms with relatives and friends as partners, some of whom were merely their 'benamidars'. These considerations, however, do not apply to firms rendering professsional services where all the partners, before they can be admitted into the firm, have to obtain the requisite professional qualifications. The income-tax law recognizes this distinction by giving a concessional tax treatment to professional firms in the matter of levy of surcharge. *We recommend that the levy of a separate tax on registered firms rendering professional services should be discontinued.*

Share dealings by companies

3.44 A tax avoidance device often resorted to by business houses controlling groups of companies is manipulation of results from dealings in shares of the companies controlled by them. In our opinion, such manipulations in share dealings for the purpose of tax avoidance can be checked effectively if the results of dealings in shares by such companies are treated for tax purposes in a manner analogous to speculation. No doubt, companies whose main business activities centre around investments in shares will have to be left out. Accordingly, *we recommend that the results of dealings in shares by companies, other than investment, banking and finance companies, should be treated in a manner analogous to speculation business.*

Treatment of perquisities

3.45 There is a widespread feeling that the manner of determining the value of perquisites, provided to highly-paid employees by many private employers in this country, results in substantial avoidance of income-tax. One sug-

gestion made in this regard was that employers should be under an obligation to give remuneration only in terms of money and not by way of perquisites. While we agree that such a measure would be quite effective, we apprehend that there will be practical problems in implementing it.

3.46 The Income-tax Act provides that perquisites in excess of specified amounts are *not* deductible in computing the total income of an employer and also that the value of perquisites, which is to be determined in accordance with the prescribed rules, is taxable in the hands of the employee. In our opinion, the existing rules for the valuation of perquisites are mostly outdated and they need to be revised taking into account the current market rates of interest, depreciation of assets, etc. *We would, therefore, recommend that the Government should re-examine all the existing rules pertaining to valuation of perquisites in order to update them with reference to the current market trends.*

Taxation of discontinued business

3.47 Sub-section (4) of section 176 of the Income-tax Act, 1961 provides that income from profession received even after its cessation is liable to tax. There is, however, no corresponding provision to tax the income from a business received after its cessation. This appears to us to be a lacuna. *We therefore, recommend that a provision on the lines of sub-section* (4) *of section* 176 *of the Income-tax Act,* 1961, *should be added to cover also income from business received after its discontinuance.* For this purpose, the income will be determined after allowing deduction for revenue expenditure, if any, during the year for and on account of the discontinued business.

Charitable and religious trusts

3.48 By tradition, private philanthropy in our country has been playing a very special and prominent role in enriching our cultural heritage and in catering to the educational, medical, socio-economic and religious needs of our people. In so doing, it has supplemented the work of a welfare state, and the State, in turn, has recognized its contribution by giving generous tax treatment to the donations given to philanthropic institutions and also to the income thereof applied for public, religious or charitable purposes. Unfortunately, however, there is no good cause which human ingenuity cannot defile, and experience has shown that even in our country, these altruistic media have been abused with impunity for selfish personal ends. Now, since the tax concessions afforded to these institutions involve a sacrifice of public revenues, it becomes imperative to ensure that tax privileges are not abused and that they are enjoyed only by those charitable and religious institutions which deserve them.

3.49 Avoidance of tax through the media of charitable trusts is a malady prevalent in other countries as well. The British Royal Commission on Taxation of Profits and Income observed that the vagueness of definition of 'charity', or more precisely the absence of a definition, has enabled very substantial benefits of exemptions to be claimed by activities which, in extreme cases, had no real connection with the idea of charity at all[1]. The Royal Commission on Taxation for Canada also took note of this problem in its report and recommended that charity should pay income-tax on business income at the rates applicable to corporations, though it considered that their other income should be exempt from taxation[2]. In U.S.A., despite several provisions for preventing misuse of funds of public trusts, taxpayers still find ways and means to use charity as a cover for tax avoidance. The big business houses establish their own 'charitable' foundations because they find it financially advantageous to filter money through them. In his revealing study, 'The Rich and the Super Rich', Ferdinand Lundberg observes, "..... foundations can do anything that is financially possible, without any sort of public supervision or regulation. In the sphere of finance, name it and they can do it, tax free". And he goes on to add, "It is mainly because of the Protean utility of the foundation, particularly in the evasion of taxes, that nearly everyone in the community of wealth has come now to share the original insight of only a few such as the pioneering Carnegie and Rockefeller."[3] A study conducted by the U.S. Treasury Department showed that some of these foundations were "being operated so as to bring private advantage to certain individuals, to delay for extended periods of time benefits to charity, and to cause competitive disadvantage between businesses operated by foundations and those operated by private individuals."[4]

3.50 In India also, the misuse of tax exemptions or of trust funds by charitable and religious trusts has been confirmed by studies made

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1. Final Report of the Royal Commission on the Taxation of Profits and Income (1955)—para 1970.

2. Report of the Royal Commission on Taxation for Canada—Vol. 4, p. 144.

3. Ferdinand Lundberg—The Rich and the Super Rich—p. 253.

4. Tax Reform Studies and Proposals—U. S. Treasury Department—Joint publication—Committee on Ways and Means of the U. S. House of Representatives and Committee on Finance of the U.S. Senate—part 3—p. 295.

from time to time. Various amendments to the law have followed in their wake. A recent study made by the Department of Company Affairs of 75 trusts, of which 62 were charitable, showed that the business houses creating the trusts had mostly appropriated the trust funds for their own businesses.[1] Considering the problem of tax avoidance through formation of charitable and religious trusts, the Public Accounts Committee in its 121st Report observed that "while trusts fulfil a laudable social objective, they have also been used as a device to avoid tax."[2] The Committee also took note of the fact that out of 45 trusts connected with industrial houses and having a corpus of Rs. 24.11 crores, the investments by 32 trusts in concerns connected with the industrial houses were 50 per cent. or more of their funds. In some cases, it was noticed that the investment in such concerns amounted to as much as 90 per cent. of the funds of the trusts. The Committee observed:

> 'The Committee note that a number of changes are being proposed in the tax statute through the Finance Bill, 1970. This should rectify the situation to some extent. However, the dimensions of the problem being what they are, a comprehensive study by Government is clearly indicated. The Committee note that, after evidence on this point was taken by them, Government have constituted a Commission to recommend concrete and effective measures *inter alia* "to unearth black money" and "to check avoidance of tax through various legal devices, including the formation of trusts." The Committee have no doubt that this Commission will examine the problem of trusts in all its aspects. The following points which have a bearing on this problem call for investigation:
>
> (i) Whether it would not be necessary to have a system of registration of trusts with the Income-tax authorities, in order that their activities could be watched.
>
> (ii) Whether it would not be desirable to have a system of compulsory auditing of the accounts of trusts having income above certain stipulated minimum limits.
>
> (iii) Whether the term 'charitable purpose' occurring in the Income-tax Act, which is at present rather loosely defined, could be made more precise in scope, so that it applies only to cases of genuine charity.
>
> (iv) Whether the existing provision in the Act relating to accumulation of funds with trusts leave scope for tax avoidance and if so, how the position should be rectified.
>
> (v) What procedures would be necessary to track down trusts, constituted with concealed income donated by "ghost or anonymous donors".
>
> (vi) Whether, in cases where the income and or property of a trust is found to have been used for purposes not germane to the objects of the trusts, the assessees concerned should be made liable to pay not only income-tax but also wealth-tax.
>
> The Committee would like to make it clear that it is not their intention that the law should be made so draconian as to discourage the growth of genuine trusts or charities..... The Committee, therefore, feel that the law should continue to provide a congenial climate for the growth of these institutions.[3]

3.51. It is in this background that we considered in detail the problem of tax avoidance through the medium of charitable and religious trusts. We are aware that amendments of a substantial nature have been made to the Income-tax Act, 1961, by the Finance Act, 1970, in order to tighten the law in this regard. We are however, of the view that some more changes in law are necessary if tax avoidance through the medium of trusts is to be effectively dealt with. Our recommendations in this regard are detailed in the following paragraphs.

3.52. Taking up first the points raised by the Public Accounts Committee, we considered whether it is necessary to have a system of registration of trusts with the Income-tax authorities in order that their activities are kept under watch. We find that the Finance Act, 1970, has introduced a new sub-section (4A) to section 139 of the Income-tax Act, 1961. This provision requires every person in receipt of income derived from property held under trust or other legal obligation for charitable or religious purposes to furnish a return of income if the total income, ignoring the exemption under section 11, exceeds the maximum amount not chargeable

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1. Company News and Notes—Annual Number, 1970—p. 43.
2. p. 1, para. 1·3.
3. Public Accounts Committee (1969-70)—Fourth Lok Sabha—Hundred and Twenty-First Report—(paras. 1·32 & 1·33) —pp. 6—17.

to income-tax. We consider that this provision does not go far enough because where a trust has substantial income from voluntary contributions and the income from property held in trust, if any, is below the exemption limit, the obligation to file a return does not apply. In our opinion, even such trusts should be required to file their returns of income. Accordingly, *we recommend that every person in receipt of income derived either from property held under trust or other legal obligation for charitable or religious purposes or from voluntary contributions received on behalf of such trust or institution should be required to furnish a return of income if the total income, ignoring the exemption under sections 11 and 12 of the Income-tax Act, 1961, exceeds the maximum amount not chargeable to income-tax.*

In this context, however, we would like to point out an existing lacuna in the Income-tax Act. Whereas the law casts an obligation on trusts to furnish returns of income, there is no provision to penalise trusts which fail to comply with this requirement. *We recommend that the law may be amended to provide that where a person, who is under an obligation to furnish a return of income under sub-section (4A) of section 139 of the Income-tax Act, 1961, fails to furnish such a return, he shall be liable to pay penalty upto one per cent. of the income of the trust for each year of default or part thereof.*

Sub-section (4A) of section 139 of the Income-tax Act, 1961 even after it is amended in the manner suggested by us, cannot be an effective substitute to a system of statutory registration of all charitable and religious trusts under the income-tax law. *We recommend that the income-tax law be amended to cast an obligation on all charitable and religious trusts which seek income-tax exemption to register themselves with the Income-tax Department. Trusts which fail to get registered within a prescribed period will not be entitled to claim income-tax exemption. The existing trusts may be required to get themselves registered within one year from the date of enactment of the new provision and trusts formed after the enactment should get themselves registered within six months of the date of the constitution of the trust.*

3.53. We considered next the question of prescribing a system of compulsory audit of the accounts of trusts having income above a certain limit. We are of the view that such a system would be quite useful, both from the point of the trusts and the Department. It would also subject the trusts to a certain discipline. We find that the Direct Taxes Administration Enquiry Committee had made a suggestion to the effect that the accounts of all charitable institutions, with the exception of those audited under the requirement of any other law or regulation, having an income of five thousand rupees or over must be compulsorily audited.[1] The Royal Commission on Taxation for Canada has also expressed itself in favour of getting the accounts of charities audited.[2] *We recommend that all trusts with incomes/receipts exceeding rupees twenty-five thousand should be under a statutory obligation to have their accounts audited in the prescribed manner.*

3.54. The adequacy of definition of the term 'charitable purpose' has also been considered by us. The scope for questionable charities to claim concession under these provisions is provided mostly by trusts indulging in profit-making activities. The Income-tax Act, 1961 defines 'charitable purpose' to include 'relief of the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit'. Legal opinion has veered round to the interpretation that the words 'not involving the carrying on of any activity for profit' qualify only the fourth item of charitable purpose stated in the definition, viz., 'any other object of general public utility'. Consequently, it is inferred that in cases falling under the first three items of charitable purpose, the definition imposes no ban on the carrying on of any activity for profit. Thus, the restrictions on trusts in the matter of engaging in activities for profit have been considerably diluted.

3.55. It is in this background that we addressed ourselves to the question as to whether religious or charitable trusts enjoying tax exemption should be permitted to carry on any activity for profit. Indubitably, engagement in activity for profit by such trusts provides scope for manipulations for tax avoidance. We, however, consider that it will not be desirable to ban an activity for profit which arises in the pursuit of the primary purpose of a trust created with the object of relief of the poor, education or medical relief. For instance, in the case of a trust for vocational training, it would be essential for the trust to carry on its vocation. *We, therefore, recommend that law should be suitably amended to provide that where a trust for the relief of the poor, education or medical relief derives income from any activity for profit, its income would be exempt from income-tax only if the said activity for profit is carried on in the course of the actual carrying out of a primary purpose of the institution.* We wish to make it abundantly clear that even where a business is settled in trust, the trust should fulfil this condition if it is to enjoy tax exemption in respect of

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1. Report of the Direct Taxes Administration Enquiry Committee (1958-59)—p. 180.

2. Report of the Royal Commission on Taxation for Canada—Vol. 4, pp. 135-136.

the income from such business. *So far as trusts for any other object of general public utility are concerned, pursuit of any activity for profit should continue to render them ineligible for tax exemption.*

3.56 We also considered whether the existing provisions in the Income-tax Act, 1961, relating to accumulation of income by a trust require any modification for the purpose of checking tax avoidance. In fact, a suggestion was made before us that accumulation of income should be permitted only if the accumulated income is kept in a blocked account. The law as at present require charitable trusts to invest their accumulated funds in Government securities or other approved media in order to claim tax exemption in respect of the accumulated income. As a result, there does not appear to be any scope for tax avoidance on this score. We, therefore, see no need for any change in this regard.

In this connection, however, we would like to refer to an amendment introduced by the Finance Act, 1970 in sub-section (1) of section 11 of the Income-tax Act, 1961. As a result of this amendment, income of charitable and religious trusts will be exempt from tax only to the extent such income is actually applied to the purposes of the trust during the year in which it arises or within three months of the expiry thereof. The remainder of the income is to be charged to tax in the hands of the trustees unless the conditions regarding investment of accumulated income are satisfied. Cases may arise where a part of income, although accrued, may not have been actually received, to be available for expenditure or accumulation in the specified manner. It would be unfair to expect that even such income should fulfil the prescribed conditions to qualify for tax exemption. *We, therefore, recommend that the existing conditions for spending the trust income for chritable purposes within the same year, or accumulating it in the specified manner, should be relaxed, where the trust is prevented from complying with them on account of not having actually received the income in question.* We do not apprehend that this relaxation will give rise to any undesirable practices. Besides, in view of our recommendation that a trust claiming tax exemption can carry on a business only in the course of carrying out a primary purpose, the problem normally posed by computation of income on accrual basis will be greatly limited.

3.57 The problem of black money finding its way to charitable and religious trusts in the form of 'ghost' or anonymous donations has also been considered by us. We do not think it possible for the Department to track down such donors in view of the cloak of anonymity. In our opinion, the only way to eliminate this tax-free channel for the inflow of black money, and to discourage the frequent practice of feigned ignorance on the part of these institutions about the identity of the alleged anonymous donors, is to subject such donations to tax in the hands of the recipients. *We therefore, recommend that all 'ghost' or anonymous donations to charitable trusts should be taxed at the rate of 65 per cent. Religious trusts may, however, be left out of the purview of this provision.*

3.58 We next considered the feasibility of subjecting trusts, whose incomes or assets were found to have been used for purposes not germane to their objects, to wealth-tax, in addition to income-tax. We are not unaware of the widespread abuse of the trust properties by the founders, trustees and their relatives. We are of the view that it would be quite logical to deprive such trusts of exemption from wealth tax. Accordingly, *we recommend that where any part of the corpus or income of a charitable or religious trust is used by or for the benefit of the founder, trustee etc., for any period in a year, such a trust should be liable to pay wealth-tax on the value of its entire property in the same manner as the discretionary trusts under the provisions of sub-section* (4) *of section* 21 *of the Wealth-tax Act,* 1957.

3.59 Apart from the points raised by the Public Accounts Committee, we considered several other issues pertaining to tax avoidance through charitable and religious trusts. A number of restrictions have been imposed on the investment of trust property. However, there is still some scope for investing trust funds for the benefit of the persons connected with the trust or for the benefit of the businesses controlled by such persons. In order to avoid this possibility, *we recommend that barring the original corpus, there should be a total ban on trusts investing any of their funds in any business concern, including a limited company.*

3.60 Section 13 of the Income-tax Act, 1961 provides, *inter alia,* that a charitable or religious trust or institution will be denied exemption from tax if the funds belonging to it are invested, or continue to remain invested, during the previous year in any concern in which the author or founder thereof or substantial contributor to it or their relative has a substantial interest. *We recommend that this condition should not operate when such an investment itself forms a part of the initial corpus of the trust.* We do not apprehend any major leakage of revenue if such a relaxation is given.

3.61 We considered next the desirability of properly defining certain expressions used in

section 13 of the Income-tax Act, 1961, in order to make the law in this regard quite clear. In our opinion, *the term 'substantial portion', used in section 13 of the Income-tax Act, 1961 should be so defined as to mean any property or income exceeding one thousand rupees and the term 'substantial contribution' used in the said section should be defined as an amount exceeding five per cent. of the corpus of the trust. Further we recommend that the persons mentioned in sub-section (3) of section 13 of the Income-tax Act, 1961 should also include a trustee and his relatives and the term 'relative' should also include relatives through marriage,* such as brother-in-law, sister-in-law, son-in-law, daughter-in-law, father-in-law and mother-in-law. We consider that these changes in interpreting certain expressions in law are necessary for proper enforcement of the existing provisions.

3.62 In this context, we examined the case for limiting the scope of the exemption under section 12 of the Income-tax Act, 1961, to trusts and other institutions of a public nature only. At present, the income of any trust or other institution of a charitable or religious nature derived from valuntary contributions and applicable solely to charitable or religious purposes is exempt from income-tax. However, donations received by such institutions from a trust or a charitable or religious institution to which provisions of section 11 apply, are subject to the same restrictions regarding accumulation, etc., as are imposed under sections 11 and 13 of the Act. From this, it follows that even trusts which do not enure for the benefit of the public are eligible for tax exemption in respect of their income received by way of voluntary contributions. We think that there is no justification for exempting from tax any income, by way of voluntary contributions, of private religious trusts and charitable trusts affording benefits to the relatives of the author, founder, etc. Accordingly, *we recommend that section 12 of the Income-tax Act, 1961 may be amended to provide that the benefit of tax exemption in respect of income received by way of voluntary contributions will be available only to charitable and religious trusts which ensure wholly for the benefit of the public. Further, it may be provided that the voluntary contributions received by religious and charitable trusts will be treated as income of such trusts for the purpose of sections 11 and 13 of the Income-tax Act, 1961. However, voluntary contributions in the nature of endowments or for specific projects related to the objects of the trust may be allowed to be accumulated or set apart.*

3.63 The next item that received our consideration is the special treatment which is being accorded to trusts created before 1st April, 1962. Various restrictions on the use or application of the trust income or property have not been made applicable to trusts created before 1st April, 1962. As a result, tax exemption is available to the trusts created before 1st April, 1962 even in the following circumstances, although the trusts created thereafter do not enjoy such exemption:

(i) Where the income derived from property is held under trust in part only for charitable or religious purposes.

(ii) Where under the terms of the trust or the rules governing the institution, any part of the trust income enures directly or indirectly for the benefit of any specified person.

(iii) Where in view of the mandatory terms of the trust, income or property of the trust is used or applied for the benefit of the author or substantial contributor to the trust or their relatives or their associated concerns.

(iv) Where it is a charitable trust for the benefit of any particular religious community or caste.

Such a preferential treatment to these trusts was given because they enjoyed a similar treatment under the Indian Income-tax Act, 1922 and the Legislature did not consider it desirable to deprive them of those concessions. Besides, any substantial change in the tax treatment of these trusts would have adversely affected their working, since they were formed with reference to the then prevailing law.

3.64 In our opinion, however, difference in tax treatment of trusts created before and after 1st April, 1962 is not only anomalous but also inequitous. No doubt, the trusts created before 1st day of April, 1962 were created with reference to the law then in force, but this cannot obviously be allowed to stand in the way of such trusts being made to conform to the requirements of the new law, within a reasonable period of time. The law was amended in 1962 on account of the abuse of this institution of trusts. It would be anomalous if the trusts which provoked the reforms were to be left out of their purview. *We recommend that the law may be suitably amended to provide that exemption under sections 11 and 12 will be available to trusts created before 1st day of April, 1962 if they conform to the requirements of the law as applicable to trusts created after 31-3-1962. The period for effecting the necessary changes may be fixed at two years from the date of amendment of the law in this behalf. As some mixed trusts may have to be split up for this purpose, we recommend that a suitable machinery may be set up by the Government to effect a smooth change over.*

3.65 In making a study of the devices adopted by certain taxpayers for tax avoidance through the medium of public trusts, one striking feature that was noted by us was the absence of a comprehensive Central legislation with regard to control and regulation of public charitable and religious trusts in India. 'Trusts' being a concurrent subject in our Constitution, various State Governments have, no doubt, enacted legislation with regard to the regulation of their working. In order to ascertain the extent of control exercised by the various State Governments, we requested the authorities concerned in nine States to furnish us information in this behalf. From the replies received, we found that the law and procedures relating to the control of public trusts vary from State to State. In States like Andhra Pradesh, Bihar, Gujarat and Maharashtra, all public trusts are required to be registered, whereas in States like Kerala and Tamil Nadu, there is no such procedure. In Rajasthan, however, certain public trusts having their assets or income beyond a certain limit are required to be registered. There is no uniform procedure either, in these States, as regards scrutiny of accounts of these trusts. What is most surprising is that no data was generally available regarding the number of cases where trust property was found to have been used for purposes not germane to the objects of the trust. *We consider that there is a strong case for having an all-India legislation for the purpose of controlling and regulating the working of various public charitable and religious trusts in India.* Such legislation will also provide the much-needed uniformity with regard to the working of these institutions.

3.66 We find that such legislation was considered by the Government and even a draft Bill[1] was introduced in the Parliament in 1968 "to provide for the better supervision and more effective administration of public religious and charitable trusts and for matters connected therewith". This Bill lapsed with the dissolution of the Lok Sabha in 1970. Apart from the provisions contained in this Bill, we are of the opinion that such legislation should contain some further provisions. *We recommend that the Government should have the power to nominate one or more trustees in the case of a trust with income exceeding Rs. 50,000 per annum, notwithstanding the terms of the trust deed. There should also be a provision against the continuance of the same persons as trustees on the governing body of a trust. In our opinion, the number of life trustees in any public trust should not exceed 25 per cent. of the total strength of its trustees. As regards other trustees, the principle of rotation should be introduced so that one-third retire every five years. No trustee should be eligible for re-appointment more than once. Further, there should be yet another provision to ensure that the number of trustees who are close relatives of the founder(s) of a trust, does not at any time exceed 25 per cent. of the total strength of the trustees. These provisions should be made applicable even to the existing trusts.* It may be of interest to mention here that the principle of change of trustees was in fact suggested for checking misuse of charitable institutions by the United States Treasury Department in its 'Tax Reforms Studies and Proposals' referred to by us earlier. These measures should help to ensure that trusts are not exploited to subserve private ends.

Measures to check avoidance of wealth-tax

3.67 Under the Wealth-tax Act, 1957, tax is imposed in respect of the 'net wealth', as on the valuation date, of every individual and Hindu undivided family. This tax was leviable on companies also at the time of its enactment. However, in 1960, companies were excluded from its purview. As there are some loopholes in this Act, which provide scope for tax avoidance, we recommend below certain measures for plugging them.

3.68 The diversion of assets for the purpose of avoiding wealth-tax liability is comparable in its nature to the diversion of income for the purpose of avoiding appropriate income-tax liability. In line with our recommendation for amendment of clause (v) of sub-section (1) of section 64 of the Income-tax Act, 1961 to cover income arising from assets transferred indirectly in certain cases, *we recommend that sub-clause* (iii) *of clause* (*a*) *of sub-section* (1) *of section* 4 *of the Wealth-tax Act,* 1957 [*which corresponds to clause* (v) *of sub-section* (1) *of section* 64 *of the Income-tax Act,* 1961] *should also be amended to cover indirect transfer of assets.*

3.69 There is yet another type of diversion where a parent-in-law or paternal grandparent trensfers assets directly or indirectly, otherwise than for adequate consideration, to the daughter-in-law, or minor grandchild, as the case may be, for his or her immediate or deferred benefit. We have recommended elsewhere[2] that in such a situation, income arising from such assets should be included in the income of the transferor. *We recommend that a suitable provision be made in the Wealth-tax Act also for the inclusion of the value of such transferred assets in the net wealth of the parent-in-law or paternal grandparent, as the case may be.*

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1. Public trusts Bill, 1968.

2. Para 3·37.

3.70 We next considered the scope of avoidance of Wealth-tax through the medium of limited companies. As stated earlier, wealth-tax on companies was in vogue until 1960. The exemption of companies from the levy of wealth-tax has led persons to buy or construct immovable properties through the medium of closely-held companies. The attraction for having immovable properties in the name of such companies is all the more in bigger cities, not only because these properties fetch substantial income due to scarcity of accommodation but also because these escape proper wealth-tax liability. Even in the matter of valuation of unquoted shares, the wealth-tax rule in this behalf tilts the scale in favour of the shareholder. According to this rule, the value is determined, subject to certain adjustments on account of dividends declared, with reference to the book value of the assets and liabilities as reflected in the balance-sheet. This rule completely bars revaluation of immovable properties held as assets by the company. It is common knowledge that closely-held companies owning huge immovable properties in big cities show only the depreciated value of such properties in their balance-sheet, though their market value is, in fact, several times the book value. This not only depresses the value of their shares artificially but also enables the shareholders to escape proper incidence of additional wealth-tax on urban properties. *We recommend that the position in this behalf should be reviewed, and for the purposes of valuation of shares of closely-held companies, the rule should be revised to provide revaluation of immovable properties held by such companies—other than as their business premises—so as to bring the value of such properties up to their fair market value, taking into account,* inter alia, *their actual yield.*

3.71 We also considered the problem of valuation of immovable properties from the point of checking avoidance of wealth-tax. Various measures have been recommended by us in this behalf in the Chapter on 'Black Money and Tax Evasion'. The Government also propose to set up an elaborate departmental machinery for the purpose of valuation of properties. We consider all these measures would, by and large, check avoidance of wealth-tax. *We would however, like to mention here that the valuation of immovable properties once adopted after due enquiry should remain unchanged for a period of five years, except for additions, alterations and improvements.* This will ensure that valuation of immovable properties is not interfered with too frequently. We find that a recommendation to this effect was in fact made by the Direct Taxes Administration Enquiry Committee for securing better administration, less appeals and stability in the matter of valuation.[1]

3.72 A suggestion was made before us by a former senior officer of the Department that the problem of valuation for wealth-tax purposes could be resolved once and for all, if wealth-tax is made chargeable on 'cost basis' instead of 'market value'. Though the suggestion looks attractive at first sight, it has serious economic and social implications. In the context of our objective of an egalitarian society, it seems to us to be reasonable that wealth-tax should be calculated as at a particular point of time on the basis of the market value. Further, any understatement of price in a transfer document or of the cost of construction would mean reduction in wealth-tax liability year after year. This would give added impetus to the existing malpractice of understatement of sale consideration. Further, it will be unfair to adopt cost price as the basis, where assets have, in the meanwhile, substantially depreciated in value. *We do not, therefore, favour any change in the basis of levy of wealth-tax from 'market value' to 'cost price'.*

Measures to check avoidance of gift-tax and estate duty

3.73 Gift-tax is a tax on *inter vivos* transfers. Estate duty is a tax on the value of estate passing on death of a person. Since gift-tax and estate duty seek to tax the transfers of assets at two different points of time, the avoidance of gift-tax has its own implications vis-a-vis estate duty. Generally, the proper tax liability is avoided through the medium of gifts in the following three ways.

3.74 The practice of throwing self-acquired property into the common hotchpot of Hindu undivided family property by a mere unilateral declaration is one such method. This loophole is sought to be plugged by an amendment of the Gift-tax Act, 1958 through the Finance (No. 2) Act, 1971.

3.75 The second common practice which results in considerable avoidance of taxes is the one by which gifts are made by book entries, even when on the date of the gift, cash is not available in the books of the donor or of the firm in which he is a partner. This mode of making gifts has been recognised as valid by some courts.[2] By making such transfers at their convenience, taxpayers are able to avoid their proper income-tax and wealth-tax liability. This method is reported to have become very

1. Report of the Direct Taxes Administration Enquiry Committee (1958-59)—para. 3·110.

2. Chimanbhai Lalbhai *vs.* C.I.T. [1958] 34 I.T.R. 259 Naunihal Thakar Dass *vs.* C.I.T.

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2. Chimanbhai Lalbhai *vs.* C.I.T. [1958] 34 I.T.R. 259 Naunihal Thakar Dass *vs.* C.I.T.

Treating these two taxes separately only increases the tax benefits for life-time gifts and enables wealthy taxpayers to reduce their estate duty considerably and, in certain situations, to escape it altogether. We consider the presnt system highly inequitous. An integration of estate duty and gift-tax is also desirable from the point of the national goal of achieving a socialistic pattern of society.

3.79 *We recommend that the principle of aggregation of gifts should be extended further so as to achieve complete integration with estate duty. For this purpose, the principle value of the estate passing on death should be aggregated with the taxable gifts made during life-time. The estate duty will first be calculated on this aggregate amount, subject to such exemptions as may be available at the time, and then credit allowed for the gift-tax paid during life-time. This will secure equity between a person who makes gifts in his life-time and another who Leaves his property in its entirety on his death to his heirs.*

CHAPTER 4

TAX ARREARS

Introductory

4.1 Tax arrears have been a matter of serious concern to the Government and to the public alike. Public criticism has no doubt been vociferous and scathing of the inability of the Income-tax Department to realise the taxes levied by it. This is so because the public finds it hard to believe that there could be any good reason for the failure of the Department to collect from known persons taxes on incomes which it has already identified and assessed as having been earned by them. Tax arrears have, in recent years, figured frequently and prominently in the press and the Parliament and have been responsible for projecting a poor image of the Department in the eyes of the public. The Public Accounts Committee recently observed that it was "perturbed over the progressive increase of arrears of Income-tax" and the continuous fall in the percentage of realisations to outstandings, and expressed its concern that the various steps which the Government have been enumerating year after year as taken by them, besides addition to the numerical strength of the staff, have failed to arrest the growth of arrears[1]. There is no denying the fact that mounting arrears of tax shake public faith in the administration and seriously affect the the morale of the honest taxpayers.

4.2 Tax arrears have been a chronic problem with the Department and have of late assumed serious proportions. Arrears of tax rose from about Rs. 24 crores in 1944 to about Rs. 187 crores in the course of a decade. In the decade that followed, they swelled to more than Rs. 271 crores. The spiralling has continued unabated and last year about Rs. 840 crores of uncollected taxes hung heavily round the neck of the Department's collection machinery, impeding its normal working and holding it up to severe public criticism. What is even more disturbing is the fact that these arrears were outstanding against more than 16 lakhs of assessees[2]. The table below shows the position of tax arrears as well as tax collected during the last five years and also the age-wise break-up of the latest figures of arrears:—

Year ended	No. of assessments completed	Amount of tax collected	Tax in arrears
		Rs. (crores)	Rs. (crores)
31-3-1966	23,89,027	576·64	381·83
31-3-1967	24,18,094	637·43	515·25
31-3-1968	25,56.554	635·95	622·61
31-3-1969	34,21,282	673·23	774·40
31-3-1970	35,57,890	786·85	840·70

Age-wise break-up of gross arrears of Rs. 840.70 Crores outstanding as on 31-3-1970.

	(Rs. crores)
Arrears of 1959-60 and earlier years .	62·29
Arrears of 1960-61 to 1967-68 .	263·43
1968-69 .	145·93
1969-70 .	369·05
	840·70

No comparisons are needed to show that the situation is alarming. Yet it might be useful to mention that in Japan only four per cent. of the demand raised in a year remains outstanding at the end of the year[3]. Our collections against current demand are, however, only about 50 per cent[4]. In the United Kingdom, as against net receipts of £ 6859 million from income-tax, sur-tax and corporation tax during 1969-70, the outstandings were only £ 611 million[5]. In the United States of America, the value of the inventory of delinquent accounts was reported as $ 1379 million for the year 1968 as against a revenue of more than $ 150 billion[6]. In India, the net collections from income-tax

1. 117th Report of the Public Accounts Committee 1969-70 (Fourth Lok Sabha), para 1·54.
2. Report of the Comptroller & Auditor General of India for 1969-70, p.57.
3. An Outline of Japanese Tax Administration—1970, p. 64.
4. A Statistical Review of Direct Taxes, 1969-70, p. 9.
5. Report of the Commissioners of Her Majesty's Inland Revenue for the year ended 31-3-1970 (113th Report), pp. 29 & 30.
6. Annual Report of the Commissioner of Internal Revenue—1968, pp. 10, 27.

during 1969-70 were Rs. 786.85 crores, while the outstanding as on 31-3-1970 were Rs. 840.70 crores. The magnitude of the problem of arrears in our country thus seems to have no parallel elsewhere.

4.3 The problem of tax arrears has engaged the attention of practically every committee or commission that enquired into our tax system. The Income-tax Investigation Commission[1] and later the Taxation Enquiry Commission[2] recommended several measures for imporving the collection and recovery procedures. The Direct Taxes Administration Enquiry Committee observed that a continuous increase in the amount of revenue remaining in arrears has been a disquieting feature of Income-tax administration in India[3]. The Committee made a detailed study of the causes of arrears and suggested several measures for improving collections, the most important of which was the enactment of a Central Revenue Recovery Code to be administered by the Central Government[4]. The Working Group of the Administrative Reforms Commission also made some suggestions for prompt collection of taxes. The Administrative Reforms Commission broadly endorsed the recommendations of the Working Group[5].

4.4 Many of the recommendations of these expert bodies have since been implemented. A Central revenue recovery code has been enacted and recovery work has by now been taken over almost fully by the Department from the State Governments, and yet the process is not complete after ten years. In the wake of criticism both in and outside Parliament, the collection and recovery wings have recently been strengthened by increasing the number of Income-tax Officers (Collection) and Tax Recovery Officers. In the bigger city charges of Bombay, Calcutta, Madras and Delhi, senior officers of the rank of Additional Commissioners have been posted exclusively for looking after the work of recovery. The responsibility for recovery in major revenue cases, where arrears in each case exceed Rs. 1 lakh, has been placed on the commissioners themselves. Where the arrear sexceed Rs. 5 lakhs, the Director of Inspection (Research, Statistics and Publications) has been made responsible. Cases with arrears exceeding Rs. 25 lakhs have been made the responsibility of the Central Board of Direct Taxes. However, these measures seem to have made no significant dent on the hard core of the problem. We feel that the trouble is deep rooted and calls for some radical remedies if any significant success is to be achieved in arresting the growth of tax arrears and reversing the present rising trend.

Causes of Tax Arrears

4.5 We have discussed this problem of tax arrears with taxpayers, chambers of commerce, professional associations and tax administrators. On the basis of the material before us, including the studies conducted at our instance, we are of the opinion that the causes mentioned in the following paragraphs have, in the main, contributed to the building up of large arrears of taxes over the years.

4.6 We find that tax arrears, as disclosed by the records of the Department, are not all really outstanding as these include several items which are not due for collection. It takes some time and explanation to understand that the effective arrears are very much less. For example, the arrears as on 31-3-1970 were Rs. 840.70 crores but the net effective arrears on the same date were Rs. 591.18 crores only[6]. According to the procedure adopted by the Department, the large demands that are raised during the closing months of the financial year, which are in most cases not even due for payment on the first day of the following financial year, are shown as arrears on that date. These cannot be called arrears of tax in any real sense. Then, there are taxes which are not admitted as payable by the taxpayers. The disputes may relate to some pending claims for rectification or adjustment. Sometimes protective assessments are made on different assessees in respect of the same income. The demands in such cases have to remain uncollected till the dispute regarding ownership of the income is eventually resolved. There are then disputed additions made to the income which are appealed against. But till the matter is finally decided by the highest appellate authority, the additions are repeated year after year, thus increasing the arrears of tax.

4.7 Unrealistic and over-pitched assessments seem to contribute substantially to the growth of tax arrears. The Public Accounts Comimttee has. on several occasions, expressed concern at the vexatious tendency on the part of the offi-

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1. Report of the Income-tax Investigation Commission--paras 132, 189 to 192 and 261.
2. Report of the Taxation Enquiry Commission (1953-54) Vol. II—p. 223 and onwards.
3. Report of the Direct Taxes Administration Enquiry Committee—para. 5·2.
4. Report of the Direct Taxes Administration Enquiry Committee--paras 5·22 to 5·103.
5. Report of the Administrative Reforms Commission on Central Direct Taxes Administration—Chapter III.
6. Report of the Comptroller & Auditor General of India —1969-70, p. 56.

cers of the Department to over-pitch assessments. Unrealistic assessments have led to large accumulations of arrears of tax for which the Department is frequently blamed.

4.8 Administrative delays are also responsible in a large measure for the accumulation of tax arrears. Late assessments allow time to assessees to fritter away their assets and recovery becomes a problem. The widespread practice of finalising important revenue cases towards the close of the financial year—in many cases, the year in which the proceedings are getting barred by time—has very undesirable consequences. Such delayed and consequently hurried assessments result in over-assessments or under-assessments. The latter necessitate reassessments and both contribute to building up of arrears of taxes. When assessments are delayed, several of them have to be completed together, placing an undue strain on the taxpayer's resources. This again goes to swell the arrears of tax. Delays in the issue and service of demand notices hold up collection of tax demands after they have been raised and thus add to the problem of arrears. Delays in carrying out rectifications or adjustments or in giving effect to appeal orders prevent timely elimination of ineffective demands. Delays in the disposal of appeals, revision applications, references and writ petitions also similarly stand in the way of liquidation of disputed demands which constitute a sizeable part of the tax arrears.

4.9 By far the most important factor responsible for the accumulation of arrears of uncollected taxes is, in our view, administrative deficiency. Frequent changes in jurisdiction upset the administration, dislocate work and throw the records in complete disarray. Challans get lost or misplaced and all actions get delayed. The result is that while ineffective arrears mount up, effective arrears remain uncollected. Unscientific and cumbersome collection and accounting procedures give rise to inefficiency, which is again reflected in the mounting arrears. The accounting, collection and recovery wings of the Department are short of personnel and lack even the minimum equipment and training needed for effective work. No wonder, collection of taxes has suffered. To an extent, inadequate powers have been responsible for the slow pace of recovery, but more often, it is the inadequate exercise of even the existing powers that has stood in the way of the Department's recovery machinery asserting itself. Lack of co-ordination between the assessing, collection and recovery officers has further aggravated the situation.

4.10 There are of course factors beyond the control of the Department which give rise to irrecoverable arrears. Companies go into liquidation; some assessees leave the country or otherwise become untraceable, still others manage to alienate their assets to thwart recovery. And while the taxes due from them remain uncollected, the heavy penalties and interest which the law prescribes go to increase the outstanding arrears.

4.11 Where taxes are not fully or partly recoverable, the only way of reducing arrears is to scale down the demand or write off the irrecoverable one. Here again the machinery has been slow and adequate attention has not been given to this aspect of the work. As a result, large amounts of irrecoverable taxes continue to be shown as arrears.

Remedial Measures

4.12 The causes may seem to be many and varied but they are all linked to two main factors, namely, inadequacies of administration and inadequacies of law and procedure. It is the combined effect of these factors, acting cumulatively, that has led to the present impasse. The measures taken in the past have been palliatives for individual symptoms rather than a cure for the malady itself. To make a discernible impact on the problem of arrears, the attack will have to be multifrontal and concerted.

Adequate exercise of powers

4.13 We find that the inadequacies of the administration have been most conspicuous at the management level. In fact, most of the deficiencies in the field, whether they are delays, or unplanned work, or failure to follow procedures and instructions or inadequate exercise of powers under the law, can all be traced to managerial failures. Management has two important functions; one to provide the necessary machinery for achieving the objectives by way of powers, procedures, personnel and equipment, and the other to provide adequate checks and controls to ensure the proper functioning of the machinery and realisation of the objectives. We have noted with concern that on both these counts, the performance of management in the Income-tax Department has not been satisfactory and calls for improvement.

4.14 We find that as on 1-4-1970, there were 224 cases involving arrear demands of over Rs. 25 lakhs each, and not a single rupee was recovered during 1970-71 in as many as 137 cases out of them. In the course of a study of a few major arrear cases carried out at our instance, it came to notice that *undisputed* taxes amounting to several lakhs of rupees have remained unpaid by a group of assessees in spite of the fact that the group owned a number of immovable properties of substantial value far

exceeding the amount of tax arrears. We were perturbed to note that the defaulters have been able to postpone payment for several years and in some cases for seven years or more by making frequent representations to the authorities and making promises which were not kept and were probably never meant to be kept. Even though instalments were granted at the instance of the assessee, the undertaking was not honoured. We feel that where this happens, the Department should take a stiff attitude in the matter of realisation of arrears.

4.15 While the law is being amended frequently to confer additional powers on the administration, we find that effective use of these powers is not being made by the Department. The Second Schedule to the Income-tax Act clothes the Tax Recovery Officer with very wide powers, but we are not satisfied that these powers are being exercised effectively and in time. For example, Rule 69 of the Second Schedule authorises the Tax Recovery Officer to appoint a receiver for the business of a defaulter. We are not aware of this power having been exercised in worthwhile cases, even though it has been there now for many years. The Third Schedule empowers an Income-tax Officer, duly authorised by the Commissioner, to effect distraint and sale of movable properties of the defaulter. We understand that these powers are also hardly ever exercised.

4.16 Distraint of movable assets has a considerable deterrent effect as such assets are mostly status symbols or of great utilitarian or sentimental value. The adverse publicity that results from distraint is also a powerful factor. In fact, in most cases where chattels are distrained, the defaulters would rather pay up than suffer sale of their goods in a public auction. We see no reason why such a powerful weapon in the hands of the Department should not be properly utilised. Perhaps the Department has not yet realised the efficacy of this power of distraint. In the United Kingdom, distraint is begun in some 10 to 15 thousand cases each year but the visual evidence that the Collector's patience is at an end is almost always enough; when he appears in company with the bailiff, the money is produced. If not, he takes possession of movable goods and if the tax still remains unpaid after five days, the goods are sold by public auction[1]. In the year ended 31-3-1970, distraint was resorted to in nearly 15,000 cases and it was ultimately found necessary to sell the defaulters' goods in some one hundred cases only[2]. In Japan, if the tax is not paid by the due date, a demand note is sent within 20 days after the time limit. If the taxpayer does not pay the amount within 10 days of the receipt of the demand note, the tax authorities seize the general assets of the taxpayer, convert them into money and collect the tax from the proceeds[3]. *The powers conferred on the officers under the Second and Third Schedules to the Income-tax Act, 1961 are all meant to be used and should be exercised with vigour and firmness. In particular, we recommend that the powers of distraint be exercised on a much wider scale than at present. All Income-tax Officers entrusted with collection duties may be authorised to effect distraint and sale of movable properties and Inspectors working under them may be authorised to execute distress warrants issued by them.*

Adequacy of personnel

4.17 One important reason for the present unhappy position regarding arrears is the inadequacy of personnel in the tax collection and recovery branches. In functional units, there were, as on 1-4-1971, 104 officers attending to collection as against 963 officers on assessment duty. Even after the recent increase in their number, there are only 84 Tax Recovery Officers for both functional and non-functional units to handle 9,83,169 recovery certificates. In U.S.A., there were 6,278 Revenue Officers entrusted with the recovery of tax dues in the year 1968, as against 13,430 Revenue Agents, 1,769 Special Agents and 3,147 Office Auditors and Tax Technicians entrusted with the assessment of tax liability[4]. This assumes added significance when it is realised that in U.S.A. virtually all demands are payable on self-assessment and no disputed demand becomes payable till the dispute is settled. In Japan, the personnel employed on collection work constitutes 18 per cent. of the total as against 57 per cent. of the total personnel on assessment work, i.e., recovery officers constitute about one-third of the strength of assessing officers[5]. If it is remembered that these countries do not have the problem of huge back-log of uncollected taxes, which we have, it would be obvious that our collection machinery suffers from acute inadequacy of personnel. The fact that arrears of tax have been increasing and so also the number of recovery certificates pending with the Tax Recovery Officers, makes it clear that the recovery wing needs to be strengthened. Our study of the problem at Delhi reveals the

1. Sir Alexander Johnston—The Inland Revenue, p. 137.
2. Report of the Commissioners of Her Majesty's Inland Revenue for the year ended 31-3-1970 (113th Report) p. 14.
3. An Outline of Japanese Taxes—1970, p. 145.
4. Annual Report of the Commissioner of Internal Revenue—1968, p. 59.
5. An Outline of Japanese Tax Administration—1970, p. 14.

following position after recovery work was taken over by the Department from the State Administration in November, 1967:—

	1967-68 (from Nov. 1967)	1968-69	1969-70	1970-71
No. of recovery certificates pending at the beginning of the period	34,376	61,788	88,509	1,23,556
No. of recovery certificates received during the period	27,412	31,411	40,299	35,851
No. of recovery certificates disposed of during the period	—	4,690	5,252	6,852
No. of recovery certificates pending at the end of the period	61,788	88,509	1,23,556	1,52,555
No. of Tax Recovery Officers as on 31st March	2	2	2	2

While the institution of fresh certificates has varied from 30—40 thousand each year, the disposal of one Tax Recovery Officer in a year was about 2,500 only. There being only two Tax Recovery Officers at Delhi, it is not surprising that the number of pending certificates has risen to more than 1.50 lakhs. To say the least, this is most unimaginative administration. We fail to appreciate the significance of the frequent collection and recovery drives said to have been launched at the behest of the Central Board of Direct Taxes when the collection and recovery units have not been provided with the requisite man-power. *We recommend that the Government should make a proper assessment of the work-load in the collection and recovery units. A proper balance should be ensured between the number of recovery and collection officers and the number of assessing officers. Further, additional provision should be made to clear the existing back-log of arrears.*

Proper training

4.18 The inadequacy of field personnel gets accentuated when even the available personnel is posted with hardly any training. Recovery work is a specialised job and the persons entrusted with it cannot do justice to the job unless they are properly trained before they are put on such duties. We are told that even after 4 years of take-over of recovery work, no manual is available for the guidance of Tax Recovery Officers, who are left to fend for themselves. *We recommend that the field staff in tax recovery units consisting of Tax Recovery Officers, Inspectors and Bailiffs be given adequate training before they are assigned to duties. It is also necessary that only persons who have an aptitude for such field work and who possess robust health are selected for this type of work. As they have to perform outdoor work, the field staff should also be provided with uniforms.*

Supervision and control

4.19 Alertness and speed are the essence of good recovery work. To ensure this, apart from recovery units being properly strengthened and equipped, it is necessary that their functioning should be supervised and controlled to achieve maximum results. Guidance, control and supervision are also necessary to ensure that the powers given to the executive authorities—particularly those at the lower levels—do not degenerate into tools of harassment of the innocent or the ignorant public. For this purpose, it is essential to evolve adequate measures so that Tax Recovery Officers are guided and supervised in their work by senior officers. The Department has already appointed at some places Tax Recovery Commissioners, Additional Commissioners (Recovery) and Inspecting Assistant Commissioners (Recovery). Though the ideal position would be to have accounting, collection and recovery under a separate hierarchy, *we recommend that for the present, at least till the back-log of arrears is cleared, recovery work, i.e., coercive collection on recovery certificates, be placed under a separate hierarchy. In bigger charges, the recovery units should be placed under Assistant Commissioners (Recovery) and Additional Commissioners (Recovery). In smaller charges, recovery units should be with the Assistant Commissioner (Recovery) under the overall supervision of the territorial Commissioner of Income-tax.*

Co-ordination of functions

4.20 Another aspect of the functioning of the Department which spotlights the shortcomings of the management is lack of co-ordination between the assessment, collection and recovery officers. Persons appearing before us told us of the hardship caused to the taxpayers on account of the absence of co-ordination which results in their running from one officer to another for getting their grievances redressed. This lack of co-ordination also results in the build up of ineffective arrears which merely await rectifications, appeal effects or adjustments. We are elsewhere[1] recommending that *the Inspecting Assistant Commis-*

[1] para 6·86.

sioners should be given training in management, and made responsible for management functions. This managerial cadre should be made fully responsible for the harmonious, co-ordinated and efficient working of the Income-tax offices.

Basic facilities, equipment, etc.

4.21 No spectacular reduction in arrears can be expected unless basic facilities, equipment, etc., are provided to the officers and staff posted in recovery units. We understand that the field staff in tax recovery units is not provided with any vehicle nor given any conveyance allowance. Vehicles are essential if powers of distraint, attachment, etc., are to be exercised effectively. No wonder, the officers are often desk-bound and reluctant to move out. Recovery cannot be effective unless the field staff is on the move. *We recommend that the field staff in recovery units be provided with adequate number of vehicles.*

4.22 Several officers of the Department pointed out to us that the absence of proper storage facilities for distrained goods stood in the way of officers making wider use of the powers of distraint. *We recommend that adequate storage facilities, including strong rooms and safes, be provided and that arrangements be made for the safe custody of distrained goods. Similarly, the Department must make arrangements with the jail authorities for locking up of tax defaulters in civil prisons. Adequate funds should also be placed at the disposal of Tax Recovery Officers to defray the expenses of defaulters' stay in the civil lock-up.*

4.23 It was urged before us by several officers that the Department should have its own constabulary, if recovery work is to be carried out promptly and effectively. The Central Board of Direct Taxes, however, expressed the view that Tax Recovery Officers could always ask for police help whenever necessary and there was no need for the recovery units to have a constabulary of their own. This ignores the basic consideration that the need for police assistance cannot always be foreseen in advance and the procedure involved in getting such assistance and the consequent delay might defeat the very purpose for which such assistance has to be sought. When recovery work was with the State Government, no difficulty was probably felt as the police administration was also under it. Now that recovery work has been taken over by the Income-tax Department, prompt and Co-ordinated action may not always be possible, if the constabulary is not at its disposal or under its control. Further, these days the police administration is heavily burdened with a variety of duties connected with maintenance of law and order, and it appears to us to be quite unnecessary to add to its burden by requisitioning its assistance every now and then for recovery work or for carrying out searches and seizures. The Central Excise Department does not have to depend so much on the police administration for its work and there is no reason why the Income-tax Department should not have its own personnel. *We recommend that the recovery units of the Income-tax Department be provided with their own sepoys and havildars on the lines of the Central Excise Department.* The Intelligence Wing can also draw upon them in connection with searches and seizures.

4.24 A suggestion has also been made that officers and Inspectors entrusted with the work of recovery, searches and seizures should be provided with firearms. We approve of this suggestion and *recommend that officers and Inspectors on the work of recovery, searches and seizures be provided with firearms.*

4.25 It has to be recognised that the work of the Tax Recovery Officer is of a different nature from that of the Income-tax Officer. Matters are frequently taken to courts by writ petitions or otherwise. It would be advantageous to have the assistance of competent legal advisers available to the tax recovery units. *We recommend that a standing counsel competent in civil matters be appointed in every Commissioner's charge to advise on issues raised in recovery proceedings.*

Machinery for write off and scaling down

4.26 Apart from strengthening the tax collection machinery, another important measure towards reduction of tax arrears which, according to us, needs special attention, is the process of write off and scaling down of demand in appropriate cases. In the very nature of things, it is quite likely that by the time assessments are made and demands are raised, the paying capacity of the assessees in some cases might get impaired and full recovery may not be possible. In other cases, the taxpayers might have lost every thing or might have disappeared without a trace. No recovery may be possible in such cases and the only procedure by which the arrears of tax, which remain on paper, may be eliminated is by writing them off. Where the assessee is still traceable and is in possession of some assets but reverses suffered by him have made the tax dues beyond his capacity to pay, any attempt to recover the maximum that is physically possible, may drive him to conceal his assets or resort to other dishonest means to obstruct recovery. Even if recovery is successful, the taxpayer will be deprived of his livelihood. In many cases, if such a taxpayer is allowed to survive by scaling down the tax demands against him to a level within his means to pay, he may be in a position to meet the demands of revenue. He may also manage to rehabilitate himself in future and earn more taxes for the Government. Thus, scaling down of taxes in appropriate cases would help recovery of taxes and simultaneously eliminate irrecoverable arrears. In U.K., there is a system

of discharging amounts clearly judged as irrecoverable. The remissions are effected mainly on grounds of poverty and equity and also cover instances where the amounts recoverable are insufficient to justify the cost of proceedings. In U.S.A., there is a procedure of entering into a closing agreement with the taxpayer in respect of his tax liability[1]. There are always occasions when the rigours of taxation have to be tempered by humane or practical considerations.

4.27 Though there are no statutory provisions for writing off or scaling down of tax demands which have otherwise become final, administrative powers for writing off irrecoverable demands have been there for many years now. Till recently, the position was that an Income-tax Officer could write off irrecoverable demands in each case upto Rs. 100 if he was in Class II, and upto Rs. 250 if he was in Class I. An Inspecting Assistant Commissioner could write off upto Rs. 2,000. The Commissioner of Income-tax had unlimited powers in this behalf, but where the amount exceeded Rs. 1 lakh, he had to obtain the prior approval of the Central Board of Direct Taxes, after the case had been examined by a Zonal Committee of three Commissioners including the Commissioner concerned. Recently, following the recommendations of the Administrative Reforms Commission[2] a new set-up for write off has been evolved. Where the demand to be written off exceeds Rs. 2,000 but does not exceed Rs. 1 lakh, it is considered by a Committee consisting of the Commissioner, the Inspecting Assistant Commissioner and the Income-tax Officer concerned and such committees meet periodically and recommend write off of irrecoverable arrears. In respect of demands exceeding Rs. 1 lakh, the procedure of review by the Zonal Committee continues. The Zonal Committee's report is scrutinised by the Director of Inspection (Research, Statistics and Publications) and submitted to the Board for orders. If the demand is less than Rs. 5 lakhs, a Member of the Board authorises the write off himself. Write off of demands exceeding Rs. 5 lakhs is considered by the full Board. Cases involving write off of demands exceeding Rs. 25 lakhs are submitted to the Finance Minister for approval.

4.28 The table below shows the amount of demand reported irrecoverable during the last five years and the amount actually written off during the same five year period:—

Year	Amount reported irrecoverable	No. of cases of write off	Actual amount written off
	(Rs. crores)		(Rs. crores)
1965-66	37·20	467	0·38
1966-67	39·35	2663	0·23
1967-68	45·40	1522	0·34
1968-69	48·17	3878	0·62
1969-70	51·60	9737	2·38

While the amounts awaiting write off are in terms of crores, the amounts actually written off are in lakhs except in the last year. No doubt, the recent measures taken by the Central Board of Direct Taxes have accelerated the pace of write off, but much ground still remains to be covered. The increase in the demands reported irrecoverable year after year would show that write off work has not kept pace with the cases arising therefor.

4.29 Similarly, the progress of scaling down demands has moved at a slow pace. The table below shows the position of disposal of applications for scaling down of demand during the last five years:—

(Amounts in Rs. Crores).

	1965-66	1966-67	1967-68	1968-69	1969-70
1. Applications pending on 1st April					
No. ..	27	29	31	28	28
Amount ..	6·01	5·85	5·89	5·65	5·67
2. Applications received during the year					
No. ..	4	4	1	4	7
Amount ..	0·22	0·27	0·01	0·21	1·60
3. Applications disposed of during the year					
No. ..	2	2	4	4	3
Amount ..	0·38	0·23	0·25	0·19	0·22
4. Applications pending at the end of the year					
No. ..	29	31	28	28	32
Amount ..	5·85	5·89	5·65	5·67	7·05
5. Amount of tax arrears scaled down	0·04	—	0·10	0·04	—

1. Internal Revenue Code, 1954. Section 7121. CLOSING AGREEMENTS.

(a) Authorization—The Secretary or his delegate is authorised to enter into an agreement in writing with any person relating to the liability of such person (or of the person or estate for whom he acts) in respect of any internal revenue tax for any taxable period.

(b) Finality—If such agreement is approved by the Secretary or his delegate (within such time as may be stated in such agreement, or later agreed to) such agreement shall be final and conclusive, and except upon a showing of fraud or malfeasance, or misrepresentation of a material fact—

(1) the case shall not be reopened as to the matters agreed upon or the agreement modified by an officer, employee or agent of the United States, and

(2) in any suit, action, or proceeding, such agreement, or any determination, assessment, collection payment, abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

2. Report of the Administrative Reforms Commission on Central Direct Taxes Administration, Chapter III, Recommendation 3.

Considering that the total number of applications for disposal and the number of applications filed each year is not large, we would have expected them to be disposed of expeditiously. Any delay in the disposal of scaling down petitions not only results in irrecoverable demands being shown as arrears, but often holds up payment of taxes which are otherwise recoverable. Looking to the results of both write off and scaling down achieved during the past five years, we are convinced that some thing more than what has already been done needs to be done.

4.30 In the Supplementary Questionnaire issued by us, we had invited the views of the officers of the Department on this vexed question. Most of them have pointed out that involved procedures and disinclination to take responsibility in the face of possible adverse criticism are the main causes which have prevented any significant progress in this regard. No doubt, the scope for criticism is now sought to be somewhat reduced by associating a number of officers at higher levels in taking decisions to write off or scale down large demands. However, officers who are charged with this work—Commissioners and Members of the Board—have multifarious functions and they can never give their undivided attention to this work. We consider that it will be necessary to have a whole-time organisation, at least for some years, to deal with the matter if any significant progress is to be made in writing off and scaling down tax arrears which are wholly or partly irrecoverable. Any possible bias of the officers responsible for the collection of revenue will also be eliminated if the work is entrusted to an independent body. *We recommend that a high-powered body be set up within the Department exclusively to consider and decide cases of write off and scaling down of tax demands in arrears where the amounts involved exceed Rs. 1 lakh. The Committee should consist of three Members, including Member (Finance), if any, of the reconstituted Board. The Members should have status equal to the Members of the Central Board of Direct Taxes. The Committee's decision will be final and will not be questioned by any other administrative authority. The Committee should submit an annual report to the Government.*

4.31 At the same time, it will be necessary to close the avenues for any possible misuse of the provision relating to scaling down. *We recommend that in every case of scaling down, an affidavit regarding the assets of the defaulter should invariably be obtained and the agreement to scale down should provide that it shall be void if any undisclosed assets subsequently come to light.*

4.32 While the Committee proposed by us will take decisions on questions of writing off or scaling down of taxes in arrears, the initial efforts for recovery will naturally have to be made by the field formations. It will be necessary to explore all avenues of recovery before the arrears are proposed for write off. *We recommend that the services of the Intelligence Wing of the Department be requisitioned in appropriate cases to uncover the secreted assets of the defaulters. Rewards upto 20 per cent. of the value of the assets may be given to informers in respect of information leading to discovery of undisclosed assets of defaulters. The names of defaulters and the offer of rewards should be widely publicised. In all worthwhile cases, defaulters should also be sent to jail before proposing write off of the arrears outstanding against them as irrecoverable.*

Interest provisions

4.33 It is not enough that the back-log of tax arrears which have accumulated over the years, is cleared by either enforcing recovery or writing off irrecoverable demands or scaling down demands of doubtful recovery. We consider it equally necessary that ways and means are devised to ensure that the tax demands do not fall into arrears in future. In recent years, the interest rates have gone up considerably but the interest chargeable under the various provisions of the direct tax laws is at nine per cent only. Many would find it an easy method of having liquid funds by delaying their tax dues. If levy of interest is to be a sufficient deterrent against delaying payment of tax, the rate of interest has to be stepped up to the market rate. *We, therefore, recommend that the rate of interest chargeable or payable under various provisions of the direct tax laws be increased from 9 per cent. per annum to 12 per cent. per annum.* The rate recommended by us works out to one per cent. per month and this would incidentally facilitate calculations.

4.34 It was mentioned to us by several officers of the Department that the provisions relating to computation of interest, whether leviable on the taxpayer or payable to him under various provisions of the direct tax laws, are unnecessarily cumbersome and involve complicated and time-consuming calculations. We see no reason why interest should be calculated from day to day on every rupee of the amount involved. *We recommend that interest should be levied under various provisions of the direct tax laws for each completed month and on round sums in multiples of Rs. 100, and broken periods and odd amounts should be left out for the purpose.* The Central Board of Direct Taxes has already the power to make rules in this behalf.

4.35 It has been suggested that allowing a discount for prompt payment of tax might induce taxpayers to pay their taxes by the due dates. As an alternative, it is suggested that an auto-

matic levy of 5 per cent. of the tax payable might be introduced for delayed payments. A system of discount was tried and given up in 1963 and we do not consider it feasible to re-introduce the scheme. The law already provides for levy of interest on delayed payments and we would not like it to be made more complicated by the provision of discounts and levies.

4.36 It has been suggested that allowing the interest on moneys borrowed for payment of tax as a deduction in computing the taxable income would encourage taxpayers to pay their taxes promptly, even by borrowing. *We recommend that the suggestion should be accepted and if necessary, a special provision should be made in this behalf.* This would help the Department in collecting revenue, including arrears, and would be an added justification for levying heavy penalties in cases of continuing defaults.

4.37 A sizeable part of the tax arrears comprises of taxes which are disputed in appeal. It was mentioned before us that a person who pays the disputed tax suffers under the present law. The moneys get locked up with the Government without interest as long as the appeal remains undecided. Even after the appeal is disposed of, no interest is payable for the first three months. In fact, till the law was recently amended by the Taxation Laws (Amendment) Act, 1970, this waiting period was six months. Several persons stated before us that this provision is iniquitous and there is no reason why a person, who paid his taxes in excess of what was rightly due from him, should not get interest on the excess payment from the date of payment itself. It was also pointed out that in many cases the whole or a part of the disputed tax is recovered from the taxpayers under threat of penalties, as the power to stay the disputed tax is with the Income-tax Officer and his administrative superiors. We find considerable weight in these arguments and agree that the taxpayer should be compensated for any amount he has paid in excess of his proper liability. *We, therefore, recommend that the provisions of section 244 of the Income-tax Act be suitably amended to provide that the interest on refunds due as a result of appeals, etc., will be allowed from the date the disputed demand was originally paid.* Such a provision might, apart from being equitable, induce some taxpayers to pay wholly or partly even the disputed portions of the tax demand and thus help to reduce the arrears of tax which include sizeable amounts disputed in appeal.

Penalty provisions

4.38 Some of the officers of the Department stated before us that the requirement of giving a reasonable opportunity of being heard to the assessee before levying penalty under sub-section (1) of section 221 contributes, in no small measure, to the delay in collection of taxes. Taxpayers often delay payment of tax beyond the due date knowing fully well that they would receive a show-cause notice before any penalty is levied. The moment a show-cause notice is received, they pay the tax and escape the penalty. A view is of course held that a show-cause notice is issued in respect of a default already committed and subsequent compliance does not mitigate the default in any manner and penalty could still be imposed. But such a view does not seem to find support from appellate authorities. The result is that it not only delays collection of tax but also leads to litigation. We are of the opinion that once the tax is not paid by the due date, there should be no need to issue a show-cause notice before levying a penalty. A defaulter has no vested right to get a fresh opportunity for compliance before he is penalised. When summons issued by a court are not complied with, a warrant for the arrest of the defaulter is issued without a show-cause notice. We see no justification for allowing an opportunity of being heard when facts establish that the defaulter has not paid the tax on the due date.

One argument which is commonly advanced for justifying the need for issue of show-cause notice is that in the present unsatisfactory state of accounting in the Department, often taxes already paid are not given credit and continue to be shown as arrears. The show-cause notice gives the taxpayer an opportunity of explaining the correct position to the Income-tax Officer. While we agree that such situations do exist, we are of the view that the remedy for this lies elsewhere and adequate procedures should be evolved for avoiding such situations. Giving all defaulters a further opportunity under the law is no solution to the problem. With the hope that the taxpayer would come and explain the correct position, there is also the likelihood that Income-tax Officers would issue show-cause notices in a routine manner without taking the trouble to find out whether the amounts have been paid or whether any action to revise the demand is pending at their end. If he has to levy the penalty without first issuing a show-cause notice, the Income-tax Officer is likely to be more careful, as any unwarranted levy of penalty would evoke protests from the taxpayer and be also adversely commented on by the appellate authorities. *We, therefore, recommend that the proviso to sub-section (1) of section 221 of the Income-tax Act 1961, which necessitates giving the defaulter a reasonable opportunity of being heard before he is penalised, be deleted. A similar requirement for levy of penalty under sub-section (3) of section 140A for default in payment of tax due on self-assessment should also be dropped. However, we would suggest that the clause relating to liability to penalty without further*

notice be printed in bold letters on the demand notice itself. This should serve as sufficient notice to the taxpayer. The Income-tax Officer should be enabled to cancel the penalty order by way of rectification wherever it is established to his satisfaction that payment had already been made, by adjustment or otherwise, on or before the due date.

4.39 Some hardship might be caused to taxpayers if they are heavily penalised by the imposition of the maximum penalty for short delays in payment. To remedy this, *we recommend that the first penalty for short delays should not exceed ten per cent. of the tax payable but not paid.*

Power to send defaulters to civil prison

4.40 At present, a tax defaulter can be sent to civil prison as a debtor of the Government. The table below shows the number of persons who were sent to civil prison during the past five years:—

Year	No. of persons sent to civil prison
1965-66	3
1966-67	4
1967-68	4
1968-69	5
1969-70	4

The record of the Department is, thus, far from impressive. Obviously, the existing powers of sending defaulters to civil prison have not been taken recourse to in all appropriate cases. *We recommend that the Department should make greater use of these powers of sending tax defaulters to civil prison.*

Prosecution of defaulters

4.41 Criminal prosecution of tax defaulters has been suggested as an effective deterrent against persistent defaults. Under the present law, no criminal liability attaches to non-payment of tax dues and this is stated to be one of the causes contributing to the growth of arrears. We are informed by the Central Board of Direct Taxes that the recent policy of launching criminal prosecutions for failure to deduct tax has resulted in a marked rise in the collection of taxes by deduction at source. A similar policy in respect of persons who unjustifiably withhold from the Government their tax dues should yield rewarding results. The Japanese law provides for punishment with penal servitude for not more than three years, or fine, or both, of a taxpayer or a third person in possession of properties, who conceals or destroys them with the intention of evading the payment of delinquent tax claims.[1] The U.S. law also contains a provision for a criminal penalty when a taxpayer wilfully attempts in any manner to evade or defeat any tax or payment thereof.[2] We are of the view that mounting arrears of uncollected tax dues in our country certainly warrant stringent measures for their recovery and *we recommend that the law may be suitably amended to authorise prosecution of tax defaulters. The Department should lauch criminal prosecutions in flagrant cases of default in payment of taxes.*

Suspension of business

4.42 Rule 69 of the Second Schedule to the Income-tax Act, 1961 authorises the Tax Recovery Officer to attach a business and appoint a receiver to manage it. We are told that these powers are hardly ever utilised as the Department finds recourse to them cumbersome. It has been suggested that it might be more effective to order suspension of the business, as that would bring the recalcitrant defaulter to his knees. It is true that no businessman would ordinarily like his business to be closed even for a short period as he would lose not only the profits of the period of the closure but might also lose his reputation and some of his customers permanently. The Italian law contains a provision for ordering suspension of the exercise of professional activity by the defaulting taxpayers by the issue of a decree.[3] While we agree that such a provision will be effective, we have also to consider the impact of such a closure on the economy of the country. It will have to be ensured that in this process neither production nor labour suffers. We are, therefore, not in favour of such power being exercised in respect of all businesses. However, *we recommend that, in the first instance, the Tax Recovery Officers may be authorised to order suspension of businesses, other than industrial*

1. An Outline of Japanese Taxes—1970, p. 151.

2. Section 7201 of the Internal Revenue Code reads as follows:—

Attempt to evade or defeat tax

"Any person who wilfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than $ 10,000 or imprisonment not more than 5 years, or both, together with the costs of prosecution,

3. World Tax Series—Taxation in Italy—Harvard Law School—pp. 696—698.

undertakings, as a mode of recovery of outstanding taxes. Recourse may also be taken to appoint receivers in suitable cases, including industrial undertakings.

Automatic lien for taxes

4.43 Another suggestion that has been made in the context of improving the machinery which the law provides for recovery of taxes is that the revenue should have an automatic lien on the properties of the defaulter without the need for issue of any specific order of attachment. At present, it is said, defaulters successfully fritter away or alienate their assets before these are actually attached and the present law is not effective enough to deal with this situation. It is pointed out that though section 281 of the Income-tax Act, 1961 declares as void certain transfers, yet the onus is on the Department to establish that the transfer was effected with the intention to defraud the revenue. And herein lies the snag because it is not easy to prove intention beyond reasonable doubt against loud protestations to the contrary by the transferor. A provision which would create an automatic charge against the properties of a taxpayer in respect of his tax dues can alone meet this situation. The U.S. Code provides for a lien on the assets of the taxpayer in respect of his tax dues without a specific attachment.[1] An automatic lien on the assets of the taxpayer the moment a tax demand is raised would be a powerful weapon in the hands of the revenue to meet the situation created by wilful defaulters attempting to defeat rightful tax claims. *We recommend that law be suitably amended to create an automatic lien on properties, movable and immovable, of the taxpayer in favour of the revenue on the lines of provisions contained in the U.S. law. The lien should be operative from the date any demand is raised against the taxpayer till the time the liability is finally liquidated.*

Provisional attachment

4.44 A provision for automatic lien on the properties of a taxpayer will protect the interest of revenue only from the moment when a tax demand is actually raised against him. This will, however, not be effective in preventing alienation of assets before a demand is raised. In cases of suspected fraud, the moment investigations are started, there is every likelihood of the tax evader transferring his assets with a view to defeating the claims of revenue. As there is always bound to be a time lag between the commencement of investigations and the finalisation of assessments, the tax evader gets sufficient opportunity to arrange his affairs in such a way that no recovery will be possible when tax demands are eventually made. Such moves by a tax dodger can be successfully thwarted only if the Department has the power to order a provisional attachment of his assets even before a demand is raised. The Japanese law empowers tax authorities to make a provisional attachment, in suspected tax fraud cases before the liability of a taxpayer is finally determined, to prevent the taxpayer from disposing of his properties to avoid payment.[2] *We recommend that a statutory provision be made empowering the income-tax authorities to levy a provisional attachment on the assets of a taxpayer, whose case is under investigation for tax fraud, even before a tax demand is actually raised against him.* Such a power, combined with a provision for creation of an automatic lien on the assets of the taxpayer the moment a demand is created, will be an effective safeguard for revenue.

Assets transferred to wife, minor children, etc.

4.45 At present, properties which have been gifted by the assessee to his wife or minor children can be proceeded against only for recovery of the tax dues relating to his liability under section 64 of the Income-tax Act, 1961 in respect of income from the transferred assets. The properties cannot be proceeded against for recovering his other income-tax dues. Not infrequently, taxpayers feel encouraged to transfer their properties to wife and minor children with a view to defeating recovery of taxes. Even otherwise, we see no justification for treating such gifted properties as immune from the processes of recovery of tax dues of a person who really owned them and has just passed on the title without adequate consideration in favour of his wife or minor children. Elsewhere[3] in this report, we have recommended that proper-

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1. Sections 6321 and 6322 of the Internal Revenue Code :

Section 6321. LIEN FOR TAXES.

If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favour of the United States upon all property and rights to property, whether real or personal, belonging to such person.

Section 6322. PERIOD OF LIEN.

Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

2. An Outline of Japanese Taxes—1970, .

3. Paras 3·37.

ties transferred, otherwise than for adequate consideration, by the parent-in-law to a daughter-in-law or by a paternal grand-parent to a minor grand-child, should be brought within the purview of section 64 of the Income-tax Act and the corresponding provisions of the Wealth-tax Act. We feel that such properties should also be made liable to be proceeded against for the recovery of the tax dues of the transferor. *We recommend that properties transferred directly or indirectly otherwise than for adequate consideration, by an individual to his spouse or a minor child may be made liable for attachment and sale for the purpose of recovering tax dues of such individual. Similar liability may also be extended to properties directly or indirectly transferred otherwise than for adequate consideration, by a parent-in-law to a daughter-in-law or by a paternal grand-parent to a minor grand-child.*

Appeals

4.46 Uncollected demands locked up in appeals constitute a sizeable portion of the outstanding arrears of tax. At times, when an assessment is challenged in appeal, the assessee does not pay even the undisputed portion of the demand which then forms part of the tax arrears. It has been suggested that making the right of appeal conditional on the payment of admitted tax liability would ensure prompt collection of undisputed taxes, as assessees would not like to lose their right of appeal. The Sales-tax laws of some States contain such a restriction.[1] The Administrative Reforms Commission recommended that the law should be amended to provide that no appeal will be entertained from an assessee unless the undisputed demand involved in the assessment is paid or satisfactory arrangements are made for the payment of such tax.[2] We agree that with a view to ensuring expeditious recovery of taxes, there is need for a provision to obligate the taxpayer to pay up undisputed taxes before he can assert his right of appeal under the law. It has been argued that such a provision might cause serious hardship to assessees who have to pay tax on income, computed according to the mercantile system, which might not have actually been received. Instances are not wanting, it is stated, where large payments due to taxpayers are held up with Government departments and in such circumstances, it would be unfair to deny a taxpayer his right of appeal because of his inability to find liquid funds for meeting his undisputed tax liability. We are not unaware of such hardship arising to taxpayers. *While recommending that the undisputed portion of the tax should be paid before an appeal to the Appellate Assistant Commissioner of Income-tax is filed, we would suggest that the Appellate Assistant Commissioner should have the power to waive this requirement in appropriate cases for reasons to be recorded in writing.*

Disputed taxes

4.47 It has been suggested that the powers to stay recovery of disputed demands should also be with the Appellate Assistant Commissioner and not the Income-tax Officer as at present. The inherent power of appellate authorities to grant stay of taxes in dispute before them is already recognised in practice and the Income-tax Appellate Tribunal has been allowing such stay on petitions filed by the appellants before it. The power of the Income-tax Officer to allow stay of the tax levied by him, but disputed before the Appellate Assistant Commissioner, is inconsistent with the accepted principles of natural justice. *We recommend that the power to grant stay of disputed tax should vest in the Appellate Assistant Commissioner and not the Income-tax Officer.* Such a procedure would do away with the need for the assessee to file a stay petition before the Income-tax Officer and follow up its rejection—which appears to be the usual way of disposing of such petitions whenever the demands involved are large—by further petitions to the Inspecting Assistant Commissioner, the Commissioner and the Board. At present, assessees have frequently to resort to filing writ petitions before courts for obtaining stay. By giving the power to stay the disputed tax to the appellate authority, occasions to invoke the special jurisdiction of courts for this purpose will normally not arise.

4.48 At present, while an appeal to the Appellate Assistant Commissioner has to be filed within thirty days of the service of a demand notice, thirty five days' time is available for payment of tax. This might give rise to difficulties in deciding promptly the admissibility or otherwise of the appeals. To avoid such difficulties, *we recommend that the law be amended so that the time limit for filing an appeal is extended beyond the last date for payment of tax.*

Writ petitions

4.49 Several officers of the Department have represented before us that many a taxpayer takes undue advantage of his right to file writ petitions under Article 226 of the Constitution and obtaining stay thereon. It has been brought to our notice that in a large number of cases, there is a deliberate attempt to delay and defeat tax proceedings, including payment of tax, by means of such writ petitions. We understand that as many as 1,648 writ petitions relating to

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1. Section 20 of the Bengal Finance (Sales Tax) Act, 1941 as in force in the Union Territory of Delhi.

2. Report of the Administrative Reforms Commission on Central Direct Taxes Administration, Chapter III, Recommendation 2.

direct taxes are pending before the Calcutta High Court alone. The table below shows the position of institution and disposal of writ petitions filed by the taxpayers in the Calcutta High Court during the last 4 years:—

Financial year	Balance brought forward	Instituted during the year	Disposal during the year	Balance carried forward
1967-68 ..	892	404	41	1,255
1968-69 ..	1,255	291	78	1,468
1969-70 ..	1,468	244	183	1,529
1970-71 ..	1,529	264	145	1,648

It will be observed that the number of writ petitions filed is much larger than the number disposed of and there is thus a steady rise in their pendency. We are convinced that the situation is quite serious and calls for urgent remedial measures. When the Income-tax Act itself provides normal channels of appeal upto the Supreme Court for redressal of taxpayers' grievances, we do not see the justification for invoking the special jurisdiction of courts under Article 226 of the Constitution. By a strange coincidence, the section of the Government of India Act, 1935 which barred the jurisdiction of civil courts in respect of revenue matters had the same number, viz., 226. The Law Commission, which considered this matter, expressed the view that there was no justification for excluding the application of Article 226 of the Constitution to taxation matters. It felt that the real remedy for the problem created by stay of proceedings and of recovery of taxes was to ensure disposal of writ petitions within a period of six months from the date of their institution and the courts to be circumspect in granting stays on writ petitions.[1] The Commission came to this conclusion on the basis of the figures for the years 1954 to 1956 when the writ petitions filed were few and those on which stay was allowed were even fewer. The situation has since considerably changed. While the number of writ petitions filed in taxation matters in all the High Courts in 1954 was only 311, the number filed in Calcutta High Court alone during 1967-68 was 404. Disposal of petitions has also continued to be subject to considerable delays. No positive steps appear to have been taken so far to ensure that proceedings are not stayed for prolonged periods. We are convinced that some serious rethinking on the subject has become necessary and *we recommend that revenue matters, in respect of which adequate remedies are provided in the respective statutes themselves, should be excluded from the purview of Article 226 of the Constitution.*

Deduction of tax at source

4.50 Collecting the tax at source is a very effective way of reducing opportunities for evasion of payment of taxes, and it helps to prevent build up of tax arrears. Income by way of salary, dividend, interest, etc., is already covered by provisions requiring deduction of tax at source.

We have considered the question whether there is any scope for extending the applicability of the provisions of deduction of tax at source any further. Apart from the conventional items like salary, dividends, etc., the Japanese law provides for deduction of tax at rates varying from 10 per cent. to 20 per cent. in respect of several items of income-payments such as remuneration to artistes, royalties for copyrights, fees to lawyers or accountants, payments to professional sportsmen, payments to doctors for providing social insurance medical treatment, and a host of other types of payments for personal services and earnings of skill.[2] In U.K., the law provides for deduction of tax at the standard rate from certain annuities or annual payments, royalty for use of a patent, and rent, royalty or other payment which is declared to be subject to deduction of income-tax[3]. We feel that in our country also, there is considerable scope for extending the field of deduction of tax at source. For example, our law does not cover certain types of income, such as royalties, rent, professional fees, commission, etc., which are clearly ascertainable at their source. Some of these payments cannot often be linked later to easily identifiable persons and are susceptible of concealment. We consider that deduction of tax at source in these cases would be a very effective way of realising the tax due on such income —at any rate a part thereof—as also of identifying the recipient. There is yet another category of income to which the provisions relating to deduction of tax at source can be usefully extended. We have, elsewhere[4] in this report, recommended that casual receipts such as prizes in crossword puzzles and lotteries and race winnings should be made liable to tax. As these do not constitute regular earnings, the only effective way of realising the tax on such incomes would be by deduction of tax at source. We have also considered the objection that such an extension of provisions for deduction of tax at source would cause unnecessary hardship to a large number of small taxpayers. The bigger

[1] Fourteenth Report of the Law Commission of India—Reform of Judicial Administration Vol. II, Chapter 30—Writs, para. 16.

[2] An Outline of Japanese Taxes—1970, p. 61.

[3] Income and Corporation Taxes Act, 1970—Sections 52 and 53.

[4] Paras 3·14 and 3·15.

payments originate mostly from the organised sector and hardship to the smaller taxpayers could be obviated by exempting payments made by individuals and Hindu undivided families from deduction of tax at source. If, in addition, smaller payments are also similarly exempted, there should hardly be any ground for complaint. *We recommend that the provisions relating to deduction of tax at source be extended to cover payment of royalties, rents, professional fees and commission, including insurance commission, made by all persons other than individuals and Hindu undivided families, and all payments of prizes in lotteries and crossword puzzles and race winnings. However, lottery prize money, royalties, prizes in crossword puzzles and race winnings upto Rs. 1,000 at a time, and payment of rents, professional fees and commission upto Rs. 400 at a time, may be exempted from such deduction. The rate of deduction should be 33 per cent. in the case of prizes in lotteries, crossword puzzles, race winnings and royalties, and 10 per cent. in the case of other payments.*

4.51 Another suggestion which is frequently made is that tax at a standard rate should be withheld from payments to contractors in view of the difficulties faced by the Department in tracing them subsequently and levying and realising taxes from them. The procedure of insisting on production of income-tax verification certificates has not been effective, it is stated, in dealing with the large number of contractors, who are not regular taxpayers on the registers of the Department and who somehow manage to disappear without a trace shortly after receiving the final payment. The Direct Taxes Administration Enquiry Committee (1958-59) has referred in its report to the difficulties experienced in tracing the whereabouts of contractors who had received large sums in connection with the Bhilai Steel Project. The Committee felt that the principle of deduction of tax at source could be gainfully extended to cover payments made to contractors and recommended retention of an amount of 2½ per cent. of the totall value of the contract from the final or earlier instalments of payment, till a tax clearance certificate was produced.[1] With the accent on development in our planning, large-scale governmental and public sector projects are executed through contractors all over the country and there is considerable scope for leakage of revenue. We are also aware of the widespread practice of obtaining contracts in benami names. In these circumstances, the solution to the problem is deduction of tax at source from payments to contractors. *We recommend that the law be amended to provide that tax at the rate of 3 per cent. of the amount billed by a contractor in respect of any contract granted by the Central Government, State Government, local authority, a public sector undertaking or a company will be deducted from the payment made against such bill, unless the contractor furnishes a certificate from the Income-tax Officer that the tax may be deducted at any lower rate or nil rate. We also recommend that a contractor, not being an individual or a Hindu undivided family, should be required to deduct tax at the rate of 2 per cent. from any payment made by him to a sub-contractor where the total value of the sub-contract exceeds Rs. 5,000.*

4.52 Another suggestion that has been made is that the provisions of section 194A relating to deduction of tax from interest other than interest on securities, may be extended to individuals and Hindu undivided families, who may be required to deduct tax from interest paid by them. We consider that keeping track of payment of interest by individuals and Hindu undivided families, and ensuring proper deduction of tax and the payment thereof into the treasury, is not easy and is beyond the present capacity of the administration. In fact, several officers of the Department and taxpayers stated before us that even the existing provisions of section 194A are not easy of administration. *We are, therefore, not in favour of extending the provisions of section 194A to individuals and Hindu undivided families.*

4.53 It has been represented before us that levying both interest and penalty for defaults in deducting tax at source and paying it to the credit of Government, and in addition, resorting to prosecution is not justified. The statutory provisions relating to deduction of tax at source are simple and clear and it is difficult to justify any non-compliance thereof. We understand that there have been several instances of failure to deduct tax, and also of failure to make over the tax deducted to the Government. In many cases, the defaults amount to fraud on the revenue and deserve exemplary punishment. Interest is merely the price to be paid for utilising what is really the Government's money. Interest provisions, however, being mandatory, make no distinction between genuine delays and deliberate dilatory tactics. A discretionary penalty is, therefore, warranted. Where the default amounts to cheating the Exchequer, criminal prosecution is also a must. *We do not, therefore, consider any change necessary in this regard. On the other hand, we recommend that the Government should resort to criminal prosecutions more frequently for improving the general level of compliance.*

4.54 To ensure stricter control, *we recommend that all taxpayers, while making their own returns of income, should certify that tax has been deducted in accordance with law,*

[1] Report of the Direct Taxes Administration Enquiry Committee, paras 5·25 to 5·27.

wherever due, from salaries, interest, dividends, etc., paid by them. They should show the amount of tax deducted and the dates when it was paid into the treasury in a schedule to be provided for the purpose in the form of return of income. This schedule should be in duplicate and the Income-tax Officer should send a copy thereof to the Centralised Cell suggested in the succeeding paragraph.

Persons who are under obligation to deduct tax at source are now required to submit periodical returns in respect of such deductions. *We recommend that they should also be required to enclose with the returns of deduction of tax the additional foil of challan which will be available to them when the four-foil challan system recommended*[1] *by us for use in the payment of all types of taxes is introduced. Similarly, they should also be required by law to quote their permanent account number code in all the tax deduction certificates, challans and returns.*

4.55 At present, except in the case of salaries, the deduction of tax at source has to be watched by the Income-tax Officer who assesses the payer. This set-up is not conducive to undivided attention being given to such work. *We recommend that the work relating to the processing of tax deduction returns, watching deduction and payment, and taking enforcement action where needed, be centralised in every Commissioner's charge and entrusted to a senior officer assisted by one or more officers and adequate staff, who should not have any other work. The officers should also have field staff to make surprise checks to verify compliance with the requirements of the law relating to deduction of tax at source. A centralised register of all persons liable to make deductions of tax at source should be maintained so as to ensure compliance. The permanent account numbers, when introduced, should be made use of in maintaining such a register and in co-relating the deductions made by the payers to the tax credits claimed by the payees. Eventually, such co-relation could be done by computers. In the meantime, a suitable system may be devised to test-check that the credit claimed by the payees tallies with the amount deposited by the payer. The Internal Audit should also exercise greater vigilance in checking this aspect. At the same time, the Department should publicise the taxpayers' obligations in the matter of deduction of tax at source, etc. The Department can usefully prepare and distribute attractive brochures on the subject to make the public aware of their obligations. Further, we recommend that in all cases where accounts are audited, the auditor should be under obligation to state in his report whether tax has been deducted at source, where due, and deposited to the credit of the Government in accordance with law.*

Self-assessment

4.56 Self-assessment system in our tax laws is of recent origin. The Direct Taxes Administration Enquiry Committee had in fact expressed itself against the introduction of the system.[2] However, with the fast increasing number of taxpayers in the country and the growing realisation that payment of tax is a prime civic duty to be voluntarily performed, the utility of the system has come to be recognised. A provision for self-assessment was introduced in the Income-tax Act with effect from the assessment year 1964-65 and in the Wealth-tax Act from the following year. At present, this requirement is however, restricted to cases where the net tax payable exceeds Rs. 500. The law also allows one month's time for payment of the tax due, after filing the return.

4.57 The scheme having been found to be a success, it was felt that it could usefully be extended to the smaller assessees as well. The Administrative Reforms Commission examined the feasibility of enlarging the scope of the provisions relating to self-assessment and recommended that self-assessment should be made compulsory for all cases where the tax payable is Rs. 100 or more.[3] Accordingly, the Taxation Laws (Amendment) Bill, 1969 sought to amend the provisions of section 140A of the Income-tax Act to implement this recommendation. The proposed amendment did not, however, find favour with the Select Committee of Parliament, to whom the Bill was referred, and was accordingly dropped. The Select Committee was of the view that the proposed amendment would give rise to practical difficulties in the present context when a large number of taxpayers having small income are not in a position to understand and comply with their statutory obligations.[4]

4.58 We have also examined the question whether the limit for attracting liability to self-assessment could be reduced, or whether a limit is at all necessary, and whether any purpose is served by allowing a month's time for the payment of the tax due on self-assessment after the return of income is filed. We feel that the implications of the proposal have not been pro-

1. Para 6·136.
2. Report of the Direct Taxes Administration Enquiry Committee, para. 5·43.
3. Report of the Administrative Reforms Commission on Central Direct Taxes Administration, Chapter V, Recommendation 12.
4. Report of the Select Committee on the Taxation Laws (Amendment) Bill, 1969—para. 36.

perly explained to the public and the Parliament. We are of the view that the scheme of self-assessment should be extended to every taxpayer without any minimum limit for the tax payable thereon. We are convinced that this would not cast any additional burden on the taxpayers having small incomes. In recent years, the scheme of computation of income for tax purposes has been so changed that once the total income is determined, it is only a matter of reading out the tax payable from a self-servicing tax table. A taxpayer who can compute his total income for the purpose of filing his return can now certainly be relied upon to correctly arrive at the tax payable.

4.59 With the recent amendment to section 143 of the Income-tax Act, 1961, assessments in most of the small income cases are proposed to be made on the basis of returns furnished by the taxpayers. It will be in the interest of the tax payers themselves if, by settling their tax liability simultaneously with the filing of the return of income, the occasions when they have to come in contact with the Department are reduced. This would also eliminate the need for the Department to issue notices of demand and watch collection of small amounts of tax in a large number of cases. The time saved from watching cases of petty tax dues falling into arrears could be usefully applied for recovering the large arrears of tax that have accumulated over the years.

4.60 We are also of the view that there is no particular advantage in allowing to the taxpayer a month's time for paying the tax due on self-assessment, after the return of income is filed. The provision seems to be a relic of the past when tax calculations were complicated and the taxpayers, after filing their returns of income, had to approach the Department for getting the tax payable by them worked out. With the simplification of tax calculations which has since been achieved, there is no longer any need for allowing time for paying the tax on self-assessment. Further, where tax payments are made after the returns have been filed, the payments are not properly linked to the returns, with the result that taxpayers are put to hardship by not getting proper credit for the tax paid and often by having to face penal proceedings for alleged non-payment. It would, therefore, be to the advantage of the small taxpayers that the tax due on the basis of the return is paid with the return or before the return is filed, and proof for payment is also attached with the return itself. *We therefore, recommend that section 140A of the Income-tax Act, 1961 and section 15B of the Wealth-tax Act, 1957 be amended to make the provisions applicable to all cases irrespective of the amount of tax. The additional challan foil from the four-foil challan, which we are recommending elsewhere*[1] *for use in all types of tax payments, should be encolsed with the return of income. As an alternative, the assessees may enclose with the return of income a crossed cheque drawn in favour of the Income-tax Department towards payment of tax due on self-assessment. In either case, the fact of payment should be indicated in a cage to be provided for the purpose in the form of return of income.*

4.61 Sub-section (3) of section 140A of the Income-tax Act, 1961 provides for levy of penalty where the taxpayer fails to pay the tax or any part thereof in accordance with the provisions of the section. The Wealth-tax Act also provides for a similar penalty. We agree that a penal provision is necessary to enforce compliance but we feel that the present law allows too wide a discretion to the Income-tax Officer as he may levy penalty of an amount not exceeding 50 per cent. of the tax payable. We are of the view that the quantum of penalty should be related to the duration of default. *We recommend that the penalty payable under sub-section (3) of section 140A of the Income-tax Act, 1961 and sub-section (3) of section 15B of the Wealth-tax Act, 1957 should be two per cent. of the tax due, which is not paid, for every month of default. We wish to emphasize that in order to avoid hardship to small taxpayers, penalty provisions need not be invoked as a matter of course where the amount payable on self-assessment does not exceed Rs. 500 or the short-fall in payment does not exceed Rs. 200.*

Recovery problems of companies

4.62 Where the corporate status is utilised for obstructing or defeating the claims of revenue, the assets would normally have been frittered away or alienated before a company is brought into liquidation. There are, therefore, severe limitations on the amount of tax that can be recovered from the liquidator. It is for this reason that a provision has been made in section 179 of the Income-tax Act, 1961, making the director of a private company in liquidation personally liable for its tax dues unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company. It has been suggested that the personal liability should also be extended to the major shareholders of the company. In a private company, the major shareholders really own and control the business and they can conveniently escape personal liability by appointing directors from among the minority shareholders or by having paid executive directors. We are of the view that the liability should be extended to all major shareholders, whether they are directors or not. For this purpose, the

[1] Para 6·136.

shareholdings of an individual and his/her spouse and minor children should be clubbed. Further, we see no reason why such personal liability should arise only when a company goes into liquidation. We are of the view that the liability of the directors and major shareholders should be concurrent with that of the private company itself even when it is in business. *We recommend that the provisions of section* 179 *of the Income-tax Act be amplified to cover all private companies and not merely those in liquidation, and personal liability to tax should, in addition to the directors, extend to any major shareholders who, along with the shares held by or for the benefit of his/her spouse and minor children, holds not less than* 20 *per cent. of the equity shares of the company.*

4.63 Under section 178 of the Income-tax Act, 1961, a liquidator of a company, or the receiver of its assets, is under obligation to notify his appointment within 30 days to the Income-tax Officer and failure to give notice entails personal liability for the taxes due. At times, it does happen that the liquidator fails to give notice to the Income-tax Officer who consequently never comes to know of the liquidation proceedings. We feel that this provision would be much more effective if simultaneously there was to be a check from the side of the company law authorities who carry out periodical inspections of the affairs of companies. Under sections 137 and 516 of the Companies Act, 1956, the receiver or liquidator of a company is under obligation to report his appointment to the Registrar of Companies. It would ensure better compliance with the requirements of section 178 of the Income-tax Act if these sections of the Company law also stipulate that compliance with section 178 of the Income-tax Act should also be notified to the Registrar. *We recommend that sections* 137 *and* 516 *of the Companies Act,* 1956 *be amended to provide that the receiver or liquidator should report to the Registrar of Companies the fact of his having duly notified the Income-tax Officer under section* 178 *of the Income-tax Act. The Company law should also provide that every company which intends to go into voluntary liquidation should notify the fact to the Income-tax Officer at the time when notices are issued to the shareholders in this behalf.* This would give the Income-tax Officer the necessary time and opportunity to take such steps as he thinks fit.

4.64 We understand that there have been instances when companies were struck off the register by the Registrar of Companies without the knowledge of the Income-tax Officer. Once this is done, virtually no proceedings can be taken against it. *We, therefore, recommend that a provision in the law be made requiring the Registrar to notify the Income-tax Officer concerned before taking final action under section* 560 *of the Companies Act.*

Recovery from dissolved firms

4.65 Sub-section (1) of section 189 of the Income-tax Act, 1961 creates a action that a dissolved firm continues to exist for the purpose of making an assessment or levying a penalty. However, this fiction does not extend to enable recovery of the amount which the firm could have retained under sub-section (4) of section 182 of the Act. Sub-section (3) of section 189 apparently makes the partners liable jointly and severally only for the tax dues of the firm itself and not for the liability of any individual partner in respect of his share income. We feel that there is scope for defeating the provisions of sub-section (4) of section 182 of the Income-tax Act by the simple expedient of dissolving the firm. *We would, therefore, recommend that the scope of sub-section* (3) *of section* 189 *of the Income-tax Act should be extended to cover the liability of the partners for tax on the share of the profits of the dissolved firm to the extent the amount could have been retained under sub-section* (4) *of section* 182 *of the Act.*

Recovery of estate duty

4.66 The provisions relating to recovery of taxes in the Income-tax Act, 1961 have been made applicable to the recovery of wealth-tax and gift-tax also under the respective enactments. There appears to have been an omission in not extending these provisions to the recovery of estate duty under the Estate Duty Act, 1953 as well. *We recommend that sub-section* (5) *of section* 73 *of the Estate Duty Act,* 1953 *may be suitably amended to provide for recovery of duty on the lines of the provisions in the Income-tax Act,* 1961.

Bilateral agreements with other countries

4.67 A portion of the outstanding arrears of tax relates to persons who have since left the country. Recovery in such cases can, if at all, be effected only if some understanding is reached with the country to which the defaulting taxpayer has migrated. India has been entering into bilateral agreements with other countries for the avoidance of double taxation but none of these agreements seems to include any clause for reciprocal assistance in the matter of collection of income-tax and other direct taxes. *We have recommended elsewhere*[1] *in this report that the Government should enter into comprehensive tax treaties with other countries which should also include a provision for mutual assistance in the matter of recovery of taxes.* The tax treaty between France and U.S.A. pro-

[1] Para 2·213.

vides for such assistance[1] and steps may be taken to include a similar provision in the existing agreements as well as the agreements which India might enter into with other countries in future.

Government participation in auction bids

4.68 It has been suggested that the Government should participate in auction bids of the defaulter's properties so as to thwart nominal bids by benamidars of the defaulter himself. There is already a provision for prescribing a reserve price which should suffice to deal with deliberate underbids. It is not necessary that Government should take part in auctions in all cases; all that is necessary is that the reserve price is fixed after consultation with responsible officers. *However, we would recommend that the Department should give wider publicity to auctions of properties belonging to influential persons.*

High pitched assessments

4.69 Earlier in this Chapter,[2] we have observed that high-pitched assessments or over-assessments constitute one of the causes for the build up of uncollected tax demands. Taxpayers and representatives of trade and industry, who appeared before us, made a pointed reference to the tendency on the part of many Income-tax Officers to reject the evidence produced before them on flimsy grounds and make unrealistic additions to the income disclosed by taxpayers. No doubt, the appellate authorities do give relief but the taxpayer has to undergo much hardship before he gets justice. Often, the disputed taxes are not stayed and taxpayers have to approach the higher administrative authorities, the appellate authorities, or even courts for getting stay. Some of the senior officers of the Department admitted that this undesirable practice of making high-pitched assessments needs to be curbed. We are convinced that some stringent measures are called for to discourage this practice which, apart from giving rise to avoidable disputes and appeals and building up of unnecessary tax arrears, shakes the confidence of the tax paying public in the Department. The Administrative Reforms Commission recommended that Commissioners and Inspecting Assistant Commissioners should impress on the assessing officers that over-assessment would be noted as a defect indicating want of judgment and sense of proportion[3]. The Public Accounts Committee had suggested that a suitable provision in the Income-tax Act may be made, on the lines of the U.K. and Malaysian law, to make Income-tax officials and other officials liable to judicial proceedings for wilfully making a false and vexatious assessment. The Committee was of the view that only such a deterrent provision would instill a sense of responsibility in the tax officials[4]. We, however, find that the provision which was there in the U.K. Income-tax Act, 1952, has since been abrogated. We can well imagine the reasons for doing away with this provision. As it happens, it is not easy to establish wilful malafide action. While the provision might prove ineffective against the really guilty officials, it could easily become a tool in the hands of disgruntled assessees to harass honest officials. Such a provision is bound to affect adversely the morale of the officers and we would not recommend its adoption. Departmental action against errant officers is likely to prove more effective and will save honest officials from being exposed to the risk of having to face judicial proceedings. *We, therefore, endorse the recommendation of the Administrative Reforms Commission and further recommend that, apart from making adverse comments in the confidential character rolls, departmental action be taken against officers who persist in making unreasonably over-pitched assessments.*

4.70 We are of course aware that high-pitched assessments are at times the result of inexperience, lack of proper guidance and the reluctance of junior officers to assume responsibility in the face of possible criticism by the superior officers or audit. The remedy, therefore, lies in providing adequate pre-assessment guidance to the officers and evolving a procedure by which a senior officer will assume responsibility for making large additions or for deciding that the additions proposed by the assessing officers are not warranted. In the Chapter on Tax Administration, we have dealt with the question of allocating functions to various categories of officers on the basis of the degree of responsibility involved. Here, we would like to include two specific recommendations which, though administrative in nature, are primarily concerned with checking over-assessments and the consequent build up of arrears of tax. *We recommend that the law should authorise the Inspecting Assistant Commissioner to call for the records of a case on his own motion, or on a reference by the Income-tax Officer, or on a petition made by the assessee, before an assessment is finalised, and issue such directions as he considers fit in the circumstances of the case*

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1. Article 27 of the Tax Treaty between France and U.S.A.

2. Para 4·7.

3. Report of the Administrative Reforms Commission on Central Direct Taxes Administration, Chapter III, Recommendation 4.

4. 29th Report of the Public Accounts Committee (1967-68) Fourth Lok Sabha—para. 2·59.

for completion of the assessment. The directions given will be legally binding on the Income-tax Officer. The law should provide for an opportunity to the assessee of being heard by the Inspecting Assistant Commissioner before any directions prejudicial to him are issued. An explanation may be added to the effect that for this purpose, mere directions as to the lines on which investigation should proceed, or directions which do not result in enhancing any addition proposed by the Income-tax Officer, shall not be deemed to be prejudicial to the assessee.

Disputed additions in assessments

4.71 As regards disputed additions in assessments, a point has been made before us that often decisions are taken by the Income-tax Officer behind the assessee's back and the assessee comes to know of additions and disallowances only after the assessment has been made and an order is received by him. In many cases, the dispute could have been avoided if adequate opportunity had been given to the taxpayer to explain the position. We are aware that such situations do frequently arise. To ensure that the assessee gets a reasonable opportunity of meeting the objections of the Income-tax Officer before an assessment is finalised, *we recommend that there should be a provision in the law requiring the Income-tax Officer to send a draft assessment order to the assessee, to start with, in all cases where the additions or disallowances proposed to be made in an assessment under sub-section* (3) *of section* 143 *exceed in the aggregate Rs.* 25,000. *Where the taxpayer objects to the assessment being made on the basis of the draft order, he should intimate his objections within 7 days to the Inspecting Assistant Commissioner who will, after hearing the assessee and the Income-tax Officer, pass the final order of assessment himself. For this purpose, the Inspecting Assistant Commissioner should have the power to accept, reduce, or enhance the income proposed in the draft order.* Such a measure will also ensure that major disputes with the taxpayer are settled or dealt with at a level higher than that of the Income-tax Officer.

Belated assessments

4.72 Belated assessments contribute to the building up of arrears, particularly when a number of such assessments are sought to be completed together. Many of the persons, who replied to our Questionnaire or appeared before us, felt that prompt assessments would aid prompt collection of taxes and thereby check the growth of arrears. On the question whether the law could be amended to prevent accumulation of pending assessments, we have to observe that the law has only recently been amended to reduce progressively the limitation for completion of an assessment from four years to two years from the end of the assessment year, and to provide time limits for the completion of set-aside assessments. The impact of these amendments is still to be felt and we do not think that any further reduction in the time limit is at present necessary. The ideal should be to dispose of the assessments within the assessment year itself. In regard to wealth-tax, gift-tax and estate duty, however, where no time limits for completion of assessments exist now, we are of the view that such limits should be introduced. *We recommend that the Wealth-tax Act and Gift-tax Act be amended to prescribe a statutory time limit of two years from the end of the assessment year. In the case of Estate Duty Act, the period of limitation for completion of assessment should be four years from the end of the financial year in which the proceedings are commenced. However, the period of limitation for commencement of estate duty proceedings should be enhanced from* 5 *years to* 8 *years, as for income-tax.*

Planning of assessment work

4.73 The practice of rushing through important assessments towards the closing months of the year is the result of bad planning and lack of supervisory control and neither the reduction in the period of limitation nor the introduction of a scheme of 'summary' assessments is likely to help in eradicating it. Making hurried assessments in the last few months of the year is neither fair to the assessee nor to the revenue, and we would condemn it strongly. Our recommendation elsewhere[1] that important revenue cases should be segregated and entrusted to senior and experienced officers will no doubt improve matters, but proper planning and strict supervision will still be necessary. *We recommend that Income-tax Officers handling major revenue cases should be required to plan their programme of work in advance. As far as possible, the large revenue yielding cases included in the programme may be disposed of by the end of January each year. The programme should be approved by the Inspecting Assistant Commissioner, who should ensure that it is strictly adhered to.*

4.74 Delayed assessments contribute to arrears in another way also. When assessments have fallen in arrears, it becomes necessary to complete several of them together. Taxpayers often understandably experience difficulty in meeting the tax demands relating to several years at a time. The result is that taxes fall in arrears even in cases where the taxpayer is otherwise co-operative. This problem will dis-

1. Paras 6·111 and 6.112.

appear once the back-log of assessments is cleared.

Expeditious disposal of work

4.75 There are delays in the disposal of appeals, revision applications, references and writ petitions. These delays also hold up recovery of taxes and substantial demands remain outstanding, pending their disposal. The disputed additions have to be repeated year after year for want of authoritative interpretation and this also contributes to the build-up of arrears. In the present state of our law, the only remedy is to ensure that the disputes are settled expeditiously. Our recommendation in a later Chapter[1] for the constitution of special tax benches in High Courts for hearing references under the direct tax laws is designed to accelerate the pace of their disposal. Similarly, our suggestion[2] that more frequent direct references to the Supreme Court, should be made, where the law allows it, will also help to resolve disputes in important cases without delay. We have also made several recommendations with a view to improving the quality of the assessments and for reducing the area of disputes. Assessments in a majority of the small income cases would now be made on the basis of returns. There will then be a considerable reduction in the number of appeals in future.

4.76 The other types of delays that occur at the level of the Income-tax Officer, which tend to aggravate the position of tax arrears, are delays in the issue and service of demand notices in respect of both advance tax and regular assessment, and delays in carrying out adjustment of taxes paid, rectifying assessment and other orders and giving effect to appellate and revision orders. Elsewhere in this report we have suggested certain measures to eliminate these delays. Mention may also be made, in this context, of delays in issue of refunds, whether they arise out of appeals or otherwise. Prompt issue of refunds will help to build up the morale of taxpayers and will create the requisite atmosphere for better compliance in the matter of payment of taxes as well. This will also facilitate prompt adjustment of refunds against pending demands, thereby helping to reduce arrears of taxes. Delays in the issue of refunds should, therefore, be as carefully avoided as delays in collecting taxes. We have dealt with all this in the Chapter on Tax Administration.

4.77 We had occasion earlier[3] to point out that certain defective procedures have also contributed to the growth of arrears. The problem of unposted challans and consequent unadjusted credits[4] arises primarily from an unsatisfactory system of accounting for which we are suggesting suitable remedial measures in a later Chapter.[4] Even improved accounting techniques can be set at naught by too frequent changes in jurisdiction. We are suggesting in the Chapter on Tax Administration[5] that the Inspecting Assistant Commissioner's Range should be made the unit of jurisdiction and organised to function as a self-contained unit. This would considerably limit the scope for frequent transfer of cases. It is not only necessary that jurisdiction is not frequently changed by the Commissioners but that they strictly abide by the pattern laid down by the Board. Another factor which has led to collection and recovery work being neglected is the greater emphasis that has in recent years been laid on assessment work. Functionalisation should ensure that the basic functions of the tax department, viz., assessment and collection, receive equal attention.

Procedure for accounting arrears

4.78 The prevailing method of presentation of statistics in regard to arrears of taxes as at the end of a financial year is not quite in line with facts and gives a distorted picture. As of now, such arrears include arrears of taxes due as on the 31st March and also those not due but in respect of which demands have been raised by that date. The latter relate to assessments made but in respect of which demand notices had not been issued by the end of the financial year as also those where demand notices had been issued but the demands had not become due either because the notice had not been served or because there was still time for payment as the due date fell beyond 31st March. In our opinion, it would not be correct to show amounts which are not due on the 31st March as arrears. The following table gives the figures of arrears of tax as on 1st April, and the amounts of tax demand raised in the months of February and March, for three years:—

Year	Arrears of tax as on 1st April (Rs. crores)	Demand raised in February Rs. (crores)	Demand raised in March Rs. (crores)
1967-68 ..	622·61	78·42	189·95
1968-69 ..	774·40	80·13	233·64
1969-70 ..	840·70	92·95	255·11

1. para. 6·153.
2. para. 6·154.
3. para. 4·9.
4. paras 6·131—6·141.
5. paras 6·1 5 and 6·108.

All the demands raised in March and most of the demands raised in February do not fall due on 1st April and the table above would show that the figures of arrears as on 1st April include large amounts which are really not due. In order to clear this position and to present the statistics accurately, it would be best to show separately the taxes due and those that are not due but in respect of which assessments have been completed by the 31st March. If this cannot be done conveniently for some time to come, *we recommend that against the sum total of such demands due and not yet due, the amount of taxes realised from the 1st of April of the financial year following until the 30th June may be shown as a deduction. In other words, arrears of tax might be accounted for as on 1st July, as these figures are closer to reality than the figures as on 1st April.* This can be achieved by continuing to use the Demand and Collection Registers of a particular financial year until the 30th June of the year following in order to record in the same register the realisations made. Of course, in respect of current disposals, entries will be made in the new register from 1st April itself.

4.79 Once the figure of arrears is fixed as on 1st July in the above manner, the subsequent quarterly reports as on 1st October, 1st January and 1st April will reflect the reduction of this amount by recovery, revision of demand, write off, etc. The change suggested by us will merely affect the procedure for presentation of arrears and will in no way interfere with the accounting of collections and their reconciliation for each financial year.

4.80 Another major constituent of the figure of arrears is what is referred to as 'disputed taxes'. A suggestion has been made that taxes which are disputed in appeal or other proceedings should not be treated as arrears until the disputes are settled. We had included a specific query in this regard in the Questionnaire issued by us. The suggestion has been widely welcomed, both by the public and the officers of the Department. In U.S.A., the taxpayers are under no obligation to pay taxes disputed in appeal and it has been represented before us that we should follow a similar procedure. Our law is different and taxpayers are not unilaterally authorised to hold back disputed taxes. Where disputed taxes have not been stayed or time allowed for their payment by a competent authority, limitation for recovery counts with reference to the date when the demand was made and difficulties could arise if the demands are not properly accounted for as arrears. *While proposing no change in the law, we would suggest that disputed demands which have been stayed should be separately reported and not included in arrears. This will also apply to demands raised as a result of protective assessments.* These changes in the procedure for determining arrears would eliminate the items which are not arrears in the real sense and reduce the figure to its true dimensions.

CHAPTER 5

EXEMPTIONS AND DEDUCTIONS

Introductory

5.1 We have been required, by the terms of reference, to "examine various exemptions allowed by the Tax Laws with a view to their modification, curtailment or withdrawal". The expression 'exemption' has a wide connotation and cannot be restricted to refer to only those items of income, wealth, etc., which have been kept outside the field of the direct tax laws. In a wider sense, all deductions, whether they are allowed in the process of computation of the gross total income or wealth, or are allowed in determining the net taxable income or wealth, would constitute 'exemptions' as their ultimate effect is to confer full or partial exemption from tax. Similar would be the position of all types of rebates, reliefs, abatement of tax, or tax credit. Often, not merely their ultimate effect but even their initial objectives are the same, or similar, and they have, therefore, to be considered as different modes of providing exemption from tax.

5.2 Exemptions have an important role to play in any scheme of taxation. They seek to modulate the tax structure to suit the needs of the times by providing differential tax treatment to various types of income or wealth, consistent with the policies of the Government. They provide the necessary incentives on a selective basis to certain types of desirable activities. By inducing channelisation of savings of the community into selected sectors of investment, they facilitate achievement of certain basic social and economic objectives. Exemptions also play the important role of alleviating hardship to certain categories of taxpayers. They provide mitigation of the high rates of taxation in appropriate cases, thus introducing an element of equity in the tax laws.

5.3 Exemptions, in whatever form they are given, have been frequently criticised as adding unnecessarily to the complexity of tax laws. An element of complexity does get introduced into the tax laws when provisions are made to induct various exemptions, deductions and other reliefs. All the same, we do not consider it desirable to do away with them. Most of the exemptions are based on sound rationale and are intended to achieve clear-cut economic or social goals. These cannot be given up merely for achieving simplicity in the tax laws. Some of the complexities are simply the reflection of the growing complexities of life in the modern world and have necessarily to be lived with.

5.4 Another criticism that is often made is that, while exemptions reduce the burden of tax in the case of those who can avail of them, they cast a correspondingly higher burden on others. We consider that if tax mechanism is to be effectively utilised for promoting economic growth, such a shift in the tax burden becomes inescapable. There can be no question of discrimination either, when it is open to all citizens to so arrange their affairs as to derive the maximum benefit from the concessions and incentives which the law provides.

5.5 Another charge that is often levelled against the various exemptions and deductions allowed under the tax laws, particularly those under the Wealth-tax Act, is that they are not equitable, being heavily weigthted in favour of the wealthy investors, big agriculturists and big industrialists as against an entrepreneur who risks his capital in productive ventures. A grievance is also voiced that the tax laws do not make any distinction between idle wealth and productive application of capital. While we agree generally with the principle that tax laws should provide incentives for small-scale and medium-scale entrepreneurs, and discourage amassing of unproductive wealth or concentration of economic power and means of production, we feel that the criticims is not entirely warranted. In reviewing the existing exemptions, we have kept in mind the need to accord greater recognition in our tax laws to the social aims and aspirations of our people, as also the need for rapid economic growth and for enlargement of job opportunities.

5.6 It has been suggested that even if exemptions and other incentives are to be allowed, they should be available to the less privileged only, and the wealthy, having income or wealth exceeding specified limits, should be denied their benefit. We find that certain ceilings have already been provided, wherever necessary, to ensure that undue advantage of the concessions, which the law allows, is not derived by the taxpayers in the higher income brackets. We are afraid a total denial of the benefit of all incentives and exemptions to such persons will set undesirable trends. In our anxiety to establish an egalitarian society, we cannot afford to forget that it is this group with larger incomes which can substantially contribute to economic growth by way of larger savings and investments. In our view, to deny them the benefit of exemptions might largely defeat the very purpose of the in-

centives themselves. We do not, therefore, approve of this suggestion.

5.7 Another suggestion that has been made is that the various exemptions and deductions in the tax laws should be replaced by a single consolidated allowance so as to achieve greater simplicity in the understanding of the law. Alternatively, it has been suggested that all exemptions should be done away with and the tax rates substantially reduced. This, it is argued, would, apart from simpifying the tax laws, make them more realistic by reducing the gap that now exists between the marginal rates of taxation and the effective rates of taxation. We do not consider either of these suggestions desirable. Each individual exemption or deduction has a special purpose to serve, and is meant for such of the taxpayers as satisfy specified conditions. Any attempt to consolidate the various exemptions into an omnibus allowance would make them highly inelastic and self-defeating. On the other hand, doing away with all exemptions would reduce tax laws to a mere tool for replenishing the revenues, and the significant economic benefits, which could flow from a right use of the incentives and deterrents, would be totally lost.

5.8 We have also carefully considered the suggestion made in some quarters that incentives under the tax laws should be co-related to the efficient performance of industry. Efficiency is difficult to quantify. Most of those who have replied to a query in this regard, included in our Questionnaire, have rejected the suggestion as impractical. We are inclined to agree with this view as any attempt to co-relate tax exemption with efficient performance may lead to unnecessary disputes. We have, however, taken it into account in another context[1].

5.9 In the replies received in response to our Questionnaire, and also during the course of discussions, there was considerable divergence of opinion on the desirability of utilising fiscal instrument for achieving economic and social objectives. Some thought that a good tax policy should be neutral, and that investment decisions should be based on business considerations alone, and not on tax consequences. At the other extreme were those who saw in the tax policy a powerful instrument which could not only help in generating savings but could also guide their flow into desirable channels of investment, consistent with the priorities set in the development plans.

5.10 The 'Capital Market Study' conducted by the Organisation for Economic Co-operation and Development has reported that a careful accounting of the costs of incentive programmes might disclose that the increase in government dissaving more than off-sets the increase achieved in private savings. According to this study, statistics seemed to indicate that small savers participated least in taking advantage of the prevailing government tax exemption and premium programmes to promote savings. Incentive plans, particularly those relying on tax privileges, provided the principal benefit to upper income savers who might be expected to save substantially in any event. The 'Study', however, found that most governments do provide some incentives to encourage contractual saving in one form or another and observed that the use of tax privileges as a means of immobilizing what would otherwise have been liquid saving may be a very significant device for improving the transformation process[2].

5.11 The Second Inter-regional Seminar on Development Planning, held at Amsterdam under the auspices of the United Nations, considered the need for the formulation of an adequate fiscal policy for purposes of development, as it was thought that fiscal policy, comprising the powerful tool of taxation and budgetary expenditure, was potentially the most important means available to a government for furthering its development objectives. It was felt that the tax system could promote economic development by aiming to bring about a shift of resources from consumption to investment, and from investment contributing less to a country's economic and social objectives to investment contributing more to those objectives, and by influencing investment choices by the private sector. Taxation could also be designed to encourage more effective use of resources which are idle or partly idle. In appropriate cases, tax incentives could be employed to encourage more labour-intensive methods of production and thus to increase employment opportunities. Taxation could also help to increase the availability of foreign exchange by favouring export transacitons[3].

5.12 Today, even social objectives are sought to be realised through the medium of the direct tax laws. The ambit of tax laws covers a wide range of objectives from seeking to narrow the gap between the rich and the poor, providing for family obligations and needs, caring for the under-privileged, the displaced or the disabled, and encouraging research, education and the

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[1] para 5·80.

[2] O. E. C. D. Capital Markets Study—II—Formation of Savings—pp. 28, 43—45

[3] Report of the Second Inter-regional Seminar on Development Planning (United Nations), Amsterdam, Netherlands. 1930 September, 1966, pp 12 and 13;

liberal arts, to such remotely connected themes as furthering the cause of secularism and family planning. The tax laws of several developed as well as developing countries are replete with provisions meant to achieve a variety of social and economic goals. A number of countries have tried, and continue to try, fiscal measures for promoting savings and investment. Sweden and West Germany have claimed significant success for their 'Investment Reserve Scheme' and 'DM 312 Plan' respectively. Netherlands has a 'General Savings Scheme' and Denmark a 'Blocked Deposit Account Plan'. Some developing countries have also experimented with investment allowances.

5.13 We are convinced that fiscal laws can play an important role in stimulating investment and economic growth. In fact, taxation has come to be recognised the world over as being no longer a mere device for raising resources but an important tool for the development of the economy and for implementing economic and social policies in a variety of ways. A deft handling of the fiscal instrument at the opportune time can be most effective in achieving these objectives. We would, however, like to add a word of caution that incentives often tend to outlive their utility and purpose. There is, therefore, need for a periodical review of fiscal measures to assess their effectiveness and utility to enable timely action being taken to modify or withdraw such of them as have lost their usefulness.

Review of Existing Exemptions, Deductions, etc.

5.14 In the light of the foregoing, we have reviewed the various exemptions, deductions, reliefs, etc., in the direct tax laws, and give below our recommendations. For this purpose, we have considered it expedient to group the provisions under the following heads:—

(A) Exemptions in the nature of exclusions from the gross total income.

(B) Deductions under various heads for the purpose of computing the gross total income.

(C) Deductions from the gross total income.

(D) Exemptions and deductions under the Wealth-tax Act.

(E) Exemptions and deductions under the Gift-tax Act.

(F) Exemptions and deductions under the Estate Duty Act.

(A) Exemptions in the nature of exclusions from the gross total income

Agricultural income: sec. 10(1)

5.15 We have, in the Chapter on Black Money and Tax Evasion, already recommended[1] that the total exemption from Central income-tax enjoyed by agricultural income should be done away with and this income should be aggregated with the other income liable to income-tax. We have considered the hardship that might be caused to assessees having small agricultural income or doing hobby farming, and to small agriculturists, and have recommended that a deduction of Rs. 5,000 should be provided under Chapter VIA of the Income-tax Act in respect of agricultural income included in the gross total income. Further, agricultural income should be taxable only if the holding exceeds 5 acres (approx. 2.02 hectares). This would reduce the burden on the administration by eliminating a large number of small landholders from the purview of income-tax.

Casual and non-recurring receipts: sec. 10(3)

5.16 In the Chapter on Tax Avoidance, we have recommended[2] that such receipts should be taxed in the manner and to the extent discussed therein.

Tax concessions for foreign technicians: sec. 10(6)

5.17 It has been suggested that the benefit of exemption should also be extended to foreign technicians who work as professionals or on job work basis. We are of the view that the suggestion is not administratively feasible and is open to abuse. Tax concessions have necessarily to be regulated and properly controlled if they are not to degenerate into loopholes for evasion or avoidance. Such disciplining will not be possible if the concession is extended in the manner suggested.

Exemption in respect of gratuity payments: sec. 10(10)

5.18 It has been pleaded before us that the ceiling of Rs. 24,000 fixed in 1961 should be raised, as the value of money has considerably declined since then. It has also been suggested that the taxable balance should be exempted if it is invested in approved securities. The law seeks to curb the payment of unduly large terminal benefits to high-salaried employees in the private sector. We do not, therefore, favour the suggestions.

Exemption in respect of house rent allowance: sec. 10(13*A*)

5.19 In the Questionnaire issued by us, we had invited views on the suggestion that on the

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[1] para 2·129

[2] paras 3·14 and 3·15.

analogy of the exemption in respect of house rent allowance received by salaried employees, a deduction on account of a portion of the high rents paid in expensive localities by self-employed property-less individuals should be allowed from their income. The suggestion has been widely welcomed by the persons who responded to the Questionnaire. The hardship caused on account of high rents is the same for all, whether employed or self-employed, and we do not see any justification for making an invidious distinction between them. *We recommend that where the house rent paid by a self-employed individual, living in a town notified in this behalf by the Government, is in excess of 10 per cent. of his gross total income, a deduction should be allowed in computing his total income, in respect of such excess, subject to a maximum of Rs. 300 per month or 15 per cent. of the gross total income, whichever is less. No distinction need be made for this purpose between furnished and unfurnished accommodation. The deduction should be restricted only to an individual who does not own any house property himself and whose spouse, minor children or the Hindu undivided family of which he is a member, does not own any house property either.*

Exemption in respect of special allowances: sec. 10(14)

5.20 This provision exempts daily allowance and other similar allowances to the extent they are actually spent in the performance of duties. While unnecessary waste of time in the scrutiny of petty cases has to be avoided, it is necessary to ensure that tax avoidance does not take place through conversion of remuneration into such allowances. *We suggest that the present circular of the Board on this subject be withdrawn and instructions be issued to Income-tax Officers to check such cases occasionally with a view to satisfy themselves that the allowance has actually been spent. Normally, such check should be confined to allowances of more than Rs. 50 per day.*

Income of Provident Funds and Super-annuation Funds: sec. 10(25)

5.21 *We recommend that the exemption be extended to the income of approved Gratuity Funds as these also stand more or less on the same footing.*

Income from livestock breeding, poultry and dairy farming: sec. 10(27)

5.22 This exemption, when introduced in 1964, was limited to 3 years but was extended without any limit of time by the Finance Act, 1967. Such exemption was probably considered necessary at that time in the context of the acute food problem facing the country. Further, such operations are closely linked to agriculture and provide auxiliary income to agriculturists generally. The food situation in the country has since improved. We are recommending elsewhere[1] that agricultural income should also be brought to tax and for similar reasons, we see no justification for the continuance of this exemption. *We recommend that the exemption allowed by sub-section (27) of section 10 of the Income-tax Act in respect of income from livestock breeding, poultry and dairy farming be withdrawn. In order to ensure that small assessees are not hard hit, we recommend that such income should be includible in the total income only if it exceeds Rs. 3,000 in the aggregate.*

(B) Deduction under various heads for the purpose of computing the gross total income

5.23 Broadly speaking, these deductions attempt to bring the concept of assessable income closer to the income determined in accordance with accepted principles of commercial accountancy. Certain incentives and allowances with a social and economic purpose are also found interwoven in the deductions which relate to the earning of income. We discuss below some of the more important deductions allowed in computing the income under the various heads of income.

Salaries

5.24 Several persons have argued the case for liberalising the deductions allowable in the computation of income under the head 'salaries'. It has been represented that the deduction allowable in respect of purchase of books is grossly inadequate. Employees, particularly those at the middle and upper levels, whether they are in Government service or private employ, are obliged to keep themselves abreast of the fast changing technology, management methods and social and economic concepts. We feel that spread of specialised knowledge should not be circumscribed by narrow limitations. *We recommend that the allowance for books be raised to Rs. 1,000 from the present limit of Rs. 500.*

5.25 It has also been suggested that deduction for conveyance should be increased. Transport costs have been steadily rising, and increasing population and spiralling house rents have been pushing wage earners to the peripheries of growing urban areas necessitating longer and longer journeys to reach their places of work. We are convinced of the need for an upward revision of the allowance. Recently, the allowance admissible to employees, other than car owners, has been increased. We

[1] para 2·129.

feel that in view of the recent rise in the price of petrol and automobile spare parts, there is a justification for stepping up the allowance in the case of car owners also. *We, therefore, recommend that the present deduction of Rs. 200 p.m. allowable to an employee owning and using a car for the purpose of his employment, and not in receipt of a conveyance allowance, be raised to Rs. 250 p.m.*

5.26 We take this opportunity to suggest repeal of the deduction in respect of entertainment allowance which in our view has now become an anachronism. The law makes an invidious distinction between Government servants and other employees, as in the case of the latter, a deduction is admissible only if they had been continuously in receipt of such entertainment allowance regularly from their present employer from a date prior to 1st April, 1955. We feel that there is hardly any justification to continue this deduction. *We recommend that the deduction admissible under clause (ii) of section 16 of the Income-tax Act in respect of entertainment allowance be withdrawn.*

Income from house property

5.27 The present sub-section (2) of section 23 of the Income-tax Act enables a property owner to claim self-occupation benefits in respect of two houses, whether they are situated in the same place or in different places. We see no rationale behind allowing such benefit in respect of two houses in the same place. *We recommend that the law be amended to provide that self-occupation benefit in respect of an additional house will be admissible only if the two houses are situated at different stations.*

5.28 It has been represented before us that the provision for a standard deduction for repairs is no longer justified as most property owners, taking advantage of the acute housing shortage and the difficulties of tenants in finding alternative accommodation, refrain from carrying out even essential repairs. It has been suggested that the allowance should be restricted to the amount actually spent on repairs. We feel that such a restriction would cast an undue burden on the administration in verifying a large number of petty claims and will also make it difficult for it to implement its recent scheme of completing assessments in a large number of cases without detailed scrutiny. *We would, therefore, suggest that, while the deduction should continue to be one-sixth of the annual letting value, the law may be amended to restrict the allowance to the actual amount spent on repairs in cases where the claim exceeds Rs. 1,000. However, where any part of the deduction is disallowed for the reason that the amount has not been spent, it should be carried forward and allowed in any of the following five years to the extent the actual expenditure incurred on repairs in such year exceeds the admissible allowance for that year.*

Development rebate: sec. 33.

5.29 The Government have taken a decision to withdraw development rebate from 1st June, 1974. In view of this, we need not deal with it in detail. It is sufficient to say that *we are convinced that development rebate has outlived its utility and has been rightly withdrawn.*

Amortisation of certain preliminary expenses: sec. 35D

5.30 Section 35D, which has very recently been added to the statute, permits deferred revenue expenditure being allowed in a wider field. Certain expenditure, which would ordinarily have been disallowed as capital expenditure, is now allowed to be written off against profits over a period of ten years. The items of expenditure which can be so written off have been specified in the section itself. There is also a residuary provision authorising the Central Government to prescribe other items of expenditure which may similarly be allowed to be charged to profits over a period of years. *We recommend that the Government may consider the following, among others, for purposes of amortisation:—*

(a) Lump sum payments for technical know-how;

(b) Expenditure on 'amalgamation' or 'merger' of companies;

(c) Administrative expenses incurred before the commencement of business.

Income-tax appeal expenses

5.31 While on this subject, we would like to deal with two additional points. It has been suggested that income-tax appeal expenses should be allowed in computing income from business or profession. Expenditure for representing the case before the Income-tax Officer is already being allowed to be deducted and we see no reason why the expenditure relating to further proceedings should not also be allowed when in fact they are only different stages of the proceedings for reaching finality in settling the tax liability for any year. Often, proceedings before the Tribunal and the High Court or the Supreme Court are not of the assessee's choice and it is harsh if such obligatory expenses are not allowed to be deducted. A view has been expressed that such expenses should be allowed only in the event of successful appeal by the assessee or unsuccessful appeal by the Department. We are of the view that a restriction of this nature would introduce unnecessary complication in the law. Often, when the expenditure is incurred and claimed, the result of the appeal might not

be known or even if known, it might not be final. Allowances will have to be provisional in such cases and subsequent remedial action might be required, increasing in the process the volume of unproductive work in the Department. Further, we feel that the outcome of a certain expenditure should not be allowed to sway the decision regarding its admissibility. Strange results could follow if this logic were to be extended to other types of expenditure. *We would, therefore, recommend that a specific provision in the law be made to permit deduction of all expenses pertaining to income-tax appeals, revisions and references.* Incidentally, it would also result in the tax practitioners and lawyers being obliged to declare their receipts more correctly.

Deduction of wealth-tax

5.32 It has been suggested that the wealth-tax payable by an assessee should be allowed to be deducted in determining his total income. The deduction of wealth-tax payable in respect of business assets as expenditure has been held to be inadmissible by the Supreme Court under the existing law.[1] When the maximum marginal rate of income-tax is itself high, we feel that allowing wealth-tax to be deducted from the income liable to income-tax will virtually amount to exemption from wealth-tax in cases where the maximum marginal rate of income-tax is attracted. The relief in all high income cases will be very considerable and, in the process, the purpose of levying wealth-tax will be defeated. *We are, therefore, not in favour of any amendment to the law for allowing wealth-tax as an admissible deduction in computing the taxable income.*

5.33 We have also considered the desirability of retaining the restrictions and ceilings contained in the law on certain types of business expenses. We are of the view that such artificial restrictions breed evasion of tax and we have, therefore, recommended elsewhere[2] modification of some of the existing provisions.

Capital gains

5.34 Sub-section (1) of section 49 of the Income-tax Act provides that in case of an asset, which became the property of the assessee on partition of a Hindu undivided family, the cost to the previous owner, as increased by the cost of any improvement thereto, shall be deemed to be the cost of the asset to the assessee. The amendment made by the Taxation Laws (Amendment) Act, 1970 to section 64 of the Income-tax Act, and the amendment made by the Finance (No 2) Act, 1971 to section 4 of the Wealth-tax Act seek to treat the separate property of an individual which has been converted into Hindu undivided family property, as property transferred by the individual to members of the family for being held jointly. Where such property is sold subsequently, after partition or otherwise, there will be difficulty in deciding how the cost should be determined. *We suggest that a provision similar to that contained in sub-section* (1) *of section* 49 *be made to define the cost in such cases as the cost to the individual who converted the property into family property plus the cost of improvements thereto.*

Income from other sources

5.35 While agreeing generally with the present scheme of allowing as deduction only such expenditure as is incurred wholly and exclusively for the purpose of earning income from 'other sources', we feel that some liberalisation is necessary in respect of expenditure incurred in connection with income-tax proceedings. Most of the persons having such income have to seek assistance of tax advisers and there seems to be no reason why the expenditure incurred by them in this behalf should not be allowed to be deducted when similar expenditure is deductible in the case of persons deriving income from business or profession. Further, we feel that such expenditure should be allowed not only in the case of income from 'other sources', but also in the case of income under any other head. *We recommend that fees paid to authorised representatives for conducting income-tax proceedings, including appeals, revisions and references, be allowed as deduction in computing income from all sources.*

(C) Deduction from the gross total income

5.36 Chapter VIA of the Income-tax Act provides various deductions from the gross total income for arriving at the total income on which tax is to be levied. Historically, most of these deductions replace the various rebates and reliefs previously allowed at the average rate of tax. The purpose and substance of the provisions, however, have remained the same and they include incentives for savings and investments, including investment in industry, and measures to achieve certain social objectives.

Life insurance premia, contributions to provident fund, etc.: sec. 80C

5.37 The law prescribes certain ceilings in respect of the aggregate of the sums which qualify for deduction under section 80C of the Act. The ceiling is higher for individuals engaged in certain professions or vocations, e.g.,

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[1] Travancore Titanium Product Ltd. *Vs.* C.I.T.—60 ITR 277.

[2] Paras 2·69 and 2·70.

actors, authors, etc., than for others. It has been suggested that these higher limits may be extended to all persons engaged in profession. Later in this Chapter,[1] we are recommending that deduction in respect of payment for securing retirement annuities under section 80E should be made available to all individuals deriving income from business, profession or vocation. If this is done, there will be hardly any justification for the higher ceilings under section 80C being extended to all professionals. *We are, therefore, not in favour of higher limits prescribed for authors, playwrights, artists, musicians and actors being extended to cover individuals in other professions.*

5.38 Sums paid to effect or keep in force a contract for deferred annuity on the life of the individual and others qualify for deduction under section 80C, notwithstanding that such contract contains a provision for the exercise by the insured of an option to receive cash payment in lieu of payment of annuity. We do not see any justification for this liberal treatment. The provision for a cash option defeats the purpose of an annuity and there is no reason why the Income-tax law should encourage such options. *We recommend that policies for deferred annuity with cash option should be disqualified from deduction under section 80C.*

Payments for securing retirement annuities: sec. 80E

5.39 Some persons, who appeared before us, stated that one reason for the widespread prevalence of tax evasion in our country was the absence of adequate social security measures, particularly for the self-employed. Evasion is also sometimes the result of an attempt on the part of such persons to even out the unequal earnings of different years. It has been suggested that it would reduce the temptation to evade if the Income-tax law could take cognizance of the natural desire of such persons to provide for their future by offering them certain liberal incentives for savings in the years when they earn. Annuity schemes have been suggested as a suitable medium for this purpose.

5.40 There is already a scheme under section 80E of the Income-tax Act which provides for deduction of premium paid under an approved annuity contract for the provision of a life annuity in old age. The scheme is, however, at present available only to partners of registered firms rendering professional service as chartered accountant, solicitor, lawyer, architect, etc. *We recommend that the scheme of allowing deduction in respect of premia paid for securing retirement annuity be extended to cover all individuals engaged in business, profession or vocation, whether as proprietors or in partnership.*

Donations: sec. 80G

5.41 The present law allows deduction of a percentage of the donations from the gross total income, subject to certain limits. The percentage is 50 for companies and 55 for others. We see no rationale behind this marginal distinction which introduces an element of complexity in the law and provides a pitfall while making calculations. *We recommend that the deduction in respect of eligible donations both for companies and others should be uniformly fixed at 50 per cent.*

New industrial undertakings employing displaced persons: sec. 80H

5.42 New industrial undertakings enjoy a tax holiday for five years (seven years in the case of co-operative societies) under section 80J of the Income-tax Act, subject to certain conditions and limitations. The deduction in respect of the income of such undertakings which employ displaced persons is somewhat more liberal, being admissible for a period of ten years. However, where both the deductions are admissible, the deduction under section 80H will have to be first allowed and the deduction under section 80J will have to be correspondingly reduced by the amount of such allowance. We feel that this provision leads to unnecessary complications and there is no need for it when the concession under section 80J will in any case be available. Further, we are of the view that a tax concession is not a very effective way of tackling the problem of resettlement of displaced persons. *We would, therefore, recommend that the deduction in case of new industrial undertakings employing displaced persons be deleted.*

Profits and gains from priority industries in the case of certain companies: sec. 80I

5.43 Domestic companies (except companies in which the public are substantially interested and whose gross total income does not exceed Rs. 50,000) engaged in priority industries enjoy a preferential tax treatment. Profits derived from a priority industry are reduced under this provision by eight per cent. for the purpose of levy of tax. Where the company is also entitled to a deduction under section 80J, the latter will have to be reduced by the amount of deduction under section 80I. Apart from the complications that such a provision gives rise to, we feel that there is no need for such a concession when priority industries enjoy other facilities, e.g., import licences on priority basis. Recently, there has been some rethinking on the justification for such a provision and the Finance (No. 2) Act, 1971 not only curtails the list of priority industries, but also reduces the

1. Para. 5.40.

deduction itself from eight per cent. to five per cent. *We would recommend that the deduction under section 80I in respect of the profits of priority industries be abolished.*

Royalties, etc., received from certain foreign companies: sec. 80-O

5.44 Several persons have suggested that invisible exports should be encouraged by exempting all income derived from foreign sources in consideration of services rendered abroad as these help India to earn valuable foreign exchange. The foreign income of actors, playwrights, etc., is already allowed partial exemption under section 80RR. The Finance (No. 2) Act, 1971 extends the exemption under section 80-O in respect of fees for technical services, etc., derived from foreign sources to persons other than companies also. In view of this, we do not consider that any further liberalisation is necessary.

Income of co-operative societies: sec. 80P

5.45 The rationale behind the concessional treatment given to the income of co-operative societies is that co-operative societies encourage thrift, self-help and co-operation among agriculturists, artisans and persons of small means. Co-operative institutions are required to be registered under the Co-operative Societies Act, 1912 which is a Central Act, or under corresponding enactments of different States concerned. A concessional tax treatment has been given to co-operative societies almost from the very inception of the movement. These concessions have been reviewed, enlarged or modified from time to time. Co-operative societies connected with agriculture, banking, rural credit, milk production and cottage industries enjoy complete exemption from tax in respect of their business income from these activities, while co-operative societies engaged in other activities are liable to tax on their business income in excess of Rs. 20,000. Further, the income of all co-operative societies by way of interest or dividends received from other co-operative societies is wholly exempt from income-tax, and where the gross income of the co-operative society does not exceed Rs. 20,000, income by way of interest on securities or income from house property also enjoys complete exemption from income-tax in the generality of cases. The Finance (No. 2) Act, 1971 has widened the field of exemption by extending it in the business income of labour co-operative societies and co-operative societies engaged in fishing and other allied pursuits, subject to certain restrictions on the voting rights of their members.

5.46 We broadly agree that the co-operative form of organisation is best suited for persons with small means to combine their resources and efforts in the promotion of production, distribution or consumption of goods or services in which they have a common interest, and tax concessions are one of the means of helping to promote such activity. But we also recognise the need for ensuring that these concessions are available only to genuine co-operative societies. Where co-operative societies are used as media for large-scale commercial activity with substantial transactions with outsiders, there is hardly any justification for allowing such exemption. According to strict principles of co-operation, a society should have dealings only with its members. The law, however, has left this matter of prohibiting or restricting transactions with non-members to the State Governments, which seem to have adopted a liberal attitude in this regard. Thus, we have a large number of industrial co-operative societies, co-operative consumer stores and co-operative transport societies which carry on a regular profit-earning activity in the same way as any other business undertaking. There are sugar mills, spinning and weaving mills, chemical and general engineering units and banks run as co-operative societies[1]. There seems to be no reason why these should be given a privileged position vis-a-vis others doing similar business. Of course, the law already tries to meet the situation by prescribing that the business income of co-operative societies in excess of Rs. 20,000 will be taxed except in the case of societies engaged in specified activities, thus ensuring that co-operative societies are not made a medium for earning huge tax-free business profits. However, such taxable income is charged to tax at concessional rates, the maximum rates being only 40 per cent. plus surcharge of 15 per cent. of the tax. Co-operative societies are meant primarily to be mutual bodies and not profit making concerns. *We would recommend that co-operative societies should be subjected to company rates of tax on their assessable income.*

Dividends from co-operative society: sec. 80Q

5.47 When the income of co-operative society is itself exempt in most of the cases, we see no reason why the dividends received by the members should again be exempt. The present exemption operates even when the co-operative society has taxable income. When companies deriving income from agriculture pay dividends, the dividends are not exempt as agricultural income in the hands of the shareholders. The exemption of dividends from co-operative societies facilitates tax avoidance by persons, who would otherwise earn taxable income, by arranging to carry on their activities through the medium of a co-operative society. *We recommend that the exemption of dividends from co-opera-*

1. Review of the Co-operative Movement in India 1966-68—Reserve Bank of India—p 157.

tive societies from levy of tax allowed under section 80Q of the Income-tax Act be withdrawn. Instead, dividends from co-operative societies may be considered on par with dividends from companies and allowed such benefit as may be admissible under section 80L of the Income-tax Act.

Profits and gains from business of publication of books: sec. 80QQ

5.48 This is a recent concession introduced by the Taxation Laws (Amendment) Act, 1970 with effect from 1-4-1971. While the provision may remain, we feel that the deduction should not be available where printing and publication of books is subsidized. *We recommend that the provisions of section 80QQ be amended to restrict the deduction to only those cases where no subsidy is received.*

Professional income from foreign sources in certain cases: sec. 80RR

5.49 This provision exempts from tax 25 per cent. of professional income derived from foreign sources by authors, playwrights, artists, musicians and actors. *We recommend that deduction should be allowed at progressively diminishing rates ranging from 25 per cent. to 5 per cent. from the professional income of authors, playwrights, painters and sculptors derived from Indian sources as well.*

(D) Exemptions and deductions under the Wealth-tax Act

Exemption in respect of self-occupied house property: sec. 5(1) (iv) Exemption in respect of certain investments: sec. 5(1) (xxii) to (xxvii)

5.50 The exemption in respect of self-occupied house property under clause (iv of sub-section (1) of section 5, as also the exemptions in respect of shares, securities and other investments under clauses (xxii) to (xxvii) have been criticised as being discriminatory against an entrepreneur who risks his capital in productive ventures instead of putting it in other investments. It is stated that these exemptions virtually raise the exemption limit for wealth-tax to Rs. 3.5 lakhs in the case of persons who can avail of them. It has been suggested that the basic exemption limit for wealth tax be itself raised instead, so that every one can have the benefit of the higher exemption limit. *We are not in favour of any general increase in the exemption limit as this would defeat the very purpose of the exemptions, which is to promote savings and secure their channelisation into certain desirable fields of investment.*

5.51 We do, however, agree that the exemption given by clauses (xxii) to (xxvii) of sub-section (1) of section 5 of the Wealth-tax Act unfairly discriminates against a person who invests his savings in his own business venture, whether carried on singly or in partnership. *We recommend that the law be suitably amended so as to exempt from Wealth-tax amounts invested by any person in his own business carried on by him as proprietor or in partnership, subject to the limits laid down in sub-section (1A) of section 5 of the Wealth-tax Act. Further, the restriction of six months in sub-section (3) of section 5 of the Wealth-tax Act is unnecessary and may be delected.*

5.52 As regards the exemption in favour of house property under clause (iv) of sub-section (1) of section 5 of tht Wealth-tax Act, we are of the view that in the context of the present shortage of residential accommodation, this exemption should continue. The exemption, which was restricted to self-occupied residential property only, has been extended by the Finance (No. 2) Act, 1971 to cover all house properties, which may include even let out business premises. We feel that there is no justification for such liberalization. *We recommend that the exemption under clause (iv) of sub-section (1) of section 5 of the Wealth-tax Act should be available only in respect of property used exclusively by the assessee for his residential purposes. As an added incentive to encourage construction of new houses, we recommend that newly constructed residential houses be exempted from wealth-tax for a period of 5 years from the year in which the construction is completed, even if such property is let out. The value of such let out residential property together with the value of self-occupied residential property will be exempt upto a total of Rs. 1 lakh.*

Basic exemption

5.53 In this context, we also considered the recent change introduced in the wealth-tax rate schedule by the Finance (No. 2) Act, 1971. As a result of this, no wealth-tax is leviable unless the net wealth exceeds Rs. 1 lakh in the case of individuals and Rs. 2 lakhs in the case of Hindu undivided families. But once a taxpayer becomes liable, wealth-tax is leviable in respect of his entire wealth. This amounts to stepping up the effective rates of wealth-tax even for persons having net wealth not very much in excess of the taxable limit. *We recommend that the basic exemption slab should be available to all taxpayers irrespective of the size of their net wealth.*

Patents and copyrights: sec. 5(1)(v)

5.54 The exemption conferred by the main clause is practically taken away by the proviso, which imposes a restriction that the exemption will not be available if the patents or copyrights are held by the assessee as assets of a business, profession or vocation or if any income or benefit accures to him therefrom. We feel that the exemption should serve as an in-

centive to all inventors and authors. *We therefore, recommend that the proviso to clause (v) of sub-section (1) of section 5 of the Wealth-tax Act be deleted but the exemption may be made available only to the author or inventor himself and not to any other person who acquires the patent or copyright by inheritance, contract or otherwise.*

Initial issue of equity capital of certain companies: sec. 5(1)(xx)

5.55 This clause, which exempts from wealth-tax the value of any equity shares held by an assessee in any company established with the object of carrying on an industrial undertaking in India, where such shares form part of the initial issue of equity share capital made by the company after 31st March, 1964, for a period of five years from the commencement of operations, has been recently amended by the Finance (No. 2) Act, 1971 so as to withdraw the exemption from 1st June, 1971. We are of the opinion that industrial development requires continued encouragement and the incentive should be retained. We feel that the exemption, to be effective and easy to administer, should be available for five years from the date of allotment. While it is rational to allow income-tax exemption from the date of commencement of operations, wealth-tax exemption should be available from the date of allotment of the shares. The justification for exemption is all the greater during the initial period following allotment when the investment does not produce any income. *We, therefore, recommend that clause (xx) of sub-section (1) of section 5 of the Wealth-tax Act be amended so as to make the exemption available for a period of five years from the date of allotment of shares, and that the exemption be continued beyond 31st May, 1971.*

(E) Exemptions and deductions under the Gift-tax Act

Savings certificates

5.56 Clause (iii) of sub-section (1) of section 5 of the Gift-tax Act exempts from gift-tax any gift of savings certificates issued by the Central Government, which are declared by notification in the official Gazette as exempt from gift-tax. Unlike the corresponding provisions in the Income-tax Act and Wealth-tax Act, exemption is sought to be given not by the statute itself but by a separate notification. So far no notification under this provision appears to have been issued.

While exemption from income-tax or wealth-tax is likely to encourage fresh invetsment in small savings certificates, the same cannot be said about exemption from gift-tax. We do not, therefore, see any justification for such an exemption and *we recommend that clause (iii) of sub-section (1) of section 5 of the Gift-tax Act be deleted.*

(F) Exemptions and deductions under the Estate Duty Act

Insurance policy

5.57 Clause (h) of sub-section (1) of section 33 exempts moneys payable under one or more policies of insurance effected by the deceased on his life, to the extent of Rs. 5,000. The limit of Rs. 5,000 was laid down in 1953 when the Estate Duty Act was enacted. There has been a substantial erosion in the value of money during the years that have followed. *We recommend that the exemption in respect of moneys payable under a life insurance policy effected by the deceased on his life be raised to Rs. 10,000.*

Insurance policy for marriage of female relatives

5.58 Moneys earmarked under a policy of insurance, etc., for the marriage of female relatives enjoy exemption to the extent of Rs. 10,000 in respect of each such relative. In these days of equality of sexes, we do not see any reason why a distinction should be made between female and male relatives. *We recommend that the word 'female' occurring in clause (k) of sub-section (1) of section 33 be omitted.*

Residential house

5.59 It has been suggested that on the analogy of the exemption provided by clause (n) of sub-section (1) of section 33 in respect of a residential house, exemption of an equivalent amount should be allowed to property-less individuals or in the alternative, this exemption should be withdrawn. It is stated that this provision discriminates between the estates of persons owning house property and those of persons not owning house property. While dealing with exemption of a residential house from wealth-tax, we have recommended that this may continue[1]. We are of the view that exemptions from income-tax and wealth-tax are meant to influence the investment decisions of the taxpayers but such considerations do not apply in the case of estate duty. *We recommend that the exemption in respect of a residential house under clause (n) of sub-section (1) of section 33 be rescinded.* Instead, it is desirable that the basic exemption limit for estate duty should itself be raised.

Members of police force, etc., killed in action

5.60 Clause (mm) of sub-section (1) of section 33 exempts from estate duty property of a member of a police force or border security force killed in action in protecting the border. The security of the State faces threats not merely from across the border but from disruptive and

1. para 5.52.

anti-social forces within the State also, and we see no reason why the estates of all civil servants killed in the performance of their duties such as maintenance of law and order should not be entitled to such exemption. Apart from the police force, hazards of service are high in some of the civil services, e.g., Customs Department. *We recommend that the property of all civil servants killed in the performance of their duty be exempted from estate duty.* The Government already provides gratuity and special pension to dependents of such civil servants and exemption from estate duty will be an enlargement of the benefits. The exemption may be given by amending clause (mm) or by issuing a suitable notification under sub-section (2) of section 33.

Basic exemption limit

5.61 Apart from the several exemptions which section 33 of the Estate Duty Act allows, the law also provides a basic exemption of Rs. 50,000. When the Estate Duty Act was enacted, the limit was Rs. 1,00,000 and this was lowered to Rs. 50,000 by the Estate Duty (Amendment) Act, 1958. Money value has since considerably declined and such a low limit is no longer desirable. Income-tax exemption limit has since been revised upwards. Estates of the value of Rs. 50,000 are not likely to yield taxable income. Administratively also, it would be difficult to spot marginal cases of estate duty when the deceased was liable neither to income-tax nor to wealth tax. With a view to eliminating such marginal cases whose revenue potential is very low, and making it easier for the administration to detect cases liable to estate duty, we feel that the exemption limit should be raised. We have recommended[1] aggregation of gifts made during the life time with the estate for duty purposes and we feel that a higher exemption limit for estate duty would be fully justified. *We, therefore, recommend that the basic exemption limit for estate duty be raised to Rs. 2 lakhs from the present Rs. 50,000.*

Suggestions for additional incentives

5.62 We now proceed to discuss some of the incentive schemes that have been suggested at different times and by different quarters as more suited to the economic needs of our country. Some of these schemes have been tried in other countries with some measure of success. Some others have been tried and given up. There are also some suggestions which have not so far been experimented anywhere.

Deduction for savings and investments

5.63 One of the suggestions that has been made is that specific incentives should be provided to encourage private savings and divert them into desirable channels of investment consistent with the development programmes of the Government. As observed earlier, fiscal laws can play an important role in stimulating investment and economic growth. Further, we have recommended elsewhere[2] reduction in tax rates at all levels of income. As this would result in extra disposables income with the taxpayers, we consider it expedient that there should be an organised effort to mop up a part of this surplus for development purposes.

5.64. *We recommend that a National Development Fund be established to which all taxpayers, other than companies, may contribute on a voluntary basis. It may be made clear that the Fund will be earmarked for utilisation by Government on development projects only. The contribution to the Fund in any financial year should be subject to a ceiling of 10 per cent. of the gross total income of the taxpayer or Rs. 20,000, whichever is less. A percentage of the contribution should be allowed as a deduction in computing the total income in the same way as under section 80C of the Income-tax Act, 1961, in respect of contributions to a provident fund or payments towards life insurance premia, viz., 100 per cent. of the first Rs. 1,000 of the qualifying amount, 50 per cent. of the next Rs. 4,000 and 40 per cent. of the balance. However, this deduction should be in addition to that admissible at present under section 80C of the Act. The contributions to the Fund will be blocked for a period of 7 years. The amount on repayment after 7 years will not be liable to tax. The rate of interest may be not less than 4½ per cent. but the interest may be subject to income-tax.* It will thus be ensured that the savings remain intact for a minimum period and the comparatively low rate of interest will act to discourage existing investments being diverted to the Fund for claiming the tax benefit. *As an added incentive, the investment in the Fund may be exempted from wealth-tax also.*

5.65 While we consider it necessary that the contributions should be blocked for a minimum period of 7 years if the Fund is to serve its desired purpose, we feel that it will not be fair to deprive the taxpayer entirely of the user of the money for such a long period. Most of the self-employed persons might shy away from the scheme if the savings are not to be available to them for their business requirements in times of need. *We would, therefore, suggest that credit facilities may be allowed to taxpayers by the nationalised banks against the collateral security of their deposits in the Fund within the framework of the credit policy, as laid down by the Reserve Bank of India from time to time.* This should overcome the reluctance

1. Para. 3·79.
2. Para. 2·52.

on the part of taxpayers to block up their savings for long periods with the Government.

5.66 As indicated above, our suggestion is that the scheme should be entirely voluntary, the deduction being allowed in relation to the deposits actually made in any financial year immediately preceding the assessment year. It is relevant to mention here that the experience of the Annuity Deposit Scheme has not been happy. Complicated provisions were necessitated for recovering the deposits, and even then, there remained substantial arrears of deposits to be recovered. The annual repayments were also to be included in the total income in the next ten years and taxed, thus leading to complications and necessitating vigilance on the part of the Department for years to follow. The scheme that we have proposed is, however, both easy and economical to administer. We estimate that the deposit flow in a year would be of the order of Rs. 120 crores if every taxpayer with income above Rs. 10,000 were to avail of the incentive to the maximum limit. The cost to the revenue will then be around Rs. 33 crores. However, persons in the lower income groups, whose saving capacity is rather limited, might not be able to avail of the incentive to the fullest extent. The savings flow from persons having incomes above Rs. 20,000, in case all were to avail of the incentive to the maximum, is estimated to be about Rs. 60 crores and the cost to the revenue in respect of such deposits will be about Rs. 22 crores. We expect that the scheme that we have suggested would help in mobilising the much needed resources without causing any undue strain on the taxpayer's purse or on the revenue and without placing any excessive burden on the administration.

Earned income relief

5.67 It has been suggested that relief in respect of earned income should be provided. The earned income relief which used to be allowed some years back was replaced by a special surcharge on unearned income. Even this distinction between earned income and unearned income has been recently given up on account of needless complications which it gave rise to in tax calculations. The distinction is unreal and leaves considerable scope for artificial arrangements resulting in tax avoidance, apart from increasing the complexities in the administration of the law and adding to the volume of disputes and litigation. *We do not recommend the reintroduction of any relief for earned income in any form.*

Exemption in respect of self-occupied property

5.68 It has also been suggested that income from self-occupied property should be totally exempted as no real income arises therefrom. Income from property, whether let out or self-occupied, is taxed on a notional basis and the latter is given substantial relief, which is linked to the other income of the taxpayer. Ownership of a residential house adds considerably to the economic power of the owner and there is no reason why he should not make a larger contribution to the State than his less fortunate brethern who have to live in rented houses. *We do not consider any enlargement of the existing concession necessary. At the same time, we do not approve of the suggestion that even this concession should be withdrawn and the self-occupied property taxed fully as if it had been let out.*

Incentive for medical practitioners in rural areas

5.69 A suggestion has been made that doctors who practise in rural areas should be given tax incentives. Medical facilities are woefully inadequate in the rural areas of our country and we agree that some steps have to be taken to encourage doctors to shift from the cities to rural areas. Tax laws can play a useful role in this regard if an additional exemption is allowed to such doctors. *We recommend that a deduction of Rs. 5,000 may be allowed under Chapter VIA of the Income-tax Act, in addition to the basic exemption, to a registered medical practitioner who practises in rural areas and does not have a clinic in any urban area.*

Incentives for industrialisation of backward areas

5.70 Another suggestion that has been made is for the provision of incentives for industrialisation of economically backward areas of the country. Economic development has a snowballing effect and areas which are already developed tend to develop further at a faster rate, while backward areas tend to remain backward unless some special efforts are made for their development. The Government is already aware of the need for fostering industrial growth in less developed areas, and the Fourth Five Year Plan has focussed attention on removing regional imbalance in the economy. Financial institutions provide concessional finance to serve as an incentive to industrialists and entrepreneurs for locating industrial projects in underdeveloped areas. Some State Governments provide infra-structure facilities in the form of developed land, transport, power, water, industrial housing, etc., with the object of developing backward areas. The taxation law can also usefully contribute towards this concerted national effort for achieving a balanced development of the country as a whole. Certain concessions already exist for encouraging shifting of industrial undertakings from urban areas, which are ordinarily well developed and, if anything, congested. *We recommend that a concession in the form of accelerated depreciation—equal to one and one-half times the amount of depreciation which would otherwise have been allowable—may be given to taxpayers who establish new industrial units in notified areas.* in respect of their fixed assets.

Concessions for employment-oriented industries

5.71 The accent in recent years has been on the development of employment-oriented industries with a view to tackling the problem of growing unemployment. Our Government have not been slow in reacting to the portents of the socially unacceptable and politically dangerous situation created by the prevalence of widespread unemployment. Their deep concern is evident from the following sum-up in the 'Economic Survey[1] for 1970-71:

> "Finally, there is the problem which is perhaps in one sense the most urgent and crucial, namely, that of unemployment and under-employment, in the urban areas as well as in the countryside. The task of employment creation is not just a function of the size of additional investment and, through it, additional production in the agricultural and industrial sectors. Up to a point, it relates to the investment pattern and the pattern of technology that is adopted. A co-ordinated policy, which will harmonise the technological and investment patterns with the estimates of the unemployed in the different sectors, has to be evolved and firmly pursued."

The Government have recently constituted a Committee of experts to assess the extent of unemployment and under-employment and suggest suitable strategies for employment generation, including technical, financial and fiscal measures.

5.72 Recent experience in India and other developing countries has shown that the growth rate of productive employment falls far behind that of national out-put and that massive under-employment and substantial unemployment persist even with rapid economic growth. Economic and industrial growth do not automatically increase the employment potential in the same proportion, and special measures become necessary to stimulate employment-oriented industries. As a short-term measure for relieving acute distress in particular areas, relief-oriented employment programmes might be successful but the long-term interests of the country lie in promoting production-oriented employment which would serve the twin purpose of increasing employment and ensuring increase in production.

5.73 Industrialisation with a lower average capital intensity per worker does not necessarily retard economic development. Japan is an example of a country which has achieved high industrial productivity with a low capital investment. In the year 1930, when Japan had achieved a moderately high degree of industrial development, a survey showed that industrial machinery and tools comprised only 3.1 per cent. of its capital assets[2], which would disprove the common assumption that the bulk of the real capital which a developing country must add to its productive equipment, should consist of machines and related items. It should be possible to increase the scope for effective use of more labour in relation to capital, thus reducing the high capital requirement of industrialisation, while at the same time enlarging employment opportunities. Special measures are necessary to set such a trend.

5.74 The measures suggested at the 53rd session of the International Labour Conference in 1969 at Geneva for correcting the factors which give rise to excessive capital intensity include fiscal measures such as tax concessions[3]. The latest U.N. report on 'Tax Reform Planning' states as under[4]: —

> "The incentive policies err not in encouraging the use of capital *per se,* but in not differentiating among its various uses and particularly in terms of its effects on employment. A greater effort needs to be made to evolve new tax incentives with a view to enhancing, wherever appropriate, the import of labour-intensive technology."

Malaysia has recently offered 'tax holiday' to industries utilising more labour with a view to attracting the industrial investment needed to create jobs for a rapidly growing labour force. The 'labour utilisation' tax relief will be granted for two years for establishments employing between 50 and 100 workers and for five years for those employing more than 300. Labour intensive electronic companies are eligible for tax holidays from four to seven years, depending on the amount of fixed capital investment[5]. Our tax laws provide various incentives for savings and investment, particularly in productive fields. But most of these incentives, such as allowace of development rebate under section 33, deduction in respect of profits from new industrial undertakings under section 80J, etc., are capital-oriented. The relief is in relation to the money invested in plant and machinery or to the capital employed in the undertaking. If

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1. Government of India, Economic Survey (1970-71)—p. 71.
2. William W. Lockwood—The Economic Development of Japan—Table 18, p. 239.
3. The World Employment Programme—Report of the Director General to the International Labour Conference—1969—p. 79.
4. Report of the Secretary General —U. N. Economic and Social Council—51st Session—1971—para. 190.
5. Report in 'The Hindu' dated .

labour-intensive industries are to be encouraged, a different type of concession having a bearing on the employment potential of the industry will have to be given. For this purpose, it will be necessary to evolve a suitable formula for identifying labour-intensive industries. *We recommend that tax rebate ranging from 5 per cent. to 10 per cent. of the tax payable be allowed to an assessee in respect of income derived from a labour-oriented industrial unit newly set up after a specified date. The rebate should be admissible for a period of 5 years beginning from the year in which the operations commence.*

5.75 We may here mention that the capital levy of one per cent. on companies which we have proposed elsewhere[1] will take care of the tendency to cover-invest in capital assets. Some of our recommendations[2] for concessional treatment of small companies will also lead to labour-intensive industrialisation.

Incentives for small-scale industries

5.76 It has been suggested that small-scale industries should be encouraged by providing suitable tax incentives. Development of small-scale industries not only contributes to increased production and employment but also helps prevent concentration of economic power and means of production. While agreeing that small-scale industries need encouragement, *we feel that the incentives we have suggested for employment-oriented industries[3], and the recommendations we are making for deduction of distributed profits[4] and a lower capital levy[5] in the case of small companies should take care of this and no additional measures are necessary.*

Investment reserve scheme for companies

5.77 It has been suggested that for rapid economic growth of the country, it is important to encourage corporate savings. Sweden has tried a scheme whereby corporations are permitted to set aside upto 40 per cent. of their pre-tax net business income as an investment reserve for economic stabilisation, the amounts allocated to this reserve being deductible from the income both for national and local taxes. Significant success has been claimed for this scheme and it is stated that the system has a double stabilising effect to restrain investments when business activity is high and to stimulate them during periods of depression. We are convinced of the need for strengthening corporate finances in our country, as companies play a prominent role in economic development. The fiscal instrument can be successfully used in providing the incentives that would help building up the corporate sector. If companies can be encouraged to put by a part of the profits earned by them during prosperous years by providing tax relief on savings, it will help check inflationary tendencies that normally go with periods of boom. These funds can be released on appropriate occasions to counteract recession or depression. Thus, the savings would act as an economic stabiliser. This will also enable companies to plough back some of their profits for future development in a manner which would encourage companies to economise and restrain avoidable or wasteful expenditure.

5.78 We have recommended earlier[6] the establishment of a National Development Fund to promote savings in the non-corporate sector. As corporate savings and investment present entirely different features and pose special problems, *we recommend the establishment of a Reconstruction and Stabilisation Reserve Fund to which all companies may contribute upto a maximum of 10 per cent. of their gross total income. The contributions will be allowed to be deducted in arriving at the total income of the companies for tax purposes. To be eligible for deduction, the deposits may be made at any time during the account year or within six months of the close of the account year. The Government will pay interest of 6 per cent. per annum on these deposits and the amount of interest will be subject to tax. Unlike the National Development Fund for the non-corporate sector, no overdraft facilities will be allowed on the security of these deposits. The company will be free to withdraw at any time upto 50 per cent. of the deposits for current repairs to buildings or plant and machinery, and for research, but the amount withdrawn shall be deemed to be income of the year in which it is withdrawn. The remaining fifty per cent. of the deposits will remain blocked for a period of five years during which no withdrawals will be permitted. After five years, the amount may be withdrawn with the approval of the Government for expansion and development purposes only, including employees' housing. The amount of withdrawal will not be subjected to tax as income but will be deducted from the cost of assets for purposes of depreciation. The deposits in the Fund will not, however, be exempt from the capital levy proposed by us elsewhere[7].*

5.79 If all eligible companies were to make contributions to the Fund to the maximum limit, the deposit flow in a year would be of the order of Rs. 60 crores and the immediate tax loss will be about Rs. 33 crores. The tax loss will, however, be made up subsequently when withdrawals to the extent of 50 per cent. of the deposits are taxed as income, or when the allowable depreciation is reduced by deducting from the cost of assets the amounts withdrawn after five years for acquisition of assets.

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1. para. 5·89.
2. para. 5·74.
3. para. 5·83.
4. para. 5·83.
5. para. 5·89.
6. para. 5·64.
7. para. 5·89.

Incentives for increasing productivity

5.80 Another suggestion that has been made is that tax incentive should be given for fuller utilisation of installed capacity and for increased production. There is a provision in section 280ZD of the Income-tax Act for issue of tax credit certificates in relation to increased production of certain goods but the provision, like all other tax credit certificate schemes did not work well. In the face of visible signs of a slowdown in the industrial activity in the country, there is need to provide effective incentives for increasing production. The tax structure is relevant in this context as any thrust that the tax policy can provide to the industrial sector can have wider ramifications, because it forms the nucleus of India's future prosperity and economic progress. If the fiscal system is to be growth-oriented, the tax structure must necessarily be poised in favour of industrial growth. There is a good case today for changing the corporate tax structure in such a way as to give a boost to industrial production. This deserves a priority because successive booms in agricultural output have not produced the type of impact on industrial growth that is warranted by agricultural development. *We recommend that an incentive by way of a tax rebate be allowed to companies, engaged in the manufacture or production of specified goods, to reward additional productivity, i.e., increased utilisation of installed capacity and increased production. The rebate may be in the form of a deduction ranging from 5 to 10 per cent. of the tax payable for every 10 per cent. increase in output. For this purpose, suitable norms may be evolved by competent authorities for each industry/unit and these may be announced well in advance.*

Deduction in respect of distributed profits

5.81 It has been suggested that in the case of small and medium companies the taxable income should be determined after making a deduction in respect of dividends distributed upto a specified rate of return on paid-up capital. Taxation of income of companies and also of dividends distributed involves an element of double taxation which different countries have attempted to relieve in different ways and to varying degrees. For example, in West Germany, distributed profits are taxed at a much lower rate than undistributed profits.[1] In some countries, a portion of the tax paid by the company is credited against the share holder's liability. Such a procedure was prevalent in our country also till about a decade back.

5.82 As mentioned above, there is an element of double taxation involved in taxing both the income of a company and the dividends in the hands of shareholders. An effective and yet simple form of relief will be taxation of distributed income of a company at a lower rate. We agree that economic development necessitates conservation of corporate profits rather than their dissipation, and we have ourselves recommended[2] a scheme for encouraging corporate savings. But if pressed too far, this principle can prove self-defeating and inhibit persons from investing their savings in the corporate sector. Reliance on profit retention does not also lead to the best allocation of the investible resources. It is much better hat investible funds are channelled through the capital market than that they are allowed to be retained by the existing industrial units themselves. Retention of investible funds by the established industries also puts new enterprises at a disadvantage and hampers the growth of a broad-based industrial structure. Moreover, tax on company profits at a uniform rate, enhances the cost of risk capital in relation to the cost of borrowed funds.

5.83 *We, therefore, recommend that, in the case of small companies with paid-up capital not exceeding Rs. 5 lakhs, distributed profits upto 8 per cent. of the paid-up capital or Rs. 25,000, whichever is less, be totally exempted from tax by allowing the same to be deducted in computing the total income. In the case of companies with paid-up capital exceeding Rs. 5 lakhs, distributed profits upto 8 per cent. of the paid-up capital should be taxed at the rate of 30 per cent. To prevent avoidance of tax by companies enlarging their capital base by issue of bonus shares, we recommend that bonus share capital should be excluded for this purpose.*

Additional income-tax under section 104

5.84 When an incentive to declare a reasonable dividend is provided, the need for a provision to compel companies to distribute their income would no longer subsist. The provisions of section 104 of the Income-tax Act are intended to plug avoidance of tax by shareholders of closely-held companies. In practice, however, the provisions do not seem to have achieved their intended purpose. Subjective standards are applied for judging the adequacy of dividends or whether the company was justified in not declaring any dividend. As the additional income-tax payable under this provision is in the nature of a penal levy, the onus is on the Department to show in every case that the provision is attracted. The result has been that very few of the orders passed under this provision are sustained in appeal. In recent years, the definition of a widely-held company has been liberalised and the field of exemption from the levy of additional income-tax has been widened, with the result that the scope for applying the

[1] Taxation in the Federal Republic of Germany, World Tax Series (Harvard Law School), p. 143.

[2] para. 5·78.

provisions of section 104 has been considerably circumscribed. We have, further, recommended certain concessions in respect of the distributed profits of companies, which will encourage them to distribute reasonable dividends. The capital levy proposed by us will also discourage unreasonable accumulation of profits. *We, therefore, recommend that section 104 of the Income-tax Act be omitted.*

Rate of tax for companies

5.85 In this context, we also considered the rates at which companies should be taxed. At present, companies are taxed at different rates. We see no reason why all domestic companies should not be taxed at a uniform rate. The Company law, no doubt makes a distinction between public companies and private companies. But in seeking to import distinction into the taxation law, several avoidable complications have arisen. A concept which does not exist under the Company law—of companies in which the public are substantially interested—had to be introduced to ensure that only genuinely broad-based companies enjoy the lower tax rate prescribed for public companies. We feel that there need be no difference in the matter of rates of income-tax between widely-held and closely-held companies, particularly when the undistributed profits will now attract a higher rate of tax as suggested by us.[1] *We recommend that a uniform rate of income-tax of 55 per cent. be prescribed for all domestic companies, whether public or private, widely-held or closely-held, and industrial or non-industrial.*

5.86 At present, a distinction is made even among widely-held companies between small companies having total income not exceeding Rs. 50,000 and bigger companies. We have suggested elsewhere that small companies be allowed a concession in the matter of capital levy[2] and that a more liberal treatment be accorded to them in the taxation of distributed profits.[3] When these recommendations are accepted, there will be no justification for continuing with the concessional rate of taxation for small companies. Further, the quantum of income may not always be a correct index to decide whether or not the company is small. *We recommend that the existing distinction in the matter of rate of taxation applicable to widely-held companies with income not exceeding Rs. 50,000 and others be done away with, and both taxed at the rate of 55 per cent.*

5.87 There is a further distinction even among closely-held companies inasmuch as industrial companies are taxed at a lower rate than other companies. Industrial companies are allowed several other incentives and tax concessions and we do not see any justification for such a differential rate of taxation. *We recommend that the existing differential tax rates for industrial and non-industrial companies be abolished.*

Surtax on companies

5.88 Companies are also liable to surtax[4] at specified rates on so much of their 'chargeable profits' as exceed the 'statutory deduction'. Surtax has been criticised as a discriminatory tax which penalises efficiency. S. Bhoothalingam who considered the rationale of this levy has observed[5] as under:—

> "The Surtax in effect introduces the progressive principle which, while eminently appropriate in the case of individuals as reflecting both capacity to pay and social justice, is completely inappropriate in the case of impersonal organisations. The base of the Surtax corresponds pretty closely to capital effectively employed. A higher discriminatory rate of taxation, therefore, penalises the more effective use of capital."

After careful consideration, *we recommend that surtax on companies be abolished.*

Capital levy on companies

5.89 A capital levy on companies has been suggested as a means of discouraging ineffective and wasteful use of capital. A tax on capital would rationalise the scheme of company taxation and would incidentally check the avoidance of wealth-tax through the medium of closely-held companies. A capital levy on both owned and borrowed capital of a company would act as a check avoidable capital expenditure and on borrowings. It would discourage unnecessarily large inventories. Further, such a tax is neutral between risk capital and borrowed funds. *We recommend that a tax on capital of companies be introduced. Such a tax may be imposed with reference to the valuation date as defined in the Wealth-tax Act, 1957. The capital for this purpose may be defined as 'owned' and 'borrowed' capital of companies and such a tax may be fixed at a general flat rate of 1 per cent.; a differential treatment in the form of either a basic exemption or a lower tax rate may be prescribed for small companies. Even public sector companies should be within the purview of such*

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1. para. 5·83.
2. para. 5·89.
3. Para. 5·82.
4. Companies (Profits) Surtax Act, 1964.
5. Final Report on Rationalisation and Simplification of the Tax Structure—p. 20.

a tax, though it might only mean transfer of the amount from one pocket to another of the Government. In order to remove any doubt, *the term 'owned capital' may be defined for this purpose as paid-up capital of the company and reserves, other than reserves for specific contingent liabilities.* Secondly, since 'borrowed capital' is an item which normally fluctuates during the course of the year, and as it would not be proper to take the borrowed capital as on the valuation date, we consider that *the term borrowed capital' should be defined as an amount calculated at eight times the net interest paid by the company towards borrowing during the year.* In order to ensure that this levy does not deter the formation of new industrial companies, *we recommend that new industrial companies may be exempted from this tax for a period of five years from the date of their incorporation.*

CHAPTER 6

TAX ADMINISTRATION

Introductory

6.1 Shortcomings in tax administration can frustrate even the best of tax policies. Though our terms of reference relating to review of the administration and its procedures are incidental to the primary terms of reference, we place no less importance on the recommendations we propose to make in this Chapter. In fact, our recommendations on tax administration will have to receive precedence if the other measures suggested by us are to yield the desired results.

6.2 The ills that beset the tax administration are many. Duality of functions at the top has made both policy making and its implementation suffer. A haphazard personnel policy, combined with an attitude of vacillation and indecision, has resulted in frustration permeating deep and wide. The standards of supervision and control have touched so low that officials can often ignore with impunity the directives and instructions of the Board. Manpower is short and no attempt is made to make the best use of what is available. Training is inadequate or at many levels totally wanting. Unscientific work norms and unrealistic standards of performance have created a situation where efficiency is at a discount and questionable methods are used to reach the prescribed targets. The emphasis shifts from one aspect of work to another in an unpredictable manner. The last two decades have witnessed several and varied drives launched without either assessing the manpower requirement, or providing the requisite assistance, equipment or facilities. In such conditions, it is hardly surprising that both tax evasion and tax arrears have assumed menacing proportions.

Historical background

6.3 The Income-tax administration in its present form dates back to the year when the Indian Income-tax Act, 1922 came into effect. Administration of the Act was entrusted to the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924. The Board combined in itself the administration of direct taxes as well as indirect taxes. A separate cadre of Appellate Assistant Commissioners was created in 1939 and the Income-tax Appellate Tribunal was constituted in 1941. The Directorate of Inspection (Income-tax) was established in 1940 for assisting the Board in the supervision, control and co-ordination of the administration of income-tax and other direct taxes. This was followed by the establishment of Directorates of Inspection for Investigation, and for Research, Statistics and Publication.

6.4 The Income-tax Act, 1961, which replaced the 1922 Act, achieved a codification rather than a reform of the Income-tax law, and left the administrative machinery practically untouched. The decade that followed has witnessed changes which have cast heavier burdens on the administration. The powers of search, seizure and prosecution have been widened and tax recovery work, which was being attended to by the revenue departments of the respective State Governments, has been progressively taken over by the Income-tax Department itself. The introduction of Revenue Audit in 1960-61 has increased the responsibilities of the Department because matters relating to assessments under the direct tax laws are no longer its close preserve. At the same time, the work-load has increased manifold, making it all the more difficult for the Department to live up to its new responsibilities. The number of assessees which was 10.5 lakhs in 1959-60 increased to over 30 lakhs in 1970-71. The pendency of assessments which stood at 4.41 lakhs at the end of 1957-58 rose to the peak figure of 23.47 lakhs at the end of 1966-67. The number of pending appeals increased from 84,736 at the end of June, 1964 to 2,17,836 on 31st March, 1970. The arrears of tax swelled from Rs. 323 crores as no 1-4-1965 to Rs. 840 crores as on 1-4-1970. Though additions to the numerical strength at various levels have been made from time to time, they were not commensurate with the increased work-load. The Public Accounts Committee, in reviewing the growth in the number of taxpayers during the period 1962 to 1967, observed that the sharp increase in the number of assessees without a corresponding increase in the man-power resources of the Income-tax Department has resulted in substantial accumulation of assessments, apart from 'perfunctory assessments leading to endless litigations, Audit criticisms and irritation to assessees'[1].

6.5 A separate Board—the Central Board of Direct Ttaxes—was constituted in 1964 for administering the direct tax laws. An Intelligence Wing was set up in 1966 for facilitating investigation of tax evasion and prosecution of offenders. A new cadre of Additional Commissioners of Income-tax has recently been created to relieve the Commissioners of a part of their

1. 73rd Report of the Public Accounts Committee (Fourth Lok Sabha)—April, 1969—para. 1·19.

growing responsibilities and work-load. The functional scheme has been introduced with a view to meeting the demand for specialisation created by the increasing complexity and volume of work. But as observed by us elsewhere[1], the steps taken hitherto have been mere palliatives for individual symptoms rather than a cure for the malaise from which the administration suffers, and have provided only temporary solutions to immediate problems, and that too, in not a very satisfactory manner. We feel that the time is now ripe for a comprehensive re-appraisal of the role of tax administration, its organisation and its procedures. We are convinced that without certain basic changes in its set-up and its methods, the administration will not be in a position to meet the challenge posed by the increasing number of taxpayers as also of tax dodgers and defaulters.

Organisational set-up

Central Board of Direct Taxes

6.6 At the apex of the income-tax administration is the Central Board of Direct Taxes, constituted under the Central Board of Revenue Act, 1963. The most striking characteristic of the Board is the multiplicity of its roles. The Board has the power to assign jurisdiction to the authorities below and to issue orders, instructions and directions to them for the administration of the tax laws. It has some other functions such as granting approval in certain situations, disposing of objections in cases of searches and seizures, etc. The Board also enjoys certain powers of delegated legislation and is competent to make rules for carrying out the purposes of the direct tax laws. These may be termed the statutory functions of the Board.

6.7 The second role of the Board is as the administrative head of the Income-tax set-up. The Income-tax Department is not organised on a unitary basis like the Post and Telegraphs Department which is headed by a Director General, or the Defence Accounts Service which is under a Controller General of Defence Accounts. The Income-tax organisation is regional, the Board assuming the role of an overall administrative authority, without being part of the Department. The Union Public Service Commission in the prospectus for the combined competitive examination for recruitment of officers to the various central services, notifies the post of Controller General of Defence Accounts or the posts of Members and Senior Mmeber of the P & T Board as departmental posts open exclusively to the officers of the service; whereas the highest post notified as open to an officer of the Income-tax Service, is that of the Commissioner of Income-tax. This gives the impression as if the posts of Members and Chairman of the Central Board of Direct Taxes are not departmental posts, an impression which is unfortunate.

Further, the Board does not have the same independent status as the Railway or the P & T Board has; it is a part of the Department of Revenue and Insurance. This restricts its administrative and financial powers and impinges on its independence. The Internal Finance Cell of the Department of Revenue processes the proposals of the Board having financial implications; yet does not function as part of the Board. Most of the proposals have also to be referred to the Department of Expenditure of the Finance Ministry for approval. Such complete dependence for financial sanction or approval on an outside agency, which may not be alive to the importance or urgency of the problems of the Department, is a serious handicap from which the Central Board of Direct Taxes suffers.

A situation like this does not exist in the Railway Board which has its own budget and enjoys full financial autonomy. In the P & T Department also, the problem has been solved by inducting into the P & T Board a senior Member (Finance) of the rank of Additional Secretary who represents the Expenditure Department but, being part of the P & T Board, is directly associated with and shares the responsibility for the administration of the Department. The presence of the finance representative within the P & T Board obviates the need for reprocessing of its proposals from the lowest level upwards in the Expenditure Department. Such a set-up, apart from contributing to considerable financial independence, eliminates duplication and delays involved in parallel processing in different establishments.

6.8 Thirdly, the Central Board of Direct Taxes also functions as a part of the Finance Ministry, its Chairman and Members being *ex-officio* Additional Secretary and Joint Secretaries to the Government of India respectively. In this capacity, it is concerned with tax policy on the one hand and administrative matters which require the sanction of the Central Government on the other. Here again, the Board does not play a significant role. Apparently, the Department of Economic Affairs has a much greater say in tax policy matters.

The Central Board of Direct Taxes has not been constituted as a separate department and the Chairman of the Board is, therefore, not the head of a department of the Finance Ministry. The Chairman and Members of the Board have in recent years been drawn from the Income-tax Department. The Deputy Secretary and Under Secretaries incharge of ad-

[1] para. 4.

minist ıtion are, however, officers of the Indian Admin ative Service, or Central Secretariat Service, ır other Central Services. The other Deputy Secretaries and Under Secretaries in the technical branches of the Board belong to the Department, but their appointment is subject to the procedures, restrictions and tenures governing secretariat appointments. The personnel in the lower formations of the secretariat of the Board is practically all from the Central Secretariat Service. In a set-up, where processing starts at the lowest level, this is a considerable handicap specially when technical references from the field to the Board are processed initially by non-technical men.

The P & T Board appears to have resolved this difficulty by opting for a departmental set-up in preference to a secretariat set-up. While its Chairman and Members are *ex-officio* Secretary, Additional Secretaries and Joint Secretaries, the rest of the establishment is departmental. This has been possible because the Chairman of the P & T Board is also the Director General of the Department and he chooses his own departmental set-up to assist him. The Members, except Member (Finance), are all departmental men holding concurrently departmental posts. The organisation of the P & T Board appears to be more conducive to efficient functioning than that of the Central Board of Direct Taxes. The anomaly of the situation is that the Central Board of Direct Taxes, which is vested with the responsibility of administering a huge taxation department all over the country, is without adequate power to be able to discharge its responsibilities effectively. Even the Deputy Secretary incharge of general administration at the headquarters is not under the Board.

6.9 The question of separation of tax administration from framing of tax policy has been considered in the past. Over a decade ago, the Estimates Committee of the Second Lok Sabha observed that in combining the secretariat functions of the Department of Revenue and the administrative functions of the Central Board of Revenue in the same persons, the purpose of the Central Board of Revenue Act has been largely defeated[1]. The Direct Taxes Administration Enquiry Committee did not, however, favour, the separation, as it felt that it was neither practical nor desirable to divorce administration entirely from policy making and that policy making without administrative responsibility would tend to become theoretical and unrealistic[2]. The Working Group of the Administrative Reforms Commission considered at length the advantages and disadvantages of a system which separates policy making from operational responsibility, and recommended that in the interest of efficiency it was necessary to separate the dual functions of the Central Board of Direct Taxes and constitute it as a separate unit on the lines of the P & T Board[3]. The Administrative Reforms Commission did not favour the suggestion of the Working Group for separation of policy making from executive functions. The Commission observd as under[4].

> "The Central Board of Direct Taxes as well as the Central Board of Excise and Customs, like their predecessor, the Central Board of Revenue, have been responsible for policy making in addition to being responsible for administering the Departments under them. This arrangement ensures that decisions of policy are taken only after considering all the administrative implications and also that implementation by the administration is in accordance with the policy of Government ..... The Commision would therefore, recommend that rather than be deprived of its policy making responsibilities, the Central Board of Direct Taxes should be allowed to function as a self-contained department administering not only its subordinate offices but also its headquarters establishment."

6.10 We consider that the objections to the reconstitution of the Central Board of Direct Taxes as an independent executive authority not concerned with tax policy are based on a misapprehension. It is not correct to say that the Board is at present responsible for formulating the tax policy. As stated earlier, other wings of the Finance Ministry play a major role in this regard. Moreover, tax policy is also guided by the recommendations of numerous enquiry bodies and committees, including the Public Accounts Committee and Estimates Committee of the Parliament. The Board can at best be stated to be only associated in the formulation of tax policy. It is not that after the constitution of the Board as an independent body, it would cease to be in a position to advise on tax policy. Being a high-powered body responsible for implementation of the tax policies of the Government, the advisory role of the Board is bound to continue.

6.11 After careful consideration, *we recommend that the Central Board of Direct Taxes, which is the creation of statute, viz,. the Central Board of*

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1. 49th Report of the Estimates Committee (Second Lok Sabha).

2. Report of the Direct Taxes Administration Enquiry Committee—para. 8·5.

3. Report of the Working Group of the Administrative Reforms Commission on Central Direct Taxes Administration—paras 7·4 to 7·6.

4. Report of the Administrative Reforms Commission on Central Direct Taxes Administration—p. 26, para. 2.

Revenue Act, 1963, should be reconstituted as an independent and autonomous Board with five Members, including its Chairman, but excluding Member (Finance), if any . The Chairman and Members should have the same status and draw, respectively, the same emoluments as a Secretary and Additional Secretaries to the Government of India and should be appointed as a rule from among the personnel of the Income-tax Service. The Government should scrupulously respect its autonomy and independence and should refrain from giving any directions in individual cases, though it could issue directions of a general nature. The Board will submit to the Parliament an annual report on the management and performance of the Department.

6.12 We consider that the Central Board of Direct Taxes should not be a part of the Ministry of Finance. As it happens, the Secretariat officers function in an environment where they are susceptible to political influences. In a democracy, the elected representatives of the people no doubt have to formulate and shape policies, including fiscal policies. It would be unfortunate, however, if in the execution and implementation of policy, there were elements of intrusion and interference. It is of the highest importance that in matters of taxation, the rule of law prevails strictly and impartially and there should be no outside influence. It is not very material whether there is now such interference or not. What is important is that the administrative pattern should be so organised that there is no scope for such interference, particularly when the stakes involved in cases are very high and the affluent taxpayers wield considerable influence in political circles. The people are bound to lose faith in the impartiality of the administration if its organisation allows political interference to be even a theoretical possibility. As long as the executive head of the Department is himself part of the Finance Ministry, we feel it would be difficult to carry conviction with the public about the impartial administration of the direct tax laws. We are, therefore, of the opinion that the direct tax laws administration should be insulated from political pressures and the Government should publicly declare that by constituting an independent Board, they intend to respect its autonomy, both in law and practice.

6.13 The problem of separation of policy-making from execution is not peculiar to India and we can certainly draw useful lessons from the experience of other countrits. In U.K., while the Treasury, which in practice means the Chancellor of the Exchequer, lays down the policy, the Board of Inland Revenue carries it out. In U.S.A., policy making is with the Treasury, while the Commissioner of Internal Revenue is supreme in its execution. In Japan, the Tax Bureau of the Ministry of Finance plans tax policy whereas the administration of the taxes is the responsibility of the National Tax Administration Agency. In Ireland, the Devlin Group set up by the Minister for Finance recommended in 1969 the total separation of policy making and execution in all Departments of the State. The Expert Group on Tax Reform Planning, set up by the Economic and Social Council of the United Nations, has also expressed the view that tax planning should be undertaken at the highest level and should preferably be separated from the day-to-day functions of tax administration, though it should not ignore that experience as a mutual feedback is essential[1].

6.14 Objections are also likely to be raised against this reform on the ground that power of write off vests in the Central Government, or that the replies to the Public Accounts Committee are to be signed by an officer not below a Joint Secretary, or that there are certain functions which have been assigned to the Central Government under the direct tax laws. We feel that these objections are not altogether valid. As it is, power of write off, which vests in the Central Government, has been delegated to the Commissioners of Income-tax and there is no reason why a similar procedure should not continue. Similarly, replies to the Public Accounts Committee can be signed by the Chairman as the head of the statutory Board. In so far as certain functions under the direct tax laws, which have to be performed by the Central Government, are concerned, most of them are purely administrative and can as well be assigned to the Board by an amendment of the law.

6.15 Now, coming to the functions of the Board, we understand that at present practically all of them are distributed among the Chairman and Members individually and only a few items like write off or scaling down of large tax arrears, matters relating to recruitment, promotion and training policy, service rules and grant of awards and appreciation certificates, are jointly considered by the Board. Of these, we have recommended elsewhere[2] that writing off and scaling down of arrears should be entrusted to an independent body within the Income-tax Department. Awards and merit certificates are hardly ever given in practice, and the Board is now not the final authority in deciding recruitment and promotion policies. That leaves the Board acting as

1. Tax Reform Planning—Report of the Expert Group. Department of Economic & Social Affairs, United Nations.
2. para. 4·30.

a group without any worthwhile functions, and the Chairman and Members, by and large, function in water-tight compartments. This defeats the very purpose of constituting a Board as the top executive authority of the Income-tax Department.

The P. & T. Board, on the other hand, ordinarily meets once a fortnight, while the Chairman may summon a meeting at any time when needed. It is also open to an individual Member to suggest that a particular case should be placed before the Board either for sanction or for discussion. Most of the important matters are dealt with by the Board as such. Matters not so dealt with require mostly either the personal orders of the Chairman or the concurrence of two Members. Only routine matters of an unimportant nature can be disposed of finally by a single Member of the P & T Board. *We recommend that the Central Board of Direct Taxes should ordinarily act as a body on all matters of general importance.*

6.16 It is hardly necessary for us to indicate the details of what should be the distribution of work among the Chairman and Members of the Board. Subject to what we have stated above, certain matters may have to be handled by individual Members of the Board. In this connection, *we would emphasize that a senior Member should be made responsible for matters relating to personnel. He should also be responsible for vigilance functions and administrative planning relating to both men and facilities.*

6.17 As mentioned by us earlier, one of the reasons for the Board being ineffective in its functioning is its inadequate financial powers. *We recommend that the Board be given larger financial powers by making a separate delegation of financial powers in respect of it on the lines of the P & T Board on its reorganisation in* 1959. A procedure may also be evolved by which the Board is enabled to exercise its financial powers effectively. We consider that such powers are absolutely necessary if the Board is to discharge adequately its responsibility of running the Department efficiently.

6.18 It is necessary that officers of the Department who are posted in the Board's office should be adequately compensated for the higher responsibilities which such postings involve. At present, certain special pays are attached to various posts in the Board. *We recommend that such special pays should continue in the changed set-up of the Board which we have recommended. We also recommend that the officers should hold the posts on a fixed tenure of not more than five years.* This would ensure that there is periodical interchange of personnel between the field and the headquarters organisations.

Directorates of Inspection

6.19. At present, there are three Directorates of Inspection—Investigation, Income-tax and Audit, and Research, Statistics and Publication —functioning as attached offices of the Central Board of Direct Taxes. The working of the Directorates has evoked criticism from officers of the Department. A general complaint is that they often seem to function as parallel authorities to the Board, and create unnecessary duplication of work, or act merely as a channel for transmitting information to the Board. Another complaint is that, while their functions often involve supervision, control and co-ordination of the field operations, their lack of authority over the Commissioners prevents them from making any real impact. It has been suggested by some that the Directorates should be abolished and all their functions taken over by the Board, if necessary, by expanding it.

6.20 In our opinion, functions which involve guidance, supervision, control or co-ordination of the field work should rightly rest with the Board, and not with the Directorates. However, there are several functions which, though not involving such a managerial role, are none the less so specialised and important that they need to be entrusted to a semi-independent body not directly involved in the day-to-day field operations. The Directorates, functioning as attached officers of the Board and having no direct responsibility for the working of the Commissioners' charges, are well suited to deal with such functions. They can provide valuable assistance as service units—organising and providing facilities and work aids—and also function as data collecting and processing centres. They can play a significant role in independently assessing the progress of field work through the medium of inspections and audit. *We are, therefore, not convinced that there is a case for abolishing the Directorates altogether.*

Investigation

6.21 Investigation and intelligence are primarily the responsibiity of the Commissioners, and the Director of Inspection (Investigation), who is of the same status as a Commissioner, is not able to effectively supervise or co-ordinate their work. *We have elsewhere*[1] *recommended that a Member of the Central Board of Direct Taxes should be in direct charge of intelligence and investigation work. We, therefore,*

[1] para. 2·102.

recommend that the Directorate of Inspection (Investigation) be abolished.

Inspection and Audit

6.22 The Directorate of Inspection (Income-tax and Audit) relieves the Board of a considerable load of work by conducting various departmental examinations, processing inspection and audit reports, and carrying out administrative inspection of the offices of Appellate Assistant Commissioners. We broadly approve of the functions and set up of this Directorate and do not, therefore, suggest any changes therein.

Research Statistic and Publication

6.23 The Working of the Directorate of Inspection (Research, Statistics and Publication) has been most unsatisfactory. No research worth the name has been carried out, publications are few and far between, and quite often belated. The statistics brought out are unscientific and grossly out of date. We have to express our strong disapproval of the present state of affairs where the latest available analysis in the form of All-India Revenue Statistics is for the financial year 1966-67. Such compilations might have some historical interest but are hardly likely to be of any help to those who have to plan economic or fiscal policies. We were ourselves considerably handicapped in our work by the absence of recent statistical data. Wherever we went, officers were critical that, while high standards of performance were expected of them, even the elementary work aids in the form of manuals and books of instructions were not made available to them. It was stated that many of the serious errors of omission and commission brought to light in audit could be traced to the non-availability of proper guidance material to officials at various levels. As regards taxpayers, no doubt, a few publications for laymen have been issued, but no steps are taken to update them regularly. All this would go to show that this aspect of work, which is so important for planning and programming, for improving the efficiency of the Department and building up service morale, and for providing taxpayers assistance and improving public relations, has been treated with apathy and neglect. In our opinion, a thorough overhaul of this Directorate is necessary. This is largely due to the fact that the range of functions assigned to this Directorate goes beyond the capacity of a single unit. *We recommend that the present Directorate of Institute should be retained there for a suffition) be split up into two distinct units, one a Directorate of Publications and Public Relations, and the other a Directorate of Research and statistics.*

Publications and Public Relations

6.24 *The Directorate of Publications and Public Relations should be in charge of all publications required for the guidance of officials and for the education of taxpayers.* It should also arrange to bring out training manuals in consultation with the Director of Training. The Directorate should arrange to issue annually, very early in the year, manuals incorporating the law and rules as applicable for each assessment year. The manuals should preferably be in loose-leaf and relevant references to rules and instructions should be given in the margin itself so as to facilitate easy reference. The present Central Board of Direct Taxes Bulletins need to be improved both in regard to their arrangement, get-up and indexing, as also in the promptitude of their issue. Manuals incorporating references to court decisions and Board's instructions, and guide books should be prepared for each type of job separately so that no official at any level is left in doubt as to what he is expected to do. *The Directorate should also arrange to produce material for effective taxpayers education on the lines recommended by us elsewhere*[1] *in this report.*

Research and Statistics

6.25 Planning and programming constitute a very important management function. For successful and scientific planning and policy formulation, it is necessary to have dependable statistical data and research study reports on various problems that arise in the course of tax administration. As research and statistics are inter-dependent, the two should be under one Directorate.

Research work has not been given the importance it deserves. Adequate personnel of the right type has not been put on this job. In view of the great importance we attach to research on tax problems and planning, *we recommend that the Directorate of Research and Statistics be organised and developed as a Tax Research Institute within the Department. It should be headed by a person with requisite academic qualifications and research experience, and manned by persons having the necessary background and aptitude for research work, irrespective of their seniority. Officers posted to the Institute should be retained there for a sufficiently long time to enable them to make a worthwhile contribution.*

6.26 There is wide scope for intelligent and useful research work relating to taxation. For instance, the impact of the various exemptions and incentives which the tax laws provide can be the subject matter of a research study. In

[1] paras. 6·176 and 6·177.

fact, every new scheme should be followed up by a research study so that it could be enlarged, modified or even dropped in the light of the sutdy. The research studies may also provide the Government with a lead for initiating new measures or legislative or procedural changes. Apart from such studies, research can also help to assess the possible effects of proposed legislative changes by examining a cross-section of the cases which any proposed change is likely to affect. Research can also be conducted for measuring the level of compliance in various classes and sections of taxpayers. Such a study will help evolve formulae for selection of cases for scrutiny, in assessing the need for detailed investigation in particular types of businesses or particular classes of taxpayers or in choosing localities for intensive survey operations. Research studies could reveal loop-holes in the law and the scope for tax avoidance. Studies conducted on representative groups of Hindu undivided families, firms, trusts, private companies, etc., can help guage the extent of tax avoidance.

6.27 As stated earlier, compilation of statistics has been sadly neglected. We have been experimenting in our tax laws with various incentive schemes for investment, industrialisation, exports, etc. However, no data has been collcted to indicate as to how far these incentives have served their purpose. Most of the incentive schemes affect primarily the corporate sector which also contributes a major portion of the budget collections. The number of company assessees is quite small and it should not have been difficult to compile statistics separately for them with reasonable promptness. *We recommend that specialised statistics be compiled for companies and issued separately, after making suitable changes in the statistical forms. Simplified statistics may be evolved for the large number of 'summary' assessments of non-company assessees that will be made on the basis of the returns. Statistics can be diversified in a variety of other ways to provide additional information.*

6.28 Statistics do not serve any purpose unless they are up to date. *We recommend the adoption of modern methods of compilation and processing of statistics, leading to computerised data processing, so as to facilitate their publication soon after the close of the financial year. For this purpose, some officers of the Department may be deputed for training, and their services utilised for organising the work on sound and modern lines.* We understand that the delay in the compilation of statistics is largely due to paucity of trained personnel and shortage of punching machines. *To clear the back-log, we suggest that the Department should seek the assistance of outside agencies and bring the work of compilation and publication of statistics up to date.*

Organisation and Methods

6.29 It is an important function of management to carry out a continuous and/or periodical review of the efficacy of its procedures, checks and controls, and of its organisational pattern to ensure that these continue to fulfil their intended role. If an administration is to be virile and active, it cannot afford to allow its procedures to degenerate into purposeless traditions or its organisation to get into an unbending rigidity, unable to adapt itself to changing situation and unanticipated challenges. At present, there is an Organisation & Planning Division in the Central Board of Direct Taxes. Though it is headed by a senior Commissioner of Income-tax, it has been given only limited functions and has a skeleton staff. As this Division is not equipped for the wide range of functions which we have in view, *we recommend that the Organisation & Planning Division be wound up and instead a separate Directorate be created for carrying out organisation and methods studies, and developing organisational patterns and procedures to suit the changing complexion of law and work.*

6.30 The Directorate of Organisation and Methods will be responsible for organising systems and procedures analysis. It should carry out periodical job surveys, analyse the yorkflow, undertake time and motion studies of repetitive jobs, suggest improvements in existing procedures and methods, or develop new ones. It should also help in planning office lay-out, and advise on labour-saving devices and equipment. It should take steps to improve filing and storage systems.

6.31 This Directorate can assist in eliminating many useless forms, reports and registers which have grown haphazardly, and no one today seems to know for certain how many registers are supposed to be maintained or how many reports submitted by an Income-tax Officer. All the prescribed registers are hardly ever maintained, and those, which are maintained, are most often not according to instructions. Another reason for the unplanned growth of forms, reports and registers is the fact that every higher authority from the Inspecting Assistant Commissioner upwards adds his own contribution to the prevalent confusion by prescribing some more forms, reports or registers of his thinking. We strongly disapprove of this practice which is against all codes of management. *We recommend that no form, report or register should be introduced at any level without the approval of the Directorate of Organisation and Methods.*

The layout and design of forms has been completely neglected in the past. The Directorate

of Inspection (Research, Statistics & Publication) and the Controller of Printing and Stationery have between themselves been responsible for the creation of a plethora of forms of varying sizes and shapes from the microscopic acknowledgment slips to some giant-sized forms which cannot be preserved conveniently. The sorry plight of many income-tax files is the direct result of unplanned development of forms. Many officers of the Department have complained against the quality, size and get-up of the file covers and some of the standard forms. *We recommend that this Directorate should give particular attention to the design and get-up of the forms and registers in use.*

6.32 Another function which this Directorate can perform is in the matter of evolving reasonable work norms and developing effective work measurement procedures. We are told that output quotas have been arbitrarily stretched and officers feel let down when they are taken to task for not reaching allegedly unattainable targets. This makes the progress of work lop-sided and unbalanced. Officers tend to concentrate only on the particular drive that is currently subsisting, to the total neglect of all other work. It is understood that no norms have been prescribed to measure the work of Inspectors and ministerial staff. *We recommend that the Directorate of Organisation and Methods should, on the basis of appropriate studies, prescribe realistic performance targets and formulate precise and accurate methods of judging output at all levels.*

Personnel

6.33 *The Directors in charge of the Directorates should, as at present, be of the rank of Commissioners and draw a special pay. Their duties involve specialist functions and we recommend that their selection should be made on the basis of merit, rather than on the basis of seniority. The Deputy Directors and Assistant Directors should similarly be selected on the basis of their background, qualifications and aptitude for particular type of work, rather than seniority. The special pay for them, which is at present Rs.* 150 *and Rs.* 75, *should be raised to Rs.* 300 *and Rs.* 200 *respectively.*

The designation of Director of Inspection does not clearly convey the nature or the degree of responsibility of the duties or the status of these high officers. In the Secretariat and other departments, officials on a lower scale of pay are designated as Directors. *We, therefore, recommend that the designation of the Directors be changed as Directors General and the Directorates themselves be renamed as Directorate General of Income-tax (Inspection and Audit), Directorate General of of Income-tax (Publications and Public Relations), Directorate General of Income-tax (Research and Statistics) and Directorate General of Income-tax (Organisation and Methods). The Deputy Directors and Assistant Directors may also be redesignated as Deputy Directors General and Assistant Directors General respectively.*

As regards the staff in the Directorates, they appear to be a disgrantled lot, Each Directorate is treated as a separate unit and the staff has to look forward to advancement within this limited sphere. They are also not allowed to take the departmental examination for Inspectors or Income-tax Officers Class II. We consider this to be highly unsatisfactory. When officers posted to the Directorates are hand-picked, it is necessary that they should be provided with staff assistance of a better quality. *We recommend that the staff in the Directorates should be selected from the Commissioners' charges on the basis of their confidential rolls and they should be posted in the next higher grade in the Directorate on tenure basis and they should continue to be entitled to take departmental examinations for Inspectors and Income-tax Officers Class II.*

Field Organisation

Regional Commissioners of Income-tax

6.34 It has been suggested that in intermediate level of authority designated as Regional Commissioner should be created between the Central Board of Direct Taxes and the Commissioners, with a view to ensuring closer control and co-ordination of the functions of the Commissioners, and relieving the Board of a large volume of routine work. In our view, the addition of a fifth wheel would not help the administration to move any faster. On the other hand, it might contribute to further delays by adding one more level at which references from the field to the Board will be processed or through which directions from the Board to the field will be routed. It might also interfere with the initiative of the Commissioners and dilute their authority. We have recommended earlier[1] that the Central Board of Direct Taxes should be constituted as an autonomous and purely executive body and relieved of its policy making and secretariat functions. We have also recommended strengthening of the Directorates[2] and constitution of independent machinery for settlements, write off and scaling down[3]. When these recommendations are accepted and implemented, the Central Board of Direct Taxes will be in a much better position to exercise a more effective control on field work. *We do not, therefore, approve of the suggestion to create a cadre of Regional Commissioners.*

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1. para 6·11.
2. paras 6·19—6·33.
3. paras 2·33 and 4·30.

Commissioners of Income-tax

6.35 A commissioner of Income-tax is at the head of a large field division and is responsible for the efficient conduct of the field operations within his charge. He has also certain statutory and judicial functions. A general complaint that has often been voiced is that Commissioners are not able to give their personal attention to all the multifarious duties they are entrusted with, and that they have to lean heavily on their subordinates at the headquarters. A typical instance of this is the way revision petitions are dealt with. Revision petitions, which the law envisages as a quicker and cheaper alternative to regular appeals, are meant to be disposed of personally by the Commissioner himself. But a number of Commissioners find it expedient to depend almost exclusively on the notings made by the Income-tax Officers (Hqrs.). This defeats completely the intention of the law to provide a review by a senior officer. Even after adopting such shortcuts, it has not been possible to provide speedy relief which is considered to be the primary virtue of this alternaive remedy. The Public Accounts Committee recently noted with concern that the number of pending revision petitions, which was 7,234 at the end of September, 1968 had risen to 9,601 by the end of September, 1969—an increase of nearly 33 per cent. in one year.[1] We have elsewhere[2] recommended that the powers of revision should be exercised personally by the Commissioner himself and not entrusted to another authority like the Additional Commissioner. It is important that such a function is not left in substance to lower authorities like Income-tax Officer (Hqrs.).

6.36 There are several other aspects of work —administration, technical references, investigation, training, etc.—where the Commissioners have not been in a position to devote adequate personal attention. Recently, the pressure on the Commissioners has been sought to be relieved by delegating some of their work to a new cadre of Additional Commissioners who function as parallel authorities not subordinate to the Commissioners. The arrangement has not been happy and neither the Commissioners nor the Additional Commissioners seem to be pleased with it. *The real remedy lies in increasing the number of Commissioners and creating smaller charges with manageable work-load.* We are surprised to find that in some charges, Commissioners have as many as 100 or more Income-tax Officers under them. No wonder then that there is no proper supervision and control. *We recommend that the Commissioners' charges be so reorganised and their number so increased that each Commissioner may have not more than 40 Income-tax Officers under him.*

Dispersal of Commissioners' headquarters

6.37 At present, several Commissioners are stationed in the same city, even though their jurisdiction extends over other parts of the State. They have to share accommodation, facilities, establishment and the headquarters staff. At times, friction develops and the freedom of action of a Commissioner even in matters entirely within his domain gets circumscribed on account of the need to convince and carry his colleagues with him. This problem is bound to get accentuated if the number of Commissioners is further increased. We feel that, as far as possible, each Commissioner should have his own independent headquarters. From the point of better supervision and effective control, it will be expedient to disperse the Commissioners' headquarters in a State over as wide an area as possible. *Since most of the States have more than one Commissioner, we recommend that headquarters of different Commissioners should be situated in different cities.* Thus in Gujarat, which has at present three Commissioners, the headquarters could be located at Ahmedabad, Baroda and Rajkot. Similarly, in Tamil Nadu, they could be located at Madras and Coimbatore, or in Andhra Pradesh, at Hyderabad and Vijayawada.

City charges

6.38 The problem of city charges will, however, still remain. In Bombay and Calcutta, for instance, several Commissioners will necessarily have to function in the same city. We do not consider that it would be desirable to disperse their headquarters within the same city and give them absolutely independent establishments. *We recommend that city charges should remain joint as at present, with the senior Commissioner drawing special pay and being incharge of administration. Where necessary, he could be assisted by an Additional Commissioner.*

Staff assistance

6.39 At present, Commissioners have several Officers at the headquarters to assist them in their work. In some of the city charges, their number runs to a formidable figure. Such an unwieldy establishment at the headquarters hinders rather than facilitates smooth and efficient working. With smaller charges, Commissioners should be in a position to deal personally with their important duties, such as revision and judicial work, and should not require a large complement of officers at headquarters. As regards matters which come up to them for advice or for transmission to the Board, they

1. 100th Report of the Public Accounts Committee—1969-70 (Fourth Lok Sabha)—para. 1·71.
2. para. 6·152.

would have been subjected to scrutiny by senior officers like Inspecting Assistant Commissioners and there is hardly any reason why they should be processed and screened again by junior officers at headquarters. *We recommend that each Commissioner should have only one Income-tax Officer at the headquarters to act as head of office and to attend to routine office administration only.*

In addition, as recommended by us elsewhere[1] in this report, the Commissioners should have expert staff assistance to enable them to give instruction in, and follow up, every prosecution case to its logical end.

Additional Commissioners of Income-tax

6.40 No one seems to be statisfied with the present set-up in which the Commissioners and Additional Commisisoners function as independent and parallel authorities. Apart from friction developing between two such authorities, and the Commissioner finding it difficult to coordinate the functions of the Additional Commissioners who is not subordinate to him, the Additional Commissioner himself is likely to find his work none too pleasant with no direct authority over the Inspecting Assistant Commissioners and Income-tax Officers with whose functions he has necessarily to get involved. *We recommend that the Additional Commissioner should be administratively subordinate to the Commissioner so that he fits into the hierarchy, assumes authority over those below in the line and becomes responsible to those above.*

6.41 At present, Additional Commissioners are entrusted with judicial functions, including revisionary powers, recovery work and supervision over audit. *We have elsewhere[2] recommended that revisionary functions should be performed by the Commissioners and should not be delegated.*

As recommended by us elsewhere in this report, an Additional Commissioner may be entrusted with any one of the following duties:—

(a) *To be in charge of recovery of taxes;*

(b) *To assist senior Commissioners in city charges, where necessary, in administration;*

(c) *To hear appeals against orders of assessment passed by Assistant Commissioners.*

Assistant Commissioners of Income-tax

6.42 Our recommendations regarding the pattern of jurisdictions functions and powers of Assistant Commissioners—both Inspecting and Appellate—find place in the other Chapters of this report and elsewhere in this Chapter itself. It would suffice to mention here that we have not proposed any changes in the jurisdiction pattern and functions of Appellate Assistant Commissioners but have suggested certain changes in their powers. As regards the Inspecting Assistant Commissioner, we have recommended that he should be given full jurisdiction to exercise all the powers under the direct tax laws in respect of the cases in his Range concurrently with the Income-tax Officers under him. We have further recommended that the Inspecting Assistant Commissioner should have powers to give binding instructions to the Income-tax Officers under him and should also assume responsibility for making assessments in cases where large disputed additions are proposed. In addition, we have recommended that some Assistant Commissioners should be put exclusively on assessment work relating to fraud cases and major revenue potential cases. We have also recommended that the Inspecting Assistant Commissioner should be more directly responsible, than hitherto, for the efficient functioning of tax offices in his Range. In the interest of proper supervision, *We recommend that an Inspecting Assistant Commissioner should not have more than 10 Income-tax Officers under him.*

Income-tax Officers

6.43 It has been suggested that all posts of Income-tax Officers Class II should be converted into Class I posts as all of them are doing assessment work. We do not agree with this view. What needs to be done is to classify jobs according to their imporance, and then assign cases to officers according to the degree of responsibility involved. We have elsewhere[3] recommend that Class II officers and junior Class I officers should handle only assessments under sub-section (1) of section 143 of the Income-tax Act, scrutiny cases where assessments have been reopened under clause (a) of sub-section (2) of section 143 on applications made by taxpayers and other scrutiny cases where the income does not exceed Rs. 25,000. All other cases should be handled by senior Class I Income-tax Officers or Assistant Commissioners.

Non-gazetted staff

6.44 There are several weak links in the staff organisation provided to the Income-tax Offi-

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1. para. 2·95.
2. para. 6·152.
3. para. 6·111.

cers and other authorities in the Department. The distinction between executive and clerical cadres has not contributed to the efficiency of either. Directly recruited Inspectors hardly get any opportunity to familiarise themselves with the procedures. On the other hand, Upper Division Clerks, who fail to pass the departmental examination for Inspectors, get promoted as Head Clerks or Supervisors. One reason for the inefficiency at the lower levels is the lack of adequate supervision for which the blame should be on the set-up, where those who are entrusted with supervision work are themselves not qualified to supervise or give guidance. *We recommend that posts of Head Clerks and Supervisors which are open to unqualified Upper Division Clerks should be replaced by posts of Inspectors (Supervision). The posts of Inspectors (Field) and Inspectors (Supervision) should be interchangable.*

6.45 The nature of duties of an Upper Division Clerk in the Income-tax Department is not merely clerical, but considerable amount of technical competence is also required, particularly in companies and investigation circles. As in these circles generally big cases are centralised, it is essential that important aspects of clerical work connected with such cases are handled by the more experienced and the more competent. We consider that for attending to this work, there should be a higher cadre of Tax Assistants. *We recommend that one-third of the present cadre strength of Upper Division Clerks be upgarded to a higher cadre of Tax Assistants to be posted in companies circles and investigation circles in place of Upper Division Clerks. The post of Tax Assistant should be a selection post.*

6.46 Posts of Lower Division Clerks are meant for routine duties, such as general typing, receipt, despatch etc. Their cadre strength should be kept at a minimum.

Personnel Policy

Introductory

6.47 Personnel policy is an integral part of any administrative system. It covers all aspects of administration such as recruitment, promotions, gradations and position classifications, pay scales, incentives for work, etc. It includes work norms, performance standards and all other factors influencing the efficiency and morale of the personnel. We do not propose here to embark on a theoretical discussion of what would constitute an ideal personnel policy. We have, however, to point out certain glaring anomalies and obvious inconsistencies in the policy hitherto followed by the Department in the matter of recruitment, promotions, job classification, etc. Recruitment has been haphazard and by first and starts. At times, large numbers have been recruited at the same level, resulting in 'blocking' and stagnation. There have been long gaps in recruitment also. No attempt has been made to strike an equitable balance between direct recruitment and promotion to various grades. Promotions have also been badly handled. Norms have varied. Quotas have not been observed. Emphasis has also been shifting between seniority and merit in an uncertain and unpredictable manner.

6.48 Lack of a rational recruitment policy and a stable promotion policy has created undesirable sub-classifications within the normally accepted classifications, giving rise to mutual jealousy, rivalry and suspicion, thus preventing the growth of healthy service traditions. For building up *esprit de corps* among officers, it is very necessary that the formation of groups within a cadre should not be encouraged. Recruitment to a cadre has necessarily to be from different sources, and different requirements and tests might apply. But once appointed to a particular cadre from whatever source, there should be a feeling of *camaraderie* among the officers.

6.49 The policy regarding job classification, and evolution of work norms and performance standards has also been equally unsatisfactory. More than a quarter of a century after the reorganisation of the Service and the creation of Class I cadre, no proper job classification has been made till today. It is the absence of a proper job classification that has more than anything else been responsible for the prevalent dissatisfaction. To add to the confusion, work norms have been fixed, and performance standards laid down, without any scientific study of the work-load or the manpower requirements.

Recruitment

6.50 At present, direct recruitment at the highest level in the Department takes place to the grade of Class I Income-tax Officer, all the posts above being filled exclusively by promotions. Recruitment is made through the combined competitive examination for Central Services. The candidates for the Indian Administrative Service and Indian Foreign Service are required to take two additional papers. Later in this Chapter, while recommending that the pay scales of the Income-tax Service should be brought on par with those of the Indian Administrative Service, we have observed that the supremacy of the administrative services in our country is a hang-over of the old colonial and imperialistic days and that economic development should now have priority over general administration. The direct tax laws constitute a powerful instrument in shaping and implementing economic policies. A Service which has to administer these laws has a major role to play in the economic development of the country. It

is necessary that such a Service should be manned by the best talents available in the country and it is with this end in view that we are recommending that its status should be raised to the level of the Indian Administrative Service. With a view to ensuring that persons of high calibre may be recruited to the Service, *we recommend that the candidates who take the combined competitive examination and opt for the Income-tax Service should also be required to take two additional papers as for the Indian Administrative Service and Indian Foreign Service. For the Income-tax Service, preference should be given to candidates with law and accountancy qualifications.*

6.51 Direct recruitment to Class II has probably been responsible for much of the dissatisfaction in the Department. To meet chronic shortage of assessing officers, the Department has been resorting to direct recruitment to Class II. Large numbers were recruited to Class II in 1947, 1954 and again in 1969, with some stray recruitment through the competitive examination in the intervening years between 1947 and 1954. The Direct Taxes Administration Enquiry Committee had recommended that there should be no direct recruitment to Class II[1]. Notwithstanding this recommendation, large-scale direct recruitment was made in 1969. Unlike officials in the non-gazetted grades or the officers in Class I, these officers in Class II face the prospect of stagnation in the grade to which they are recruited. Such a situation is not conducive to good service morale. In the Audit and Accounts Department, there is no direct recruitment to the grade of Accounts Officer Class II. We are of the view that stopping direct recruitment to Class II would incidentally also result in better candidates being attracted to the grades of Upper Division Clerks and Inspectors as they would have a fair chance of promotion to a gazetted grade. The Administrative Reforms Commission had also recommended that direct recruitment to Class II should be stopped[2]. We endorse the view of the Administrative Reforms Commission and *recommend that the Class II cadre in the Income-tax Department should be filled up exclusively by promotion from the non-gazetted grades below.*

6.52 Appointments to the grades of Inspector and Upper Division Clerks are at present made partly by direct recruitment and partly by promotion. This procedure may continue. However, *we recommend that the direct recruitment to these grades should be made through a competitive examination open to graduates only.* The present practice of recruiting Upper Division Clerks through employment exchanges, where only the leftovers get sponsored, has had a deleterious effect on the quality of the staff. Wherever we went, the officers of the Department complained against the poor quality of staff which is recruited through the employment exchanges. As mentioned by us elsewhere[3], the work of an Upper Division Clerk in the Income-tax Department is more of a technical nature and cannot be equated with the clerical duties in other departments.

Promotions

6.53 The question of promotions has two aspects; one whether it will be in the interest of administration if merit is given due recognition and the other whether it is possible to evolve standards and tests for making a fair appraisal of merit. Our administrative system recognises the need to encourage merit. The Direct Taxes Administration Enquiry Committee broadly approved the categorisation of posts in the Department as selection and non-selection posts[4]. The Study Team of the Administrative Reforms Commission expressed the view that generally, the criterion of fitness must have precedence over the claim of seniority in higher levels, while at lower levels, where the work involved is of a routine nature, promotion of persons on the basis of seniority, subject to the rejection of the unfit, may be made[5].

6.54 Merit is an important factor in deciding fitness for promotion in practically all the countries with well-developed administrative systems. In some countries like France and those which were under French influence, even increments are not earned automatically and are dependent on annual assessment of efficiency. The French system seeks to use annual increments more purposefully, to encourage efficiency and the advancement of the worthy, than the British[6]. But even in countries following the British system, in no case is promotion to senior posts decided by seniority alone[7].

6.55 In our country, civil servants enjoy a lot of security and protection. There is no reason why even promotions should be protected and secured for them. That at least they should

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1. Report of the Direct Taxes Administration Enquiry Committee, para. 8·72.

2. Report of the Administrative Reforms Commission on Central Direct Taxes Administration—Chapter VII, Recommendation 17(5).

3. para. 6·45.

4. Report of the Direct Taxes Administration Enquiry Committee—para. 8·86.

5. Report of the Study Team of the Administrative Reforms Commission on Promotion Policies, Conduct Rules, Discipline and Morale—Vol. I & II, para. 3-2-6.

6. Hand book of Civil Service Laws and Practices, (United Nations), p. 187, para. 133.

7. Ibid, p. 71, para. 168.

earn by their performance. Much of the managerial failures in the Service may be traced to giving too much of a slant in favour of seniority and too little in favour of merit. Seniority tends to stifle initiative, innovation and zest for work. We do not agree with the view expressed by some that officers recruited to Class I should go up to the highest post more or less automatically. *We recommend that merit and merit alone should be the criterion for appointment to higher posts and this principle should not remain a mere theory but should be markedly evident in practice.*

6.56 When merit is to be the criterion for promotion, a proper assessment of performance assumes great importance. The annual confidential character rolls play a vital role in this regard. We wish to emphasise that the utmost care has to be taken to ensure objectivity in assessing the performance of the officers, and suitable additional norms may also be evolved.

6.57 We have already suggested that direct recruitment to Class II be abolished. *We recommend that all vacancies in the grade of Income-tax Officer Class II be filled up on the basis of merit by promoting qualified Inspectors, who have passed the departmental examination for Income-tax Officers.* The Government may also examine the feasibility of making promotions to this grade on a zonal basis.

6.58 Considerable confusion prevails in the promotion of Class II officers to Class I. As a result of the Supreme Court's decision on a writ petition, a large number of officers promoted to Class I have been declared surplus, being found in excess of the quota meant for promotions. We understand that as on 1-7-1971, the actual working strength of Income-tax Officers Class I was 844 as against the sanctioned strength of 1,291. On the other hand, there were 2,072 Income-tax Officers Class II on 1-7-1971 as against the sanctioned cadre of 1,648. This working strength of 844 Income-tax Officers Class I includes a large number of officers who have been declared surplus. The writ petition challenging promotions in excess of the quota was filed as far back as 1962 and even the Supreme Court decision became available in 1967. We are surprised that such a situation was allowed to develop at all, and it is all the more regrettable that no steps were taken to rectify the imbalance as soon as it arose. *We recommend that with immediate effect, the quota of promotions from Class II to Class I be temporarily raised to 66 2/3 per cent. till such time as all the surplus promotee officers in Class I, including the recent ad hoc promotees, are absorbed. In view of the suggested increase in quota, the weightage for purposes of seniority given to promotee officers may be reduced to a period of 18 months.* As it is not desirable that further confusion should be caused by making more *ad hoc* promotions to Class I on a provisional basis, *we recommend that there should be no promotions to Class I till the present excess is fully absorbed.*

6.59 After the present excess has been absorbed, the quota should be revised to 66 2/3 per cent. for direct recruits and 33 1/3 per cent. for promotions. *We are recommending below two scales for Income-tax Officers, a senior scale and a junior scale, as in the Indian Administrative Service. We recommend that Class II officers should be eligible for promotion on the basis of merit to the senior scale in Class I after 10 years of qualifying service. The number of promotions in each year will be so adjusted that the percentage of all promotee officers in the senior duty posts remains at 33 1/3 per cent. Such promoted officers will have their seniority in Class I (senior scale) with effect from the date of continuous appointment to Class I, provided there is a vacancy in the prescribed quota of 33 1/3 per cent. of senior duty posts.*

6.60 Assistant Commissioners constitute the first senior level of officers and it is, therefore, necessary to ensure that only suitable officers are promoted to that grade. *We recommend that promotions to the grade of Assistant Commissioners be made strictly on the basis of merit. We further recommend that promotions to the higher posts of Additional Commissioners, Commissioners and Members of the Board be also similarly made strictly according to merit.*

6.61 We have elsewhere[1] recommended that the number of posts of Lower Division Clerks in the Department should be reduced to a minimum and they should be required to perform only routine duties. Only matriculates are likely to be attracted to this grade and it is, therefore, not feasible to provide any large-scale promotion avenues for them. *We recommend that 20 per cent. of the vacancies in the grade of Upper Division Clerks be filled by promoting Lower Division Clerks, subject to availability of suitable candidates. The promotion should be on the basis of seniority-cum-fitness, subject to qualifying in a departmental test.*

6.62 We have recommended elsewhere[2] that one-third of the cadre strength of Upper Division Clerks should be in the higher grade of Tax Assistants. *We recommend that vacancies in the grade of Tax Assistants be filled up entirely by promoting qualified Upper Division Clerks on the basis of merit.*

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1. para. 6·46.
2. para. 6·45.

6.63 There will be two grades—Upper Division Clerks and Tax Assistants—eligible to be promoted as Inspectors. *We recommend that* 50 *per cent. of the vacancies in the Inspectors' grade be filled up on the basis of merit by promoting qualified Tax Assistants and Upper Division Clerks, who have passed the departmental examination for Inspectors. Stenographers should also be allowed to take the departmental examination for Inspectors and those who qualify should be considered along with Upper Division Clerks and Tax Assistants for promotion as Inspectors.*

Pay scales

6.64 The nexus between the pay scales of the Income-tax personnel and fighting tax evasion might appear to be somewhat remote. But, in our view, it is not really so. Technical competence and job satisfaction go hand in hand. In a service solely concerned with the collection of revenue, it is a shortsighted policy to be niggardly in the matter of pay scales. Where efficiency means more money, the outlay on personnel should rightly be considered as investment and not expenditure. The need to be generous in the matter of pay scales assumes special significance in a revenue department where officers have to deal with wealthy and powerful taxpayers and have to resist the temptations placed in their way. The work in the Income-tax Department, practically at every level, is highly technical and specialised, and it takes time to train up the personnel properly and adequately. The Department can ill-afford to part with its personnel after it has been fully trained up.

6.65 We are not saying something new when we suggest that the Income-tax personnel should be given better pay scales. Nicholas Kaldor expressed dissatisfaction with the pay scales of officers in the Income-tax Department, and felt that it was fundamentally wrong to pay officers, on whose attitude and conduct very large sums of money may depend, at such extremely meagre rates[1]. The Direct Taxes Administration Enquiry Committee was convinced that the officers of the Income-tax Department in particular require special consideration in respect of pay scales and conditions of service, having regard to the nature of their work and the difficult duties they have to perform. The Committee felt that it was but fair that the pay structure of all ranks, specially in respect of the gazetted officers of this important Department, should be commensurate with their powers and responsibilities.[2] The Working Group of the Administrative Reforms Commission favoured revision of pay of Income-tax Officers so as to provide an integrated scale like the Indian Administrative Service.[3]

6.66 In Japan, officials engaged in the work of assessment and collection of tax are paid according to the "Salary Schedule for Taxation Service" and the monthly salary on the Schedule is slightly more advantageous than the level of monthly salaries on those Schedules which are applied to officials engaged in other administrative work. This is due to the consideration given to the fact that the duty of a tax administrator requires higher professional knowledge and is accompanied with various hardships.[4] In U.K., the pay scales admissible to the officers and staff in the Inland Revenue are the same or higher than those in the Home Civil Service.[5] In U.S.A., officers of the Internal Revenue Service have a higher scale of pay than their counterparts in the General Service.

6.67 The supremacy of the administrative services in our country is a hang over of the old colonial and imperialistic days. Economic development has now priority over general administration. The general administrator need no longer be regarded as superior to specialists and technical men. In view of the foregoing, *we recommend that the pay scales of the Income-tax Service be brought on par with those of the Indian Administrative Service. The present Class I scale for Income-tax Officers may be split up into a senior scale and a junior scale, as in the Indian Administrative Service. We recommend the following pay scales for the officers in the Income-tax Department*:—

Income-tax Officer Class II	Rs. 400—40—800—50—1000
Income-tax Officer Class I	
Junior scale	Rs. 450—50—1000
Senior scale	Rs. 900 (6th year or under)—50—1200—60—1800
Assistant Commissioner	Rs. 1800—100—2000
Additional Commissioner	Rs. 2000—125/2—2250
Commissioner	Rs. 2500—125/2—2750
Member ..	Rs. 3000
Chairman	Rs. 3500

We further recommend that if any changes are made in the pay scales of the Indian Administrative Service as a result of the recommendations of the Third Pay Commission, the scales in the Income-tax Service should be correspondingly revised.

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1. Nicholas Kaldor—Indian Tax Reform—Report of a Survey—para. 205.
2. Report of the Direct Taxes Administration Enquiry Committee, para. 8·94.
3. Report of the Working Group of the Administrative Reforms Commission on Central Direct Taxes Administration, para 7·30.
4. An Outline of Japanese Tax Administration—1970, p.77.
5. Appendix VIII.

6.68 We have already recommended[1] that when an Income-tax Officer Class II is promoted to Class I, he should straightaway be placed in the senior scale. Before 1959, these officers used to get substantial increase in pay on account of the operation of the Established Services Rules. The integration of Grade I and Grade II has operated to their disadvantage. Recently, two additional increments have been sanctioned to officers promoted from Class II to Class I in other services, but this has been denied to the officers in the Income-tax Service for reasons which are not convincing. We see no justification for such discrimination *and recommend that officers of the Income-tax Department promoted from Class II to Class I should in any case get the benefit given to the other Established Services. We further recommend that in the new pay scales recommended by us, the pay of an officer promoted from Class II to the senior scale of Class I should be so fixed that he gets a minimum increase in pay of Rs. 150 per month.*

6.69 We have recommended earlier that promotions from Class II to Class I should be made strictly within the prescribed quota. There will, however, be occasions when Class II officers may be required to hold charges meant for senior Class I Officers. *We recommend that such officers should be compensated for the higher responsibilities that they are required to shoulder, by the grant of an officiating or charge allowance of Rs. 150 per month in addition to their grade pay in Class II.*

6.70 The non-gazetted staff of the Income-tax Department are performing more responsible and difficult functions than persons in similar positions in other departments. To attract the right type of persons, it is necessary that they are paid well. In the long run, this would strengthen the infra-structure of the Department, which is now showing considerable weakness. *We recommend the following pay scales for the non-gazetted staff:—*

Inspector	Rs. 300—15—420—20—600
Tax Assistant	Rs. 300—15—450
Upper Division Clerk	Rs. 200—10—350
Lower Division Clerk	Rs. 150—5—200—10—250

The scale of pay for Stenographers should be the same as for those in the Central Secretariat.

For the Class IV Staff, the pay scales may be the same as prevailing in other departments.

The pay scales recommended above are *exclusive* of all allowances, such as dearness pay/allowance, compensatory allowance, house rent allowance, etc.

Designations

6.71 In any administrative set-up, designations have an important place. These broadly indicate the grade and level of responsibility of a job and provide an index for comparing positions in different departments. A change of designation is indicative of advancement and, as such, has a considerable effect on the morale of officers. In the Income-tax Department, however, the designation 'Income-tax Officer' covers both Class II and Class I grades and a person continues with the same designation, notwithstanding an advancement in the career. We have recommended above two separate scales in Class I and this would mean that officers in the three grades, viz., Class II, Class I (junior scale) and Class I (senior scale) will be designated alike. This is not a happy situation and needs to be changed. The Administrative Reforms Commission recognised the need for giving a different designation to Class I Income-tax Officers. It did not, however, agree with the recommendation of the Working Group that Class I Income-tax Officers should be designated as Assistant Commissioners, and instead recommended that they be called Senior Income-tax Officers[2].

6.72 In the set-up that we have proposed, Class II and junior Class I Income-tax Officers will perform similar functions. They may, therefore, continue to be designated as Income-tax Officers. We have recommended a separate senior scale in Class I and officers in that grade will be performing duties of a definitely more responsible nature. It is, therefore, necessary that they should be designated differently, to indicate the change both in scale and degree of responsibility. *We recommend that Class I Income-tax Officers in the proposed senior scale be designated as Assistant Commissioners.* We do not think that such a change would cause any confusion in the public mind. Even otherwise, the position of the Income-tax Officer being the sole assessing authority under the law is on the way out and higher officers are getting directly associated with assessment work. If, however, any difficulty is envisaged the designation suggested by the Administrative Reforms Commission may be adopted.

6.73 As a consequence of our above recommendation, the designation of the present Assistant Commissioners in the Department will have to be correspondingly changed. Even otherwise, the designation does not suit officers in the Junior Administrative Scale and needs to be brought on par with the designa-

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1. para. 6·59.

2. Report of the Administrative Reforms Commission on Central Direct Taxes Administration, Chapter VII, Recommendation 17(6).

tions of similar grades in other services. *We recommend that Assistant Commissioners in the Income-tax Department be redesignated as Deputy Commissioners, irrespective of the change in the designation of Income-tax Officers Class I. They may be called Deputy Commissioners of Income-tax (Appeals) (Inspection) or (Assessment), depending on the duties assigned.*

6.74 We do not consider any other change in the designations of the officers of the Department necessary, excepting what we have already recommended earlier in the case of officers of the Directorates.[1]

Deputations

6.75 There is considerable divergence of views on the desirability of sending officers on deputation when there is acute shortage of personnel within the Department. We, however, feel that sending officers on deputation helps to broaden their vision and develop their personality. It also gives them a varied experience. Both the departments—the one which sends out the deputationist and the other which receives him—stand to benefit. As mentioned by us elsewhere,[2] the shortage of trained personnel in the Department is the result of a haphazard recruitment policy and it will not be proper on that account to deny the Department and its officers the benefits which will arise from the wider experience which a deputation in another department can give. Once a firm policy of keeping a certain percentage of officers on deputation is evolved, and the recruitment and promotion policies are suitably adjusted, we do not envisage any difficulty in this regard. The officers of the Department have voiced a grievance that compared to certain other services like the Indian Administrative Service, the Indian Police Service, the Indian Audit and Accounts Service and several other Central Services, only an insignificant percentage of the officers of the Income-tax Service is on deputation. We find that the grievance is well-based. We feel that the administration should send more officers of the Service on deputation. With the background of the training and experience in the Income-tax Department, the officers are ideally suited to man posts in commercial departments and undertakings of the Government. The experience and knowledge they gain in such positions would be useful to them on their return to the Department. *We, therefore, recommend that a much larger percentage of the officers of the Income-tax Service be deputed to other departments, such as Foreign Trade and Company Law, and public sector undertakings like the Life Insurance Corporation, banks, etc.* Incidentally, such deputations would also help to relieve the stagnation at various levels in the Department and thus contribute to improve the morale of the officers.

Training

6.76 Provision for adequate training is an important ingredient of a successful personnel policy. Training facilities in the Income-tax Department are, however, woefully inadequate. The only organised programme that exists is for training of officers directly recruited to Class I service through a competitive examination. We visited the Indian Revenue Service (Direct Taxes) Staff College at Nagpur to have first hand information about the facilities available there. We were not impressed by the facilities, whether for imparting training or for stay of probationary Income-tax Officers.

6.77 The College has a whole-time Director of the rank of Commissioner who is assisted by one Assistant Commissioner and two Income-tax Officers Class II. The institution relies mainly on part-time instructors, who can hardly be expected to give their whole-hearted attention. No regular and effective arrangements exist for practical training. The residential accommodation provided consists of single rooms with attached baths; the W.Cs are common. Due to paucity of rooms, two trainee officers mostly share a room. There are no facilities for indoor or outdoor games. To say the least, this is most unsatisfactory.

6.78 For Inspectors and clerical staff directly recruited, training courses are no doubt run in each Commissioners' charge. But here again, no regular training facilities exist. The teaching staff is drawn from the field and is required to attend to training work, often in addition to its other duties. In these conditions, the new recruits do not naturally get proper and adequate training so necessary for building up an efficient organisation.

6.79 There are no arrangements worth the name for giving training to officers on promotion. For example, Inspectors on promotion as Income-tax Officers Class II are put straight on the job. The work of an Inspector is so different in its nature from that of an Income tax Officer, that without proper orientation, a newly promoted Income-tax Officer finds it difficult to adjust himself to the new responsibilities. Similarly, when an Income-tax Officer is promoted as Assistant Commissioner, he finds himself for the first time in an important management position wherefrom he has to control

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[1] para. 6·33.

[2] para. 6·47.

and co-ordinate the work of a number of officers performing different functions. But no facilities exist to equip the newly promoted Assistant Commissioners for their managerial role.

6.80 Both at the levels of officers and staff, there is considerable variety of functions, in respect of which training cannot be given to a new recruit at the initial stage. Thus, when an officer is posted as an Authorised Representative or as an Income-tax Officer (Hqrs.) or to the Intelligence Wing or to an investigation circle, he finds himself in new and unfamiliar surroundings. There is need to provide specialised training before an officer is posted to a specialised job. Unfortunately, however, there are at present no arrangements for imparting such training.

6.81 Law and procedures do not remain static. In the midst of day-to-day work, most officers do not find time to keep pace with the changes. Moreover, response of a person to training undergoes change after he has gained some experience. In this context, refresher courses assume importance. We were told that the Department tried to run refresher courses for officers, but this scheme was short-lived as no regular arrangements had been made for conducting them.

6.82 We are convinced that lack of adequate training facilities has contributed in no small measure to the prevailing inefficiency in the Department. The importance of training in improving the tax administration does not seem to have been adequately recognised. It will be relevant to quote here the following conclusion contained in a Report of the U.N. Secretary General[1]:

> "It is not always fully realised that improvements in tax administration can yield considerable dividends even from the existing tax systems. Investment in training at all levels and experimentation with new or proven techniques of tax administration would significantly improve the efficiency of tax systems and provide additional resources. Massive training programmes, at different levels and of different duration, need to be organised at national and sub-regional levels."

We consider that urgent steps are required to be taken to revitalise the training wing of the Department. We recommend that the Head of the Staff College be designated as Director General of Training and allowed a special pay in addition to his pay as Commissioner. He should be in overall charge of all training establishments. There should be a cell under the Director General for preparing specialised training manuals for all trainees, whether officers or clerical or executive staff.

6.83 As mentioned earlier, the Staff College at Nagpur is neither well-equipped nor well-staffed. *We recommend that the training institution at Nagpur should be provided with qualified whole-time instructors of the rank of Assistant Commissioners, one for each subject. The institution should be equipped with modern teaching aids and there should be a good library to cater adequately to the requirements of the large number of trainees. The probationary officers on their first posting should be attached with senior Income-tax Officers for practical training for a period of six months. Apart from the initial training course for directly recruited Class I officers, the College should run refresher courses of two months' duration for Class I Income-tax Officers who should be required to attend the course at least twice before they are promoted as Assistant Commissioners. Specialised courses in investigation and intelligence for officers should also be conducted. The institution should also arrange to train instructors at all levels. The services of the persons so trained may then be utilised as instructors.*

6.84 *There should be adequate arrangements for the lodging of trainees and each one of them should be provided with an independent room with attached toilet facilities. Similarly, there should be adequate provision for both indoor and outdoor games.*

6.85 If training is to serve its intended purpose, it will have to be ensured that the trainees take to it whole-heartedly and earnestly. At present, a probationer who passes the departmental examinations early gets two advance—not accelerated—increments. The incentive provided is hardly sufficient to evoke a response of serious application from a probationer towards his training. In the Indian Administrative Service, the seniority of a probationer is determined taking into account not only the marks obtained in the competitive examination but also in respect of his performance during training and at the final examination. *We recommend that, as in the Indian Administrative Service, the seniority of probationary Class I Income-tax Officers should be determined taking into account their record in the Staff College and the marks obtained by them in the competitive examination as also in departmental examinations.*

6.86 We have recommended earlier[2] that the Directorate of Research and Statistics be organised and developed as a Tax Research Insti-

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1. Tax reform planning—1971—para. 211.
2. para. 6.25.

tute. *We recommend that this Research Institute should arrange to conduct orientation courses for senior officers like Commissioners, Additional Commissioners and Assistant Commissioners. Every officer newly promoted to these grades should attend this course, which should include training in management.*

6.87 We have earlier stressed on the need for giving proper and adequate training to Income-tax Officers Class II and Inspectors. *We recommend that Zonal/Regional training institutions be established for initial training of Income-tax Officers Class II and Inspectors, and also for periodical refresher courses for them.*

6.88 Shortage of properly trained clerical staff has been one of the contributory causes for the poor image of the Department. The Audit Department gives six months' training to its Upper Division Clerks before they are posted to their jobs. *We recommend that no member of the clerical staff be put on regular work unless he has completed a prescribed course of initial training. At each Commissioner's headquarters, local arrangements should be made for training newly recruited Lower Division and Upper Division Clerks. One Income-tax Officer Class II should be exclusively in charge of such training. Officers and experienced and senior members of the staff, should be asked to give lectures to the trainees, for which they should be paid honoraria. Adequate arrangements should also be made to impart intensive practical training. During training, there should be fortnightly tests for the trainees.*

6.89 It is also necessary that the clerical staff should keep abreast of the frequent changes in law and procedures. For this purpose, *we recommend that there should be a system of in-service training for Upper Division Clerks for a fortnight or so every year.* It may not be necessary that training should take the shape of class room lectures. *We recommend that the Department may introduce a system of postal tuition as well.* As an experimental measure, a dozen study papers may be prepared as material for such postal tuition. If the scheme is well-received, it may be further extended.

6.90 It will not be in the interest of administration that, while officials attend training courses, their work should suffer. Similarly, it will have to be ensured that the progress of work is not held up when persons are on long leave. *We recommend that adequate number of reserve posts be created in each grade to provide sufficient cushion at all levels so that the normal functioning of the tax offices does not suffer by reason of the officials being away on training or on leave.*

Facilities, equipment and aids

6.91 While training prepares the personnel for the jobs, they have to be provided with requisite facilities and aids for work if they are to perform their duties efficiently. There is a general complaint in the Department that office accommodation and furniture are inadequate and that forms, stationery, manuals and work-aids are in short supply or, in some cases, totally wanting. This has been confirmed by what we saw in tax offices visited by us in different parts of the country. We were informed by the Board, that on the basis of existing staff strength, there was shortage of office accommodation to the extent of 2,48,852 sq. ft. We have recommended[1] that the Central Board of Direct Taxes should be constituted as an autonomous body with enhanced financial and administrative powers. This should enable the Board to provide adequate office accommodation and facilities to its officers and staff without undue dependence on external agencies like the Works and Housing Ministry, C.P.W.D. or the Stationery Office. *We recommend that the Board should give top priority to construction of adequate office accommodation at all places and the provision of suitable furniture and other essential facilities and aids for work.* Till such accommodation comes up, it will be necessary to take additional accommodation on rent to meet the requirement adequately. We were told that by the time a building comes up, accommodation is not found to be adequate even to provide space for the existing staff. We would wish to emphasise that in drawing up the construction programme, adequate provision should be made for future expansion as well.

6.92 We have dealt with the question of provision of manuals and books of instructions earlier[2] in this report. *We would here recommend that every officer should be provided with a set of Income-tax Reports to enable him to keep himself up-to-date in case-law, and that well-equipped reference libraries be established in all bigger offices.* We have also suggested[3] that the Directorate General of Organisation and Methods should have an effective control over the technical contents, get-up and design of all types of forms. *We further recommend that forms should be supplied sufficiently in advance and in adequate quantities so that work does not get dislocated on account of chronic shortages from which the Department now seems to suffer. If adequate and prompt supply from the Forms Store by the prescribed date cannot be ensured, the Board/Commissioners should have full powers to get the forms printed elsewhere.*

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1. paras. 6·11 and 6·17.
2. para. 6·24.
3. para. 6·31.

6.93 The Department has not yet taken to modern aids to work. We do not mean to suggest that the Department should go all out for mechanisation or automation. However, there are a large number of small mechanical aids, which can facilitate and assist clerical work. *We recommend that simple mechanical aids such as calculators, tabulators, addressographs, numbering machines, copying machines, electrical typewriters, etc., be provided in adequate numbers to the tax offices, depending on the type of work required to be done. Electronic equipment, such as computers, could be used for processing statistics, checking tax deduction statements, matching information and such other bulk jobs.*

Adequacy of staff

6.94 We have elsewhere[1] cited instances where inadequacy of officers and staff has resulted in accumulation of work. Continued inadequacy over long periods can lead to unmanageable situations. *We recommend that the Directorate General of Organisation and Methods should, on the basis of studies, evolve organisational patterns and prescribe the strength of personnel required for each unit on a rational basis. Thereafter, advance planning will be necessary to ensure that the Department is adequately staffed in all its offices at all times.*

Transfer policy

6.95 A factor which affects the disposition of personnel in the Service, and thereby its work potential, is the transfer policy. Internal transfer policy should be solely guided by the exigencies of work. But when a transfer involves a change of station, several other considerations arise. In the case of non-gazetted staff, transfers involving a change of station should be reduced to a minimum, consistent with the needs of efficiency and discipline. In the case of officers, particularly those in Class I Service, transfers from one station to another cannot be avoided, but these need not be from one corner of the country to the other. Apart from personal inconvenience, the utility of an officer decreases if he does not know the language/script of the area to which he is transferred. *We recommend that officers should ordinarily stay at one place for a minimum of 3 to 5 years. While transferring officers, the problem of language, medium of school instruction, etc., should be given due consideration. The present rule of six years' stay in a charge for the purposes of inter-charge transfer should go.*

6.96 Closely linked with the policy of transfer is the problem of housing. Officers in a revenue department should not be placed in a situation where they have to depend on taxpayers for their personal needs. Accommodation is a basic personal requirement and it is essential that the Government should meet it rather than leave the officers to fend for themselves. At present, housing programmes of the Department exist only in some of the bigger cities and even there the provision is far short of requirement. *We recommend that the Department should undertake a crash programme for providing adequate housing facilities in all stations, to its officers and staff, particularly those liable to frequent transfers. Pending construction of quarters, which is likely to take time, we suggest that the Government should take on lease private houses and allot them to the officers and staff of the Income-tax Department on the same terms as Government accommodation.*

Morale

6.97 We have, earlier in this report, dealt with several aspects of the maintenance of service morale. The recommendations we have made for improving service conditions, rationalising personnel policy, and providing adequate training, assistance, equipment and other aids to the officials, will no doubt help to raise their morale. A sympathetic attitude in the matter of transfers and provision of housing will also be morale boosters. Promotions on the basis of merit will help to infuse in the officers and staff greater enthusiasm for work. In addition, *we recommend that for Inspectors and clerical staff, a system of granting advance increments for good work should be introduced.*

Vigilance

6.98 In any organisation, there will always be some black sheep who tend to stray away from the path of integrity and honesty. Improving the administrative set-up and its procedures will no doubt reduce the avenues for corruption but cannot eliminate them altogether. The administration has to be necessarily vigilant and watchful to spot out the dishonest and deal with them in an exemplary manner. We have elsewhere[2] approved of the proposal to create an independent machinery for dealing with political corruption and corruption in the higher echelons of Government hierarchy. So far as the Income-tax Department is concerned, its own machinery will have to act as the watchdog. *We recommend that the vigilance machinery of the Department be adequately strengthened. Every Commissioner should keep a close watch on the undesirable elements in his charge and should be required to send to the Board a half-yearly report on suspect officers with a bad reputation.*

6.99 The Government Servants Conduct Rules already prescribe submission of immovable property returns and intimation of transactions in movable properties over Rs. 1,000. We feel

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1. para. 4·17.
2. para. 2·235.

that such returns alone are not adequate. Investment in immovable properties is no longer the only or even the principal outlet for money earned dishonestly. *We recommend that a statement of net worth, on the same pattern as suggested by us as a schedule to the income-tax return*[1], *should be prescribed for submission by all officers every year to their respective Heads of Departments. In the Income-tax Department, these statements will be forwarded, after scrutiny, by the Commissioners to the Central Board of Direct Taxes. Certain percentage of these statements will be checked by the Member (Personnel) of the Board.*

Procedures and Methods of Work

Introductory

6.100 The efficiency of an administration depends to a large extent on the efficacy of its procedures and methods. Defective procedures and unsatisfactory methods not only interfere with the effective discharge of its functions by the Department but go to make it unpopular. The various measures we have recommended in the preceding Chapters for unearthing black money, tackling evasion or avoidance, or liquidating tax arrears will be of no avail unless simultaneously procedures are reformed. We have, therefore, reviewed the procedures and methods involved in some of the important functions of tax administration. Our recommendations in this behalf are set out in the following paragraphs.

Jurisdiction

6.101 The present law elevates the subject of jurisdiction almost to the level of a sacred right of the taxpayer. In the words of Sir John Beaumont, former Chief Justice of Bombay, the right of an assessee to be assessed by a particular Income-tax Officer is a personal right within the meaning of section 45 of the Specific Relief Act[2]. The law itself revolves round the personality of the Income-tax Officer and, at present, no higher authority has the power to interfere with his judicial discretion in any individual case. Till recently, a single officer exercised all the powers in respect of a particular assessee. There could be a change in the Income-tax Officer handling a particular case only when the officer himself was transferred out, or the case was itself transferred to another ward by a formal order of a competent authority. Jurisdiction was primarily territorial, an Income-tax Officer incharge of a particular territory exercising jurisdiction overall the persons resident therein. Such a pattern had certain clear advantages as long as the number of taxpayers was small and so also the numer of assessing officers. The taxpayer knew where to file his return, where he would be called for examination and who would deal with his taxation matters. But, with the increase in the number of taxapayers, the increasing diversities and complexities of the tax laws and the steady increase in the number of Income-tax Officers, the disadvantages of such fixed jurisdiction have come to the forefront. The changes in law demand more and more specialisation from the officers. Separation of the three primary functions of an Income-tax Officer—assessment, collection and administration—under the functional scheme has been another step indicative of the growing realisation that it is no longer possible for one officer to attend to all the aspects of work relating to a case. The law has been amended to facilitate division of the jurisdiction over a case functionally among two or more Income-tax Officers. Notwithstanding this, the basic concept of fixed jurisdiction has remained more or less unaffected.

6.102 In the context of the increasing quantum, variety and complexity of work-load, this concept has thrown up several problems, both for the administration and the taxpayer. Frequent readjustment of work-load is necessary for clearing the ever mounting back-log but such readjustment can be done only by creating new circles and transferring cases *en masse*. A considerable volume of clerical work is involved in such transfers. Papers get lost or misplaced, and delay or omission in intimating the transfer to the taxpayer results in papers being missent, with consequent hardship and harassment to him. In fact, the problem of missing challans owes its origin in a large measure to frequent changes in jurisdiction. Transfer of cases holds up and delays the progress of work. Often, there is considerable time lag in physically transferring the records after a change in jurisdiction has been notified. In this interregnum, the case is in a sort of legal 'no man's land', where one officer cannot function for want of jurisdiction and the other for want of records. Both the administration and the taxpayer suffer in the process.

6.103 Another disadvantage of jurisdiction being legally vested in a particular officer is that frequent legal wrangles arise on the question of jurisdiction. As lack of jurisdiction is fatal to the validity of orders, multiple proceedings are often necessitated in the same case, duplicating work and increasing paper arrears of tax. Fixed jurisdiction creates yet another problem for the administrators. As the same set of taxpayers will be coming before the same officers year after year, periodical rotation of officers and staff from circle to circle becomes necessary with a view to preventing undesirable contacts developing. The ritual of annual transfers imposes an effective moratorium on all work for quite some time.

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1. Appendix VII.
2. Dayaldas Kushiram vs. CIT (Central) and another 1940(8) ITR 139.

6.104 The Income-tax law in India is rather peculiar in this respect. In U.K., though every District Inspector of Taxes has jurisdiction over a clearly earmarked territory called the Tax District, the officers under the District Inspector —the Inspectors assisting and the Tax Officers— who actually handle the examination of the case, apparently function without any specific jurisdiction, on the basis of allocation of work made by the District Inspector from time to time. In U.S.A., the jurisdiction over the entire country vests with the Commissioner of Internal Revenue at Washington. The country is divided into regions which are headed by Regional Commissioners and these regions are supported by Service Centres. The receipt and processing of returns and maintenance of taxpayers' accounts is centralised in these Service Centres. The actual assessment work in cases selected for scrutiny is the responsibility of the Directors of the different Districts into which each region is sub-divided. This is done by allocating individual returns to the various Revenue Agents in the District. Thus, the Revenue Agent—who corresponds to the Income-tax Officer—functions without any fixed jurisdiction and the returns which come to him in one year may never come to him again in another year. It is only at the District Director's level that some sort of jurisdictional pattern emerges, as ordinarily returns relating to a district are scrutinised in the same district. This is, however, more a matter of administrative convenience than of legal requirement. In Ceylon also, the entire jurisdiction is with the highest authority, the Commissioner of Inland Revenue, and the other officers merely carry out the functions allotted to them.

6.105 We are convinced that the set-up in which an Income-tax Officer functions on the basis of fixed jurisdiction is unsuited to the present day requirements, particularly with the recent change in the assessment procedure. At the same time, we would not like to recommend a pattern on the U.S. model where jurisdiction is vested at the top. Further, in U.S.A., they have achieved a high degree of computerisation and mechanisation which facilitates centralisation of many functions, not at present possible in our country. We have, in an earlier Chapter, recommended that the Inspecting Assistant Commissioner should be given the authority to give binding instructions to the Income-tax Officers in his Range[1] and that major pre-assessment disputes with the taxpayer should be settled at his level.[2] Consistent with this, *we recommend that the Inspecting Assistant Commissioner's Range should be constituted as the basic jurisdictional unit. The Range may consist of a specified territory or have specified class of cases or even individual cases assigned to it. The Inspecting Assistant Commissioner and all the Income-tax Officers in his Range will have concurrent jurisdiction over all the cases in the Range. The distribution of cases as also the functions among the Income-tax Officers in the Range should be within the administrative competence of the Inspecting Assistant Commissioner. The Range will also be a managerial and administrative unit, with the Inspecting Assistant Commissioner planning, controlling and co-ordinating all the function therein.*

6.106 The recommendation we have made above will, without unnecessarily disturbing the present law and organisational set-up, facilitate prompt and smooth adjustment of work-load within the Inspecting Assistant Commissioner's Range. It will also enable a senior and experienced officer to guide and supervise the work of junior officers effectively.

Section 124 of the Income-tax Act has already been amended to facilitate two or more Income-tax Officers to exercise concurrent jurisdiction over the same area or the same persons or the same classes of persons, or incomes or cases, but the section seems to envisage different functions being performed by different officers in respect of the same person or case. What is necessary is merely an extension of the same principle. *We recommend that section 124 of the Income-tax Act be amended so as to clarify that concurrent jurisdiction might be exercised in respect of the same function relating to the same person or case.*

Section 125 of the Income-tax Act, as amended, authorises the Commissioner to direct that the functions of the Income-tax Officer be performed by the Inspecting Assistant Commissioner. *We recommend that section 125 be further amended to provide that the jurisdiction to perform such functions might be held by the Inspecting Assistant Commissioner concurrently with the Income-tax Officers in his Range.*

Section 119 of the Income-tax Act has very recently been amended so as to empower the Board to issue general or special orders from time to time in respect of any class of incomes or cases in the interest of proper and efficient management of the work of assessment and collection of revenue. *We recommend that section 119 be amplified or a new section inserted to empower the Inspecting Assistant Commissioner to issue instructions to the Income-tax Officers even in individual cases on the lines suggested by us in the Chapter on Tax Arrears*[1].

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1. para. 4·70.
2. para. 4·71.

We also recommend that similar provisions be made in the Wealth-tax Act and the Gift-tax Act.

Functional scheme

6.107 As observed by us earlier, functionalisation has become necessary to deal with the increased number of cases and to meet the demand for specialisation for effectively tackling complex problems of investigation, assessment, recovery and administration. The functional scheme as introduced has, however, not been an unqualified success. We had in our Questionnaire invited comments from taxpayers on the working of the functional system. Their verdict is uniformly adverse. Wherever we went, taxpayers as also chambers represented before us that the functional scheme has led to considerable confusion in the working of the Department. As one of them pithily observed, the scheme might be functional but it is just not functioning.

We appreciate the reasons for such a reaction from the taxpayers. There has been considerable lack of co-ordination in functional units between the officers incharge of assessment, collection and administration, compelling taxpayers to run from one to the other, often without much results. There is too much movement of files. Papers get misplaced, and are often not available when the taxpayer appears before the officer in response to a call from him or for ventilating a grievance. Storage facilities have been inadequate and the system of filing leaves much to be desired. The creation of functional clerical cells, not responsible to a single officer, and the lack of adequate supervision, have often led to delays or files not being traceable. Adoption of the 'conveyor belt' system without adequate staff and leave reserves results in breakdowns which hold up the whole movement in the chain. Often, the staff, and sometimes even officers, are not properly trained to adapt themselves to the team work involved in functional units.

6.108 Some of us visited the tax offices to see for ourselves the functional system in actual operation. There can be no two opinions that assessment and collection are distinct functions and their separation is absolutely necessary in the interest of both the taxpayer and the Department. The complexity and volume of work have so increased in recent years that it is no longer possible for one officer to do justice to both assessment and collection work. Separating the functions facilitates specialisation and better attention being given to both these aspects of work, which are equally important. Limited functions also help evolve better work norms and work measurement yard-sticks. In the long run, therefore, functional system should prove to be more conducive to efficiency and economy. It, however, appears that functionalisation has been carried too far within the assessment unit, and this is what has been responsible for too much of movement of files. *While we recommend that the functional system should continue, the Government may review the position of sub-division of functions in the assessment unit, particularly in the context of new procedure for acceptance of returns in a large majority of cases. We recommend that steps should also be taken to improve the working of the scheme by providing adequate and trained staff and proper office accommodation, by improving storage facilities and filing procedures, and by tightening up supervision and control and ensuring co-ordinated functioning. Items of work should be disposed of in a chronological order and watch kept on the age of pending items. We recommend that the Inspecting Assistant Commissioner's Range should consitute a functional unit and the Inspecting Assistant Commissioner should be made responsible for its proper administration and co-ordination.* Movement of records and the consequent dislocation will get substantially reduced when 80—90 per cent of the assessments are disposed of on the basis of returns of income.

Closely linked with the problem of providing adequate storage facilities for records is the need for an effective system of weeding out unwanted papers and records. Unless this is done regularly, storage space is bound to be always short. The reason why this work is being neglected now is that the staff is required to do this work in addition to its normal duties. *We recommend that separate staff for weeding be provided by posting one or two weeders to each record room. A system of weeding should be evolved wherein the weeding notation is shown at the top of every paper as it is filed. It is also necessary that all papers in a file should be serially page numbered.*

Categorisation of cases

6.109 At present, cases are classified into five categories as follows:

Cat. I Business cases having income of over Rs. 25,000.

Cat. II Business cases having income of over Rs. 15,000 but not exceeding Rs. 25,000.

Cat. III Business cases having income of over Rs. 7,500, but not exceeding Rs. 15,000.

Cat. IV (a) All other cases except those mentioned in Cat. V, infra.

(b) Section 237 refund cases.

Cat. V (a) Small income scheme cases;

(b) Government salary cases; and

(c) non-Government salary cases below Rs. 18,000.

[Note: A case should be considered as a business case only if at least half of total income is from business, profession or vocation.]

While tax potential may be the broad index for categorisation, we see no reason for the differential treatment of different sources of income. When incomes are the same, the importance of the cases to revenue should also be the same. The scope for tax evasion or avoidance exists irrespective of the source of income. A person having salary income may have undisclosed investments, property or even business which calls for a thorough scrutiny. *We, therefore, recommend that cases should be classified on the basis of income only, irrespective of the source of income. Loss cases should not, however, be relegated to a very low category. Often they need special scrutiny and give rise to peculiar problems. They should be given a higher categorisation, though not the highest.* With the increasing accent on acceptance of returns, it is unnecessary to have a large number of categories. *We recommend that cases be re-categorised as follows, irrespective of the source of income:*

Category I All cases with income exceeding Rs. 50,000.

Category II Cases with income exceeding Rs. 25,000 but not exceeding Rs. 50,000, and also loss cases.

Category III Cases with income exceeding Rs. 15,000 but not exceeding Rs. 25,000.

Category IV All other cases.

Allocation of assessment work

6.110 The importance of a case and the attention which it should receive depend not only on its revenue potential but also on its investigation potential. While dealing with intelligence and investigation elsewhere[1] in the report, we had suggested the setting up of an Intelligence and Investigation Division in each Commissioner's charge, and continuance of Central Charges in bigger cities.

6.111 There has been a lot of controversy on the question as to what should be the status of assessing officers in the Income tax Department. It has been suggested that all assessment work being alike, the officers should all have the same status. We are not convinced that all assessment work can be equated merely because all cases involve more or less the same process of computation of total income and calculation of tax. Magistrates, Munsifs, Sub-judges and District and Sessions Judges all do basically the same type of work—hearing and deciding civil or criminal cases. But certainly their resonpsibilities are not identical. Similarly, the responsibilities involved in handling a fraud case or a major revenue potential case can never be equated to those involved in handling the assessment of a petty shopkeeper or a small refundee. We have recommended a jurisdiction pattern[2] wherein the Inspecting Assistant Commissioner and all the Income-tax Officers in his Range will exercise concurrent jurisdiction in respect of all the cases therein. There will then be no difficulty in the Inspecting Assistant Commissioner allocating the cases in his jurisdiction according to their importance to the different officers under him, taking into account their status, seniority, experience and other relevant factors. With the recent introduction of the scheme of making assessments on the basis of the returns in a large majority of cases, a well-defined class of assessment work involving definitely lower responsibilities, where no examination of accounts is involved, has emerged, which can be clearly earmarked for being handled by junior officers. *We recommend that Class II Officers and junior Class I Officers be entrusted with assessment work under sub-section (1) of section 143 of the Income-tax Act as also scrutiny of cases where assessments have been reopened under clause (a) of sub-section (2) of section 143 on assessees' request and other scrutiny cases where the income does not exceed Rs. 25,000. We recommend that all scrutiny cases with income above Rs. 25,000 and all investigation cases should be entrusted to senior Class I Income-tax Officers.*

6.112 There has been considerable divergence of opinion on the question whether Assistant Commissioners should also be entrusted with assessment work in important cases. Some officers of the Department did not favour the suggestion as that meant continuing in the same type of duties even after promoion to the grade of Assistant Commissioner. We have already rejected the notion that all assessment work is identical. We see no reason why senior officers should shy away from doing more important assessment work on which they can bring to bear their wider experience and deeper knowledge. *We recommend that Assistant Commissioners should be entrusted with assessment work in all tax fraud cases and high revenue potential cases.* We are convinced that this would not only go to improve the quality of investigation and assessment but also solve the vexed problem of unrealistic over-assessments.

We recommend that steps be taken immediately to classify all assessment charges according to the degree of responsibility involved on the lines we have suggested above. We also recommend that the Board should scrupulously avoid posting junior officers to senior charges except as a purely temporary measure for short duration.

Pre-assessment procedures

6.113 The procedures for assessment and recovery of taxes may be broadly classified as pre-

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1. para 2·102.
2. para. 6·105.

assessment, assessment, and post-assessment procedures. The important pre-assessment procedures are deduction of tax at source, payment of advance tax, and self-assessment.

Deduction of tax at source

6.114 While deduction at source is a very effective way of reducing opportunities for non-payment of taxes, this procedure gives rise to practical difficulties and hardship in the case of small assessees, who have to claim refunds of the tax withheld at source. In recent years, dividends, interest on securities, etc., have been exempted from tax upto Rs. 3,000, and in all cases where the income from these sources does not exceed Rs. 3,000, the tax deducted at source has to be refunded in full. We see no reason why this futile exercise should be gone through, increasing in the process the volume of unproductive work. Delay in grant of refunds is a sore point in the public relations of the Department and any measure that would reduce the number of small refund applications should be welcome. A refund claim often takes up more time of the departmental officials than a tax case of corresponding size. Considerable amount of clerical work is involved in checking and totalling dividend warrants and in preparing refund vouchers, advice notes, etc. If small payments of dividends and interest on securities are exempted from tax deduction, much of the time taken for granting exemption certificates will also be saved. It will also save considerable amount of labour for the companies which have to deduct the tax, pay it into the Treasury, account for it, issue tax deduction certificates, etc., and for banks which have to encash small refund orders in large numbers. *We, therefore recommend that sections* 193 *and* 194 *of the Income-tax Act be suitably amended so as to exempt payments of dividend and interest on securities not exceeding Rs.* 200 *to a person at a time, from deduction of tax at source.* Incidentally, under section 194A of the Income-tax Act, 1961, tax is required to be deducted from interst payments only when the payment at a time exceeds Rs. 400. There seems to be, therefore, no reason why tax should be required to be deducted from small amounts of dividends and interest on securities.

The only objection that could be raised against our proposal is that it might lead to misuse and evasion of tax. We have taken into consideration this aspect in recommending a comparatively low level of Rs. 200 for this exemption. It is not likely that shareholdings will be fragmented to this extent for the sake of escaping deduction of tax at source. The number of companies and shareholders in our country is not very large and enforcement should not be a problem when dividend payments are always accounted for and recorded, and are through banks.

6.115 Except in the case of deduction by or on behalf of the Government and deduction under section 194A of the Income-tax Act, the tax deducted is required to be paid to the credit of the Government within one week from the date of such deduction or the date of receipt of challan. To eliminate the need for frequent visits to the bank or Treasury for depositing tax deducted at source, *we recommend that all deductions other than those by or on behalf of the Government may be required to be paid to the credit of the Government by the* 10*th day of the month next following the month in which the deduction is made.* In addition, the facility of quarterly payment may be allowed in certain cases as at present.

Payment of advance tax

6.116 The scheme of advance payment of tax, introduced during the Second World War, has stayed on, having proved itself to be a simple and efficient way of ensuring that bulk of the tax liability is settled currently, as the income is earned. The success of the scheme would be apparent from the fact that a large part of the budget realisations from income-tax comes by way of advance payments. Most countries of the world, with a sophisticated income-tax system, have a scheme of 'pay as you earn'. Some suggestions have been made before us for improving the working of the scheme in our country.

6.117 It has been suggested that, with the growing accent on voluntary compliance, the responsibility for the payment of advance tax may be entirely shifted on to the taxpayers and the law amended to do away with the need for the Department to issue advance tax notices. New assessees have always been responsible for filing voluntary estimates and paying advance tax accordingly. It is argued that the same principle could be extended to every taxpayer and the practice of the Department raising advance tax demands in the first instance may be given up. This, it is said, would save considerable labour for the Department. We are, however, not convinced that such a change would simplify the procedure or save time and manpower. Issue of advance tax notices by the Department, which is done in bulk at the beginning of the year, should not place an undue burden on the administration. It is of considerable assistance to the taxpayers and facilitates prompt payment of advance tax by them. Leaving the matter entirely to the taxpayers might seriously affect collections, as bulk of them come by way of advance tax. In the absence of notices from the Department, there will be considerable additional work-load on account of the need to resort to penal action for ensuring voluntary compliance. Further, advance tax demand raised by the Department facilitates accurate budgeting and without it, the budget estimates are apt to go wide off the

mark. In view of all these advantages, *we consider that the present system of the Department issuing notices for payment of advance tax should continue.*

6.118 Another suggestion is that time consuming calculations involved in determining advance tax liability could be eliminated if the last assessed tax, instead of the last assessed income, is made the basis for raising advance tax demands. In recent years, tax calculations have been considerably simplified. It will also not be realistic to demand tax at rates applicable to an earlier year when the rates applicable to the current incomes are already known. A sizeable portion of the budget is realised by way of advance tax and the suggestion, if accepted, would leave no scope for increasing or decreasing the current year's budget by change in tax rates. We are, therefore, not in favour of such a change.

6.119 We have also considered the question whether there is adequate justification for the newly introduced provision in sub-section (3A) of section 212 which requires every taxpayer to pay tax according to his estimate of current income if such tax exceeds the tax demanded under section 210 by more than 33-1/3 per cent. When the taxpayer has already the right to make a revised estimate of tax payable if the current income is lower there is no reason why he should not also have the duty to make a similar revision if the current income is higher. While we are of the view that the provision should continue, *we consider that the application of the provisions of sub-section (3A) of section 212 of the Income-tax Act should be restricted to companies only and the margin of 33-1/3 per cent. be reduced to 25 per cent.* As companies are required under the law to maintain accounts in a prescribed form, they should have no difficulty in making proper estimates.

6.120 It has been represented before us that the penal provisions for non-compliance or improper compliance with the requirements of the law relating to filing estimates and payment of advance tax are harsh inasmuch as for the same default both interest and penalty are leviable. While interest provisions are meant to compensate the Government for the delay caused in realising its dues, a discretionary penalty is necessary to deal with defaulters who deliberately try to postpone discharging their tax liability. *We are, therefore, of the view that both interest and penal provisions should continue.*

6.121 The Wealth-tax Act does not provide for advance payment of wealth-tax. In the Gift-tax Act, however, there is a provision for voluntary advance payment of gift-tax which would earn a ten per cent. discount to the taxpayer. The law, however, requires the payment to be first made in full and the discount to be allowed only later when an assessment is actually made. Apart from making the discount scheme unattractive, this requirement necessitates subsequent refunds. *We recommend that the law be amended to authorise the taxpayer to take credit for the discount and pay only 9/10 of the gift-tax due in the first instance itself.*

Assessment procedures

Submission of returns

6.122 The practice hitherto has been for the Department to issue notices, in a routine manner, calling for returns from all the taxpayers who are on its list, without waiting for voluntary compliance by the taxpayers themselves. This, we feel, adds unnecessarily to the clerical work, as notices have to be validly served by registered post or through a process server and acknowledgments obtained. Often, disputes with the taxpayers arise when such notices seek to curtail the time allowed by law for voluntarily filing a return. The practice also runs counter to the spirit of voluntary compliance envisaged in the law. *We recommend that the practice of issuing notices in all cases under sub-section (2) of section 139 of the Income-tax Act be discontinued.* This should not, however, result in the taxpayers losing a valuable facility by having the return form delivered at their door step. *We, therefore, recommend that return forms should be mailed to all listed taxpayers in the month of May every financial year. As this will be merely a measure of taxpayer assistance, it would suffice if the forms are sent by ordinary post.*

6.123 There will of course be always some persons who do not file their returns voluntarily. In such cases, the Department has to call for the return by service of a notice under sub-section (2) of section 139 of the Act. If there is still no compliance, the Income-tax Officer may proceed to make a best judgment assessment. Or else, he may give another opportunity for compliance by issuing a notice under sub-section (1) of section 142 calling for the books of account, etc. As the law stands at present, the notice under sub-section (2) of section 139 has to be properly served *before* a notice under sub-section (1) of section 142 can be issued. We see no reason why there should be such a restriction. *We recommend that sub-section (1) of section 142 be amended and the word 'served' substituted by the word 'issued' with reference to the notice under sub-section (2) of section 139 of the Income-tax Act.*

6.124 As a measure of further eliminating unproductive work, it has been suggested that persons who have met their entire tax liability by deduction of tax at source may be exempted from filing returns of income. In the case of income under the head 'salary', tax is deducted

at the appropriate rates and where the assessee has no other income, no further liability or refund arises. Salary cases constitute a sizeable percentage of the total number of small income cases and there should be a considerable reduction in paper work if such infructuous returns are altogether eliminated. *We, therefore, recommend that persons having only income from salary and no other income, in whose case tax has been correctly deducted at source, may be exempted from the liability to file returns under sub-section (1) of section 139 of the Act, if the gross salary does not exceed Rs. 15,000.** Where there is reason to believe that other sources of income exist, a notice under sub-section (2) of section 139 can always be issued.

At present, a return of income has to be filed with the Income-tax Officer having jurisdiction over the case. We have, in an earlier paragraph, suggested a pattern where the Inspecting Assistant Commissioner's Range would be the unit of jurisdiction. Taxpayers will not then know which particular Income-tax Officer would be actually assessing them. To facilitate filing of returns, *we recommend that counters be opened in each Inspecting Assistant Commissioner's Range for receiving returns, whether sent through post or by messenger. In mofussil charges, however, where the Inspecting Assistant Commissioner's Range will cover several towns, such centralisation will not be possible and we recommend that arrangements for receipt of returns be made in each tax circle.*

Self-assessment and provisional assessment

6.125 In the Chapter on Tax Arrears,[1] we have recommended that the scheme of self-assessment should be extended to all taxpayers irrespective of income or tax payable, and that the tax should be paid with the return or before the return is filed. Following the introduction of the system of self-assessment, section 141 of the Act which authorised making of provisional assessments, was dropped. However, a new section 141A was introduced to facilitate refund of excess advance tax collected where the income returned subsequently happens to attract a much lower tax. But for this provision, the refund will have to wait till the finalisation of the regular assessment. A provisional assessment of refund is required to be made only when the regular assessment is likely to be delayed beyond six months from the date of filing the return. There is, however, no clear direction that the provisional assessment should itself be made within six months, though this seems to be the intention. *We recommend that section 141A of the Income-tax Act be amended to provide that the provisional assessment contemplated thereunder shall be made within six months from the date of filing of the return.*

Selective scrutiny

6.126 In the Chapter on 'Black Money and Tax Evasion',[2] we have broadly approved the recent scheme introduced by the Central Board of Direct Taxes for completing assessments in most of the small cases under sub-section (1) of section 143 of the Income-tax Act. Selective scrutiny is the only answer to the problem of growing work-load in terms of number of assessments. An attitude of trust will also improve voluntary compliance. However, the taxpayer should be made aware that his case might come up for detailed scrutiny at any time. One suggestion is that every case should come up for detailed scrutiny by rotation once in 3 or 4 years. We, consider that this would take away the element of surprise involved in a selective scrutiny. It will also be difficult to observe the rotation strictly in practice. *We recommend that the selection of cases for scrutiny be on random sampling basis and of such percentage of cases as will be consistent with the interest of revenue and availability of manpower.*

6.127 A suggestion has been made that once a case is picked up for random scrutiny, the accounts of 3 or 4 years should be examined. We do not think that a rigid procedure like this should be laid down which is likely to hold up cases quite unnecessarily. In the course of examination of accounts for a year if there are indications in a case warranting scrutiny for earlier years, a notice under sub-section (1) of section 142 can always be issued to call for account books of earlier years. Thereafter, action can be taken if there is reason to believe that income for those years had escaped assessment.

6.128 Many officers of the Department have blamed the practice of fixing unrealistic disposal quotas as a major cause for deterioration in the quality of assessments. We are inclined to agree that in an attempt to clear the 'back-log of pending assessments, disposal targets have been stretched, in recent years, beyond the capacity of the officers and staff. We have recommended earlier[3] the setting up of a Directorate of Organisation and Methods which should, *inter alia*, help to evolve practical and rational work norms.

Exemption limit

6.129 It has been suggested that raising the exemption limit to Rs. 7,500, or even higher,

*Member (Shri Chitale) and Member (Shri Padhi) dissent.

1. para. 4.60.
2. para. 2·66.
3. para. 6·29.

would help to eliminate much of the unproductive work done in handling a large number of small income cases whose contribution to revenue is negligible. On this reasoning, S. Bhoothalingam had recommended that the exemption limit should be raised to Rs. 7,500 for individuals, and Rs. 10,000/Rs. 11,000 for Hindu undivided families[1]. The Administrative Reforms Commission, however expressed itself against the raising of the exemption limit and agreed with the Working Group's finding that this would create more problems than what it expects to solve[2].

Exemption limit has recently been raised to Rs. 5,000. Besides, investment income upto Rs. 3,000 is exempt, and tax relief on savings through life insurance, contribution to provident fund, etc., is allowed by way of deduction in arriving at the total income, the first Rs. 1,000 being fully deductible. We have elsewhere[3] recommended deduction at specified percentage in respect of house rent and contributions to the National Development Fund. This would raise the effective exemption, limit in some cases upto Rs. 10,000. The argument for raising the exemption limit that it would relieve the burden on the administration, also does not survive in the context of the new policy to accept returns in a vast majority of cases. *We do not, therefore, favour raising of the income-tax exemption limit from its present level.*

Post-assessment procedures

6.130 An assessment merely creates potential addition to revenue. It is the post-assessment procedure which converts this potential into tangible collection. As mentioned by us elsewhere[4], over-emphasis on assessment work has been responsible for neglect of post-assessment work, resulting in the build-up of tax arrears. In recent years, while some success has been achieved in reducing pendency of assessments, tax arrears have continued their upward trend. It is, therefore, necessary to give adequate importance and attention to post-assessment functions and improve the procedures and administrative set-up involved therein.

Collection and accounting procedures

6.131 The outmoded collection and accounting procedures of the Income-tax Department have come in for a lot of criticism. A common complaint is that proper credit for tax paid by way of advance tax, or on self-assessment, etc., is not given and that notices of demand are issued for incorrect amounts or show-cause notices for levy of penalty sent out even when the tax due has already been paid. Instances are not wanting, it is said, when even recovery certificates have been issued in respect of demands already paid. Chambers of commerce and individual taxpayers who have replied to our Questionnaire have been unanimous in voicing their resentment against the harassment they are unnecessarily put to as a result of the confused state of accounting in the Department. Even officers of the Department concede that the state of affairs in this regard is none too happy. Particularly acute is the problem of missing, misplaced or unposted challans. In addition to the inconvenience caused to taxpayers, this results in large amounts being shown as arrears when they are really not so. The collection of even the undisputed tax is often held up because of incorrect demands having been made in the first instance. Another glaring defect in the existing procedure is that it is not possible to say precisely at any given point of time as to how much the taxpayer owes to the Department or the Department to him. Considerable time and energy have to be wasted in extracting information from the Demand and Collections Register maintained by the Department, where entries relating to different years or different types of demand occur at different places in a disconnected and disjointed fashion.

We are convinced that the collection and accounting machinery and procedures of the Department require to be streamlined. Not only will this help to eliminate much of the unproductive work that is now being done, but would also pave the way to improved public relations.

6.132 The problem has to be tackled in all its aspects, viz., (i) payment procedure; (ii) collection and accounting machinery; and (iii) collection and accounting procedure. We have received valuable suggestions in this regard from officers of the Department, and from taxpayers and their representative bodies. We have also had useful discussions with them. We have further made on-the-spot studies of the problem at Calcutta, Bombay and Delhi and have discussed with the officers of the Department the practical difficulties experienced by them and their staff and the causes contributing to the present unsatisfactory state of affairs.

6.133 As regards the payment procedure, the present practice is that taxpayers have to obtain challans in triplicate bearing the stamp of the Income-tax office and make the payment

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1. Final Report on Rationalisation and Simplification of the Tax Structure—p. 53, para. 12·9.
2. Report of the Administrative Reforms Commission on Central Direct Taxes Administration—Chapter II.
3. paras 5·19 and 5·64.
4. para. 4·77.

at branches of the Reserve Bank, authorised branches of the State Bank and Treasuries. In the case of regular demand, the challans are filled in and signed by the Income-tax Officer. In the case of payments of advance tax, where such demand is raised by the Department, the challans, duly stamped and bearing the reference number of the relevant entry in the advance tax Demand and Collections Register, are supplied with the demand notice. The amounts are to be filled in and the challans signed by the taxpayers themselves. In respect of self-assessment tax, the assessees have to fill in and sign the challans themselves. Departmental instructions, however, exist that assistance should be given to the taxpayers to calculate the tax due on self assessment and fill in the challans.

6.134 Some have blamed this system of payment by challans as being responsible for most of the difficulties faced by the Department and the taxpayers in the matter of ensuring proper and prompt credit for payments made. A suggestion has been made that the requirement of a challan may be dispensed with and that the bank or Treasury receiving the payment should merely make an entry in a pass book. This pass book will remain in the taxpayer's custody, who should produce it when needed before the concerned income-tax authority in proof of tax having been paid by him. Where cash is tendered in payment of tax dues, entries in the pass book will be made across the counter, while in respect of cheques, entries will be made only on realisation.

We have carefully considered this suggestion. In our view, such a system will necessitate maintenance by the Bank/Treasury of a ledger account for each taxpayer, who will also be required to make payments at a particular branch of the Bank/Treasury only. Unless this is done, serious difficulties would crop up when a pass book is lost or mutilated or when it is suspected that entries therein have been tampered with. The system is open to abuse, and might add to the problems of the taxpayer instead of solving them. Further, the pass book will be a bare record of cash/cheque payments only. Payments by adjustment of refunds due will not appear there. Similarly, the figures of demand and any change therein as a result of appeal, revision or rectification will not be reflected in it. Such a record will not be of much use and will not obviate the need for the Department maintaining ledger cards and issuing statements of accounts to the taxpayers. The procedure would thus give rise to unnecessary duplication of work. We are, therefore, not in favour of introduction of such a system.

6.135 Suggestions have been made that taxpayers, instead of depending on the Income-tax Officer every time a challan has to be obtained, might themselves keep a stock of forms and fill them up when necessary. We agree that dependence on the Income-tax office for the issue of challan entails avoidable delay and inconvenience to the taxpayer, while loading the Department with a considerable volume of additional work. *We recommend that taxpayers should be supplied with challan forms on the pattern of bank pay-in-slips which they could themselves fill in and sign and utilise for making tax payments. Of course, separate challan forms will be necessary for income-tax, tax deducted at source, wealth-tax, gift-tax, etc. To eliminate possibilities of challans going astray on account of incomplete or incorrect particulars, the taxpayers may be properly educated to quote invariably their permanent account numbers. Where payment is made in response to a notice of demand, the taxpayer should also reproduce the Demand and Collections Register entry number (which should be indicated on the demand notice) at the appropriate places on all the foils of the challan. Treasuries/banks may be suitably instructed not to accept payments unless the relevant cages on the challan are properly filled in.*

6.136 Another suggestion that has been made is that the challans with four foils, recently introduced for payment of advance tax, may be extended to cover all types of tax payments. The idea is that the assessee will get two foils instead of one as at present and the extra foil can be utilised for claiming credit. If the extra foils relating to advance tax and self-assessment tax are available to the Income-tax Officer when an assessment is made, it would facilitate correct credit being given to the taxpayer in respect of all pre-assessment payments of tax. Where challans in respect of post-assessment payments are missing and for that reason the taxpayer is treated as being in default, the additional foil of the challan could be furnished to the Income-tax Officer who will take note of the payment. We understand that Audit is agreeable to this procedure being followed provided the payment is subsequently verified from the bank scrolls in each case. *We recommend the introduction of four-foil challans for all types of tax payments. While credit may be given to the taxpayer in the first instance on the basis of the additional foil, the Department must verify the payment with reference to original records.*

6.137 As regards facilities for payment of tax, there have been suggestions for their improvement and enlargement. One such suggestion is that the Reserve Bank/State Bank should open branches in the premises of Income-tax offices where a large number of officers function. We understand that the Department is already exploring the feasibility of such a scheme. *We recommend that additional facilities for pay-*

ment of tax be provided in all big cities and major towns by opening branches of the State Bank in the premises of Income-tax offices. Additionl counters, could be opened seasonally when advance tax payments or payments of self-assessment tax become due. We do not, however, favour another suggestion made that the Department itself should operate cash counters at the Income-tax offices. This is specialised work and we are of the view that such work should best be left to be handled by professional bankers.

Another suggestion that has been made is that all nationalised banks should be authorised to receive payments of tax. Increasing the number of collection agencies would add to the problems of verification and reconciliation of tax collections. There would also be other difficulties and risks in enlarging the number of banks doing treasury work. We are of the view that the present system of restricting treasury work—apart from Treasuries—to branches of the Reserve Bank and authorised offices of the State Bank should continue. Once payment counters are opened by the Reserve Bank/State Bank in the Income-tax offices, taxpayers will have additional facilities for payment. Where such facilities are provided, the tax office need not receive cheques in payment of tax. Where these facilities are not provided, the cheques will be received along with the challans duly filled in. If needed, a large number of existing branches of the State Bank could be authorised to receive tax payments. Banks could, however, help their customers in the matter of payment of tax. As part of their service to their account holders, they could arrange, on instructions from their customers, tax payments at the appropriate receiving offices and secure the challan receipts for them.

6.138 It has been suggested that the assessment and collection functions should be completely separated as in the United Kingdom. A beginning has already been made in this regard in functional units. *We would suggest that the separation of assessment and collection functions be extended to cover all multi-officer Income-tax circles.* Of course, in the initial stages, the separation will be within the district/circle. In due course, the entire collection work in the city charges could be centralised and taxpayers' accounts maintained on the basis of permanent account numbers which, as recommended elsewhere[1] in this report, are to be allotted to all taxpayers.

6.139 A system of individual ledger card for each taxpayer has been suggested as the means of knowing, at any given point of time, how much a taxpayer owes to the Government and *vice versa*. In fact, even now instructions exist that ledger cards/arrear sheets should be maintained in all worthwhile cases on a standard form. We have considered the suggestion that such cards should be maintained for every taxpayer and should include all his tax liabilities and payments, including advance tax and self-assessment tax. In our view, it will unnecessarily complicate matters if advance tax and self-assessment tax are included in the ledger card. We are elsewhere[2] suggesting certain other checks which would ensure that such payments are given due credit in the regular assessment and it should, therefore, suffice if the demand/refund arising out of regular assessments and subsequent orders only are included in the ledger card. *We recommend that ledger cards be maintained in arrears cases where more than one year's demand is outstanding. In all cases where ledger cards are maintained, half-yearly statements of accounts should be sent to the concerned taxpayers.*

6.140 Coming now to the collection and accounting procedure, we have considered the problem of missing, missent and unposted challans in the context of the existing procedures for receipt, distribution, accounting and filing of challans. This appears to us to be a case of administrative deficiency. Certain additional safeguards and checks need to be provided to ensure that challans reach the person responsible for crediting the payments to the taxpayers' accounts and that such credits are promptly given. *We are outlining in Appendix IX a procedure which, in our view, will be both simple and effective, while not making too much of a deviation from the present procedure, with which the Departmental personnel has been familiar over the years.*

Another aspect of the present accounting system, where a proper reconciliation is lacking, is in the matter of giving credit for advance tax payments on completion of regular assessments. The demand and collection of advance tax is accounted in a separate Demand and Collections Register for advance tax but when the regular assessments are made, credit is given independently on the basis of challans without any reference to the Demand and Collections Register for advance tax. Similarly, there is no system of reconciling the tax on self-assessment collected in any year with the subsequent credits given in the regular assessments. *We recommend that an annual reconciliation of the amounts of advance tax and self-assessment tax adjusted in any year be made with the actual amounts paid in the respective years. A procedure for this purpose is outlined in Appendix IX.*

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1. paras. 2·149—2·161.
2. Appendix IX.

6.141 Procedural changes and internal checks alone will not ensure the proper functioning of the collection and accounting machinery. *We recommend that the Internal Audit Wing of the Department should exercise greater vigilance and check over the accounts of the Department.* Even now, the Internal Audit is expected to verify the correctness of the credits given for the payments and also the annual reconciliation of collections. In addition, we feel that there should be an audit of the accounting of demand, collections and refunds with reference to the registers maintained. In particular, the audit should test check that payments recorded in the scrolls of the 'Treasury' cell and the Daily Collections Registers maintained in Income-tax circles are given due credit to the concerned taxpayers. In this way, audit will also serve as a watchdog of the taxpayers' rights instead of merely confining its role to protecting the interests of revenue.

We would like to emphasize that no system, however, perfect, can work on its own in view of the human element involved. Only proper supervision and adequate control can ensure the satisfactory functioning of any system.

Refund Procedure

6.142 There is a general complaint that refund claims are not settled expeditiously and that there is considerable delay in issuing refund vouchers. We find that instructions have been issued from time to time that refund claims should be disposed of with expedition and that refund vouchers should invariably accompany the order which gives rise to the refund. We are told that quite often refund vouchers are not issued for long periods after the relevant orders have been passed. When they are issued at last, often the advice notes are not simultaneously sent to the Bank or Treasury with the result that the refund vouchers cannot be encashed. We find no justification for officers ignoring the Board's directives repeatedly. *We recommend that disciplinary action should be initiated in all cases where the refund voucher does not issue within seven days of the passing of the order.*

6.143 It has been stated that the form of refund voucher is unnecessarily involved and includes redundant certificates which serve no useful purpose. The need to fill up advice notes in triplicate adds to the delays. Further, as mentioned above, often refund vouchers have to be returned uncashed for want of advice. *We recommend that refund vouchers be replaced by cheques and the system of advice note discontinued except in case of refunds exceeding Rs. 1 lakh.*

6.144 It was represented before us that when there are both refunds due and demands outstanding against a taxpayer, the Department often presses for the payment of the entire outstanding demand without issuing the refund or even adjusting it against the demand, as authorised by section 245 of the Income-tax Act. To us, it appears that this provision is one-sided and the taxpayer is left with no remedy when the Income-tax Officer does not carry out or delays carrying out the adjustment. We are of the view that the right of adjustment should be bilateral, that is to say, the taxpayer should also have the right to set off refunds due to him against demands outstanding against him. *We recommend that section 245 of the Income-tax Act be suitably amended to give the taxpayer the right to set off the amount, or any part thereof, of any refund due to him in consequence of an order of assessment, appeal or revision, against any sum payable by him under the Income-tax Act, after giving an intimation to the Income-tax Officer of the proposed adjustment. To start with, this adjustment may not be allowed against payment of advance tax.*

6.145 Some taxpayers have suggested that interest on delayed refund should be paid upto the date of delivery of the refund vouchers, and not merely upto the date of passing the order. We have recommended stringent measures for preventing delays in the issue of refund vouchers after the relevant orders have been passed and we do not consider such a change necessary. In any case, the suggestion will give rise to practical difficulties in calculating interest.

Appeal procedure

6.146 Increase in the number of appeals and delays in their disposal have been posing a serious problem in recent years. It has been sought to be solved by periodically strengthening the appellate machinery. This, in the ultimate analysis, amounts to unproductive deployment of manpower. Every attempt should, therefore, be made at the assessment stage itself to reduce the areas of dispute. With this end in view we have made several recommendations in the Chapter on Tax Arrears and elsewhere. If assessments in most of the small cases are made on the basis of returns, and if over-pitched assessments are avoided in others, the number of appeals will get reduced and the manpower released can be diverted to making more and better assessments.

6.147 It has been suggested that the Appellate Assistant Commissioners should be placed outside the administrative control of the Central Board of Direct Taxes for ensuring their independence and fairness to the appellants. The Direct Taxes Administration Enquiry Committee had recommended that the Appellate Assistant Commissioners should be transferred to the control of the Ministry of Law as it felt that justice should not only be done but should

also appear to be done.[1] This recommendation was, however, not accepted by the Government and, in our view, rightly. The Income-tax Act allows two appeals on facts which is not the case even under the civil or criminal law. Therefore, it is proper that the first stage of appeal is in the nature of an administrative review. In any case, facts show that the Appellate Assistant Commissioners exercise their functions independently and impartially, and the Board do not seem to have interfered in any way with their judicial discretion.

6.148 In this context comes a suggestion that administrative control over the Appellate Assistant Commissioners and inspection of their work should be entrusted to higher appellate authorities and not to the higher administrative authorities. The control which the Board exercises and the inspections which the Directorate of Inspection carries out are meant to co-ordinate the functions of the appellate and assessment divisions and in no way interfere with the judicial functions and discretion of the Appellate Assistant Commissioners. We do not think that any change in the pattern of control is necessary. *We recommend that the administrative control over the Appellate Assistant Commissioners should remain with the Board, and the Director of Inspection should carry out inspection of their offices once at least in every five years.*

6.149 A suggestion has been made that appeals in big cases should be heard by a bench of two Appellate Assistant Commissioners. Appeals in big cases hardly ever stop at the level of the Appellate Assistant Commissioner. In our view, no particular purpose will be served by such a procedure and we do not approve of the suggestion. Similarly, we do not approve of the suggestion that the Department should also be represented before the Appellate Assistant Commissioner.

6.150 Suggestions have also been made that Tribunal Benches with more than two Members should be constituted for bigger appeals. Some have suggested that single Member Benches for small cases should be done away with. In our view, there would be unnecessary wastage of manpower if these suggestions are adopted and we, therefore, do not recommend them.

6.151 A suggestion has been made that the post of Judicial Member of the Tribunal should also be thrown open to the officers of the Income-tax Service. It is pointed out that, while it has become increasingly difficult to get suitable persons from practising advocates or the Judicial Service to work as Judicial Members, qualified persons in the Departmnet stand excluded. On the other hand, the suggestion has been objected to by some on the ground that it would give too much of a departmental complexion to the Tribunal. We do not share such fears. The suggestion is not that the posts should be exclusively reserved for Departmental officers. Moreover, the Tribunal is under the law Ministry and once a person opts for service as a Member of the Tribunal, he severs his links with his previous Service. We do not think that the independent complexion of the Tribunal will in any way be affected by allowing qualified officers of the Department to compete with others for appointment as Judicial Members. *We recommend that Assistant Commissioners with law qualifications and not less than three years' service as Appellate Assistant Commissioner or Senior Authorised Representative, may be made eligible to apply for the post of Judicial Member in the Appellate Tribunal.**

6.152 A view has been expressed that the revisionary powers of Commissioners, who are primarily executive authorities, do not serve any useful purpose and may be taken away. Revision petitions to Commissioners are not meant to be regular channels of appeal. They are meant to provide relief in cases of hardship, where the normal channels of appeal are closed for one reason or another. It is also a measure of providing cheaper relief to persons who do not want to take their disputes to the Tribunal and the Courts. We are of the view that the revisionary powers of the Commissioners should continue. *We, however, recommend that revisionary powers should be exercised by the Commissioner himself and not by an Additional Commissioner.**

6.153 It has been stated that disposal of reference applications before High Courts is subject to heavy delays at present. We understand that out of 958 references relating to the Bombay City charges pending before the High Court as on 31-3-1970, 501 were more than 3 years old. Similarly, out of the 1,210 references relating to the West Bengal charges pending before the High Court on the same date, 367 were more than 3 years old. Some of the references pending in the High Courts are as old as 10 years. These are in addition to the large number of writ petitions pending before the different courts. The result of such delays is that disputes on vital points remain unsettled for long periods and, in the meantime, disputed additions continue to be made in subsequent assessments, increasing in the process both litigation and tax arrears. Lack of uniformity in the judgments of the

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1. Report of the Direct Taxes Administration Enquiry Committee—para. 4·9.

*Member (Shri Chitale) dissents.

different High Courts also gives rise to a similar problem, till the matters are finally settled by the Supreme Court. It has been suggested that the establishment of a "Tax Court" with all India jurisdiction would ensure uniformity in the application of law and will also expedite settlement of disputes. While achievement of uniformity is desirable, we do not think that the establishment of such a Court will by itself ensure it. With the work-load at its present level, multiple benches at different places will still be necessary and the problem of divergence in legal interpretation is bound to persist. Besides, the establishment of a separate Tax Court will involve extensive amendments to the law and procedures, and we do not approve of the suggestion. As regards expeditious disposal of references, the same result can be achieved by constituting permanent Tax Benches in the High Courts themselves. *We therefore, recommend that the Income-tax Act may be suitably amended to provide for the creation of permanent Tax Benches in the High Courts. The Tax Benches should sit continuously so long as there is sufficient income-tax work to be attended to. To clear the present back-log in some of the High Courts, retired Judges may, if necessary, be appointed under Article 224A of the Constitution.*

6.154 Section 257 of the Income-tax Act provides for direct references by the Appellate Tribunal to the Supreme Court in certain cases. However, this provision does not seem to have been made use of adequately. We understand such direct references have been made only in five cases during the last 10 years. *We recommend that in order that these provisions are invoked more often, the Commissioners be advised to apply to the Tribunal for making direct references to the Supreme Court in appropriate cases.* This would ensure that disputes having wide repercussions are authoritatively settled without delay.

6.155 It has been suggested that the law be amended to bar admission of additional evidence at the appeal stage in cases where evidence was not produced at the assessment stage, though reasonable opportunity was given. Taxpayers and their representative organisations, who have replied to our Questionnaire, allege that it is often the Income-tax Officer who does not disclose his mind to the taxpayer at the assessment stage and takes decisions behind the assessee's back, with the result that the taxpayer gets no opportunity of producing before him the requisite evidence. There is something to be said for both the views, but we are of the opinion that the present law is quite adequate to deal with both these situations. Rule 29 of the Income-tax Appellate Tribunal Rules clearly provides that the parties to the appeal shall not be entitled to produce additional evidence, either oral or documentary, before the Tribunal except where the Income-tax Officer has decided the case without giving sufficient opportunity to the assessee to adduce evidence, either on points specified by him or not specified by him. We do not think that any further provisions are necessary.

As regards the grievance that Income tax Officers often take decisions without disclosing their mind to the taxpayer, our recommendation[1] in the context of tax arears that, where major additions or disallowances are proposed, the Income-tax Officer should send a draft assessment order to the assessee before completing the assessment, should take care of it.

6.156 It has been stated that the provisions of section 146 of the Income-tax Act, which authorise the Income-tax Officer himself, on an application by the taxpayer, to cancel an *ex parte* assessment and make a fresh assessment, often delay the assessment proceedings and give rise to multiple appeals—one against the *ex parte* assessment and another against the refusal to cancel it. Deleting section 146 will deny the taxpayer the opportunity to produce evidence before the assessing officer, which, apart from causing hardship to him, may also not be in the interest of revenue. *We are of the view that section 146 should remain. However, we recommend that an application under section 146 should be disposed of within 30 days and that the time limit for appealing against an ex parte assessment should be 30 days from the date of service of an order rejecting the application under section 146, where such application has been made.* This would eliminate infructuous appeals against *ex parte* assessments, where petitions under section 146 are eventually allowed by the Income-tax Officer, and also facilitate simultaneous appeals against the *ex parte* assessment and the rejection of a petition to cancel it.

6.157 A suggestion has been made that the Appellate Assistant Commissioner should not only give his decisions on the grounds of appeal, but also give a recomputation of the income and tax in his order. At present, disputes arise in interpreting the appeal order and assessees often feel aggrieved that the relief which they got on appeal is denied to them in implementation. To avoid such situations, *we recommend that the Appellate Assistant Commissioners should invariably give a recomputation of the income in their orders.* It is not necessary to give the tax computation as that would involve verification of credits and payments, in respect of which information may not be readily available to the appellate authority.

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1. para. 4·71.

6.158 Often it happens that by the time the appeal is decided, the Income-tax Officer who passed the order is no longer in that circle. He then never gets an opportunity of perusing the appeal decision on the order passed by him and, therefore, remains unaware of the shortcomings brought to light. *We recommend that in every case, a copy of the appeal order should be forwarded to the officer who passed the order appealed against, where the order has been substantially modified or reversed.*

Departmental Authorised Representatives

6.159 In the context of expediting the disposal of appeals and improving the standards of representation of cases before the Appellate Tribunal, suggestions have been made for providing adequate incentive to the Departmental Authorised Representatives. The work of an Authorised Representative involves wide knowledge of law and assiduous preparation even outside office hours. At present, the Senior Authorised Representatives are Assistant Commissioners with a special pay of Rs. 150 p.m. The Junior Authorised Representatives are Class I or Class II Income-tax Officers drawing a special pay of Rs. 75 p.m. *We recommend that the special pay for Authorised Representatives be raised to Rs. 300 p.m. for Assistant Commissioners and Rs. 200 p.m. for Income-tax Officers. This will also ensure that the best talents are not drawn away to secretariat posts, which at present carry higher special pay.*

Assessees' Representatives

6.160 We consider the present law as very liberal in prescribing the qualifications of persons who could represent the taxpayer before the income-tax authorities. There is no dearth of qualified persons in the country and we see no reason for keeping the standards so low. We feel that in the interest of the administration and the public alike, steps need to be taken to raise the standards of representation before tax authorities. *We recommend that in future, only qualified accountants and lawyers should be allowed to represent assessees before the tax authorities.* There should, however, be no objection to B. Coms. and others assisting in the preparation of tax returns of assessees, but they should not be allowed to represent the cases before tax authorities. *We recommend that clauses (v) and (vi) of sub-section (2) of section 288 of the Income-tax Act be deleted.**

6.161 Several officers of the Department ventilated their grievance against the provision which prevents them from representing taxpayers for two years after their retirement or resignation. We feel that a ban like this amounts to an unreasonable restriction on the exercise of a profession by a person who is otherwise qualified, and it should go. We do not find a similar ban on other Government officials who want to be self-employed after retirement or resignation. *We recommend that sub-section (3) of section 288, which imposes a two year restriction on an officer of the Income-tax Department, who has retired or resigned but is otherwise qualified to represent an assessee before tax authorities, be dropped.*

Penalties

6.162 A grievance has been voiced that the law provides for a multiplicity of penalty proceedings which, apart from inconveniencing the taxpayer and causing considerable inroads into his time, hamper the administration and increase the number of appeals. It has been suggested that, to the extent possible, penalty proceedings should be consolidated and levied by a single order. We agree that this would result in considerable saving of time, both for the taxpayers and the Department. On enquiry from two Benches of Income-tax Appellate Tribunal, we learnt that appeals against penalty orders constituted about one-third of the total pendency of appeals before them. Penalties which arise out of an assessment are under clauses (a), (b) and (c) of sub-section (1) of section 271 and section 273 of the Income-tax Act. The defaults which attract the penalties get established in the course of the assessment proceedings and there should be no difficulty in completing all these proceedings simultaneously. *We recommend that the law be amended to enable the Income-tax Officer to pass a single order in respect of penalties under clauses (a), (b) and (c) of sub-section (1) of section 271 and section 273 of the Income-tax Act. Similar provisions may also be made in the Wealth-tax Act and Gift-tax Act.* Of course, each default will have to be separately discussed in the penalty order and the amounts leviable as penalties separately indicated. But the demand notice will be issued for the total amount due and a single appeal against the order would be sufficient.

6.163 The direct tax laws provide for the levy of penalty by the Inspecting Assistant Commissioner under certain circumstances when the default is of concealment or furnishing inaccurate particulars of income, wealth or gift. Under the Income-tax Act and Wealth-tax Act, the Inspecting Assistant Commissioner assumes jurisdiction for levy of penalty when the amount concealed as computed by the assessing officer exceeds Rs. 25,000. Under the Gift-tax Act, such jurisdiction arises when the minimum penalty imposable exceeds Rs. 1,000. We do not appreciate the logic of entrusting penalty pro-

*Member (Shri Chitale) and Member (Shri Padhi) dissent.

**Member (Shri Padhi) dissents.

ceedings to the Inspecting Assistant Commissioner when the assessment, which forms the basis for the penal proceedings, has been made by a junior officer. We have elsewhere[1] recommended that in major tax fraud cases, the assessment itself should be entrusted to an Inspecting Assistant Commissioner. We have also recommended[2] that major disputes regarding proposed additions to the returned income should be dealt with by the Inspecting Assistant Commissioner, who should also pass the assessment order himself in those cases. There will then no longer be any need to retain such a provision which requires the Inspecting Assistant Commissioner to levy, under certain circumstances, penalty in a case where the assessment is made by the Income-tax Officer. *We recommend that the requirement under sub-section (2) of section 274 of the Income-tax Act, sub-section (3) of section 18 of the Wealth-tax Act and sub-section (3) of section 17 of the Gift-tax Act that penalties for concealment or furnishing of inaccurate particulars of income, wealth or gift, should under certain circumstances, be levied by the Inspecting Assistant Commissioner, be done away with. Instead, it may be provided that in cases of this type, where the assessment has been made by the Income-tax Officer, he should himself levy the penalty with the previous approval of the Inspecting Assistant Commissioner.*

Parliament Questions

6.164 Several officers of the Department represented before us that, not infrequently, statistical details, which are not available from the registers, reports and statistical compilations, are required to be furnished for answering questions in Parliament. Such information has to be extracted from individual files at the expense of considerable time and labour. *We recommend that certain conventions be evolved that only such information as can readily be furnished from the registers, reports and compilations should be furnished in response to Parliament questions. Where information has to be culled from individual files, the Board must explain to the Minister that the time and effort required for collection of the information may be unduly high and he may, therefore, seek instructions from the Parliament in this behalf.* We understand that in other countries, conventions have been evolved where Parliament does not call for information in respect of details which involve large expenditure of time and effort.

Awards

6.165 Often, the best judges of the utility and efficacy of procedures and methods are those who are required to apply them. Hence, management can benefit by their views and suggestions. *We recommend that suggestions from the staff and officers be encouraged by grant of suitable awards for such of them as are accepted and result in improvement of work or savings.* Such a scheme appears to exist already, but in a dormant state. It needs to be activated. In U.K., the suggestions scheme is reported to have proved very successful. No fewer than 3.245 suggestions were received and processed during the year 1969-70. Of these, 849 were awarded some mark of recognition[3].

Internal and external checks and controls

Planning and programming

6.166 Plans and programmes trigger the administrative machinery into action and as such have an important role to play in any organisation. While many of the developed countries lay special emphasis on planning and programming in their tax administrations, we regret that this important management concept has not received the attention it deserves in the Income-tax Department in India. Planning involves assiduous collection of accurate data regarding manpower resources and work-load, evolving practical priorities and setting attainable targets with reference to ideal target of performance, and working out the requirements of men and materials for a number of years in advance. Planning and programming has to start first in the Central Board of Direct Taxes, being the highest executive body of the Income-tax Department. For this purpose, *we recommend that a special planning and programming cell be created in the Board. The cell should be equipped with trained personnel and modern aids.* The role of this cell should be advisory rather than supervisory, as planning should really be the co-ordinated function of the Board as a whole.

Reporting systems

6.167 Reporting systems provide the link between the planners and the executors of the plan in the field. While reporting systems do exist at present at the level of Income-tax Officers and above, such systems are totally wanting at the lower levels. This is one reason why standards of control over clerical operations have considerably deteriorated. *We recommend that steps be taken to evolve methods and measures for ensuring planned operations and adequate disposal at the clerical level so that, where necessary, responsibility can be fixed for acts of omission and commission.*

Another glaring defect of the present set-up is that on receipt, reports are often perused,

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1. Para 6·112.
2. Para. 4·71.
3. Report of the Commissioners of Her Majesty's Inland Revenue for the year ended 31-3-1970 (113th Report), p. 13.

processed and commented on in the higher formations by officials at lower levels. It is the prime duty of the managers at different levels to peruse and study the reports themselves and depend on clerial assistance for comments. Reports, which the top level managers do not consider necessary to personally peruse, can probably be eliminated altogether.

Supervision

6.168 No amount of reporting systems, checks and control measures will ensure the successful operation of procedures and methods unless they are backed by active supervision, which again depends on the personality, training and aptitude of the supervisor. The success of supervision also depends on the fairness of the work norms and the objectivity of the qualitative and quantitative performance standards set. We have, in the context of maintaining service morale, stressed on the importance of setting suitable and attainable targets and evolving practical standards for judging out-put. It is also for the supervisor to ensure that instructions and directives are properly observed. The role of the Inspecting Assistant Commissioner as a supervising officer for his Range has also been higlighted by us, with particular reference to functional units. To improve the quality of supervision in tax offices, we have elsewhere[1] recommended that posts of Head Clerks and Supervisors should be replaced by Inspectors (Supervision).

Inspection

6.169 Inspection is an important tool in supervision, though it is no substitute for concurrent supervision of operations as they are in progress. However, it can usefully fill in the gaps left in day-to-day supervision and also enable the supervisor to make an overall assessment of performance during a fixed period of time. Such assessment will also help in grading the personnel according to their merit and aptitude. An inspection can inspire respect and confidence only when done by a superior authority. Previously, the administrative inspection of an income-tax office was done by the Inspecting Assistant Commissioner, but it is now done by the Income-tax Officer only. *We recommend that the administrative inspection of income-tax offices should also be done by the Inspecting Assistant Commissioner. Similarly, the inspection of the Inspecting Assistant Commissioner's office should be done by the Commissioner also. The inspection of the Appellate Assistant Commissioner's office should continue to be done by the Director of Inspection. We would like to emphasise that inspections should be carried out by the Inspecting Officers themselves and not left to their subordinate staff.* Further, inspections should be regular and periodical. *We recommend that the Income-tax offices and the offices of the Inspecting Assistant Commissioners should be inspected once a year. The Appellate Assistant Commissioner's office should be inspected once at least in five years.*

6.170 As regards technical inspection of the Income-tax Officer's work, the same may continue to be done by the Inspecting Assistant Commissioner, as at present. However, this inspection should not be made an occasion for criticising assessment orders as such, which is really the function of appellate authorities. Several officers of the Department, who replied to our Supplementary Questionnaire, have expressed the view that the inspecting authority should not function as an arm-chair critic but should examine whether the Income-tax Officer ascertains facts properly, evaluates them judicially and comes to reasonable conclusions. *We recommend that the inspection report should only comment on the Income-tax Officer's handling of the cases, and generally review his performance during the year.*

Internal Audit

6.171 Inspection is at best only an internal check. While such an inspection has a special role, it has its limitations as well. It is, therefore, necessary to provide an additional check through an agency, which is independent of the immediate management level and which has no responsibilities for initiating remedial measures. Internal Audit provides this check. We had, in our Supplementary Questionnaire, posed the question whether the Internal Audit Scheme should be dropped and instead the inspection machinery strengthened. Most of the officers, who have replied to the query, are against the scrapping of Internal Audit, which, according to them, performs a useful role. We agree that Internal Audit should continue. *We broadly approve of its present organisation and functions, but would like it to also exercise greater vigilance and check over the accounts of the Department. We recommend that Internal Audit should not merely act as the watch-dog of revenue but also protect the taxpayers' interests by looking into cases where credit for taxes paid was not given or refunds were delayed. It should also comment on the adequacy of forms and procedures and send its suggestions to the Directorate General of Organisation and Methods. The Inspecting Assistant Commissioner (Audit) should conduct studies and investigate the causes or reasons for mistakes commonly committed and offer suggestions to the Director of Inspection (Audit) for remedial measures.*

Revenue Audit

6.172 Considerable ire seems to have been aroused against the functioning of the Revenue Audit, both in and outside the Depratment.

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1. Para. 6·44

Officers feel that their judicial discretion is being interfered with by the Revenue Audit trying to impose its own interpretation of law. Taxpayers are aggrieved that assessing officers, on account of the fear of Revenue Audit, always try to err on the safer side, driving them to unnecessary appeals and causing avoidable hardship to them. We would trace both the grievances to the fear complex that seems to have developed among assessing officers as a result of the higher authorities within the Department calling for explanations from them for every lapse. A distinction has necessarily to be drawn between calling for information and explanation. *We recommend that the Central Board of Direct Taxes and Commissioners of Income-tax should ordinarily settle audit objections after securing the necessary information but without calling for 'explanation' from the Income-tax Officer. 'Explanations' should be asked only in cases of palpable mistakes or gross negligence or where binding judicial decisions or departmental instructions have not been followed.*

Taxpayer assistance and education

Public relations

6.173 The importance of good public relations to a tax collector should be obvious from the attention the subject has received from every Committee or commission which enquired into the functioning of the tax administration in India. The Taxation Enquiry Commission recommended several measures for improving public relations and for eliminating avoidable inconvenience to the public[1]. The Direct Taxes Administration Enquiry Committee devoted an entire chapter to public relations in its report[2]. The Administrative Reforms Commission suggested that tax authorities should provide facilities to the taxpayers with a view to projecting before them an image of a helpful guide rather than that of a rigid official, indifferent to the difficulties of the assessees[3]. It is hardly necessary for us to review what has been done in the past or repeat all that has been written or said about the importance of public relations. We would confine our comments to certain aspects which do not seem to have so far received adequate attention.

The importance of any work is often, and rightly so, judged from the rank of the person entrusted with it. Today, junior officers—in fact, Inspectors on promotion to Class II—are generally posted as Public Relations Officers. We consider this to be highly unsatisfactory. The Public Relations Officer has to hear complaints against the working of the Income-tax Officers and he has to take steps to redress the taxpayers' grievances. To function effectively, he has to be of a rank higher than most of the Income-tax Officers. *We recommend that in bigger cities, Assistant Commissioners should be posted to head the Public Relations Organisation and in other places, senior Class I Income-tax Officers should be posted as Public Relations Officers, but an Inspecting Assistant Commissioner should be available to ensure quick disposal of complaints, etc.* It is also necessary to introduce certain procedures so as to ensure that the public relations organisation is of real assistance to the public and helps in cutting out delays and in eliminating scope for corruption. *We recommend that the Public Relations Officer should closely watch the disposal of the matters referred by him to the Income-tax Officers and if they still remain undisposed of, he should report them to the next superior officer after one week.*

Facilities and amenities for taxpayers

6.174 Better facilities and more amenities to the taxpayers will certainly go to improve their relations with the Income-tax Department. What is wanting, however, is not the realisation of this need but the will to provide them. Lack of finance can at best be only an excuse. It is the taxpayers' money that supports and runs the Government and any money spent on providing them reasonable facilities cannot be considered as waste of public funds. With the considerable reduction in the number of taxpayers that will hereafter be require dto attend the income-tax offices, it should be possible for the Department to improve taxpayer amenities without any appreciable increase in the financial outlay.

Taxpayers assistance programmes

6.175 In all progressive countries, there are well-developed taxpayer assistance programmes on which considerable thought, effort and money are spent. In our country, efforts in this direction have so far been rudimentary. Lack of facilities for such assistance drives many a small taxpayer into the arms of middlemen of dubious competence and integrity styling themselves as tax experts. *We recommend that well-planned taxpayer assistance programmes should be organised as such programmes constitute a powerful factor in improving public relations.* In U.S.A., in 1968, there were as many as 493 permanent taxpayer service offices manned by approximately 900 taxpayer service representatives for the specific purpose of providing year-round service to taxpayers. In addition, some 57 taxpayer service representatives provided itinerant service at 141 office locations not staffed with permanent taxpayer service personnel. They served over 2.6 crores of tax-

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1. Report of the Taxation Enquiry Commission (1953-54), pp. 220—223.
2. Report of the Direct Taxes Administration Enquiry Committee—Chapter 9.
3. Report of the Administrative Reforms Commission on Central Direct Taxes Administration—Chapter IV.

payers, which included nearly 1 crore of office visitors.[1] In Japan, officials, who are responsible for the execution of tax administration, are enjoined to assist taxpayers in a kind and polite manner, to actively comply with the requests for tax consultation from them, and endeavour to solve their grievances and complaints. Tax officials are particularly required to listen carefully to the claims made by taxpayers and to exercise the greatest possible care to ensure that the tax officials do not behave in a high-handed manner[2]. In U.K., the Board of Inland Revenue have a Press Officer who is available to answer questions about tax law and practice, and to explain the background to items of tax news. He is also incharge of the public enquiry room. But most often, the taxpayer who has a personal problem raises it with the tax office which handles his affairs. The first thing that a new entrant to the Service is taught is that it is part of his duty to help the taxpayer. This duty is emphasized in every training course and at the beginning of all official instruction books[3]. The Board publishes a series of explanatory pamphlets on certain aspects of the Inland Revenue duties. A 'Schools Scheme' has been introduced to help schools to teach their pupils about taxation before they join the ranks of taxpayers and a special pamphlet 'Paying Tax for the First Time' has been prepared for them[4].

6.176 *We recommend that suitable taxpayer assistance programmes may be drawn up to provide taxpayer information and education through TV, radio, films, press booklets and publications. During the return filing period, and when advance tax instalments fall due, continuous messages should be carried to the taxpayers about the due dates and the errors to be avoided in filing returns. Arrangements should be made to answer telephone enquiries from taxpayers by responsible officials and to help visitors to resolve their problems. They should be helped to get the appropriate forms which they require, and to fill them up properly.*

6.177 As mentioned earlier, taxpayer education programmes are an essential part of taxpayer assistance. No doubt, a beginning has been made in this direction and certain brochures and publications have been brought out by the Department explaining in simple language the provisions of law. Certain press notes regularly appear reminding the taxpayers about the due dates for advance tax payments or for filing returns or warning them against the consequences of filing a false return. There is, however, considerable scope for qualitative and quantitative improvement in this direction. *We recommend that a separate cell be constituted in the Directorate of Publications and Public Relations for drawing up taxpayer education programmes and bringing out attractive brochures and publications, which should be regularly and promptly updated. The officers posted in Public Relations Organisation should also be given an orientation training course to adapt themselves for their role in providing taxpayer education.*

Advance rulings

6.178 Another form of taxpayer assistance, which has been tried in some countries, is a system of giving advance rulings. Taxpayers are often perplexed by the complexities and uncertainties of the law and might with chagrin realise later that the taxing authorities do not see eye to eye with them when it might be too late to go back on the projects or ventures already initiated. At present, there is no system by which a taxpayer can get an advance ruling on the tax consequences of proposed transactions. In the United States, the taxpayers can request 'Letter rulings' from the National Office regarding their status for federal tax purposes and the tax effect of their transactions. During the year 1968, such requests were processed in 26,585 cases[5]. In Sweden, there is a regularly constituted National Tax Board comprising of government officials and business executives who are authorised in their discretion to give advance rulings to taxpayers on the tax consequences of proposed transactions. The rulings are issued by the National Tax Board, on the taxpayer's application, after formal proceedings in which both the taxpayer and the Government are represented before the Board. Either side may appeal from an advance ruling by the Board to the Supreme Administrative Court, and many of Sweden's leading tax decisions are the result of this process. Advance tax rulings are not binding on the taxpayer, but they are binding on the Government if, and to the extent, the taxpayer so requests. In our country, the Sales-tax law in certain States provides for advance determination of disputed questions by the Commissioner of Sales-tax[6].

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1. Annual Report of the Commissioner of Internal Revenue—1968, p. 5.
2. An Outline of Japanese Tax Administration—1970, p. 15.
3. Sir Alexander Johnston—The Inland Revenue, pp. 56, 57.
4. Report of the Commissioners of Her Majesty's Inland Revenue for the year ended 31-3-1969 (112th Report) pp 22, 23.
5. Annual Report of the Commissioner of Internal Revenue—1968, p. 8.
6. Gujarat Sales-tax Act, 1969, sec 62.

6.179 We had in our Questionnaire invited views and comments on the utility of a system of advance rulings. The suggestion has been widely welcomed and it is felt that such a system will improve taxpayers relations and reduce litigation. But there is also a minority view that advante rulings, given without knowing the full facts, might create more problems than what they seek to resolve. Doubts have also been expressed that the process of obtaining advance rulings might unnecessarily delay assessment proceedings. Some have expressed the view that this would amount to usurping the jurisdiction of courts of law.

We have carefully considered the pros and cons and we feel that the system can have great utility in such matters like deciding the tax implications of proposed foreign collaboration agreements. It would be in national interest to ensure that such projects are not subsequently shaken to the foundation by an adverse stand taken by the Income-tax authorities. We are convinced that a system of advance rulings will help in resolving ambiguities and doubts in time, and in ensuring uniformity of tax treatment in similar cases. It has been suggested that an independent body may be constituted for giving such rulings. We feel that, with the limited scope that the scheme is likely to have in our country, it should be possible for the Central Board of Direct Taxes to give advance rulings on matters referred to it. *We recommend that the law be amended to authorise the Board to give advance rulings. Suitable fees may be prescribed for applications for such rulings so as to eliminate purposeless and academic queries. The Board should also have the option to reject an application and refuse a ruling. A ruling once given should be binding on the Government in the particular case only, though it will not bind the taxpayers.*

6.180 Even now, certain enquiries from taxpayers are entertained by the Board. However, it often takes unusually long for the Board to give its decision even in the limited sphere in which taxpayers' queries are at present answered. Once a statutory provision is made empowering the Board to give advance rulings, there is bound to be a considerable increase in the number of requests for rulings. The need to dispose them of promptly will also be all the greater. To avoid delays and to ensure uniformity, *we recommend that a self-contained unit be created in the Board's office for processing requests for advance rulings. The unit should include officers of the rank of Commissioners. The decisions should, however, issue under the authority of the Board.*

(K. N. WANCHOO)
Chairman

* (M. P. CHITALE)
Member

* (S. PRAKASH CHOPRA)
Member

*(P. C. PADHI)
Member

*(D. K. RANGNEKAR)
Member

(S. NARAYAN)
Secretary

NEW DELHI
24th December, 1971.

*Signed subject to separate Minutes of Dissent.

SUMMARY OF OBSERVATION AND RECOMMENDATIONS

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CHAPTER 2: BLACK MONEY AND TAX EVASION

Introductory

1. The term 'black money' not only stands for money earned by violating legal provisions—even social conscience—but also suggests that such money is kept secret and not accounted for. (Para. 2.1)

2. Today, the term 'black money' is generally used to denote unaccounted money or concealed income and/or undisclosed wealth, as well as money involved in transactions wholly or partly suppressed. (Para. 2.3)

3. Tax evasion and black money are closely and inextricably inter-linked. While tax evasion leads to the creation of black money, the black money utilised secretively in business for earning more income inevitably leads to tax evasion. (Para. 2.4)

4. The effects of 'black money' on the economy of the country cannot but be described as disastrous. Today, the country is seriously handicapped in its endeavour to march forward, when the resources needed for development are not adequately forthcoming for the reason that business is carried on in the 'black'. (Para. 2.9).

5. Black money is like a cancerous growth in the country's economy which, if not checked in time, is sure to lead to its ruination. (Para. 2.14)

Extent of black money and tax evasion

6. Research work on tax evasion in this country is extremely limited; also, attempts to estimate and study tax evasion suffer from some basic infirmities owing to the insufficiency or non-availability of reliable data. Unless a detailed break-down of the total assessed income generaetd in each year is available, it is difficult to make a scientific study of the trend of tax evasion.

Some data for 1961-62 could be obtained from the Directorate of Inspection (Research, Statistics and Publication). An exercise on the basis of these data is given in Table I (page 20). The conclusion of this study is that the income which escaped tax for 1961-62 would be of the order of Rs. 811 crores.

Applying the ratio of evaded income to the assessable non-salary income of 1961-62, to the assessable non-salary income of 1965-66, the evaded income for 1965-66 works out to Rs. 1,216 crores.

These estimates have, however, to be qualified for certain reasons. Even after taking all these limitations into account and after making rough adjustments on the basis of information available, the estimated income on which tax has been evaded would probably be Rs. 700 crores and Rs. 1,000 crores for the years 1961-62 and 1965-66 respectively. Projecting this estimate further to 1968-69 on the basis of the percentage of increase in the national income from 1961-62 to 1968-69 (during which period the national income increased nearly by 100 per cent.), the income on which tax was evaded for 1968-69 can be estimated at a figure of Rs. 1,400 crores.

(Paras 2.16 and 2.17)

7 The extent of income-tax evaded during 1968-69 would be of the order of Rs. 470 crores, being one-third of Rs. 1,400 crores. The money value of deals involving black money may, therefore, be not less than Rs. 7,000 crores for 1968-69. This is, however, only a guesstimate based on certain assumptions about which substantial difference of opinion exists for want of adequate data. (Para. 2.18)

8. The tax-evaded income is not all lying hoarded which can be seized by the authorities; much of it has been either converted into assets or spent away in consumption or else is in circulation in undisclosed business dealings. (Para. 2.18)

Avenues for black money

9. Black money is found widely used for conducting concealed business transactions, smuggling gold and luxury articles, purchasing illegally quotas and licences at premia, financing secret commissions, giving donations to political parties, acquiring assets in benami names, etc. Behind the vulgar display of wealth which is evidenced by ostentatious living and lavish expenditure on weddings, festivals, etc., is this scourge of black money. (Para. 2.19)

Causes of tax evasion, creation of black money and its proliferation

10. (a) High rates of taxation under the direct tax laws.

(b) Economy of shortages and consequent controls and licences.

(c) Donations to political parties.

(d) Corrupt business practices.

(e) Ceilings on, and disallowances of, business expenses.

(f) High rates of sales-tax and other levies.

(g) Ineffective enforcement of tax laws.

(h) Deterioration in moral standards.

(Para. 2.20)

Measures for unearthing black money

Measures suggested in the interim report

11. An interim report was submitted to the Government towards the end of 1970, recommending therein some important steps of a radical nature for immediate implementation. After detailed deliberations and careful consideration, the Committee is still fully convinced about the efficacy and feasibility of the measures recommended in the interim report.

(Para. 2.26)

Voluntary disclosure scheme

12. A voluntary disclosure scheme is an extraordinary measure, meant for abnormal situations such as after a war or at a time of national crisis. Resorting to such a measure during normal times, and that too frequently, would only shake the confidence of the honest taxpayers in the capacity of the Government to deal with the law breakers and would invite contempt for its enforcement machinery. Any more disclosure schemes would not only fail to achieve the intended purpose of unearthing black money but would have deleterious effect on the level of compliance among the tax-paying public and on the morale of the administration. The idea of introduction of any general scheme of disclosure either now or in the future is, therefore, strongly opposed.

(Para. 2.31)

Settlement machinery

13. In the administration of fiscal laws a rigid attitude would not only inhibit a one-time tax-evader or an unintending defaulter from making a clean breast of his affairs, but would also unnecessarily strain the investigational resources of the Department in cases of doubtful benefit to revenue, while needlessly proliferating litigation and holding up collections. There should, therefore, be a provision in the law for a settlement with the taxpayer at any stage of the proceedings.

(Para. 2.32)

14. To ensure that settlements are fair, prompt and independent, they may be entrusted to a separate body within the Department, to be called the Direct Taxes Settlement Tribunal. Its members should be given the same tatus and emoluments as the members of the Central Board of Direct Taxes.

Any taxpayer will be entitled to move a petition before the Tribunal for settlement of his liability under the direct tax laws. However, the Tribunal will proceed with the petition filed by a taxpayer only if the Department raises no objection to its being so entertained. Once a case is admitted for adjudication, the Tribunal will have exclusive jurisdiction over it and it will no longer be open to the taxpayer to withdraw the petition. The Tribunal's award will be binding both on the petitioner and on the Department.

(Para. 2.33)

15. It is of paramount importance that only persons who are known for their integrity and high sense of justice and fairness are selected for appointment on the Tribunal.

(Para 2.34)

Bearer bonds

16. The bearer bond scheme is a poor substitute even for a disclosure scheme. The so-called benefits claimed for the bearer bond scheme are illusory.

(Paras 2.35 and 2.36)

Swiss type bank accounts

17. It is not worthwhile to experiment with the Swiss type of bank accounts in India.

(Para. 2.37)

Canalising black money into certain specified fields

18. Sponsoring official schemes for canalising black money into specified social and other fields of activity will not be desirable.

(Para. 2.38)

Searches and seizures

19. The power of search under the Income-tax Act is a potent instrument in the hands of the Department to provide direct and clinching evidence about tax evasion and the existence of black money. The Department should make an increasing use of its powers of search and seizure in appropriate cases.

(Para. 2.39)

20. The following changes are recommended so as to render this instrument more effective:

(a) A Commissioner of Income-tax should have power to authorise search and seizure, irrespective of whether the taxpayer is assessed in his jurisdiction or not.

(b) The power of authorising searches and seizures should be available to the Inspecting Assistant Commissioners as well.

(c) The existing powers of search under the Income-tax Act should be extended to cover persons, vehicles and vessels.

(d) The period for making an order under section 132(5) of the Income-tax Act, 1961, may be extended from the present ninety days to one hundred and eighty days.

(e) The law may be amended to permit retention of seized assets in order to meet the liability of interest and penalty, in addition to the tax, that may become due on the estimated undisclosed income.

(f) Section 132(8) of the Income-tax Act, 1961, may be amended to provide that the 'authorised officer' and/or the Income-tax Officer having jurisdiction over the case may apply for retention of the seized material beyond the period of 180 days. Similarly, section 132(9) of the Income-tax Act, 1961, which contemplates copies, etc., of seized documents being made in the presence of the 'authorised officer', or any other person empowered by him in this behalf, may be suitably amended.

(g) The law may be amended to raise a presumption to the effect that, unless proved to the contrary by the assessee, the assets which are seized in the course of a search will be deemed to represent the concealed income and wealth of the previous year/valuation date immediately preceding the date of search.

(h) It is often difficult for the Department to get independent evidence to prove that the assets, account books and documents found at the assessee's premises belong to him and relate to his affairs. The law may, therefore, be amended to provide a rebuttable presumption both for estimating the undisclosed income and also for prosecution of an assessee or an abettor.

(Para. 2.40)

21. The Department should ensure that the actions of its officers in the matter of searches and seizures do not leave any room for complaint, and whenever any officer is found, in his misplaced enthusiasm, to err and overstep the limits of reasonableness, he should be promptly and adequately dealt with. Moreover, it is of paramount importance that the assessments in cases where seizures have been made in the course of searches are finalised expeditiously and are not allowed to drag on unnecessarily.

(Para. 2.41)

22. The power of search, if it is to be purposeful, must be backed by a far better system of intelligence than what obtains to day. The provision empowering searches and seizures can act as a deterrent only if really big tax evaders are uncovered and the exercise of this power is not confined to relatively small and less important assessees.

(Para. 2.42)

Measures to Fight Tax Evasion

Reduction in tax rates

23. Prevalence of high tax rates is the first and formost reason for tax evasion, because this is what makes the evasion so profitable and attractive in spite of the attendant risks.

(Para. 2.44)

24. If public conscience is to be aroused against tax evasion and if tax evaders are to be ostracised by the society at large, the public needs to be convinced that tax evasion is anti-social. This objective is difficult to achieve so long as the marginal rates of taxation are confiscatory.

(Para. 2.45)

25. The high rates of taxation create a psychological barrier to greater effort, and undermine the capacity and the will to save and invest.

(Para. 2.50)

26. The present high level of taxation leaves the Government with little scope for manoeuvrability for raising additional resources in times of emergency.

(Para. 2.51)

27. The maximum marginal rate of income-tax, including surcharge, should be brought down from its present level of 97.75 per cent. to 75 per cent. Some reduction in tax rates should also be given at the middle and lower levels. In order to create an impact, the reduction in the rates of taxation should be at one stroke.

(Para. 2.52)

28. The following rate schedule is recommended for adoption:—

Income slab	Rate of tax
0 — 5,000	Nil
5,001 — 10,000	10%
10,001 — 15,000	500 + 15%
15,001 — 20,000	1,250 + 20%
20,001 — 25,000	2,250 + 25%
25,001 — 30,000	3,500 + 35%
30,001 — 40,000	5,250 + 45%
40,001 — 50,000	9,750 + 50%
50,001 — 60,000	14,750 + 55%
60,001 — 70,000	20,250 + 60%
Over — 70,000	26,250 + 65%

Surcharge @ 15% in respect of incomes over Rs. 15,000.

The beneficial results of the measure recommended will catch up and more than offset any immediate fall in the revenues.

(Paras. 2.52 and 2.55)

Minimisation of controls and licences

29. A committe of experts should be appointed to enquire into the utility of all existing controls, licensing and permit systems, and suggest elimination of such of these as are no longer considered necessary. This committee may also suggest changes in law and procedures so as to ensure that the controls which are absolutely essential for the health of the economy are administered more effectively and with the least harassment to the public.

(Para. 2.58)

Regulation of donations to political parties

30. There is need to keep political institutions free of corruption. Removal of the ban on donations by companies to political parties is, therefore, not favoured. Nevertheless, it is an accepted fact of life that in a democratic set-up, political parties have to spend considerable sums of money, and that large sums are required for elections. As in West Germany and Japan, in our country also, the Government should finance political parties.

Reasonable grants-in-aid should be given by the Government to national political parties and suitable criteria should be evolved for recognizing such parties and determining the extent of grant-in-aid to each of them. For according recognition to a political party for this purpose, it should be necessary, *inter alia*, that it is registered under the Societies Registration Act, 1860 and its yearly accounts are audited and published within a prescribed time. Irrespective of the decision of Government on the question of financing political parties, the parties may be required to get their accounts audited and published annually.

(Paras 2.59 and 2.60)

31. Donations by taxpayers, other than companies, to recognized political parties should be allowed as a deduction from the gross total income subject to certain restrictions. The maximum amount eligible for deduction on account of donations to political parties should be 10 per cent. of the gross total income, subject to a ceiling of rupees ten thousand. The deduction to be allowed should be 50 per cent. of the qualifying amount of the donation.

(Para. 2.61)

Creating confidence among small taxpayers

32. The practice of being too meticulous in small cases, where no worthwhile revenue is involved, has done much to damage the image of the Department in the public eye. The initiative for undoing the damage lies with the Department.

(Para. 2.63)

33. The instructions issued by the Central Board of Direct Taxes on the new procedure for making assessments in small income cases make a bold departure from the past and are likely to achieve more significant results than the earlier small income scheme. While the general principles underlying these instructions are broadly approved, there is no reason why assessees in certain income groups at some places should be given a preferential treatment by having their returns accepted under section 143(1), whereas elsewhere assessees in these income groups will have to face annual scrutiny. The basic criteria for selecting cases for annual scrutiny should be uniform throughout the country.

The work may be so programmed and the manpower supplemented, if necessary, so as to ensure that at the end of each financial year the carry over of work should not be more than what can be disposed of the next four months.

(Para. 2.66)

34. Notwithstanding the proposed discontinuance of issuing notice under section 139(2) of the Income-tax Act in every case, the Department should mail the return forms together with instructions for filling them to all existing taxpayers on the General Index Registers in the first week of May every year.

(Para. 2.67)

Allowance of certain business expenses

35. Entertainment expenditure which is incurred primarily for the furtherance of the taxpayer's business and is directly related to its active conduct should be allowed to be deducted upto the ceilings prescribed under section 37 (2A) of the Income-tax Act, 1961.

(Para. 2.69)

36. The exception contained in the second proviso to section 37(4) of Income-tax Act, 1961 should be made applicable to guest houses maintained in the nature of transit houses for employees on duty, provided the stay is temporary and rent is charged. Where no rent is charged, the daily allowance admissible to the employee should be restricted on the same lines as for Government servants.

(Para. 2.70)

Changes in penal provisions

37. Penalty serves its purpose only so long as it is within reasonable limit. Once it crosses that limit, it is more likely to increase the rigidity of the taxpayer's recalcitrance than to reform him.

A penalty based on income instead of tax hits the smaller taxpayers more harshly.

The quantum of penalty imposable for concealment of income should be with reference to the tax sought to be evaded, instead of the income concealed. Moreover, the minimum penalty imposable for concealment of income should be the amount of tax sought to be evaded and the maximum penalty imposable should be fixed at twice the said amount. It may also be clarified that 'tax sought to be evaded' in this context means the difference between the tax determined in respect of total income assessed and the tax that would have been payable had the income other than the concealed income been the total income.

(Para. 2.73)

38. In cases where the concealed income is to be set off against losses incurred by an assessee under other heads of income or against losses brought forward from earlier years, and the total income thus gets reduced to a figure smaller than the concealed income or even to a minus figure, the tax sought to be evaded should be calculated as if the concealed income were the total income.

(Para. 2.74)

39. Explanation to section 271(1)(c) of the Income-tax Act, 1961 and also Explanation 1 to section 18(1)(c) of the Wealth-tax Act, 1957 may be deleted.

(Para. 2.75)

40. An Explanation to section 271(1) of the Income-tax Act, 1961 may be inserted to clarify that where a taxpayer's explanation in respect of any receipt, deposit, outgoing, or investment is found to be false, the amount represented by such receipt, etc., shall be deemed to be income in respect of which particulars have been concealed or inaccurate particulars have been furnished, within the meaning of section 271(1)(c) of the Income-tax Act, 1961.

(Para. 2.76)

41. Law should be amended to provide that where intangible additions made in earlier years are cited by an assessee as the source of his funds, assets, etc., in a subsequent year, the said funds, assets, etc., would be deemed to represent the assessee's income, particulars in respect of which have been concealed within the meaning of section 271(1)(c) of the Income-tax Act, 1961, and the quantum of penalty would be determined with reference to the total income of the said assessment year, which shall be computed for this limited purpose by including the value of such funds, assets, etc., to the extent they are claimed to be out of past intangible additions.

(Para. 2.76)

42. Where an assessee does not file a return of income within the normal period of limitation for completion of assessment, and the Income-tax Officer establishes that he had taxable income, the assessee should be deemed in law to have concealed his total income for the purpose of section 271(1)(c) of the Act, notwithstanding that he had subsequently, in response to notice under section 148, filed a return stating his correct income. This will apply only to those who have not hitherto been assessed.

(Para. 2.76)

43. (i) Where return of income is filed under section 139(1) of the Income-tax Act, 1961, after the prescribed time-limit but within the period of limitation for completion of assessment, the assessee should be liable to pay only interest at the rate of 1 per cent. per month on the tax due for the period of delay. There should be no liability for penalty or prosecution.

(ii) Where a return of income is filed beyond the time prescribed under section 139(2) or section 148, but within the time allowed, if any, by the Income-tax Officer, the assessee should be liable to pay interest at the rate of 1 per cent. per month on the tax due for the period of delay.

(iii) Where a return of income is filed beyond the time prescribed under section 139(2) or section 148 and also beyond the time allowed, if any, by the Income-tax Officer, the assessee should be liable to pay interest at the rate of 1 per cent. per month and, in addition, penalty at the rate of 1 per cent. of the tax due for every month during which the default continued.

(iv) Where a person fails to submit a return of income in response to a notice under section 139(2) or section 148 and on assessment his income is found to be above taxable limit, he should be liable to pay interest at the rate of 1 per cent. per month and, in addition, penalty at the rate of 1 per cent. of the tax due for every month during which the default continued. He should also be liable to prosecution.

(v) Where a person fails to submit a return as required under section 139(1) but submits it in response to a notice under section 139(2) or section 148, he should be liable to pay interest at the rate of 1 per cent. of the tax due for every month during which the default continued.

In the case of a person not hitherto assessed to tax, where th efailure has continued beyond the normal period of limitation for completing the assessment under section 143, he should, in addition to interest, be liable to a penalty under section 271(1)(c) as recommended earlier, as also prosecution.

(vi) For the purpose of levy of interest at the rate of 1 per cent., the period of delay or de-

fault should always be counted from the due date for filing the return of income under section 139(1), notwithstanding the extension of time, if any, granted by the Income-tax Officer.

(Para. 2.77)

44. The provisions in clauses (i) and (ii) of section 18(1) and clauses (a), (b) and (c) of section 36(1) of the Wealth-tax Act, 1957 should be respectively brought in line with the corresponding provisions of the Income-tax Act.

(Para. 2.78)

45. Penalty for concealment of wealth should be restricted to only those cases where there is a total omission to include an asset in the return of net wealth. Further, in order to avoid gross under-valuation, the Government may be given the power to acquire the properties, which are considered to be grossly under-valued, on payment of the value put by the assessee plus 15 per cent. thereof by way of compensation.

(Para. 2.78)

46. The penalty for concealment of wealth should be linked to the amount of tax sought to be evaded instead of the concealed wealth. The minimum penalty for concealment of wealth under the Wealth-tax Act, 1957 should be equal to the tax sought to be evaded and the maximum penalty should be five times the tax sought to be evaded.

(Para. 2.78)

47. While the present rate of penalty at 2 per cent. per month prescribed under clause (i) of section 17(1) of the Gift-tax Act, 1958 should continue, the ceiling of fifty per cent. of the tax due should go.

(Para. 2.79)

48. The existing provisions for waiver and reduction of penalties may be deleted and, instead, all the direct tax laws should contain a provision enabling the Commissioner to mitigate or entirely remit any penalty, or stay, or compound any proceedings for recovery thereof, in cases of genuine hardship.

(Para. 2.80)

49. Where a return of income is filed belatedly by an assessee and his income in no year during a period of four years immediately preceding the year exceeded Rs. 15,000, the Income-tax Officer should be under a statutory obligation to consider waiver or reduction of both penalty and interest and should record a note giving reasons for the decision taken by him in the matter.

(Para. 2.81)

50. The present policy of having a statutory minimum for penalties has, on the whole, had salutary effect and it should, therefore, continue.

(Para. 2.82)

Vigorous prosecution policy

51. The Department should completely reorient itself to a more vigorous prosecution policy in order to instil fear and wholesome respect for the tax laws in the minds of the taxpayers. Further, where there is a reasonable chance of securing a conviction, the tax dodger should invariably be prosecuted.

(Para. 2.84)

52. While the power to compound offences presently available to the Department under section 279(2) of the Income-tax Act, 1961 may continue, it should be used very sparingly. It has also to be emphasized that flagrant cases of tax evasion, particularly of persons in the high income brackets, should be pursued relentlessly.

(Para. 2.85)

53. The definition of 'principal officer' for the purposes of signing of the return should be amended so as to provide that the return of income of a limited company should be signed by the person mainly responsible for the management or administration of the affairs of the company. In other words, the liability for signing the return should be fixed primarily on the managing director, failing which on the working director. Similarly, in the case of a partnership, the responsibility to sign the return should rest on the managing partner or the partner in charge of the financial affairs of the firm.

(Para. 2.86)

54. A provision analogous to section 140 of the Customs Act, 1962 may be incorporated in the Income-tax Act. Further, it should also cover the case of a partner who is really responsible for the tax offence of the firm, although he has not signed the return himself. The choice of person who should be proceeded against should be left to the discretion of the Commissioner of Income-tax.

(Para. 2.87)

55. A provision on the lines of Section 7201 of U.S. Internal Revenue Code will be extremely helpful in countering devices of tax evaders. Such a provision should be incorporated in the Indian tax laws also.

(Para. 2.88)

56. Section 18 of the Probation of Offenders Act, 1958 should be suitably amended to include all the direct tax laws among the statutes which are saved from the operation of the Probation of Offenders Act.

(Para. 2.89)

57. There are certain offences, such as those specified in sections 179 and 180 of the Indian Penal Code, which can be incorporated in the Income-tax law itself. The Customs Act, 1962 also contains a comprehensive residuary penalty

provision in section 117, which is to the effect that if any person contravenes any provision of the Customs Act or abets any such contravention or fails to comply with any of its provisions, he shall be liable to a penalty not exceeding Rs. 1,000 in case no express penalty is elsewhere provided for such contravention or failure. Similar, provisions should be incorporated in Chapter XXI of the Income-tax Act, 1961 and these contraventions may be made liable to a penalty only.

There is no reason why the Department itself should not be empowered to impose penalties in cases of offences for which monetary fines are prescribed under section 276 of the Income-tax Act, 1961. Section 276 of the Income-tax Act, 1961, may be deleted from Chapter XXII dealing with 'Offences and Prosecutions' and may be incorporated with suitable amendments in Chapter XXI of the Income-tax Act, 1961, dealing with 'Penalties imposable'.

The penalties suggested above should be imposed by officers not below the rank of an Inspecting Assistant Commissioner. The orders imposing penalty may be made appealable to the Appellate Tribunal by suitably amending section 253 of the Income-tax Act, 1961.

(Paras. 2.90 and 2.91)

58. The law may be suitably amended to exclude the time spent on prosecution, from the institution of the complaint to its final disposal, from the period of limitation prescribed for making an assessment or re-assessment.

(Para. 2.92)

59. Certain magistrates and judges should be specially empowered to try prosecution cases connected with the direct tax laws, so that these cases are heard and decided expeditiously.

(Para. 2.94)

60. For the present, it would be adequate if each Commissioner of Income-tax is provided with a panel of competent lawyers having necessary experience in dealing with criminal cases, so that the complaints are promptly filed and are carefully pursued. The Commissioner of Income-tax should also be provided with expert staff assistance to enable him to give instructions to subordinates and also to follow up every prosecution case to its logical end.

(Para. 2.95)

61. Officers should be given practical training with reference to case studies so that they are fully equipped to work up and process cases for prosecution. They may also be put through special courses in court procedures, mock trials, etc.

(Para. 2.96)

Intelligence and investigation

62. To cope with the increasing refinement and sophistication of the techniques of tax evasion, there is a need for complete re-orientation in the Department's approach to its methods of intelligence and investigation. The machinery for intelligence and investigation at the command of the Department should also be thoroughly overhauled and streamlined tackle adequately the menace of tax evasion.

(Para. 2.97)

63. Intelligence and investigation should receive exclusive attention of a senior Member of the Central Board of Direct Taxes, and the Member concerned should be freed of all other work. This Member should be designated as Member (Intelligence and Investigation). He should lay down the policy in matters relating to intelligence and investigation, indicate the lines on which efforts of the officers working in these fields should be directed and provide them with overall guidance and supervision. He should also be responsible for (a) developing expertise generally for handling investigation concerning different trades and industries; (b) collecting and disseminating information regarding commercial and industrial trends, economic malpractices, tax evasion techniques; (c) keeping liaison with the various investigating agencies at Delhi, and (d) giving publicity to the Department's performance in the field of detection of concealments. He should, however, be assisted by two senior officers of the rank of Additional Commissioners. They may be designated as Director (Intelligence) and Director (Investigation). In addition, he should be assisted by a group of Specialists for developing expertise, as recommended later in this Chapter.

(Para. 2.102)

64. The present Directorate of Inspection (Investigation) should be abolished.

(Para. 2.102)

65. As regards the organisational pattern at the Commissioner's level, the ideal position would be to create a separate division for intelligence and investigation under each Commissioner of Income-tax. However, in major cities like Bombay, Calcutta, Delhi and Madras, looking to the workload involved, the intelligence and investigation work should be assigned to Commissioners of Income-tax (Central).

(Para. 2.102)

66. All the Commissioners of Income-tax, whether of Central charges or otherwise, should be assisted by appropriate number of Inspecting Assistant Commissioners of Income-tax to exclusively look after intelligence and investigation work, the number varying according to the needs of each charge. They may be designated as Inspecting Assistant Commissioners (Intelligence) or Inspecting Assistant Commissioners (Investigation), according to the work handled by them. The Income-tax Officers working under them will be similarly designat-

ed Income-tax Officers (Intelligence) and Income-tax Officers (Investigation), depending upon the duty allotted.

(Para. 2.102)

67. In the matter of transfer or re-transfer of cases to Central Circles, the views of the Commissioner (Central) should alone prevail as it will be his responsibility to work up an adequate number of tax fraud cases every year.

(Para. 2.103)

68. The functions to be assigned to the Income-tax Officer (Intelligence) may be divided broadly into three groups. Firstly, one or more Income-tax Officers (Intelligence) should be put on the job of procuring general information likely to be useful in detecting concealment. The second group of Income-tax Officers (Intelligence) should devote themselves exclusively to specific cases of tax dodgers. The third group of Income-tax Officers (Intelligence) will follow up the leads in cases suspected of serious tax fraud, process them for prosecution and pursue them till the stage of conviction. Where an Income-tax Officer (Intelligence) has made elaborate enquiries in a particular case over a long period, the jurisdiction for assessment over such a case may also be assigned to him.

(Paras 2.104, 2.105 and 2.106)

69. The Income-tax Officers (Intelligence) should be given the requisite powers under sections 131 and 133A of Income-tax Act, 1961 to enable them to work up cases effectively. This power should be available to them in respect of all the cases falling within the jurisdiction of the Commissioner of Income-tax under whom they are posted, and not only in respect of assessees, whose cases are specifically allotted to them for assessment.

(Para. 2.107)

70. One staff car should be placed exclusively at the disposal of the Intelligence Wing in each charge.

The Intelligence Wing should be provided with one pick-up each, at least in bigger stations like Delhi, Bombay, Calcutta, Madras, Ahmedabad and Kanpur.

The setting up of an independent constabulary within the Income-tax Department to assist and aid the tax recovery units is being recommended elsewhere. The services of this constabulary can be utilised by the Intelligence Wing as well.

The officers of the Wing in each Commissioner's charge, or to begin with at least in bigger charges, should be supplied with requisite equipments like magnifying glasses, telephoto cameras, tape-recorders, photostat machines, utra-violet and infra-red lamps and micro-filming apparatus, etc.

Air travel facility may be extended liberally to all officers in the Intelligence Wing, subject to prior approval of the Commissioner of Income-tax concerned.

All officers of the Intelligence Wing should be provided with residential telephones.

To enable the Intelligence Wing to cope with the enlarged activities as proposed, adequate funds should be placed at its disposal.

(Para. 2.108)

71. The present field assistance to officers cannot by any standard be considered adequate especially at the level of Inspectors. It is essential that the Inspectors should frequently go out *suo motu* to scout for information from various sources. The strength of Inspectors should be suitably increased.

(Para. 2.108)

72. It will not be enough merely to have a powerful intelligence organisation. It has to be accompanied by an equally powerful wing for thorough and complete investigation of suspect cases so that the fear of the law is instilled into the hearts of the tax dodgers.

(Para. 2.109)

73. In order to improve the quality of investigation, the Inspecting Assistant Commissioners should be drafted for assessment of big cases so that their experience is available for meeting the challenge of the toughest tax evaders. Law may be suitably amended to vest concurrent jurisdiction in the Inspecting Assistant Commissioners (Investigation) and Income-tax Officers (Investigation).

(Para. 2.110)

74. An officer doing investigation cases should not normally be expected to handle more than 40 to 50 assessments in a year, and where the cases are especially complicated or involve prosecution, the number may be reduced to four or five.

(Para. 2.111)

75. The following factors should be taken into account in deciding transfer of cases to the Investigation Circles:

(a) The likelihood of establishing tax fraud for a successful prosecution.

(b) The necessity of covering all direct taxes and different kinds of tax offences within each charge and also all strata of society and geographic areas.

(c) The necessity of placing emphasis on cases involving racketeers, profiteers, black-marketeers and notorious tax evaders in upper income brackets.

(d) The necessity of giving priority to cases where the available evidence indicates repeated or flagrant violations of law.

(e) The necessity of giving priority to cases where taxpayers have already been convicted for serious economic offences.

(f) The necessity of giving priority to cases where assessees are frittering away or transferring their assets to escape proper liability.

(g) The necessity of laying emphasis on cases having vast ramifications and involving deftly organised manoeuvres and malpractices.

Normally, it should be possible to complete investigation in any case in three or four years; thereafter, it should be transferred out of the Investigation Circle. However, if it is desired to retain the case in the Investigation Circle beyond a period of four years, approval of the Member should be obtained.

(Para 2.112)

76. The officers selected to man the intelligence and investigation jobs should be imparted thorough and intensive training, at the central staff training college, so as to equip them with the necessary expertise for satisfactory performance of their onerous and responsible tasks.

The Central Board of Direct Taxes should also circulate a confidential quarterly report giving these officers guidance on techniques of investigation and details of actual cases of remarkable detection and concealment.

(Para 2.113)

77. A group of senior and capable officers may be constituted under the Central Board of Direct Taxes to act as specialists for guiding investigation in various important businesses and industries.

The specialists should work under Member (Intelligence and Investigation) and should be selected from among officers who have handled assessments of a particular business or industry over a long period of time and have acquired special ability in that field.

(Para. 2.114)

78. In view of the prevailing large-scale tax evasion it would not be desirable to put an end to the practice of giving monetary inducements to informers. At the same time, it is equally necessary for the Department to ensure that undesirable informers are kept away by prosecuting persons giving false information. Provisions of section 182 of the Indian Penal Code may be invoked in flagrant cases of informers furnishing false information. The existing reward rules should be made more flexible. While there should be no fixed percentage for payment of rewards, the rules may stipulate that if information furnished by an informer is correct and leads to additional tax, or is otherwise useful in checking tax evasion, the Commissioner of Income-tax and the Central Board of Direct Taxes may, in their discretion, pay rewards upto Rs. 5,000 and Rs. 25,000 respectively.

(Para. 2.115)

79. A specific statutory provision should be made to exempt rewards to informers from tax. This would not only continue the existing inducement available to them but also preserve the secrecy of information and anonymity of the informers.

(Para. 2.115)

80. Instead of constituting a separate cadre, the personnel for the intelligence and investigation division should be selected out of the general cadre on the basis of high integrity, proven ability and special flair for investigation.

(Para. 2.116)

81. The special pay of the Incometax Officers and the Inspecting Assistant Commissioners put on intelligence and investigation work should be raised to Rs. 200 and Rs. 300 respectively.

(Para. 2.117)

82. The officers working in Investigation Circles should also be given facilities regarding staff assistance, staff car, air travel and residential telephones.

(Para. 2.118)

83. The Department should widely publicise in newspapers, by way of paid advertisements if necessary, factual details of searches, seizures and prosecutions, without waiting for the result of appeals; and for this purpose, the law may be suitably amended.

(Para. 2.119)

Time-limit for reopening cases of tax evasion

84. Any change in the law relating to time-limit for reopening of cases is not favoured.

(Para. 2.121)

Taxation of agricultural income

85. Agricultural income, which is at present outside the Central tax net, offers plenty of scope for camouflaging black money.

(Para. 2.122)

86. There is urgent need for agricultural income being subjected to a uniform tax more or less on par with the tax on other incomes so as to eliminate the scope for evasion of direct taxes imposed by the Union Government. Agriculture should also contribute to the national Exchequer in much the same way as other sectors are doing. It is also necessary on grounds of equity and distributive justice.

(Paras 2.123 and 2.124)

87. In the interest of uniformity and stability, the Central Government should assume the power to levy and administer tax on agricultural income.

(Para. 2.129)

88. The Government may choose any of the following courses, as it deems feasible:

(a) The Constitution may be amended to unambiguously empower the Union Government to impose taxes on agricultural income.

(b) The Union Government may impose income-tax on agricultural income, provided State Legislatures empower the Union Government in this behalf by necessary resolution in accordance with the provisions of Article 252 of the Constitution.

(c) Article 269 of the Constitution may be amended to include taxes on agricultural income in the list of taxes levied and collected by the Union, and the taxes so collected may be assigned to the States in accordance with the procedure outlined therein.

(Para. 2.130)

Unexplained expenditure

89. A separate legal provision analogous to sections 69, 69A and 69B, may be made in the Income-tax Act, 1961, which would enable the tax authorities to bring to tax the amount of 'Unexplained' expenditure.

(Para. 2.132).

Substitution of sales-tax by excise duty

90. The best way to get over the problem posed by the existing sales-tax systems would be to replace sales-tax levy on various commodities, as far as possible, by additional duty of excise, but in the selection of commodities, care should be taken to minimise the cascading effect on prices. As sales-tax will still continue to be levied on some commodities, there should be greater co-ordination between the Income-tax authorities and the Sales-tax authorities in the matter of exchange of information, collection of intelligence about evasion of these taxes and also in taking preventive measures for checking tax evasion.

(Para. 2.134).

Compulsory maintenance of accounts

91. A statutory provision may be made requiring maintenance of accounts by all persons in profession, and by businessmen where the income from business is in excess of Rs. 25,000 or turnover or gross receipts are in excess of Rs. 2.5 lakhs in any one of the immediately three preceding years. In the case of a new business, the provision will apply if the income or turnover is likely to exceed these limits.

(Para. 2.140).

92. The law should provide that ledgers and cash books should be preserved for a period of 16 years and other accounts and records for 8 years.

(Para. 2.142).

93. Monetary fines should be provided in the law for failure to maintain accounts in the manner required or to preserve them for the prescribed period. In the initial stages, the Department should mount a massive publicity programme to educate the public in this behalf. A mild and conciliatory approach will be needed for some years to come and the penal provisions should be invoked only in flagrant cases of deliberate failure to maintain books or records or to preserve them.

(Para. 2.143).

Compulsory audit of accounts

94. A provision may be introduced in the law making presentation of audited accounts mandatory in all cases of business or profession where the sales/turnover/receipts exceed Rs. 5 lakhs or the profit before tax exceeds Rs. 50,000. A form of audit report may be prescribed, taking due note of the manner in which documents, records and books are maintained in the non-corporate sector. Auditor's report should include, among other things, pertinent information like the following:

1. Scope of examination—whether full check, test-check or mere reconciliation —in order to satisfy that purchases, sales, income and expenses are properly accounted for and balance-sheet is properly drawn up.
2. Nature of security offered for obtaining secured loans. Particulars of security not recorded or accounted for in the books to be stated.
3. Computation of admissible allowance by way of depreciation.
4. Brief particulars of expenditure on entertainment, advertisement, guest house, etc., and the amount, if any, disallowable under section 37 of the Income-tax Act, 1961.
5. Particulars of expenses in respect of which payments have been made to directors, partners or persons substantially interested in the concern and their relatives. The amount, if any, not deductible under sections 40 and 40A of the Income-tax Act, 1961.
6. Particulars of amounts, if any, chargeable as profits under section 41 of the Income-tax Act, 1961.
7. Particulars of payments in respect of which income-tax has not been deducted at source and paid in accordance with the requirements of sections 192—200 of the Income-tax Act, 1961.

The Government may also, in due course, evolve a proforma of information to be furnished by the auditors which would facilitate completion of assessments.

(Para. 2.148)

Permanent account number

95. The absence of a uniform system of indexing all taxpayers in the country on a permanent basis has to some extent been responsible for the difficulties experienced by the Department in tackling tax evasion. It has prevented proper linking of information expeditiously to the assessee to whom it relates and has also resulted in the records and the accounts of the taxpayers not being properly maintained. There is no gainsaying the fact that both the taxpayers and the Department will stand to benefit by the introduction of a system of permanent account numbers.

(Para. 2.149)

96. The length of the code should be minimal. Unduly long codes are likely to lead to serious errors in reproduction, particularly in the existing manual system. The system should, however, be capable of covering the entire section of the population which it is intended to cover and also provide sufficient room for expansion over the projected useful life of the code. The code should be permanently assigned to an entity to provide historical continuity and to facilitate data processing operations. The code should have a fixed number of characters so that, while being suitable for manual processing, it could be adopted without change when machine processing is widely introduced.

The code to be adopted for taxpayer identification should be numeric. The adoption of an assigned numeric code with a uniform number of digits is, therefore, recommended. The addition of a checking code to the permanent account number is not favoured.

(Paras 2.151, 2.152 and 2.153)

97. Numbers should be allotted, at any rate in the initial stage, only to the taxpayers who are already on the registers of the Department or who come on to the registers subsequently. There should of course be a provision to enable any one desirous of obtaining an account number to do so. Perhaps numbers could also be allotted to all those who were on the registers of the Department till recently before the exemption limit was raised to Rs. 5,000.

(Para. 2.154)

98. Account numbers once allotted should remain unchanged as long as the entity continues to exist as such.

(Para. 2.155)

99. It will be necessary to have an additional code, a 'Records Locator Code', to help locate the records of a taxpayer when the case is transferred from one circle to another after the permanent account number has been allotted. To avoid confusion with the permanent numeric code, this records locator code may be a short alphabetic code. It will not be a part of the permanent code and will not in any way vitiate its permanent character.

(Para. 2.156)

100. Though the permanent account number could be put to a variety of uses, it will be most used by the Income-tax Department and as such it will only be appropriate if the requisite legislation is incorporated in the Income-tax Act itself.

(Para. 2.157)

101. Apart from fulfilling its role of a permanent identifying number for record keeping, the permanent account number can also serve as an effective tool for combating tax evasion, detecting fraud and spotting new assessees, if legal provisions are introduced requiring persons to quote on the documents relating to specified transactions, their own account numbers and in certain situations also the account numbers of the parties with whom they enter into such transactions.

The scope for extending the requirement of quoting the permanent account numbers to various types of transactions is very wide indeed (see Appendix VI), but in the interest of administrative efficiency it would be desirable to make only a small beginning and widen the field gradually. Legal provisions will also be necessary to make it obligatory for all permanent account number holders to intimate any change in their addresses to the appropriate authorities. The law will have also to provide penal measures for ensuring compliance.

However, for the present at least, it should not be obligatory for anyone to obtain an account number before entering into a transaction. The legal requirement should be that persons entering into specified transactions should quote their account number, if they have one. If they do not have an account number, they should be required to say so.

(Paras 2.157 and 2.158)

102. The law should require all persons carrying on business, where the turn-over in a year is likely to exceed Rs. 30,000, to apply for allotment of permanent account numbers within the prescribed time—if they are not already taxpayers. The law may also provide that any subsequent change in the business name should be forthwith intimated to the concerned authorities. To save any hardship to the public arising out of delay in allotment of permanent account numbers, it could be provided that if a proper application for allotment of a number has been made within time, entering into trans-

actions even before allotment of the permanent account number will not entail penal consequences.

(Para. 2.159)

103. Suggestions on the administrative and procedural aspects of the proposed system have been given in the scheme outlined in Appendix VI.

(Para. 2.160)

Power of survey

104. A new provision may be introduced as an adjunct to section 133A of the Income-tax Act, 1961 to enable the Income-tax Officer to visit any premises of an assessee for the purposes of counting cash, verifying stocks, and inspecting such accounts or documents, as he may require and which may be available there. He may also obtain any additional information and record statement of any person who is found at the premises, in respect of matters which would be relevant for making a proper assessment.

The law may be amended to confer powers of survey on the Inspecting Assistant Commissioners as well.

(Para. 2.163)

Increasing survey operations

105. Adequate number of survey circles should be set up to ensure comprehensive and continuing survey on rotational basis. Further, an officer of the rank of Assistant Commissioner should be placed in over-all control of survey operations in each Commissioner's charge and he should also hold charge of the Special Investigation Branch. Besides, in the bigger cities like Delhi, Bombay, Calcutta and Madras, a survey Range should be created under an Inspecting Assistant Commissioner who will have a contingent of survey circle Income-tax Officers and the necessary complement of Inspectors under him. In other mofussil towns, the survey squad should be under the local Inspecting Assistant Commissioner.

(Para. 2.166)

106. The Income-tax Officer in charge of a survey circle should have territorial jurisdiction. It should be his responsibility to ensure that all persons having taxable income/wealth within his jurisdiction are brought on the registers of the Department.

(Para. 2.167)

107. The work relating to the first assessment in cases discovered on survey should be done by a separate officer or set of officers who will be entrusted solely with such cases. However, these assessing officers should not be under the Assistant Commissioner of Income-tax in charge of survey.

(Para. 2.170)

Collection, collation and dissemination of information

108. The Central Board of Direct Taxes should lay down each year a programme and specify targets for collection, collation and dissemination of information. It should also ensure that the programme is strictly adhered to and efforts are made to reach the targets fixed. The sources to be tapped every year should be decided at the national level by the Board at the beginning of each year, to be followed and implemented strictly at all levels. Different types of information may be collected in different years so as to keep an element of surprise.

(Para. 2.177)

109. With a view to securing efficient functioning of the set-up, standards of work and performance should be laid down, without which it would not be possible to judge the requirements of manpower nor to measure the adequacy or otherwise of the output given by the persons at various levels. The Special Investigation Branches, to be renamed as Central Information Branches, should be suitably strengthened and they should be placed under the supervision of the Inspecting Assistant Commissioner in charge of survey operations. They should be located at the stations where the headquarters of the Commissioners are but should not form part of their offices. The work of the Special Investigation Branch should be inspected at least once a year by the Commissioner of Income-tax himself.

(Para. 2.179)

Co-ordination between banks and the Income-tax Department

110. The legal provisions under which the system of permanent account numbers is introduced should also include that taxpayers should quote their permanent account numbers in applications for bank drafts, mail transfers, telegraphic transfers, etc., if the amount involved in such transactions exceeds five thousand rupees.

(Para. 2.180)

111. A suitable provision may be introduced in the Banking Regulation Act, 1949, by which all banking institutions coming within the purview of that Act should be under a statutory obligation to report to the Reserve Bank of India all financial transactions in cash over twenty-five thousand rupees which, in the judgment of the banking company concerned, are suspicious or unusual.

(Para. 2.181)

112. Officers of the Department should be statutorily empowered to obtain from banks information of general nature, i.e., without reference to any particular taxpayer, provided

the information that is sought is in respect of transactions over specified amounts.

(Para. 2.182)

Changes in the form of income-tax return

113. The form of return of income should be made more elaborate than what it is at present by incorporating a schedule of exempted income, net worth, personal expenditure and other outgoings. To start with, the requirement to furnish this additional information should be applicable only when the total income exceeds Rs. 15,000.

(Para. 2.184)

114. A provision on the lines of section 114(1) of the Taxes Management Act, 1970 of U.K. which states that the validity of proceedings purported to be made under the taxing statute cannot be questioned for want of form or affected by reason of a mistake, defect or omission therein, may be incorporated in our direct tax laws as well.

(Para. 2.185)

Reintroduction of Expenditure Tax

115. Introduction of an expenditure statement as a part of the form of return of income should be quite effective in checking evasion through consumption expenditure, without disturbing the existing tax structure.

(Para. 2.186)

Uniform accounting year

116. Of the many provisions in the Income-tax law that provide scope for evasion and avoidance of taxes, the one which allows the taxpayers to choose as many accounting years as there are sources of income is particularly noteworthy for its undesirable consequences.

(Para. 2.187)

117. The advantages that would accrue from the adoption of a uniform accounting year would far out-weigh the disadvantages. It will facilitate investigation and cross-verification of transactions and restrict the scope for collusive manipulations. White-washing of balance-sheets in collusion with one another will become difficult. Income earned during the same period by different taxpayers will be taxed at the same rate and not at different rates, as at present. Budgeting would be more accurate, for a boom or depression in a particular industry can be duly taken note of in the same year in case of all the assessees running that industry. It will also accelerate completion of assessments because economic conditions pertaining to a particular class of assessees would be common. Given sufficient time for the change-over, businessmen are also likely to get accustomed to it.

(Para. 2.193)

118. The Government should seriously consider the expediency of prescribing a uniform accounting year for all taxpayers. In that case, the accounting year should coincide with the budget year. In any event, the law should permit adoption of only one 'previous year', in respect of all businesses carried on by one person.

(Para. 2.193)

Checking under-valuation of immovable properties

119. It would be expedient for the Government to assume powers to acquire immovable properties in cases of understatement of cost of construction as well. However, as this would be an extension of the recommendation in the interim report, the Government should consider such extension only after it has had some experience of acquisition of immovable properties in cases of understatement of sale consideration.

(Para 2.197)

120. The Land Acquisition Act, 1894 may be amended to the effect that where an immovable property to be acquired under that Act, was the subject matter of a transfer within one year preceding the notification under section 4 of the Land Acquisition Act, 1894, the sale consideration stated in he transfer deed relating to that property will be deemed to be the market value for the purpose of determining compensation under section 23 of the Land Acquisition Act,1894. (Para. 2.198)

121. The suggestion for replacement of deduction in respect of repairs in computing the income from house property by depreciation is not favoured.

(Para. 2.199)

Ownership flats

122. It may be provided by law that ownership flats, whether acquired through the medium of co-operative housing societies or otherwise, would be deemed to be immovable property for purposes of the Transfer of Property Act, 1882 and that transfer of such flats shall be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property.

(Para. 2.203)

'Pugree' payments

123. The present legislative control on rent which operates in respect of both residential and non-residential premises may be amended so as to restrict its operation to residential premises only.

(Para. 2.205)

Tightening provisions of the Stamp Act

124. It will go a long way to help deter investment of black money in immovable property

if adequate machinery is provided under the Stamp Act for valuation of properties which are the subject of transfer.

(Para. 2.207)

125. In 1967, the then Madras State Government had introduced certain measures to curb the evil of understatement of purchase consideration, by an amendment to the Indian Stamp Act, 1899. It would be advantageous to have similar machinery in other States also. The Indian Stamp Act, 1899 may be suitably amended in this behalf on the lines of the Madras enactment.

(Para. 2.209)

126. In addition to indicating the date of sale and name and address of the purchaser, the stamp vendors may be required to state on the stamped paper the purpose for which the paper was purchased and also the names of the parties to the transaction sought to be recorded thereon, except in the case of an agreement or a memorandum of agreement under article 5 of Schedule I of the Indian Stamp Act, 1899 and power of attorney under article 48 thereof.

(Para. 2.210)

Foreign exchange violations

127. An official study team appointed by the Government of India has estimated in its report recently submitted that the extent of leakage of foreign exchange is about Rs. 240 crores yearly. Since foreign exchange violations are possible only through clandestine dealings, these necessarily result in evasion of income-tax and other allied taxes. It is understood that the Government is examining the report of this study team and is proposing to initiate necessary remedial measures in this regard, including certain amendments to the Foreign Exchange Regulation Act. It is expected that the appropriate authorities would deal with this matter effectively.

(Para. 2.211)

Tax treaties for exchange of information relating to tax evasion

128. Section 90 of the Income-tax Act, 1961 may be suitably amended to enable the Government to enter into agreements with foreign countries not only for the avoidance of double taxation of income but also for prevention of fiscal evasion. Further, our existing agreements should be revised so as to provide for exchange of routine information and market intelligence as also specific information in individual cases to facilitate investigation of tax evasion and recovery of taxes. The agreements should also enable courts in both the contracting countries to entertain rogatory, commissions or letters of request from the tax authorities of the other country for the purpose of securing the evidence of persons resident therein. The agreements should further provide for mutual assistance in investigation of tax frauds and recovery of taxes by making the administrative machinery of each available to the other.

(Para. 2.213)

Tax evasion in film industry

129. The law should be suitably amended to provide that where under an irrevocable annuity policy, though taken by the producer in his name but assigned in favour of the artiste, the remuneration is paid to the artiste in the form of an annuity spread over a number of years, the artiste should be taxed only on the amount of annuity received during the year. The present value of annuities due in future should be exempt from wealth-tax. The producer would be entitled to claim the entire amount paid to the Life Insurance Corporation towards taking out such a policy as a deduction in the year of payment.

(Para. 2.216)

130. In view of the enhancement of the ceilings under clauses (ii) and (iv) of section 80C(4) of the Income-tax Act, 1961 in recent years, the percentage of gross total income and the qualifying amount prescribed for artistes, playwrights, authors, etc., under rule 11A of the Income-tax Rules, 1962 should also be suitably enhanced.

(Para. 2.217)

131. Where the remuneration payable to an artiste under an agreement exceeds Rs. 5,000, both the film producer and the artiste should be under a statutory obligation to furnish a copy of the agreement to their respective Income-tax Officers, within a period of one month from the date of execution of such an agreement.

(Para. 2.218)

Payment by crossed cheque or crossed bank draft

132. An endeavour should be made to evolve a new instrument in the form of a Bank Bill of Exchange which is readily transferable but also contains an obligation for it to be encashed through a bank account. A suitable pay order/draft of different denominations may be designed and introduced for this purpose. In brief, this instrument should contain the following three essentials:

(i) that it is an equivalent of a pay order or draft, without the name of the payee at the time of issue;

(ii) that the name of the payee is entered on the instrument by the payer at the time of payment; and

(iii) that the instrument is marked 'account payee only' by the issuing bank so that it cannot be encashed except through a bank account of the payee.

After the introduction of the new instrument as suggested above, the exceptions provided in rule 6DD of the Income-tax Rules may be suitably curtailed.

(Para. 2.219)

'Hundi' loans

133. Permanent Account Numbers, which are to be assigned to the taxpayers by the Department, should be statutorily required to be quoted on hundi papers. Further, advances of loans on hundi and their repayments, including interest, should be made through 'account payee' cheques only. This should serve as an effective check on bogus hundi loans.

(Para. 2.220)

Checking tax evasion among contractors

134. In the case of contractors including sub-contractors, a register for recording daily receipts and payments would be essential and should be in a prescribed form in due course.

(Para. 2.221)

135. The Income-tax law may be amended to provided that payment to a sub-contractor will not be allowed as deduction in computing the taxable income of the contractor unless it has been made by an 'account payee' cheque.

(Para. 2.222)

136. The scope of section 285A of the Income-tax Act, 1961 should be extended to apply to all contractors.

(Para. 2.223)

137. Contractors who have been penalised or convicted for concealment of income/wealth should not be awarded Government contracts for a period of three years. For this purpose, the form of tax clearance certificate applicable to contractors may be suitably amended to include information whether the contractor was penalised or convicted for concealment of income/wealth during the immediately preceding three years.

(Para. 2.224)

Blank transfer of shares

138. The existing provisions of the Companies Act with regard to the system of blank transfer of shares are not adequate to check misuse. The law may be suitably amended to provide that before an instrument of transfer is presented to the prescribed authority, the transferor should be required to state in the instrument itself his name, the distinctive numbers and value of shares proposed to be transferred, and the instrument of transfer should be duly signed by the transferor and bear the requisite stamp duty. The prescribed authority should be required to cancel the stamps on the instrument of transfer at the time of stamping or otherwise endorsing thereon the date on which it is so presented. The instrument of transfer should be valid for a period of two months only from the date of its presentation to the prescribed authority. However, in order to protect the interest of genuine shareholders who want to borrow funds from banks on the security of shares, such blank instrument of transfer should be valid for the period the shares are held by the bank as security for an advance or overdraft to a registered share-holder.

(Para. 2. 220)

Benami investments

139. In pursuance of the recommendation of the Administrative Reforms Commission, the Government has sponsored legislation through the Taxation Laws (Amendment) Bill, 1971 to discourage benami holding of property. This is a step in the right direction.

(Para. 2.231)

Denial of credit facilities to tax evaders

140. All scheduled banks should be barred from providing credit facilities above Rs. 25,000 at any point of time to any person, unless he gives an affidavit to the effect that he has not been subject to any penalty or prosecution for concealment of income/wealth during the immediately preceding three years.

(Para. 2.232)

Tightening up vigilance machinery

141. Elsewhere in the report, recommendations have been given with regard to prevention of corruption among Government servants generally and in particular, views have been given on steps needed for prevention or detection and punishment of corruption in the Income-tax Department. As regards the question of dealing with corruption at higher levels in public life and redressal of public grievances, the appointment of Lokpal and Lokayuktas after passage of the necessary legislation would take adequate care of the situation.

(Para. 2.235)

Arousing social conscience against tax evasion

142. Tax evasion cannot be tackled by stringent legal measures alone. It can be dealt with effectively only if such measures are backed by strong public opinion against black money and tax evasion. In helping to build up such public opinion, the Government can play a vital role. The foremost measure in this regard is denial of the privileges which are still available to tax evaders.

(Para. 2.237)

143. Tax evaders who have been penalised or convicted for concealment of income/wealth

should be disqualified for the purpose of getting national awards. The law should also be suitably amended to disqualify such persons from holding any public elective office for a period of six years. In addition, Ministers and senior officers of the Government should avoid attending social functions sponsored or organised by known tax evaders.

(Para. 2.238)

144. A person who has been penalised or convicted for concealment of income/wealth should not be eligible to be a director of a limited company for a period of six years. The Companies Act, 1956, may be amended accordingly.

(Para. 2.238)

145. Tax education should be imparted in our schools as part of a course in civics.

(Para. 2.240)

146. Lists of taxpayers published by the Government should include figures of income declared, income assessed and the tax payable. Such lists should, in addition to being published in the official gazette, be publicised in local papers and be also put up on notice boards in Income-tax Offices.

(Para. 2.241)

147. The Chambers of Commerce and the Federation of Chambers should take the lead and evolve methods by which businessmen resorting to corrupt trade practices, including tax evasion, are ostracised.

(Para. 2.242)

148. Taxpayers who have been filing correct returns and have been prompt and regular in meeting their tax obligations should be treated by the Department as starred assessees.

(Para. 2.243)

CHAPTER 3: TAX AVOIDANCE

Introductory

149. In an acquisitive society, it is more common for a taxpayer to regard taxation as a burden and to seek all possible means to escape it. The distinction between 'evasion' and 'avoidance' is largely dependent on the difference in methods of escape resorted to. Some are instances of merely availing, strictly in accordance with law, the tax exemptions or tax privileges offered by the Government. Others are manoeuvres involving an element of deceit, mis-representation of facts, falsification of accounts, including downright fraud. The first represents what is truly tax planning, the latter tax evasion. However, between these two extremes there lies a vast domain for selecting a variety of methods which, though technically satisfying the requirements of law, in fact circumvent it with a view to eliminate or reduce tax burden. It is these methods which constitute 'tax avoidance'.

(Para. 3.3)

150. Attempts at tax planning or methods such as availing of the various benefits and concessions provided under the tax laws should not be shunned as unethical or anti-social. But those types of tax avoidance which violate the spirit and intention of the law and at times border on tax evasion are certainly disapproved.

(Para. 3.5)

Concept of taxable income

151. Income-tax statute should contain a comprehensive definition of income whereby all incomings are brought to tax, subject to specified exemptions provided therein.

(Para. 3.9)

Casual and non-recurring receipts

152. The exemption now available to the casual and non-recurring receipts under the Income-tax Act should be withdrawn. The following scheme of taxation of receipts of cusaal and non-recurring nature is suggested:—

(i) Receipts which are of a casual and non-recurring nature and are in excess of Rs. 1,000 in a year should be included in the total income to be taxed at normal rates. Reasonable expenses should be allowed. Exemption upto Rs. 1,000 would relieve the taxpayer of the responsibility to account for petty receipts.

(ii) Winnings from State lotteries may be taxed on a concessional basis as applicable to long-term capital gains on assets other than lands and buildings.

(iii) Casual losses should be set off only against the same type of income. For instance, losses in respect of racing would be set off only against income from racing.

(iv) Tax @ 33 per cent. should be deducted at source from prizes in crossword puzzles, race winnings and lotteries where the amount exceeds Rs. 1,000.

(Paras. 3.14 and 3.15)

Capital gains

153. Capital gains should not be treated on a par with other income. Such gains may be partly attributable to inflationary pressures and, in any case, represent income which has accrued over a period of time. (Para. 3.21)

154. Concessional treatment of capital gains should apply only to capital assets held for more than five years. Accordingly, the definition of short-term capital asset will have to be changed.

(Para. 3.21)

Hindu undivided family

155. The Hindu undivided family as a unit of assessment is retained in most cases only when it enables the persons concerned to reduce their tax liability and in other cases, it is promptly partitioned without considerations of sentiment coming in the way.

(Para. 3.28)

156. A Hindu undivided family should be taxed at a special rate if any of its members has independent income above the maximum not liable to tax. Such Hindu undivided families should be taxed at the following rates:

Income	Rate
Rs.	%
5,001 — 10,000	15
10,001 — 15,000	25
15,001 — 20,000	35
20,001 — 30,000	45
30,001 — 50,000	55
Over — 50,000	65

In addition, 15 per cent. surcharge should also be leviable where the income exceeds Rs. 15,000.

Similarly, under the Wealth-tax Act, there should be a separate schedule with higher rates applicable to Hindu undivided families where any member of family has independent wealth above the exemption limit.

(Para. 3.30)

Clubbing income of husband, wife and minor children

157. Family consisting of husband, wife and minor children being treated as a unit of assessment is not favoured.

(Para. 3.34)

Measures to check diversion of income

158. Clause (v) of section 64(1) of the Income-tax Act, 1961, should be suitably amended by introducing a deeming provision, if necessary, to cover income arising from assets transferred indirectly.

(Para. 3.36)

159. Section 64(1) of the Income-tax Act, 1961 should be suitably amended, to provide that in computing the income of a parent-in-law or a paternal grandparent, there shall also be included such income as arises directly or indirectly through assets transferred by him/her directly or indirectly otherwise than for adequate consideration to or for the benefit of a daughter-in-law or a minor grandchild, as the case may be.

(Para. 3.37)

160. By a suitable Explanation to section 64(1) of the Income-tax Act, 1961, the effect of the judgment of the Supreme Court in the case of Commissioner of Income-tax vs. Prem Bhai Parekh and others (77 I.T.R. 27) should be taken away.

(Para 3.38)

161. It should be provided in law that in computing the total income of an individual there shall be included all such income as arises directly or indirectly to the spouse of such individual by way of salary, commission, fees or any other form of remuneration from a concern in which such individual has substantial interest. For this purpose, an individual may be deemed to have a 'substantial interest' (a) in the case of a limited company, if its shares carrying not less than 20 per cent. of the voting power were, at any time during the previous year, owned beneficially by such individual either singly or along with his relatives and (b) in the case of any other concern, if such individual either singly or along with his relatives was entitled in the aggregate at any time during the previous year, to not less than 20 per cent. of the profits of such concern. For this purpose, the term 'relative' should have the same meaning as in clause (41) of section 2 of the Income-tax Act, 1961.

(Para. 3.39)

Tax treatment of firms and partners

162. The Partnership Act should be so amended as to preclude the admission of minors to the benefits of partnership. However, in order to avoid hardship, an exception may be made in the case of succession on the death of a parent. Futher, until such an amendment is made to the Partnership Act, the Income-tax Act should be amended to provide for inclusion of a minor's share from a firm in the income of that parent whose total income is higher.

(Para. 3.40)

163. Claims of sub-partnerships should be investigated in depth to uncover collusive arrangements.

(Para. 3.41)

164. Where a partner in a firm is an undisclosed benamidar of an outsider, and any one or more of the other partners knew or had reason to believe that it was so, the firm should not be treated as a validly constituted partnership.

(Para. 3.42)

165. The levy of a separate tax on registered firms rendering professional services should be discontinued.

(Para. 3.43)

Share dealings by companies

166. The results of dealings in shares by companies other than investment, banking and finance companies, should be treated in a manner analogous to speculation business.

(Para. 3.44)

Treatment of perquisites

167. The Government should re-examine all the existing rules pertaining to valuation of perquisites in order to update them with reference to the current market trends.

(Para. 3.46)

Taxation of discontinued business

168. A provision on the lines of section 176(4) of the Income-tax Act 1961, should be added to cover also income from business received after its discontinuance.

(Para. 3.47)

Charitable and religious trusts

169. Every person in receipt of income derived either from property held under trust or other legal obligation for charitable or religious purposes or from voluntary contributions received on behalf of such trust or institution should be required to furnish a return of income if the total income, ignoring the exemption under section 11 and 12 of the Income-tax Act, 1961, exceeds the maximum amount not chargeable to income-tax.

(Para. 3.52)

170. The law may be amended to provide that where a person, who is under an obligation to furnish a return of income under section 139 (4A) of the Income-tax Act, 1961, fails to furnish such a return, he shall be liable to pay penalty upto one per cent. of the income of the trust for each year of default or part thereof.

(Para. 3.52)

171. The income-tax law may be amended to cast an obligation on all charitable and religious trusts which seek income-tax exemption to register themselves with the Income-tax Department. Trusts which fail to get registered within a prescribed period will not be entitled to claim income-tax exemption. The existing trusts may be required to get themselves registered within one year from the date of enactment of the new provision and trusts formed after the enactment should get themselves registered within six months of the date of the constitution of the trust.

(Para. 3.52)

172. All trusts with incomes/receipts exceeding rupees twenty-five thousand should be under a statutory obligation to have their accounts audited in the prescribed manner.

(Para. 3.53)

173. Law should be suitably amended to provide that where a trust for the relief of the poor, education or medical relief derives income from any activity for profit, its income would be exempt from income-tax only if the said activity for profit is carried on in the course of the actual carrying out of a primary purpose of the institution. So far as trusts for any other object or general public utility are concerned, pursuit of any activity for profit should continue to render them ineligible for tax exemption.

(Para. 3.55)

174. The existing conditions for spending the trust income for charitable purposes within the same year, or accumulating it in the specified manner, should be relaxed, where the trust is prevented from complying with them on account of not having actually received the income in question.

(Para. 3.56)

175. All 'ghost' or anonymous donations to charitable trusts should be taxed at the rate of 65 per cent. Religious trusts may, however, be left out of the purview of this provision.

(Para. 3.57)

176. Where any part of the corpus or income of a charitable or religious trust is used by or for the benefit of the founder, trustee, etc., for any period in a year, such a trust should be liable to pay wealth-tax on the value of its entire property in the same manner as the discretionary trusts under the provisions of section 21(4) of the Wealth-tax Act, 1957.

(Para. 3.58)

177. Barring the original corpus, there should be a total ban on trusts investing any of their funds in any business concern, including a limited company.

(Para. 3.59)

178. Section 13 of the Income-tax Act, 1961 provides, *inter alia*, that a charitable or religious trust or institution will be denied exemption from tax if the funds belonging to it are invested, or continue to remain invested, during the previous year in any concern in which the author or founder thereof or substantial contributor to it or their relative has a substantial interest. This condition should not operate when such an investment itself forms a part of the initial corpus of the trust.

(Para. 3.60)

179. The term 'substantial portion', used in section 13 of the Income-tax Act, 1961 should be so defined as to mean any property or income exceeding one thousand rupees and the term 'substantial contribution' used in the said section should be defined as an amount exceeding five per cent. of the corpus of the trust. Further, persons mentioned in section 13(3) of the Income-tax Act, 1961 should also include a trustee and his relatives and the term 'relative' should also include relatives through marriage.

(Para. 3.61)

180. Section 12 of the Income-tax Act, 1961 may be amended to provide that the benefit of tax exemption in respect of income received by way of voluntary contributions will be available only to charitable and religious trusts which enure wholly for the benefit of the public. Further, it may be provided that the voluntary contributions received by religious and charitable trusts will be treated as income of such trusts for the purpose of section 11 and 13 of the Income-tax Act, 1961. However, voluntary contributions in the nature of endowments or for specific projects related to the objects of the trust may be allowed to be accumulated or set apart.

(Para. 3.62)

181. The law may be suitably amended to provide that exemption under sections 11 and 12 of the Income-tax Act, 1961 will be available to trusts created before 1st day of April, 1962 if they conform to the requirements of the law as applicable to trusts created after 31-3-1962. The period for effecting the necessary changes may be fixed at two years from the date of amendment of the law in this behalf. As some mixed trusts may have to be split up for this purpose, a suitable machinery may be set up by the Government to effect a smooth change over.

(Para. 3.64)

182. There is a strong case for having an all-India legislation for the purpose of controlling and regulating the working of various public charitable and religious trusts in India. Apart from the provisions contained in the draft Bill, which was introduced in the Parliament in 1968 for this purpose (but which lapsed with the dissolution of the Lok Sabha in 1970), such legislation should contain some further provisions. The Government should have the power to nominate one or more trustees in the case of a trust with income exceeding rupees fifty thousand per annum, notwithstanding the terms of the trust deed. There should also be a provision against the continuance of the same persons as trustees on the governing body of a trust. The number of life trustees in any public trust should not exceed 25 per cent. of the total strength of its trustees. As regards other trustees, the principle of rotation should be introduced so that one-third retire every five years. No trustee should be eligible for re-appointment more than once. Further, there should be yet another provision to ensure that the number of trustees who are close relatives of the founder(s) of a trust, does not at any time exceed 25 per cent. of the total strength of the trustees. These provisions should be made applicable even to the existing trusts.

(Paras. 3.65 and 3.66)

Measures to check avoidance of wealth-tax

183. Sub-clause (iii) of clause (a) of section 4(1) of the Wealth-tax Act, 1957, (which corresponds to clause (v) of section 64(1) of the Income-tax Act, 1961) should also be amended to cover indirect transfer of assets.

(Para. 3.68)

184. There is another type of diversion where a parent-in-law or paternal grandparent transfers assets directly or indirectly, otherwise than for adequate consideration, to the daugther-in-law, or minor grandchild, as the case may be, for his or her immediate or deferred benefit. A suitable provision may be made in the Wealth-tax Act for the inclusion of the value of such transferred assets in the net wealth of the parent-in-law or paternal grandparent, as the case may be.

(Para. 3.69)

185. In the matter of valuation of unquoted shares, the wealth-tax rule in this behalf tilts the scale in favour of the shareholder. According to this rule, the value is determined, subject to certain adjustments on account of dividends declared, with reference to the book value of the assets and liabilities as reflected in the balance-sheet. This rule completely bars revaluation of immovable properties held as assets by the company. It is common knowledge that closely-held companies owning huge immovable properties in big cities show only the depreciated value of such properties in their balance-sheet though their market value is, in fact, several times the book value. The position in this behalf should be reviewed, and for the purposes of valuation of shares of closely-held companies, the rule should be revised to provide revaluation of immovable properties held by such companies—other than as their business premises—so as to bring the value of such properties upto their fair market value, taking into account, *inter alia*, their actual yield.

(Para. 3.70)

186. The valuation of immovable properties once adopted after due enquiry should remain unchanged for a period of five years, except for additions, alterations and improvements.

(Para. 3.71)

187. Any change in the basis of levy of wealth-tax from 'market value' to 'cost price' of an asset is not favoured.

(Para. 3.72)

Measures to check avoidance of gift-tax and estate duty

188. The Wealth-tax Act, 1957 and the Gift-tax Act, 1958 may be suitably amended to provide that a gift made by any person by means of book entries alone will not be recognised as a valid gift unless it is accompanied by physical transfer of cash.

(Para. 3.75)

189. Gifts made by a person from year to year should be aggregated. Gifts upto a total amount of rupees one thousand in a year may, however be exempted. Additionally, individual gifts upto Rs. 200 per donee may be ignored. Gifts made in any year should be taxed by applying the rate appropriate to the slab in which, after aggregation, the gifts made in a particular year fall. This provision should be made prospective to avoid unnecessary hardship.

(Para. 3.76)

190. The principle of aggregation of gifts should be extended further so as to achieve complete integration with estate duty. For this purpose, the principal value of the estate pass ing on death should be aggregated with the taxable gifts made during life-time. The estate duty will first be calculated on this aggregate amount, subject to such exemptions as may be available at the time, and then credit allowed for the gift-tax paid during life-time.

(Para. 3.79)

CHAPTER 4 : TAX ARREARS

Introductory

191. Tax arrears have been a chronic problem with the Department and have of late assumed serious proportions. The magnitude of the problem of arrears in our country seems to have no parallel elsewhere.

(Para. 4.2)

192. The measures taken so far for tackling the problem of tax arrears seem to have made no significant dent on the hard core of the problem. The trouble is deep rooted and calls for some radical remedies.

(Para. 4.4)

Causes of Arrears

193. The main causes of tax arrears are as follows:

(a) Treating as arrears amounts not due for collection, demands relating to protective assessments as also disputed demand.

(Para. 4.6)

(b) Unrealistic and over-pitched assessments.

(Para. 4.7)

(c) Administrative delays—late assessments, finalising important revenue cases towards the close of the financial year, completing assessments for several years together, delays in disposal of appeals, etc.

(Para. 4.8)

(d) Administrative deficiency—frequent changes in jurisdiction, unscientific and cumbersome accounting and collection procedures, shortage of personnel and lack of proper training and even the minimum equipment in collection and recovery wings, inadequate powers and inadequate exercise of powers and lack of co-ordination among assessing, collection and recovery officers.

(Para. 4.9)

(e) Factors beyond the control of the Department companies going into liquidation, assessees leaving the country or becoming untraceable and assessees alienating assets. Heavy penalties and interests increase the arrears.

(Para. 4.10)

(f) Slow progress of write off of irrecoverable arrears and scaling down of partially irrecoverable arrears.

(Para. 4.11)

Remedial Measures

194. The causes, though many and varied, are all linked to inadequacies of administration and inadequacies of law and procedure. The measures taken in the past have been palliatives for individual symptoms rather than a cure for the malady itself.

(Para. 4.12)

195. Where the assessee does not honour the undertaking given at the time of grant of instalments, the Department should take a stiff attitude in the matter of realisation of arrears.

(Para. 4.14)

196. The powers conferred on the officers under the Second and Third Schedules to the Income-tax Act, 1961 should be exercised with vigour and firmness. In particular, the powers of distraint should be exercised on a much wider scale than at present. All Income-tax Officers entrusted with collection duties may be authorised to effect distraint and sale of movable properties and Inspectors working under them may be authorised to execute distress warrants issued by them.

(Para. 4.16)

197. It is difficult to appreciate the significance of the frequent collection and recovery drives said to have been launched at the behest of the Central Board of Direct Taxes when the collection and recovery units have not been provided with the requisite man-power. The Government should make a proper assessment of work-load in the collection and recovery units. A proper balance should be ensured between the number of recovery and collection officers and the number of assessing officers. Further, additional provision should be made to clear the existing back-log of arrears.

(Para. 4.17)

198. The field staff in the recovery units should be given adequate training before they are assigned to duties. Only persons with an aptitude for such field work and possessing robust health should be selected for this type of work. As the field staff has to perform outdoor duties, they should also be provided with uniforms.

(Para. 4.18)

199. The ideal position would be to have accounting, collection and recovery under a separate hierarchy. However, for the present, at least till the back-log of arrears is cleared, recovery work, i.e., coercive collection on recovery certificates, should be placed under a separate

hierarchy. In bigger charges, recovery units should be placed under Assistant Commissioners (Recovery) and Additional Commissioners (Recovery). In smaller charges, they should be with an Assistant Commissioner (Recovery) under the over-all supervision of the territorial Commissioner of Income-tax.

(Para. 4.19)

200. The Inspecting Assistant Commissioners should be given training in management, and made responsible for the harmonious, co-ordinated and efficient working of the Income-tax offices.

(Para. 4.20)

201. Recovery cannot be effective unless the field staff is on the move. Field staff in recovery units should be provided with adequate number of vehicles.

(Para. 4.21)

202. Adequate storage facilities, including strong rooms and safes, should be provided and adequate arrangements made for the safe custody of distrained goods. The Department should make arrangements with the jail authorities for locking up of tax defaulters in civil prisons. Adequate funds should also be placed at the disposal of Tax Recovery Officers to defray the expenses of defaulters' stay in the civil lock-up.

(Para. 4.22)

203. The Recovery units of the Income-tax Department should be provided with their own sepoys and havildars on the lines of the Central Excise Department. The Intelligence Wing can also draw upon them in connection with searches and seizures.

(Para. 4.23)

204. Officers and Inspectors on the work of recovery, searches and seizures should be provided with firearms.

(Para. 4.24)

205. A standing counsel competent in civil matters may be appointed in every Commissioners's charge to advise on issues raised in recovery proceedings.

(Para. 4.25)

206. Write off and scaling down of irrecoverable or partially recoverable demands has not kept pace with the cases arising therefor. Any delay in the disposal of scaling down petitions not only results in irrecoverable demands being shown as arrears, but often holds up payment of taxes which are otherwise recoverable.

(Paras. 4.28 and 4.29)

207. It will be necessary to have a whole-time organisation, at least for some years, to deal with the matter if any significant progress is to be made in writing off and scaling down tax arrears which are wholly or partly irrecoverable. A high-powered body may be set up within the Department exclusively to consider and decide cases of write off and scaling down of arrears where the amounts involved exceed Rs. 1 lakh. The Committee should consist of three Members including Member (Finance), if any, of the reconstituted Board. The Members should have status equal to the Members of the Central Board of Direct Taxes. The Committee's decision will be final and will not be questioned before any other administrative authority. The Committee should submit an annual report to the Government.

(Para. 4.30)

208. In every case of scaling down, an affidavit regarding the assets of the defaulter should invariably be obtained and the agreement to scale down should provide that it shall be void if any undisclosed assets subsequently come to light.

(Para. 4.31)

209. The services of the Intelligence Wing should be requisitioned in appropriate cases to uncover secreted assets of the defaulters. Rewards upto 20 per cent. of the value of the assets may be given to informers in respect of information leading to discovery of undisclosed assets of defaulters. The names of defaulters and the offer of rewards should be widely publicised. In all worthwhile cases, the defaulters should also be sent to jail before proposing write off of the arrears outstanding against them as irrecoverable.

(Para. 4.32)

210. It is equally necessary that ways and means are devised to ensure that tax demands do not fall into arrears in future.

The rate of interest chargeable or payable under the various provisions of the direct tax laws should be increased from 9 per cent. per annum to 12 per cent. per annum. This works out to one per cent. per month and would incidentally facilitate calculations.

(Para. 4.33)

211. Interest should be levied under the various provisions of the direct tax laws for each completed month and on round sums in multiples of Rs. 100.

(Para 4.34)

212. The law need not be made more complicated by provision of discounts for prompt payment of tax and levies for delayed payments.

(Para. 4.35)

213. Interest on moneys borrowed for payment of taxes should be allowed as a deduction in computing taxable income. This would help the Department in collecting revenue, including

arrears, and would be an added justification for levying heavy penalties in cases of continuing defaults.

(Para. 4.36)

214. Interest on refunds due as a result of appeals, etc., should be allowed from the date the disputed demand was originally paid.

(Para. 4.37)

215. Proviso to section 221(1) of the Income-tax Act, 1961, which necessitates giving the defaulter a reasonable opportunity of being heard before he is penalised, may be deleted. A similar requirement for levy of penalty under section 140A(3) for default in payment of tax due on self-assessment should also be dropped. However, the clause relating to liability to penalty without further notice may be printed in bold letters on the demand notice itself. This should serve as sufficient notice to the taxpayer. The Income-tax Officer should be enabled to cancel the penalty order by way of rectification wherever it is established to his satisfaction that payment had already been made, by adjustment or otherwise, on or before the due date.

(Para. 4.38)

216. The first penalty for short delays should not exceed 10 per cent. of the tax payable but not paid.

(Para. 4.39)

217. The Department should make greater use of powers of sending tax defaulters to civil prison.

(Para. 4.40)

218. The law may be suitably amended to authorise prosecution of tax defaulters. The Department should launch criminal prosecutions in flagrant cases of default in payment of taxes.

(Para. 4.41)

219. Tax Recovery Officers may, in the first instance, be authorised to order suspension of businesses, other than industrial undertakings, as a mode of recovery of outstanding taxes. Recourse may also be taken to appoint receivers in suitable cases, including industrial undertakings.

(Para. 4.42)

220. The law may be suitably amended to create an automatic lien on properties, movable and immovable, of the taxpayer in favour of the revenue on the lines of provisions contained in the U.S. law. The lien should be operative from the date any demand is raised against the taxpayer till the time the liability is finally liquidated.

(Para. 4.43)

221. A statutory provision may be made empowering the income-tax authorities to levy a provisional attachment on the assets of a taxpayer, whose case is under investigation for tax fraud, even before a tax demand is actually raised against him.

(Para. 4.44)

222. Properties transferred directly or indirectly, otherwise than for adequate consideration, by an individual to his spouse or a minor child may be made liable to attachment and sale for the purpose of recovering tax dues of such individual. Similar liability may also be extended to properties directly or indirectly transferred, otherwise than for adequate consideration, by a parent-in-law to a daughter-in-law or by a paternal grand-parent to a minor grand-child.

(Para. 4.45)

223. The undisputed portion of the tax should be paid before an appeal to the Appellate Assistant Commissioner of Income-tax is filed. The Appellate Assistant Commissioner should have the power to waive this requirement in appropriate cases for reasons to be recorded in writing.

(Para. 4.46)

224. The power to grant stay of disputed tax should vest in the Appellate Assistant Commissioner and not the Income-tax Officer.

(Para. 4.47)

225. The law may be amended so that the time limit for filing an appeal is extended beyond the last date for payment of tax.

(Para 4.48)

226. Revenue matters, in respect of which adequate remedies are provided in the respective statutes themselves, should be excluded from the purview of Article 226 of the Constitution.

(Para. 4.49)

227. The provisions relating to deduction of tax at source may be extended to cover payment of royalties rents, professional fees and commission, including insurance commission, made by all persons other than individuals and Hindu undivided families, and all payments of prizes in lotteries and crossword puzzles and race winnings. However, lottery prize money, royalties, prizes in crossword puzzles and race winnings upto Rs. 1,000 at a time, and payment of rents, professional fees and commission up to Rs. 400 at a time, may be exempted from such deduction. The rate of deduction should be 33 per cent. in the case of prizes in lotteries, crossword puzzles, race winnings and royalties, and 10 per cent. in the case of other payments.

(Para. 4.50)

228. The law may be amended to provide that tax at the rate of 3 per cent. of the amount billed by a contractor in respect of any contract

granted by the Central Government, State Government local authority, a public sector undertaking or a company will be deducted from the payment made against such bill, unless the contractor furnishes a certificate from the Income-tax Officer that the tax may be deducted at any lower rate or nil rate. A contractor, not being an individual or a Hindu undivided family, should be required to deduct tax at the rate of 2 per cent. from any payment made by him to a sub-contractor where the total value of the sub-contract exceeds Rs. 5,000.

(Para. 4.51)

229. Extending the provisions of section 194A of the Income-tax Act so as to require individuals and Hindu undivided families to deduct tax from interest is not favoured.

(Para. 4.52)

230. Levy of both interest and penalty for defaults in deducting tax at source and paying it to the credit of the Government is justified. Where the default amounts to cheating the Exchequer, criminal prosecution is also a must. No changes in the existing law are, therefore, necessary. On the other hand, the Government should resort to criminal prosecutions more frequently for improving the general level of compliance.

(Para. 4.53)

231. To ensure stricter control, all taxpayers while making their own returns of income should certify that tax has been deducted in accordance with the law, wherever due, from salaries, interest, dividends, etc., paid by them. They should show the amount of tax deducted and the dates when it was paid into the treasury in a schedule, to be provided for the purpose, in the form of return of income.

Persons who are required to deduct tax at source should enclose with the returns of deduction of tax the additional foil of challan which will be available to them when the four-foil challan system recommended for use in the payment of all types of taxes is introduced. Similarly they should also be required by law to quote their permanent account number code in all the tax deduction certificates, challans and returns.

(Para. 4.54)

232. The work relating to the processing of tax deduction returns, watching deduction and payment, and taking enforcement action where needed, should be centralised in every Commissioner's charge and entrusted to a senior officer assisted by one or more officers and adequate staff, who should not have any other work. The officers should also have field staff to make surprise checks to verify compliance with the requirements of the law relating to deduction of tax at source. A centralised register of all persons liable to make deductions of tax at source should be maintained so as to ensure compliance. The permanent account numbers, when introduced, should be made use of in maintaining such a register and in co-relating the deductions made by the payers to the tax credits claimed by the payees. Eventually, such co-relation could be done by computers. In the meantime, a suitable system may be devised to test check that the credit claimed by the payees tallies with the amount deposited by the payer. The Internal Audit should also exercise greater vigilance in checking this aspect. At the same time, the Department should publicise the taxpayers obligations in the matter of deduction of tax at source, etc. The Department can usefully prepare and distribute attractive brochures on the subject to make the public aware of their obligations. Further, in all cases where accounts are audited, the auditor should be under obligation to state in his report whether tax has been deducted at source, where due, and deposited to the credit of the Government in accordance with law.

(Para. 4.55)

233. The provisions of self-assessment in the Income-tax Act as well as Wealth-tax Act should be made applicable to all cases irrespective of the amount of tax. The additional challan foil from the four-foil challan, recommended for use in all types of tax payments, should be enclosed with the return of income. As an alternative, a crossed cheque drawn in favour of the Income-tax Department towards payment of tax due on self-assessment may be enclosed. In either case, the fact of payment should be indicated in the appropriate cage to be provided for the purpose in the form of return of income.

(Para. 4.60)

234. The penalty under section 140A(3) of the Income-tax Act, 1961 and section 15B(3) of the Wealth-tax Act, 1957 for non-payment of tax on self-assessment should be two per cent. of the tax due, which is not paid, for every month of default. However, to avoid hardship to small taxpayers, penalty proceedings need not be invoked as a matter of course where the amount payable on self-assessment does not exceed Rs. 500 or the shortfall in payment does not exceed Rs. 200.

(Para. 4.61)

235. Provisions of section 179 of the Income-tax Act may be amplified to cover all private companies and not merely those in liquidation, and personal liability to tax should in addition to the directors extend to any major shareholder who, along with the shares held by or for the benefit of his spouse and minor children, holds not less than 20 per cent. of the equity shares of the company.

(Para. 4.62)

236. Sections 137 and 516 of the Companies Act, 1956 may be amended to provide that the receiver or liquidator should report to the Registrar of Companies the fact of his having duly notified the Income-tax Officer under section 178 of the Income-tax Act. The Company law should also provide that every company which intends to go into voluntary liquidation should notify the fact to the Income-tax Officer at the time when notices are issued to the shareholders in this behalf.

(Para. 4.63)

237. Provision should be made requiring the Registrar to notify the Income-tax Officer concerned before taking final action under section 560 of the Companies Act to strike off the name of a company.

(Para. 4.64)

238. The scope of section 189(3) of the Income-tax Act should be extended to cover the liability of the partners for tax on the share of profits of the dissolved firm to the extent the amount could have been retained under section 182 (4) of the Income-tax Act.

(Para. 4.65)

239. Section 73(5) of the Estate Duty Act, 1953 may be suitably amended to provide for recovery of duty on the lines of the provisions in the Income-tax Act, 1961.

(Para. 4.66)

240. Government should enter into comprehensive tax treaties with other countries which should include a provision for mutual assistance in the matter of recovery of taxes.

(Para. 4.67)

241. The Department should give wider publicity to auctions of properties belonging to influential persons.

(Para. 4.68)

242. A provision in the Income-tax Act to make Income-tax officials liable to judicial proceedings for wilfully making a false and vexatious assessment is not favoured. As recommended by the Administrative Reforms Commission, the Commissioners and Inspecting Assistant Commissioners should impress on the assessing officers that over-assessment would be noted as a defect indicating want of judgment and a sense of proportion. In addition to making adverse comments in the confidential character rolls, departmental action should be taken against officers who persist in making unreasonably overpitched assessments.

(Para. 4.69)

243. The law should authorise the Inspecting Assistant Commissioner to call for the records of a case on his own motion, or on a reference by the Income-tax Officer, or on a petition made by the assessee, before an assessment is finalised, and issue such directions as he considers fit in the circumstances of the case for completion of the assessment. The directions given will be legally binding on the Income-tax Officer. The law should provide for an opportunity to the assessee of being heard by the Inspecting Assistant Commissioner before any directions prejudicial to him are issued. An explanation may be added to the effect that for this purpose, mere directions as to the lines on which investigation should proceed, or directions which do not result in enhancing any addition proposed by the Income-tax Officer, shall not be deemed to be prejudicial to the assessee.

(Para. 4.70)

244. There should be a provision in the law requiring the Income-tax Officer to send a draft assessment order to the assessee to start with, in all cases where the additions or disallowances proposed to be made in an assessment under section 143(3) exceed in the aggregate Rs. 25,000. Where the taxpayer objects to the assessment being made on the basis of the draft order, he should intimate his objections within 7 days to the Inspecting Assistant Commissioner who will, after hearing the assessee and the Income-tax Officer, pass the final order of assessment himself. For this purpose the Inspecting Assistant Commissioner should have the power to accept, reduce, or enhance the income proposed in the draft order.

(Para. 4.71)

245. Any further reduction in the time limit for making assessments under the Income-tax Act is at present not considered necessary. The Wealth-tax Act and Gift-tax Act may be amended to prescribe a statutory time limit of two years from the end of the assessment year. In the case of Estate Duty Act, the period of limitation for completion of assessment should be four years from the end of the financial year in which the proceedings are commenced. However, the period of limitation for commencement of estate duty proceedings should be enhanced from 5 years to 8 years as for income-tax.

(Para. 4.72)

246. Making hurried assessments in the last few months of the year is neither fair to the assessee nor to the revenue and deserves to be condemned strongly. Income-tax Officers handling major revenue cases should be required to plan their programme of work in advance. As far as possible, the large revenue yielding cases included in the programme may be disposed of by the end of January each year. The programme should be approved by the Inspecting Assistant Commissioner, who should ensure that it is strictly adhered to.

(Para. 4.73)

247. The problem arising from several years' assessments being completed together will disappear once the back-log of assessments is cleared.

(Para. 4.74)

248. The build-up of arrear demands pending disposal of appeals will get reduced when the various recommendations intended to reduce the area of disputes and to expedite settlement of disputes in important cases are implemented.

(Para. 4.75)

249. The recommendations made in the Chapter on Tax Administration for streamlining the administrative set-up will eliminate or substantially reduce delays in issue of notices of demand, in carrying out adjustments or rectifications, in giving effect to appeal orders, etc., all of which tend to aggravate the position of tax arrears. Prompt issue of refunds will help to build up the morale of taxpayers and will create the requisite atmosphere for better compliance in the matter of payment of taxes as well.

(Para 4.76)

250. Arrears also result from unsatisfactory accounting procedures, frequent changes in jurisdiction and greater emphasis on assessment work than on collection work. The accounting procedure and pattern of jurisdiction suggested in the Chapter on Tax Administration will take care of the first two. Functionalisation will take care of the third.

(Para. 4.77)

251. For eliminating the amounts which are not yet due for collection from the amount shown as arrears, the arrears of tax should be accounted for as on 1st July of the year instead of 1st April.

(Para. 4.78)

252. A provision in law to authorise taxpayers to withhold disputed taxes unilaterally is not favoured. Disputed demands which have been stayed should, however, be altogether excluded while reporting arrears. A similar procedure should be followed in respect of demands raised as a result of protective assessments.

(Para. 4.80)

CHAPTER 5: EXEMPTIONS AND DEDUCTIONS

Introductory

253. In a wider sense, all deductions, whether they are allowed in the process of computation of the gross total income or wealth, or in determining the net taxable income or wealth, and all types of rebates, reliefs, abatement of tax, or tax credit, are only different modes of providing exemption from tax.
(Para. 5.1)

254. Most of the exemptions are based on sound rationale and are intended to achieve clearcut economic or social goals. These cannot be given up merely for achieving simplicity in the tax laws.
(Para. 5.3)

255. In reviewing the existing exemptions, the need to accord greater recognition to the social aims and aspirations of the people as also the need for rapid economic growth and for enlargement of job opportunities have been kept in mind.
(Para. 5.5)

256. It is not desirable to limit the benefits of exemptions in the tax laws to the less privileged classes only. Certain ceilings have already been provided, wherever necessary, to ensure that undue advantage of the tax concessions is not derived by taxpayers in higher income brackets.
(Para. 5.6)

257. Any attempt to consolidate the various exemptions into an omnibus allowance would make them highly inelastic and self-defeating.
(Para. 5.7)

258. It is not a practical proposition to link the grant of incentives to the efficient performance of industry.
(Para. 5.8)

259. Taxation can no longer be considered as a mere device for raising resources. It is an important tool for the development of economy and for implementing economic and social policies in a variety of ways. However, there is need for a periodical review of fiscal measures to assess their effectiveness and utility.
(Para. 5.13)

Review of Existing Exemptions, Deductions, etc.

260. Agricultural income should be aggregated with the other income liable to income-tax and taxed in the manner indicated in the Chapter on Black Money and Tax Evasion.
(Para. 5.15)

261. Casual and non-recurring receipts should be taxed in the manner and to the extent recommended in the Chapter on Tax Avoidance.
(Para. 5.16)

262. It is not feasible to extend the present tax concessions available to foreign technicians to those who work as professionals or on job work basis.
(Para. 5.17)

263. Raising of the ceiling of Rs. 24,000 for exemption in respect of gratuity payments is not favoured.
(Para. 5.18)

264. Where the house rent aid by a self-employed individual, living in a town notified in this behalf by the Government, is in excess of 10 per cent. of his gross total income, a deduction should be allowed, in computing his total income, in respect of such excess, subject to a maximum of Rs. 300 per month or 15 per cent. of the gross total income, whichever is less. No distinction need be made for this purpose between furnished and unfurnished accommodation. The deduction should be restricted only to an individual who does not own any house property himself and whose spouse, minor children or the Hindu undivided family of which he is a member, does not own any house property either.
(Para. 5.19)

265. The present circular of the Board on the subject of scrutiny of actual expenses out of special allowances exempt under section 10(14) of the Income-tax Act, should be withdrawn. Instead, instructions should be issued to officers to occasionally check such cases to see that the allowance has actually been spent. Normally, such check should be confined to allowances of more than Rs. 50 per day.
(Para. 5.20)

266. Exemption available in respect of the income of provident and superannuation funds under section 10(25) of the Income-tax Act may be extended to income of gratuity funds also.
(Para. 5.21)

267. The exemption allowed by section 10(27) of the Income-tax Act in respect of income from livestock breeding, poultry and dairy farming may be withdrawn. In order to ensure that small assessees are not hard hit, such income should be includible in the total income only if it exceeds Rs. 3,000 in the aggregate.
(Para. 5.22)

268. In computing salary income, the allowance for books may be raised to Rs. 1,000 from the present limit of Rs. 500.

(Para. 5.24)

269. The present deduction of Rs. 200 p.m. allowable to an employee owning and using a car for the purpose of his employment, and not in receipt of a conveyance allowance, should be raised to Rs. 250 p.m. The allowance admissible to employees, other than car owners, has been increased recently.

(Para. 5.25)

270. The deduction admissible under section 16(ii) of the Income-tax Act in respect of entertainment allowance may be withdrawn.

(Para. 5.26)

271. Self-occupation benefit in respect of an additional house should be admissible only if the two houses are situated at different stations.

(Para. 5.27)

272. The deduction for repairs in computing income from property should continue to be one-sixth of the annual letting value. However, the law may be amended to restrict the allowance to the actual amount spent on repairs in cases where the claim exceeds Rs. 1,000. Where any part of the deduction is disallowed for the reason that the amount has not been spent, it should be carried forward and allowed in any of the following five years to the extent the actual expenditure incurred on repairs in such year exceeds the admissible allowance for that year.

(Para. 5.28)

273. Development rebate has outlived its utility and has been rightly withdrawn.

(Para. 5.29)

274. The Government may consider the following, among others, for purposes of amortisation:—

(a) Lump sum payments for technical know-how;

(b) Expenditure on 'amalgamation' or 'merger' of companies;

(c) Administrative expenses incurred before the commencement of business.

(Para. 5.30)

275. A specific provision in the law may be made to permit deduction, in the computation of income from business or profession, of all expenses pertaining to income-tax appeals, revisions and references.

(Para. 5.31)

276. Any amendment to the law for allowing wealth-tax as an admissible deduction in computing the taxable income is not favoured.

(Para. 5.32)

277. For the purpose of computing capital gains relating to Hindu undivided family property which was previously the property of an individual, a provision similar to that contained in section 49(1) may be made to define the cost in such cases as the cost to the individual who converted the property into family property plus the cost of improvements thereto.

(Para. 5.34)

278. Fees paid to authorised representatives for conducting income-tax proceedings, including appeals, revisions and references, may be allowed as deduction in computing income from all sources.

(Para. 5.35)

279. Extension of the higher limits prescribed under section 80C for authors, playwrights, artists, musicians and actors to cover individuals in other professions is not favoured.

(Para. 5.37)

280. Policies for deferred annuity with cash option should be disqualified from deduction under section 80C of the Income-tax Act.

(Para. 5.38)

281. The scheme of allowing deduction in respect of premia paid for securing retirement annuity may be extended to cover all individuals engaged in business, profession or vocation, whether as proprietors or in partnership.

(Para. 5.40)

282. The deduction in respect of eligible donations under section 80G both for companies and others should be uniformly fixed at 50 per cent.

(Para. 5.41)

283. The deduction under section 80H in case of new industrial undertakings employing displaced persons may be deleted.

(Para. 5.42)

284. The deduction under section 80I of the Income-tax Act in respect of the profits of priority industries may be abolished.

(Para. 5.43)

285. Further liberalisation of the provisions of section 80-O of the Income-tax Act so as to exempt all income derived from foreign sources in consideration of services rendered abroad is not considered necessary.

(Para. 5.44)

286. Co-operative societies should be subjected to company rates of tax on their assessable income.

(Para. 5.46)

287. The exemption of dividends from co-operative societies from levy of tax may be withdrawn. Instead, dividends from co-operative societies may be considered on par with divi-

dends from companies and allowed such benefit as may be admissible under section 80L of the Income-tax Act.

(Para. 5.47)

288. The provisions of section 80QQ of the Income-tax Act, may be amended so as to restrict the deduction to only those cases where no subsidy is received.

(Para. 5.48)

289. Deduction should be allowed at progressively diminishing rates ranging from 25 per cent. to 5 per cent. from the professional income of authors, playwrights, painters and sculptors derived from Indian sources as well.

(Para. 5.49)

290. Any general increase in the wealth-tax exemption limit is not favoured.

(Para. 5.50)

291. Amounts invested by a person in his own business carried on by him as proprietor or in partnership may be exempted from wealth-tax, subject to the limits laid down in section 5(1A) of the Wealth-tax Act. Further, the restriction of six months in section 5(3) of the Wealth-tax Act is unnecessary and may be deleted.

(Para. 5.51)

292. The exemption under section 5(1) (iv) of the Wealth-tax Act should be available only in respect of property used exclusively by the assessee for his residential purposes. As an added incentive, newly constructed residential houses may be exempted for a period of 5 years even if the property is let out. The value of such let out residential property together with the value of self-occupied residential property will be exempt upto a total amount of Rs. 1 lakh.

(Para. 5.52)

293. The basic exemption slab should be available to all taxpayers irrespective of the size of their net wealth.

(Para. 5.53)

294. The proviso to section 5(1)(v) of the Wealth-tax Act may be deleted, but the exemption may be made available only to the author or inventor himself and not to any other person who acquires the patent or copyright by inheritance, contract or otherwise.

(Para. 5.54)

295. Clause (xx) of section 5(1) of the Wealth-tax Act may be amended so as to make the exemption in respect of initial issue of equity share capital of certain companies available for a period of five years from the date of allotment of shares. The exemption may be continued beyond 31st May, 1971.

(Para. 5.55)

296. Clause (iii) of section 5(1) of the Gift-tax Act exempting from gift-tax certain savings certificates may be deleted.

(Para. 5.56)

297. The exemption under section 33(1)(h) of the Estate Duty Act in respect of moneys payable under a life insurance policy effected by the deceased on his life may be raised from Rs. 5,000 to Rs. 10,000.

(Para. 5.57)

298. The word 'female' occurring in section 33(1)(k) of the Estate Duty Act may be omitted.

(Para. 5.58)

299. The exemption in respect of a residential house under section 33(1)(n) of the Estate Duty Act may be rescinded. Instead, it is desirable to raise the basic exemption limit for estate duty.

(Para. 5.59)

300. Property of all civil servants killed in the performance of their duty may be exempted from estate duty.

(Para. 5.60)

301. The basic exemption limit for estate duty may be raised to Rs. 2 lakhs from the present Rs. 50,000.

(Para. 5.61)

Suggestions for Additional Incentives

302. A National Development Fund should be established to which all taxpayers, other than companies, may contribute on a voluntary basis. It may be made clear that the Fund will be earmarked for utilisation by Government on development projects only. The contribution to the Fund in any financial year should be subject to a ceiling of 10 per cent. of the gross total income of the taxpayer or Rs. 20,000, whichever is less. A percentage of the contribution should be allowed as a deduction in computing the total income in the same way as under section 80C of the Income-tax Act, 1961, in respect of contributions to a provident fund or payments towards life insurance premia, viz., 100 per cent. of the first Rs. 1,000 of the qualifying amount, 50 per cent. of the next Rs. 4,000 and 40 per cent. of the balance. However, this deduction should be in addition to that admissible at present under section 80C of the Act. The contributions to the Fund will be blocked for a period of 7 years. The amount on repayment after 7 years will not be liable to tax. The rate of interest may be not less than 4½ per cent. but the interest may be subject to income-tax. As an added incentive, the investment in the Fund may be exempted from wealth-tax also.

(Para. 5.64)

303. Credit facilities may be allowed to taxpayers by the nationalised banks against the collateral security of their deposits in the

National Development Fund within the framework of the credit policy as laid down by the Reserve Bank of India from time to time.

(Para. 5.65)

304. The scheme envisaged in para 5.64 above would help in mobilising the much-needed resources without causing any undue strain on the taxpayers' purse or the revenues and without placing any excessive burden on the administration.

(Para. 5.66)

305. Re-introduction of relief in any form in respect of earned income is not favoured.

(Para. 5.67)

306. Any enlargement of the existing concession in respect of self-occupied property is not considered necessary. At the same time, there is no justification for withdrawing it either.

(Para. 5.68)

307. A deduction of Rs. 5,000 may be allowed under Chapter VI A of the Income-tax Act, in addition to the basic exemption, to a registered medical practitioner who practises in rural areas and does not have a clinic in any urban area.

(Para. 5.69)

308. For encouraging industrialisation of backward areas, a concession in the form of accelerated depreciation—equal to one and one-half times the amount of depreciation which would otherwise have been allowable—may be given to taxpayers who establish new industrial units in notified areas, in respect of their fixed assets.

(Para. 5.70)

309. Tax rebate ranging from 5 per cent. to 10 per cent. of the tax payable may be allowed to an assessee in respect of income derived from a labour-oriented industrial unit newly set up after a specified date. The rebate should be available for a period of 5 years beginning from the year in which the operations commence.

(Para. 5.74)

310. Incentives suggested for employment-oriented industries, a lower capital levy in the case of small companies and the recommendation made for deduction of distributed profits should take care of the small-scale industries, and no additional measures are considered necessary.

(Para. 5.76)

311. A Reconstruction and Stabilisation Reserve Fund may be established to which all companies may contribute upto a maximum of 10 per cent. of their gross total income. The contributions will be allowed to be deducted in arriving at the total income of the companies for tax purposes. To be eligible for deduction, the deposits may be made at any time during the account year or within six months of the close of the account year. The Government will pay interest of 6 per cent. per annum on these deposits and the amount of interest will be subject to tax. Unlike the National Development Fund for the non-corporate sector, no overdraft facilities will be allowed on the security of these deposits. The companies will be free to withdraw at any time upto 50 per cent. of the deposits for current repairs to buildings or plant and machinery, and for research, but the amount withdrawn shall be deemed to be income of the year in which it is withdrawn. The remaining 50 per cent. of the deposits will remain blocked for a period of 5 years during which no withdrawals will be permitted. After 5 years, the amount may be withdrawn with the approval of the Government for expansion and development purposes only, including employees' housing. The amount of withdrawal will not be subjected to tax as income but will be deducted from the cost of assets for purposes of depreciation. The deposits in the Fund will not, however, be exempt from the capital levy suggested in para. 5.89.

(Para. 5.78)

312. An incentive by way of a tax rebate may be allowed to companies, engaged in the manufacture or production of specified goods, to reward additional productivity, i.e., increased utilisation of installed capacity and increased production. The rebate may be in the form of a deduction ranging from 5 to 10 per cent. of the tax payable for every 10 per cent. Increase in output. For this purpose, suitable norms may be evolved by competent authorities for each industry/unit and these may be announced well in advance.

(Para. 5.80)

313. In the case of small companies with paid-up capital not exceeding Rs. 5 lakhs, distributed profits upto 8 per cent. of the paid-up capital or Rs. 25,000, whichever is less, may be totally exempted from tax by allowing the same to be deducted in computing the total income. In the case of companies with paid-up capital exceeding Rs. 5 lakhs, distributed profits upto 8 per cent. of the paid-up capital should be taxed at the rate of 30 per cent. To prevent avoidance of tax by companies enlarging their capital base by issue of bonus shares, the bonus share capital should be excluded for this purpose.

(Para. 5.83)

314. Section 104 of the Income-tax Act relating to compulsory distribution of dividends may be omitted.

(Para. 5.84)

315. All domestic companies, whether public or private, widely-held or closely-held, and industrial or non-industrial, should be taxed at a uniform rate of 55 per cent.

(Paras. 5.85 and 5.87)

316. The existing distinction in the matter of rate of tax applicable to widely-held companies with income not exceeding Rs. 50,000 and others may be done away with, and both taxed at the rate of 55 per cent.

(Para. 5.86)

317. Surtax on companies should be abolished.

(Para. 5.88)

318. A tax on capital of companies may be introduced. Such a tax may be imposed with reference to the valuation date as defined in the Wealth-tax Act, 1957. The capital for this purpose may be defined as 'owned' and 'borrowed' capital of companies and such a tax may be fixed at a general flat rate of 1 per cent.; a differential treatment in the form of either a basic exemption or a lower tax rate may be prescribed for small companies. Even public sector companies should be brought within the purview of such a tax, though it might only mean transfer of the amount from one pocket to another of the Government.

The term 'owned capital' may be defined for this purpose as paid-up capital of the company and reserves, other than reserves for specific contingent liabilities. The term 'borrowed capital' should be defined as an amount calculated at eight times the net interest paid by the company towards borrowings during the year.

New industrial companies may be exempted from the capital levy for a period of five years from the date of their incorporation.

(Para. 5.89)

CHAPTER 6 : TAX ADMINISTRATION

Introductory

319. Shortcomings in tax administration can frustrate even the best of tax policies. The recommendations on tax administration will have to receive precedence if the measures suggested in the other Chapters are to yield the desired results.

(Para. 6.1)

320. The ills that beset the tax administration are many and it is hardly surprising that both tax evasion and tax arrears have assumed menacing proportions.

(Para. 6.2)

321. Though additions to the numerical strength at various levels have been made from time to time, they were not commensurate with the increased work-load.

(Para. 6.4)

322. Without certain basic changes in its set-up and methods, the tax administration will not be in a position to meet the challenge posed by the increasing number of taxpayers as also of tax dodgers and defaulters.

(Para. 6.5)

Organisational Set-up

323. The Central Board of Direct Taxes, which is the creation of a statute, viz., the Central Board of Revenue Act, 1963, should be reconstituted as an independent and autonomous Board with five Members, including its Chairman, but excluding Member (Finance), if any. The Chairman and Members should have the same status and draw, respectively, the same emoluments as a Secretary and Additional Secretaries to the Government of India and should be appointed as a rule from among the personnel of the Income-tax Service. The Government should scrupulously respect its autonomy and independence and should refrain from giving any directions in individual cases, though it could issue directions of a general nature. The Board will submit to the Parliament an annual report on the management and performance of the Department.

(Para. 6.11)

324. The Central Board of Direct Taxes should not be a part of the Ministry of Finance. As it happens, the Secretariat officers function in an environment where they are susceptible to political influences. It is of the highest importance that in matters of taxation, the rule of law prevails strictly and impartially and there should be no outside influence. The direct tax laws administration should be insulated from political pressures and the Government should publicly declare that by constituting an independent Board, they intend to respect its autonomy both in law and practice.

(Para. 6.12)

325. The Central Board of Direct Taxes should ordinarily act as a body on all matters of general importance.

(Para. 6.15)

326. A senior Member of the Central Board of Direct Taxes should be made responsible for matters relating to personnel. He should also be responsible for vigilance functions and administrative planning relating to both men and facilities.

(Para. 6.16)

327. The Board should be given larger financial powers by making a separate delegation of financial powers in respect of it on the lines of the P. & T. Board on its re-organisation in 1959. A procedure may also be evolved by which the Board is enabled to exercise its financial powers effectively. Such powers are absolutely necessary if the Board is to discharge adequately its responsibility of running the Department efficiently.

(Para. 6.17)

328. Officers posted in the office of the Central Board of Direct Taxes should continue to draw special pay as at present. These officers should hold the posts on a fixed tenure of not more than five years.

(Para. 6.18)

329. There is no case for abolishing the Directorates of Inspection altogether.

(Para. 6.20)

330. A Member of the Central Board of Direct Taxes should be in direct charge of intelligence and investigation work. The Directorate of Inspection (Investigation) may be abolished.

(Para. 6.21)

331. No changes are considered necessary in the set-up and functions of the Directorate of Inspection (Income-tax and Audit).

(Para. 6.22)

332. The present Directorate of Inspection (Research, Statistics and Publication) should be split up into two distinct units, one a Directorate of Publications and Public Relations, and the other a Directorate of Research and Statistics.

(Para. 6.23)

333. The Directorate of Publications and Public Relations should be in charge of all publications required for the guidance of the officials and for the education of taxpayers. The Directorate should also arrange to produce material for effective taxpayer education on the lines recommended elsewhere in this report.

(Para. 6.24)

334. As research and statistics are interdependent, the two should be under one Directorate. The Directorate of Research and Statistics should be organised and developed as a Tax Research Institute within the Department. It should be headed by a person with requisite academic qualifications and research experience, and manned by persons having the necessary background and aptitude for research work, irrespective of their seniority. Officers posted to the Institute should be retained there for a sufficiently long time to enable them to make a worthwhile contribution.

(Para. 6.25)

335. There is wide scope for intelligent and useful research work relating to taxation.

(Para. 6.26)

336. Specialised statistics may be compiled for companies and issued separately, after making suitable changes in the statistical forms. Simplified statistics may be evolved for the large number of 'summary' assessments of non-company assessees that will be made on the basis of the returns. Statistics can be diversified in a veriety of other ways to provide additional information.

(Para 6.27)

337. Modern methods of compilation and processing of statistics should be adopted, leading to computerised data processing so as to facilitate their publication soon after the close of the financial year. For this purpose, some officers of the Department may be deputed for training, and their services utilised for organising the work on sound and modern lines. To clear the back-log, the Department should seek the assistance of outside agencies and bring the work of compilation and publication of statistics up to date.

(Para. 6.28)

338. The O. & P. Division of the Board should be wound up and instead a separate Directorate should be created for carrying out organisation and methods studies and developing organisational patterns and procedures to suit the changing complexion of law and work.

(Para. 6.29)

339. The Directorate of Organisation and Methods will be responsible for systems and procedures analysis, job surveys, planning office layout, advising on equipment, etc.

(Para. 6.30)

340. This Directorate can assist in eliminating useless forms, reports and registers. No form, report or register should be introduced at any level without its approval. Further, it should give particular attention to the design and get-up of the forms and registers in use.

(Para. 6.31)

341. The Directorate of Organisation and Methods should, on the basis of appropriate studies, prescribe realistic performance targets and formulate precise and accurate methods of judging output at all levels.

(Para. 6.32)

342. The Directors in charge of the Directorates should, as at present, be of the rank of Commissioners and draw a special pay. Their duties involve specialist functions and their selection should be made on the basis of merit, rather than on the basis of seniority. The Deputy Directors and Assistant Directors should similarly be selected on the basis of their background, qualifications and aptitude for particular type of work, rather than seniority. The special pay for them which is at present Rs. 150 and Rs. 75, should be raised to Rs. 300 and Rs. 200 respectively.

The designation of the Directors should be changed as Directors General and the Directorates themselves should be renamed as Directorate General of Income-tax (Inspection and Audit), Directorate General of Income-tax (Publications and Public Relations) Directorate General of Income-tax (Research and Statistics) and Directorate General of Income-tax (Organisation and Methods). The Deputy Directors and Assistant Directors may also be redesignated as Deputy Directors General and Assistant Directors General respectively.

The staff in the Directorates should be selected from the Commissioners' charges on the basis of their confidential rolls and they should be posted in the next higher grade in the Directorate on tenure basis and they should continue to be entitled to take departmental examinations for Inspectors and Income-tax Officers Class II.

(Para. 6.33)

343. The suggestion to create an intermediate level of authority between the Board and the Commissioners, designated as Regional Commissioner, is not approved.

(Para. 6.34)

344. Recently, the pressure of work on the Commissioners has been sought to be relieved by delegating some of their work to a new cadre of Additional Commissioners who function as parallel authorities not subordinate to the Commissioners. The real remedy lies in increasing the number of Commissioners and creating smaller charges with manageable work-

load. The Commissioners' charges should be so reorganised and their number so increased that each Commissioner may have not more than 40 Income-tax Officers under him.

(Para. 6.36)

345. Since most of the States have more than one Commissioner, headquarters of different Commissioners should be situated in different cities.

(Para. 6.37)

346. City charges should remain joint as at present, with the senior Commissioner drawing special pay and being in charge of administration. Where necessary, he could be assisted by an Additional Commissioner.

(Para. 6.38)

347. Each Commissioner should have only one Income-tax Officer at the headquarters to act as head of office and to attend to routine office administration only. In addition, the Commissioners will have expert staff assistance to enable them to give instructions in, and follow up, every prosecution case to its logical end.

(Para. 6.39)

348. The Additional Commissioner should be administratively subordinate to the Commissioner so that he fits into the hierarchy, assumes authority over those below in the line and becomes responsible to those above.

(Para. 6.40)

349. An Additional Commissioner may be entrusted with any one of the following duties:

(a) To be in charge of recovery of taxes;

(b) To assist senior Commissioners in city charges, where necessary, in administration;

(c) To hear appeals against orders of assessment passed by Assistant Commissioners.

(Para. 6.41)

350. An Inspecting Assistant Commissioner should not have more than 10 Income-tax Officers under him.

(Para. 6.42)

351. The suggestion that all posts of Income-tax Officers Class II should be converted into Class I is not approved. What needs to be done is to classify jobs according to their importance and then assign cases to officers according to the degree of responsibility involved.

(Para. 6.43)

352. Posts of Head Clerks and Supervisors which are open to unqualified Upper Division Clerks should be replaced by posts of Inspectors (Supervision). The posts of Inspectors (Field) and Inspectors (Supervision) should be interchangeable.

(Para. 6.44)

353. One-third of the present cadre strength of Upper Division Clerks may be upgraded to a higher cadre of Tax Assistants to be posted in companies circles and investigation circles in place of Upper Division Clerks. The post of Tax Assistant should be a selection post.

(Para. 6.45)

354. Posts of Lower Division Clerks are meant for routine duties and their cadre strength should be kept at a minimum.

(Para. 6.46)

Personnel Policy

355. Personnel policy is an integral part of any administrative system. There have been certain glaring anomalies and obvious inconsistencies in the policy hitherto followed by the Department in the matter of recruitment, promotions, job classifications, etc.

(Paras. 6.47 to 6.49)

356. With a view to ensuring that persons of high calibre may be recruited to the Service the candidates who take the combined competitive examination and opt for the Income-tax Service should also be required to take two additional papers as for the Indian Administrative Service and Indian Foreign Service. For the Income-tax Service, preference should be given to candidates with law and accountancy qualifications.

(Para. 6.50)

357. The Class II cadre in the Income-tax Department should be filled up exclusively by promotion from the non-gazetted grades below.

(Para. 6.51)

358. Direct recruitment to the grades of Inspector and Upper Division Clerk should be made through a competitive examination open to graduates only.

(Para. 6.52)

359. Merit and merit alone should be the criterion for appointment to higher posts and this principle should not remain a mere theory but should be markedly evident in practice.

(Paras. 6.53 to 6.55)

360. Utmost care has to be taken to ensure objectivity in assessing the performance of the officers, and suitable additional norms may also be evolved.

(Para. 6.56)

361. All vacancies in the grade of Income-tax Officer Class II should be filled up on the basis of merit by promoting qualified Inspectors, who have passed the departmental examination for Income-tax Officers.

(Para. 6.57)

362. With immediate effect, the quota of promotions from Class II to Class I should be temporarily raised to 66-2/3 per cent. till such

time as all the surplus promotee officers in Cass I, including the recent *ad hoc* promotees, are absorbed. In view of the suggested increase in quota, the weightage in seniority for promotee officers may be reduced to a period of 18 months. There should be no promotions to Class I till the present excess is fully absorbed.

(Para. 6.58)

363. After the present excess has been absorbed, the quota should be revised to 66-2/3 per cent. for direct recruits and 33-1/3 per cent. for promotions. There should be two scales for Income-tax Officers Class I, a senior scale and a junior scale, as in the Indian Administrative Service. Class II officers should be eligible for promotion on the basis of merit to the senior scale in Class I after 10 years of qualifying service. The number of promotions in each year will be so adjusted that the percentage of all promotee officers in the senior duty posts remains at 33-1/3 per cent. Such promoted officers will have their seniority in Class I (senior scale) with effect from the date of continuous appointment to Class I, provided there is a vacancy in the prescribed quota of 33-1/3 per cent. of senior duty posts.

(Para. 6.59)

364. Promotions to the grade of Assistant Commissioners, Additional Commissioners, Commissioners and Members of the Board should be made strictly according to merit.

(Para. 6.60)

365. 20 per cent. of the vacancies in the grade of Upper Division Clerks should be filled by promoting Lower Division Clerks, subject to availability of of suitable candidates. The promotion should be on the basis of seniority-cum-fitness, subject to qualifying in a departmental test.

(Para. 6.61)

366. Vacancies in the grade of Tax Assistants should be filled up entirely by promoting qualified Upper Division Clerks on the basis of merit.

(Para. 6.62)

367. 50 per cent of the vacancies in the Inspectors' grade should be filled up on the basis of merit by promoting qualified Tax Assistants and Upper Division Clerks, who have passed the departmental examination for Inspectors. Stenographers should also be allowed to take the departmental examination for Inspectors and those who qualify should be considered along with Upper Division Clerks and Tax Assistants for promotion as Inspectors.

(Para. 6.63)

368. The need to be generous in the matter of pay scales assumes special significance in a revenue department where officers have to deal with wealthy and powerful taxpayers and have to resist the temptations placed in their way.

(Paras. 6.64 to 6.66)

369. The pay scales of the Income-tax Service should be brought on par with those of the Indian Administrative Service. The present Class I scale for Income-tax Officers may be split up into a senior scale and a junior scale. The following pay scales are recommended for the officers in the Income-tax Department:—

Income-tax Officer Class II—Rs. 400—40—800—50—1,000.

Income-tax Officer Class I—Junior scale—Rs. 450—50—1,000.

Senior scale—Rs. 900 (6th year or under)—50—1,200—60—1,800.

Assistant Commissioner—Rs. 1,800—100—2,000.

Additional Commissioner—Rs. 2,000—125/2 2,250.

Commissioner—Rs. 2,500—125/2—2750.

Member—Rs. 3,000.

Chairman—Rs. 3,500.

If any changes are made in the pay scales of the Indian Administrative Service as a result of the recommendations of the Third Pay Commission, the scales in the Income-tax Service should be correspondingly revised.

(Para. 6.67)

370. Officers of the Income-tax Department promoted from Class II to Class I should get the benefit given to the other Established Services. In the new pay scales recommended, the pay of an officer promoted from Class II to the senior scale of Class I should be so fixed that he gets a minimum increase in pay of Rs. 150 per month.

(Para. 6.68)

371. Class II officers who are required to hold charges meant for senior Class I Officers should be compensated for the higher responsibilities that they are required to shoulder, by the grant of an officiating or charge allowance of Rs. 150 per month in addition to their grade pay in Class II.

(Para. 6.69)

372. The following pay scales are recommended for the non-gazetted staff:—

Inspector—300—15—420—20—600.

Tax Assistant—Rs. 300—15—450.

Upper Division Clerk—Rs. 200—10—350.

Lower Division Clerk—Rs. 150—5—200—10—250.

The scale of pay for Stenographer should be the same as for those in the Central Secretariat. For the Class IV Staff, the pay scales may be the same as prevailing in other departments.

(Para. 6.70)

373. The pay scales recommended are *exclusive* of all allowances, such as dearness allowance/pay, compensatory allowance, house rent allowance, etc.

(Para. 6.70)

374. Class I Income-tax Officers in the proposed senior scale should be designated as Assistant Commissioners or in the alternative, as Senior Income-tax Officers.

(Para. 6.72)

375. Assistant Commissioners in the Income-tax Department should be redesignated as Deputy Commissioners, irrespective of the change in the designation of Income-tax Officers Class I. They may be called Deputy Commissioners of Income-tax (Appeals), (Inspection) or (Assessment), depending on the duties assigned.

(Para. 6.73)

376. Sending officers on deputation helps to broaden their vision and develop their personality and gives them a varied experience. A much larger percentage of the officers of the Income-tax Service should be deputed to other departments, such as Foreign Trade and Campany Law, and public sector undertakings like the Life Insurance Corporation, banks, etc.

(Para. 6.75)

377. Training facilities in the Income-tax Department are woefully inadequate. The lack of adequate training facilities has contributed in no small measure to the prevailing inefficiency in the Department. Urgent steps are required to be taken to revitalise the training wing of the Department. The Head of the Staff College should be re-designated as Director General of Training and allowed a special pay in addition to his pay as Commissioner. He should be in over-all charge of all training establishments. There should be a cell under the Director General for preparing specialiesd training manuals for all trainees, whether officers or clerical or executive staff.

(Paras. 6.76 to 6.82)

378. The training institution at Nagpur should be provided with qualified whole-time instructors of the rank of Assistant Commissioners, one for each subject. The institution should be equipped with modern teaching aids and there should be a good library to cater adequately to the requirements of the large number of trainees. The probationary officers on their first posting should be attached with senior Income-tax Officers for practical training for a period of six months. Apart from the initial training course for directly recruited Class I officers, the College should run refresher courses of two months' duration for Class I Income-tax Officers who should be required to attend the course at least twice before they are promoted as Assistant Commissioners. Specialised courses in investigation and intelligence for officers should also be conducted. The institution should also arrange to train instructors at all levels. The services of the perosns so trained may then be utilised as instructors.

(Para. 6.83)

379. There should be adequate arrangements for the lodging of trainees and each one of them should be provided with an independent room with attached toilet facilities. Similarly, there should be adequate provision for both indoor and outdoor games.

(Para. 6.84)

380. As in the Indian Administrative Service, the seniority of probationary Class I Income-tax Officers should be determined taking into account their record in the Staff College and the marks obtained by them in the competitive examination as also in departmental examinations.

(Para. 6.85)

381. The Tax Research Institute should arrange to conduct orientation courses for senior officers like Commissioners, Additional Commissioners and Assistant Commissioners. Every officer newly promoted to these grades should attend this course, which should include training in management.

(Para. 6.86)

382. Zonal/Regional training institutions should be established for initial training of Income-tax Officers Class II and Inspectors and also for periodical refresher courses for them.

(Para. 6.87)

383. No member of the clerical staff should be put on regular work unless he has completed a prescribed course of initial training. At each Commissioner's headquarters, local arrangements should be made for training newly recruited Lower Division and Upper Division Clerks. One Income-tax Officer Class II should be exclusively in charge of such training. Officers, and experienced and senior members of the staff, should be asked to give lectures to the trainees, for which they should be paid honoraria. Adequate arrangements should also be made to impart intensive practical training. During training, there should be fortnightly tests for the trainees.

(Para. 6.88)

384. There should be a system of in-service training for Upper Division Clerks for a fortnight or so every year. The Department may introduce a system of postal tuition.

(Para. 6.89)

385. Adequate number of reserve posts should be created in each grade to provide sufficient cushion at all levels so that the normal functioning of the tax offices does not suffer by reason of the officials being away on training or on leave.

(Para. 6.90)

386. The Board should give top priority to construction of adequate office accommodation at all places and the provision of suitable furniture and other essential facilities and aids for work.

(Para. 6.91)

387. Every officer should be provided with a set of Income-tax Reports to enable him to keep himself up to date in case-law, and well-equipped reference libraries should be established in all bigger offices.

(Para. 6.92)

388. Forms should be supplied sufficiently in advance and in adequate quantities so that work does not get dislocated on account of chronic shortages, from which the Department now seems to suffer. If adequate and prompt supply from the forms Store by the prescribed date cannot be ensured, the Board/Commissioners should have full powers to get the forms printed elsewhere.

(Para. 6.92)

389. Simple mechanical aids such as calculators, tabulators, addressographs, numbering machines, copying machines, electrical typewriters, etc., should be provided in adequate numbers to the tax offices, depending on the type of work required to be done. Electronic equipment such as computers could be used for processing statistics, checking tax deduction statements, matching information and such other bulk jobs.

(Para. 6.93)

390. The Directorate General of Organisation and Methods should, on the basis of studies, evolve organisational patterns and prescribe the strength of personnel required for each unit on a rational basis. Thereafter, advance planning will be necessary to ensure that the Department is adequately staffed in all its offices at all times.

(Para. 6.94)

391. Officers should ordinarily stay at one place for a minimum of 3 to 5 years. While transferring officers, the problem of language, medium of school instruction, etc., should be given due consideration. The present rule of six years' stay in a charge for the purposes of inter-charge transfer should go.

(Para. 6.95)

392. Officers in a revenue department should not be placed in a situation where they have to depend on taxpayers for their personal needs. The Department should undertake a crash programme for providing adequate housing facilities in all stations to its officers and staff, particularly those liable to frequent transfers. Pending construction of quarters, which is likely to take time, the Government should take on lease private houses and allot them to the officers and staff of the Income-tax Department on the same terms as Government accommodation.

(Para. 6.96)

393. For Inspectors and clerical staff, a system of granting advance increments for good work should be introduced.

(Para 6.97)

394. The vigilance machinery of the Department should be adequately strengthened. Every Commissioner should keep a close watch on the undesirable elements in his charge and should be required to send to the Board a half-yearly report on suspect officers with a bad reputation.

(Para. 6.98)

395. A statement of net worth, on the same pattern as suggested for adoption as a schedule to the income-tax return, should be prescribed for submission by all officers every year to their respective Heads of Departments. In the Income-tax Department, these statements will be forwarded, after scrutiny, by the Commissioners to the Central Board of Direct Taxes. Certain percentage of these statements will be checked by the Member (Personnel) of the Board.

(Para. 6.99)

Procedures and Methods of Work

396. The efficiency of an administration depends to a large extent on the efficacy of its procedures and methods.

(Para. 6.100)

397. The set-up in which the Income-tax Officer functions on the basis of fixed jurisdiction is unsuited to the present day requirements.

(Paras. 6.101 to 6.104)

398. The Inspecting Assistant Commissioner's Range should be constituted as the basic jurisdictional unit. The Range may consist of a specified territory or have specified class of cases or even individual cases assigned to it. The Inspecting Assistant Commissioner and all the Income-tax Officers in his Range will have concurrent jurisdiction over all the cases in the Range. The distribution of cases as also the functions among the Income-tax Officers in the Range should be within the administrative competence of the Inspecting Assistant Commissioner. The Range will also be a managerial and administrative unit, with the Inspecting Assistant Commissioner planning, controlling and co-ordinating all the functions therein.

(Para. 6.105)

399. Section 124 of the Income-tax Act may be amended so as to clarify that concurrent jurisdiction might be exercised in respect of the same function relating to the same person or case.

Section 125 may be further amended to provide that the jurisdiction to perform functions of the Income-tax Officer might be held by the Inspecting Assistant Commissioner concurrently with the Income-tax Officers in his Range.

Section 119 may be amplified or a new section inserted to empower the Inspecting Assistant Commissioner to issue instructions to the Income-tax Officers even in individual cases on the lines suggested in the Chapter on Tax Arrears.

Similar provisions may also be made in the Wealth-tax Act and the Gift-tax Act.

(Para. 6.106)

400. Assessment and collection are distinct functions and their separation is absolutely necessary in the interest of both the taxpayer and the Department. The functional system should continue. The Government may, however, review the position of sub-division of functions in the assessment unit, particularly in the context of the new procedure for acceptance of returns in a large majority of cases. Steps should also be taken to improve the working of the scheme by providing adequate and trained staff and proper office accommodation, by improving storage facilities and filing procedures, and by tightening up supervision and control, and ensuring co-ordinated functioning. Items of work should be disposed of in a chronological order and watch kept on the age of pending items. The Inspecting Assistant Commissioner's Range should constitute a functional unit and the Inspecting Assistant Commissioner should be made responsible for its proper administration and co-ordination.

(Paras. 6.107 and 6.108)

401. Separate staff for weeding should be provided by posting one or two weeders to each record room. A system of weeding should be evolved wherein the weeding notation is shown at the top of every paper as it is filed. It is also necessary that all papers in a file should be serially page-numbered.

(Para. 6.108)

402. Cases should be re-categorised as follows, irrespective of the source of income:

Category I—All cases with income exceeding Rs. 50,000.

Category II—Cases with income exceeding Rs. 25,000 but not exceeding Rs. 50,000, and also loss cases.

Category III—Cases with income exceeding Rs. 15,000 but not exceeding Rs. 25,000.

Category IV—All other cases.

(Para. 6.109)

403. Class II Officers and junior Class I Officers should be entrusted with assessment work under section 143(1) of the Income-tax Act as also scrutiny cases where assessments have been re-opened under clause (a) of section 143(2) on assessees' request and other scrutiny cases where the income does not exceed Rs. 25,000. All scrutiny cases with income above Rs. 25,000 and all investigation cases should be entrusted to senior Class I Income-tax Officers.

(Para. 6.111)

404. Assistant Commissioners should be entrusted with assessment work in all tax fraud cases and high revenue potential cases.

(Para. 6.112)

405. Steps should be taken immediately to classify all assessment charges according to the degree of responsibilities involved on the lines suggested above. The Board should scrupulously avoid posting junior officers to senior charges, except as a purely temporary measures for short duration.

(Para. 6.112)

406. Sections 193 and 194 of the Income-tax Act may be suitably amended so as to exempt payments of dividend and interest on securities not exceeding Rs. 200 to a person at a time from deduction of tax at source.

(Para. 6.114)

407. All deductions other than those by or on behalf of the Government may be required to be paid to the credit of the Government by the 10th day of the month next following the month in which the deduction is made.

(Para. 6.115)

408. The present system of the Department issuing notices for payment of advance tax should continue.

(Para. 6.117)

409. Making the last assessed tax as the basis for advance tax demand is not favoured.

(Para. 6.118)

410. The provisions of section 212(3A) of the Income-tax Act should continue but its application should be restricted to companies only and the margin of 33-1/3 per cent. should be reduced to 25 per cent.

(Para. 6.119)

411. Both interest and penal provisions should continue for dealing effectively with non-compliance or improper compliance with the requirements of law relating to filing of estimate and payment of advance tax.

(Para. 6.120)

412. The Gift-tax Act may be amended to authorise the taxpayer to take credit for the discount for advance payment and pay only 9/10 of the gift-tax due in the first instance itself.

(Para. 6.121)

413. The practice of issuing notices in all cases under section 139(2) of the Income-tax Act should be discontinued. Return forms should, however, be mailed to all listed taxpayers in the month of May every financial year by ordinary post.

(Para. 6.122)

414. It should not be necessary that before a notice under section 142(1) can be issued, the notice under section 139(2) must have been served. Section 142(1) may be amended and the word 'served' substituted by the word 'issued' with reference to the notice under section 139(2) of the Income-tax Act.

(Para. 6.123)

415. Persons having only income from salary and no other income, in whose case tax has been correctly deducted at source, may be exempted from the liability to file returns under section 139(1) of the Act, if the gross salary does not exceed Rs. 15,000.

(Para. 6.124)

416. To facilitate filing of returns, counters may be opened in each Inspecting Assistant Commissioner's Range for receiving returns, whether sent through post or by messenger. In mofussil charges, however, where the Inspecting Assistant Commissioner's Range will cover several towns, such centralisation will not be possible and arrangements for receipt of returns should be made in each tax circle.

(Para. 6.124)

417. To facilitate refund of excess advance tax collected, section 141A of the Income-tax Act may be amended to provide that the provisional assessment contemplated thereunder shall be made within six months from the date of filing of the return.

(Para. 6.125)

418. Selection of cases for scrutiny should be on random sampling basis and of such percentage of cases as will be consistent with the interest of revenue and availability of manpower.

(Para. 6.126)

419. It is not considered desirable to lay down a rigid procedure that in every case selected for scrutiny the accounts of 3 or 4 years should be examined.

(Para. 6.127)

420. In an attempt to clear the back-log of pending assessment, disposal targets have been stretched in recent years beyond the capacity of the Officers and staff. The directorate of Organisation and Methods should help to evolve practical and rational work norms.

(Para. 6.128)

421. Raising of the income-tax exemption limit from its present level is not favoured.

(Para. 6.129)

422. The collection and accounting machinery and procedures of the Department require to be streamlined.

(Para. 6.131)

423. Taxpayers should be supplied with challan forms on the pattern of bank pay-in slips which they could themselves fill in and sign and utilise for making tax payments. Separate challan forms will be necessary for income-tax, tax deducted at source, wealthtax, gift-tax, etc. To eliminate possibilities of challans going astray on account of incomplete or incorrect particulars, the taxpayers may be properly educated to quote invariably their permanent account numbers. Where payment is made in response to a notice of demnad, the taxpayer should also reproduce the Demand and Collections Register entry number (which should be indicated on the demand notice) at the appropriate places on all the foils of the challan. Treasuries/banks may be suitably instructed not to accept payments unless the relevant cages on the challan are properly filled in.

(Para. 6.135)

424. Four-foil challans should be introduced for all types of tax payments. While credit may be given to the taxpayer in the first instance on the basis of the additional foil, the Department must verify the payment with reference to original records.

(Para. 6.136)

425. Additional facilities for payment of tax should be provided in all big cities and major towns by opening branches of the State Bank in the premises of Income-tax offices. Additional counters could be opened seasonally when advance tax payments or payments of self-assessment tax become due. The suggestion that the Department itself should operate cash counters at the Income-tax offices is not favoured.

The suggestion that all nationalised banks should be authorised to receive payments of tax is not favoured. However, banks could, as part of their service to their account holders, arrange tax payments at the appropriate receiving offices and secure the challan receipts for them.

(Para. 6.137)

426. The separation of assessment and collection functions should be extended to cover all multi-officer Income-tax circles. In due course, the entire collection work in the city charges could be centralised and taxpayers' accounts maintained on the basis of permanent account numbers.

(Para. 6.138)

427. Ledger cards should be maintained in arrears cases where more than one year's demand is outstanding. In all cases where ledger cards are maintained, half-yearly statements of ac-

counts should be sent to the concerned taxpayers.

(Para. 6.139)

428. A simple and effective collection and accounting procedure is outlined in Appendix IX, which does not make too much of a deviation from the present procedure with which the Departmental personnel have been familiar over the years.

An annual reconciliation of the amounts of advance tax and self-assessment tax adjusted in any year should be made with the actual amounts paid in the respective years.

(Para. 6.140)

429. The Internal Audit Wing of the Department should exercise greater vigilance and check over the accounts of the Department.

(Para. 6.141)

430. Disciplinary action should be initiated in all cases where the refund voucher does not issue within seven days of the passing of the order.

(Para. 6.142)

431. Refund vouchers may be replaced by cheques and the system of advice note discontinued except in case of refunds exceeding Rs. 1 lakh.

(Para. 6.143)

432. Section 245 of the Income-tax Act may be suitably amended to give the taxpayer the right to set off the amount, or any part thereof, of any refund due to him, in consequence of an order of assessment, appeal or revision, against any sum payable by him under the Income-tax Act, after giving an intimation to the Income-tax Officer of the proposed adjustment. To start with, this adjustment may not be allowed against payment of advance tax.

(Para. 6.144)

433. It is not feasible to allow interest on refunds upto the date of delivery of the refund voucher.

(Para. 6.145)

434. Completion of assessments on the basis of returns in most of the small cases, and avoiding over-pitched assessments in others, will reduce the number of appeals, and the man-power released can be diverted to making more and better assessments.

(Para. 6.146)

435. The suggestion that Appellate Assistant Commissioners should be placed outside the administrative control of the Central Board of Direct Taxes is not favoured.

(Para. 6.147)

436. Administrative control over the Appellate Assistant Commissioners should remain with the Board, and the Director of Inspection should carry out inspection of their offices once at least in every five years.

(Para. 6.148)

437. The suggestion that appeals in big cases should be heard by two Appellate Assistant Commissioners or that the Department should also be represented before the Appellate Assistant Commissioner is not favoured.

(Para. 6.149)

438. The suggestion that Tribunal Benches with more than two Members should be constituted for hearing bigger appeals or that single-Member Benches should be done away with is not approved as that would mean unnecessary wastage of man-power.

(Para. 6.150)

439. Assistant Commissioners with law qualifications and not less than three years' service as Appellate Assistant Commissioner or Senior Authorised Representative may be made eligible to apply for the post of judicial Member in the Appellate Tribunal.

(Para. 6.151)

440. The revisionary powers of Commissioners should continue but they should be exercised by the Commissioner himself and not by an Additional Commissioner.

(Para. 6.152)

441. The Income-tax Act may be suitably amended to provide for the creation of permanent Tax Benches in the High Courts. The Tax Benches should sit continuously so long as there is sufficient income-tax work to be attended to. To clear the present back-log in some of the High Courts, retired Judges may, if necessary, be appointed under Article 224A of the Constitution.

(Para. 6.153)

442. In order that provisions of section 257 of the Income-tax Act are invoked more often, the Commissioners should be advised to apply to the Tribunal for making direct references to the Supreme Court in appropriate cases.

(Para. 6.154)

443. Rule 29 of the Income-tax Appellate Tribunal Rules is adequate and no further provisions are necessary to bar admission of additional evidence at the appeal stage in cases where evidence was not produced at the assessment stage.

(Para. 6.155)

444. Section 146 of the Income-tax Act should remain. However, an application under section 146 should be disposed of within 30 days and the time limit for appealing against an *ex-parte* assessment should be 30 days from the

date of service of an order rejecting the application under section 146, where such application has been made.

(Para. 6.156)

445. Appellate Assistant Commissioners should invariably give a recomputation of the income in their orders.

(Para. 6.157)

446. In every case, a copy of the appeal order should be forwarded to the officer who passed the order appealed against, where the order has been substantially modified or reversed.

(Para. 6.158)

447. The special pay for Authorised Representatives should be raised to Rs. 300 p.m. for Assistant Commissioners and Rs. 200 p.m. for Income-tax Officers.

(Para. 6.159)

448. In future, only qualified accountants and lawyers should be allowed to represent assessees before the tax authorities. Clauses (v) and (vi) of section 288(2) of the Income-tax Act may be deleted. There should, however, be no objection to B. Coms. and others assisting in the preparation of tax returns of assessees.

(Para. 6.160)

449. Section 288(3), which imposes a two year restriction on an officer of the Income-tax Department who has retired or resigned but is otherwise qualified to represent an assessee before tax authorities, may be dropped.

(Para. 6.161)

450. The law may be amended to enable the Income-tax Officer to pass a single order in respect of penalties under clauses (a), (b) and (c) of section 271(1) and section 273 of the Income-tax Act. Similar provisions may also be made in the Wealth-tax Act and Gift-tax Act.

(Para. 6.162)

451. The requirement under section 274(2) of the Income-tax Act, section 18(3) of the Wealth-tax Act and section 17(3) of the Gift-tax Act that penalties for concealment or furnishing of inaccurate particulars of income, wealth or gift, should under certain circumstances, be levied by the Inspecting Assistant Commissioner, may be done away with. Instead, it may be provided that in cases of this type where the assessment has been made by the Income-tax Officer, he should himself levy the penalty with the previous approval of the Inspecting Assistant Commissioner.

(Para. 6.163)

452. Certain conventions should be evolved that only such information as can readily be furnished from the registers, reports and compilations available with the Department is furnished in response to Parliament questions. Where information has to be culled from individual files, the Board must explain to the Minister that the time and effort required for collection of the information may be unduly high and he may seek instructions from the Parliament in this behalf.

(Para. 6.164)

453. Suggestions from the staff and officers should be encouraged by grant of suitable awards for such of them as are accepted and result in improvement of work or savings.

(Para. 6.165)

454. Plans and programmes trigger the administrative machinery into action and as such have an important role to play in any organisation. This important management concept has not received the attention it deserves in the Income-tax Department in India.

A special planning and programming cell should be created in the Board. The cell should be equipped with trained personnel and modern aids.

(Para. 6.166)

455. Steps should be taken to evolve methods and measures for ensuring planned operations and adequate disposal at the clerical level so that, when necessary, responsibility can be fixed for acts of omission and commission.

(Para. 6.167)

456. It is the prime duty of managers at different levels to peruse and study reports themselves and not depend on clerical assistance for comments. Reports which the top level managers do not consider necessary to personally peruse, can probably be eliminated altogether.

(Para. 6.167)

457. The quality of supervision in tax offices at various levels needs to be improved.

(Para. 6.168)

458. The administrative inspection of income-tax offices should also be done by the Inspecting Assistant Commissioner. Similarly, the inspection of the Inspecting Assistant Commissioner's office should be done by the Commissioner also. The inspection of the Appellate Assistant Commissioner's office should continue to be done by the Director of Inspection. The inspections should be carried out by the Inspecting Officers themselves and not left to their subordinate staff. The Income-tax offices and the offices of the Inspecting Assistant Commissioners should be inspected once a year. The Appellate Assistant Commissioner's office should be inspected once at least in five years.

(Para 6.169)

459. Inspection reports on the technical work should only comment on the Income-tax Officer's handling of the cases, and generally review his performance during the year.

(Para. 6.170)

460. The present organisation and functions of Internal Audit are broadly approved. How-

ever, it should exercise greater vigilance and check over the accounts of the Department. Internal Audit should not merely act as the watch-dog of revenue but also protect the taxpayers' interests by looking into cases where credit for taxes paid was not given or refunds were delayed. It should also comment on the adequacy of forms and procedures and send its suggestions to the Directorate General of Organisation and Methods. The Inspecting Assistant Commissioner (Audit) should conduct studies and investigate the causes or reasons for mistakes commonly committed and offer suggestions to the Director of Inspection (Audit) for remedial measures.

(Para. 6.171)

461. The Central Board of Direct Taxes and Commissioners of Income-tax should ordinarily settle audit objections after securing the necessary information but without calling for 'explanation' from the Income-tax Officer. 'Explanations' should be asked only in cases of palpable mistakes or gross negligence or where binding judicial decisions or departmental instructions have not been followed.

(Para. 6.172)

462. In bigger cities, Assistant Commissioners should be posted to head the Public Relations Organisation and in other places, senior Class I Income-tax Officers should be posted as Public Relations Officers, but an Inspecting Assistant Commissioner should be available to ensure quick disposal of complaints, etc. The Public Relations Officer should closely watch the disposal of the matters referred by him to the Income-tax Officers and if they still remain undisposed of, he should report them to the next superior officer after one week.

(Para. 6.173)

463. It is the taxpayers' money that supports and runs the Government and any money spent on providing them reasonable facilities cannot be considered as waste of public funds. With the considerable reduction in the number of taxpayers that will hereafter be required to attend the Income-tax offices, it should be possible for the Department to improve taxpayer amenities without any appreciable increase in the financial outlay.

(Para. 6.174)

464. Well-planned taxpayer assistance programmes should be organised, as such programmes constitute a powerful factor in improving public relations.

(Para. 6.175)

465. Suitable taxpayer assistance programmes may be drawn up to provide taxpayer information and education through TV, radio, films, press, booklets and publications. During the return filing period, and when advance tax instalments fall due, continuous messages should be carried to the taxpayers about the due dates and the errors to be avoided in filling returns. Arrangements should be made to answer telephone enquiries from taxpayers by responsible officials and to help visitors to resolve their problems. They should be helped to get the appropriate forms which they require, and to fill them up properly.

(Para. 6.176)

466. A separate cell may be constituted in the Directorate of Publications and Public Relations for drawing up taxpayer education programmes and bringing out attractive brochures and publications, which should be regularly and promptly updated. The officers posted in Public Relations Organisation should also be given an orientation training course to adapt themselves for their role in providing taxpayer education.

(Para. 6.177)

467. The law may be amended to authorise the Board to give advance rulings. Suitable fees may be prescribed for applications for such rulings so as to eliminate purposeless and academic queries. The Board should also have the option to reject an application and refuse a ruling. A ruling once given should be binding on the Government in the particular case only, though it will not bind the taxpayer.

(Paras 6.178 and 6.179)

468. To avoid delays and to ensure uniformity, a self-contained unit may be created in the Board's office for processing requests for advance rulings. The unit should include officers of the rank of Commissioners. The decisions should, however, issue under the authority of the Board.

(Para. 6.180)

(I) Bearer Bonds

My colleagues are of the opinion that the scheme for issue of Special Bearer Bonds as a measure for unearthing black money will prove to be illusory. Moreover, the scheme of Bearer Bonds suffers, in their view, from the following disadvantages:—

(i) It is a poor substitute for Disclosure Scheme.

(ii) When a holder of a Bearer Bond sells the Bond by endorsement to a genuine investor anonymity will be lost. As the secheme does not offer immunity from investigation into the affairs of the holder, persons holding black money will shy away from the scheme.

(iii) Bearer Bonds will act as a parallel currency and may provide an alibi for explaining away concealed income and may be sold in the market even at a premium.

2. These, and other aspects connected with the scheme have been taken into account by me and I consider that the issue of Special Bearer Bonds as one of the measures for unearthing black money is of considerable relevance. I should like to set out my approach and deal with the scheme in detail.

3.1 Demand and supply for black money is influenced by several factors. High rates of taxes, income-tax, Sales-tax, excise duty etc., provide direct impetus to suppress production, sales and income and so long as the tax rates remain high the desire (demand) to keep receipts as black money will exist. Demand for black money is not, however, influenced only by the level of tax rates. Even if the tax rates are lowered emergence of black money will continue because when there are shortages, price controls and other regulatory measures, opportunities to make money by extra-legal means will exist for traders and government officers in administration of control. Desire to overcome delays or secure other concessions also help generate (demand) unaccountable money taken in the form of secret commission. Requirement of funds by political parties for elecion and other purposes also create a demand for black money to the extent these funds cannot be supplied from out of ostensible savings. Unauthorised acquisition of foreign exchange and financing of smuggled articles induce demand for black money.

Supply of black money is derived from two sources. Where the recipient in any situation described above receives money, which remains unaccounted, this itself in large measure constitutes a source of supply. Demand and supply for black money are thus influenced by the same set of circumstances.

The other source of supply is the normal currency legitimately held by and in possession of the payer and which assumes the character of black money in the hands of recipient only. Payments by businessmen recorded in a camouflaged manner and payments by a wast mass of the consumer public remain unrecorded in business books fall into this category of supply. It is obvious therefore that it would be difficult to curb the wide sources of supply.

3.2 Other aspects connected with this demand and supply network of black money are also relevant for appreciating the propriety about the proposal for issue of bearer bonds. The persons obtaining ill-gotten gains cannot disclose the moneys because they might otherwise expose themselves to penalty or prosecution for violation of controls or other regulations. As such money cannot be openly used for purposes of investment, it tends to be passed on from hand to hand as unrecorded unofficial payment. Even if the recipient is an individual of a straight forward and honest disposition, he is placed in a position where he accepts a portion of the money, say, for consideration of a sale of property as unaccountable money. Unaccountable money when put to use thus tends in practice to proliferate as black money. As this money cannot be ostensibly used, it is immediately susceptible of use towards consumption purposes. Avoidable consumption takes place in the economy owing to the existence of black money. So long as our economy will be confronted with shortages in one sphere or another and the forces influencing the demand for black money continue to operate, it is difficult for Government to prevent opportunities for making black money and its further proliferation.

4. Significantly, cooperation of the public is absent in unearthing unaccountable money. When sales-tax is burdensome, there exists a fair degree of cooperation from the consumer public in not insisting on passing of sales memos. Moreover even if anybody knows that his neighbour, friend or relative shows symptoms of possessing unaccounted money he does not and is not expected to act as an informer.

There are unofficial organisations for fighting social causes, such as prevention of cruelty to animals. but not so in the cause of unearthing black money which is now generally recognised as a social menace.

Transactions that give rise to black money are either themselves tainted with illegality or some incidents connected with them such as recording of receipt or payment are false. Money associated with this illegality or falsity remains black, not because of any inherent defect in that money but because the administration whose duty it is to be vigilant and to enforce laws has failed. Money remains black to the extent to which administration has failed to trace it, or having traced it connived at it. Failure of administration can be of two kinds. First, inherent limitation of administration personnel and therefore the limitation of time and effort they can devote. Second, sheer connivance and complicity. In these circumstances, except in a few cases where administration has been able to unearth the facts and bring to book the guilty persons this situation is accepted with tolerance as a way of life. If the black money constitutes a menace, instead of tolerating the situation it would be of advantage to bring this money out into the open.

5. A scheme for the issue of Special Bearer Bonds having the following features will, in my opinion, help unearth black money:—

(i) The Government may issue Bonds carrying 3 per cent. interest per annum with a maturity period of 30 years. At present 5½ per cent. 30-year Government Bonds are quoted a little below par. 3 per cent. 30-year Bonds my therefore fetch a market price of, say, Rs. 50/-. A person acquiring a Bearer Bond with unaccounted money will give a sum of Rs. 100/- to the Government but will receive a marketable security of the value of Rs. 50/-. The original purchaser of the Bond will thus indirectly pay a tax of about 50 per cent.

(ii) The Bonds should have the facility of transfer by endorsement before a notary public or similar authority, and subsequent registration with the Reserve Bank of India or the State Bank of India. Whosoever is the first endorsor has to put his own name as also the name of the endorsee on the bond before a notary public or similar authority. Once the name of an endorsee is inscribed, the Bond ceases to be a Bearer Bond. The half-yearly interest on a Bond will be paid only when the Bonds are endorsed and registered in favour of an endorsee. In other words, the Bonds will remain as Bearer Bonds only till they are endorsed and the transfer in favour of a transferee is registered. Possessor of black money is not in immediate need of interest at the rate of 3 per cent. The intention in providing that interest will be paid to the registered transferee is that till the original holder of the Bond transfers it in favour of a registered transferee the holder can remain anonymous and as the name and other particulars of the holder are not known, the interest on such Bonds would accumulate. The purchaser and holder of a Bearer Bond may at any time sell and transfer the Bond by endorsement and the transferee will then be entitled to all accumulated interest. In the hands of a registered transferee the Bond would be just like any other marketable security and interest would be paid accordingly. The Life Insurance Corporation, commercial banks, Provident Funds or other investors can also purchase these bonds after endorsement like any other Government security. As the yield is only 3 per cent per annum, the market price may remain at a level of about Rs. 50/-. Easy marketability in case of need for liquid funds will provide an attraction for purchase of the bonds.

(iii) Possessor of black money would not like to disclose his identity as his affairs will then always be looked upon with suspicion by the administration. It is therefore necessary to remove the confrontation of tax evader before the tax administration. This could be done by two measures. Firstly, there should be immunity for the original purchaser or possessor of a Bearer Bond from being questioned about possession of the bond and about the source of money from which the bond has been acquired. In other words, the mere fact of holding a bearer bond should not make the person liable to tax under section 69 or 69A of the I.T. Act. Secondly, the bond should be exempted from the charge of wealth tax. This immunity and exemption from wealth tax would enable the possessor of bearer bond to remain anonymous and retain the bond with him till any length of time he chooses. When any search and seizure is made under the provisions of section 132 of the I.T. Act, explanation is asked about the source of cash, gold, jewellery or any asset found in the course of search. As the bearer bonds carry immunity from explanation, a person possessing black money may be inclin-

ed to hold it in the form of bond instead of cash, gold or jewellery.

(iv) This immunity and exemption will be available only to the possessor of a bearer bond, as there will be no name indicating the ownership inscribed on the bearer bond. There will be no immunity from explanation so far as the transferee or endorsee is concerned. When the money is realised by the possessor on sale and transfer of bonds to the registered transferee, the sale proceeds can ostensibly be recorded in the books of the possessor and the moneys used for purposes of ostensible investment. Thus while the source of investments will have to be explained by the endorsee for whom it is ordinary purchase of Government security, no explanation will be called for from the possessor of a bearer bond.

(v) Possessor of a bearer bond may not necessarily be its owner. The original purchaser of bearer bond may lend or pass on the bonds to his friend who might pledge them with a bank and raise monies for his business. If banks lend money against collateral of a bearer bond, a large number of persons from trade and industry might be inclined to purchase bearer bonds. To them it would mean a payment of tax of about 50 per cent and a facility to use the money received on sale or pledge of bonds into their own business.

(vi) The bonds can be made available and issued through specified branches of the State Bank of India and nationalised banks. No statement need be made at the time of acquiring bonds. The banks can accept Rs. 100 and issue a bond of the face value of Rs. 100. The name of purchser of a bearer bond will not appear on the bond at the time of its purchase but will be inscribed on the bond only when the possessor of a bearer bond sells the bond to a registered transferee for utilising the monies ostensibly for his own purposes. Since interest will be paid only to a registered endorsee, there is no need for annexing interest coupons to a bond.

6.1. Instead of a bearer bond carrying Government assurance about immunity and explanation, would not a disclosure scheme on 50 per cent tax basis and offering similar immunity be a straight forward and more simple measure? The answer is that disclosure schemes are found to be harmful as respects morale and effectiveness of the tax administration and secondly, not all persons having black money can avail of disclosure scheme.

6.2 Voluntary disclosure scheme introduced in 1950 and the disclosure schemes introduced later were primarily intended to bring out black money into the open and check its further proliferation. Apart from the unsatisfactory response to the disclosure schemes, all these schemes had harmful effects on tax administration. Under the disclosure scheme the person concerned seeks to cover certain assets even other than liquid cash and seeks protection from penalty and higher rates of tax. Under the existing law and legal machinery, proving of concealment of income becomes a long drawn process. Prosecution takes inordinately long time of the administration. Therefore when a disclosure scheme is introduced efforts of the entire tax administration are geared to making or showing that the scheme becomes a success. The efforts of tax administration to pursue cases of suspected tax evasion with vigour and earnestness get slackened. Administration adopts a more compromising attitude and posture even where proof of concealment of income is within reach or grasp of the administration. When disclosure scheme is in force the administration cannot take a serious and threatening posture against tax evaders. It ceases to be an arm of strength and terror while dealing with tax evaders. If tax administration is expected to be vigilant and act as a deterrent instrument against tax evasion it should not be exposed to adopt and cultivate compromising postures and attitudes. I am therefore strongly opposed along with my colleagues, to the introduction of a general scheme of disclosure. But, for reasons mentioned earlier I consider that some method different from disclosure scheme and also independent of the tax administration has to be devised for unearthing black money.

6.3 As mentioned in para 3 above, considerable amount of unaccounted money is passed on as secret commission, hush money or speed money to persons in employment. Persons in employment can hardly be expected to disclose the monies straightaway and risk away their jobs. Even business men would not take and act upon assurances about immunity except with caution. Bearer Bonds which call for no immediate disclosure and identification serve to fulfil in the first instance this instinct of caution and at the same time provide a safe income yielding investment and an assurance of immunity in case of need in the bargain.

6.4 Apart from this aspect that bearer bonds can enable a wider group of persons to part with black money than the usual disclosure schemes, bearer bonds need to be distinguished from disclosure schemes in other respects.

Disclosure schemes provide a cover to the tax evaders in regard to assets other than cash. Inasmuch as it is black money in the shape of liquid cash when put to use that accentuates the emergence and proliferation of black money the scheme of bearer bonds is confined to the soul of the problem, namely, liquid cash. Without this soul there can be no birth and rebirth in the form of suppressed assets in business or outside. Moreover, without liquid cash suppresesed assets by themselves do not pose the problem of proliferation, and to that extent disclosure schemes provide unjustified concession from higher taxes and immunity from penalty.

6.5 As mentioned earlier, unlike a disclosure scheme, purchase of a bearer bond helps avoid confrontation between the tax officer and possessor of unaccountable money, leaving at the same time the tax officer free to carry out his own duties in the light of evidence and information before him. Even appearance or meeting with the bank official for purchase of bonds can also be avoided. Perhaps with suitable arrangements bonds could be made available at the offices of several Associations of Trade and Industry and with approved brokers. Convenient arrangements for obtaining of bonds will help secure a larger inflow of money into the bonds.

While considering suggestion for canalisation of unaccountable money into specified fields of investment we have observed in para 2.38 of the Report that if tax evaders were to be allowed to assume in the public eye the role of benefactors this would run counter to the approach of arousing social conscience against the evil of the tax evasion.

I am in full agreement with that approach. But, I consider that there is scope for canalising the funds obtained through sale of bearer bonds into the public utility schemes such as drainage, water supply etc. to be undertaken by local authorities. Usually, social and public workers in any town or city have fair knowledge about the individuals who are likely to have unaccountable money. If local authorities are allowed use of a portion of the sale proceeds of bonds sold through them, it may be possible to gather unaccountable money under local pressure for the benefit to local schemes. As funds would be collected by issue of bearer bonds this would involve no act of social recognition and perpetuation of any name.

7. I may turn now to the other disadvantages pointed out in para 2.36 of the Report. It is true that anonymity of the holder will be lost when he sells the bonds to a registered endorsee. But the significant point is that the timing for sale of bonds will be chosen by the holder. As mentioned earlier, although bonds carry the assurance of immunity from being questioned the holder of bearer bonds will naturally be cautious and would take steps to sell the bond in market only when he considers that loss of anonymity would not affect him materially. The fact that he can delay the disclosure of his identity to almost any length of time is of vital importance to him. If commercial banks are authorised to give advances within the framework of credit control against the collateral of bearer bonds and secrecy relating to bonds is preserved, the holder will be able to enjoy anonymity for a sufficiently long time. Such an approach would amount to underwriting the success of this scheme.

8. A more valid criticism is that the Bonds will remain Bearer Bond till the time they are endorsed in favour of a transferee. It is possible that the Bearer Bonds may meanwhile be used for making payments of unauthorised premium or secret commission. Just as presently normal currency is used for settling transactions involving unrecorded payments, instead of legal tender currency the Bearer Bonds may conceivably be used for this purpose.

While this could be so, this position needs to be compared with the situation where the ordinary legal tender currency or gold is being used for operating black market transactions or secret payments. After all, a bearer bond represents money remaining in the hands of an holder after payment of tax. The use of bearer bonds for such purposes may perhaps be an advantage. It is considered advantageous in the sense that before making use for this purpose the Govt. would have already received a sum representing face value of the bond which involves virtually an indirect tax of 50 per cent. Substitution of bearer needs in place of legal tender currency, gold or other valuables is in no way detrimental to the situation as it would otherwise have prevailed.

Another advantage is that when payment is made in ordinary currency notes, more often than not, there is a temptation to spend away such moneys. When bearer bonds are received, firstly, bonds will have to be sold out for the purpose of obtaining moneys and incurring of expenditure. Use of bearer bonds thus acts as a sort of hindrance to the immediate use of black money towards consumption.

The use of bearer bonds as a clandestine currency for quite a long period can be discouraged by a simple expedient. For example, interest at 3 per cent per annum can be made payable not from the date of purchase of the bearer bond, but from the date the bond is inscribed and transferred in favour of a registered endorsee. In that case, the bond, till it remains bearer, will not earn interest. The value of the bond will then depreciate with passage of time and influence the holder to convert it into a

regular government security carrying interest at any early date. These are, however, matters of detail and as referred to later in paragraph 12 a variety of instruments can be designed to suit the purpose.

9. Would these bonds induce any inflationary pressure? Originally, purchase of bearer bonds would mean withdrawal of black money from circulation. When Government receives this money it will form part of budgetary resources. Whether black money invested in bonds would otherwise have been wholly put to use or how much portion of it would have just remained idle it is difficult to say. It can be said however that if budgetary outlays of Government are not augmented because of the inflow from sale of bonds to the extent black money would have been otherwise put to use, monetary impact may perhaps be healthy. Sale of bonds to a registered endorsee should not have any special effect otherwise than from a sale of any other government security in the market. Whether advances by banks against the collateral of bonds would in course of time require the banks to seek a recourse to the Reserve Bank it is difficult to say. I consider that the scheme of bearer bonds by itself need have no direct bearing on inflation.

10. When disclosure schemes were introduced in the past, honest taxpayers naturally felt hurt. The purchase of bearer bonds involves an indirect payment of tax of about 50 per cent. Under the tax rate structure and incentives for savings and investment recommended in our report the net tax burden would ordinarily not exceed 50 per cent. Moreover, the tax administration is not obliged to adopt under this scheme any compromising—attitude towards examination of the assessees' affairs. Rather, it is left free to conduct and pursue its own course of investigation. Interests of honest tax payers are not therefore prejudiced by this scheme.

11. Bearer bonds offer a convenient medium for getting rid of black money and save oneself from the risk associated with it. With immunity from explanation and facility to hold on the bonds for any length of time, or to transfer them at the time one chooses, a safe income yielding investment in the shape of a bearer bond will meet the instincts of caution of the persons concerned. For Government and the public it would be a means for enabling withdrawal of black money from circulation.

Would the scheme for issue of bearer bonds be successful in collecting black money? This will depend on suitability of the arrangements made for marketing of the bonds, and for making bank advances against collateral security of bonds. More importantly, this needs to be supported by an environment of fear. In a climate where holding of a large amount of cash-black money—involves but a very little risk, and transfer of large sums of black money can take place with ease, there is little chance for any scheme unearthing this money to be a success. As I have stated in para 4, black money is only a reflection of deficiencies in administration and enforcement of law. These deficiencies are to some extent inherent. As it is not possible to post a policeman behind every citizen, law and order even in economic field cannot be maintained except by creating an environment of discipline and fear by sample action. This can be more effective if limited administrative personnel is enabled to concentrate its efforts instead of dispersing them over a large unmanageable area. It is in this context that the issue of bearer bonds can play in my opinion a useful role. Through suitable supporting measures it is therefore essential to enhance the degree of risk involved in the holding of large cash.

12. The three underlying features in the operation of Bearer Bond Scheme, viz. avoiding confrontation between Income Tax Department and the possessor of black money, immunity from questioning to the holder of the instrument, and effective tax of 50 per cent of the amount tendered could as well be applied to other instruments. For example, a Bearer Bond of Rs. 100/- carrying no interest but repayable at par after 12/15 years may be issued at a suitable discount or at par by the Nationalised Banks or State Bank of India. If these Bonds with similar characteritics as are applicable to the 3 per cent Bearer Bonds described above are issued the basic purpose will be served and perhaps because of larger net-work of bank branches a large amount may be tapped by the banking sector. Just as there are regular government loans having different period of maturity and different rates of nominal interest, so can a different series of bearer bonds be issued.

13. Unearthing black money is one of the primary terms of reference to the Committee. In case the radical measure recommended in our interim report is found unacceptable by Government some other alternative of relatively less significance needs consideration. Till the factors influencing demand for black money continue to operate the problem cannot be wished away. Human body requires a mechanism for disposal of waste. Chemical factories require a suitable arrangement for disposal of their effluent. Towns and cities require schemes for disposal of sewage. Likewise, bearer bonds is a scheme for treatment of waste associated with the money in circulation.

(2) *Taxation of Personal Income*

In regard to the structure of tax rates and other aspects relating to taxation of personal income, I do not share in the approach and recommendations made by my colleagues. As the

high tax rates is a primary factor contributing to tax evasion, my colleagues have suggested a rates structure and accompanying tax concessions, the main features of which are as follows:—

(1) The maximum marginal rate of income-tax including surcharge should not exceed 75% and that some reduction in the existing tax rates be made at all levels of income;

(2) The maximum marginal rate not exceeding 75% should apply where income exceeds Rs. 70,000. The suggested tax rates including surcharge range from 10% for the first applicable slab of income to 74.75% for income exceeding Rs. 70,000; and

(3) Instead of adopting a structure of still lower rates of tax with no further exemptions and deductions my colleagues have favoured the above rates-structure and provided separate incentives for savings and investment. Savings are sought to be promoted through continuation of the exemption of income upto Rs. 3,000 from specified investments, as also through continuation of the existing practice of making weighted deduction in respect of savings made by way of life insurance premium, provident fund contribution, etc. An additional incentive in the same manner as applicable to insurance premium or provident fund contribution is recommended in respect of contributions to a new fund called "National Development Fund". Contributions to this fund upto 10% of the gross total income of the taxpayer or Rs. 20,000 whichever is less, would qualify for exemption.

2. I am in full agreement with the analysis and views contained in paragraphs 2.44 to 2.51 to the effect that high rates of taxation is a powerful contributory factor inducing tax evasion. The case for reduction of tax burden rests primarily on three considerations —

(i) When tax rates are nearly expropriatory, attraction for concealment of income is exceedingly powerful.

(ii) The high tax burden erodes the capacity and incentive to save. High rates of taxation, particularly in the cases of business income, tends to promote wasteful consumption and discourages resistance to avoidable expenditure.

(iii) It is the legitimate desire of an individual to lay by savings for educating children, providing for old age, medical care, surgical treatment and hospitalisation, marriage expenses etc. When the need for saving for such legitimate purposed is not clearly recognised, high rates of tax induce evasion even at moderate levels if income.

3. The recommendation favouring reduction in tax rates at all levels of income is intended to discourage eventually an inclination towards tax evasion. I recognise that when rates of taxation are near expropriatory, a lowering of high marginal rates of tax might discourage tax evasion. My colleagues have suggested lowering of the rates of tax at all levels of income and not only in the restricted cases where rates of tax are extremely onerous. I am not convinced that when the marginal tax rate is lowered from, say, the existing 26.45% to 23% in case of income exceeding Rs. 15,000, or from the existing 46% to 40.5% for income exceeding Rs. 25,000, any change of attitude is brought about on the part of concerned taxpayers. It would be noticed from the Table below that the taxpayers would be left with a little more disposable income in their hands of about 2 to 4% of the income if the recommended rates are adopted.

Income	Disposable income at the rates applicable for the assessment year 1972-73	Disposable income at the rates recommended	Difference
1	2	3	4
Rs.	Rs.	Rs.	Rs.
10,000	9,450	9,500	50
15,000	13,515	13,750	235
20,000	17,125	17,412	287
25,000	20,400	20,975	575
30,000	23,100	23,962	862
40,000	27,350	28,787	1,437

I consider that to a person who can successfully conceal income and evade tax lowering of effective burden by 2 to 4% provides no lever against tax evasion. Indeed, in my opinion, search for a level of tax rate that would really discourage tax evasion without loss of much revenue is not very rewarding. Reliance on a lower level of formal tax rates is not likely to yield much results.

4. A lowering of tax rates as a measure against tax evasion is advocated in view of the situation where fruits of tax evasion are far more alluring. This is true in respect of a limited group of taxpayers. The number of taxpayers assessable in respect of net wealth over Rs. 5

lakhs is less than 10,000. At an income level of Rs. 50,000 average income-tax including surcharge at the rates applicable for the assessment year 1972-73 is less than 40%. Assuming that wealth-tax and income-tax toegther is considered expropriatory after the income level exceeds Rs. 50,000, it may be noted that the number of taxpayers having income over Rs. 50,000 would be about 40,000 only. For the remaining taxpayers numbering about 20 lakhs the existing tax rates cannot be said as expropriatory. Lowering of tax rates for a substantially large number of taxpayers needs therefore to be considered separately.

5. Income can be either saved or spent. Any tax on income affects both, capacity to save and capacity to spend. It would be desirable to discourage spending and curb the power and inclination to spend. When tax rates are lowered, relatively more amount of money will remain in the hands of taxpayers. Whether this surplus money would be saved or spent would depend on whether the persons concerned are more disposed to save or to spend. Inclination, disposition or inducement to save depends on a complex set of factors such as age, family composition, habits, tastes, occupation, social environment and opportunities. If we recall the condition of our society, say, before World War of 1940, it could be said that lowering of tax rates would have, in such conditions, improved savings, for the environment was more conducive to savings. Under the conditions prevailing at present, attitudes, tastes and habits have undergone change. Numerous new kinds of commodities and gadgets are appearing in the market. Various media of mass communication and advertisement are making engaging appeals and urging consumers to spend on a wide variety of products. In a society where everybody tries to live as Jonses do and when consumption brings immediate pleasure and joy and elevates the consumer in the eyes of society and when there is virtually no countervailing force to distract and lead the individuals away from consumption, would it be reasonable to proceed on the assumption that lowering of tax rates would necessarily encourage saving and not consumption? If it were contended that at the existing tax rates the individuals are not left with sufficient post tax income to meet their ordinary recurring household and family expenses the case for lowering of tax rates would be strong. But such a contention is not raised in respect of the large mass of taxpayers, and rightly so. The burden of the argument is that there is hardly any room for saving. In this context, lowering of tax burden by 2 to 4% ensures nothing, neither is the inducement and inclination towards tax evasion curbed, nor the surplus money left through lowering of taxes is necessarily saved and not spent.

6. In so far as tax evasion is practised for laying aside some saving, the bulk of assessees would, in my opinion, be weaned away from tax evasion if the urge and obligation to make provision for facilitating children's education, for old age, sickness and other contingencies is recognised and respected. Under a system of progressive rates of tax, any increase in income attracts higher tax. With the increase in income and consequential increased capacity to save, an individual can be enabled to save more and to curb avoidable expenditure. If high rates of tax are made to impinge not on savings but only on consumption, faith and conviction in the fairness of tax system would be strengthened.

7. It is true that at higher levels of income and wealth the incidence of wealth tax and income-tax together is particularly heavy and in some cases expropriatory. In a society where avowed policy of the state is to reduce disparities of income and wealth expropriatory tax rates have to be looked upon as a method of achieving the policy objective in a constitutional manner. Incidentally, diversion of wealth and property in favour of trusts for charitable purposes is more often the direct result of steep estate duties and expropriatory tax rates. Even so, if expropriatory tax becomes self defeating and promotes tax evasion I consider it necessary to review the position.

8. The rates of taxation assume an expropriatory character where the amount of income left after payment of income-tax is not sufficient to cover Wealth Tax and reasonable household and family expenses. I recognise the validity of considerations that weighed with my colleagues in recommending that the maximum marginal rate of Income Tax should not exceed 75% and that this maximum rate should apply where income exceeds Rs. 70,000. In the light of our recommendations concerning Gift Tax and clubbing of certain kinds of income arising to minor and other family members, and more particularly because of my recommendation about treating Family as a Unit of assessment I support the majority recommendation about the maximum marginal rate of Income Tax.

9. The lowering of the maximum marginal Rate of Income Tax to 75% would naturally leave an additional sum in the hands of taxpayers belonging to higher income group. As stated earlier this additional sum may likewise be either spent or saved. The lowering of the maximum marginal Rate of Income Tax is intended to discourage tax evasion. There is no intention that such lowering of the Tax-Rate should give a filip to a large personal consumption. This is a matter which, in my opinion, cannot be left wholly to the volition of the taxpayers. Moreover, I have suggested later a scheme for augmenting savings and investment. That such a scheme should not lead to diversion of the existing investments towards

purposes of consumption requires to be ensured. *I, therefore, recommend introduction of an Expenditure Tax that would help check diversion and application of existing wealth for purposes of personal consumption.*

I mentioned earlier that a lowering of tax rates by itself does not ensure that the additional sum left in the hands of taxpayers is necessarily applied towards investment. However, tax exemption on consideration of the amount saved during the year would naturally help ensure savings. If the tax rate itself is lowered, influence of tax exemption becomes correspondingly weaker. Higher the rate of tax more potent can be the influence of tax exemption. I recognise the need for reducing tax burden both with a view to discouraging tax evasion and stimulating savings. However, looking with the approach stated above, I consider that these objectives can be effectively secured not by lowering the formal rates of tax at all levels of income, but by keeping the rates of tax, excepting the maximum marginal rate, high as they now are and by giving tax relief in recognition of the act of saving.

10. I have discussed above how a lowering of tax rates per se is not a satisfactory device for securing the twin objectives of discouraging tax evasion and stimulating savings. I would now turn to the three suggested tax concessions and consider how far they are relevant and adequate for encouraging savings and investment.

11. Take the case of deduction upto Rs. 3,000 of income from specified investments such as bank deposits, shares, units of the Unit Trust, etc. Where the tax rates are progressive, this type of income deduction virtually raises the basic exemption of Rs. 5,000 available to all tax-payers to Rs. 8,000 not to all who would have earned an additional income of Rs. 3,000 from hard work, but to a few who are fortunate enough to be left with a legacy, or are in possession of such investments fetching an income upto Rs. 3,000. Moreover, such income deduction bestows disproportionately and widely varying benefit in tax. This tax-free investment income of Rs. 3,000 is equivalent to pre-tax income of Rs. 3,370 where the income exceeds Rs. 5,000 equivalent, to pre-tax income of Rs. 7,058 where the level of income exceeds Rs. 30,000 or equivalent to Rs. 1,33,300 where income exceeds Rs. 2 lakhs.

12. This tax incentive pays no regard to the struggle and sacrifice involved in effecting saving. If an individual having an annual income of Rs. 15,000 is in receipt of such investment income and his income next year goes up to, say, Rs. 16,000 or 18,000 and even if he spends away this extra income of Rs. 1,000 or Rs. 3,000, he will get a larger tax benefit in respect of his income from investments because the value of this tax concession depends not so much on the amount saved or the income from investments but on the size of the taxpayer's income in the relevant assessment year.

13. Where an individual has made investment in risk bearing activities and receives no immediate income from investments he would be induced to withdraw his investment from risk-ful ventures and divert the same to the relatively safe investment yielding secured income. In all such cases what this type of concession achieves, if any thing, is merely diverting of the existing savings into the qualifying modes of investment.

14. Consider also the cases where investment income already exceeds Rs. 3,000. This will be true in the case of individuals of a relatively higher income and wealth group. It is recognised that savings potential of individuals in this group is naturally the largest. This tax concession provides them with no incentive for further saving and investment.

15. It needs also to be recognised that savings are made out of income of all kinds. I am not impressed by the argument that savings are best promoted by encouraging a particular kind of investment. At present, self-employed persons and individuals carrying on business as a proprietor or partner and having investment in one's own business where by and large resources are put to use efficiently under one's own supervision are denied this exemption.

16. I have no doubt in my mind that a method giving tax concession by reference to the amount saved during an year is superior to the method of exempting investment income or any other kind of income. When concession is given to the investment income, the recurring decision, whether to save or not to save out of current income is not affected. The problem before us is to see that the small number of fortunate people in possession of investment and wealth and enjoying higher level of income devote as great a portion of their income as is possible to the savings pool of the community. Savings are so crucial to economic development that in an environment where there is every kind of allurement to spend and where on numerous occasions one is obliged to spend through social needs and pressure any purposeful incentive built in the tax structure with the object of enlarging savings should be linked and granted on the basis of savings encouraged and materialised by such an incentive. Unless tax concession is offered only on the basis of savings currently made and not on the basis of past savings, the savings pool will not appreciably improve. It is the act of saving that needs to be distinguished and encouraged. In view of all the above considerations, *I recommend that the deduction upto Rs. 3,000 in respect of income from specified investments be withdrawn,*

17. I would now like to consider whether the two other concessions, viz. continuation of the existing relief in regard to savings made by way of life insurance premium, contribution for securing deferred annuity, contribution to superannuation fund and prescribed provident funds and the additional exemption now suggested in respect of contribution to a new fund called "National Development Fund" are sufficiently adequate and efficacious enough to encourage savings to the maximum possible extent. I would like to comment particularly on suitability of these forms of savings qualifying for tax relief, and on prescribing separate and independent ceilings of 30 per cent of gross total income or Rs. 20,000, whichever is less, in respect of life insurance premium, contributions to provident fund etc. and 10 per cent. of the gross total income or Rs. 20,000, whichever is lower, for contributions to National Development Fund. Thirdly, I would like to deal with the manner or method of giving this tax relief.

18. It is obvious that life insurance premium, payment for securing deferred annuity or contributions to superannuation fund and provident fund are forms of saving suitable for meeting requirements for old age provision, marriage or other event occurring near the end of one's career. Life insurance premium and provident fund contribution do not provide attraction to individuals of old age. These forms of saving are not particularly suitable also for wealthy individuals who have wealth to fall back upon. Individuals in business or industry may consider investment in their own business or industry as a far more effective insurance against contingencies in business as also for meeting family obligations.

19. The existing exemption broadly caters to the needs of individuals in employment. Recently the exemption has been made applicable to contributions under a new scheme of Public Provident Fund. The scheme of Public Provident Fund does in some measure recognise the difficulties of self employed persons and provides sufficient flexibility in regard to frequency and time for payment of contribution and also to the amount or size of contribution. But the balance in Public Provident Fund is withdrawable after 15 years. Although provision for obtaining loan and for partial withdrawal is made in the scheme, it seems to me that the nature and purposes for which savings are required by self-employed persons are not adequately appreciated.

20. The system of progressive income taxation is primarily based on the concept of capacity to pay. The capacity to pay is normally understood to represent the surplus amount remaining out of income after the normal household and family expenses are met. Not all family expenses occur regularly month after month or recur every year in more or less uniform sums. Expenditure on medical care and hospitalisation, expenditure for higher education of children, old age provision, marriage expenses etc. are in substance household family expenses of an obligatory nature. Although these are household family expenses they do not occur uniformly every year and are of the nature of deferred family expenditure. It is necessary that the base of taxable income under a system of progressive taxation recognises this element and a provision of savings calculated to meet such expenditure in future is deducted in determining taxable income. A form of saving suitable to meet requirements of such deferred family expenditure is available in the shape of contribution to various Provident Fund Schemes including the Public Provident Fund. That the collection in Public Provident Fund is not so encouraging suggests that what is lacking is adequate and proper publicity and effort to sell this scheme.

21. I wish to stress here that in common with the tax payers earning income from employment, the self employed persons also need to make provision for meeting deferred family expenditure. But, in addition, the persons in business and industry need and require extra savings for purposes peculiar to them. No worthwhile business or industry can be carried on without a certain amount of investment in raw materials, trading stock and credit to customers. When prices of commodities rise, although the turnover in terms of physical quantities such as tonnes or litres may remain the same, in terms of money value investment in raw materials, trading stock and credit to customers increases. This investment by way of increase in the working capital is unavoidable. This investment can be made either from out of savings left and in possession of the owner of business or industry, or the required funds have to be provided by the rest of the society in the shape of loans or credit. There is no third source for financing this increase in working capital. When owing to high rates of tax saving cannot be ostensibly made for financing working capital, inventory of materials and stock tends to be partially suppressed or undervalued.

22. In a complex modern society our numerous kinds of wants are satisfied through the working of men engaged in diverse field and activities. When the society thus runs on the basis of extensive application of the principle of division of labour, so long as private sector in business and industry exists or is allowed to exist, some persons have to engage themselves in the conduct of business and industry. To all such persons, an increase in business investment becomes inescapable for carrying on their business. During the years 1965 to 1970, the Index of Monthly Average Wholesale Prices has risen by 50 per cent. in the case of Industrial Raw Materials, by 40 per cent. in the case of Manufac-

tured Intermediates, by 40 per cent in Agricultural Commodities, and by 30 per cent in manufactured finished goods. Other things remaining the same, such price increase of 5 per cent. to 10 per cent. every year means consequential increase in requirements of working capital. A rise in price is not the only factor inducing increase in working capital. When business incurs a loss, in order to make good the loss and restore the working capital additional funds are called for. An employer in business and industry is expected to recognise that family responsibilities of his employees increase with every passing year and grant progressive rise in pay over the service life of an employee. Normally an employer can cover this increase in pay bill if his sales or the margin correspondingly improves. But increase in turnover brings in its train increase in the level of stocks and book debts, or in other words, in working capital. I consider this need of savings for requirements of working capital as unique for persons engaged in trade and industry. This need for working capital is an extra need for persons in business and industry. And it has to be distinguished from the need of savings for deferred family expenditure, common to tax payers not engaged in business as also to those who are so engaged. In my opinion it is necessary to consider what form of saving would be suitable to meet the requirements of increase in working capital.

23. In the previous paragraphs I have briefly analysed the diversified nature of motivation that induces or obliges a person to save something out of his current income. I also discussed how the existing forms of saving such as life insurance, provident fund, etc. have a limited appeal to a narrow group of taxpayers. For a large number of taxpayers, particularly those engaged in business and industry, increasing financial requirements of business provides the main impulse for effecting saving. Opportunities to suppress income and therefore tendency to evade income and tax are more pronounced amongst taxpayers from this class. It is from this aspect that I wish to consider the significance of a scheme such as National Development Fund referred to in para 5.64 of the Report.

24. Significant features of the proposed National Development Fund are the following:—

(i) A portion of the contribution would be allowed as deduction in computing total income in the same manner as a deduction is allowed in respect of contribution to provident fund etc.

(ii) Contribution to the Fund will be blocked for a period of seven years, i.e. the amount of contribution made at any time could be withdrawn only after expiry of seven years.

(iii) Repayment or withdrawal of contribution after seven years will not be liable to tax.

(iv) Balance in the Fund will carry interest at not less than 4½ per cent per annum. The interest will be liable to tax.

(v) Investment in the Fund may be exempted from Wealth Tax.

(vi) Nationalised banks should allow within the credit control policy of Reserve Bank of India credit facilities to taxpayers against collateral security of their investment in the Fund.

25. I consider the VI feature viz. asking nationalised banks or banks working under control of Government to allow credit facilities against collateral security of investment in the Fund as the principal distinguishing feature of the scheme. This would give taxpayers sufficient flexibility in selection of investments. The taxpayers can avail of the credit facility for making investment in any form and in any field or activity of their choice. Before a suitable opportunity for investment arises a taxpayer can save out of his income and get the benefit of tax relief by making contribution to this Fund.

Blocking of investment for a period of seven years at a low rate of interest is relevant. Ordinarily it would be difficult to give tax relief directly by reference to any type of investment of his choice made by a taxpayer. In order to ascertain that the investment made by a taxpayer represents genuine savings of the year, Income-tax Officer will have to keep a continuous watch and policing over the disposal of individual investments and addition of new investments. This would be cumbersome and unworkable in practice.

My colleagues have recommended that contribution upto 10 per cent of the gross total income of the taxpayer or Rs. 20,000 whichever is less will only qualify for tax relief. I have dealt with earlier how the existing forms of savings such as life insurance premium or contribution to provident fund do not adequately serve the diverse purposes for which savings are found necessary by taxpayers. I also highlighted the unique need in case of businessmen of additional resources for working capital. According to my colleagues there would remain a separate ceiling of 30 per cent of the gross total income or Rs. 20,000 whichever is lesser in respect of savings in the form of life insurance premium and contribution to provident fund, etc. and a separate ceiling of 10 per cent of the gross total income or Rs. 20,000 for savings in the shape of contribution to the Fund. As I mentioned earlier the existing forms

of qualifying savings do not appeal to a certain class of taxpayers. I see no sufficient reason why choice as to the form of savings should not be left to the taxpayer. *I, therefore, recommend that there need be no independent and separate ceilings for different prescribed forms of savings.*

26. I may add that by giving an opportunity for persons in business to save and also invest perhaps in their own business, to the maximum extent possible, I am not suggesting any generous concession. Already, investment in Public Provident Fund carries the following benefits: —

(i) 5 per cent tax free interest.

(ii) Exemption from Wealth Tax, in addition to the exemption upto Rs. 1.5 lacs for specified investments.

(iii) Over 60 per cent of the balance in Public Provident Fund can be withdrawn after five years. 25 per cent of the balance can be obtained as a loan in the third year on payment of interest at 2 per cent per annum.

(iv) Balance in the Public Provident Fund cannot be attached.

My colleagues have suggested that the balance in National Development Fund would carry interest at a rate of not less than 4½ per cent per annum; and that this interest will be liable to income-tax. In my view, the National Development Fund account of a taxpayer is meant to serve as a convenient index for Income Tax Officer to know readily the amount of genuine saving and to avoid an exercise of combersome calculations. This amount in the Fund is expected to be used by taxpayer for making a suitable investment of his choice by taking bank advance against collateral of the balance in the Fund. Virtually, amount lying in the Fund before obtaining any advance is like an amount temporarily lying in a savings bank account before a suitable opportunity for investment arises. The intention underlying the prescription of a low rate of interest is that it would ensure that the contribution to the Fund is not made through diversion of existing investments. I would not, therefore, mind prescribing a considerably lower rate of interest than 4½ per cent per annum on balance in the Fund and the banks charging a marginally higher rate on advances made to the taxpayer.

I am also not in favour of exempting from wealth-tax the balance to the credit of National Development Fund. In substance, balance in the Fund is supposed to be available for and represented by investments of his choice made by the taxpayer. In my opinion when rates of wealth tax are high, exemption from wealth tax should serve to influence composition of wealth and direct investment in suitable and appropriate field. Just as wealth is diverted into gifts to Charitable Trusts so would the wealth be diverted to new ventures and activities deserving encouragement through exemption of wealth tax. *I recommend that the balance in the National Development Fund should not be exempt from wealth tax.* With these modifications and for reasons stated above *I recommend that any amount paid out of the income liable to tax in any forms of prescribed savings aggregating to not more than 40 per cent of the gross total income, should qualify for tax relief.*

27. I would now turn to the manner and method of giving tax relief with a view to encouraging savings and investment. At present, in order to give tax relief a specified percentage of the amount saved by way of life insurance premium, contribution to provident fund, etc. is deducted in computing the total income. The specified percentages are 100 per cent of the first Rs. 1,000 of the qualifying amount of saving, 50 per cent of the next Rs. 4,000, and 40 per cent of the balance. As a certain amount is deducted in computing total income the tax relief is equivalent to the amount calculated at the highest marginal rate or rates applicable to the taxpayer's income. The amount of tax relief depends not so much on how large is the amount saved, but on the size of taxpayer's income. If an individual having income upto Rs. 10,000 saves Rs. 1,000 he will get a tax relief of Rs. 110. However if a similar amount of Rs. 1,000 is saved by an individual having income over Rs. 2 lacs he would get tax relief of Rs. 977. Any method of giving tax exemption for a specified kind of income or specified savings should be suitable as between taxpayers belonging to lower income group, middle income group or upper income group. In paragraphs 11 to 16 I have dealt with the inequities arising from deduction of investment income upto Rs. 3,000. Similar inequities are inherent in the existing method of giving tax relief on the amount saved.

The system of progressive income-tax is based on the assumption that the capacity to pay tax improves with every progressive rise in income. It is implicit in this assumption that discretionary income or any income that can either be spent or can as well be saved rises with the size of income. If an individual earning income of Rs. 10,000 saves Rs. 2,000 or Rs. 3,000 in the existing living conditions it may be recognised that he has struggled to save this amount at the cost and sacrifice of other pressing wants. For a large majority of taxpayers, saving is characterised and marked by suffering and struggle. For persons in higher income ranges saving of Rs. 2,000 or Rs. 3,000 involves no struggle. It is more or less incidental. To offer tax benefit of so much as 100 per cent or 50

per cent of the marginal rate of tax for an insignificant amount saved in relation to the large size of income is far too generous. On considerations of equity as also to provide an effective spur and encouragement for enlargement of saving I consider that the amount of tax relief should increase progressively with the size of amount saved. I suggest therefore that tax relief should be given on the basis of slab rates with the rates of relief increasing progressively with each successive slab of saving.

28. What the rates of relief should be and what should the slab or band of savings to which the respective rate should apply has to be determined on pragmatic considerations. I would only say that to start with, the relief should be reasonable and fair in comparison to the relief obtainable under the existing method of giving weighted deduction from income. The Table below shows minimum and maximum amount of tax relief, depending on size of the income, obtainable under the present system in respect of savings of different size. The amount of relief to which a tax payer would be entitled under the Tax Credit method based on slab rates suggested by me are shown in the last column:—

Size of Saving	Tax Relief under the existing method		Tax relief under Tax Credit method	Rate of Relief
	Minimum	Maximum		
Rs.	Rs.	Rs.	Rs.	
3,000 ..	220	1,955	450	15%
6,000 ..	900	3,324	1,200	25%
9,000 ..	2,116	4,497	2,400	40%
12,000 ..	3,335	5,670	3,900	50%
15,000 ..	4,830	6,843	5,700	60%
20,000 ..	6,976	8,798	8,700	60%

Following is the rates schedule for tax credit on savings adopted by me:

Slab of Saivng	Rate of Tax Relief
Rs. Rs.	Rs.
1 to 3,000	15%
3,001 to 6,000	450 + 25%
6,001 to 9,000	1,200 + 40%
9,001 to 12,000	2,400 + 50%
Over Rs. 12,000	3,900 + 60%

It would be noticed from the Table that the relief worked out under the Tax Credit method is somewhat more than the minimum relief obtainable under the existing method and somewhat less than the maximum relief obtainable at present. I have deliberately recommended a Tax Credit of 15 per cent applicable to the first slab of saving upto Rs. 3,000. When the marginal rate of tax for income upto Rs. 10,000 is only 11 per cent, or the average rate of tax for income upto Rs. 20,000 is 13.75 per cent Tax Credit at the rate of 15 per cent would provide, in my opinion, a superior incentive for low and medium income group of tax payers. I consider that under the existing pattern of our society and the prevailing conditions, habit of saving should be inculcated right from inception of an individual's career. Similarly, in case of higher levels of income I have provided for a Tax Credit of 60 per cent in order to encourage the maximum possible savings, as substantial saving can be expected only from higher income groups.

I would like to clarify that *this Tax Credit scheme should apply, in my opinion, to all forms of savings recognised for tax relief and that the existing method of giving relief should be replaced by Tax Credit method.*

29. It may appear that under the Tax Credit method there will be no incentive for a person with high income to make a comparatively small amount of saving, for the Tax Cerdit will not be so attractive to him as the relief he obtains at present. In my opinion, saving which is more or less incidental should not qualify for substantial relief. The Tax Credit method takes this factor into account and ensures that Tax Credit is stepped up only where size of saving is also stepped up.

30. I may add here that I have prescribed highest marginal rate of 60 per cent for Tax Credit, and no ceiling of any discrete amount is placed on the qualifying amount of saving. I have done this for two reasons. According to the recommendations made elsewhere by me, the tax base would be wider if family is adopted as a unit of assessment and long-term capital gains is charged to tax without any concession like any other assessable income.

I should also point out that although the Tax Credit under the rates adopted by me is slightly more than the minimum relief obtainable at present, it is less than the maximum relief now obtainable. Savings of large size are made naturally by individuals who qualify for a tax relief approaching the maximum obtainable. Besides, as the tax base would be wider with the treatment of long-term capital gains as almost ordinary income and of family as a unit, it would be fair to prescribe higher rates of Tax Credit. A separate rates-schedule for Tax Credit will also provide an additional lever to regulate savings.

31. High tax rates accompanied by Tax Credit based on the amount saved and invested in any suitable field of choice, and high wealth-tax rates with exemptions for investment in new venturesome activities will create conditions where saving and investment can be made ostensibly, without recourse to evasion of income and tax. Introduction of Expenditure Tax will ensure that past savings are not primarily used towards personal consumption. As a return of income will be accompanied, as recommended in the Report, by a statement of Net wealth and outgoings during the year, administration of Expenditure Tax should not be difficult. Moreover, when investment could be made more or less ostensibly, use of unaccountable money will be relatively confined to meeting high level of personal expenditure. The focus of tax administration will have to change under these conditions. Examination not so much of income, but of personal expenditure will call for increasing attention.

32. A tax structure where even large income can be earned, but only for investment and not so much for personal consumption will provide, in my opinion, a suitable framework for incomes policy.

(3) Long-Term Capital Gains

We have recommended in the Report that receipts which are of a casual and non-recurring nature and are in excess of Rs. 1,000 in a year should be taxed like normal recurring income. In regard to the gains arising from transfer of long-term capital assets my colleagues are however of the opinion that such gains should not be treated on a par with other income. They consider that capital gains are particularly attributable to inflationary conditions, and in any case represent income which has accrued over a period of time.

2. I do not regard these grounds as sufficient to justify a lower rate of tax in respect of income from long-term capital gains. Inflation affects not only capital assets but salaries and business profits also.

3. It is true that capital gains accrue over a period of time. If because of this bunching of income in one year capital gains attract high progressive rates of tax, it is possible that investors may become reluctant to change their investment and this may discourage the flow of capital into new ventures. At the same time, it cannot be overlooked that capital gains enhances capacity to save as also to spend in the same way as ordinary regular income. In the scheme of taxation of personal income recommended by me I have suggested that Tax Credit on a progressive basis be given to the assessee on savings made during the year. A suitable form of saving that would appeal to different types of investors has been suggested. When the rates of Tax Credit range upto 60 per cent I see no adequate reason for distinguishing between long-term capital gain and regular income. Moreover, where probably undisclosed income is utilised while acquiring a capital asset any concessional treatment of capital gains would not be proper. In view of the scheme of Tax Credit suggested by me *I recommend that long-term capital gains be taxed like receipts of casual and non-recurring nature.*

(4) Taxation of Registered Firms

My colleagues have recommended discontinuance of a separate tax not on all registered firms but only on the firms rendering professional services. In my opinion the basic defect in taxation of a Registered Firm is the manner of calculating its tax base, and the undesirable consequences flowing from it.

2. Recent Industrial Policy of Central Government gives an accent on providing opportunity to new entrants and to small industries. It is desirable that the tax policy should be compatible with the objectives of this Industrial Policy. I consider that the existing provisions concerning Taxation of Registered Firms are unfair towards new entrepreneurs.

3. Setting up of any industrial venture requires sizable financial resources. When there is scarcity of savings and capital it has to be provided preferably to those who can put it to good use. I suppose, new entrants into industry signify persons formerly in employment who have experience and are otherwise qualified. They are expected to give up the employment and set up an industry. When two or more persons join together as partners and start an industry they are firstly exposed to this tax on Registered Firm. They find to their dismay that although their individual income from the activity of the firm is less than the income they used to receive as salary and interest on investment when in employment, they are required now as partners to pay an additional tax in the shape of tax on Registered Firm. It is curious to find that a person in employment, who receives his monthly salary regularly without any kind of risk associated with business, gets benefit of tax free income in the shape of Employer's contribution to provident fund, concession by way of rent allowance or travelling expenses while on leave, gratuity upto Rs. 24,000, etc. If such persons take initiative and set up business enterprise of their own, not only do they lose the tax-free benefits enjoyed by them before as employees, but they get themselves saddled with additional tax on Registered Firm.

4. All this happens because in computing taxable profit of a Registered Firm, salary or

any remuneration paid to a partner and interest on capital brought in by him is not considered as business expenditure. Partnership firm is afterall a business organisation. In determining profits from any organised business or enterprise it would be rational to consider cost of all inputs or factors of production, including personal exertion of partners or capital put in by them. A worker gets minimum wage and minimum bonus. A company manager gets minimum remuneration. It is unfair and inequitable that reasonable remuneration paid to partners and interest on partner's capital is not deducted in computing income of a Registered Firm. Incidentally, I may add that such a deduction is made in ascertaining the available surplus for the purpose of payment of bonus to employees. Moreover, provisions of Section 40-A of the I.T. Act take due care about any claim for deduction of unreasonable or excessive expenditure.

5. In as much as union is strength, and organized activity improves productivity, any tax on profits of business activity should apply to the real surplus emerging from this activity. *I recommend, therefore, that in computing total income of a Registered Firm reasonable remuneration paid to partners and reasonable return on capital put in by them should be allowed as deduction.*

(5) Corporate Taxation

support the policy and direction guiding the recommendations in our Report in the field of corporate taxation. I agree with the proposed modification and abolition of existing tax or exemptions, and with the suggestion of a new levy on capital employed by companies. I have differences with my colleagues only in matters of detail, and that otherwise the overall burden on companies will, I consider, sharply increase.

2. The broad features of the suggested pattern for corporate taxation is as follows: —

(i) A uniform tax-rate of 55 per cent will apply to all domestic companies without any distinction based on nature of control or activity, or size of total income.

(ii) Distributed Profits, i.e. dividend upto 8 per cent of paid-up capital or Rs. 25,000, whichever is less, will be deducted in computing total income in the case of small companies with a paid-up capital not exceeding Rs. 5 lakhs.

In the case of all other companies distributed profits upto 8 per cent of the paid-up capital will be taxed at an effective rate of 30 p.c.

(iii) Company's contribution upto 10 per cent of the total income to a new Reconstruction and Stabilisation Reserve Fund will be allowed as a deduction in computing total income.

50 p.c. of the amount contributed can be withdrawn by the company at any time for purposes of current repairs to building, plant or machinery and for research. The amount withdrawn for this purpose will be treated as income in the year of withdrawal.

The remaining 50 p.c. will remain deposited for a period of five years. After five years, this amount can be withdrawn for development purposes only. The amount withdrawn will not be treated as income, but will be deducted from the cost of assets for purposes of depreciation.

Balance in the Fund will carry interest at 6 per cent per annum.

(iv) Sur-Tax on companies be abolished.

(v) Companies be required to pay a tax at a flat rate of 1 p.c. on resources committed to them in the shape of 'owned' and 'borrowed' funds.

New Industrial companies may be exempted from this tax for an initial period of five years. Small companies may either be exempted or a tax lower than 1 p.c. be prescribed for them.

(vi) Exemption to Priority Industries by way of deduction of 5 p.c. of the profits in computing total income be withdrawn.

(vii) Allowance of Development Rebate be also discontinued as already decided by Government.

3. I look upon companies as engines or instruments for producing a large variety of goods and services considered necessary for a complex modern society. Our industrial production depends mainly on the performance of organisation like companies. Company organisation enables gathering of personal savings of numerous individuals into a common pool. Savings of the many are put to work for productive purposes under the control and management of the few. Not all savers know how to use savings, and not all managements are efficient. In this situation, it is desirable to ensure that personal savings and also corporate savings are entrusted to the care of efficient management.

4. Efficiency is promoted in an environment of competition. Competition can subsist where there are good number of industrial units with

sufficient capacity to meet the emerging demand. When capacity of existing units becomes inadequate to meet demand additional capacity has to be created. This can be done by increasing the capacity of existing units or by promotion of a new firm. In installing of new capacities an existing industrial unit is always in a superior position than a new entrant. The capital cost per unit of production in the case of an altogether new industrial firm is generally higher than a composite capital cost per unit of production based on the cost of total block of old and new plant in the case of an existing industrial firm. Development rebate allowance is available to both, the new firm and the old firm. In the case of old firm development rebate is largely set off against the profit of the old unit, enabling the firm to declare dividends. In the case of a new firm development rebate postpones the dividend payment, because until depreciation and development rebate is absorbed profits are not available for dividend.

5. New companies can be promoted for creation of additional capacities or for undertaking new ventures if they can attract capital in anticipation of a fair return. As dividend can be paid only out of profits remaining after payment of tax the corporation tax becomes in the long run an element of cost. Thus when price of any product is fixed by a statutory authority like Tariff Commission, corporation tax is reckoned almost as an element of cost and tends to get passed on to the consumers. Moreover, high corporation tax enhances the cost of risk capital. When there is inhibition to promote new companies owing to high cost of risk capital, pattern of existing distribution of production capacity in the country gets stabilised. In this process the existing industrial units acquire a semi-monopolistic character.

6. Where a new company is formed to set up an indigenous production for the first time, high corporation tax coupled with development rebate obliges a company to set an excessive price for the monopoly product. Then only is the company able to declare dividend after a reasonable time from the commencement of its production. Tax holiday for the five initial years enjoyable by new undertakings mitigates this difficulty to some extent. I view, therefore, with favour the tax holiday concession for new industrial units and the recent Government decision to withdraw the allowance of development rebate.

7. Another factor which acts, I consider, as a block in the path of new entrepreneurs is the policy favouring plough back of company profits. In a protected and favourable market conditions substantial profits are made by a good many companies. Not in all cases are these profits a result of managerial efficiency and ability. More often, fat profits are due to facility of imported raw materials and shortage of production. Owing both to high rates of tax on personal income and to the facility of ploughing back profits, a company is discouraged from distributing larger dividend. As a substantial portion of profits remains undistributed and bottled up with the company, these savings are not available for use to other entrepreneurs.

8. Small dividends and large bonus issues offering opportunities of capital gain are no doubt attractive to taxpayers having sizable income. But this is certainly not a situation conducive to familiarising and attracting a vast mass of small investors in our country to build up a direct link of ownership in corporate enterprises. It is this policy calculated to discourage distribution of large dividends that has come in the way of enlargement of the number of shareholders. Instead of bringing the public closer and making it understand and appreciate the economics of modern enterprise, this policy has succeeded in keeping the large mass of small investors away from the interest in corporate enterprise. This has undesirable social and conomic consequences. Usless the ignorance, indifference and apathy of small investors towards participation in risk capital of companies is removed, company as a significant tool for conduct of organised enterprise will be available only to a narrow class. Development of new broad-based entrepreneurship will be thwarted in the process.

9. When company management is encouraged to plough back substantial portion of profits, management can afford to remain immune and indifferent to the pressure of outside shareholders. Generally, urge and anxiety to improve efficiency languishes, for management is not exposed to reliance on outside support for risk capital. In view of all these considerations, I am of the opinion that a sharp shift favouring distribution of large dividends, and also the lowering of cost of risk capital is necessary to develop a healthy and competitive corporate enterprise.

10. In the case of companies where good encouraging profits are more a result of enterprise and managerial efficiency an additional tax like Sur-Tax on company profits acts as a damper and penalty for successful and efficient use of funds. Thrift and discipline in curbing avoidable expenditure involves a continuous watch and pressure, and an exercise of hard unpalatable decisions. When a major share of profits is taken away in tax, management's resistance to avoidable expenditure weakens. The relatively high level of salaries and perquisites of

company executives and expenditure on building up public image and on the so called social awareness are the outcome of an indirect sharing of a major burden of this expense by Government in the shape of high taxes.

11. Not only are the costs thus pushed and bolstered up in times of prosperity and good profits, but liquidity of the company is also impaired by high corporation tax. Profit is measured and calculated by reference to income and incurrence of expenditure during an year. But not all business expenses are regular and of a recurring nature. Expenditure on major repairs and renewals, gratuity to employees, loss through an occasional strike, etc. do not take place regularly. Similarly, sustained efforts in experiment and research on development and improvement of products or processes can be undertaken and continued only when company's liquidity is sound. If, during good years, liquidity is impaired and not strengthend a company is unable to shoulder the burden of non-recurring expenses in times of bad or not so good years. The problem of sick textile mills, where repairs and renewals have remained unattended, is in my opinion partly due to this situation. It is desirable therefore to ensure that large profits arising from conditions of sheltered market or from better performance do neither lead to pushing up of costs, nor to impairment of liquidity, but to building up a strong and competitive enterprise.

12. I have dwelt so far on the corporate scene as I view it. My intention is to highlight thereby the objectives in my support in principle to the recommendations made in our Report. It would also help clarify the nature of my differences as to detail. I would now like to analyse and examine the burden of corporate taxation under the pattern recommended in our Report.

13. Replacement of Sur-Tax by the proposed capital levy of 1 p.c. on all borrowings and owned funds of domestic companies will considerably enhance the aggregate tax burden on companies. Capital levy on non-government companies alone will yield over Rs. 70 crores. The changes made this year in curtailing the benefit to priority industries and in restricting the capital base for calculation of Tax holiday benefit are estimated to make an annual addition of Rs. 22 crores. Complete withdrawal of exemption to priority industries will add another Rs. 13 crores. Taking into account the loss in tax revenue arising from our other recommendations such as abolition of Sur-Tax, prescription of a uniform rate of 55% for all companies, and reduced tax on distributed profits the revenue from Corporation Taxes will show a net increase of 15 per cent or more over the collections in 1970-71. Discontinuance of development rebate will also eventually show a rise in tax revenue of over Rs. 40 crores.

14. The changes recommended in the Report are not designed so as to step up the burden of tax on companies. As mentioned earlier, increase in the burden of corporation taxes tends to push up costs and weaken the forces of competition and growth, to the general detriment of economy. I am firmly, therefore, of the view that direction underlying the recommendations should be followed for the purpose of redistribution or rearrangement of the tax burden. I also consider that they should not be allowed to result in increasing the aggregate tax load on companies. The modifications I am recommending are intended to help achieve desired objectives.

15. Capital levy of 1 p.c. on both owned and borrowed funds, or in other words on resources put to use by and under the control of company management is intended to prominently focus attention on the aspect of productivity. Management that can bring out production or manage sales with lesser level of inventories and working capital will stand to benefit vis-a-vis the inefficient. Extra idle capacity and unproductive outlay on fixed assets will be discouraged, and efforts to secure maximum utilisation of resources will indirectly be encouraged. It would be clear that these considerations have no bearing on investment in the shape of shares or loans made by a company to another. Where the resources or inputs are under the control and use of another company it is the user or controller who should feel this pinch of capital levy. *I recommend therefore that the investment in the form of shares, securities or loans made by a company be deducted in computing the capital base for purposes of capital levy. For the same reasons, investment companies and banking companies be exempted from the charge of capital levy. Investment in Reconstruction and Stabilisation Fund be also exempted.*

16. The capital levy of 1 p.c. would not affect all companies and their respective shareholders in the same way. Its incidence on profits of a company would vary according to the mix of borrowed funds and owned funds, and on the rate of return on capital. As the borrowed capital would be computed, in effect, on the basis of a standard rate of interest, companies borrowing at a higher rate would relatively be at a disadvantage.

17. The capital levy of 1 p.c. would naturally add to the cost of borrowings. Capital levy is not deductible in determination of taxable income. The incidence of this additional cost of borrowings will therefore wholly fall on profits of the

company. The Table below will help appreciate the magnitude of this incidence on profits of a company.

TABLE

1. Ratio of owned capital to total capital ..	100	60	50	40	30	25
2. Effective Incidence of capital levy as a percentage owned capital ..	1	1·7	2	2·5	3·3	4
3. *Incidence of capital levy as percentage of profits.*						
(*i*) Where return on capital is 10 p.c. ..	10	17	20	25	33	40
(*ii*) Where return on capital is 15 p.c. ..	6·1	11·3	13·3	16·6	22	26·6
(*iii*) Where return on capital is 20 p.c. ..	5·0	8·5	10	12·5	16·5	20

NOTE—Variation owing to interest on borrowed capital is ignored.

18. Assuming on a conservative basis average incidence of capital levy as percentage of profits (before tax) at 15 p.c. the picture of corporate tax burden will be broadly as follows:

Use of Profits	Corporation Tax	Attributable Incidence of capital levy	Total burden
	Rate of Tax (%)		
1. Contribution to Reconstruction and Stabilisation Reserve Fund	..	15	15
2. Distribution as Dividend upto 8 p.c. of paid-up capital	30	15	45
3. Balance of Total Income (including dividend in excess of 8 p.c. of paid-up capital) ..	55	15	70

19. On the basis of recommendations in the Report, the rates of tax depend on the manner in which profits are used. It would be noticed from the above Table that if the company decided to distribute dividends, then on the amount of profits equal to 8 per cent. of the paid-up capital distributed as dividends aggregate tax burden will be about 45 per cent. On the amount of profits distributed as dividend in excess of 8 per cent. of the paid-up capital the burden will be about 70 per cent. It is obvious that this situation cannot be considered an improvement over the existing position. Rather it worsens the situation.

20. Moreover, my colleagues have recommended that in computing 8 per cent. of the paid-up capital bonus share capital should be excluded. Bonus shares issued so far by the companies during the past several years have been issued out of profits remaining after payment of tax. In numerous cases the issue of bonus shares itself would have borne tax. Existing holders of bonus shares would have purchased these shares in market at prevalent market value. As to bonus shares that might be issued out of the profits after payment of tax according to the recommendation in the Report, such profits would have borne an effective tax of about 70 per cent. Considering from all aspects I am satisfied that *there is no justification for excluding bonus shares from the paid-up capital.*

21. As stated earlier in paragraphs 7, 8 and 9 there are, in my opinion, some compelling reasons for encouraging larger distribution of dividend. Besides, deduction of dividend of Rs. 25,000 in the case of companies with a paid-up capital not exceeding Rs. 5 lakhs and application of a uniform rate such as 30 per cent. for distributed profits upto 8 per cent. of the paid-up capital in the case of companies with a paid-up capital exceeding Rs. 5 lakhs, this would create unjustifiable inequities and complications in marginal cases. *I recommend, therefore, that in the case of companies with a paid-up capital not exceeding Rs. 3 lakhs, distributed profits upto 8 per cent of the paid-up capital will be totally exempted from tax. In the case of other companies, out of the distributed profits upto 8 per cent of the paid-up capital the first Rs. 24,000 of distributed profits will be exempted from tax and the balance of distributed profits will be taxed at the rate of 20 per cent.* The distributed profits in excess of 8 per cent. of the paid-up capital will be taxed like the rest of the total income at the rate of 55 per cent in the case of all companies. As the distributed profits upto 8 per cent of the paid-up capital will attract a tax rate of, say, less than 20 per cent the price fixing authorities will determine the price for controlled commodities by adopting a reduced rate for a fair return on capital employed. This would help lowering of the prices of controlled commodities. Even otherwise, reducing the cost of risk capital may itself tend to lowering of prices.

22. My colleagues have recommended that contribution upto a maximum of 10 per cent of gross total income to the Reconstruction and Stabilisation Reserve Fund should be allowed as deduction in computing taxable income. 50 per cent of the contribution is allowed to be withdrawn at any time for current repairs and for research. I have discussed in paragraphs 10 and 11 the need to improve liquidity of com-

panies in times of good years. I have also referred to several business expenses of a non-recurring nature for which a sort of funding provision would be healthy. Even otherwise, it is desirable to check the tendency to divert income, and discourage incurrence of avoidable expenditure and pushing up of costs that follows in the wake of good profit results. Beneficial results in the overall economy will follow through encouraging the company in a favourable position to deposit a portion of the profits into the Fund. I consider, that for these purposes the limit of exempted contribution to the Fund upto 10 per cent of gross total income is too low. Moreover, budgetary resources of Government will also not be adversely affected if companies are allowed to lay by in the Fund an amount upto 20 per cent of profits in times of good years. Term lending institutions such as IDB, IFC, etc. receiving funds from Government and Reserve Bank have made advance over Rs. 125 crores to organised Industry in 1970-71. Increase in advances by public sector banks to organised industry in this one year exceed Rs. 500 crores. Further, in the long run tax revenues would improve by the use of this Fund by the company. *I therefore recommend that the limit of exempted contribution to the Fund be prescribed at 20 per cent of gross total income.*

23. In my opinion, the tax structure recommended for companies will be purposeful only if it does not increase the aggregate tax burden on companies. Enlargement in the number of shareholders and the emergence in increasing number of organised entities like companies will provide the test of its soundness.

(6) Other Topics

S. No.	Chapter	Paragraph	Topic	Remarks
(*i*)	2	2·222	Payment to sub-contractor.	I dissent in view of the provisions u/s. 40A(3).
(*ii*)	3	3·30	Special Rate of Income-tax for HUF where a member has independent income above minimum not liable to tax.	The Rates, 15% to 65%, should be raised by 5 percentage points at each level. Otherwise, see Minutes of Dissent.
(*iii*)	4	4·45	Gifted Property be made liable for attachment.	Only in case of gifts made within a period of 4 years preceding the date when tax became due.
(*iv*)	4	4·51	Deduction of tax from payment to contractors and sub-contractors.	The rates should be '2 p.c.' and '1 p.c.' in place of '3 p.c. and 2 p.c.' respectively.
(*v*)	5	5·19	House Rent	Upto Rs. 500 p.m. instead of Rs. 300 p.m.
(*vi*)	5	5·69	Rs. 5,000 Deduction medical profession in rural area.	I dissent.

NEW DELHI
24th December, 1971.

M. P. CHITALE

FAMILY AS THE BASIC UNIT OF ASSESSMENT

II

My colleagues recognise the usefulness of clubbing the incomes of husband, wife and minor children for purposes of checking tax avoidance. Yet, they disfavour the suggestion of treating family as a unit of assessment. In the opinion of my colleagues, the adoption of family as a unit, instead of individual as at present, will present numerous difficulties. While recognising that taxpayers could adopt various devices to create separate units of assessment for purposes of avoidance, they have suggested certain other measures to meet this problem of diversion of income.

2. Even after taking into account the difficulties referred to by my colleagues I find that on balance advantages in treating family as a unit of assessment are immense; and the difficulties are relatively of minor significance and certainly not insoluble or insufferable. A structural change by way of adopting family as the basic entity for assessment will in one sweep render ineffective various methods of tax avoidance through intra-family transfers of wealth or of income. Apart from checking tax avoidance, recognition of family income as a tax base indicates more appropriately the economic power or ability to pay, a concept which forms the very basis of progressive taxation. Our existing tax structure adopts individual as the basic unit of assessment. But giving tax concessions to the individual in respect of self occupied house property or payment of insurance on the life of the wife or husband or a child of the taxpayer, etc. recognition is given to family obligations. Even today, family is still the dominant form of human association. If we consider the whole saga of man's life every man's aspirations, actions and major part of his life veers around his family. In our country, development of the traditional concept of Hindu Joint Family symbolises this fact. In my opinion it would be appropriate, therefore, to adopt family consisting of husband, wife and minor children as the basic unit of assessment for tax purposes. Unattached individual can be regarded as a family, so to say, in a transient stage. Where a Hindu Undivided Family consists only of husband, wife and minor children or any of them, income of such a family should be clubbed with personal income of family members, treated as a unit of assessment.

3. The difficulties mentioned in para 3.34 of the Report are broadly three-fold.

Firstly, it is suggested that if family is treated as a unit of assessment suitable need-based allowances will have to be provided and evolving such allowances may pose problems and might cause considerable loss of revenue. I do not think so. Already there exists an exemption from tax for the first slab of income upto Rs. 5,000 after deduction of conveyance allowance of Rs. 600 or Rs. 900 as the case may be. In addition, it is recommended in para, 5.19 of the Report that for all taxpayers paying house rent in excess of 10 per cent of gross total income, the excess over the 10 per cent should be allowed as deduction. In terms of the recommendation this allowance is restricted to an amount equal to 15 P.C. of gross total income of Rs. 300 per month whichever is lower. As the family *income will provide a wider tax base, I recommend that this suggested ceiling of Rs. 300 per month should be raised to Rs. 500 per month.* Expenditure on food clothing and housing remains relatively more or less steady from year to year. With the adoption of family as a unit, revenue from personal tax will substantially rise, for the income which could now be considered for aggregation will bear tax at a progressively higher rate. It should be possible, therefore, to provide for need based allowances without any net loss of revenue. However, before one gets a clear idea about the amount of increase in tax revenue through adopting family as a unit we can proceed cautiously as regards making of allowances. To start with, allowances can be related to the income of the spouse or the minor which under the existing law is liable to be assessed independently in his/her hands. If a certain amount is deducted from the income of spouse or minor before clubbing their income in the hands of family, this deduction can partake of the character of a need-based allowance. How this deduction can be made is described in the following paragraphs. Moreover, deduction in this manner automatically ensures that existing tax revenue does not suffer and on the contrary, the proposal recommending adoption of family as a unit results in growth of revenue.

4. Secondly, reference is made to complications of equity etc. I recognise that many women in lower and middle class families take up employment out of the sheer necessity to supplement family income. In such cases the hardship of extra tax burden inflicted by inclusion of the earned income of wife in the income of the family can be mitigated by taxing such supplementary income earned by a family member in the hands of the family on the basis that this earned income itself was the gross total income. In other words, where more

than one member of the family has earned income, the earned income which is of a supplementary nature (that earned income which relatively to other earned income is lower) may be assessed to tax in the hands of a family, as if the lower earned income were the gross total income. Applying a lower tax rate as a concession to the lower earned income in the family unit should pose no problem. Further, there would then be no distinction as between earned income of husband and the earned income, of wife for purposes of aggregation. The earned income, whether of husband or of wife, whichever is the large or in other words that income which is not of a supplementary nature but is really the principal earned income of the family will alone be considered for aggregation.

5. For illustration, where earned income of husband is Rs. 8,000, of wife Rs. 10,000 and of minor child Rs. 600, the lowest earned income of Rs. 600 of the minor will be assessed in the hands of the family at the tax rate applicable to the income of Rs. 600. Since the tax rate is Nil for income below Rs. 5,000 the tax payable by family on minor's earned income is Nil. Similarly, the tax payable by family on the husband's earned income, Rs. 8,000 which is lower than the wife's earned income will be the tax payable at the rate appropriate to total income of Rs. 8,000. The largest amount of earned income, Rs. 10,000, being the principal earned income will be considered for aggregation with unearned income of family members. Concessional treatment of earned income in this manner will recognise the effort and hardship involved in self-exertion and will also leave a relatively larger disposable income available for meeting family expenditure.

6. Family is a typical social unit where every member is expected to exert and earn according to his or her capacity or ability and where income is enjoyed or shared in accordance with the mutual needs of the family members. Adoption of family as a unit is primarily suggested as a measure for checking tax avoidance, and also otherwise as an appropriate tax base. There is no intention to discourage any family member from working and earning. *I therefore recommend that earned income of a member, not exceeding Rs.* 20,000 *and which is of a supplementary nature be taxed in the hands of family on the footing that such earned income itself were the gross total income.*

7. As regards diversion of income through bogus payment to a spouse by way of salaries, fees, commission or other remuneration, provisions of section 40A(2) take care of this. These also help check avoidance of tax through any excessive or unreasonable payments to relatives of the assessee. I do not therefor, agree with the recommendation of my colleagues made in para 3.39 that all income of the spouse of an individual by way of remuneration or commission from a concern in which such individual has substantial interest should be included in the hands of the individual. Such a recommendation hits arbitrarily even at any fair and bonafide remuneration that may be earned by a spouse, and which even according to Income Tax Officer may not be considered excessive or unreasonable. There is no worthwhile justification for such a measure.

8. It would be interesting to consider the shortcomings and complications inherent in the suggestions made by my colleagues for meeting the problem of diversion of income. In para 3.37 of the Report, it is suggested that income accruing to a daughter-in-law from assets gifted by a parent-in-law should be included in the total income of the parent-in-law. Likewise, income arising to a minor grand-child from assets gifted by a paternal grandparent is proposed to be included in the total income of the grandparent.

9. The suggestions are made with a view to checking avoidance of tax that takes place through intra-family transfers. The two situations mentioned above are not the only possible transfers facilitating tax avoidance. If income arising to a daughter-in-law from asset gifted by a parent-in-law is considered for inclusion in the total income of the transferor there is little justification why this treatment should not be extended to a transferor, who may happen to be a grand-parent-in-law. Similarly in the case of a minor grand-child, transfer of asset from only paternal grandparent is dealt with, apparently because transfer from a maternal grand-parent may cause hardship to him/her if the transferor has no control over the property of grand-child.

10. In this connection I should mention the general problem of recovery of tax in all situations where assets of the transferor in any subsequent year are inadequate to meet the tax payable on the amount of income he has not received and over which he has no control. Consequently, for recovery of tax, Government is obliged to look at the assets of the transferee or donee. Recommendation in para 4.45 and provisions of Section 65 of the I.T. Act arise from the practice of not taxing the income in the hands of the beneficiary.

11. The existing provisions in subsections (1) & (2) of Section 64 of the I.T. Act seek to check avoidance of tax that takes place through intra-family transfers. These provisions as also the new measures suggested by my colleagues deal with income arising from gifted assets, or gifted aeets converted into new assets. But income arising from accumulated income or from accretions to gifted assets still remains out of consideration.

12. Deficiencies of all such measures calculated to check diversion of income and problems of tax recovery are inherent in any scheme of taxation that adopts individual as the basic unit of assessment. This situation is effectively tackled by adopting family as the unit and in a most straightforward manner.

Consider the complications arising from the measures suggested by my colleagues, measures which are merely in the nature of extension of the existing provisions of Section 64 of the I.T. Act. For illustration, consider a case where a minor child has received gifted assets from his father, mother, paternal grand-father and paternal grand-mother. The minor child is admitted to the benefits of partnership in two firms, in one of which the father of the child is a partner and in the other, the mother of the child is a partner. The child is a beneficiary with a determinate income from a family trust founded by a maternal grand-parent. The child gets income from accretion to gifted assets. Assessment of such a case bristles with complications of treatment. Firstly, every year the I.T. Officer will have to keep a track of how gifted asset has been dealt with or invested. Secondly, where investment is made out of a mix of gifted assets, income attributable to a particular gifted assets has to be determined. Lastly, after sorting out the income assetwise as also donorwise, the portion of income liable to be assessed in the hands of the transferors, or, the parent partners will have to be culled out. Then, steps have to be taken to get the relative portion assessed in the hands of the father, the mother, the paternal grand-father, and the paternal grand-mother, and the balance income will remain to be assessed in the hands of the minor.

Assessment of a family as the basic unit of taxation merely requires a specified deduction to be made out of income which is of a supplementary nature, before it is aggregated in the hands of the family.

13. We may now turn to unearned income of family members and its treatment, if family is adopted as the basic unit of assessment. All unearned income, whether of husband, wife or minor child, has to be aggregated and taxed in the hands of the family. In case taxation should militate against the urge to work and diminish one's capacity to support family needs, I have recommended in para 4.6 that earned income upto Rs. 20,000 may be taxed in certain cases at the rates appropriate to such earned income. If a portion of such earned income is invested, should the entire income from such investment be aggregated with the other income of the family? In any case a certain amount of personal expenditure, such as education, health, medical care would necessarily be incurred by or on behalf of the member having unearned income. Perhaps, that might be the very purpose underlying gift to a minor child or investment of earnings of a spouse. At the same time, as mentioned earlier, the family is a typical unit where joys and sorrows are mutually shared, and sacrifice for the benefit of other family member is a distinguishing mark. I consider it, therefore, reasonable to make a small deduction from the unearned income of a member which is of a supplementary nature before such income is clubbed in the hands of the family.

14. *Deduction from unearned income should be made in respect of income from assets that are not gifted to a member by another member of the family.* I have stated earlier in para 2(28) that the matter of giving relief by way of tax credit is superior to the relief given through deduction of income if the relief is intended to encourage promotion of savings. And I have also recommended withdrawal of the existing exemption with respect to income from specified investments u/s. 80 L. There is no sufficient reason to depart from this recommendation even if family is adopted as the unit of assessment. I am considering the case of deduction from unearned income of a member which is of a supplementary character on the ground that the deduction may partake of the nature of need-based allowance. *I recommend, therefore, that before the aggregation of income a deduction upto Rs. 3,000 be made from the unearned income of a family member which is of a supplemntary nature.*

15. A view is sometimes expressed that the clubbing of incomes of husband, wife and minor children in the hands of a family would widen the tax base, and the consequential tax burden would be enormous. This may result, it is apprehended, in disruption of families and even of institution of marriage. I do not share this view. With the improved incentives for savings and broadening of the fields of investment qualifying for relief as suggested by me, urge to split or divert income is bound to decline.

16. I have discussed in the foregoing paragraphs how the difficulties referred to in para 3.34 of the Report in adopting family as the unit of assessment can be resolved. I have also pointed out the complications and deficiencies inherent in any measures calculated to check tax avoidance if individual remains the basic unit of assessment. It is obvious that the adoption of family as the unit would cut at the root of this problem of diversion of income through transfers within a family. There is no other effective alternative to deal with this form of tax avoidance. Besides, family income provides an appropriate tax base for taxation of personal income.

17. To sum up,

(i) Family of husband, wife and minor children should be adopted as a unit of assessment for purposes of Income Tax instead of individual as at pre-

sent. Unattached individual should be regarded as a family consisting of a single member.

(ii) Subject to certain qualifications, all income, whether of husband, wife or minor children, should be aggregated and taxed in the hands of family.

(iii) Earned income not exceeding Rs. 20,000 of any member of a family, which is of a supplementary nature should be taxed in the hands of family as if such earned income itself were the gross total income. The excess of earned income over Rs. 20,000 should be clubbed in the hands of the family.

(iv) Unearned income of any member exceeding Rs. 3,000, which is of a supplementary nature and which does not arise from an asset gifted to the member by another member of the family should be included in the gross total income of the family.

(v) Where house rent paid by a family exceeds 10 per cent of its gross total income, the excess over 10 per cent but not more than Rs. 500 per month or 15 per cent of gross total income, whichever is less, should be deducted in computing total income of the family.

(vi) Where any Hindu Undivided Family consists only of husband, wife and minor children or any of them, income of such a family should be clubbed with personal income of family members treated as a unit of assessment.

NEW DELHI
24th December, 1971.

M. P. CHITALE

I am in agreement with the view that family should be the basic unit of assessment.

NEW DELHI
24th December, 1971.

D. K. RANGNEKAR

III

While I am generally in agreement with the recommendations made by the Committee, there are some points on which I have slightly different views which are expressed below.

(1) Direct Taxes Settlement Tribunal

1.1 I do not feel happy about the recommendation for the setting up of a "Direct Taxes Settlement Tribunal". The main reason for such a recommendation appears to be the fact that senior officers of the Income-tax Department are afraid of taking responsibility mainly with a view to avoid adverse criticism. Such an apprehension is not fair to officers who have been taking bold decisions. In fact, such officers should be encouraged. Additionally, now that we are recommending that the Commissioner's status should be raised and that his work-load should be reduced, I see no reason why Commissioners and other senior officers should not undertake this work as an integral part of their other duties. The suggestion made by the Committee, if accepted, would involve not only deliberations by the Settlement Tribunal but also a fair amount of work within the Commissioner's charges in order to present adequate information to the Tribunal. I believe that if the Commissioner, on the recommendations of the officers below, feels that in the interests of revenues, settlement should be arrived at, he should be entitled to do so. Should he need support or assistance, a consultation with another senior officer should be provided. Further with a view to achieve an element of uniformity in the country, it may be advisable to appoint one or more senior officers who may visit different parts of the country to settle cases after discussions with the Commissioners. Thus settlement can be done by a Commissioner in consultation with or after securing the approval of such a senior officer. In larger or more complicated cases, such settlements could be done by two Commissioners with the approval of the senior visiting officer. In this way, if necessary ad hoc tribunals can be formed locally.

1.2 Hence, I would recommend that all settlements should be entrusted to Commissioners in respect of their charges. To deal with complicated cases ad hoc tribunals consisting of two Commissioners locally available under the chairmanship of the visiting senior officer may be formed from time to time. It should not be necessary to hold formal hearings in this behalf. The assessee should be entitled to discussions, which may even be held in camera.

(2) Import Entitlement Incentives

2.1 I do not favour the suggestion that import entitlements as incentives for export performance should be replaced by cash subsidies. All the same, I feel strongly that malpractices in the form of underhand sale of import licences should be stopped. Import entitlements could be split up into two categories—one which is for the use of the exporter, who is a manufacturer on his own, and the other which is saleable to other parties. In the case of the former, it should be made incumbent upon the importer to prove its utilisation not only to the satisfaction of the appropriate technical department of the Government of India but also to the satisfaction of the Income-tax Department. In the case of transferable import entitlements, the sale should be made free in order that the Income-tax Officer is in a position to check the sale price with the prevailing market price. Additionally under law it should be made obligatory for the importer to have his accounts audited and the auditor should be obliged to report upon the utilisation and/or sale of import licences.

(3) Grants-in-aid to Political Parties

3.1 I am not in agreement with the recommendation that Government should give grants-in-aid to national political parties for election purposes. As it is, the Government finds it difficult to raise sufficient resources to pay for its obligations. The proposed grants-in-aid would be an unnecessary burden on the exchequer. Besides there is no guarantee that political parties would still not raise additional funds in an underhand manner. In the circumstances, I feel that financing of political parties should be left to private agencies and that there should be no bar on companies making contributions to political parties provided that such a contribution is made after the management has obtained the sanction of the share-holders by means of a special resolution; the company concerned should also be obliged to show separately in its annual accounts contributions made to the different political parties.

3.2 I would even go to the length of suggesting that political parties be treated as institutions entitled to exemptions to tax under sections 11 and 13 of the Income-tax Act, for political parties are essential in a democratic set up and do in fact serve a public purpose.

(4) Hundi Loans

4.1 The Committee has made recommendations regarding Hundi loans which I feel do

not go far enough. Hundi loans are normally taken from Hundi bankers and/or through Hundi brokers. In order that malpractices obtaining in this market are brought under control, it would be advisable to insist that all persons carrying on business in this line should register themselves with a central organisation, possibly the Reserve Bank or an institution nominated by it. Such registration coupled with the recommendation made by the Committee in the main report would be a great help.

4.2 In this connection it is pertinent to mention that loans may also be raised by assessees through private parties in respect of which Hundi may have been given. Such loans would not be covered by the generally understood conception of Hundi loan market. To ensure that these lenders also are genuine, it is suggested that when such a loan is raised, an intimation may be sent to the concerned Income-tax Officer, preferably that of the lender, either at the time of taking the loan or at the time of repayment thereof. This should act as a fair check on possible malpractices.

(5) Assessment Procedures

5.1 The Committee has approved the procedure for making assessments in small income cases on the basis of returns received. I would like that such a scheme be extended to larger cases also in order that assessments are, by and large, kept up to date. In fact the ideal would be to complete the assessments within the assessment year. It would, at the same time, not be appropriate to completely eliminate checking in larger income cases. Although some scrutiny of the accounts in the first instance may be done, it need not be comprehensive. In fact, in most cases reference to account books may not be called for, particularly when accounts have been audited. The Income-tax Officer should however seek or elicit additional information on any points which he feels need explanation. The assessments would thus he completed expeditiously. Subsequently, periodically audit or check parties should be deputed to examine the accounts of an assessee for a number of years together. Depending on the size and type of business carried on by the assessee, this detailed examination may be undertaken every three to six years.

5.2 Although an enabling provision for this purpose has been made in section 143 (2) of the Income-tax Act, it does not go far enough. Under this section checking can be done by an Income-tax Officer within two years after the conclusion of the assessment year. It is imperative that a provision should be made whereunder the Income-tax Officer should be entitled to check the accounts of an assessee as from the last date when he checked them. This work can be adequately planned and examination of accounts of large income assessees can be rotated in a manner which would ensure a full coverage of all such assessees over, say, 4 to 8 years. In any case, the chances of detection of malpractices are much greater if accounts are checked for a number of years together than when it is done for a year at a time.

(6) Agricultural Income

6.1 We have recommended that agricultural income should be liable to tax. For reasons stated in the report, the processing involved in order to subject agricultural income to tax may take time. In the intervening period, I feel that there is no reason why at least in the case of persons having taxable income they should not be required to explain their agricultural income. Even though agricultural income as such may not be liable to tax, the assets created therefrom would be liable to wealth tax. Besides, out of the assets created, there may be income liable to income-tax. This would enable the Income-tax Officer to check upon the prevailing malpractice of what is popularly called conversion of black money into white by inflating agricultural income. It is said that it would normally be difficult for an Income-tax Officer to determine correct agricultural income. This does not appeal to me. I dare say that with an application of mind and an intelligent approach it would not be impossible for an Income-tax Officer to devise ways and means to assess the reasonability of agricultural income shown. I believe that most persons who have large agricultural income, also have substantial other income liable to income-tax.

(7) Sifting of Essentials from Non-Essentials

7.1 While dealing with the subject of tax evasion, it would be pertinent to mention that no amount of legislation would curb tax evasion unless the administration gears itself up to ensure that income-tax laws are adequately administered and enforced. As far as possible, an endeavour should be made to provide suitable guidance to the Income-tax Officers for this purpose and also to ensure that there are no unnecessary pin pricks. It should be appreciated that it is just not worthwhile wasting the precious time of the Income-tax Department to secure nominal revenue. The officers should therefore concentrate on matters involving significant revenue. In this connection I may also add that even the law should not expect checking and calculations of a time consuming nature. For instance, ceilings on travelling expenses and similar items can cause confusion and unnecessary controversy. In matters of this nature, it would perhaps be best if ceilings of expenditure apply when no proof of actual expenditure therefor is given. When expenditure is actually incurred and is considered reasonable depending upon the circumstances of the case, ceilings would appear to be unnecessary. Similarly, time need not be wasted on endeavouring to locate petty add backs.

(8) Advance Rulings

8.1 The Committee has recommended establishment of a system of advance rulings, particularly in cases involving foreign collaboration, etc. Personally, I feel that this should be taken up more generally. Giving advance rulings to assessees or prospective assessees would considerably reduce the workload on the department and would diminish disputes and controversies. The apprehension that advance rulings would be misused for they are binding on the Government and not on the assessee is not justified. By and large, the assessee would be inclined to follow the rulings given because it would not be in his interests to raise a controversy resulting in expensive litigation. The main advantage however would be that the Income-tax Officer would not have to apply his mind in every case and at the same time, the assessee would know how to proceed with his business activities bearing in mind the law on the subject as enunciated by the authorities. I may even go to the length of suggesting that a provision in law may be made to the effect that the auditors should report on the facts as given in a reference for an advance ruling. This would be an additional check for the department to ensure that the system of advance ruling is not misused.

8.2 As it is, the Board issues circulars, which are another form of advance rulings. Besides, to assist foreign investors pamphlets have been issued by agencies like the Indian Investment Centre etc. to apprise the parties of the Indian income-tax as applicable to foreign investments. Some of these unfortunately are a little confusing. But if a system of advance rulings is established, the rulings, I dare say, would be given after careful consideration and after taking into account various aspects of law and practice.

8.3 It is necessary for this purpose to set up an efficient organisation for advance rulings. A few senior officers should be grouped together and the group should consist of specialists in different fields. This group would be in a position to help in the interpretation of law for internal use of the department also. At the same time, care should be taken to see that these specialists are not saddled with routine work. Needless to say that, as far as possible, the disposal of references should be expeditious in order that this system can have meaningful impact.

(9) Intelligence and Investigation

9.1 The Committee has recommended that Intelligence and Investigation should receive exclusive attention of a senior member of the Central Board of Direct Taxes and that he should be freed of all other work. This I have not been able to understand, for if he has to be freed from all other work, then why have him on the Board? The Board should have at its disposal all its members, when decisions as a Board have to be taken. There is hardly any point in having a 'Board' if different members have to carry on different functions and there is no joint and several responsibility as regards the decisions of the Board. While individual members may have some work entrusted to them, a fair amount of decision making should be done by the Board as a whole.

9.2 I attach a great deal of importance to intelligence and investigation work. Hence I feel that the top man in charge of intelligence and investigation should not be saddled with other work and should have nothing to do with the Board. In rank he should be almost as senior as the Chairman of the Board and he should be responsible to the Board through the Chairman.

9.3 It may not be out of place to say that if investigation work is done effectively, tax evasion would be considerably reduced. To achieve this the usual administrative forms and procedures have to be suitably amended. The fact of the matter is that generally the department has knowledge of malpractices but is unable to do anything about it. This is due to sheer lack of effort and application. The investigation chief should be selected on merit alone, irrespective of seniority or age. In fact a younger man would be better fitted. He should be adequately assisted by a group to form a brains-trust to evolve forms, methods and procedures to conduct investigation of various types.

9.4 According to me, scrutiny of accounts of assessees should take the following forms: —

(1) scrutiny of income-tax returns and the attached statements;

(2) scrutiny in (1) above coupled with securing from assessees additional information on certain essentials;

(3) scrutiny of account books with a view to determine whether or not the return is correct—this could be periodical; and

(4) investigation where malpractices and fraud are suspected with a view to establish fraud, and possibly to prosecute.

9.5 Items (1), (2) and (3) should be handled in a normal routine manner, as indicated by me elsewhere. When it comes to investigation, it calls for specialised knowledge gained not only from personal experience but also by careful study of methods and modes of frauds adopted by people in different walks of life. Information received from the Intelligence department may need to be properly sifted and absorbed. This is specialised work and officers with apti-

tude should be specially trained and a cadre within the service built up. Such officers should be hand picked and should be entitled to rapid promotion and special treatment. Although there is no reason why they should not be transferred to other wings of the department, yet if they are good, they should be retained even by providing them with additional incentives including remuneration. Investigation, both original and supervisory, is essentially a field operation. Hence, the investigation chief should be a field officer and not one who is concerned with secretariat work.

9.6 As I have suggested elsewhere, returns should ordinarily be accepted in all cases after a little scrutiny. Every now and again detailed examination should be conducted. In appropriate cases investigation may be ordered. When this is done, it should be really thorough. Procedures and approach adopted for this purpose should not be mixed up with the normal routine forms adopted.

9.7 Now coming to Intelligence work, I feel that 'intelligence' should be separated from investigation. This could either be done by having a whole-time Deputy for Intelligence under the Intelligence and Investigation Chief or by having a separate officer altogether. If the former suggestion is accepted, then there would naturally have to be another Deputy for Investigation. Ordinarily officers dealing with intelligence should confine themselves to such work. Information collected by them should be communicated to other wings including the Investigation Wing. Needless to say that the Intelligence Wing should carry out the necessary analysis, tabulation and correlation of information collected by them before sending it on to other wings of the department. My impression is that even in the police intelligence is separate from investigation.

9.8 Another function which at present is being performed by Intelligence and Investigation is 'prosecution'. This should be separated. It is hardly possible to expect an investigating officer to conduct prosecution work for the same is time consuming. Although it may be desirable once in a way to assign an investigating officer to assist in prosecution, ordinarily it would be best to separate these functions.

(10) Legal Assistance

10.1 The Committee has recommended that a Commissioner should be provided with adequate legal assistance and that a panel of competent lawyers with experience in criminal cases should be at the disposal of the Commissioners and that they should have suitable expert staff assistance. While I agree that court cases should be conducted by lawyers in practice, I am of opinion that a certain amount of work within the department should be handled by officers with legal background who are given an exposure to and experience in legal matters. The Committee has in another part of the report suggested that officers with legal experience should be entitled to become judicial members, of the Income-tax Appellate Tribunal. Therefore, the general consensus appears to be that the Income-tax Department is in a position to train and throw up officers with legal talent. Hence I feel that some officers of the Income-tax Department may be provided an opportunity of specialising in legal matters not only in respect of law relating to income-tax but also general law, both civil and criminal. If need be, such officers can be sent out for training both in the judiciary and in the Law Ministry. In this way the Department could be self sufficient in legal matters. It would also be possible for the department to provide training to the future judicial members of the Income-tax Appellate Tribunal, who, I feel should be entitled to promotion to High Courts. This may call for a discussion with the judiciary with a view to framing appropriate rules in this behalf.

(11) Valuation

11.1 At different places in the report, reference has been made to valuation of property either for wealth tax purposes or in connection with under valuation of property with a view to hide black money. It has been suggested that the Valuation Department should be strengthened and references should be made to it for different purposes. It has also been suggested that the control on valuers appointed under the Wealth Tax Act should be tightened. Personally I feel that what is called for is not multiplicity of specialised valuers but to evolve forms and methods of valuation. A strong valuation cell consisting of technical persons including economists and accountants should be formed with a view to laying down principles of valuation. These principles can be in the form of rules and notes for guidance. From time to time references could be made to this cell to elicit guidance on principles but not to seek decisions in individual cases. If income-tax Officers receive such guidelines, there is no reason why they would not be in a position to administer valuation laws reasonably and in a uniform manner throughout the country. As is well known, market value can be arrived at in different ways depending upon the assumptions made. In point of fact, notes referred to above would help even the assessees to know how valuation should be done. For instance, valuation of rented property would need to be integrated with valuation of self occupied property. Cost or market value concepts as also return on investment, including property, are different factors which influence value. Hence importance and relevance of such factors inter se would need clarification and explanation.

(12) Audit of Accounts of Assessees

12.1 In regard to audit and the scope of audit, my views are a little different. It is generally agreed that audited accounts are better than unaudited ones. It is all the same necessary that to avoid confusion and mis-understanding, the scope of audit and the methods and procedures adopted for audit should be defined or at least clarified in the audit report. Once this is done, the Income-tax Officer can be reasonably assured that the books of account have been maintained in terms of information contained in the audit report.

12.2 In the case of limited companies, the scope of audit has been indicated in Company Law and has been determined over the time by reference to what is called prudent commercial practice as also provisions in codified law read with the case law on the subject. Unfortunately, this is not so for audit of accounts of parties other than companies or other entities registered under statutes. Hence, it would be desirable to settle and broadly define in consultation with appropriate bodies and departments of the Government of India the scope of audit in such cases. This, I feel, should be by reference to trade, commercial or professional practice and not necessarily related to the requirements of the income-tax department. To saddle the auditor with the responsibilities of income-tax assessments howsoever indirectly may create unfortunate situations.

12.3 In the case of limited companies, the audit report normally, unless it is called for otherwise, has necessarily to be in short form. At the same time, there is no reason why an endeavour cannot be made to expect the auditors to give a detailed report on some of the points which the authorities feel are essential. A precedent to this effect is in existence in the case of Government companies. Apart from the short form report, the Comptroller & Auditor General expects the auditors of Government companies to send to the management a detailed report on the lines indicated by the Comptroller & Auditor General with a copy to him. In this way, the Comptroller & Auditor General is able to keep an eye on the operations of the public sector undertakings and is in a position to have his own audit conducted without going into details. I feel that a similar system can be introduced for the audit of income-tax assessees including companies. The auditor should be expected to report to the owners not only in short form but also in long form by giving his comments on some specified areas of activity. The Income-tax Officer naturally should be entitled to receive both the short form and the long form report.

12.4 As the information reports would not necessarily take into account the requirements of the income-tax law and may not touch upon all points on which an I.T.O. may require clarification and/or information, such additional information would have to be called for from the assessee. In my opinion in order to secure this, the I.T.O. should write to the assessee to obtain from the auditors a report giving the information which he may desire. The assessee can then request his auditors to submit a report on the points indicated by the Income-tax Officer. It must be appreciated that there is no contractual relationship between the auditor and the I.T.O. In fact, I would go as far as this to say that no attempt should be made to secure such a relationship. At the same time, with a view to assist the department, the assessee and the auditors, a draft outline of a report for the guidance of the assessees and the auditors may be designed. Further additional notes for guidance for the preparation of long form (detailed) reports should also be published. The recommended form of report can be adopted and adapted to fit particular cases. Some points needing the auditors consideration have been given in the report by the Committee. Personally I feel that these points are of a very general nature and are inclined to be on an elementary side. In the case of large income assessees, the information required may have to be of a different type and with varying emphasis depending upon the different areas of activity.

12.5 While on this subject, I would like to add that an I.T.O. should seek this "additional information" not only in the case of non-company assessees but also in the case of company assessees. If anything, an I.T.O. would have more serious and significant problems when it comes to scrutiny of accounts of large companies.

12.6 In brief, to assist the Income-tax department the following reports by the auditors to the owners or assesees should normally be available for examination:—

(1) Short form or statutory report;

(2) Long form (or detailed) report giving comments on the main areas of activity, including income and expense accounts, as also an indication of scope of audit and the methods followed for audit; and

(3) Report on specified points on which the concerned I.T.O. may call upon the assessee to furnish information.

12.7 While dealing with the subject of compulsory audit, the Committee has referred to the concern voiced in the press and elsewhere about a few well known firms of Chartered Accountants monopolising bulk of the audit work in the corporate sector. This, I believe, is to highlight the fact that there are a large number of Chartered Accountants now available for audit work in the profession. It may however

create an impression as if the Committee is in agreement with the observations regarding concentration of company audit work. I would like to say in this connection that the so called concentration is of no consequence for when a firm has a large amount of audit and other professional work, such firm is comprised of a fairly large number of Chartered Accountants either as partners or as Assistants. Personally I feel that co-operative work amongst Chartered Accountants leading to specialisation and added independence should be encouraged. In fact a positive effort should be made to secure increased specialisation and study in depth of financial management including different aspects of accounting and audit.

(13) Starred Assessees

13.1 A suggestion has been made that we should have a system of starred assessees as in Japan where "blue returns" system is in vogue. I would like to mention in this connection that the system of blue returns has been developed by Japan over a period of time by offering guidance to assessees regarding the forms and procedures of accounts etc. To achieve this the Income-tax department and other Government departments have to make extra efforts. I would suggest that the department should study the manner in which this system has been developed by Japan. Whether this is done through taxpayers' assistance organisation or as part of a separate organisation is a matter of detail which the Income-tax administration can look into.

(14) Tax Rates

14.1 While agreeing generally with the recommendation made by the Committee, I feel that the rates of Gift Tax should be stepped up further. The present practice of giving gifts to friends and relations in order to justify a nucleus for capital for the formation of a firm through which income is diverted should be curbed.

14.2 Similarly, stepping up estate duty would help equalise distribution of wealth. At the same time, incentive to work should not be reduced by hiking up personal Income-tax. Personal taxes should be substantially reduced and more importance should be given to human effort than what is done at present. In the context of increase in tax rates on gifts and estate duty suggested by me if considered appropriate, the maximum marginal rate of tax could be made applicable on income above Rs. one lakh. I would, however, place on record the fact that I am otherwise in agreement with the income-tax rates suggested by the Committee. In any case, reduction of income-taxes is likely to improve realisation.

(15) Computation of Capital for Capital Levy

15.1 A formula has been given by the Committee regarding the computation of capital liable to tax. According to the proposal, working capital raised by means of demand loans have also to be subjected to tax. I do not agree with this. I feel that only equity capital including preference capital, plus reserves and long-term loans should be taken as capital of a company for levy of capital tax. If the Committee's recommendation is accepted, cost of raising short-term capital would go up tremendously particularly if temporary over-drafts have to be subjected to tax. Besides requirements of working capital depends on various factors including Government policy etc. and is not altogether under the control of the company management.

(16) Registered Firms' Tax

16.1 It has been recommended that registered firms tax rates should not be applicable to professional firms. My own view is that such tax should not be applicable to professional firms and all other firms where all the partners are working partners. In order that a person cannot claim to be a working partner of a large number of partnership firms, it is suggested that there should be a limit in regard to the number of firms of which an individual can be a working partner. In the case of companies registered under the Companies Act, it is not possible for a person to be a Managing Director of more than two companies. I would suggest that a similar restriction be introduced to the effect that a partner cannot be a working partner of more than two partnership firms to entitle the firm from exemption of registered firm tax.

(17) Hindu Undivided Family

17.1 The Committee has suggested that Hindu Undivided Family as an institution should continue but that in certain circumstances the rate of tax applicable to H.U.Fs should be stepped up. The main reason for retaining the institution of H.U.F. can at best be that the family system obtaining in this country for such a long time should not be broken up. At the same time, all of us appear to be agreed that H.U.F. has been used to a considerable extent as a means for avoidance of tax. Not that I am anti-Hindu Joint Family system, yet I do feel that if a person is a member of a family he should accept the concept of H.U.F. in its entirety resulting in the clubbing together of all the income of all its members to form one unit. But for the Hindu Gains of Learning Act XXX of 1930, such a situation would have obtained. Hence it would seem appropriate either to scrap H.U.F. for income-tax purposes or to repeal the Hindu Gains of Learning Act. In the alternative, an option may be given to a person either to be a member of an H.U.F. or to be an individual. It does not appear logical to me that a person should have part of his income as a member of H.U.F. and another part as his individual income.

17.2 Recently under section 64(2) of the Income-tax Act, provision has been made to the effect that hereafter an individual cannot escape taxes by making a contribution into the H.U.F. out of his own property and some other restrictions have similarly been imposed, mainly to prohibit the throwing into the family hotch potch self acquired property. These restrictions however do not go far enough. In any case, they do not cover the H.U.Fs now existing. The law which has been brought in now is with reference to malpractices obtaining in the existing H.U.Fs, yet it does not affect them in any way. Besides it favours people inheriting property as against those who create property on their own. According to the present trends in thinking and philosophy of society, this would appear inequitable.

(18) Revenue Department in the Finance Ministry

18.1 The Committee has recommended that the Board of Direct Taxes should be an autonomous body but has not said anything about the make up of the policy making wing in the Government to deal with revenue matters. During my visit to Tokyo (Japan), I learnt that they have a field organisation called National Tax Administration Agency headed by the National Commissioner and at the same time they have a Tax Bureau which is part of the Finance Ministry. The Director General Tax Bureau is next to the Vice Minister and the National Commissioner of Taxes of field service is between the two. In a way it is like the different departments we have in the Finance Ministry headed by the Finance Secretary. I feel that the department dealing with fiscal matters in the Finance Ministry should be manned by officers from the Income-tax Service. Transfers to and from the equivalent of the Tax Bureau in the Finance Ministry and the Central Board of Direct Taxes should be encouraged.

(19) Tax Arrears Write off Body

19.1 The Committee has suggested setting up of a high powered body for writing off and scaling down arrears of tax demands. I am not particularly fond of creating a large number of agencies to do virtually the same work. In order that a decision can be taken whether or not to write off a particular arrear of tax, it is necessary for the Income-tax Officer and his superior officers to report upon the proposal. If such a proposal has to be first processed within a Commissioner's charge and then placed before the write-off body, there is no reason why the same write off cannot be done by the Commissioner himself. As suggested in the case of settlement cases, some senior officers may be appointed to tour around the country to dispose of such cases within the Commissioners' charges. I am conscious of the fact that to cope with the present back-log of work, it may be necessary to appoint additional hands. There would, therefore, be a good case for appointing two or three Officers on Special Duty with an appropriate status who may visit the headquarters of the different Commissioners in order to facilitate expeditious decisions locally.

(20) Accounting

20.1 Accounting is about the weakest link in the administrative chain of the Income tax Department. My impression has been that virtually all the work in connection with recording of demands, realisation and data processing for statistics is done by junior staff. The officers, by and large, are inclined to confine themselves to supervision of a very general nature. In the main report we have suggested improvements in the maintenance of accounts and presentation of information to remedy the prevailing shortcomings. The suggestions are based upon the information presently available before us. There is no reason however why this should not be further improved as time goes on. Improvement in accounting forms and procedures should be a continuous process.

20.2 With this end in view, I am of opinion that some officers in the Income-tax Department should specialise in accounting. As officers of the Income-tax Department are presumed to have fair knowledge of accounts and accounting matters, the least that should be expected from them is that they keep their house in order. To achieve this it would appear imperative to gear up the internal accounting wing of the Income-tax department to secure increased efficiency. I would suggest therefore that a senior officer be attached to a Commissioner or a group of Commissioners who is in charge of accounts in the main. He should be assisted by Income-tax Officers in charge of accounting within a functional group or an officer who supervises the work of a group of officers where decentralised accounting is obtaining. The head of this organisation within the Commissioner's charge may be called Additional Controller of Accounts. The Income-tax Officers in charge of Accounts may be designated Assistant Controllers of Accounts. The Additional Controller should be under the Commissioner in line of authority, but should be functionally responsible to the Controller of Accounts who may be of the rank of a Director in the Board.

20.3 We have suggested that the Board should have a Finance Member. This member may be placed in charge of Finance & Accounts and could perhaps be designated as Finance Member and Chief Controller of Accounts. He may be assisted by the Controller, referred to above.

20.4 In so far as the maintenance of accounts is concerned, at present the Income-tax Officers (Collection) maintain their own accounts; and on transfer of arrears to Recovery Section, the latter maintain another set of accounts. This duplication is unnecessary. Accounts can be maintained at one place and could be at the disposal of both the Collection Income-tax Officers and officers in the Recovery Wing of the department.

20.5 Part of the confusion between Collection and Recovery is due to the fact that a recovery certificate is normally issued a year after the demand is due. This procedure is not conducive to efficiency. I feel that recovery proceedings should be applicable to all demands as from the date when a demand is due, in order that the formality of issusing a recovery certificate is not necessary. All the same, administratively it can be provided that recovery proceedings would be commenced only after an elapse of some time beyond the original due date. In any case, as we have recommended, recovery proceedings should normally commence after action under distraint proceedings has been taken and possibly exhausted.

20.6 As accounts would thus be under one roof, when cases are referred to Recovery Officers for additional action, such officers would be able to concentrate on recovery work instead of having their energies diffused in administrative and accounting matters.

(21) Regional Commissioners

21.1 The Committee has rejected the proposal of appointing Regional Commissioners between the Board and the Commissioners. At the same time, the Committee has suggested a large increase in the number of Commissioners who would be directly under the Board. For the Board of 5 or 6 to supervise the work of such a large number of Commissioners would be virtually impossible. My feeling is that if the work of the Commissioners has to be supervised and co-ordinated with a view to uniformity and efficiency, there should be one tier between the Board and the Commissioners. This level of a supervision should not be in the nature of a post office but should consist of officers who are in a position to finally dispose of matters brought to it without further reference to the Board.

(22) Recruitment

22.1 One of the recommendations of the Committee is that future recruitment to the Income-tax department should be in the form of direct recruits at the officer level, at the equivalent of Upper Division Clerk level and also to the extent of 50% at the Inspector level. For the purpose of this note, the staff below the Upper Division Clerk level has been ignored. In my opinion, recruitment should be confined to two stages only: one at the officer level and the other at the equivalent of Upper Division Clerk level. From this lower level it should be possible for persons to seek promotions to an Inspector followed by Income-tax Officer class II level by means of a competitive examination. There is no particular advantage in providing for recruitment at the Inspector's stage. There appears to be a feeling in some quarters that a better person would be available at the Inspector level than at the Upper Division Clerk level. I do not subscribe to this view. My own feeling is that when we are working towards a classless society, we should, as far as possible, try to reduce, if not eliminate, classes. For the time being to secure efficiency and to ensure intelligent handling of difficult cases, perhaps recruitment at two levels may be justified. More than that would tend to create frustration at all levels. If through competition one can get reasonably good Upper Division Clerk, there is no reason why better ones amongst them cannot look forward to becoming Income-tax Officers without being obstacled on the way by another set of persons who are recruited at the Inspector's level. We have known of cases where people from the clerical level have risen to the highest of offices. Given encouragement, I dare say that we should now be able to find a much larger number of persons who can do this. There is at times a feeling amongst the public that clerks are inclined to be incompetent, irresponsible and corrupt. I do not agree with this view. According to me what is required is that the staff in the Income-tax Department should be given an opportunity for promotion in order to get over their frustration caused by having to remain at virtually the same level for a long time —popularly called stagnation. Additionally, to get over the prejudice now obtaining, the staff recruited for the Income-tax Department should be designated. 'Tax Assistants' (if need be juinor and senior) instead of 'clerks'.

(23) Management

23.1 In conclusion I would like to add a few words on 'Management'. The high level to which tax evasion and black marketing has reached is essentially a result of management failure. Whereas the existence of black marketing operations may not be the fault of the tax administration, the blame for lack of detection of tax evasion can certainly be placed fairly and squarely on the shoulders of tax officers. It has been said that Income-tax Officers do not have sufficient powers. That is not correct. An Income-tax Officer has more powers than what he needs. The enforcement, however, is not adequate. For this an Income-tax Officer is not to blame, but the organisation as a whole is. According to me tax administration should be made more effective and should be geared up to shoulder its full responsibility. It is essentially a management problem.

23.2 The Income-tax Department is manned by very highly qualified and efficient officers. But there appears to be a lack of discipline and sense of dedication, which is so essential to achieve results. For this no one member of the department can be blaimed because individually by and large the officers and staff are good. At the same time there is an element of frustration as also lack of confidence in decision making. Internal audit, revenue audit and other fears of external criticism are given as reasons for the officers not taking decisions as boldly as they would like to. This appears only an excuse because if the top management were to take their decisions boldly and advise the management and/or officers below to take decisions in the same manner, performance would inevitably improve and criticism would be less.

23.3 As part of the planning and programming of work the department would be well advised to prepare for itself a performance budget indicating therein not only assessments but also realisation of tax. I feel that time costs should be given greater attention than hitherto and that there should be more emphasis on results. Ordinarily arrears of assessments and taxes are not inevitable. A proper plan of work bearing in mind the available staff and facilities should ensure that virtually all the work is up to date. Planning and programming should be for a period of time and forecasts of future work load and requirement of staff and facilities should be appropriately integrated.

23.4 Study of the earlier reports and discussions with officers of the department have revealed that most of the malpractices obtaining in the business world are known to the Income-tax Department, yet they do not seem to be able to effectively deal with them. My impression has been that insufficient effort has been devoted to this aspect. By and large, the department has shown helplessness. This is a challenge to the department calling for effective management. The Board should concentrate on management instead of routine administration of tax laws which can be delegated to other authorities within the department.

NEW DELHI
24th December, 1971.

S. PRAKASH CHOPRA

IV

(1) Settlement Machinery

(Paras 2.32 to 2.34)

The arguments for having a separate and independent tribunal of three members of the status of Members of the Board of Direct Taxes to deal with voluntary applications for settlement from errant taxpayers have a familiar ring about them being reminiscent of those which were advanced in support of the three earlier voluntary disclosure schemes which, as we know, were disastrous failures, as clearly brought out in paras 2.27 to 2.31 of the main report. The Income-tax Investigation Commission of 1947 was also given comprehensive powers to arrive at settlements with persons who made offers for settlement after making a full disclosure of their affairs. I happened to be the Chairman of the Central Board of Revenue at the time and I can say from my personal knowledge of facts as a result of my informal discussions with the Chairman of the Commission (the late Sir S. Varadachariar) that not a single assessee came forward with a full disclosure to start with and that even the so-called settlement cases which they dealt with were no different materially from the other investigation cases from the point of view of either the complexity of investigation or the degree of co-operation offered by the assessees to facilitate the investigation. I do not, therefore, support this proposal for constituting a high-powered full-time tribunal.

(2) Regulation of donations to Political Parties

(Paras 2.59 to 2.61)

I am very strongly opposed to the proposal in the main report for allowing donations to political parties as a deduction in the computation of an individual's taxable income. My reasons are as follows:—

(i) Such donations would inevitably lead to the corruption of public life. Obviously no individual would make significant donations to political parties except in consideration or in expectation of reaping rewards in the shape of increased influence, power, position or patronage in the event of the political party coming into power.

(ii) The majority report itself recognizes (vide sub-para (c) of para. 2.20 of the report) that wealthy persons with lots of black money do use their ill-gotten wealth for buying the support of political parties by subscribing to their funds. This enables the black-money owners to buy immunity from detection or from harassment in the event of detection.

(iii) The majority recommendation is, in my opinion, entirely outside the scope of the terms of reference to the Committee as it is not a suggestion which is calculated to unearth or prevent the proliferation of black-money or to check avoidance of tax through various devices or to help in the collection and clearance of arrears of tax demand.

(iv) In my opinion, our Committee is not called upon to recommend new exemptions or extend the area of exemptions unless the failure to make such extension of exemptions is likely to result in the perpetuation of grave inequalities in taxation and thereby disrupt the morale of the tax paying public. In my opinion, the recommendation in this particular matter of donations to political parties is a retrograde move.

(3) Allowance of certain business expenses—Entertainment Expenses and Expenses on Maintenance of Guest Houses

(Paras. 2.68 to 2.70)

The main report contains a recommendation that expenditure on food, drinks and other hospitality to prospective buyers or persons otherwise helpful in promoting business should be allowed as a deduction in the computation of business income. Such expenditure used to be allowed in the past upto certain limits. But Government, in consideration of the grave abuses which obviously came to their notice, decided to abolish this kind of deduction with effect from 28th February, 1970. In the circumstances, I am compelled to dissociate myself from the majority recommendation, principally for the reason that it is entirely outside the scope of the terms of reference of the Committee. The concession is inherently capable of grave abuse. Even in the United Kingdom entertainment expenses are not allowed except when they pertain to the entertainment of overseas customers.

For identical reasons, I am opposed to the recommendation for a deduction in respect of the cost of maintenance of "guest houses in the nature of transit houses". The recommendation,

if accepted, would make it possible for an assessee to circumvent the present law merely by changing the nomenclature of existing guest houses without altering the essential character of the expenditure. Here again, the recommendation of the Committee for allowing the deduction of maintenance of guest houses in the nature of transit houses is outside the scope of the Committee's terms of reference.

(4) Compulsory Maintenance of Accounts

(Para. 2.140)

The main report contains a recommendation that a statutory provision be made requiring the maintenance of accounts by all professional men, and by businessmen whose income from business exceeds Rs. 25,000 or the turnover or gross receipts exceed Rs. 2.5 lakhs in any one of the immediately three preceding years. A possible danger of making such a statutory provision would be that businessmen whose cases do not fall within the category mentioned would have the liberty to plead absence of accounts with a view to defeating or obstructing effective investigation into their affairs. At present, the assessing officer is not prevented from making estimates to the best of his ability whenever an assessee pleads that he has not maintained accounts. If the suggested recommendation is implemented, the Department would, I am afraid, not be in a position to resort to estimates in such cases. In other words, a statutory provision in the manner suggested in the main report would make the position worse. It seems to me that the more appropriate course would be to follow the American law and to provide that every person should maintain such statements, records or accounts as would be sufficient to show his income and other affairs relevant to direct taxes.

(5) Re-introduction of Expenditure Tax

(Para. 2.186)

I do not agree with the paragraph 2.186 of the report. I am strongly of the view that there was no justification whatever for the abolition of Expenditure Tax. It was an important tax not so much for the revenue it vielded but as safeguard against evasion of income-tax, wealth-tax and estate duty. The majority report relies on a dictum of Prof. J. F. Due that the task of enforcement of expenditure-tax is more difficult since it requires additional information regarding expenditure. But as the Committee is itself suggesting that information regarding the expenditure of an assessee should be obtained along with his return of income. I do not see how the demand for such information will make the enforcement of the Expenditure Tax Act more difficult.

The mere asking for an expenditure statement does not ensure that the expenditure figures would not be exaggerated so as to understate the savings and wealth. There must be some financial consequence attaching to exaggeration or falsification of expenditure figures and the Expenditure Tax is the instrument which would ensure more completely that a continuous track is kept of an assessee's income, expenditure and savings. The reason for introducing an Expenditure Tax, as given in Kaldor's Report continues to be valid.

(6) Concessional treatment to authors, Playwrights and artistes

(Para. 2.217)

I do not agree with the majority recommendation that the limits upto which exemption is to be given on account of insurance premium and fund contributions under section 80C of the Income-tax Act and rule 11A of the Income Tax Rules should be enhanced in favour of authors, playwrights and artistes. The need for encouraging savings in the particular directions mentioned in section 80C cannot be greater in the case of special class of assessees and I fail to appreciate the reason behind the majority recommendation. Further, it will be difficult to classify assessees as definitely falling within the categories of authors, playwrights and artistes. If a teacher in a college has written a book and published it, does he thereby become an author and entitled to all these concessions for the rest of his life?

(7) Secrecy Provisions

(Para. 2.241, 2.230 and 2.231)

At present, the Commissioner of Income-tax is empowered to comply with applications from persons for information relating to any assessee in respect of any assessment made under the Income-tax Act, if the Commissioner is satisfied that it is in the public interest to comply with such request. Quite often it may not be easy to decide whether the supply of copies of assessment records is directly in the public interest, as for example when the applicant, being a member of the Hindu undivided family, wants to make use of that information to see whether income from a particular asset which he claims is a part of the property of the Hindu undivided family has been converted by the manager or karta of the family for his own use. It is possible for the Commissioner to take a narrow view and reject the application on the ground that the giving of the information may be in the private interest of the applicant and not in the public interest. Similarly, if a person who is shown in an asessee's books as the depositor of some money in an assessee's concern, desires to rely upon that fact to establish title to the deposit, it is important that his application for information should not be rejected by the Commissioner on the ground that it is not in the public interest to disclose the information. To obviate any such doubts and disputes, I consider that the Income-tax Act should be

amended specifically to provide that where any infomation available in assessment records is likely to help the establishment of an adverse claim to any asset or property by the applicant against the assessee, the Commissioner of Income-tax should be under an obligation to supply the necessary information from the records. That will be the only way in which we can ensure that assessees do not indulge freely in benami transactions. The majority of Members of my Committee unfortunately do not agree with me in regard to the suggestion made herein and I am, therefore, putting it in my minute of dissent. The U.N. Expert Group on Tax Reform Planning has suggested that the Government should *suo motu* publish the details of assessments that might generate action and reaction among the tax paying community conducive to minimisation of tax evasion.

(8) Casual Receipts

(Para. 3.16)

The majority in the Committee did not approve of receipts in the nature of personal gifts being treated as taxable income in the hands of the recipient. I do not see any reason why an accretion to a recipient's economic power need be treated differently from other accretions and windfall. In my opinion it is more equitable to treat gifts as income in the hands of the recipient than to tax the donor on his gifts. A major reform in our system of direct taxation would be:

(i) to re-introduce expenditure tax and regard all gifts *inter vivos* as taxable expenditure and abolish gift tax altogether;

(ii) to treat all receipts including casual receipts as taxable income; and

(iii) to replace estate duty by a duty on succession and bequeaths.

(9) Separate Tax on Registered Firms

(Para. 3.43)

The main report contains a recommendation that the separate tax on registered firms be abolished at least in respect of professional firms (of Chartered Accountants, Doctors, Lawyers, Solicitors, etc.) if not in respect of all firms. This recommendation does not, in my opinion, come within the scope of the terms of reference of our enquiry as it is not a measure calculated in any manner to unearth black money or prevent proliferation or check avoidance of tax through various legal devices or reduce tax arrears. Even on merits, I see no justification for the recommendation. It is not true to say that merely because the members of a firm may be genuinely qualified to be partners, their shares in the partnership firm must of necessity have been stated correctly in the Partnership Deed. In a partnership, say, between a father and his son both of whom may be Chartered Accountants, it may well be that in a particular case their shares may have been shown to be equal while both of them may be acutely conscious of the fact that the bulk of the income of the firm is attributable to the reputation, experience, capacity and goodwill pertaining to the father. The urge towards fragmentation of income and the facility for such fragmentation exists as much in professional firms as in any other firms and in my opinion no case has been made out in favour of the majority recommendation.

(10) Investment of funds of charitable trusts in founder's own business

(Para. 3.60)

I dissociate myself from the reommendation contained in this paragraph. The condition that funds belonging to charitable trusts should not be kept invested or continue to be kept invested in a business in which the founder of a trust has substantial interest was introduced after giving ample notice to existing trusts. There is therefore no case on merits for granting immunity from the operation of this condition. As regards trusts that may be created in future, no hardship can be caused by enforcing the condition seeing that any person who needs the funds badly for his own business is under no obligation to create a trust for so long as he cannot release the funds by transfer to trustees. Apart from the fact that the majority recommendation cannot be justified as a measure falling within the Committee's terms of reference, the recommendation, if accepted, would give rise to endless litigation and controversies about the identity of the original corpus.

(11) Suggestion that valuation of immovable properties is not to be revised within five years

(Para. 3.71)

The main report contains a recommendation that the valuation of immovable property once adopted after due enquiry should remain unchanged for a period of 5 years. Such a provision in the Law or even executive instructions to that effect would give rise to disputes and appeals. It is not easy to say whether in a particular case the valuation was adopted after due enquiry and if so, whether the enquiry itself was adequate or exhaustive or incomplete or imperfect or even collusive. Such questions would give rise to litigation and disputes. Prof. Kaldor, I think, recommended that the valuation should be stabilised at the book value until an asset is sold. In my opinion either we adopt the recommendation of Prof. Kaldor or allow the present practice of valuing each asset at the market value on the valuation date. To lay down a rule in the manner suggested in the report would create difficulties and disputes.

(12) Aggregation of gifts

(Para. 3.76)

I have earlier stated in this minute of dissent that a desirable and major reform of our direct tax system would be to introduce an expenditure tax on a more comprehensive basis and to define taxable expenditure to include all gifts, donations and transfer of assets for less than adequate consideration and to abolish the taxing of gifts in the hands of the donor.

The recommendation for reducing the existing annual exemption limit of Rs. 5,000 for gifts to Rs. 1,000 and for requiring every person to give details of all individual gifts of and above Rs. 200 does not seem to me to be called for. To take notice of petty gifts of amounts of Rs. 200 for the purpose of Gift Tax does not seem to be consistent with the general scheme of the Income-tax Act which says that items of charities of Rs. 250 or less should be altogether ignored for purposes of giving relief to the donor. I feel that the approach to the question of gifts should not be different from that of the question of personal expenditure and the only reasonable way of tackling the problem of direct taxation is to abolish Gift Tax as such and substitute it by an expenditure tax. There shall be a tax on all expenditure, expenditure being defined broadly to be the difference between the income and savings of a year.

The main report also suggests that gift tax should be imposed at rates appropriate to the cumulative total value of gifts made upto the end of the accounting year in question. I do not regard this device as any more reasonable than taxing expenditure on the basis of the cumulative total of expenditure over a period of years. A person's capacity to make gifts and to pay tax on gifts is not to be measured by the amount of gifts made in the past any more than a man's capacity to pay income-tax can be quantified by reference to the tax paid or income earned in the past. The mode of taxation suggested in the main report is basically unsound in my opinion. Apart from these general considerations, the idea contained in the main report would necessarily involve the maintenance of running accounts of petty gifts in the way running account of depreciable assets is required to be maintained. This will add needlessly to the complexity of assessment proceedings. It is not worth the small additional revenue that might result therefrom.

(13) Suggested relief in respect of expenditure on house rent

(Para. 5.19)

It seems to me that the suggestion made in the main report for granting relief in respect of house rent is based on equitable analogy, but it need not be subject to the restriction that in order to be eligible for the concession the claimant should not be a member of a Hindu undivided family which owns a house somewhere in India. The parallel concessional treatment in respect of an individual's dwelling house (that is to say the restriction of its rental value to only 10 per cent of the individual's income) is not in any way affected by the fact that the individual's H.U.F. may be a separate owner of other dwelling houses. Why should the proposed concessional allowance of house rent expenditure which is only an equitable extension of the analogy be denied simply because an individual's H.U.F. may have some dwelling house somewhere else. I think this restriction is not called for and makes an invidious distinction. In any event, the scheme of the Income-tax Act does not relate a person's individual assessment to any feature of the assessment of the H.U.F. and I would not support the introduction of such a novel relationship for any purpose. Why should the fact that his family owns a house somewhere affect the individual's right to claim deduction in respect of house rent? I see no reason why a man should not be allowed to stay away from his over-crowded family house if by staying away he can occupy himself more usefully and profitably. To deny him the house rent allowance would be a needless restriction and complication which is not called for.

(14) Section 10(14) of the Income-tax Act—allowances of the nature of daily allowance

(Para. 5.20)

I dissociate myself from the recommendation made in this paragraph. The matter appears to be much too petty to need the serious consideration of the Income-tax Department. There are already statutory rules made under the Income-tax Act laying down the maximum amounts of daily allowance that may be allowed to employees. There are also fairly elaborate executive instructions which the Board had issued in 1955, to define the scope and manner of scrutiny of claims for such allowances. In my opinion the provisions of the statutory rules and the existing departmental instructions do not stand in need of amplification or amendment in the manner suggested in the main report.

(15) Income from dwelling house

(Para. 5.27)

The present sub-section (2) of section 23 of the Income-tax Act enables a property owner to claim self-occupation benefits in respect of two houses. In more precise terms, the benefit consists of allowing a deduction from the net annual value of each of two houses to the extent of the excess of the annual value over 10 per cent of the owner's income. Thus, if an owner has an income of Rs. 50,000 from all sources excluding dwelling houses, and he also

owns two dwelling houses of the actual annual value of say Rs. 12,000 each, the annual value of each of these two dwelling houses would be limited to Rs. 5,000 only. I fail to see why such extravagant concessions should be available in respect of two dwelling houses. A person having two dwelling houses must necessarily belong to the more fortunate section of the community and I fail to see why the concessional treatment given in respect of dwelling house should be available in respect of more than one dwelling house. This is, in my opinion, an unjustifiable concession to the propertied class and is not consistent with our avowed object of achieving socialist society. It should, therefore, be withdrawn; the special concessional treatment for determining the income from dwelling house should be confined to only one dwelling house. If an assessee has more than one dwelling house, the extra houses must be valued as if they were houses intended to be let out.

(16) Amortisation of certain preliminary expenses

(Para. 5.30)

I do not agree with the recommendation made in this paragraph as it is outside the Committee's terms of reference. To my knowledge, nobody who appeared before our Committee had urged the case, if any, for allowing these concessions; neither was any question on the subject included in the Questionnaire.

The amalgamation or merger of two or more existing companies is an operation which is generally undertaken by financiers and other manipulators in the stock exchange. Can the expenditure incurred by them in their amalgamation efforts be regarded as having a bearing on the earning of income?

(17) Expenditure incurred on Income-tax Appeals, Revisions and References

(Para. 5.31)

I entirely disagree with the recommendation made in this paragraph. If costs of appeals, references and revisions are to be allowed, most of the assessees in the higher income brackets would be persuaded to go in for such appeals, etc. as the costs of such litigation would come mainly out of tax savings. That would also provide a direct incentive to income-tax practitioners and professional men to promote needless litigation in order to increase their earnings. The proper course, in my opinion, is to amend the law specifically to empower Appellate Assistant Commissioners and Appellate Tribunals to award costs to assessees according to the results of their appeals. So far as High Court references are concerned, the courts already award costs to the successful assessee and no problem arises.

(18) Allowing deduction on account of premium for securing life annuity for businessmen, etc.

(Para. 5.40)

I am afraid I am unable to agree with this recommendation. On general grounds and more particularly for the reasons fully explained in paragraphs 129 to 132 of Prof. Kaldor's report, I am opposed to liberalising the scope of deductible expenditure for business, profession or vocation.

(19) Agricultural Development Allowance—Section 35C of the Income-tax Act

This allowance was introduced with effect from 29th February, 1968 apparently on the ground that agricultural development needs encouragement. The provision enables companies to subsidize agriculturists who produce certain raw materials which they require. I understand that this provision is open to considerable abuse and involves a subsidy out of income-tax revenue towards agriculture the income from which is exempt from income-tax. There is, in my opinion, no case for giving a deduction of 1.20 times the actual expenditure.

(20) Professional income from foreign sources in certain cases—Section 80RR

(Para. 5.49)

I dissociate my self from this recommendation for the simple reason that the subject matter is entirely outside the scope of the reference. The question involved is one of state patronage of men of letters, painters, sculptors, etc. and has nothing to do with the question of equity or taxpayers' morale or tax evasion.

(21) Exemption from Wealth-tax in respect of self-occupied house property

(Para. 5.50)

It seems to me that the main report does not deal with the issue involved herein in its proper perspective. The first point is to appreciate the real grounds behind the apparently discriminatory exemption that has been given in respect of house property. Originally, neither the Wealth-tax Act nor the Estate Duty Act provided any exemption in respect of house property. By virtue of amendments made in these two Acts through the Finance Act, 1964, exemptions from wealth-tax and estate duty were given in respect of the value of a dwelling house, upto a limit of Rs. 1 lakh if the house was situated in an urban area, and without limit of value if the house was situated in a rural area (i.e. an area with a population of less than 10,000). The Finance Minister while referring to this concession in his Budget speech did not explain why he was specially favouring property owners and why the exemption should be

without limit of amount if the dwelling house was situated in a rural area.

The conjecture that the reason behind the concession might have been to encourage investment in the construction of dwelling houses by owners is not valid for if it were so, the concession would have been confined to future constructions only and that too for a limited period only. Secondly, the giving of the exemption without limit of value in respect of dwelling houses in rural localities made complete nonsense of the conjecture—a fact which appears to have been realised later by Government. For we find that by a further amendment of the Wealth-tax Act made in 1970, the distinction between dwelling houses in rural and urban areas was done away with for wealth-tax purposes and all dwelling houses were to be exempt upto a limit of value of Rs. 1 lakh only. Incidentally, the need to amend the Estate Duty Act appears to have been overlooked.

By a further amendment of the Wealth-tax Act made in 1971, the exemption under the Wealth-tax Act now applies to any house property, whether used as a dwelling house or not, upto a value of Rs. 1 lakh. The course of legislation outlined above proves that the concession was conceived simply as a relief to property owners and was, therefore, highly discriminatory. In my opinion, the corrective action for setting right this glaring anomaly would be to increase the exemption limit of Rs. 1½ lakhs mentioned in sub-section (1A) of Section 5 of the Wealth-tax Act by Rs. 1 lakh and to provide that the enhanced limit of Rs. 2½ lakhs would include also the exemption under subclause (iv) of clause (1) of section 5 of the Wealth-tax Act. My suggestion in effect means that instead of giving an exemption separately for house property and separately for all other kinds of investment it should be a combined exemption for Rs. 2½ lakhs and the form of investment should be left to the assessee so however that the exempt investment in house property would not exceed Rs. 1 lakh.

The canon of equality in taxation should be strictly observed as any flagrant departure from it (as in the present case) would make it impossible to arouse the healthy indignation of the honest citizen against the tax evader. The existence of inequalities in taxation is bound to make the honest citizen regard both tax dodging and tax gathering cynically as games of skill in which no holds are barred on either side. I wish to point out that the action suggested in para 5.51 of the main report does not correct the inequality or anomaly. It merely enlarges the kinds of investments that may be made within the present exemption limit of Rs. 1½ lakhs, but it still enables the property owner to get away with an additional exemption in respect of house property.

(22) Initial issue of equity capital of certain companies—Section 5(1)(xx) of the Wealth-Tax Act

(Para. 5.55)

In this paragraph a recommendation has been made to restore an exemption from wealth-tax which was only very recently withdrawn by the Finance (No. 2) Act, 1971. I am afraid, we have no sufficient material on which a judgment can be expressed as to the desirability or otherwise of restoring the concession.

(23) National Development Fund

(Para. 5.64)

Although there is not the slightest doubt that the scheme for allowing as deductible the savings by way of contributions to the proposed National Development Fund would be a tremendous success, I do not support it for the simple reason that the term ssuggested in the report appear to me to be far too extravagant from the point of view of the Exchequer. Assuming that the highest slab rate of income-tax in future would be, say, only 75 per cent for incomes above Rs. 70,000, a person with a taxable income of Rs. 1 lakh making a 7 year deposit of Rs. 10,000 in the proposed Fund would immediately secure a rebate of income-tax amounting to Rs. 3,750. In effect, he would be investing only Rs. 6,250 out of his pocket, and he would be earning taxable interest of Rs. 450 per annum which works out at 7.2 per cent. on his net investment, for a period of 7 years, and at the end of the period he would get repayment of the principal amount invested by him, together with a lumpsum bonus of Rs. 3,750. The effective net rate of interest would be about 14 per cent. per annum!

(24) Tax Incentives for Doctors in Rural Areas

(Para. 5.69)

I dissociate myself from this recommendation as I feel that the proper way to encourage doctors to work in rural areas is by the grant of direct subsidy from the Public Health budget rather than by the grant of income-tax exemption. If the reason why doctors do not practise in rural areas is that the rewards or incomes are not high, then there is no meaning in proposing that there would be exemptions of income-tax on non-existent or insignificant income.

(25) Incentives to companies for industrialisation of backward areas

(Para. 5.70)

I do not support this recommendation for the reason that I do not see any financial, economic or commercial nexus between a backward rural area and the rate of depreciation of wasting assets. Moreover, the need in backward areas is more for labour-intensive indus-

tries than for capital-intensive industries, while the recommendation made in this paragraph is directed towards capital-intensive industries.

(26) Investment reserve scheme for companies

(Para. 5.78)

I do not support the recommendation contained in this paragraph for the simple reason that the terms for 'encouraging' the establishment of such a fund are too extravagant by any standard. Even assuming that in future the income-tax rate on companies would be as low as 50 per cent only, a company with an income of over Rs. 10 lakhs and investing Rs. 1 lakh in the proposed fund would in effect be investing only Rs. 50,000 net and earning interest of Rs. 6,000 a year. The effective interest rate would thus be 12 per cent and at the end of 5 years the depositor company would receive a further bonus of Rs. 50,000! The effective net rate of interest would be about 32 per cent per annum!

(27) Incentive for increasing productivity

(Para. 5.80)

I do not support this recommendation because the implementation of the suggested rebate would require an elaborate technical assessment of the degree of productivity in relation to the utilisation of installed capacity. No Income-tax Officer can be expected to be able to make an assessment with any degree of confidence and for this reason I do not support this recommendation.

(28) Tax exemption for distributed profits of companies

(Para. 5.83)

I do not agree with this recommendation.

(29) Suggested deletion of Section 104 of Income-tax Act, 1961

(Para. 5.84)

I do not agree with this recommendation.

(30) Reduction in company rate of Income-tax

(Paras. 5.85 to 5.87)

The suggested reduction in the rates of company tax does not have any relevance to our terms of reference. I dissent from the recommendations made in these paragraphs as I do not find sufficient justification for reducing tax on corporations.

(31) Surtax on companies

(Para. 5.88)

I do not think that it is correct to say that company surtax is necessarily a tax on efficiency. The surtax applies only to the larger companies that make higher rates of profits. These high rates of profit might be due not so much to efficient use of capital as to advantages consequent on monopoly conditions, absence of competition, conditions of the domestic market or other protective policies of Government. I, therefore, do not agree with the recommendation to abolish the surtax on companies.

(32) A Proposed Capital Levy on Companies

(Para. 5.89)

The implication of a capital tax on companies at the rate of 1 per cent. of the capital is that immediately the public sector companies would be saddled with an additional impost of Rs. 35 crores. As everybody knows, the capital outlay on public sector undertakings has necessarily got to be larger than in the private sector. This is because a public sector undertaking is required to provide amenities to staff on a scale much more generous than can be expected from the private sector. The public sector enterprises have to keep before them more prominently the criterion of service to the public rather than the desire for extra profits. Indeed, according to classical economic theory, the products of public sector enterprise are to be priced practically at cost so that the effect of the proposed capital levy would be only to add to the cost of the products of the public sector enterprises. In other words, this would be a tax which has to be collected from the large body of consumers. It is, therefore, open to substantial objections in principle and I am opposed to it.

(33) Tax Administration—General

This chapter in the main report contains many detailed recommendations about reorganization of certain cadres, creation of certain posts and so on. There are also detailed recommendations regarding the quantum of special pay to be given to officers holding certain particular posts such as Directors of Inspections, Deputy Directors of Inspection and Assistant Directors of Inspection. It seems to me that while there may be a case for an upward revision of these allowances, it is impossible for this Committee to consider these questions with any degree of precision except as part of a general review of the pay scales and emoluments of the Services in general. I have no doubt that these matters will engage the attention of the Pay Commission.

(34) Criterion for Promotions

(Paras 6.53 to 6.55)

I wish to record a word of caution about the very categorical recommendation made in para. 6.55 and at various other places in the main report to the effect that *merit and merit alone* should be the criterion for appointment to

higher posts. The truth of the matter is that the assessment of merit is neither easy nor definite nor predictable. It is a subjective process and liable to fluctuate from person to person. The abstract principle embodied in the Committee's recommendation is not easy of practical implementation. My own experience is that every promotion by the process of pure selection as it is called is generally looked upon by the cadres with suspicion in actual practice and even with the best of intentions such selections have sometimes been found to be disastrously erroneous. As the Handbook of Civil Service Laws and Practices of the U.N. points out, it is also in the interest of the state that it have a civil service which accepts the integrity and accuracy of the selections and that in general, the staff are reassured when the promotion by pure selection of merit is minimised. In the same publication it is stated that "any promotion system or differential incremental system requires as a pre-condition of acceptability an accurate staff assessment or notation system . . . . . A state's assessment of the accuracy of its notation system should decide how far it should use the system to advance efficiency, how frequent should be the promotion hazards which are decided by it and how elaborate a structure it can provide. If it finds that assessments are unreliable in fact or in general repute, their use to decide career incidents should be minimized."

(35) Taxpayer to Revise Estimate for Payment of Advance Tax

(Para. 6.119)

The suggestion for confining the application of section 212(3A) to companies only does not seem to be justified. If a non-company assessee has the right to make a downward revision of his advance tax payment on the basis of his own estimate of current year's income, it stands to reason that he should also be under an obligation to make an upward revision on the basis of the same estimate. The present law requires that if the estimate of current year's income would result in the upward revision of the amount of advance tax by more than 33-1/3 per cent of what was demanded of him, he should himself pay the extra amount of advance tax. The percentage is sufficiently high and I see no reason why any class of assessees should be exempted from its operation. The suggestion for reducing the margin from 33-1/3 per cent to 25 per cent is also needlessly harsh. I do not, therefore, agree with the recommendation in this paragraph.

(36) Interest on Delayed Refunds

(Para. 6.145)

There is general complaint that refund vouchers actually reach the refundees a considerable time, sometimes as much as 3 or 4 months, after the issue of the orders for refund in the Income-tax Office files. I am strongly of the opinion that with a view to enforcing the expeditious despatch of refund vouchers the law should provide for payment of interest at least upto the end of the second month immediately preceding the date of delivery of the refund voucher or cheque. This would give the Income-tax Department ample time within which to ensure the despatch of the refund voucher or cheque. It is only when the State suffers from a financial detriment as a result of the dilatory tactics of its officers that the matter receives the notice of administrative and disciplinary authorities. I am, therefore, unable to agree that no interest need be paid to refundee on account of delays in the delivery of refund vouchers. I have also heard it say that sometimes the dates mentioned in the refund vouchers are not correct at all.

(37) Assessees' Representatives

(Para. 6.160)

The suggestion that nobody other than chartered accountants and lawyers be permitted to represent assessees before Income-tax authorities is intended quite obviously to reserve a field of employment exclusively for these two privileged classes. I do not support the recommendation. At present, the law prescribes qualifications for persons who are desirous of being enrolled as Income-tax practitioners and these qualifications seem to me to be quite adequate. Apart from the general objection to any measures calculated to restrain anybody from the free pursuit of any vocation or trade, it should be borne in mind that there is a definite advantage in having the income-tax practice thrown open to practitioners other than lawyers and chartered accountants. Commissioners of Income-tax have actually greater and more direct control over the conduct and behaviour of Income-tax practitioners than they have over chartered accountants or lawyers. It is, therefore, very much to the advantage of the Income-tax Department that as many qualified people as possible are encouraged to take to income-tax practice, subject of course to their possessing the necessary minimum qualifications. Making income-tax practice the narrow preserve of certain vested interests will also have the effect of making the cost of representation in income-tax proceedings needlessly high.

(38) Restriction on Ex-Employees of the Income-tax Department

(Para. 6.161)

I consider that the existing restrictions on ex-officers of the Income-tax Department from practising as Income-tax consultants for two years after they ceased to be officers of the Department is just and proper and is in the public interest. The arguments in favour of the present restrictions are well-known and need no recapitulation here.

(39) Planning and Programming

(Para. 6.166)

The recommendation made in this paragraph is of a very general nature but contains a specific suggestion for the creation of a new cell. It is impossible for me to be quite certain that the existing staff is incapable of undertaking this work. I, therefore, dissociate myself from this specific recommendation.

(40) Advance Rulings

(Paras. 6.179 and 6.180)

I am opposed to the idea of providing advance rulings on hypothetical cases.

NEW DELHI
24th December, 1971.

P. C. PADHI

V

(I) Magnitude of Black Money

If the "parallel economy" poses a serious threat to the stability and growth of the official economy, surely it stems from the fact that the magnitude of "black money" is large and rigged deals are growing in volume and complexity at an alarming rate. Apart from the wide ramifications of the "parallel economy", one might also be alive to the fact that "black incomes" are accentuating the inequalities of income and wealth and breeding a new class of "black" rich in a society which is already harshly stratified. The inequalities are no longer below the surface. The conspicuous consumption of the new "black" rich, their vulgar displays of pomp and opulence, their unlimited accessibility to finance, their nest-eggs in various places and countries, their influence in important places, all these are now common knowledge. In a situation like this, any attempt at quantifying "black money" should be an attempt at putting the problem in a proper perspective.

Such an exercise, apart from presenting the problem in its correct perspective, could also help in the endeavour to seek solutions which are neither unfair nor harsh. One might also realise that if the problem is presented in a form which would tend to understate the magnitude of "black" deals and "black" incomes, one might virtually, though unwittingly perhaps, be letting the honest taxpayers and other honest elements in society shoulder the full burden of an unspecified "parallel economy". In a sense, the tax-paying public is really paying higher and higher taxes because a section of the public is paying none or none on an ever increasing proportion of the growing incomes. So, while the tax-paying public finds its own incomes falling, the non-tax-paying public is having a free run of swelling concealed incomes, thereby adding a new dimension to the problem of inequality of income and wealth. A certain amount of confusion is caused because "black money" is viewed by some as nothing else but stock in existence at a particular point of time. When we talk of "black money" we essentially refer to the process of generating and absorbing "black income." This process involves the making of unrecorded income gains of generating secret incomes through concealed operations or through half-concealed operations, and of manipulations and deals involving or generating secret incomes. The complexity has certainly grown over the years to an extent where the "parallel economy" has, in certain areas, partially swamped the official economy.

By the very definition of "black income", there are no reliable or verifiable data on this subject. Any exercise in this field will, therefore, involve some imponderables and assumptions. The justification for making an exercise in such circumstances arises from the fact that there is a certain amount of loose thinking, and there may be a tendency either to under-state or over-state the magnitude of the problem. The magnitude of the tax-evaded income or "black" income is, I think, underestimated in the main report. This is so mainly because of the arbitrary assumptions behind them. The estimates would change if the assumptions and arbitrary multipliers changed.

My exercise which is based on a detailed analysis of expenditure statistics for the different sectors of the economy would seem to seggest that the tax-evaded income in 1961-62 was of the order of Rs. 1,150 crores, as compared to the estimate of Rs. 811 crores mentioned in para 2.17 of the main report. For 1965-66 my estimate of "black income" is of the order of Rs. 2.350 crores as against Rs. 1,216 crores mentioned in the report. It is not my claim that my estimates are absolutely accurate, but I think they probably approximate more to the realities. Estimates of black income sector-wise are given below in respect of the year 1965-66:

Industrial sector	...	Rs. 677 crores
Trade, transport, etc.	...	Rs. 975 crores
Construction ...	...	Rs. 262 crores
Films, professions and other services	...	Rs. 439 crores

The proportion of income generated has been derived from a detailed analysis of the expenditure data and the total net value added by each sector of the economy. Incomes generated by way of salaries have been sifted and so also other unconnected data. The statistical data for this purpose have been obtained from various sources, including the Reserve Bank, the National Building Organisation, State Transport undertakings, the public sector bodies and *The Economic Times* Research Bureau etc. An attempt has been made to demarcate the non-salary incomes generated in each individual sector and the salary incomes within each group. Since detailed income-tax assessment data were available only in respect of incomes originating in 1961-62, assessments of non-salary income for subsequent years were estimated on the basis of data for the earlier years by applying the average compound growth rate recorded in the income generation for the relevant year.

To this set of data one could apply the regression techniques which give the relation between the domestic product at factor cost and the income evaded in the following form: (income evaded) $= -12 + 0.09833y$, where y is the net domestic product at factor cost. On this basis, the projected estimates of black income for 1968-69 and 1969-70 would seem to be Rs. 2,833 crores and Rs. 3,080 crores respectively.

It would seem that the compound rate of growth of "black income" was of the order of 13 per cent. per annum at current prices whereas the compound rate of growth of national income for the same period was 11 per cent. per annum. These figures conform broadly to the estimates which I have arrived at by another method. But I should like to emphasise once again that these are very rough estimates and are perhaps in the nature of an intelligent guess made on the basis of inadequate direct statistical material. It may be impossible to substantiate all the calculations. Also I have assumed that the entire non-salary non-assessed incomes generated in a whole field covering mining, quarrying, industry, trade, transport, hotel, electricity, construction, communications. etc., to be equal to the evaded income. This assumption may be questionable, but I preferred to work on this basis because incomes which may fall below the exemption limits (in the stricter sense of the term) may, in the context of the growth of the economy, not be large enough. Besides, incomes below the limits would in any case be smaller than the incomes above the exemption limits. Actually the estimates of black income may have to be marked up by about Rs. 200 crores if one took into account the leakage of foreign currency incomes and surreptitious foreign income transfers.

(2) Reform of Audit System and Profession

We have made in the main report a number of proposals which visualise compulsory audit of accounts on the assumption that audited accounts will assist the Income Tax Department in making speedy assessment. In my view the assumption is valid only if the scope and nature of audit are also changed. Over the years auditors have tended to certify financial statements without making a satisfactory audit assessment or even without verifying the authenticity of accounts. One wonders if black income would have proliferated the way it has if the auditing profession had discharged its functions objectively and in keeping with the high traditions of independent audit. Frequently, auditors have tended to regard audit as merely a financial obligation to certify accounts which are supposed to have been examined by them. And these are usually signed with a qualification that absolves auditors of all responsibilities for certifying financial jugglery, black money manipulations, inventory and other irregularities.

In the manner in which the profession has developed, the role of the auditors has obviously come under a cloud. Some auditors have set themselves up as management consultants, directors, businessmen, income tax experts (sic)! They seem to do almost everything else other than searching audit. There can be no doubt that when an auditor starts to sell management and "other" advice and offers various unspecified services, he immediately compromises his objectivity. Virtually one ends up with a situation where the company that has purchased the "services" of the auditors in various forms follows the recommendations of its own auditor consultant leaving little else for "audit". In some cases at least it would mean that the auditors concerned are being asked to pass on their own firm's "other work". And these instances are by no means small. A study of 501 companies showed that payments to auditors for services other than auditing were as high as 60 to 65 per cent of the total payment made to the auditors by these companies. There are also cases where travelling and other allowances (which are usually reserved for salaried employees) are paid to auditors.

Difficulties arise because the precise role of the auditor has not been defined. The Company law is vague on this subject, and there is very little in the existing legal framework to safeguard either the independence of the auditor or the interest of the shareholders, the public and the exchequer. The independence of the auditor is essential also for the orderly development of trade and industry. It is not enough for the auditor or his institute or council to claim independence on behalf of the profession. Independence of the auditors must be seen to exist, and must be seen in practice. It is, therefore, very essential for the Government, I think, to define the role of the auditor and free him from any obligations to his client and avoid the development of a situation which might mar his independence, objectivity and sense of responsibility. If there is any doubt about the independence, the integrity and the objectivity of the auditor or of the profession we may well see the emergence of a movement challenging the validity of balance sheets, audit certificates and even the credentials of auditors. Balance sheets may no longer be accepted by shareholders and gradually by other authorities as a true index of the state of affairs of a business enterprise. There may even be a feeling that when the auditor has other interests in the company, or other incomes from the company, he may tend to conceal things in his own interest.

Even for purposes of income tax assessment or rectitude of business and high standards of management, it is important that the public is told about the correctness of inventory valuation, of depreciation provisions and other im-

portant maters of business and profession. The multi-relationship developed by the auditors with their clients ends to dim the strictly professional role of auditors and their independence.

Against this background, I thought I might put forward the following proposals. These I consider are significant in the battle against the evil of black income. In order to ensure the evolution of an independent audit system, the economic dependence of auditors upon a certain small group of clients should also be broken.

(i) Auditors should not be allowed to render any service other than the professional service of auditing. Those auditors who prefer to render "other services" should not be allowed to take up audit work. The idea is to develop a corps of audit firms exclusively doing audit work on the lines of specialised legal and medical services.

(ii) No auditor should be allowed any position on the board of directors of any company so long as he continues to be a professional auditor. Any auditor who prefers to be a director of a company or engage himself in tax consultancy work, system design or any other similar work should be debarred from audit work.

(iii) Any complaint on the accuracy of audit made by 10 per cent of the shareholders (present and voting) at a general body meeting should be compulsorily followed up by an independent investigation.

(iv) In order to reduce concentration of audit business among selected firms a system of rotation should be followed whereby no audit firm is allowed to audit the accounts of the same client for more than three years.

(v) As a general rule a supervisory audit should be undertaken every three years by an audit firm other than the one contractually employed as auditor of a particular company. The supervisory audit should be done by an auditor nominated by the Comptroller and Auditor General of India.

(vi) The Company Law should be amended to define the role of the auditor and to set up a Private Accounts Committee. This committee should comprise of independent economic, technical management and accountancy experts and should assist the Comptroller and Auditor General to ensure that high standards are maintained in supervisory audit and also to act as a watch-dog of business operations involving an annual turnover of Rs. 1 crore and above.

(3) Other Topics

I am opposed to the proposal in the main report for allowing donations to political parties as a deduction for purposes of income tax (para 2.59—2.61).

I also think that the proposed abolition of tax on registered firms (para 343 is ill-advised, ill-conceived and unjustified.

On both these matters I fully endorse the view expressed by my colleague, Shri Padhi in his minute of dissent.

NEW DELHI
24th December, 1971.

D. K. RANGNEKAR

APPENDIX I

QUESTIONNAIRE

1.—Black Money and Tax Evasion

1. What is your estimate of the amount of black money or unaccounted money which is currently in circulation in the country? Please give basis for your estimate.

2. (a) What, according to you, are the causes which lead to the creation and proliferation of such money?

(b) What, according to you, are the avenues in which the black money is channelised?

3. What concrete measures would you suggest for unearthing such black or unaccounted money and for preventing its further proliferation?

4. What is your estimate of the extent of evasion in the sphere of direct taxes every year in our country? Please give briefly the basis of your estimate.

5. Do you agree with the view that tax evasion is practised by persons in all income groups, or do you think that tax evasion rises in proportion to the increase in income?

6. What measures, legal and administrative, would you suggest for tackling the problem of tax evasion?

7. Do you think that the complexities of the tax laws are a major factor leading to tax evasion? If so, what are your suggestions in this behalf?

8. About the rates of taxation and their bearing on tax evasion, two views have been expressed: (i) that tax evasion is not dependent on the rates of taxation; and (ii) that tax evasion increases with the increase in the rates of taxation. What is your reading of the situation? If you think that high tax rates lead to evasion, what is the maximum marginal rate of personal taxation that you would suggest and the income-level at which it should be reached?

9. (a) It is said that controls imposed by the Government in respect of different commodities have also led to tax evasion. Do you agree with this view and if so, what are your suggestions in this behalf?

(b) It is said that it is primarily with a view to evade other Central and State levies that the businessmen suppress their business transactions and that it is only incidentally that they pay less income-tax. Do you agree with this view? If so, which particular levies you have in view and what changes would you like to suggest?

10. (a) It is said that in the film industry a lot of 'on money' is taken by the artistes and this practice leads to a chain reaction in the case of producers, financiers, exhibitors, etc. Do you agree? If so, what measures would you suggest for combating this in the context of tax evasion?

(b) It is sometimes argued that the short span of their working life is one of the contributory factors to tax evasion by cine artistes. What are your views in this regard? If you agree with this view, what suggestions would you like to make?

11. It is said that over-invoicing and under-invoicing is done on a large scale in import/export business. Do you agree? If so, what suggestions would you like to make to combat this in the context of tax evasion?

12. It is reported that hundi loans have been a source of providing an outlet for concealed income and black money. What measures, legal or administrative, would you like to suggest in this behalf?

13. It is said that there is considerable tax evasion by the manufacturing and mining concerns. If so, what methods are adopted by them for such evasion? What measures do you suggest to combat it?

14. It has been stated that doctors, lawyers, architects and other professional men do not disclose their incomes in full. Do you agree with this view and if so, what measures would you suggest to ensure proper declaration of income by them?

15. It is said to be a common practice among the contractors to obtain contracts in 'benami' names. Moreover, large expenditure is said to be claimed as payments to sub-contractors, suppliers and workmen who are either non-existent or are dummies. Do you agree and if so, what measures would you suggest to curb this evil of 'benami' bidding and bogus payments?

16. It is reported that in certain types of businesses such as film production or construction contracts, secret and unaccounted payments are made and these are sought to be covered or camouflaged by claiming bogus payments to

some other parties. It has been suggested that a statutory obligation to maintain payments register open to inspection or examination at any time by the Income-tax Department may curb this practice. What are your views in this regard?

17. It has been stated that bogus expenses are debited to cover up the payment of illegal rebates in the General Insurance business and at times black money is utilised for payment of such rebates. Would you favour the suggestion that the payment of rebates should be legalised to curb such proliferation of black money?

18. Would you suggest that as a measure to curb evasion, agricultural income should also be included in the total income for purposes of income-tax? Would you, in the alternative, suggest that agricultural income may be included in the total income only for determining the rate of tax to be applied to the non-agricultural income liable to tax under the Income-tax Act? Even if agricultural income is not to be taken into account for rate purposes, should it not be declared annually and be subject to check for purposes of record?

19. (a) Do you consider that reasonable ceilings on cash holdings (cash in hand as distinct from cash in bank) would be feasible in respect of persons who do not maintain regular books of account, and in other cases of cash holdings not accounted for in the books? Do you think that a provision for confiscation of cash, if detected, in excess of the exempted limit, would be a step in the right direction?

(b) Do you think it would help if provision is made for a statutory declaration of cash balances held in excess of specified limits, on specified dates, say 30th June and 31st December?

20. Under the Indian Stamp Act, 1899, the maximum penalty imposable for under-valuation of properties for purposes of registration is a fine not exceeding Rs. 5,000. It has been suggested that this fine is inadequate in the present-day circumstances and the provisions in this behalf need to be made more stringent by making such under-valuation punishable with a fine of a higher amount commensurate with the extent of under-valuation and rigorous imprisonment not exceeding two years. What are your views in this behalf?

21. (a) A suggestion has been made that to curb the practice of under-statement of the consideration for transfer of properties and part of the real consideration passing in unaccounted money, the law should provide an option to the Government to acquire, within a reasonable period, such properties from the transferee at a price which may be somewhat higher than the disclosed consideration. What are your views and suggestions in this regard?

(b) Should some similar provision be made to cover cases where cost of construction is under-stated?

(c) Have you any suggestions to make for drawing up a standard format for the valuation of various assets so that the methods and basis of valuation could be rationalised?

(d) Do you think it would help if a Valuation Department were to be established for the valuation of properties for proper assessments being made under the various direct tax laws? What are your suggestions regarding the composition of such a Department and whether it should also include an independent appellate authority?

22. Would you agree that prohibition of blank transfers of shares would curb the opportunity for tax evasion? Have you any suggestions to make in this behalf?

23. Do you think that a more vigorous policy regarding criminal prosecution would help in curbing tax evasion?

24. Do you think that determination of penalties with reference to the income concealed and not tax sought to be evaded results in inequity and acts harshly on small tax-payers? If penalties were to be prescribed with reference to the tax sought to be evaded, what percentage of tax would you suggest for the minimum and the maximum penalties so as to make them effective and adequately deterrent?

25. Do you think it would help in curbing tax evasion if a provision is made whereunder an assessee is not entitled to claim investments out of intangible additions made in the assessments of the earlier years, and be liable to appropriate penalties if he does so?

26. It has been suggested that persons who evade tax systematically introduce the black money in the account books after the expiry of the period of limitation. Do you think this evil can be checked if the bar of limitation is lifted in respect of fraud cases?

27. There is a provision under the Income-tax Act that unexplained investment and unexplained money, bullion, jewellery or other valuable articles may be deemed to be the income of the assessee. It has been suggested that when the source of expenditure incurred, but not recorded in the books of account, remains unexplained, such expenditure may likewise be deemed to be the income of the assessee. What are your views in this regard?

28. (a) Do you consider that the disclosure schemes announced by the Government from time to time have given rise to the belief that evasion may be condoned in future also? Or,

would you favour another scheme of general amnesty for declaration of black money being announced by the Government? If you are of the latter view, please indicate the lines on which you would like the scheme to be formulated to make it really effective.

(b) Would you, as an alternative, like a statutory machinery at a fairly high level to be provided for settlement of cases of tax evasion?

29. It has been suggested that black money floating in India could be canalised into social and desirable fields of activity by giving immunity from rendering any explanation about sources of investment therein. Such desirable fields of activity could be the building of water works, roads, bridges in rural areas, which may be thrown open to private initiative and enterprise, and the construction of tenements for slum dwellers in the cities. What are your comments on this suggestion? Do you think it is a desirable thing to permit use of black money in this manner in fields in which investment would otherwise not be readily forthcoming? Do you think such schemes would attract investment of black money, even though there may not be any return on such investment?

30. It is often suggested that a big deterrent to tax evasion is arousing social conscience against it. What are your views in the matter and what measures would you suggest in this direction?

II—Tax Avoidance

31. It is said that, apart from evasion, proper payment of taxes is being avoided or reduced through the device of legal avoidance, i.e. by taking advantage of the provisions in law. If you agree with this view, what, according to you, are the various legal devices, which are being adopted for substantial avoidance or reduction of tax liability? What measures would you suggest to prevent such avoidance?

32. It has been stated that the Income-tax law provides for differential treatment to various types of incomes and this leads to attempts at tax avoidance. Would you favour the suggestion that all types of incomings, which after all add to the economic power of the recipient, should be brought to tax at the normal rates?

33. Do you think the preferential treatment given to capital receipts be done away with and that capital gains be assessed in the same manner as revenue gains, or at least that the distinction between short-term capital gains and long-term capital gains should disappear?

34. Do you think that the provision relating to the exemption of receipts of a casual and non-recurring nature results in considerable tax avoidance? If so, what change in the law would you suggest?

35. (a) Do you think that the amendments made through the Finance Act, 1970 to tighten up the exemptions, hitherto available to trusts, would adequately plug the leakage of tax revenue through the formation of trusts? If not, what other measures would you suggest with regard to trusts?

(b) Do you have any suggestions to make about amendment to the tax laws which, while ensuring that tax is not avoided through the legal device of formation of trusts, would take care that genuine trusts, in particular public trusts, are not put to hardship ?

36. Do you think that tax is being substantially avoided by converting separate properties into Hindu undivided family properties or by effecting partitions of Hindu undivided families—particularly partial partition? If so, what change in the law would you suggest?

37. Do you think that tax liability is similarly being avoided or reduced by formation of registered firms by including dummy or benami partners and minor children of persons who are not themselves partners in those firms? If so, what changes in law would you suggest?

38. Do you think that the device of sub-partnership is being used to distribute income in more hands with a view to reduce proper tax liability? If so, what suggestions would you like to make in this behalf?

39. It has been said that legal avoidance of tax is being practised on a large scale by diverting part of the income through the device of giving substantial salaries, fees, commissions, etc., to wife, children and close relatives, and also by creating separate nucleus for each one on the occasion of birth, marriage, etc. Do you agree with this view? If so, what are your suggestions to stop tax avoidance through these devices?

40. Do you agree with the suggestion that instead of the individual, the family consisting of husband, wife and minor children should be treated as the unit of assessment? If you agree—

(i) what tax base would you suggest for such a family?

(ii) would you suggest any need-based allowances or deductions?

(iii) what safeguards would you suggest to ensure that no hardship is caused in cases of genuine and independent earnings by members of such a family?

41. Would you favour the suggestion that:

(a) the concept of Hindu undivided family as a unit of assessment be given up and instead each coparcener/member

be assessed separately along with his wife and minor children;

Or

(b) the Hindu undivided family may continue as a unit of assessment but after its income has been computed, the same may be apportioned for assessment among the coparceners/members and where a share is given to the spouse and the minor children of a coparcener/member, the same may be clubbed with his/her income.

Which of the above two alternatives would you prefer? Please give reasons for your choice.

Or

Have you any other alternative to suggest?

42. (a) What has been your experience lately about the extent of tax avoidance by closely-held companies through the device of non-declaration of dividends falling within the purview of Section 104 of the Income-tax Act? Have the orders applying the provisions of Section 104 in appropriate cases generally been upheld by the higher courts? What changes would you suggest to make this provision work more effectively?

(b) It is said that in view of the exemption in favour of industrial companies, Section 104 has now very limited application and this provision should be deleted from the Income-tax Act. Do you agree? If not, please give reasons.

43. It is said that business houses controlling a group of companies are often able to reduce their tax liability by manipulating results from dealings in shares of the companies controlled by them. What are your views in this regard? To prevent avoidance of tax by this method, would you suggest that the result of dealings in shares should be treated in a manner analogous to speculation?

44. How do you react to the suggesion that statutory deduction on account of repairs in the computation of income from house property be allowed on actual basis?

45. It is said that a device which is being adopted to avoid payment of additional wealth-tax on urban properties is to transfer them to closely-held companies and firms. Do the provisions of the Finance Act, 1970 adequately meet this contingency? If not, what other suggestions would you like to make?

III—Tax Arrears

46. (a) The arrears of direct taxes have been a matter of constant criticism. Statistics show that such arrears have been increasing year after year. What is your analysis of the causes of these increasing arrears of taxes? What further legal and administrative measures would you suggest to reduce the tax arrears?

(b) Would you agree with the view that only the undisputed taxes which have not been paid should be treated as arrears and that the rest should be treated as arrears only after the disputes have been settled through the normal process of law by way of appeals, etc.?

47. It is said that the main causes of tax arrears are:

(a) late assessments;
(b) unrealistic or over-assessments;
(c) inadequate collection machinery; and
(d) delays in disposal of appeals.

What are your comments on the above? What specific measures would you suggest to remedy the above defects?

48. As stated above, one of the causes of tax-arrears is overpitched assessments made by inexperienced officers. Do you think it would help if senior officers, say Assistant Commissioners, were to be assigned the work of assessment in cases where income/loss exceeds specified limits, say Rs. 1 lakh, and appeals from their orders lie to the Tribunal direct?

49. A suggestion has been made that the system of production of income-tax verification certificates before the grant of Government patronage should be extended statutorily to all cases where contracts, licences, permits, quotas, etc., are granted. What are your comments in this regard?

50. It has also been suggested that deduction at source @ 5% should be made from the total payments by Government agencies to contractors, or alternatively, that the final 5% of the payment should not be made unless tax clearance certificate is produced by the contractor. What are your views and suggestions in this regard?

51. Would you recommend that the scope of deduction of tax at source should be enlarged so as to cover some more classes of income? If so, please state which classes of income should be included.

52. Do you consider the existing provisions in the case of companies going into liquidation as adequate safeguards against the loss of tax revenues? If not, what further measures would you suggest in this behalf? Should the personal liability for outstanding taxes be extended to the share-holders in the case of private companies?

53. Do you think it would improve recovery of outstanding taxes if the Department were also to participate in the auction bidding of the properties belonging to tax defaulters?

54. Would you favour an amendment of law to provide that no appeal against the assessment order would lie unless the undisputed tax has been paid by the assessee? Would you suggest any exceptions to the above?

IV—Exemptions and Deductions

55. The direct tax laws provide for various exemptions and deductions. There are provisions in the Income-tax Act which allow deductions in respect of certain incomes and others which allow deductions in respect of certain payments. Similar provisions exist in the Wealth-tax, Gift-tax and Estate Duty Acts. Do you think that these various exemptions and deductions and the ceilings and limitations attached thereto, have served, and continue to serve, a useful purpose? Would you suggest modification, curtailment or withdrawal of any of the exemptions and/or deductions in the direct taxes enactments and, if so, which ones and for what reasons?

56. A suggestion has been made that, instead of exempting income from investments in shares, savings certificates, units of the Unit Trust, etc., what needs to be exempted is the payment or outgoing towards investments, so that the tax eventually bears on consumption and not on investment. What are your views in this regard?

57. A view has been expressed that while any income exempted from tax or any other tax incentive reduces the burden of tax in the case of those who can avail of the exemption or incentive, a correspondingly higher burden of tax is borne by the remaining tax-payers. Moreover, certain tax incentives like development rebate allowance do not operate in a selective manner and entail undesirable consequences, such as immobilising investible funds, etc. What are your views and suggestions in this regard?

58. Do you think that there is a need for giving tax incentives to the individuals doing specialised type of work, e.g. invisible exports or technical services? If so, what are your suggestions in this regard?

59. With regard to exemptions under the Wealth-tax Act, a view has been advanced that they are not equitable and are heavily weighted in favour of the employee investor, big agriculturist and big industrialist. It has been suggested that, to be equitable, individuals possessing the same size of wealth but being engaged in industrial pursuits or their own business and who cannot because of their own needs of capital, invest in residential houses and company shares, should not be at a disadvantage with regard to wealth-tax exemptions. What are your views with regard to this suggestion?

60. Section 5(xx) of the Wealth-tax Act lays down that investment in the initial issue of equity shares, made after 31st March, 1964, of a company newly established for carrying on an industrial undertaking is exempt for a period of five years but only after the new company commences the operations for which it has been established. It has been suggested that the exemption, to be effective, should be available from the date of allotment of the share by the company up to the exipry of 5 years from the date of commencement of operations. What are your views in this matter?

61. A view has been expressed that Wealth-tax paid in any year should be an allowable deduction for computing the total income for income-tax purposes. What comments would you like to offer on this suggestion?

62. It is said that as surtax is a tax on efficiency, it would be more appropriate to levy wealth-tax on companies. Do you agree with this view? If so, what rates of wealth-tax and income-tax would you suggest for companies so that the overall incidence of tax on the corporate sector remains at the present level?

63. (a) A suggestion has been made that in the case of partnerships, the taxable income should be determined after making a reasonable allowance for the time and labour devoted to the business by the partners in firms and also after deducting a reasonable rate of interest on the investment of capital. What are your views on this subject?

(b) A suggestion has been made that in the case of small and medium companies the taxable income should be determined after making a deduction in respect of dividends distributed up to a specified rate of return on paid-up capital with a view to strengthening the financial position of the companies and/or to discourage excessive reliance on borrowed funds. What are your views on the subject?

64. It has been suggested that it will be more equitable and help economic growth of the country if deductions which are allowed as incentives under the tax laws are co-related to the efficient performance of the industries. Do you agree with this view? If so, what suggestions have you to make in this regard?

65. Under the Income-tax Act, casual and non-recurring income unrelated to business or employment is exempt from tax. Capital gains are liable to tax at a concessional rate. Unlike any other income, business income is liable to fluctuate from year to year and under a scheme of progressive rates of tax, business income bears an unduly heavy burden of tax. Artists and authors also become liable to pay heavy tax owing to progressive rates of tax on the sizeable income they earn during a short period of their career. It is also noticed that consider-

able ingenuity is devoted to and litigation takes place in shifting assessability of income from one year to another. To avoid such inequity inherent in the scheme of progressive taxation, it has been suggested that facility should be given to the assessees to purchase 5 Years or 10 Years Annuity Certificates from the Life Insurance Corporation or through nationalised Banks. In computing taxable income, weighted deduction should be made by reference to the purchase of Annuity Certificates and likewise, weighted addition should be made in the year in which annuity is received. With such a self-adjusting mechanism, there may be no need for any special provisions concerning taxation of casual receipt, capital gain, compensation, etc. What are your views in this regard?

66. Is there a case for allowing a deduction from the income of self-employed, propertyless individuals, on account of a portion of the high house rents paid in specially expensive localities, on the analogy of exempting the house rent allowances of employees? If so, what are your suggestions?

67. The value of a dwelling house up to Rs. 1 lakh is excluded for purposes of wealth-tax and estate duty. Is there a case, in equity, for allowing an equivalent exemption up to Rs. 1 lakh to individuals and estates of deceased individuals who have no dwelling house or any other house property whatsoever?

V—Tax Administration

68. (a) Would you agree with the suggestion that every tax-payer and every other person who enters into transactions above specified amounts should be required to obtain permanent account numbers from the Income-tax Department and that those numbers should be required to be quoted in shareholders' registers, invoices, cash memos, bank accounts, credit and debit notes, letter-heads and other documents relating to such transactions?

(b) Would you like the reporting system to be particularly applied to transactions in lands and buildings where both the transferor and the transferee will be required to state at the time of registration of documents their respective permanent account numbers or that both of them or either of them are not income-tax payers?

(c) Should the law be amended making it obligatory for the authorities registering transfer of any immovable property over a certain value to send intimation regarding such transfer to the Income-tax Department?

(d) Would you favour the suggestion that even agreements to sell immovable properties be required to be registered and/or intimated to the Incometax Officer concerned? What are your comments in this regard?

69. Would you suggest that all persons carrying on business should be required by law to maintain such accounts as are sufficient to establish the amount of income, deductions, credits, etc.?

70. Would you suggest compulsory audit of accounts in all non-corporate cases as well, where income exceeds a certain limit?

71. What should be the nature of help to be given by Chartered Accountants and other suitable authorised representatives to Income-tax Officers in the determination of correct income of tax-payers? It has been suggested that mere routine audit may not be helpful because of the large areas where problems of interpretation, judgment or discretion would obtain and what should be required of such representatives is a report on accounts and presentation of pertinent information which will assist the Income-tax Officer in the proper and swift formulation of opinion relevant for assessment. What are your views in this regard and what are your suggestions about the type of report and the nature and manner of presentation of the pertinent information by such representatives?

72. (a) In some countries there is a system of banks insisting on proper identification of parties entering into transactions above a certain amount, even though they may be only deposits, demand drafts, telegraphic transfers, etc. Would you suggest similar regulations in our country?

(b) Would you suggest that officers of the Income-tax Department should be authorised to obtain from the banks information of a general nature such as telegraphic transfers or deposits above a certain amount without specific reference to a particular tax-payer?

73. What are your comments on the following suggestions:—

(a) The income-tax and wealth-tax returns should be so amended as to require an assessee to state explicitly not only the sources of income and assets held in his name but also those which are beneficially held for him by others.

(b) It should be provided by law that in the case of a taxpayer unless his income-tax/wealth-tax return includes statement of income/assets beneficially held for him by others, no claim to such assets will be enforceable under the general law.

(c) When statements of accounts are submitted in support of the return or in the course of assessment, those statements should be deemed as a part of the return for the purposes of the penalty provisions of the Income-tax Act.

(d) Every return should bear a verification certificate affirming the accuracy, and the truth of the transactions entered in the accounts, if any, on which the return is based. The certificate should also include the following two statements, viz.,

(i) that all cash takings have been recorded in the books and that no cash has been held outside the books; and

(ii) that all stock has been included in the stock figures, valued at cost or the market value (whichever is the method regularly adopted by the assessee) and that no stock is held outside the accounts.

(e) In the returns of income and net wealth, the tax-payers should be required to make a full reporting thereof. Thus, the return of income should include income from all sources, whether taxable or otherwise. Likewise, return of net wealth should disclose assets of all kinds, assessable or otherwise.

(f) In all cases, the tax-payers should be required to furnish along with their returns of income a statement giving the position of their net wealth as at the beginning and end of the year.

74. A suggestion has often been made that there should be only one accounting year for all tax-payers, and, consequently, one date for filing of returns of income. What are your comments on this suggestion? What changes in law would you suggest so that bulk of the returns are received early in each financial year?

75. A suggestion has been made that in cases of tax fraud, the power given to the Commissioner of Income-tax to compound offences should be taken away and that no authority, whether it be the Commissioner or the Central Board of Direct Taxes, should have the power to compound such offences. What are your comments on this suggestion?

76. Would you agree with the suggestion that the powers given under Section 133A of the Income-tax Act should include the power to make a physical check of cash, stocks and other valuables?

77. It is said that a number of persons liable to income-tax and wealth-tax are not being assessed because many tax-payers are not filing returns of income and net wealth. What are your views in the matter? If you agree with the above, what measures would you suggest to remedy the situation?

78. Do you consider the existing provisions of secrecy and publicity as adequate, or would you recommend any change?

79. What should be the place of 'informers' in tax administration in its fight against tax evasion? Would you favour substantial rewards being given by the Department to enable it to fight the evil of tax evasion and black money?

80. Do you consider the existing enforcement machinery under the direct tax laws to be adequate? If not, what measures would you suggest to give it teeth?

81. Would you favour the power of search being extended to vehicles, vessels and even to persons?

82. What measures would you suggest to improve the climate for proper compliance with the tax laws by those tax-payers who are either misinformed or innocent and who wish to keep within the letter of the law?

83. Would you suggest a further raising of the limit of income which should not be liable to tax and, if so, to what extent? If not, what are your suggestions for ensuring that income-tax cases of assessees with small incomes are disposed of expeditiously?

84. Do you think that mass completion of assessments on the basis of returns, without scrutiny, in the cases of small incomes would lead to the tax-payers showing their incomes correctly in future?

85. To reduce the work at the level of the Income-tax Officer and thus enable him to give more attention to the bigger cases, it has been suggested that a system of prior agreement of the income-tax liability for the next three years, based on the result of the last three assessments (or on the basis of the current assessment made on a new assessee), may be introduced for dealing with the cases of small assessees having annual incomes upto Rs. 7,500 or so. What are your comments on this suggestion?

86. Should the account books of all tax-payers, big or small, be subjected to examination by officers of the Income-tax Department? Would you, in the alternative, recommend selective scrutiny of accounts on a random sampling basis? What are your views in the matter, and if you advocate selective scrutiny, to what categories of income or tax-payers would you recommend its application?

87. Do you consider that the form of return of income can be further simplified for non-business incomes? If so, what suggestions would you like to offer? What changes, if any, would you like to suggest in the return form for business incomes, with a view to facilitating scrutiny of returns and their selection for detailed examination?

88. It has been suggested that a comprehensive return form should be prescribed for

Income-tax, Wealth-tax and Gift-tax to enable assessments under the three Acts being completed simultaneously. This is expected to facilitate self-checking of the return as also quicker disposal and elimination of unnecessary repetition of examination of accounts for different types of assessments. Do you agree with this view? If so, what are your suggestions with regard to the contents of this comprehensive return and the category of tax-payers who may be required to file this return?

89. Self-assessment at present covers cases where the tax due is more than Rs. 500. The Taxation Laws (Amendment) Bill, 1969 proposes to reduce the limit to Rs. 100. Should a limit remain at all? At present, tax on self-assessment is payable within 30 days of the filing of the return. In some other countries, the tax is payable along with the return. Would you recommend a change to payment of self-assessment tax along with the return?

90. It is often mentioned that many tax-payers and/or their counsel do not care to produce all the evidence at the assessment stage and do so at the appeal stage, with the result that the assessments made by the Income-tax Officer are varied at the appeal stage in such cases. Should it be laid down that where evidence was not produced at the assessment stage itself, when reasonable opportunity had been provided for it, it would not be admissible at the appeal stage?

91. The Income-tax Officer acts as a quasi-judicial officer and his judgment in individual cases is unfettered. It is said that sometimes this leads to unreasonable assessments or inadequate assessments. To remedy this, would you agree with the suggestion that the Inspecting Assistant Commissioner should be legally authorised to look into the assessments proposed by the Income-tax Officers and his instructions and directions in individual cases should be binding on the Income-tax Officers?

92. Do you favour the suggestion that before an assessment is completed, the Income-tax Officer should be required to send a draft assessment order to the tax-payer who may be asked to signify his acceptance or exercise the option of being heard by the next senior officer? If the assessee opts for a conference with the Inspecting Assistant Commissioner, the assessment would be completed under the signature of the Assistant Commissioner and in that event, appeal should lie to the Tribunal direct. What are your comments in this regard?

93. It is often said that insistence on payment of tax demands raised on the basis of disputed assessments causes considerable hardship to the assessees. What are your suggestions in this regard to ensure that while hardship is avoided in genuine cases of dispute, others are not enabled to put off payments by filing frivolous appeals?

94. A common complaint is heard that not infrequently proper credit for tax paid by way of advance tax or on self-assessment etc., is not given and that notices of demand or show-cause notices for levy of penalty for non-payment of tax are issued either for incorrect amounts or even for amounts which have already been paid. What suggestions would you like to make to solve this problem?

95. It is stated that the accounting procedures followed by the Income-tax Department are outmoded and that they should be changed to a regular system of keeping proper accounts. Would you favour the suggestion that for keeping a record of the demands raised against tax-payers and the payments made by them, a system of properly designed personal accounts and/or pass-books as obtaining in banks be adopted?

96. Computers are being increasingly used in different spheres in Government Departments. What are your views about the use of computers in the Income-tax Department? For what purposes, according to you, could computers be used profitably? What other mechanical devices would you suggest as necessary or desirable to increase efficiency of operations and to reduce the tedium of routine work in the Income-tax Department? Are there any problems arising out of the use of computers which need special attention?

97. What improvements would you suggest in the present procedures to ensure that refunds of tax, whether on assessment or as a result of appeal, etc., are granted to and received by the assessees promptly?

98. Do you think that the present strength of the Income-tax Department is adequate for efficient discharge of its duties under the different direct tax laws, taking into account the inherent complexities in tax laws, and the persisting problems of arrears of assessments, arrears of taxes and prevalent tax evasion? What suggestions would you like to make in this regard?

99. (a) Would you suggest any changes in the existing organisational structure of the Income-tax Department to make it function more efficiently?

(b) It is said that apart from the complexities of the tax laws, the departmental procedures are irksome and time-consuming. Do you agree with this view? If so, what are your suggestions in this behalf to ensure less irksome and more expeditious disposal?

100. (a) It is said that advance rulings are an excellent device for fostering and encouraging the self-assessment system, and contribute to good relations between the income-tax administration and the tax paying public. From the tax-payer's point of view, these rulings give him greater measure of certainty prior to entering into transactions, and guarantee uniformity in the application of the tax legislation. Would you favour the suggestion that provision be made in law for giving advance rulings by the Central Board of Direct Taxes on tax-payers' applications? If so, what, according to you, should be the organisational set-up for this purpose and what should be the level of officers at which matters relating to advance rulings be processed and rulings given?

(b) Should 'specialists' be attached to the Central Board of Direct Taxes with a view to assist them in giving rulings or opinions in connection with the interpretation of tax laws and facts?

101. Would you suggest any changes in the constitution, powers and status of the Central Board of Direct Taxes? Should it remain as a part of the Ministry of Finance or be made a separate body?

102. Do you consider the tax administration in India to be over-centralised? If so, please state the lines on which you would like the tax administration to be de-centralised and the functions which could be delegated to lower formations?

103. The Department has recently switched over from the composite system of work to a functional system in multi-officer Income-tax Circles. As a tax-payer, what has been your experience of the working of the new system? Do you consider it to be an improvement on the earlier system? If not, what are the shortcomings which have been noticed and what measures would you suggest to remedy them?

104. Would you favour the suggestion that there should be a separate agency for tax collection as in the U.K.? If so, what are your suggestions for the organisational set-up of such a collection agency and its co-ordination with the assessment agency?

105. Good public relations play a useful role in the smooth and efficient working of the tax administration machinery. Some steps like appointment of Public Relations Officers, opening of Enquiry Counters, distribution of return forms through post offices and payment by cheque in the income-tax offices are said to have been taken by the Department in this regard. What further improvements would you like to suggest in this behalf?

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106. Have you any suggestions to make in regard to matters not enumerated above, but which, according to you, are covered by the terms of reference of the Committee and could usefully be considered by it?

* * *

Note:—

(i) Unless specifically stated otherwise, the questions should be treated as relating to all the direct taxes.

(ii) The Questionnaire should not be taken to reflect in any manner the opinion of the Committee in respect of the matters contained therein.

* * *

APPENDIX II

SUPPLEMENTARY QUESTIONNAIRE

(For the Department only)

1. What is your appraisal of the working of the Intelligence Wing set up a few years ago? Has it helped substantially in detection of cases of evasion and in prosecution of tax evaders? What, according to you, should be its primary functions and what changes in its organisation and working would you suggest, so that those functions could be efficiently performed?

2. Would it help develop necessary expertise if a separate cadre of officers (consisting of Income-tax Officers and Inspecting Assistant Commissioners and enjoying higher salaries) is created to deal with cases of tax fraud?

3. Should the staff put on investigation of tax fraud cases receive special training in detective techniques and surveillance? If so, what are your suggestions in this behalf?

4. Will it be helpful, both for assessment and collection of taxes, if in suitable cases, such staff keeps a watch on the activities of individual tax evaders—their movements, the places and banks they visit, the expenses they incur on ostentatious living, entertainment, marriages, etc.?

5. What has been your experience about the role of 'informers' and the system of rewards to them? What suggestions do you have to make in this sphere?

6. What is your experience about:

   (a) the results achieved by searches that have been undertaken; and

   (b) the practical difficulties, if any, encountered? What suggestions would you make to remove the difficulties and to improve the results of searches?

7. Do you agree with the suggestion that with a view to making thorough and expeditious investigations in important groups of cases, more than one officer should hold concurrent jurisdiction and their work be co-ordinated by the Inspecting Assistant Commissioner?

8. What is the nature and type of information—available from the books of tax-payers and from outside sources—which is at present being collected, collated, disseminated and utilised by the officers of the Department? What changes would you suggest in the coverage and the organisational machinery to make the system more efficient and effective?

9. Several of the other Government Departments, e.g. Sales-tax, Excise, Export and Import Control, Accountant General's Office, can be sources of useful information for income-tax investigations. What is the present arrangement for obtaining information from such Departments and utilising it in the actual assessment proceedings? What improvements would you like to suggest in this behalf?

10. A suggestion has been made that the Income-tax Department should set up a Cell to study the current market conditions of important trades and industries, collect relevant materials, collate and circulate them to the assessing officers immediately after the close of the accounting year. What are your comments in this regard?

11. What has been the extent and scope of internal and external survey during the last three years? What changes would you suggest to make survey more effective and fruitful?

12. What has been your experience of the departmental valuation cell? Have you any suggestions to make with a view to improve its working?

13. A suggestion has been made that in all circles, cases should be divided into (a) business and (b) non-business. Non-business cases should be given to comparatively junior officers, while business cases should be entrusted to senior officers. What is the present practice in this regard and what are your comments on this suggestion?

14. Do you think that the present basis of categorisation of cases has become outdated in view of the rise in income levels generally and the inflationary trend in the last two decades? If so, what are your suggestions in this behalf?

15. It has been suggested that returns and connected documents be obtained in duplicate from assessees where the income/loss exceeds a specified limit, say Rs. 1 lakh, and scrutinised by senior officers in a Central Cell. The advantages claimed for this type of centralisation are early detection of mistakes, availability of information in bigger cases as an aid to realistic budgeting and better tax planning. Do you agree with this suggestion? If so, what should be the organisational set-up of such a Central Cell?

16. A system of Group Inspecting Assistant Commissioners prevails in the Income-tax Department. These Inspecting Assistant Commissioners, however, do not have any assessment powers and cannot look into the assessees' books of account or associate themselves with the Income-tax Officers during the course of discussions with the taxpayers. It is said that this makes it difficult for the Group Inspecting Assistant Commissioners to make useful contribution to the assessment work. Would you agree with the suggestion that Group Inspecting Assistant Commissioner should be given concurrent jurisdiction over the cases along with the Income-tax Officers working under him?

17. What, according to you, should be the number of assessments which may be expected to be disposed of efficiently by an Income-tax Officer (a) working in Central Circles, (b) handling potential prosecution cases, (c) handling investigation cases in other circles, (d) handling company cases, (e) handling Category I cases, (f) handling Category II and other cases with income exceeding Rs. 10,000 and (g) handling the remaining lower income cases?

18. It has been stated that the multiplicity of penalty proceedings under the existing provisions of the law has considerably hampered assessment work and has also, in turn, resulted in increase in the number of appeals. Would you favour the suggestion that there should be only one order for all the defaults for which penalty is leviable with reference to the income-tax determined on assessment for an assessment year?

19. The system of deduction of tax at source has been in vogue for a long time. Of late, many cases have come to notice where tax was not deducted at all or if deducted, was not credited to the Central Government. What administrative measures would you suggest for bringing about improvement in this regard?

20. It is reported that credit for tax payment was obtained in some cases on the basis of bogus challans. What safeguards would you suggest against such fraudulent practices, after taking into account the present procedures of reconciliation of income-tax accounts with the Treasury?

21. Have you any suggestions to make for the improvement of the tax recovery set-up? Would you favour the suggestion that the tax recovery units should be provided with vehicles, firearms, adequate constabulary personnel of their own? What, according to you, should be the forum of appeals against orders passed by the Tax Recovery Officers, who are from the Income-tax Department?

22. It has often been said that the progress in the scaling down and write off of arrear demands has been slow because of the involved procedures and also because of fear or at least disinclination to take responsibility for scaling down or write off, lest it may later be subjected to criticism. Do you agree with this view? If so, what suggestions would you make to streamline and expedite the scaling down and write off of arrear demands in appropriate cases?

23. Do you think that the Internal Audit Parties have helped in considerably reducing the number of audit objections raised by the Revenue Audit Parties?

24. It has been suggested that internal audit should be placed directly under the control of a Director of Internal Audit, who should have Deputy Directors working at the headquarters of the Commissioners. Do you agree with this suggestion?

25. A suggestion has been made that the Internal Audit Scheme should be dropped. Instead, steps should be taken to strengthen the staff (qualitatively and quantitatively) in the Income-tax Offices so that mistakes are avoided and that, in addition, selective checking at the time of inspection be done by the Inspecting Assistant Commissioners who should be provided adequate staff for the purpose. What are your comments in this regard?

26. Are you satisfied about the nature and scope of Revenue Audit? If not, what changes would you recommend?

27. What has been your experience of the working of the functional system? Have you come across any difficulties or bottlenecks or noticed any shortcomings? If so, what remedial measures would you like to suggest in this behalf?

28. It is often said that frequent changes in jurisdiction over cases, with consequent changes in General Index Register numbers, lead to many problems—the least of which is non-linking of payment challans, letters and requests from assessees with the concerned files. What has been your experience in this regard? What are your suggestions, with particular reference to facilitating the prompt linking of challans, letters, etc., with the files:

(a) When there has been a change in jurisdiction; and

(b) When General Index Register numbers have not been given on the papers?

29. What should be the role of inspections in the Tax Administration Organisation? Should office inspection be left to the Head of the Office or should it be done by the next higher authority? What changes would you suggest

in the forms and patterns of (a) office inspection and (b) inspection of technical work of Income-tax Officers by the Inspecting Assistant Commissioner?

30. It has been said that Income-tax Officers and their staff have to send too many reports and statistical returns to the higher authorities. In addition, there has been an increase in the *ad hoc* reports which are called from time to time for various purposes—for answering questions in Parliament, for the Public Accounts Committee, for Revenue Audit, etc., and that these reports have been taking a lot of time off the main functions of the officers and the staff in an Income-tax Office. What has been your experience in the matter, and if you agree with the above, what suggestions would you make to improve the situation?

31. It has often been said that the staff available in Income-tax offices is utterly inadequate to cope up with the present work-load and the back-log of arrears of work; and that handling of one hampers clearance of the other, leading to a perpetual state of back-logs and the resultant inefficiency and public complaints.

It has also been said that since the leave reserve officers are being utilised for regular work, the leave reserve staff, in turn, is not available for leave reserve duties, with the result that during periods of leave, the work gets completely out of gear.

What are your views about these matters and what solutions would you like to suggest?

32. It has often been said that it is fundamentally wrong to pay officers, on whose attitude and conduct very large sums of money may depend, salaries at meagre scales and to keep them in situations where they have to depend on others for ordinary basic needs, such as housing. What are your views in this matter and what suggestions would you make in regard to scales of pay, promotion prospects, status and other facilities such as housing, education of children, etc., of the officers—gazetted and non-gazetted of the Income-tax Department?

33. Would you recommend any changes in the present gradation of the gazetted and non-gazetted staff of the Department? What would you recommend by way of distribution of work, duties and responsibilities in respect of each grade?

34. Do you think that the existing span of control at various levels of tax administration is adequate? If not, what are your suggestions in this behalf?

35. What measures would you like to suggest for maintaining and improving the morale of the officers of the Income-tax Department so that they may discharge their onerous duties of levying proper taxes without fear or favour?

36. Do you think that the present percentages of promotions in the various cadres are suited to the harmonious blending of fresh blood and departmental experience? What are your comments and suggestions in this regard?

37. It has been suggested that the supervisors should be replaced by gazetted Class II officers who should be responsible for the supervision of the working of the ministerial staff and act as Administrative Officers for attending to house-keeping functions. Do you agree with this view? If so, what are your detailed suggestions in this behalf?

38. Do you consider that the training imparted to the officers and the staff at various levels at present is adequate? If not, what are your suggestions for improving the techniques and the scope of training?

39. It has been suggested that, apart from the threoretical training which is imparted to the probationary Income-tax Officers, they should be given more practical training by being attached for a period of six months with senior Income-tax Officers, during which period they should examine books of account and frame draft assessment orders. No quota of disposals, etc., should be fixed during this period. What are your views in this regard?

40. Do you think that senior Income-tax Officers and Assistant Commissioners get adequate training in the basic concepts of management? If not, what suggestions would you make for imparting such training to them?

41. Do you consider any changes are needed in the present method of evaluation of the work of each grade of officers, so as to make it more realistic and purposeful?

42. What has been your experience of the prevailing system of recruitment of staff on the basis of names sponsored by the Employment Exchanges? Have suitable persons been forthcoming in different grades? If not, what are your suggestions to improve the quality of the staff recruited in the Department? Would you advocate the setting up of a separate agency within the Income-tax Department itself for recruitment of staff?

43. What should be the policy in regard to transfers of gazetted and non-gazetted staff, taking into account, among others, the following factors:—

(a) problem of language;

(b) education of children;

(c) housing; and

(d) the need to avoid undesirable personal contacts.

44. What has been your experience in regard to the accommodation available in Income-tax Offices? Has it been generally adequate? If not, what, according to you, are the causes of shortage and what remedial measures would you like to suggest?

Do you think it would result in greater administrative efficiency and improve detection of tax evasion if in bigger city charges, the Income-tax Offices are dispersed area-wise?

45. Very often it is said that an important contributory factor to the unsatisfactory working of the Income-tax Department is the perennial shortage of forms, stationery, furniture and other office equipment. Please state, giving relevant facts what has been the extent of such shortage during the last two years. What measures would you suggest to ensure that such shortages are avoided in future? Would you suggest any organisational change in this regard?

46. Do you think the existing arrangements for the supply of necessary and up-to-date manuals, reference books and guidance notes, having a bearing on the day-to-day work of the officers and staff are adequate? If not what are your suggestions to improve the position in this regard?

47. It is often stated that records are in a bad shape in the Income-tax Department and that there is considerable scope for improvement in the filing system, quality of file covers, indexing and movement. Do you agree with this view? If so, what steps would you like to suggest to improve the maintenance of records?

48. The present practice in charges having more than one Commissioner seems to be that the senior-most Commissioner is in over-all charge of administration. What are your comments on the suggestion that each Commissioner should have his independent set-up?

49. Have you any suggestions to make in regard to the following:—

(a) functioning of the three Directorates of Inspection so as to enable them to play a more vital, useful and effective role;

(b) ensuring advance planning with regard to the future requirements of the Department, both in men and materials;

(c) improving the techniques of revenue budgeting with a view to make it realistic and accurate;

(d) diversification of the revenue statistics with a view to make them more purposeful, and for ensuring their prompt compilation, so as to enhance their utility in the sphere of economic and tax planning; and

(e) improving the existing pattern of taxpayer information and education and the channels of communication.

* * *

APPENDIX III

SPECIAL QUESTIONNAIRE FOR THE CENTRAL BOARD OF DIRECT TAXES

1. What have been the methods of working of the Intelligence Wing and what types of intelligence it has been gatering? What have been its achievements in terms of contribution to detection of tax evasion and prosecution of tax evaders?

2. Is there any scheme of training for the officers of the Department handling cases of tax evasion? What are the technical facilities available to them?

3. What are the salient features of the scheme of rewards to informers? A copy of the present reward rules may also please be furnished.

4. What is the total demand (tax and penalties to be given separately) raised as a result of information given by informers and the collections made against such demand during the last 5 years? In how many cases were prosecutions launched on the basis thereof?

5. Please give the following information, year-wise, in respect of prosecutions launched and convictions obtained during the last five years: —

(i) number of prosecutions launched during the year,

(ii) number of prosecutions concluded during the year resulting in

(a) convictions,

(b) acquittals,

(c) withdrawals,

(d) compositions.

(Please furnish the above particulars separately for each type of offence).

6. What are the existing arrangements for giving training to officers of the Department in working up cases for prosecution? Is legal assistance readily available to them for evaluating prosecution potential of a case?

7. Please furnish a detailed note about the Board's experience in regard to the provisions relating to searches and seizures. The following year-wise statistical information for the past five years may also be furnished: —

(a) the number of searches and seizures conducted;

(b) the number of searches and seizures which were successful; and

(c) the amount of concealment detected as a result thereof;

(d) the number of cases in which prosecutions were launched;

(e) number out of (d) above, in which prosecutions were successful.

8. Please furnish the salient features of the various Disclosure Schemes launched by the Government so far. In this connection, statistical information regarding the amount disclosed, the number and status of persons who made the disclosures under the various schemes and the tax realised may also be furnished.

9. What are the present functions of the Directorate of Inspection (Investigation)? What is its role in the sphere of investigation of cases of suspected tax evasion? How is the co-ordination maintained with the Commissioners in this regard? How does the Directorate exercise control over the working of the Intelligence Wing?

10. Please furnish the following information about the working of the Special Investigation Branches in the offices of Commissioners of Income-tax for the last 3 years. (This may be done on the basis of the returns which are received by the Board from all the Commissioners' Charges about the working of the Special Investigation Branches): —

(i) number of intimation slips issued during the year;

(ii) number of slips utilised by the officers;

(iii) number of cases in which extra demand was raised on the basis of the information contained in the slips;

(iv) amount of extra demand so raised.

11. What are the present procedures and instructions relating to external and internal survey? Please furnish year-wise the following particulars about external survey during the last five years: —

(1) No. of shops/houses surveyed during the year.

(2) Types of information collected from other offices, Government Departments etc.

(3) No. of new assessees discovered.

(4) No. of effective cases out of (3).

(5) No. of infructuous cases out of (3).

(6) Assessments completed out of (4).

(7) Demand raised.

(8) Collections.

If possible, category-wise break-up of the cases in (4) above may also be given.

12. Please furnish the following information in respect of the valuation of properties by the Valuation Cell of the Department, since its inception:—

(1) Year.

(2) No. of taxpayers whose properties were valued.

(3) No. of properties valued.

(4) Value declared by the assessees in respect of (3) above.

(5) Value determined by the Valuation Cell in respect of (3) above.

(6) Result of appeal, if any.

13. Is there any system of sending round periodical information to the Income-tax Officers about the market conditions or special features of trade and industry obtaining in each year?

14. Please furnish the following information regarding the arrears of tax as on 1-4-1970:—

(1) Amount of arrears as on 1-4-1970.

(2) Classification of (1) as under:

Arrears of demands raised during:

1969-70

1968-69

1967-68

1966-67

1965-66 & earlier years.

(3) Classification of (1) as under:

(a) amount pending settlement of D.I.T. and other reliefs;

(b) amount due from persons who have left India and who have no assets in India;

(c) amount due from companies under liquidation;

(d) amount covered by certificates issued to Tax Recovery Officers [excluding certificates relating to items (a), (b) and (c)];

(e) amount pending disposal of appeal [excluding items (a) to (d)];

(f) amount considered irrecoverable for other reasons;

(g) balance recoverable as on 31-3-1970;

(h) amount not fallen due as on 31-3-1970 included in (g) above;

(i) amount pending adjustment of advance tax included in (g) above;

(j) balance amount [(g), (h) and (i)];

(k) amount out of (j) in respect of which penalties under section 221 have been levied.

15. Please indicate the existing procedure about the write off of arrears and scaling down of tax demands.

16. Please furnish year-wise information in respect of write off of tax arrears during the last five years.

17. Please give the following information in respect of scaling down of demand in cases involving amounts exceeding Rs. 1 lakh:—

	65-66	66-67	67-68	68-69	69-70
(1) Applications pending on 1st April :					
No. ..					
Amount					
(2) Applications received during the year :					
No. ..					
Amount					
(3) Applications disposed of during the year :					
No. ..					
Amount					
(4) Applications pending at the end of the year :					
No. ..					
Amount					
(5) Amount of tax arrears scaled down ..					

18. To what extent has the recovery work been taken over by the Income-tax Department? If the take-over is not complete, what are the reasons for which it has not so far been possible to take over recovery work in its entirety?

19. (a) What is the total number of tax recovery units in India? What is their organisational set-up, sanctioned strength and what facilities are available to them for effecting recovery of taxes, including attachment of mov-

able property? What is the total number of recovery certificates pending on 1-4-1970?

(b) How many tax defaulters were sent to the civil lock-up during the last five years? Please give year-wise break-up.

20. The following information may be furnished for the preceding three years, if readily available:—

(1) number of cases in which assessments were made in the status of resident but not ordinarily resident;

(2) total amount of income assessed;

(3) total amount of demand raised;

(4) total amount of tax which would have been lost if the status had been taken as 'non-resident'.

21. The following information may please be furnished, if readily available:—

(1) How many companies follow 'previous years' based on religious sentiments?

(2) How many individuals and others follow 'previous years' based on religious sentiments?

(3) Which are the different dates on which most of the 'previous years' end?

22. If possible, please furnish information in regard to the cases in which it was found that Trusts were not devoted to genuine charitable purposes.

23. What is the organisational set-up of the Central Board of Direct Taxes? What is the allocation of work among the Members? What are the present arrangements to ensure that advance thinking and planning is done with regard to the future requirements of men and materials.

24. What is the latest year for which detailed revenue statistics are available? If they are available for a year later than 1966-67, they may please be made available to the Committee. What are the reasons which have led to delay, if any, in the compilation of these statistics?

25. Please furnish details (year-wise) of the books/publications brought out during the last 3 years by the Department by way of taxpayer education or as guide to the Departmental officers and staff.

26. Has any literature been brought out to educate the public regarding deduction of tax at source? How does the Department ensure that the statutory provisions relating to deduction of taxes are complied with?

27. Please furnish the following information in respect of work-load in Central/Special Circles:—

	65-66	66-67	67-68	68-69	69-70
(1) No. of Central/Special Circles.					
(2) No. of cases in Circles at (1) above.					
(3) No. of assessments for disposal during the year.					
(4) No. of assessments disposed of during the year.					
(5) No. of I.T.Os. in Circles at (1) above.					
(6) Average disposal per I.T.O.					

28. Please supply the following information, year-wise, for the years 1965-66 to 1969-70:—

	Cat I	Cat II	Cat III	Cat IV	Cat V	Total
(1) No. of assessees on G.I.R. on 1st April.						
(2) No. of assessments pending on 1st April.						
(3) No. of assessments added, e.g., u/s 147 or 139(1) or for any other reason during the year.						
(4) Total No. of cases for disposal during the year:						
(a) brought forward cases.						
(b) current cases						
(5) No. of assessments completed during the year out of:						
(a) brought forward cases.						
(b) current cases.						
(6) No. of assessments pending as on 31st March out of:						
(a) brought forward cases.						
(b) current cases.						

29. Please give the following information in respect of the disposal per Income-tax Officer:—

Year	No. of ITOs on assessment work	No. of assessments completed	Average disposal per ITO
1	2	3	4
1965-66 ..			
1966-67 ..			
1967-68 ..			
1968-69 ..			
1969-70 ..			

30. How is the quota of disposal of the officers working in the Central Circles and ordinary circles fixed? Are there any instructions of the Board in this regard?

31. Please give information in the following form in respect of penalties imposed for concealment of income during the last 5 years:—

(1) Year.

(2) No. of penalty proceedings u/s 28(1)(c)/271(1)(c) pending on 1st April.

(3) No. of penalty proceedings instituted under section 271(1)(c) during the year.

(4) (a) No. of penalty proceedings finalised during the year;

(b) out of above, in how many cases penalties were levied;

(c) number out of (b) above, in which the penalties were sustained in appeal.

(5) No. of penalty proceedings pending at the end of the year.

(6) No. of cases in which maximum penalty was imposed.

32. Please give the following information in respect of Internal Audit Parties:—

	65-66	66-67	67-68	68-69	69-70
(a) No. of Internal Audit Parties.					
(b) No. of assessments completed during the year:					
(i) Company & Cat. I cases.					
(ii) Other cases					
(c) No. of assessments checked:					
(i) Company & Cat. I cases.					
(ii) Other cases ..					
(d) No. of mistakes detected:					
(i) Company & Cat. I cases.					
(ii) Other cases ..					
(e) Amount of revenue involved in (d) above:					
(i) Company & Cat. I cases.					
(ii) Other cases ..					

33. Please give a note on the functioning of the Officers' Training College, the personnel employed for imparting training and the training courses for the trainees.

34. Is there any system of holding refresher courses periodically for officers and staff? Please give a note on the subjects covered and also furnish the following information in respect of these refresher courses held during the last three years, separately for gazetted and non-gazetted officers:—

	67-68	68-69	69-70
(1) Year			
(2) No. of refresher courses held ..			
(3) Grade of officers for whom the course was held.			
(4) Total No. of officers in that grade ..			
(5) No. of officers who attended the course.			

35. Please give the sanctioned and working strength of officers and staff in the various grades as on 1-4-1970 and their scales of pay.

36. Please furnish the following information:—

(a) number of officers on deputation as on 1-4-1970 (from each grade separately);

(b) number of officers who were sent abroad for training during the last 5 years. Please also indicate the nature of training received by them.

37. Please furnish the following information:—

Year	No. of officers promoted from				
	I.T.O. Cl. II to Cl. I	I.T.O. Cl. I to A.C.	A.C. to C.I.T.	C.I.T. to Member	Member to Chairman
1	2	3	4	5	6
1965-66 ..					
1966-67 ..					
1967-68 ..					
1968-69 ..					
1969-70 ..					

38. Is there any arrangement for in-service training of the personnel when promoted to the next higher grade? If so, please give the details.

39. Is there any scheme of giving advance increments or awards or other form of recognition for meritorious work, etc.? If so, please furnish particulars thereof.

40. What are the existing arrangements for keeping the officers up-to-date with regard to the changes in law and interpretation of various legal provisions?

41. Please give the following information (year-wise) with regard to vigilance cases for the last three years:—

(1) number of cases pending on 1st of April;

(2) number of cases received during the year;

(3) number of cases disposed of during the year, resulting in—

(a) convictions,

(b) acquittals,

(c) dropping of proceedings.

42. (a) What is the total requirement of office accommodation for the Income-tax Department on the basis of present sanctioned strength? What is the ratio of Government owned accommodation to rented accommodation and what was the amount of rent paid in 1969-70? If the accommodation is short, how much is the shortage and what are its causes?

(b) Have the Board drawn up any programme for office buildings keeping in view the likely expansion of the Department in the next five years? If so, please give particulars thereof.

(c) What is the present position regarding residential accommodation for the officers and staff? Have the Board drawn up any programme in this behalf? If so, please give particulars thereof.

43. What are the existing arrangements for the printing and supply of forms, stationery, etc.? Have these arrangements ensured adequate and regular supply? If not, what has been the extent of shortage in respect of the important forms, folders and stationery?

APPENDIX IV

List of persons who sent replies to the Questionnaires

I—State Governments/Union Territory Administrations

S. No.

1. Chandigarh Administration.

2. Delhi Administration.

II—Public

(A) CHAMBERS AND OTHER ORGANISATIONS

Serial No.	Name	Address
	Andhra Pradesh	
3	The Indian Chamber of Commerce,	Post Box 67, Guntur.
	Assam	
4	India Carbon Ltd., ..	Noonmati, Gauhati-20.
	Delhi	
5	The Central Secretariat Stenographers' Service Association,	Sector 3, Qr. No. 323, R.K. Puram, New Delhi-22.
6	Delhi Medical Association,	Medical Association Road, Daryaganj, Delhi-6.
7	Federation of Associations of Small Industries of India,	"Laghoodyog Kutee" 23-B/2, Rohtak Road, New Delhi-5.
8	Federation of Indian Chambers of Commerce & Industry,	Federation House, New Delhi-1.
9	The Institute of Chartered Accountants of India,	Post Box No. 268, Indraprastha Marg, New-Delhi-1.
10	Northern India Share Holders Association,	2E/6, New Link Road, New Delhi-55.
11	Punjab, Haryana & Delhi Chamber of Commerce & Industry,	Phelps Building, 9-A, Connaught Place, New Delhi-1.
	Gujarat	
12	The Ahmedabad Millowners' Association,	Ranchhodlal Marg, Navrangpura, Ahmedabad-9
13	Chartered Accountants' Association,	C/o Rajendra D. Shah & Company, Chartered Accountants, Beside Khadia P. O., Khadia Char Rasta, Ahmedabad.
14	Gujarat Chamber of Commerce & Industry,	Shri Ambica Mills—Gujarat Chamber Building, P. B. No. 162, Ranchhodlal Road, Ahmedabad.
15	Gujarat University, ..	Ahmedabad-9.
16	Income-tax Bar Association,	C/o Aayakar Bhavan, Near Tolnaka—Vadaj, Ahmedabad-9.
17	The Nawanagar Chamber of Commerce,	Chamber Hall, Jamnagar.
18	Saurashtra University,	Kavishri Nanalal Marg, Dharampur House, Rajkot-1.
19	The Southern Gujarat Chamber of Commerce & Industry,	"Samruddhi", Nanpura, Surat-1.
	Kerala	
20	The Chamber of Commerce,	Trichur-1.
21	The Chamber of Commerce,	Mayyanna Building, Chalai, Trivandrum-1.
	Maharashtra	
22	The All-India Manufacturers' Organisation,	Jeewan Sahakar, Sir Phirozshah Mehta Road, Bombay-1.
23	Bombay Chamber of Commerce & Industry,	Ballard Estate, Bombay-1-BR.
24	Bombay Chartered Accountants' Society,	60, Forbes Street, Fort Bombay-1.
25	The Bombay Shroffs Association,	233-A, Shroffs Bazar, Bombay-20.
26	The Clothing Manufacturers Association of of India.	India House, No. 2, Mezzanine Floor, Kemp's Corner, Bombay-26.
27	The Income-tax & Sales-tax Practitioners' Association,	Poona.
28	The Indian Merchants' Chamber,	Lalji Naranji Memorial Indian Merchants' Chamber Building, 76, Veer Nariman Road, Churchgate, Bombay-20 BR.
29	Indian Motion Picture Producers' Association,	Sandhurst Building, Vallabhbhai Patel Road, Bombay-4.
30	Kirloskar Oil Engines Ltd.,	Elphinstone Road, Poona-3.
31	Life Insurance Corporation of India.	'Yogakshema' Jeevan Bima Marg, Bombay-20.
32	Nag-Vidarbha Chamber of Commerce,	Temple Road, Nagpur-1.

Serial No.	Name	Address
33	The Paper Traders' Association,	54, Sutar Chawl, Bombay-2 BR.
34	The Stock Exchange, ..	Bombay.
35	The Tax Payers Association of India Ltd.,	Fort Chamber A, 3rd Floor, Dean Lane, Hamam Street, Fort, Bombay.
36	Tax Practitioners' Association,	203, M. Gandhi Road, Nasik.
37	The Wholesale Grain & Seeds Merchants' Association, Nagpur,	Itwari, Nagpur-2.
	Mysore	
38	The Hyderabad Karnatak Chamber of Commerce & Industry,	No. 7-671, Nehru Gunj Road, Gulbarga.
39	Mysore Chamber of Commerce & Industry,	Kempegowda Road, Bangalore-9.
40	Mysore State Chartered Accountants' Association.	Ramakrishna Buildings, 15-16, Sri Narasimharaja Road, Bangalore-2.
	Rajasthan	
41	The Rajasthan Industrial & Mining Association,	Pusa Niwas, Bhilwara.
	Tamil Nadu	
42	Andhra Chamber of Commerce,	"Andhra Chamber Building", 272/73, Angappa Naick Street, P. B. No. 1511, Madras-1.
43	The Indian Chamber of Commerce & Industry,	23, First Line Beach, P. B. No. 41, Nagapattinam.
44	The Madras Chamber of Commerce & Industry,	Dare House Annexe, 3/4, Moore Street, Madras-1.
45	The Madras Provincial Foodgrains Merchants' Association,	No. 40, Anderson Street, Madras-1.
46	Madurai University, ..	University Building, Madurai-2.
47	Revenue Bar Association,	42, Pelathope, Mylapore, Madras-4.
48	The Tamil Chamber of Commerce,	"Caithness Hall", 310/311 Linghi Chetty Street, Madras-1.
49	Tamilnad Gandhian Group,	"Sevashram", Madras-5.
	Uttar Pradesh	
50	National Chamber of Industries & Commerce, U.P.,	G. G. Industries, Post Office, Agra-4.
51	Uttar Pradesh Tonage Club,	352, Tulsidas Marg, Lucknow-5.
	West Bengal	
52	The Bengal Chamber of Commerce & Industry,	Post Box No. 280, Royal Exchange, 6, Netaji Subhas Road, Calcutta-1.
53	Bengal National Chamber of Commerce & Industry,	P-11, Mission Row Extension, Calcutta-1.
54	Bharat Chamber of Commerce,	195, Mahatma Gandhi Road, State Bank Building, Calcutta-7.
55	Gunny Trades Association,	5, Clive Row, Post Box No. 573, Calcutta-1.
56	Income Tax Bar Association,	Ayakar Bhavan, P-7 Chowringhee Square, Calcutta-1.
57	Indian Chamber of Commerce, Calcutta,	India Exchange, Calcutta-1.
58	The Institute of Cost & Works Accountants of India,	Cost Accountants' Hall, 12, Sudder Street, Calcutta-16.
59	Merchants' Chamber of Commerce,	3/1/2, Armenian Street, Calcutta-1.
	(B) INDIVIDUALS	
	Andhra Pradesh	
60	Shri Kapurchand Shrimal,	Sultan Bazar, Hyderabad.
61	Shri M. Gopala Rao,	Regd. Medical Practitioner, P. O. Pamidi, District Anantapur.
62	Shri P. Gopal,	Chartered Accountant, G. M. Street, Tirupati, Chittoor District.
63	Shri R. Kothandaraman,	'Lakshmi Nilayam' 8, Dwarakapuri Colony, Hyderabad-4.
	Assam	
64	Shri Amarendra Das Gupta,	Assistant Registrar, Coopeative Societies, Shillong.
65	Shri Shankarlal Sharma,	Advocate, Supreme Court, Editor, Aayakar Nirnaya, Aditya Press Building, Fancybazar, Gauhati.
	Bihar	
66	Shri B. Kumar,	Lecturer, R. S. P. College, Jharia, Dhanbad.
67	Shri K. M. L. Bakshi,	Editor Ayakar Times, 7, Club Road, Ranchi-1.
68	Shri R. N. Banerjee,	Advocate, Muzaffarpur.
69	Shri S. Sinha,	Bungalow No. F-115, P. O. Sindri.

Serial No.	Name	Address
	Delhi	
70	Shri B. S. D. Baliga,	Member, Railway Board, Rail Bhavan, New Delhi.
71	Shri Brahm P. Gupta,	C-II/137, Lodi Colony, New Delhi-3.
72	Shri C. L. Madhok,	7E/21, East Patel Nagar, New Delhi.
73	Comptroller & Auditor General of India,	New Delhi.
74	Shri G. I. Vurgese,	C-262, Defence Colony, New Delhi-3.
75	Shri N. K. Sanghi, M.P.	7, Humayun Road, New Delhi-11.
76	Shri N. K. Somani, M.P.	19, Janpath, New Delhi-1.
77	Shri N. Nandi,	G/1717, Laxmi Bai Nagar, New Delhi-23.
78	Shri Narain Lall,	313/70H, Anandnagar, (Near Inderlok), Delhi-7.
79	Shri R. K. Gauba,	Advocate, Supreme Court, Chandni Chowk, Delhi.
80	Shri R. N. Jain,	Ex-Member, Central Board of Direct Taxes, S-322, Panchshila Colony, New Delhi-17.
81	Shri Raj K. Tandon,	Chartered Accountant, Tandon House, 23, Daryaganj, Delhi.
	Gujarat	
82	Shri B. T. Choksi,	Advocate, Haripura, Bhavanivad, Surat.
83	Shri C. C. Shah,	Chartered Accountant, Bank of Baroda Building, Gandhi Road, Ahmedabad.
84	Shri Dahyabhai B. Modi,	Panini Bhint, Surat.
85	Shri I. J. Desai,	Parvati, Nivas', Anandnagar Society, Sagrampura, Surat-2.
86	Shri Mohanlal P. Kapadia,	11/1318, Nanavat Road, Surat.
87	Shri R. N. Vepari,	Natwarlal Vepari & Co., Chartered Accountants, Lalgate, Kanpith, Surat.
	Kerala	
88	Shri C. C. Thomas,	Chairman, Trichur Municipal Standing Committee, South Bazar, Trichur-1.
89	Shri C. M. George,	Chalissery House, Trichur-6.
90	Shri K. S. Manavalan,	"Manavalan", Palace Road, Trichur-1.
91	Shri N. R. Sreenivasa Iyer,	"Krishna Leela", Thiruvambady, Trichur-1.
92	Shri P. Thomas,	V/202, East Fort, Trichur-5.
	Madhya Pradesh	
93	Shri Jaswant Singh Manav,	Takhatpur, Distt. Bilaspur.
94	Shri Pallonji N. Mehta,	Chartered Accountant, 438, Mahatma Gandhi Road, Indore.
	Maharashtra	
95	Shri A. L. Parikh,	A. L. Parikh & Company, 152, Narayan Dhuru Street, Bombay-3.
96	Shri B.M.L. Moorthy,	Financial & Commercial Journalist, 3/128 Keshav Kunj, Bhau Daji Road, Matunga, Bombay-19.
97	Shri Brijratan S. Mohatta,	B. R. Herman & Mohatta (India) Pvt. Ltd., Mustafa Building, Sir P. M. Road, Bombay-1.
98	Shri D. D. Shah,	Advocate, Deepak Insurance Buildg., 8/10 Tamarind Lane, Bombay-1, B.R.
99	Shri G. L. Pophale,	110, 4th Lane, Hindu Colony, Dadar, Bombay-14.
100	Shri J. S. Mahendale,	Brahmanwadi, Matunga, Bombay-19.
101	Shri Jayantilal, J. Oza,	Accounts Expert, Bhadranagar, Block No. A/12-7, Malad (West), Bombay-64 NB.
102	Shri K. J. Shah,	Chartered Accountant, Hem Kunj, Block No., 8, Zaver Road, Mulund, Bombay-80.
103	Shri Kanti J. Mehta,	Ismail Building, 381, D.N Road, Fort, Bombay-1.
104	Shri N. M. Wagle,	17A Carmichael Road, Bombay-26.
105	Shri N. R. Saiya,	10, Velani Bhavan, Sevaram Lalvani Road, Mulund West, Bombay-80.
106	Shri Piloo Mody, M. P.,	Stadium House, 81—83 Veer Nariman Road, Bombay-20.
107	Shri R. N. Jain,	Advocate, Ladpura, Itwari, Nagpur-2.
108	Shri R. S. Bhatt,	Chairman, Unit Trust of India, Post Box No. 2000, Bombay-1.
109	Shri S. A. L. Narayana Row,	Lalit—Flat 12, Wode house Road, Bombay-1.

Serial No.	Name	Address
110	Shri Sohanlal R. Jhuria,	4, Walkeshwar Road, Bombay.
111	Shri T. Y. Aney,	Advocate, At & Post—Wani, Tq. Wani, Distt. Yeotmal.
112	Shri V.D. Mazumdar,	"Roxana", 109, Queen's Road, Bombay-1.
113	Shri V. N. Bhagat,	99, Shivaji Park, Bombay-28. (DD).
	Orissa	
114	Shri A. Ali,	Iqbal Bhavan, P. O. Sundergarh.
115	Shri Kidar Nath,	Managing Editor, The Social Economist, Bisra Road, Rourkela-1.
116	Shri P. R. Choudhury,	At/PO Mahanga, District Cuttack.
	Pondicherry	
117	Shri A. P. Jegaraj,	Deputy Registrar of Co-operative Societies, (Retd.) & Valuer Agricultural Lands & Farms 3, Jawahar Lal Nehru Street, Karikal.
	Punjab	
118	Shri B. S. Grewal,	Lecturer in Economics, Punjabi University, Patiala.
119	Dr. G. Khanna,	Reader in Economics, Punjabi, University, Patiala.
120	Shri K. R. Bhalla,	Kucha Kadan, Amritsar.
121	Shri R. K. Bansal,	B. D. Bansal & Company, Chartered Accountants, Karmon Deori, Amritsar.
122	Shri S. K. Gupta,	Chartered Accountant, Plot No. 40, Shastri Market, Bazar Saboonian, Amritsar.
123	Shri S. N. Khanna,	Advocate, 4, Maqbul Road, Amritsar.
124	Shri S. R. Mittal,	Chartered Accountant, Dayanand Road, Civil, Lines, Ludhiana.
	Rajasthan	
125	Dr. G. R. Toshnival,	Chairman, Board of Directors, Toshniwal Industries (P) Ltd., Mahatma Gandhi Road, Ajmer.
126	Shri Madan Das Mohta,	Bahadur Bazar, Kota-6.
	Tamil Nadu	
127	Shri A. M. M. Arunachalam,	"Tiam House", 11/12 North Beach Road, Madras-1.
128	Shri G.D. Naidu,	I. T. Works, Avanashi, Road, Coimbatore-18.
129	Shri K. N. Rajendran,	12, Thomsonpet Street, P. O. Kaveripatnam, District Dharmapuri.
130	Shri K. R. Ramamani,	Advocate, "Windsor", 53 Edward Elliots Road, Mylapore, Madras-4.
131	Shri K. S. Sivaraman,	Advocate, 2, Thambu Chetty Street, Madras-1.
132	Shri N. P. Venkataramanan,	Cost Accountant, 11, Court Street, Erode.
133	Shri S. Swaminathan,	Advocate, "Sri Nivas" 23/7, Luz Avenue Mylapore, Madras-4.
134	Shri T. V. Viswanatha Aiyar,	Advocate, Sri Venkata Vilas, 14, East Mada Street, Mylapore, Madras-4.
135	Shri V. K. Thiruvenkatachari,	Senior Advocate, 132 Lloyds Road, Madras-6.
136	Shri V. Natarajan,	10 East Circular Road, Madras-28
137	Shri V. S. K. Duraiswamy Nadar.	85/87, Armenian Street, Madras-1.
	Uttar Pradesh	
138	Shri A. C. Sinha,	Advocate, 15/90, Civil Lines, Kanpur.
139	Shri Bhagmal Aneja,	Taxation Adviser, 9-Ram Bagh Road, New Mandi, Muzaffarnagar.
140	Shri Dharam Pal Aneja,	Advocate, Muzaffarnagar.
141	Shri Hasin Ahmad,	Advocate, Katju Road, Allahabad.
142	Shri J. N. Sharma,	J. N. Sharma & Company, Chartered Accountants, 58/4, Birhana Road, Kanpur.
143	Shri Krishna Prasad Bhargawa,	G. G. Industries Pvt. Ltd, Agra-4.
144	Shri P. C. Goyal,	2A/208, Azad Nagar, Kanpur-2.
145	Dr. Mrs. S. Dhawan,	12, Station Road, Lucknow-1.
146	Shri S. Vaish,	Chartered Accountant, 15/96, Civil Lines, Kanpur.
147	Shri Satyanarayan Bhardwaj,	Khurja
148	Lt. Col. V.R. Mohan,	Rocky Villa, Daliganj, Post Box No. 6, Lucknow.
	West Bengal	
149	Shri Beni Shanker Sharma, M.P.,	229, Chittaranjan Avenue Calcutta-6.

Serial No.	Name	Address
150	Shri H. P. Singh,	Singh & Bagadthey, India Steamship House, 21, Old Court House Street, Calcutta-1.
151	Shri K. A. Laxman Prabhu,	1/2B, Prince Gulam Md. Road, Calcutta-26.
152	Shri K. N. Bhattacharya,	Indian Institute of Social Welfare & Business Management, College Square, Calcutta-7.
153	Shri Lakshmipat Singhania,	7, Council House Street Calcutta.
154	Shri P.C. Kundu,	P. C. Kundu & Company, Chartered Accountants, 25, Waterloo Street, Calcutta-1.
155	Shri Prabhu Dayal Mogra,	Room No. 67, 2nd Floor, 167, Netaji Subhas Road, Calcutta-7.
156	Shri S. K. Roychoudhuri,	Chartered Accountant, 283 B & C, Vivekanand Road, Calcutta-6.
157	Shri R. N. Lakhotia,	Editor, Current Tax Bulletin, P-16, C.I.T. Road, Calcutta-14.
158	Shri U. C. Bharwani,	3, Hartford Lane, Calcutta-16.

III—Departmental

(A) DEPARTMENTAL

159 All India Federation of Income-tax Gazetted Services Association, New Delhi.

160 Indian Revenue Service (I.T.) Association, New Delhi.

161 The Association of (Gazetted) Officers of the Income-tax Department, Vidarbha & Marathwada, Nagpur.

162 The Gujarat Income-tax Gazetted Officers Associatio, Ahmedabad.

163 Income-tax Gazetted Services Association, (Rajasthan) Jaipur.

164 I.R.S. (Income-tax) Association, Madras Unit, Madras.

165 The Madras Income-tax (Gazetted) Services Association, Madras.

166 The Punjab Income-tax Gazetted Officers' Association, Jullundur.

(B) CENTRAL BOARD OF DIRECT TAXES

167 Shri R. N. Muttoo, Chairman.

168 Shri R.D. Shah, Member.

169 Shri H.A. Shah, Member.

(C) DIRECTORS OF INSPECTION

170 Shri D. Subramanian,

171 Shri R. N. Limaye.

(D) COMMISSIONERS OF INCOME-TAX

172 Shri A. Balasubramanian.

173 Shri Avtar Singh.

174 Shri B.A. Shariff.

175 Shri B.K. Bagchi.

176 Shri C.C. Ganapathy.

177 Shri G.E. Joseph.

178 Shri H.D. Bahl.

179 Shr H.L. Bhatia.

180 Shri K. Jagannathan.

181 Shri M.D. Varma.

182 Shri M K. Nair.

183 Shri N.D. Sakhwalkar.

184 Shri O.V. Kuruvilla.

185 Shri P.L. Malhotra.

186 Shri P. Sadagopan.

187 Shri R.R. Chopra.

188 Shri R.V. Ramaswamy.

189 Shri S.N. Sastri.

190 Shri S.V. Ramaswamy.

191 Shri T.R. Viswanathan.

192 Shri V.D. Sonde.

193 Shri V.J. Karnik.

194 Shri V.S. Desikachari.

195 Shri V.S. Narayanan.

196 Shri V.V. Badami.

(E) ADDITIONAL COMMISSIONERS OF INCOME-TAX

197 Shri J.C. Kalra.

198 Shri R.N. Bose.

199 Shri S.M. Shah.

200 Shri S.N. Mathur.

201 Shri S.T. Tirumalachari.

(F) ASSISTANT COMMISSIONERS OF INCOME-TAX

202 Shri A.J. Rana.

203 Shri A. Nundy.

204 Shri A.R. Rao.

205 Shri B.M. Sharma.

206 Shri C.B. Rathi.

207 Shri C.N. Vaishnav.

208 Shri Chunni Lal.

209 Shri D.C. Aggarwal.

210 Shri D.G. Pradhan

211 Shri Dharni Dhar.

212 Shri E.D. Helms.

213 Shri G.P. Gupta.

214 Shri G. R. Raghavan.
215 Shri J. P. Sharma.
216 Shri J. S. Dulat.
217 Shri K. C. Srivastava.
218 Shri K. R. Srinivasan.
219 Shri L.S.S. Chakravarthy.
220 Shri M. Balakrishna Menon.
221 Shri M. Gurulingam.
222 Shri M. J. Mathan.
223 Shri M.M. Prasad.
224 Shri M.P. Argikar.
225 Shri M. Ramalingam.
226 Shri N. N. Rampal.
227 Shri N. Subba Rao.
228 Shri P.K.V. Raghavan.
229 Shri P.S. Gopalakrishnan.
230 Shri R.N. Singhal.
231 Shri R. Narasimhan.
232 Shri R. Prasad.
233 Shri R.S. Mani.
234 Shri S.B. Jain.
235 Shri S.K. Sarma.
236 Shri S.M. Bagai.
237 Shri S.P. Varma.
238 Shri S. Rajaratnam.
239 Shri Sangram Singh.
240 Shri T. R. Aggarwal.
241 Shri T. Sadasivan.
242 Shri T.V. Ramakrishna.
243 Shri V.P. Gupta.
244 Shri V. Raghavan.

(G) INCOME-TAX OFFICERS

245 Shri C.R. Sundararajan.
246 Shri G. Satyanarayana.
247 Shri M.M. Prasad.

(H) NON-GAZETTED STAFF

248 Shri A.K. Bhattacharyya.
249 Shri Ravindra Kumar.
250 Shri S. C. Aggarwal.

APPENDIX V

List of persons who appeared before the Committee.

Place	Date	Serial No.	Name
Calcutta	23-11-70	1	Merchants' Chamber of Commerce, Calcutta.
			Representatives:
			Shri S.N. Dalmia, President.
			Shri B.S. Kothari.
			Shri A. Kothari.
			Shri H.L. Somany.
			Shri D.M. Kothari.
			Shri H.R. Bose.
		2	Shri B.K. Bagchi, Commissioner of Income-tax, West Bengal-I.
		3	Shri C.R. Krishnamurthi, Commissioner of Income-tax, West Bengal-II.
		4	Shri B. S. Nadkarni, Commissioner of Income-tax (Central), Calcutta.
		5	Shri R.N. Bose, Addl. Commissioner of Income-tax, Calcutta.
		6	Shri S. Chaudhuri, 10, Old Post Office Street, Calcutta.
	24-11-70	7	Bengal Chamber of Commerce & Industry, Calcutta.
			Representatives:
			Shri S.P. Acharya.
			Shri K.C. Khanna.
			Shri B. Venkataratnam.
			Shri A.T. Robertson.
		8	Shri V. S. Narayanan Commissioner of Income-tax, Bihar, Patna.
		9	Shri G.P. Gupta, Inspecting Assistant Commissioner of Income-tax, Muzaffarpur.
		10	Shri D. C. Aggarwal, Inspecting Assistant Commissioner of Income-tax, Dhanbad.
		11	Shri P. C. Kundu, Chartered Accountant, Calcutta.
		12	Shri R.P. Chopra, Commissioner of Income-tax (Retd.) West Bengal-I.
Calcutta	25-11-70	13	Income-tax Bar Association Calcutta.
			Representatives:
			Shri Meghnath Banerjee.
			Shri Biren Banerjee.
			Shri C. R. Banerjee.
		14	Shri K. N. Bhattacharyya, Calcutta.
		15	Shri R. Prasad, Inspecting Asstt. Commissioner of Income-tax, Calcutta.
		16	Association of Company Secretaries, Executives & Advisers, Calcutta.
			Representatives:
			Shri K. K. Mitra.
			Shri S. Bhattacharya.
		17	Shri Kidar Nath, Rourkela.
		18	Shri A. Ali, Sundergarh.
	26-11-70	19	Bharat Chamber of Commerce, Calcutta.
			Representatives:
			Shri R. R. Bhiwaniwalla.
			Shri L. R. Das Gupta.
			Shri K. L. Dhandhania.
			Shri V. D. Chaturvedi.
			Shri Shital P. Jain
		20	Shri K. M. L. Bakshi, Ranchi.
		21	Shri S. N. Mathur, Additional Commissioner of Income-tax, Patna.
		22	Shri R. N. Lakhotia, Calcutta.
		23	Shri P. M. Narielvala, Calcutta.
	27-11-70	24	Bengal National Chamber of Commerce & Industry, Calcutta.
			Representatives:
			Dr. B. N. Ghose.
			Shri A. R. Datta Gupta.
			Shri G. Saha.
			Shri R. N. Mitra.

Place	Date	Serial No.	Name
Calcutta	27-11-70		Shri T. D. Chatterjee.
			Shri S. B. Dutt.
			Shri S. Roy.
			Shri M. C. Poddar.
			Shri Niranjan Saha.
		25	Shri R. N. Banerjee, Advocate, Muzaffarpur.
		26	Shri S. V. Ramaswamy, Commissioner of Income-tax, West Bengal-III.
		27	Shri S. K. Roychoduhuri, Chartered Accountant, Calcutta.
		28	The Institute of Cost & Works Accountants of India, Calcutta.
			Representatives :
			Shri R. Nanabhoy, President.
			Shri B. K. Shom, Vice President.
			Shri S. N. Ghosh, Secretary.
			Shri M. R. S. Iyengar, Council Member.
			Shri N. S. Venkatakrishnan.
		29	Shri B. Kumar, Jharia.
	28-11-70	30	Indian Chamber of Commerce, Calcutta.
			Representatives :
			Shri R. P. Goenka.
			Shri B. P. Khaitan.
			Shri J. M. Singhi.
			Shri P. M. Narielvala.
			Shri C. S. Pande.
			Shri S. K. Warrier.
		31	Shri Lakshmipat Singhania, Calcutta.
		32	Shri K. Jagannathan Commissioner of Income-tax, Orissa, Bhubaneswar.
		33	Shri A. Nundy, Inspecting Asstt. Commissioner of Income-tax, Calcutta.
		34	Shri J. Rama Iyer, Inspecting Asstt. Commissioner of Income-tax, Calcutta.
		35	Shri D. R. Chakravorthy, Inspecting Asstt. Commissioner of Income-tax, Calcutta.
New Delhi	15-12-70	36	Shri R. D. Shah, Member, Central Board of Direct Taxes, New Delhi.
		37	Shri C. C. Ganapathy, Director of Inspection (Investigation), New Delhi.
	16-12-70	38	Shri D. Subramanian, Member, Monopolies and Restrictive Trade Practices Commission, New Delhi.
		39	Shri N. K. Somani, M. P. New Delhi.
		40	Shri B. S. D. Baliga Member, Railway Board New Delhi.
		41	Shri E. D. Helms, Appellate Assistant Commissioner of Income-tax, New Delhi.
	17-12-70	42	Punjab, Haryana & Delhi Chamber of Commerce & Industry, New Delhi.
			Representatives :
			Shri Raghunath Rai.
			Shri Mohinder Puri.
			Shri C. K. Hazari.
			Shri Onkar Nath.
			Shri Rameshwar Thakur.
			Shri H. R. Gupta.
			Shri M. L. Nandrajog.
			Shri S. Ganapathi.
		43	Shri Ravindra Kumar, Income-tax Inspector, New Delhi.
		44	Shri H. A. Shah, Member, Central Board of Direct Taxes, New Delhi.
		45	Shri A. J. Rana, Additional Director, Dirratorate of Enforcement, New Delhi.
		46	Shri G. I. Vurgese, New Delhi.
		47	Shri M. M. Prasad, Inspecting Assistant Commissioner of Income-tax, Jammu.
		48	Shri S. P. Varma, Appellate Assistant Commissioner of Income-tax, Jammu.

Place	Date	Serial No.	Name
New Delhi	18-12-70	49	All India Federation of Income-tax Gazetted Services Association, New Delhi.
			Representatives :
			Shri V. P. Gupta.
			Shri L. S. S. Chakravarthy.
			Shri R. C. Pande.
			Shri A. K. Chakravarty.
			Shri P. P. Thukral.
		50	Shri R. N. Limaye, Director of Inspection (Income-tax), New Delhi.
		51	Shri G. R. Toshniwal, Ajmer.
		52	Shri S. K. Gupta, Chartered Accountant, Amritsar.
		53	Shri Chunni Lal, Appellate Asstt. Commissioner of Income-tax, Bikaner.
		54	Shri C. L. Madhok, New Delhi.
	19-12-70	55	Shri M. K. Nair, Commissioner of Income-tax, Patiala.
		56	Shri R. K. Gauba, Advocate, Delhi.
		57	Dr. G. Khanna, Punjabi University, Patiala.
		58	Shri B. S. Grewal, Punjabi University, Patiala.
		59	Shri Beni Shanker Sharma, M. P., New Delhi.
	21-12-70	60	Shri Sangram Singh, Dy. Director of Inspection (Income-tax), New Delhi.
		61	Shri V. P. Gupta, Inspecting Asstt. Commissioner of Income-tax, New Delhi.
		62	Shri P. L. Malhotra, Commissioner of Income-tax, (Central), New Delhi.
		63	Shri N. K. Sanghi, M. P., New Delhi.
		64	Shri N. Nandi, New Delhi.
	22-12-70	65	Income-tax Gazetted Services Association, Rajasthan, Jaipur.
			Representatives :
			Shri S. K. Nerurkar
			Shri M. R. Aggarwal
			Shri G. C. Mathur.
			Shri R. P. Chopra.
			Shri R. N. Dey.
		66	Shri Piloo Mody, M. P., New Delhi.
		67	Shri S. B. Jain, Inspecting (Asstt. Commissioner of Income-tax (Central), New Delhi.
		68	Shri K. C. Srivastava Senior Authorised Representative, Income-tax Appellate Tribunal, New Delhi.
		69	Shri B. M. Sharma, Inspecting Asstt. Commissioner of Income-tax, Chandigarh.
		70	Shri N. N. Rampal, Officer on Special Duty, Tax Research Unit, Ministry of Finance, New Delhi.
	23-12-70	71	Shri R. N. Jain, Ex-Member, Central Board of Direct Taxes, New Delhi.
		72	Shri V. Gauri Shanker, Director of Revenue Audit, Office of the Comptroller & Auditor General of India, New Delhi.
		73	Shri S. N. Khanna, Advocate, Amritsar.
		74	Shri C. B. Rathi, Inspecting Asstt. Commisssioner of Income-tax, Amritsar.
		75	Shri R. K. Bansal, Chartered Accountant, Amritsar.
		76	Shri S. M. Bagai, Deputy Director, Directorate of Enforcement, New Delhi.
		77	Shri C. R. Sundararajan, Deputy Secretary, Union Public Service Commission, New Delhi.
	24-12-70	78	Shri Madan Das Mohta, Kota.
		79	Central Secretariat Stenographers' Service Association, New Delhi.
			Representatives :
			Shri A. Ramaswamy, President.

Place	Date	Serial No.	Name
New Delhi	24-12-70		Shri B. P. Gupta, Vice-President.
			Shri M. G. Swaminathan, Hony. Secy.
			Shri Gopi Mohan, Hony. Joint Secy.
		80	Shri J. S. Dulat, Appellate Asstt. Commissioner of Income-tax, Ambala.
		81	Shri K. A. Laxman Prabhu, Calcutta.
Madras	11-1-71	82	Shri N. Subba Rao, Addl. Commissioner of Income-tax, Madras.
		83	Shri. M. Gurulingam, Appellate Asstt. Commissioner of Income-tax, Madras.
		84	Shri T. Sadasivan, Inspecting Asstt. Commissioner of Income-tax, Madras.
	12-1-71	85	Madras Chamber of Commerce and Industry, Madras.
			Representatives:
			Shri A. K. Sivaramakrishan.
			Shri G. E. Solomon.
			Shri C. S. Vidyasankar.
		86	Shri N. P. Venkataramanan, Cost Accountant, Erode.
		87	Shri V. V. Badami, Comissioner of Income-tax, Madras-1.
		88	Tamilnad Gandhian Group, "Sevasharm", Madras.
			Representative:
			Shri R. R. Dalavai
		89	Shri K. S. Sivaraman, Advocate, Madras.
		90	Indian Revenue Service Income Tax Association, (Madras Unit), Madras.
			Representatives:
			Shri R. V. Ramaswamy.
			Shri T. A. Balakrishnan.
			Shri J. K. Kurian.
			Shri A. Balasubramanian.
			Shri S. Bapu.
Madras	13-1-71	91	Tamil Chamber of Commerce, Madras.
			Representatives:
			Shri G. K. Sankar.
			Shri V. S. K. Duraiswamy, Nadar.
			Shri V. Ramachandran.
			Shri C. L. Mehta.
			Shri N. Swaminathan.
		92	Shri K. R. Ramamani, Advocate, Madras.
		93	Shri V.D. Sonde, Commissioner of Income-tax, Madras-II.
		94	Revenue Bar Association, Madras.
			Representatives:
			Shri S. Swaminathan.
			Shri K. Srinivasan.
			Shri P. Sundaramurthy Mudaliar.
			Shri C. V. Mahalingam.
			Shri S. V. Subramanian.
		95	Shri A.M.M. Arunachalam, Madras.
		96	Shri R. V. Ramaswamy, Commissioner of Income-tax, (Central), Madras.
		97	Shri M. B. Menon, Deputy Director of Inspection (Intelligence), Madras.
		98	Shri S. K. Sarma, Inspecting Asstt. Commissioner of Income-tax, (Audit), Madras.
		99	Shri T. V. Ramakrishna, Authorised Representative, Income-tax Appellate Tribunal, Madras.
		100	Shri A. K. R. Prabhu, Senior Authorised Representative, Income-tax Appellate Tribunal, Madras.
	16-1-71	101	Madras Income-tax (Gazetted) Services Association, Madras.
			Representatives:
			Shri M. B. Menon.
			Shri N. Subramanian.
			Shri M. S. Ramaswamy.
			Shri V. S. Seshadri.
			Shri V. Krishnamoorthy.

Place	Date	Serial No.	Name
Madras	16-1-71	102	Madras Provincial Foodgrains Merchants' Association, Madras. Representatives: Shri R. P. Agarwal. Shri D. Narasimhaswamy. Shri M. A. Thangappan. Shri P. Krishnamurthy.
		103	Shri V. Natarajan, Madras.
		104	Shri V. K. Thiruvenkatachari, Senior Advocate, Madras.
		105	Shri S. Rajaratnam, Inspecting Asstt. Commissioner of Income-tax, Madras.
		106	Indian Chamber of Commerce and Industry Nagapattinam. Representative: Shri S. Thiagarajan.
Trivandrum	18-1-71	107	Chamber of Commerce, Trivandrum. Representatives: Shri S. V. Pandit. Shri P. Krishnan. Shri A. Subramonian. Shri K. Arunachalam.
	19-1-71	108	Chamber of Commerce, Trichur. Representatives: Shri K. S. Manavalan. Shri P. V. John. Shri C. P. Rao.
		109	Shri S. N. Sastri, Commissioner of Income-tax, Kerala.
		110	Shri S. T. Tirumalachari, Addl. Commissioner of Income-tax, Kerala.
	20-1-71	111	Shri M.J. Mathan, Appellate Asstt. Commissioner of Income-tax, Trichur.
NEW DELHI	15-2-71	112	The Institute of Chartered Accountants of India, New Delhi. Representatives: Shri M. C. Bhandari. Shri A. B. Tandon. Shri A. K. Sivaramkrishnan. Shri Y. H. Maligham. Shri C. Balakrishnan.
		113	Shri H. L. Bhatia, Commissioner of Income-tax, Lucknow.
New Delhi	16-2-71	114	National Chamber of Industries and Commerce, U. P., Agra. Representatives: Shri K. P. Bhargava. Shri B. N. Bhargava. Shri M. M. Agarwal.
		115	Shri J. N. Sharma, Chartered Accountant, Kanpur.
		116	Shri S. Vaish, Chartered Accountant, Kanpur.
		117	Uttar Pradesh Tonage Club, Lucknow. Representative: Shri Baljit Singh.
		118	Shri P. C. Goyal, Retired Commissioner of Income-tax, Kanpur.
	17-2-71	119	Shri R. N. Muttoo, Chairman, Central Board of Direct Taxes, New Delhi.
		120	Dr. R. N. Bhargava, Senior Professor and Head, Department of Economics, Banaras Hindu University, Varanasi.
		121	Shri A. C. Sinha, Advocate, Kanpur.
Bombay	15-3-71	122	Indian Merchants Chamber, Bombay. Representatives: Shri Harish Mahindra. Shri G. P. Kapadia. Shri G.S. Doshi. Shri C. C. Chokshi. Shri Pratap Bhogilal.
		123	Shri Brijratan S. Mohatta, Bombay.
		124	Shri S. A. L. Narayana Row, Chairman Central Board of Direct Taxes (Retd).
		125	Federation of Association of Small Industries of India, 'Laghoodyog Kutee', 23-B/2, Rohtak Road, New Delhi-5. Representatives: Shri G. B. Bewalkar. Shri U. A. Vaidya. Shri H. A. Vora.
		126	Shri B. M. L. Moorthy, Financial and Commercial Journalist, Bombay.
		127	Shri D. D. Shah, Advocate, Bombay.

Place	Date	Serial No.	Name
Bombay	16-3-71	128	Bombay Chamber of Commerce and Industry, Bombay. Representatives : Shri B. R. Tannan, Chairman. Shri J.B. Bowman, Vice President. Shri T. Pooran, Member. Shri C.S. Samuel, Member Shri M. M. Thakore, Member Shri V. Parasuram, Asstt. Secretary
		129	Life Insurance Corporation of India, Bombay. Representatives : Shri H. G. Rawal. Shri E. B. Mistri. Shri W. P. Jacob. Shri H. B. Patil.
		130	Bombay Shroffs Association, Bombay. Representatives: Shri Jayantilal M. Shah. Shri Bipin Chandra K. Jhaveri. Shri Chandrakant Jerajani. Shri I. S. Parikh. Shri M. A. Parikh. Shri C. V. Modi. Shri C. M. Nanavati.
		131	Shri S. L. Kirloskar, Poona.
		132	Shri R. S. Bhatt, Chairman, Unit Trust of India, Bombay.
		133	Paper Traders Association, Bombay. Representatives : Shri Shanti Lal C. Kadakia. Shri Jitendra S. Shah. Shri Shantibhai Shah.
	17-3-71	134	Tax-Payers' Association of India Ltd., Bombay. Representatives: Shri V. D. Muzumdar. Shri S. B. Athalye. Shri S. V. Pikale. Shri G. L. Pophale.
		135	Stock Exchange, Bombay. Representative : Shri P. J. Joojeebhoy.
Bombay	17-3-71	136	Shri O. V. Kuruvilla, Commissioner of Income-tax, Bombay City-I.
		137	Shri G. L. Pophale, Bombay.
		138	Indian Motion Picture-Producers' Association, Bombay. Representatives: Shri I. K. Menon. Shri Bakshi Jang Bahadur Shri Sri Ram Bohra. Shri R. K. Kohli.
		139	Shri N. M. Wagle, Bombay.
	18-3-71	140	All India Manufacturers Organisation, Bombay. Representatives: Shri M. R. Shroff. Shri B. S. Mohatta. Shri N. D. Sahukar. Shri S. B. Todi. Shri P. A. Shah. Shri O. P. Roy.
		141	Shri S. M. Shah, Addl. Commissioner of Income-tax, Bombay.
		142	Shri D. G. Pradhan, Authorised Representative, Income-tax Appellate Tribunal, Bombay. Shri V. Raghavan, Appellate Assistant Commissioner of Income-tax, Bombay.
		143	Tax Practitioners' Association, Nasik. Representative : Shri M. K. Shakdwipi.
	19-3-71	144	Clothing Manufacturers' Association of India, Bombay. Representatives : Shri P. N. Amarsey. Shri I. S. Mehta. Shri J. J. Desai. Shri Mohan Mahtaney.
		145	Shri N.R. Saiya, Bombay.
		146	Shri K. J. Shah, Chartered Accountant, Bombay
		147	Shri H.D. Bahl, Commissioner of Income-tax, Bombay City-II. Shri G. E. Joseph, Commissioner of Income-tax, Bombay (Central).

Place	Date	Serial No.	Name
Bombay	19-3-71	148	Income-tax and Sales Practitioners' Association, Poona.
			Representatives :
			Shri S. C. Shah.
			Shri P. K. Lalwani.
			Shri K. C. Trivedi.
		149	Shri J. S. Mehendale, Bombay.
	20-3-71	150	Bombay Chartered Accountant's Society, Bombay.
			Representatives :
			Shri C. C. Dalal.
			Shri Bansi S. Mehta.
			Shri Ambalal S. Thakkar.
			Shri S. V. Ghatalia.
		151	Shri C. N. Vaishnav, Addl. Commissioner of Income tax, Bombay.
		152	Shri A. Balasubramanian, Commissioner of Income-tax, Poona.
		153	Engineering Association of India, Bombay.
			Representatives:
			Shri Homi J. M. Taleyarkhan.
			Shri S. C. Chokhani.
			Shri D. S. Mehta.
			Shri D. M. Nigandhi.
			Shri D. R. Shroff.
			Shri A. C. Patankar.
			Shri T. S. Shetty.
		154	Shri M. P. Argikar, Inspecting Asstt. Commissioner of Income-tax, Bombay.
		155	Shri N.A. Palkhivala, Advocate, Bombay.
Ahmedabad	22-3-71	156	Gujarat Chamber of Commerce and Industry, Ahmedabad.
			Representatives :
			Shri Balkrishna Harivallabhdas.
			Shri Indubhai Dahyabhai.
			Shri Bipinchandra M. Jagabhaiwala.
			Shri Atmaram Bhogilal Sutaria.
			Shri H. M. Talati.
			Shri H. V. Vasa.
			Shri C. C. Shah.
			Shri S. K. Shah.
Ahmedabad	22-3-71		Shri Anil R. Shah.
			Shri Thakorbhai P. Amin.
			Shri I. N. Kania.
		157	Shri B. A. Sharif, Commissioner of Income-tax, Gujarat-III.
		158	Shri R. N. Vepari, Chartered Accountant, Surat.
		159	Shri Bhupendra Thakordas Choksi, Advocate, Surat.
	23-3-71	160	Ahmedabad Millowners' Association, Ahmedabad.
			Representatives :
			Shri P. T. Munshaw.
			Shri H. M. Talati.
			Shri Anil R. Shah.
			Shri H. M. Patel.
			Shri Jayantilal Bhikhabhai,
			Shri R. M. Dave.
		161	Saurashtra University, Rajkot.
			Representatives :
			Shri C. N. Hakani.
			Shri D. L. Munim.
		162	Shri N. D. Sakhwalkar, Commissioner of Income-tax, Gujarat-II, Ahmedabad.
		163	Income-tax Bar Association, Ahmedabad.
			Representatives :
			Shri S. K. Shah,
			Shri L. G. Thakker.
			Shri H. M. Talati.
			Shri N. R. Divetia.
			Shri Dhirubhai Shah.
			Shri C. M. Shah.
			Shri D. B. Shah.
			Shri S. K. Shah.
			Shri B. L. Bhatt.
			Shri T. P. Amin.
		164	Shri I. J. Desai, Surat.
		165	Gujarat University, Ahmedabad.
			Representatives:
			Shri J. C. Trivedi.
			Shri H. K. Trivedi.
	24-3-1971	166	Chartered Accountant's Association, Ahmedabad.
			Representatives :
			Shri H. V. Vasa.
			Shri C. R. Sharedalal.
			Shri G. S. Patel.
			Shri D. B. Shah.

Place	Date	Serial No	Name
Ahmedabad	24-3-1971		Shri S. K. Shah.
			Shri V. R. Shah.
			Shri N. S. Mehta.
			Shri J. M. Patel.
		167	Shri K. R. Srinivasan, Inspecting Asstt Commissioner of Income-tax, Ahmedabad.
		168	Shri J. P. Sharma, Appellate Asstt. Commissioner of Income-tax, Baroda.
		169	Shri R. N. Singhal, Appellate Asstt. Commissioner of Income-tax, Ahmedabad.
		170	Southern Gujarat Chamber of Commerce and Industry, Surat.
			Representatives:
			Shri Bhagwandas K. Lekhadia.
			Shri Prabhudas B. Mody.
			Shri I. J. Desai.
			Shri B.T. Choksi.
			Shri D.B. Patel.
		171	Gujarat Income-tax Gazetted Officers' Association, Ahmedabad.
			Representatives:
			Shri A. N. Rao.
			Shri S. D. Phanse.
			Shri P. L. Uppal.
			Shri P. V. Menon.
			Shri K. C. Rao.
			Shri V. M. Mandlik.
			Shri V. Srinivasan.
		172	Indian Revenue Service (Income-tax) Association, Ahmedabad Unit.
			Representatives:
			Shri S. Y. Gupte.
			Shri N. U. Raval.
			Shri R. N. Singhal.
			Shri R. K. Upadhyaya.
			Shri A. M. Kher.
New Delhi	14-4-71	173	Federation of Indian Chambers of Commerce and Industry, New Delhi.
			Representatives:
			Shri S. S. Kanoria, President.
			Shri A.K. Jain.
			Shri B. D. Somani.

Place	Date	Serial No.	Name
New Delhi	14-4-1971		Shri D. N. Patodia.
			Shri G. L. Bansal.
			Shri O. P. Vaish.
	9-8-71	174	Indian Revenue Service (I.T.) Association, New Delhi.
			Representatives:
			Shri P. S. Bhaskaran.
			Shri M. C. Joshi.
			Shri G. C. Aggarwal.
			Shri C.V. Padmanabhan.
Hyderabad	23-8-71	175	Shri M. D. Varma, Commissioner of Income-tax, Andhra Pradesh-I.
		176	Shri P. Sadagopan, Commissioner of Income-tax, Andhra Pradesh-II.
		177	Shri M. Gopala Rao. Registered Medical Practitioner, Pamidi P.O.
	24-8-71	178	Shri R. Kothandaraman, Hyderabad.
		179	Hyderabad Karnatak Chamber of Commerce & Industry, Gulbarga, (S.C. Rly).
			Representatives:
			Shri H. M. Kheny.
			Shri Dhanwant Patil.
			Shri A. G. Desai.
	25-8-71	180	Mysore State Chartered Accountants, Association, Bangalore.
			Representatives:
			Shri J. Gopalakrishnan.
			Shri V. Sivaramakrishnan.
			Shri K. Y. Sresty.
		181	Mysore Chamber of Commerce & Industry, Bangalore.
			Representatives:
			Shri B. V. Rathanaiah Setty.
			Shri A. Krishna Murti.
			Shri J. Srinivasan.
			Shri M. R. Ranga Rathnam.
			Shri G. N. Krishna Murty.
Nagpur	26-8-71	182	Association of (Gazetted) Officers of the Income-tax Department, Vidarbha and Marathwada, Nagpur.
			Representatives:
			Shri L. S. S. Chakravarthy.

Place	Date	Serial No.	Name
Nagpur	26-8-71		Shri D. K. Tiwari
			Shri V. B. Padode.
			Shri G. M. Deshpande.
			Shri A. W. Waikar.
		183	Shri Pallonji N. Mehta, Chartered Accountant, Bombay.
		184	Shri T. V. Anney, Advocate, At & post-Wani-Tq-Wani, Distt. Yeotmal (Vidarbha).
		185	Wholesale Grain and Seeds Merchant's Association, Nagpur.
			Representatives:
			Shri Banwarilal Jejani.
			Shri Premjibhai Shah.
			Shri Shyamsunder Gupta.
			Shri Mohanlal Agrawal.
			Shri Kishanlal Sadhiram.
			Shri B. G. Vairagade.
Nagpur	26-8-71	186	Shri R. N. Jain, Advocate, Itwari, Nagpur.
		187	Shri V. J. Karnik, Commissioner of Income-tax Vidarbha & Marathwada.
	27-8-71	188	Nag-Vidarbha Chamber of Commerce, Nagpur.
			Represen.
			Shri V. D. Oya.
			Shri B. K. Bagri.
			Shri Abbas Ali Kamal.
			Shri G. D. Chandak.
			Shri H. M. Shukla.
		189	Shri L. S. S. Chakravarthy, Senior Authorised Representative, Income-tax, Appellate Tribunal, Nagpur.
		190	Shri Jaswant Singh Manav, Takhatpur, Bilaspur Distt.

APPENDIX VI

PROPOSED SCHEME FOR ALLOTMENT OF PERMANENT ACCOUNT NUMBERS

1. Type of permanent account number

(i) The permanent account number will be a numeric code allotted in sequential order.

(ii) The code will have eight numeric digits running from 00000000 to 99999999 and can cover te ores of persons. There will be thus adequate provision for expansion in the foreseeable future.

(iii) To facilitate visual identification and memory and also the decentralisation of the issuance of the code, the number may be broken up into three parts by hyphens.

(iv) The first two digits could constitute a State code. It is preferable to have numbers issued State-wise rather than Commissioners' charge-wise as the jurisdiction of Commissioners is liable to frequent changes. The State codes will run from 00 to 99. States like Maharashtra, Gujarat, West Bengal and Tamil Nadu having a large number of income-tax assessees may be allotted a larger number of codes such as 20 to 34 for Maharashtra, 35 to 39 for Tamil Nadu and so on. The codes allotted to a State can further be sub-allotted to the Commissioners' charges in that State. The State code will then also help to identify the Commissioner's charge. Transfers of cases from one State to another being few, the State code will continue to indicate in most of the cases the State where the person is assessed.

(v) The next two digits will constitute a block number. The block numbers will also run from 00 to 99 and may be allotted to circles or districts. Larger circles or districts may be allotted more than one block number. Circles or districts are fairly stable and most of the reshuffle of cases takes place within the same circle or district among different wards or Income-tax Officers' charges. By and large, the block number will, therefore, continue to indicate the circle or district where the case is assessed. If, in the city charges, an Inspecting Assistant Commissioner's Range is made the basic jurisdictional unit, the block numbers could be allotted to Inspecting Assistant Commissioners' Ranges instead of to circles or districts. For mofussil charges, however, allotment of the block numbers to circles will be more convenient.

(vi) The last four digits will constitute a serial number running from 0000 to 9999, thus providing for 10,000 assessees in each circle or district. For larger circles more than one block number may be allotted to cover all the assessees in such circles.

(vii) The permanent account number will have the following format:

*	*	*	*	*
State Code or Regional Code		Block Number or Circle/ District Code		Serial Number

2. Records Locator Code

(i) When a case is transferred from one State to another State or from one circle to another in the same State, the State code or the block number will cease to indicate the location of the records relating to the assessee's case. In such transferred cases it becomes necessary to have a 'Records Locator Code'. Cases which are not thus transferred need not have this additional code.

(ii) The records locator code will be an alphabetic code consisting of three alphabets. It will be variable and will change every time the case is transferred from one circle to another.

(iii) The first letter of the code will represent the State, e.g., A for Andhra Pradesh. As there are 26 letters of the alphabet but not as many States, more than one letter could be allotted to the bigger State like Maharashtra. Some of the smaller States and centrally administered areas could be grouped under one State code. The next two letters would constitute circle or district code. In each State there will be provision for 676 (26×26) circles or districts. In bigger States with two State Codes the number will be double, i.e., 1,352. This should be adequate for future expansion also. Thus, if the code VM represents Visakhapatnam circle in Andhra Pradesh State, the records locator code for all the cases transferred to that circle will be AVM. Thus, if the case of an assessee with permanent account number 21-32-4567 allotted in Bombay City I charge is transferred to Visakhapatnam Circle in Andhra Pradesh charge, the records locator code will be quoted as follows:

21 — 32 — 4567 — AVM

When a case is transferred within the circle from one ward to another, there will be no need for a records locator code.

3. Procedure for allotment of number

(a) *Organisation*

(i) A small central cell may be created in the Board's office for a limited period for administering the scheme. The function of this cell will be as under—

—Work out details of the scheme.

—Provide guidelines for its implementation.

—Allocate codes for each State/Commissioner.

—Get ready the requisite forms, registers, cards and other stationery.

—Distribute the forms, registers, cards, etc., to the issue offices in the States.

—Exercise general supervision and control.

(ii) From the allocation made to the State, codes will be allocated by the Board to the Commissioners' charges. In the first instance, it is enough if one State code—which can cover ten lakhs of assessees—is allotted to each Commissioner. The remaining codes allotted to the State will be held in reserve. The work of allocation of block numbers to the various circle/district offices in a State, distribution of the requisite forms, stationery, etc., and exercise of general supervision and control over the allotment of numbers by the circle/district offices may be entrusted to the Special Investigation Branches in the Commissioners' charges. Circles having less than 10,000 assessees will be allotted one block number. Those with more than 10,000 assessees will be allotted two block numbers, those with more than 20,000 assessees three block numbers, and so on. The remaining block numbers will be held in reserve by the Special Investigation Branches.

(iii) The actual allotment of the permanent account numbers to taxpayers and others who apply for it will be done in the circle/district offices. It will not be necessary to create a separate organisation for this purpose. The initial allotment will involve considerable volume of work necessitating the utilisation of practically the entire staff in the circle for a fortnight or so on the job. Once the initial allotment is over, a small cell in the circle/district office can attend to this work. The allotment will be made ward-wise. The number of taxpayers in each ward will be ascertained and the requisite numbers allotted to each ward seriatim starting from Ward A. The unallotted numbers will be held in reserve by the circle office. Once the allocation is done, numbers can be allotted simultaneously in all the wards in a circle, all the circles in a State and all the States in the country, completing the entire work for the whole country within a fortnight or so.

(b) *Application*

(i) Persons who are already on the General Index Register of the Department or are subsequently brought on the register need not be required to fill up any application form. The numbers will be allotted on the basis of the information already on record in the Income-tax Office.

(ii) Persons who voluntarily seek allotment of numbers will, however, have to submit an application on a prescribed form giving certain essential particulars (vide Annexure A). Such applicants may be required to be introduced or identified by an existing number holder. The applications should be submitted to the circle/district where the applicant would be assessable if he were liable to tax. Local enquiry may also be necessary for verifying the bona fides of the applicant.

(c) *Permanent account number cards*

(i) The process of allotment will consist of filling in cards in quadruplicate—joined together but perforated to facilitate easy separation. These cards may be on the pattern of the index cards of the Central Government Health Scheme.

(ii) The first two foils will be marked at the top 'For use in the Special Investigation Branch'. The third foil be marked 'For use in the Circle/District office'. The fourth one will be marked 'For the allottee'.

(iii) All the four foils will contain identical information covering essential particulars regarding the allottee and the account number itself will be given in bold figures. A specimen form is given in Annexure B.

(iv) Space may be provided on the card on all the foils for entering the records locator code, if one is allotted later on and also for entering in pencil on the third foil the ward where the case is assessed.

(v) The allottee may be required to display in his business premises, if any, his foil of the permanent account number card in the same way as sales-tax registration cards are required to be displayed by dealers.

(vi) The circle/district office will also maintain a running register of numbers allotted from time to time. This will be in numerical order and serve as a numerical index for the circle.

(vii) The cards could be got machine-numbered for avoiding clerical errors and for reducing the scope for fraudulent practices. Some blank cards will also have to be provided for use when a numbered card is damaged. But these should also be machine-numbered before issue.

(d) *Identity card*

(i) In addition to the permanent account number card referred to above, the allottees may be given a pocket size card, printed on linen backed security paper, which can be conveniently carried in a wallet and produced whenever required for verification. A specimen is given in Annexure C.

(ii) If needed, the allottees can be required to affix their signature on the card. In due course, this card can be developed into a miniature booklet like a driving licence or passport and may contain a photograph of the allottee (in the case of individuals) and other essential particulars required for a proper identification.

(e) *Indexing*

(i) The first two foils of the permanent account number cards will be arranged as card indices—one numerical and the other alphabetical—in the Special Investigation Branch in each Commissioner's charge.

(ii) The third foil will be arranged as a card index in the circle/district office. The arrangement will be alphabetical.

(iii) The index cards relating to persons not assessed will be kept in the circles and Special Investigation Branches in separate card trays.

(f) *Transfer of cases*

(i) Where jurisdiction is ward-wise and a case is transferred from one ward to another within the same circle, there will be no movement of the permanent account number card but the change in the ward will be noted in pencil on the third foil of the card.

(ii) Where a case is transferred from one circle to another within the same Commissioner's charge, the third foil of the permanent account number card will be transferred to the new circle along with the records and take its place in the card index there.

(iii) Where a case is transferred to a different Commissioner's charge, while the third foil will be transferred along with the records to the new circle, the first and second foils will be transferred to the new Special Investigation Branch to take their place in the numerical and alphabetical indices maintained in that office. In the case of multi-Commissioner charges having a common Special Investigation Branch, there will be no need to transfer the first and second foils when cases are transferred from one Commissioner to another.

(iv) Whenever a card is transferred it will be helpful if a dummy card of a differtnt colour containing the name of the allottee, the account number and the new location of the card, is kept in the card index of the transferring office—both the Special Investigation Branch and the Circle office. This will facilitate proper re-direction of papers and communications received in the old office after a case has been transferred. Transfers within the same Commissioner's charge and from one charge to another may be distinguished by having dummy cards of different colours.

(v) The circle office transferring the records and the third foil of the permanent account number card will send an intimation to the allottee and to its own Special Investigation Branch in a standard form about the transfer. A specimen form is given in Annexure D. The intimation to the Special Investigation Branch will be in duplicate so that one copy can be sent to the new Special Investigation Branch along with the first and second foils of the permanent account number cards.

(vi) The office receiving the third foil will allot a records locator code which will be entered on the card. The office will also intimate on a standard form the records locator code to the allottee and the new Special Investigation Branch. The latter will get the records locator code entered in the first and second foils of the permanent account number card. A specimen form for intimation is given in Annexure E. The intimation will also act as a confirmation to the taxpayer of his records having been properly received and indexed in the new office.

(vii) Every allottee will be required to intimate to the Circle office any change of business name or address after a permanent account number has been allotted to him. On the basis of such intimation, action will be taken to transfer the permanent account number card to the new office, if necessary.

4. **Utilising the permanent account number as an internal reference number**

(i) The Income-tax Department should invariably quote both the permanent account number and the records locator code, if any, on all notices issued and challans supplied to the taxpayers and also in all its correspondence with the taxpayers.

(ii) Taxpayers should be required by law to quote their permanent account numbers in all their statutory returns and, challans, etc. They should further be encouraged to quote both their permanent account number and their records locator code, if any, in all their correspondence with the Department and all the papers, statements, declarations, documents, etc., submitted to the Department. In the early stages, taxpayers may also be advised to quote their old General Index Register numbers along with their permanent account numbers.

(iii) The accounting procedure of the Department may be suitably modified to make the best use of the permanent account numbers. Ledger accounts or pass-books may also be maintained on the basis of the permanent account numbers.

5. **Utilising permanent account numbers to facilitate collection, collation and dissemination of information, for tackling tax evasion and for spotting new assessees.**

(i) In the various information and payment returns, which are required to be made statutorily, the persons submitting the returns may be required to furnish the account numbers of the persons in respect of whom the information is furnished or to whom the payments have been made, e.g., returns under sections 133, 206, 206A, 285 and 286.

(ii) The permanent account numbers may be required to be quoted on specified documents which will help the Department to spot new assessees and to tackle evasion of tax. The scope for prescribing such requirement is very wide, but in the interest of administrative efficiency and to avoid possible inconvenience to the public, only a small beginning may be made covering the following situations—

(a) Sale, purchase, gift or mortgage of immovable properties over prescribed value;

(b) Applications for licences, contracts, etc., where at present production of income-tax verification certificates is administratively prescribed;

(c) Opening of new bank accounts and specified bank transactions over prescribed limits;

(d) Shareholders' registers, invoices, cash memos, credit and debit notes and business letter heads.

(iii) The requirement of quoting the permanent number can be gradually extended to cover various other types of documents and transactions. Some examples are given below. Where needed, certain monetary limits could be prescribed with a view to eliminating petty cases:

(a) All returns, applications declarations, correspondence, etc., relating to sales-tax octroi, property tax, excise and customs dues and other levies;

(b) Applications for industrial licences;

(c) Tenders for contracts for supply, construction, etc., and auction bids;

(d) Documents relating to mining leases and concessions;

(e) Applications for registration of firms or incorporation of companies;

(f) Agreements, vouchers/receipts relating to payment of commission, fees, brokerage, etc.;

(g) Licences for taxi permits, passenger and goods transport route permits, licences for hotels, restaurants, cinema houses, etc.;

(h) Applications for registration of professional men—doctors, lawyers, accountants, architects and others;

(i) Applications for telephone connections;

(j) Applications for housing plots, built houses or flats in housing schemes;

(k) Documents such as contracts, agreements, etc., relating to sale, purchase or hire or lease of movable properties, or lease or construction of immovable properties;

(l) Applications for new issue of shares, debentures and securities;

(m) Applications for purchase of exempt certificates/bonds, e.g., National Savings Certificates, Units of Unit Trust of India, etc.;

(n) Proposals for life insurance;

(o) Applications for loans from L.I.C., financial institutions, etc.;

(p) Documents relating to trusts, wills and other dispositions;

(q) Claiming lottery or race winnings;

(r) Applications for licences for television sets and fire-arms and applications for motor vehicle registration, etc.;

(s) Applications for passports (working class emigrants may be excluded);

(t) Booking of goods by rail or road.

ANNEXURE 'A'

Form of application for permanent account number

Form A—For individuals

1. Full name.
2. Address—Residence.
   Office/business.
3. Father's name/husband's name in full.
4. Age.
5. Sex.
6. (a) Sources of income.
   (b) Business name(s), if carrying on business.
7. Reason for seeking allotment of permanent account number.
8. Whether a return of income has already been filed and if so, where.

I hereby declare that I have not previously applied for nor have I been allotted a permanent account number.

Date:
Place

Signature of applicant

Introduced by

Name

Permanent Account Number

Signature

(For office use only)

Enquiry report.
Date:

Signature of Officer

Account number allotted

Date:

Signature and designation of allotting officer

ACKNOWLEDGEMENT

Received application for allotment of permanent account number from Shri/Smt.————————

————————

Date of receipt of application ————————

Call on ———————— Signature of Receiving Officer

Important—Please read carefully the following notes:

NOTE—1. This form should be filled up only when the person seeking allotment of account number is not an existing income-tax assessee or refundee.

2. Obtaining an account number on the basis of false information or obtaining a fresh number when the applicant has already been allotted a number earlier is an offence punishable under section ———— of the Income-tax Act, 1961.

Form of application for permanent account number

Form B—For persons other than individuals

1. Name of the applicant.
2. Address of principal office.
3. Date of constitution/registration.
4. (a) Sources of income.
   (b) Business name(s), if carrying on business.
5. Reason for seeking allotment of permanent account number.
6. Whether a return of income has already been filled and if so where.

I hereby declare that the applicant has not previously applied for nor has been allotted a permanent account number.

Date:

Place: *Signature*

Introduced by

Name Permanent Account Number

Signature

(For office use only)

Enquiry report

Date: *Signature of Officer*

Account number allotted

Date: *Signature and designation of allotting officer*

ACKNOWLEDGEMENT

Received application for allotment of permanent account number from ————————.

Date of receipt of application ————————————

Call on ———————————— Signature of Receiving Officer

Important—Please read carefully the following notes:

NOTE: 1. This form should be filled up only when the person seeking allotment of account number is not an existing income-tax assessee or refundee.

2. The application should be signed, in the case of a Hindu undivided family by the Karta or where the Karta is absent from India or mentally incapacitated from attending to his affairs, by any other adult member of the family; in the case of a company by the principal officer thereof; in the case of a firm by any partner thereof, not being a minor; and in the case of an association of persons, by any member of the association or the principal officer thereof.

3. Obtaining an account number on the basis of false information or obtaining a fresh number when the applicant has already been allotted a number earlier is an offence punishable under section ———— of the Income-tax Act, 1961.

ANNEXURE 'B'

National Emblem

GOVERNMENT OF INDIA

INCOME-TAX DEPARTMENT

Permanent Account Number Card

Permanent account number

Records locator code.

*Ward where assessed (in pencil)

1. (a) Name
   (b) Business name, if any.
2. Status (whether individual, H.U.F., firm, company or association of persons).
3. Address:
   (a) Office/business
   (b) Residence

Date:

Signature and designation of allotting officer.

Seal

*To be printed on Third foil only.

ANNEXURE 'C'

GOVERNMENT OF INDIA

INCOME TAX DEPARTMENT

National Emblem

IDENTITY CARD

(for allotee of permanent account number)

Permanent Account Number

Name

Status

Address

Signature of allottee

Signature & Designation of issuing authority.

Seal

NOTE:—1. Where the allottee is a person other than an individual the card should be signed by the manager, partner or principal officer whose name and designation should be given in block capitals below.

2. This card should be produced whenever so demanded by an income-tax authority or by any other person authorised in this behalf or by a person with whom the allottee proposes to enter into a transaction as specified in the ———— Scheme, 1971. Failure to do so is an offence punishable under section ———— of the Income-tax Act, 1961.

ANNEXURE 'D'

INTIMATION OF TRANSFER

1. Name of the assessee
2. Status
3. Address
4. Permanent account number
5. Circle/State from which transferred
6. Circle/State to which transferred.

Date:

Signature and designation of officer transferring the case

Copy to:

(i) Assessee
(ii) Special Investigation Branch (2 copies)
(iii Circle Office to which transferred.

ANNEXURE 'E'

INTIMATION OF RECEIPT OF RECORDS

1. Name of assessee
2. Status
3. Address
4. Permanent account number
5. Present location—

   Circle:

   Ward:
6. Records locator code allotted

Date:

Signature and designation of officer receiving the records

Copy to:

(i) Assessee

(ii) Circle Office from where transferred

(iii) Special Investigation Branch (Where the case is transferred from one Commissioner's charge to another, copies will be sent to both the Special Investigation Branches).

APPENDIX VII

I. *Statement of assets and liabilities*

	As at the beginning of the accounting year	As at the end of the accounting year
	Rs.	Rs.
A. Immovable property		
(i) Land including agricultural land at cost (Mention area and location)		
(ii) House property at cost, including cost of improvement and extensions (Mention location and House number)		
Total of 'A'		
B. Movable property		
(i) Cash		
(ii) Balance with banks and post offices (Give account number, branch and name of bank/post office)		
(iii) Other deposits, loans and advances		
(iv) Shares, securities, savings certificates, Units of unit Trust, etc. at cost		
(v) Bullion and jewellery at cost (approx)		
(vi) Cost of household articles (approx).		
(vii) Vehicles at cost.		
Total of 'B'		
C. Liabilities		
(i) Loans (Give details)		
(ii) Sundry creditors		
Total of 'C'		
Net worth (A plus B minus C)		
	C-I	C-II

NOTE: In a case where regular books of account are maintained, details of only those assets and liabilities should be given which are not included in the balance-sheet.

II. *Statement of outgoings during the year*

	Rs.
1. Life insurance premia and Provident Fund contributions	
2. Purchase of assets such as car, Frig, furniture etc., costing individually more than Rs. 1,000	
3. Gifts and donations in excess of Rs. 200	
4. Rent of residential premises	
5. Electricity, water and telephone bills	
6. Nature of conveyance and expenditure thereon	
7. Wages of domestic servants	
8. Educational expenses	
9. Medical expenses	
10. Travel and holiday expenses	
11. Expenses on marriage	
12. Other expenses including food, clothing etc.	
Total 'D'	

III. *Reconciliation*

	Rs.
Difference in net worth (C-II minus C-I)	
Add outgoings during the year (D)	
Total 'E'	
Income as per return	
Incomings exmept from tax	
Total 'F'	
Reasons for the difference (E minus F)	

NOTE:—Approximate figures in respect of items 5 to 12 will suffice.

APPENDIX VIII

Comparative chart showing pay scales and allowances admissible to the different grades of officers and staff in the U.K. Inland Revenue and the Home Civil Service as on 1-1-1971:—

Grade	Pay Min. £ pa	Pay Max. £ pa
Inland Revenue		
Assistant Accountant General	4,045	4,555
Deputy Account General	5,015	5,640
Assistant Collector	456	1,253
Senior Assistant Collector	1,269	1,593
Collector	1,542	1,835
Collector, Higher Grade	1,982	2,392
Senior Collector	2,249	2,763
Regional Collector	2,529	3,099
Principal Collector	3,258	3,873
Controller of Death Duties	6,750	
Assistant Examiner/Examiner	741	2,392
[On completion of 3 years' approved Service, a special increase of £218 is awarded. fter 10 years, a second special increase of £270 is given to Examiners who are qualified by experience and ability.]		
Senior Examiner	2,529	3,099
Chief Examiner	3,258	3,991
Solicitor of Inland Revenue	9,000	
Tax Officer	456	1,304
[The slightly different nature of the work from that of Clerical Officers in the General Clerical Class is recognised by the payment of upto £51 pa higher salary.]		
Tax Officer, Higher Grade	741	1,835
Inspector of Taxes	1,175	2,734
[Allowances totalling £342 paid for passing preliminary and second examination. This figure is included in the maximum of £2,734.]		
Inspector, Higher Grade	2,529	3,394
Senior Inspector of Taxes	3,545	4,555
Principal Inspector of Taxes	5,015	5,640
Deputy Chief Inspector of Taxes	6,750	
Chief Inspector of Taxes	9,000	

Grade	Pay Min. £ pa	Pay Max. £ pa
Home Civil Service		
Senior Chief Executive Officer	4,045	4,555
Principal Executive Officer	5,015	5,640
Clerical Officer	456	1,253
Clerical Officer/Higher Clerical Officer	..	..
Higher Clerical Officer	1,542	1,835
Higher Executive Officer	1,982	2,392
Senior Staff Officer	2,249	2,763
Senior Executive Officer	2,529	3,099
Chief Executive Officer	3,258	3,873
Under Secretary	6,750	
Executive Officer/Higher Executive Officer	741	2,392
Senior Executive Officer	2,529	3,099
Chief Executive Officer	3,258	3,873
Deputy Secretary	9,000	
Clerical Officer	456	1,253
Executive Officer	741	1,835
Assistant Principal—Higher Executive Officer	1,162	2,392
Senior Executive Officer—Chief Executive Officer	2,529	
Chief Executive Officer—Senior Executive Officer	3,258	4,555
Principal Executive Officer	5,015	5,640
Under Secretary	6,750	
Deputy Secretary	9,000	

APPENDIX IX

Collection and Accounting Procedures—Outline of a proposed scheme

1. Challan forms

(a) The present challan forms may be simplified to do away with redundant certificates and classifications. A specimen form is given in Annexure 'A'.

(b) Challans for payment of different direct taxes should be in different colours and sizes so as to avoid confusion. Income-tax challans should be white and there should be a cage on the top to indicate the nature of the payment, viz., advance tax, self-assessment tax or regular tax.

(c) The challan form should be in 4 foils—the first 2 foils for the taxpayer, the 3rd foil for the Bank/Treasury and the 4th for transmission to the Income-tax Department. The foils meant for the taxpayer may be prominently marked 'Receipt for the taxpayer' and 'Additional copy for the taxpayer'. The taxpayer's foils may be of different width so that they may not be confused with the foil meant for the Department.

(d) Challan forms should be made available freely at counters in tax offices, branches of the Reserve Bank/State Bank and treasuries transacting Government business. Booklets of challan forms may be issued on a small charge. The booklet should contain notes for guidance in the matter of filling up challans and payment procedure.

2. Accounting procedure

(a) All Income-tax offices situated in the same city/town should have a common 'Treasury' cell under the charge of an Income-tax Officer for receiving challans from the collection centres—Bank/Treasury—and distributing them to the Income-tax Offices.

(b) The collection centres will forward the challans in daily batches to the 'Treasury' cell along with a scroll giving details of the challans.

(c) At the 'Treasury' cell, the challans will be sorted District/Circle-wise and listed in separate scrolls showing the identification number of the challan, the permanent account number of the taxpayer and the amount paid. These scrolls will be prepared in triplicate from bound books. One copy will remain in the 'Treasury' cell, while two copies with the challans will be sent to the respective Districts/Circles which will acknowledge the receipt of the challans on one of the copies and return it to the 'Treasury' cell. The 'Treasury' cell will also prepare a daily reconciliation statement of challans received and distributed, on the basis of scrolls received from the Collection Centres and the scrolls prepared in the 'Treasury' cell for forwarding challans to the various Districts/Circles.

(d) Each District/Circle will have a collection branch with one or more Income-tax Officers (Collection) and the requisite staff. In this branch the challans will be sorted and entered in Daily Collections Registers which will be maintained separately for each collection unit, which in the initial stages may be co-terminus with the ward. The Daily Collections Register numbers will be entered on the challans so as to ensure that every challan is entered in the register and that no challan is entered more than once.

(e) The Daily Collections Registers should be closed and totalled each day and reconciled with the scrolls received from the 'Treasury' cell.

(f) The challans will then be handed over to the clerks in the Collection Branch responsible for posting challans in the Demand and Collections Registers and their acknowledgements obtained on the Daily Collections Registers themselves. They will post the collections from these challans and enter the date of postings in the appropriate column in the challans. They will also put their initials against the relevant entries in the Daily Collections Registers. This would ensure that all challans received in the Circle and entered in the Daily Collections Registers are duly posted in the Demand and Collections Registers. The challans will then be filed in the respective collection folders.

(g) The Collection Branch will also receive the advice notes in respect of encashed refun orders and adjustments statement in respect of refunds adjusted against demand. They will first be posted in Daily Refunds Register and Daily Adjutments Register and thereafter appropriate entries will be made in the Demand and Collections Registers in the same way as in the case of challans. The advice memos and extracts from adjustments statement will be filed in the collection folders.

(h) At the end of each quarter, a reconciliation statement should be prepared, under the signature of Income-tax Officer (Collection), for tallying the collections recorded in the Daily Collections Register with the total collections posted in the Demand and Collections Register. The collections posted against the net demand in the Demand and Collections Register may either be cash collections or adjustment of refunds due. The total of adjustment of refunds will be available from the adjustment register. The cash collections will be arrived at by deducting the adjustments from the total collections posted in the Demand and Collections Register. This should be tallied with the cash collections in the Daily Collections Registers. As a separate Daily Collections Register is maintained for advance tax and a separate section in the Daily Collections Register is allotted to self-assessment tax, there should be no difficulty in making such a tally. The tally will ensure that all challans entered in the Daily Collections Register have been posted in the Demand and Collections Register and that no short credit, excess credit, or multiple credit is allowed in the Demand and Collections Register. As an additional safeguard, the Income-tax Officer (Collection) should be required to test check the postings.

To facilitate reconciliation and preparation of quarterly statements of demand, collection and arrears, columns may be provided in the Demand and Collections Register to show the balance of un-collected demands as at the end of each quarter. Separate Demand and Collections Registers may be prescribed for companies and assessees other than companies. A specimen form of the Demand and Collections Registers for assessees other than companies is given in Annexure 'B'.

(i) The present procedure for verification of the collections and their reconciliation with the Treasury/Accountant General's office will continue.

(j) Ledger cards, in cases where they are to be maintained, will be posted before the challans are placed in the respective collection folders. Half-yearly statement of accounts will be prepared from the ledger card and sent to the taxpayer. A proforma of the ledger card is given in Annexure 'C'.

(k) The clerks maintaining the collection folders will send through the Supervisor of the Collection Branch fortnightly reports of challans received, posted and filed, to the Income-tax Officer (Collection). A specimen form of the report is given in Annexure 'D'.

(l) In respect of advance tax, the notices of demand will be issued by a separate cell in the Collection Branch which will maintain separate ward-wise Daily Collections Registers and Demand and Collections Registers in respect of advance tax. The postings will be made in the same way as regular challans except that no entries will be made in the ledger cards and no statement of accounts will be sent to the taxpayer. Advance tax folders will be maintained separately for each case and the challans filed therein. On the expiry of the financial year, the advance tax folders will be passed on to the assessment branch where they will become the miscellaneous folders for the assessment year.

(m) The challans received in respect of self-assessment payments will be entered in the Daily Collections Register in a separate section and also in a self-assessment tax collection scroll prepared in triplicate from bound books, in the Collection Branch. The challans, with the Daily Collections Register numbers duly entered thereon, will be forwarded to the assessment branch along with two copies of the scroll in fortnightly batches and acknowledgment obtained on one of the copies. The challans will be linked up with the returns of income and filed along with the advance tax payment challans in the miscellaneous folder.

(n) The assessing officers, on completing assessments, will give credit for advance tax and self-assessment tax payments on the basis of the additional foils of the challan. These will be verified with the challans received from the 'Treasury' cell and filed in the miscellaneous folder. An entry to the effect that verification has been made, will be recorded on the additional challans foils by affixing a rubber stamp.

3. Procedure in respect of misdirected and missing Challans

(a) All challans received in a circle, which do not relate to the wards therein, will be entered in a register of misdirected challans. They will not be entered in the Daily Collections Register. If entries are made inadvertently, they will be reversed by appropriate minus entries. The challans will be returned to the 'Treasury' cell with a scroll prepared by the circle office in triplicate from bound books and acknowledgment obtained on the duplicate copy.

(b) The 'Treasury' cell will have a separate unit for dealing with misdirected challans. This unit will maintain a register of such challans which would help it to keep track of them and also reconcile the collection figures. After enquiry, it will identify the correct circle to which the challans relate and arrange to send them there with a scroll.

(c) When challans for payment of advance tax or self-assessment tax are not traceable, credit will be given on the basis of the additional

foils. Thereafter, verification will be made with the Daily Collections Register maintained by the Collection Branch and the Bank/Treasury scrolls in the 'Treasury' cell. Suitable entries will be made on the challan foils sent by the taxpayer that such verification has been done by giving reference to the serial numbers and dates in the Daily Collections Register and the Bank/Treasury scrolls. Similarly, where a challan in respect of regular payment is missing, credit will be given on the assessee's furnishing the additional foil. Thereafter, verification will be done with the entry n the Daily Collections Register and the Bank/Treasury scroll. Where this is not possible due to absence of entry in the Daily Collections Register or the Bank/Treasury scroll, further steps will have to be taken for verification with the Bank/Treasury direct.

A register will also be maintained for cases where verification has to be done, and appropriate entries made when verification is actually done. Audit should carry out a percentage check of such cases.

4. **Procedure for reconciliation of advance tax/self-assessment tax with amount given credit on regular assessment**

(a) The Demand and Collections Register for advance tax contains columns to show amounts adjusted subsequently against demands raised on regular assessments and the dates of adjustment, as also the excess amounts refunded, if any, and the dates of refund. But this alone does not provide the over-all reconciliation of advance tax paid with the amounts subsequently given credit for in the regular assessments. To facilitate such reconciliation, the following procedure may be adopted:

(i) In respect of the assessments made in any financial year, the collections of advance tax would have been accounted for in the Demand and Collections Register for advance tax of the preceding financial year or the two earlier financial years. To eliminate the need for handling three registers and to provide a proper check over the advance tax payments adjusted and those remaining unadjusted at the end of a year, the Demand and Collections Register of advance tax of the preceding financial year may be provided with an 'arrears section' incorporating the unadjusted entries of the two earlier financial years. The entries in the Demand and Collections Register for advance tax of the preceding year relating to advance tax demands raised during that year may be referred to as constituting the 'current section'.

(ii) As and when assessments are completed, the date of assessment, the amount of advance tax adjusted against regular demand and the amount of excess, if any, ordered to be refunded, may be entered in the appropriate columns in the Demand and Collections Register for advance tax. Adjustment entries relating to current assessments will be made in the 'current section' and those relating to arrear assessments in the 'arrears section'.

(iii) At the end of the year, all unadjusted entries, both in the 'current section' as also the 'arrears section' of the Demand and Collections Register for advance tax of the preceding year, will be carried forward to the 'arrears section' of the Demand and Collections Register of advance tax of the financial year following the said year.

(iv) The total of unadjusted amounts carried forward will be reconciled with the difference between the total of unadjusted amounts as at the beginning of the year and the adjustments/refunds made during the year.

(v) The amounts adjusted during the year will also be reconciled with the total amount of credit given in the regular Demand and Collections Register during the year.

(vi) The procedure will ensure that there is no multiple or excess credit or refund. Similarly, it will also ensure that every amount given credit as advance tax in a regular assessment had been actually realised in the appropriate earlier financial year. It will also provide an annual reconciliation of the total collection by adjustment of advance tax in any year with the amounts actually realised in the earlier financial years.

(b) A similar procedure may be followed for reconciling self-assessment tax paid in any year with the amounts given credit therefor in the assessments made in the same or the following years.

ANNEXURE 'D'

FORTNIGHTLY REPORT REGARDING CHALLANS

(To be sent by the Collection Branch)

Fortnight ended.....

1. No. of challans brought forward from the last fortnight (i.e., item 5 of preceding fortnightly report). _____
2. No. of challans received during the fortnight. _____
3. Total (1+2). _____
4. No. of challans posted in the Demand & Collections Registers and personal ledger cards during the fortnight _____
5. **Balance** _____
6. No. of challans not placed in collection folders, brought forward from last fortnight (i.e., item 10 of preceding fortnightly report) _____
7. No. of challans at 4 above _____
8. Total (6+7) _____
9. No. of challans placed in the collection folders during the fortnight _____
10. Balance (8–9) _____

DATE.....

Supervisor
Collection Branch

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