

Towards Legislative History of Modern Taxes in Ethiopia (1941 2008)

Taddese Lencho*

The spirit of the people, its cultural level, its social measure, the deeds its policy may prepare...is written in its fiscal history. He who knows how to listen to its message here discerns the thunder of world history more clearly than anywhere else.

Joseph Schumpeter

The past is never dead. It is not even past.

William Faulkner

1. Introduction

Taxation has a long history in Ethiopia, but the modern system of taxation began in full earnest after the departure of the Italians in 1941. Immediately after his restoration to the throne, Emperor Haile Sellassie I began introducing a spate of modern tax laws which were to change the face of Ethiopian taxation for ever. What constitutes 'modern' in the context of taxation is liable to be contested and I am certain historians may take an earlier date as a starting point for modern Ethiopian taxation. The period before 1941 was dominated by the traditional system of taxation, although a few modern taxes had already begun to be introduced before the Italian period.¹ The introduction of "excise and consumption" taxes in 1931, the "entertainment tax" in 1932 and the income tax in 1934 suggested that the modernization of the Ethiopian tax system would probably have begun earlier had it not been interrupted by the Italian invasion in 1936.²

The modern system of taxation represents quite a departure from the traditional system of taxation in Ethiopia. First, of course, is that taxes began to be published in the official gazette of legal publications- the Negarit

* Addis Ababa University, School of Law; LL.B (AAU), LL.M (University of Michigan Law School, Ann Arbor), PhD candidate, University of Alabama Law School, Tuscaloosa; I am grateful to the two anonymous assessors for their comments on the earlier drafts of this article and particularly to Ato Gebrelibanos Welde-Aregay for providing me with information about the development of some taxes in Ethiopia. I am also grateful to DLA Piper Foundation for providing me with research funds for the writing of this article.

¹ For an extensive treatment of taxation prior to the Italian period, see Richard Pankhurst, Economic History of Ethiopia: 1800-1935 (1968), Haile Selassie University Press, Addis Ababa, Ethiopia, pp. 504-544

² See Bahru Zewde, "Economic Origins of the Absolutist State in Ethiopia (1916-1935)" in Bahru Zewde, Society, State and History, Selected Essays, (2008), Addis Ababa University Press, pp. 114-115

Gazeta.³ While this development was not for taxes *per se*, it represented an important development in taxation at least in ensuring that taxation would be based on written laws rather than the whim of officials or an appeal to some vague tradition. Second, the modern period saw the transformation of the Ethiopian tax system from one that was based predominantly upon in-kind payments to a cash-based one, taxation thus representing a monetary obligation regardless of the type of tax levied and the occasion for taxation.⁴

The traditional system of taxation in Ethiopia was excoriated by a number of writers largely on account of its in-kind payments system resulting in abuses of one kind or another.⁵ The traditional system of taxation exposed “taxpayers” to various forms of abuses and occasioned arbitrary exercises of power as the government permitted its “officers” various rights and powers of appropriation as a form of remuneration for their services and loyalties to the government.⁶ This system of relations was very burdensome particularly to the peasants, who bore the brunt of the burden. It also left the central treasury with little revenue of its own.

³ The *Negarit Gazeta* was promulgated as an official gazette for publication of laws in 1941; see *Negarit Gazeta Establishment Proclamation, 1942, Proc. No. 1, Negarit Gazeta, Year 1, No. 1*

⁴ See Richard Pankhurst, *State and Land in Ethiopian History* (1966), the Institute of Ethiopian Studies and the Faculty of Law, HSIU, pp. 176-179

⁵ Several writers lamented the deplorable situation of tenants under the traditional taxation system of Ethiopia. Gebre Hiwot Baykedagn, an early Ethiopian intellectual, for example, wrote the following poignant passage bemoaning the suffering of tenants under the traditional tax system of Ethiopia: “Great is the hardship of the farmer in our country. Before he starts to hold the plough to farm, an officer comes to charge him land tax. When he goes home after a hard work on the field, he finds his wife being kicked and slapped by the soldiers that she should prepare them food. Whenever he is ordered by his rulers, he goes and works for them like a slave leaving his work aside.” Gebre Hiwot Baykedagn proposed a solution to end these abuses, one of which was to fix the tax according to the produce of peasants and pay tax in terms of dollars and not in terms of cereals, honey and cattle; see Gebre Hiwot Baykedagn, *Berhan Yehun*, (Asmara) passim, quoted in Richard Pankhurst, *supra note 4*, p. 177; another Ethiopian intellectual of the same period, Afework Gebreyesus, relates a story of a farmer who had to endure the ignominy of denying that a woman living with him was his wife and passing her off as his sister in order to stave off an abuse by a quartering government soldier who was obviously intent on making advances on his wife; see Afework Gebreyesus, *“Dagmawi Atse Minilek”* Reissued 2001 E.C., (in Amharic, originally published in 1901 E.C.), p. 3

⁶ John Markakis, *Ethiopia: Anatomy of A Traditional Polity*, (2006), Shama Books, p.148; see also Richard Pankhurst, *supra note 4*, pp. 176-179

The modernization of the Ethiopian tax system after 1941 was in part therefore motivated by the desire of the central government to assert full powers of appropriation and assume full responsibilities for paying its officers and public servants remuneration for their services in stead of the latter exacting their own price from the population. Hence, one of the first regulations to be issued after the departure of the Italians in 1941 was an administrative regulation in which the government proclaimed that the government would pay all its employees monthly salaries. ⁷ Taxes represented one of the principal sources of revenue for a government intent on paying its servants directly.

Although hundreds of tax laws have been issued since 1941, no systematic work has been done to document how these tax laws developed and evolved into the taxes we have in the books now. It has been remarked elsewhere that the Ethiopian tax system is “chaotic, disorganized, uncoordinated and worse,” ⁸ and this is in part due to the absence of a research that documents the development of Ethiopian taxation over the modern period. It is easy to dismiss an exercise like this as an arcane fascination of an ‘academic squirrel’,⁹ but the importance of modern tax history for the understanding of the Ethiopian tax system cannot be emphasized enough.

Those who follow the contemporary rumbles of taxation in Ethiopia are liable to forget that the issues they grapple with today were also contemplated in the past. One can cite a number of instances but it is enough for now to mention one contemporary debate of Ethiopian taxation. At the time of writing, a debate is raging over the design of presumptive taxation for small businesses.¹⁰ This is not a problem that suddenly cropped up in Ethiopian tax system. Small businesses have always been the Achilles heel of the Ethiopian

⁷ John Markakis, *supra note 6*, p. 148, quoting Imperial Ethiopian Government, Ministry of Interior, Administrative Regulations, Addis Ababa, 1941 in foot note 152

⁸ See Taddese Lencho, “The Ethiopian Tax System: Cutting Through the Labyrinth and Padding the Gaps,” *Journal of Ethiopian Law*, vol. 25, No. 1 (September 2011), p. 86

⁹ The expression ‘academic squirrel’ is a variation on Gore Vidal’s expression ‘scholar squirrels’. Gore Vidal describes ‘scholar squirrels’ as those in the academia who suffer from “the delusion that there is a final Truth revealed only to the tenured few in their footnote maze” and who “must itemize everything in the shop”; see Gore Vidal, “Lincoln and the Priests of Academe”, in *United States, Essays 1952-1992*, (1993) Random House, pp. 675, 678

¹⁰ See, Eden Sahle, “Small Businesses Threaten Shutdown,(sic) Over New Tax Pressures,” *Fortune*, Vol. 12, No.587, July 31, 2011; “ድሀ እሚበላው እንጂ እሚከፍለው አያጣም”፣ መሰናዘርያ፣ ማክሰኞ፣ ነሐሴ 10 2003 ዓ.ም ገፅ 1፣6-7 እና 12 ይመልከቱ see also Kirubel Tadesse, “Pay Tax - it is only fair!!” *Capital*, August 01, 2011

tax system. But because the institutional memory of Ethiopian tax history is so limited, those tasked with the problem are more likely to search for solutions across the Atlantic or the Mediterranean than revisit how things were organized during the early period. One of the surprises of this study is that the early modern tax laws of Ethiopia contain some nuggets of prudent tax policy for contemporary debates about Ethiopian taxation.

Organizing and documenting a tax history – even of a brief period – in Ethiopia is an incredibly difficult and precarious task.¹¹ Since tax laws are some of the most frequently revised pieces of legislation in Ethiopia, one has to literally review hundreds, perhaps thousands of individual pieces of tax legislation to piece together and understand the development of modern taxation in Ethiopia. The task is undertaken with the lingering suspicion that something might have slipped through one’s hands, so disorganized the tax laws have been. This article is no guarantee that those lingering doubts are completely removed and laid to rest, but every effort has been made to provide as accurate a picture of modern Ethiopian taxation as it is possible to glean from individual pieces of tax legislation.

Several types of taxes emerged during the modern period. Some are no longer in the books; many have survived with some changes and a few completely new forms of taxes have been added to the lexicon of the Ethiopian tax system. Many of the taxes that have formed part of modern Ethiopian fiscal history were introduced in the 1940s and 1950s (the formative period of Ethiopian modern tax history). Some structural principles laid down during this formative period continue to inform and shape the structure of the modern Ethiopian tax system to this day – another reason why documenting the history of modern taxation is necessary.

As the title suggests, the article attempts to trace the modern history of taxation from a decidedly narrow perspective of the legislative development of various taxes in Ethiopia. Unlike similar exercises on related subjects,¹² the

¹¹ Eshetu Chole made a valiant effort to document the history of taxation of the early modern period (1941-1974), but even his meticulous documentation could not spare him from making occasional errors, as when he wrongly assumed that the first stamp duties were introduced in 1957 when in fact they were introduced in 1943; See Eshetu Chole, “Towards a History of the Fiscal Policy of the Pre-Revolutionary Ethiopian State: 1941-1974”, in Eshetu Chole, **Underdevelopment in Ethiopia**, (2004), Organization for Social Science Research in Eastern and Southern Africa, p. 73

¹² See, for example, Eshetu Chole, *supra* note 11, pp. 63-73; Eshetu Chole, “Income Taxation in Pre- and Post-Revolution Ethiopia: A Comparative Review,” **Ethiopian Journal of Development Research**, (April 1987), vol. 9, No. 1, pp. 50-77; Lesanework Deme, “The Agricultural Tax in Socialist Ethiopia,” **Ethiopian Journal of**

treatment of the history of the various taxes of Ethiopia does not attach any special importance to any one of the taxes covered in the article. None of the taxes covered in this article receive any special emphasis either because of their contribution to the public economy or their role in the political trajectory of the country, although some passing references are made to vital incidents of fiscal history associated with some of the taxes.¹³ In short, this is a history of how different taxes emerged, evolved and developed into what they are now.

The article is structured around the individual taxes that were introduced since 1941. Starting with land and agricultural income taxes, the article will trace the emergence and development of taxes like income taxes, excise and sales taxes, customs and export duties, stamp duties, municipal taxes, and tax incentives. Most tax incentives in Ethiopia are issued in general investment incentive laws and are usually viewed as part of investment laws of the country. Nonetheless, tax incentives cannot be separated from the rest of the Ethiopian tax system for the simple reason that these incentives use taxes as instruments of a specific public policy, in the case of incentives, that of encouraging capital investment.

2. Land and Agricultural Income Taxes

The first taxes of the post-Italian occupation period targeted land – not at all surprising in an agrarian country like Ethiopia.¹⁴ Land tax law was promulgated in 1942, applying a crude form of graduated taxation by dividing land into ‘fertile’, semi-fertile’ and ‘poor’ lands. Landowners holding fertile land were to pay more per *gasha*¹⁵ than landowners holding semi-fertile lands, and semi-fertile land owners were to pay more than those holding poor lands. Not all lands were measured in *gasha* and the 1942 land tax law had provisions for those areas where land was not measured. The land owners in these areas were to pay tax in accordance with a law passed back in 1935.¹⁶

Development Research, (Oct. 1979) vol. 3, No. 2; Peter Schwab, “The Tax System of Ethiopia,” ***American Journal of Economics and Sociology***, (Jan. 1970), vol. 29, No. 1.

¹³ Comparable attempts on the subject in the past have tended to focus on revenue contributions of different taxes and have therefore suffered from giving ‘undue attention’ to the few taxes that mattered; see Eshetu Chole, *supra note 11*, and Peter Schwab, *supra note 12*.

¹⁴ A Proclamation to Provide for a Tax on Land, 1942, Proc. No. 8, *Negarit Gazeta*, Year 1, No. 1

¹⁵ ‘Gasha’ is a unit of land measurement at the time equaling about 40 hectares; see Teshale Tibebu, ***The Making of Modern Ethiopia: 1896-1974*** (1995), The Red Sea Press, Inc., p. 87

¹⁶ A Proclamation to Provide for a Tax on Land, 1942, cited above, Article 3 (ii)

The 1942 land tax law was repealed and replaced two years later by a law which revised the modality of land taxation at the time and above all introduced the first modern agricultural income taxation in Ethiopia.¹⁷ The 1944 land tax law took some of the modalities of land taxation of the 1942 law by dividing some lands into 'fertile', 'semi-fertile' and 'poor' lands but went further and divided the country into clusters of provinces - no doubt reflecting the political and traditional configuration of the time.

The first group consisted of the then provinces of *Wellega*, *Sidamo*, *Illubabor*, *Gemu Gofa* and *Kafa*. Landowners holding 'fertile' lands in these regions were to pay 15 Birr per *gasha*, those holding 'semi-fertile' lands 10 Birr per *gasha*, and those holding 'poor' lands 5 Birr per *gasha*. The second group consisted of the then provinces of *Shoa*, *Harar*, *Arussi* and *Wollo*, whose landowners were to pay 15 Birr per *gasha*, 10 Birr per *gasha* and 5 Birr per *gasha* for 'fertile', 'semi-fertile' and 'poor' lands respectively. The third group consisted of the then provinces of *Gojjam*, *Tigre* and *Beghemder* whose land owners were to pay land tax at the rate which was fixed in 1927.¹⁸ There was perhaps fear that the people in these areas would be slow to tax reform because of their sentimental attachment to traditional system of land tenure and taxation.¹⁹

As alluded to before, the 1944 tax law was more than a land tax for it added an agricultural income tax, thus replacing the long standing traditional tax known as the 'tithe' or *asrat* in Amharic (to signify that 1/10th was contributed as a tax).²⁰ The 1944 tax marked an additional evidence of an advance towards full monetization of the Ethiopian tax system. The agricultural income tax of 1944 applied the same crude form of graduation for taxation and followed the same classification as the land tax. The

¹⁷ Land Tax, 1944, Proc. No. 70, *Negarit Gazeta*, 4th year, No. 2

¹⁸ Id, Article 4; there was a fourth category - not based on region but on the status of the land as an 'unmeasured' land. All the previous categories depended on measurement of land for taxation. Unmeasured lands were classified into five categories whose owners were to pay a fixed amount of 20 Birr, 17 Birr, 15 Birr, 10 Birr and 5 Birr respectively.

¹⁹ See Eshetu Chole, *supra* note 11, p. 67.

²⁰ Land tax is a property tax based on the wealth of the taxpayer (such as land) chargeable regardless of whether the owner obtains gain from the produce of the land or not. An income tax (e.g. agricultural income tax) is based on the gain produced from the use of the land and is not necessarily attachable to the owner of the land. These technical distinctions may seem trivial to a non-specialist but they are significant in tax literature. Land tax cannot survive without private ownership of land while income tax will always be chargeable as long as the land is productively used. That is why agricultural income taxation persisted after the nationalization of land following the 1974 Ethiopian revolution while land taxation was abolished.

agricultural income tax also followed the same principles for all the other categories. The burden of agricultural income taxes was greater for the southern provinces than the northern provinces, and those whose lands were unmeasured were to pay higher taxes in total than those whose lands were measured, presumably to encourage the former to have their lands measured.²¹

The land taxes of the 1940s left out a vast expanse of the Ethiopian lowlands where another form of ownership was in place. The land and agricultural income taxes of 1942 and 1944 were designed to reach landowners and farmers who derived income from farming. It took more than a decade before the government remembered or became interested in the pastoral areas as potential sources of government revenue. In 1954, the Ethiopian government introduced a 'cattle tax' to ensure, in the words of the preamble of the law, 'equality between those who obtain their livelihood from agricultural pursuits and [those who obtain their livelihood from] pastoral activities.'²² The tax rates of the 1954 cattle tax were again crude for a modern taxation. The cattle tax rates were pegged against the type of domestic animal owned by pastoralists. Pastoralists were to pay 0.50 Birr per head of camel, 0.25 Birr per head of horned cattle, 0.25 Birr per head of horse, 0.25 Birr per head of mule, 0.10 Birr per head of donkey, 0.05 Birr per head of sheep or goat and 1.00 Birr per head of pig. Since this tax was an 'equalizing' tax, taxpayers who were subject to the agricultural income tax under the 1944 agricultural income tax law were exempted from the payment of cattle tax. The cattle tax law had a special procedure for assessment of taxes in the pastoralist areas. According to a regulation issued in the same year (1954) to provide for the implementation of the cattle tax, the Governor of the *Awradja* was to invite not less than five chieftains and elders from each '*Mikitel Woreda*' (sub-district) for counting cattle, or the pastoralist himself could choose to have his cattle counted for purposes of assessment of the cattle tax.²³

The land and agricultural taxes faced the stiffest of challenges in their implementation. Although agriculture represented the mainstay of the Ethiopian economy, the government was not able to raise revenues commensurate with the share of agriculture in the economy. The low revenue yield of agricultural taxation at the time was attributed to four principal

²¹ See Land Tax Proclamation No. 70/1944, cited above, Article 4

²² See a Proclamation to Provide for Cattle Tax, 1954, Proc. No. 142, *Negarit Gazeta*, 14th year, No. 1

²³ See Rules Issued Pursuant to the Cattle Tax Proclamation, 1954, Article 2, Proc. No. 187, *Negarit Gazeta*, 14th year, No. 1

factors: ²⁴ i) the Ethiopian Orthodox Church, which owned about a third of the land at the time, was exempted from the tax; ii) many landowners were able to use their powers and connections to evade the tax; iii) proper land measurements were not undertaken; and iv) the existing tax rates were not progressive.

The government was thus keen to reform the agricultural income taxes and improve their performance. It finally managed to pass a uniform agricultural income tax in 1967, with progressive tax rates upon the entire population, with the exception of pastoralists who would continue to pay head tax on their cattle.²⁵ However, the agricultural income tax of 1967 was destined for doom as it was issued in the midst of political upheaval, which eventually brought down the Monarchy in 1974. Before the *coup de grace* was delivered by the 1974 Ethiopian Revolution, the agricultural income tax of 1967 faced stiff resistance in the period leading up to its passing and after its introduction. It was subjected to ‘considerable maneuvering and delaying tactics’ when attempts were made to pass the bill.²⁶ Upon introduction, it led to immediate protests in some places, largely due to the perception that the tax ‘would lead to measurement of land’ –something of an anathema in some regions of Ethiopia where this was seen as an end to the traditional land holding system.²⁷ As a result of this resistance, the Emperor at the time was forced to make painful tax concessions to taxpayers in the epicenter of the revolt against the tax – Gojjam.²⁸ Resistance to agricultural taxes was not confined to Gojjam, of course. There were reports of resistance to taxation in the lowland areas, like the Somali region of Ethiopia.²⁹

When the 1974 Ethiopian Revolution broke out, it was evident that the first tax to become the casualty of the Revolution was the land tenure and taxation system that prevailed during the imperial times. A number of laws were issued after the 1974 Ethiopian Revolution radically altering the landscape of land tenure and tax system of the country. One of these laws was the 1975 law that abolished private ownership of land and made it public property.³⁰

²⁴ Eshetu Chole, *supra note 11*, p. 67; see also Eshetu Chole, **Taxation in Ethiopia**, 1967, Faculty of Law, Addis Ababa University, Archives (unpublished), p. 2

²⁵ Peter Schwab, *supra note 12*, p. 77

²⁶ Schwab, 1972, ch. 5, quoted in Eshetu Chole, *supra note 11*, p. 68

²⁷ Eshetu Chole, *supra note 11*, p. 68

²⁸ Schwab, 1972, 166, quoted in Eshetu Chole, *supra note 11*, p. 69; see also John Markakis, *supra note 6*, pp. 450–462

²⁹ See John Markakis, *supra note 6*, p. 441

³⁰ Public Ownership of Rural Lands, 1975, see Article 3, Proc. No. 31, *Negarit Gazeta* 34th year No. 26

The 1975 Proclamation effectively repealed the land taxation by abolishing private ownership of land upon which land taxation was predicated. In any case, an agricultural and land use fee was promulgated in 1976 consistent with the new political economy – socialism.³¹

The land use fee set a lower fee for members of agricultural cooperatives in a bid no doubt to encourage farmers to join the cooperatives. The agricultural income tax was flat up to a certain threshold of income (up to 1200 Birr) but farmers whose income exceeded 1200 Birr were a subject of a progressive income tax rate up wards from 15% to 70%, while State farms were subject to a flat tax rate of 50% on their taxable income.³² Taxpayers were allowed to deduct all ‘necessary expenses’ including an allowance for depreciation of capital assets used in agricultural activities.³³ The agricultural income tax system put in place since 1976 remained in force well into the 1990s.

Although the Derg³⁴ regime was removed from power in 1991, there wasn’t any fundamental change in the policy towards land and agricultural taxation except perhaps in the significant reduction in the rates of taxation. Land continued under public ownership and for a while the agriculture land use fees and income taxes that were introduced by Derg remained in force long after Derg was ousted. The only notable transformation in this area in the post 1991 period is the decentralization of land and agricultural taxes to regional governments.³⁵

³¹ It was significant that the new law used the word ‘fee’ in stead of ‘tax’. The name was to signify that the government was now the owner and the holders, mere users of land; see Rural Land Use Fee and Agricultural Activities Income Tax, 1976, Proclamation No. 77, *Negarit Gazeta*, 35th year, No. 19

³² See Proclamation No. 77/1976, cited above, Articles 17 and 25; the land use fees and agricultural income tax rates were raised two years later by an amendment to the 1976 Land Use Fee and Agricultural Income Tax Law. And characteristic of the tax rates in other areas, the agricultural income tax rates were raised, the top income earners being subject to a marginal tax rate of 89%; see Rural Land Use Fee and Agricultural Activities Income Tax Amendment, 1978, Proc. 152, *Negarit Gazeta*, 39th year, No. 2

³³ See Proclamation No. 77/1976, cited above, Article 24

³⁴ Derg is the name of the communist regime that took over power after the 1974 Ethiopian Revolution

³⁵ The decentralization was at first recognized in a law passed during the transitional period and later entrenched in the Constitution of 1995; see A Proclamation to Define the Sharing of Revenue between the Central Government and the National/Regional Self-Governments, *Negarit Gazeta*, 52nd year, No. 7; the Constitution of the Federal Democratic Republic of Ethiopia, Federal *Negarit Gazeta*, 1st year, No.1, Articles 94–99

The Regional States took quite sometime before they were able to write their own agricultural income tax laws although agricultural income taxes were thoroughly decentralized both during the Transition period and after the passing of the Constitution.³⁶ Once starting to issue their own agricultural income tax laws, however, the Regional States have instituted various methods of agricultural taxation – perhaps to be expected in a decentralized agricultural income tax system.³⁷ The variations are seen not only across regions but also over the course of time in the same region. While many of the regions initially followed the progressive agricultural income tax system inherited from the agricultural income tax system in place since 1976, some of them have since then reverted to a cruder form of agricultural income taxation based on the size of land holding. For example, the Oromia Regional State initially adopted a progressive agricultural income tax system, but replaced this practice with an agricultural income tax system based on the size of landholding, rather than the amount of agricultural produce.³⁸ The tax base of agricultural income taxation in Benishangul-Gumuz and Gambella is the annual agricultural produce (and therefore predictably varies from year to year), while in regions like Tigray and Harari, the tax is fixed on the basis of the size of land holding.³⁹ In some regions, the tax burden varies with the specialty produce of the area, its location or the kind of production.⁴⁰ For example, in Southern Nations, Nationalities and Peoples Region (SNNPR), higher rates of agricultural income tax are imposed on holders of land used for *chat* or coffee production,⁴¹ taking obviously into consideration the higher market value of these commercial crops. It will be interesting to explore the impact of these wide ranging divergences in agricultural income taxation upon the state of the agrarian economy.

³⁶See Deso Chemed, Taxation of Agricultural Income and Rural Land Use Payment : the Law and the Practice in Oromia, (2008, Unpublished, AAU Law Library Archives); see also The Southern Nation (sic), Nationalities and Peoples' Regional Government Rural Land Use Rent and Agricultural Activities Income Tax, 1996, Proclamation No. 4, Debub Negarit Gazeta, 1st year, No. 5; A Proclamations (sic) to Provide for the Rural Land Use Rent and Agricultural Activities Income Tax in Benishangul Guzuz Regional State, 1997, Proc. No. 7, in Compiled Laws of the Benishangul-Gumuz Regional State.

³⁷ See The Federal Democratic Republic of Ethiopia, The New Federal Budget Grant Distribution Formula, May 2007, Addis Ababa, pp. 20-22.

³⁸ See Deso Chemed, cited above, note 34, pp. 37-48; see Oromia National Regional Government Rural Land Use Payment and Agricultural Income Tax Amendment, 2005, Proc. No. 99, *Megeleta Oromia*, 13th year, No. 13/2005

³⁹ See The Federal Democratic Republic of Ethiopia, cited above, note 35, pp. 20-21

⁴⁰ Id, p. 21

⁴¹ Ibid

2.1 Benefit Taxes Tied to Land and Agricultural Income Taxes: The Education and Health Taxes

Traditionally, land attracted various forms of taxes and levies even before 1941 period and that tradition continued after 1941 with the levying of various taxes associated with or pegged upon land in the rural and urban areas. Thus, in 1947, the Ethiopian government issued an 'Education Tax' upon landholders with a stated purpose of raising revenues for provision of education as a public good.⁴² The education tax was an 'earmarked' tax in the sense that the proceeds of the tax were destined for expenditure on education. This was quite unlike many other taxes whose proceeds are deposited in general government accounts for appropriation in general government budgetary purposes. The 1947 Educational Expenditure law (passed immediately after the Education Tax) specifically directed the Ministry of Finance to set aside the proceeds from this tax for education.⁴³ Since, the education tax was tied to land, the tax followed the same principles and modalities of the land tax of 1944, except that the amounts charged were different.⁴⁴

The principle of 'earmarked' taxation extended to health services in 1959 with the coming into force of the Health Tax, which, like the education tax, was tied to land holding.⁴⁵ The preamble of the 'Health Tax' law states the reason for the introduction of the new tax as 'the need for additional finance for health services' and like the education tax, the Ministry of Finance was to set aside the proceeds from the tax for the specific purposes of providing public health.⁴⁶ Again the "Health Tax" followed the same modalities of land taxation issued back in 1944, with the only difference seen in the amounts of

⁴² The preamble of this law states: 'Education for all is an asset and benefit to the nation'; see Education Tax Proclamation, 1947, Article 3, Proc. No. 94, *Negarit Gazeta*, 7th year, No. 3, Article 3.

⁴³ See Educational Expenditure Proclamation, 1947, Proc. No. 95, *Negarit Gazeta*, 7th year, No. 3

⁴⁴ The landowners living in Wellega, Sidamo, Illubabor, Gemu Gofa and Kafa were to pay 13.50 Birr, 12 Birr and 4.50 Birr for 'fertile', 'semi-fertile' and 'poor' lands and 6 Birr if their land was unmeasured; See Education Tax Proclamation No. 94/1947, *Negarit Gazeta*, 7th year, No. 3, Article 3; it is to be noted that the education tax, which was originally tied to rural lands, was extended to urban lands and personal income taxes by 1970; see Eshetu Chole, *supra note* 11, p. 70;

⁴⁵ See The Health Tax, 1959, Decree No. 37, *Negarit Gazeta*, 18th year, No. 14

⁴⁶ An order was issued in 1960 instructing the Ministry of Finance to collect the health tax and appropriate the proceeds to the Ministry of Health, which shall then use the fund for the purpose of expanding and improving public health facilities; see Health Tax Administration, 1960, Order No. 22, *Negarit Gazeta*, 19th year, No. 11

tax chargeable.⁴⁷ The Health Tax law, like the Education Tax law, had a provision instructing the Ministry of Finance to keep the revenues separately from the general accounts of the government, and to disburse the proceeds for the provision of health services only.⁴⁸ Although these taxes were repealed in 1978,⁴⁹ they provide an interesting alternative for the financing of education and health in Ethiopia. Since the proceeds are earmarked, they have an undeniable advantage in creating some level of accountability in how tax proceeds are spent and in raising the awareness of the taxpaying community. Taxpayers are generally more demanding and exacting when they pay taxes that are earmarked and that may improve the quality of health and educational services by the government.

3. The Main Income Taxes⁵⁰

The first modern income tax law (outside the agricultural system) was issued in 1944 and was named a “Proclamation to Provide for the Payment of a Tax by All Individuals and Businesses”.⁵¹ The Proclamation defined income as ‘every income earned or unearned, accruing from or received’ in the Empire except salaries received by members of the regular armed forces and income earned from agriculture.⁵² The 1944 income tax law established the schedular approach to income taxation in Ethiopia, which has remained as the basic structure of income taxation to this day.

The 1944 income tax law created three schedules for income taxation. Schedule A of that income tax law did not specify the types of income subject

⁴⁷ One other notable difference was that the health tax attached to city lands as well – 30% of the municipal tax on land. It is to be incidentally noted that the education tax did not attach to city land until 1970 when a Proclamation was issued to extend the payment of education tax to urban land, payable at the rate of 30% of the municipal land tax and on personal emoluments, payable monthly at the rate of 0.50 Birr for those whose monthly emoluments were between 50 Birr and 100 Birr and 2 Birr for those whose monthly emoluments exceeded 100 Birr.

⁴⁸ See Health Tax, 1959, Article 7, Decree No. 37, *Negarit Gazeta*, 18th year, No. 14; Health Tax Administration Order, 1960, Article 2, Order No. 22, *Negarit Gazeta*, 19th year, No. 11

⁴⁹ See A Proclamation to Amend the Income Tax, 1978, Proc. No. 155, *Negarit Gazeta*, 38th year, No. 3

⁵⁰ “Income taxes” refers to the taxes on employment, rental, business and professional as well as miscellaneous incomes. The use of ‘income taxes’ in the plural is deliberate. It is to convey that there are multiple income taxes in Ethiopia although most of these taxes are stipulated in a single principal legislation.

⁵¹ See Personal and Business Income Tax Proclamation, 1944, Proc. No. 60, *Negarit Gazeta*, 3rd year, No. 9

⁵² See *id.*, Article 2(2)

to tax, but it probably covered personal income. The amount of taxes was fixed in pounds (reflecting perhaps the British influence at the time) and the tax rates covered income grounds as low as 30 pounds and as high as 9000 pounds. The income brackets were much longer than the ones we have in the law now. And more significantly, the accounting period for personal income tax was a year, and the tax year at the time was the Ethiopian calendar, which ran between 1st of *Meskerem* and the end of *Pagume*, but tax was payable on the 1st of *Yakatit*, six months after the tax was due.⁵³

Schedule B of the income tax law of 1944 covered the income ground covered by Schedule C today – income from business. The last income tax Schedule – Schedule C – was a sur-tax on special classes of Schedule B taxpayers, applying graduated tax rates to those businesses earning income above a baseline.⁵⁴ Schedule B of the 1944 income tax law grouped businesses into categories of traders, retailers, premises and sundry establishments, which were further classified into three classes (as Class A, B and C) with higher taxes levied on Class A than B and B than C (the modern equivalent of Category A, B and C taxpayers). Traders included brokers, commission agents, contractors, general importers and exporters, sub-contractors and wholesale dealers. Retailers included bakers, barbers, booksellers, boot and shoe sellers, butchers, chemists and druggists. In the premises category, we meet with businesses like bars, biscuit factories, breweries, cinemas, cotton mills, distilleries and flour mills. No explanation was provided in the law as to why such classifications were adopted. Judging by the tax rate differentials in that law, it must have been assumed that these different categories of businesses represented different taxpaying abilities.

The 1944 income tax was replaced five years later in 1949 by Proclamation No. 107/1949, bearing the same name. The 1949 income tax law defined income more broadly than the 1944 law as ‘every sort of income earned or unearned, whether in the form of gains, profits or rents, salaries, wages or compensation for personal services of whatever kind’.⁵⁵ Income earned by members of the armed forces, which was exempted under previous income tax law, was now made taxable. The only source of income that was excluded from this law (because it was covered by another tax regime) was income from agriculture.

⁵³ See *id.*, Article 3(ii)

⁵⁴ See *id.*, Schedule C

⁵⁵ See a Proclamation to Provide for the Payment of Tax by All Individuals and Businesses, 1949, Article 2(2), Proc. No. 107, *Negarit Gazeta*, 8th year, No. 12

The 1949 income tax law made a few changes in the structure laid down by the 1944 law. The currency of tax payment was now Ethiopian Birr, instead of a pound. The Scope of Schedule A was clearer than the 1944 income tax law. Schedule A applied to salaries, wages, emoluments or personal compensation, and rents on property in a non-commercial setting (a composite of today's Schedule A and B income tax). It might be said that the 1949 income tax law was the first to explicitly refer to 'rental income' as a taxable source of income. Schedule B of the 1949 income tax law covered the same ground as that of the 1944 income tax law, except that the types of businesses subject to tax were now almost exhaustively listed (more than 70 overall). Each business category was further divided into seven classes (instead of the three classes under 1944 income tax law) for purposes of the application of a crude form of graduation. The income tax was presumptive over all, and not really based on income but on the type of business and the class into which the business falls. For example, a baker classified as 1st class was to pay 300 Birr annually while a baker classified as 7th class was to pay 25 Birr only. This, it will be noted, is a modern equivalent of standard income taxation for category C taxpayers. A classification of businesses into seven classes was to be made by a Commission set up in that same year.⁵⁶

Schedule C of the 1949 income tax law was a sur-tax like that of the 1944 law except that under the 1949 law importers and exporters were to be subject to withholding on the point of imports and exports at the rate to be fixed by the Ministry of Finance, which fixed the rates in regulations afterwards at 4% and 1% of the customs valuation for imports and exports respectively (the first such attempt at withholding at source).⁵⁷ The sur-tax for special class of Schedule B taxpayers was an additional tax rate of 10% upon income exceeding 100,000 Ethiopian Birr. An income tax amendment issued in 1954 eliminated the sur-tax of 1949 (eliminated Schedule C, at least temporarily) and reclassified importers and exporters under Schedule B⁵⁸, reducing the income tax system to two schedules.

The 1949 income tax law was of historical significance because it was the first piece of legislation to grant income tax exemptions to encourage investment. The 5-year income tax holiday, which became a standard tax incentive since

⁵⁶ See the Personal and Business Tax, 1949, Legal Notice No. 138, *Negarit Gazeta*, 9th year, No. 4

⁵⁷ See *id.*, Article 2(ii); the withholding tax rate was raised in 1952 by 1% for both imports and exports; see Legal Notice No. 164/1952, *Negarit Gazeta*, 11th year, No. 9

⁵⁸ See a Proclamation to Amend the Personal and Business Tax, 1954, Proclamation No. 144, *Negarit Gazeta*, 14th year, No. 2

then, was for the first time recognized in the 1949 income tax law (**for tax incentives, see below**).⁵⁹

It was as if the income tax system of Ethiopia needed change every five years. The 1949 income tax law was replaced by an Income Tax Decree in 1956.⁶⁰ The 1956 income tax law reorganized the schedules of the income tax as they were then known. Schedule A was narrowed down to income from employment, covering salaries, wages, pensions and other personal emoluments. Schedule B became income from rent of lands and buildings used other than for agricultural and cattle-breeding purposes. Schedule C was created to cover income from businesses, from professional and vocational occupations, from exploitation of wood and from all other sources not previously mentioned (in effect, Schedule C was a catch-all basket). Schedule C also subsumed a sur-tax, which was previously handled under a separate Schedule.⁶¹

For the first time, the 1956 income tax law introduced a monthly accounting system for schedule A tax (income from employment) and income brackets were created up wards from 30 Birr to the top of 1500 monthly income for purposes of computing the tax under this schedule. The accounting period for Schedule B and C income tax remained a year, up wards from 360 Birr to top of 18, 000 Birr. The 1956 income tax decree ended the classification of businesses into categories, except for small businesses that do not keep proper books of accounts. The taxable income of small businesses was to be estimated by the Ministry of Finance.⁶² All other businesses were to be subject to a single income tax rate table based on their taxable income.

Of all the early income tax laws, the 1956 income tax law strikes us as the most familiar, because it was really in that law that some of the most enduring substantive principles of Ethiopian income tax system were laid down. The content of the three Schedules (A, B and C) of the Ethiopian income tax have changed very little since the 1956 income tax law. The 1956 income tax law contained a long list of exemptions some of which are still with us today. For example, the exemptions for unskilled workers and members of the diplomatic community are traceable at least in part to the 1956 income tax law.⁶³

⁵⁹ See Proclamation No. 107/1949, cited above, Article 3(iii)

⁶⁰ Income Tax, 1956, Decree No. 19, *Negarit Gazeta*, 16th year, No. 1

⁶¹ See Proclamation No. 107/1949, cited above, Article 14

⁶² See Decree No. 19/1956, cited above, Article 43

⁶³ The current exemptions for unskilled workers and members of diplomatic community are traceable to the 1956 income tax law.

The 1956 income tax decree was replaced in 1961 by Proclamation No. 173/1961. The 1961 income tax law was a better known income tax law in modern income tax history because it remained in force for a long time – for more than 40 years until 2002, but the 1961 income tax law introduced very little to what the 1956 income decree did- in fact, close examination of the two laws reveals striking similarities between the two. Even in an area where one would expect some changes (e.g., tax rates), there was little difference between the contents of the 1956 income tax law and 1961 income tax law. It might be even stated that the 1961 income tax law was the 1956 income tax decree in the guise of a Proclamation. ⁶⁴

The 1961 income tax law turned out in the end to be one of the longest running tax laws in the book. In a manner of saying, the 1961 income tax law survived the vicissitudes of three Ethiopian regimes before it was finally repealed in 2002. Ironically, it wasn't a change of regimes but a tax reform undertaken independently of a change of government that finally became its undoing. It was the 2002 tax reforms that finally repealed the 1961 income tax law.⁶⁵

While the 1961 income tax law was clearly a survivor of many regimes, it survived only because it underwent too many amendments to count here. One of the notable amendments of the 1961 income tax law was the addition (incorporation) in 1967 of agricultural income taxation in the body of the main income tax system of Ethiopia. The agricultural income tax law of 1967 was added to the main body of the income tax system (for the first and last time, it turns out) when Emperor Haile Sellassie I issued an agricultural income tax law to repeal and replace the 1944 tax in lieu of tithe. The 1967 income tax law added income from agricultural activities as Schedule D of the 1961 income tax law, but, as pointed out above, this incorporation of agricultural income taxation was short-lived.

The aftermath of the 1974 Ethiopian Revolution had a major impact upon the structure and content of Ethiopian income tax system. The Revolution was directly responsible for tax reforms which removed two of the Schedules (B and D) of the 1961 income tax as well as for the major overhauls of the two remaining schedules at the time (A and C).

⁶⁴ The Emperor presented the 1956 income tax decree for approval because He was required by the Constitution of the time. It was the 1956 income tax decree which became the 1961 income tax proclamation when it was finally approved by the then parliament.

⁶⁵ See Income Tax, 2002, Proc. No. 286, *Federal Negarit Gazeta*, 8th year, No. 34

The first schedule to be affected was Schedule D – the tax on income from agricultural activities. Only recently added to the main body of the Ethiopian income tax system, the agricultural income tax system of the *ancien regime* was destined to become history as a consequence of the 1974 Ethiopian Revolution. The official repeal of Schedule D came in 1976 when Derg issued its own agricultural income tax law consistent with the new ideology.⁶⁶ This ended the brief incorporation of agricultural income taxes in the main body of the Ethiopian income tax system. The agricultural income tax system of Ethiopia has operated as autonomous tax regime since 1976, as it did prior to 1967.

Another casualty of the 1974 Revolution was Schedule B – which was a tax on income from rental of lands and buildings at the time. The 1975 Proclamation which abolished private ownership of urban lands and expropriated extra houses had the effect of abolishing Schedule B from the income tax system altogether. The 1975 law nationalized urban lands, which meant that there would no longer be any income from rental of lands. The 1975 law also outlawed rental of houses by any person, family or organization, except by the government itself.⁶⁷ The law specifically abolished lessor-lessee relationships⁶⁸ – one of the sources chargeable with income tax under Schedule B at the time. Although the 1975 law made no specific reference to the income tax law at the time, it was evident that there would be no rental income to be taxed after that.

The other schedules – A and C – were also affected by the changes spawned by the Ethiopian Revolution of 1974, but they did not suffer the kinds of fatal blows Schedules B and D suffered. The whole reform of the tax system at the time reflected the paradoxical approach of radically changing some parts of the income tax system while keeping the main framework of the system in place. In spite of the transformative changes to the income tax system, the framework of the income tax system of the Imperial period was maintained. In 1978, for example, the income tax law of 1961 underwent significant revisions both in its content (substance) and form.⁶⁹ The 1978 income tax law added schedule D – which remained vacant after agricultural income tax was removed from main income tax system – now with entirely new sources of income. The 1978 income tax law added hitherto unknown sources of income

⁶⁶ See Rural Land Use Fee and Agricultural Activities Income Tax, 1976, Proc. No. 77, *Negarit Gazeta*, 35th year, No. 19

⁶⁷ See Proclamation No. 47/1975, cited above, Article 20

⁶⁸ *Ibid*

⁶⁹ See a Proclamation to Amend the Income Tax, 1978, Proc. No. 155, *Negarit Gazeta*, 38th year, No. 3

and sources which were previously exempted under earlier income tax laws.⁷⁰ Unlike the other schedules of the income tax system, the new schedule contains an assortment of sources of income which are unified neither by their sources nor by the tax rates. For lack of a unifying name, the 1978 income tax law referred to these sources as 'miscellaneous' income. The new sources of income that became chargeable with tax were: income from games of chance (mostly lottery winnings), royalties from patents and copyrights, income from technical services rendered abroad, income from casual rental of property and dividends.⁷¹ The new sources of income, the circumstances leading to taxation and the tax rates are different for each new source of income chargeable under Schedule D. The only thing common among them (apart from the fact that they all fall under Schedule D) is that almost all the new sources were to be collected through withholding by intermediaries.⁷²

In addition to bequeathing new sources of income to the Ethiopian income tax system (and in the process broadening the base of the tax system), the 1978 income tax law gained some notoriety for raising tax rates (and burdens) to heights never reached before and after in the history of the Ethiopian income tax system.⁷³ The 1978 income tax law came at the height of socialism, when it was fashionable to view high income groups with suspicion, if not outright hostility. The 1978 income tax law raised the top marginal tax rates for individuals to as high as 89% (for businesses) and 85% (for employees). The tax law raised the tax rates for companies to a high of 50%, which was over and above the tax levied on dividends, which was 25% at the time. The tax rates on newly added 'miscellaneous' sources of income were not as high as the other sources but they were quite high: royalties (40%), income from technical services (10%), dividends (25%) and income from games of chance (10%).⁷⁴ The tax rates were quite high and the effective tax rates were considerably higher than the legal rates when we consider the fact that these tax rates were levied upon gross receipts.

The 1990s continued the piecemeal revision of the 1961 income tax law in spite of the changes of government and shifts of economic policy. The most notable developments of the 1990s in the area of income taxation were the re-

⁷⁰ The 1961 income tax law exempted 'income from dividends'; see Article 18 (f) of Income Tax Proclamation No. 173/1961 (now repealed).

⁷¹ See Income Tax Amendment Proclamation No. 155/1978, cited above, Article 2(7)

⁷² Ibid

⁷³ See, generally, Bekele Haile Selassie, "Salient Features of the Major Ethiopian Income Tax Laws," *Journal of Ethiopian Law*, vol. 15, 1992, p. 59

⁷⁴ The government was probably comparatively lenient on income from gambling because it had a monopoly over the administration of lottery.

introduction of 'income taxes on rental of buildings'⁷⁵ and the reduction of tax rates both for individuals and companies. The tax on 'income from rental of buildings' was introduced after a hiatus of 18 years. The reduction in tax rates was initiated by the Derg which during its waning days adopted some liberal policies towards private enterprises and investment.⁷⁶ Hence, in 1990, Derg reduced the marginal tax rates for individuals from the high of 89% to 59% and dividend tax rates from the high of 25% to 10%. After the change of government in 1991, the tax rates continued falling until they reached the current rates – 30% tax rates for companies and 35% top marginal rates for individuals.⁷⁷ The tax rates for miscellaneous sources of income also fell considerably: royalties (from the high of 40% to 5%), income from technical services (which remained the same: 10%), dividends (from the high of 25% to 10%). The only sources of income whose burdens appear to increase in the post 1990 period were income from games of chance (from 10% to 15%), interest from bank deposits (from 0 to 5%) and capital gains (from 0% to 15% and 30%). Income from interest on bank deposits was not mentioned as a source chargeable with tax until 2001 and capital gains were for the first time mentioned as sources chargeable with tax in 1994.⁷⁸ **(For more, see appendix 1 below)**

As alluded to before, the approach to income taxation may be described as one of incremental reform or revision in which an old tax law was maintained as the framework legislation and whatever changes needed were introduced as an amendment to the old piece of legislation. This approach is particularly dominant in the field of income taxation. Many seemingly radical transformations of the income tax system were paradoxically accommodated within the framework of the existing income tax system.

Whatever merits this approach might have, its downsides were palpable. The piecemeal revisions of existing income tax law/s became a major source of concern as uncertainties grew over which rules were in force and which rules were abrogated. Several pieces of legislation were in force at one time,

⁷⁵ See Income Tax (Amendment), 1993, Proc. No. 62, *Negarit Gazeta*, 52nd year, No. 54

⁷⁶ See Council of State Special Decree to Amend the Income Tax, 1990, Proc. No. 18, *Negarit Gazeta*, 49th year, No. 15, which reduced the tax rates for businesses from the high of 89% to 59%; see Income Tax Amendment, 1994, Proc. No. 107, *Negarit Gazeta*, 54th year, No. 3, which brought the tax rates down to 40% for Schedule A and C income tax groups

⁷⁷ See Income Tax Proclamation No. 286/2002, op cit, Articles 10, 15, and 19

⁷⁸ See Income Tax (Amendment), 2001, Proc. No. 227, *Federal Negarit Gazeta*, 7th year, No. 9; Payment of Tax on Gains from Capital, 1994, Proc. No. 108, *Negarit Gazeta*, 54th year, No. 4, Article 4

making the task of understanding the tax system extremely arduous for average taxpayers. There were times when it was necessary to read more than a dozen pieces of major legislations on income taxation alone to get a clear idea about the Ethiopian income tax system – and this without counting other subsidiary pieces of legislation like directives and internal manuals and memos.

When laws are revised haphazardly, it is inevitable that discrepancies arise among the different pieces of legislation, as reformers are more concerned about their revisions than the impact of their reform upon taxpayers in general. A byproduct of the piecemeal revision of taxes was the visible discriminatory treatment of various categories of taxpayers. This actually happened in the 1990s. The top marginal tax rate for taxpayers engaged in rental of buildings was 45% while the top marginal tax rate for taxpayers falling under Schedule A and C was 40%.⁷⁹ The income brackets among different schedules were not uniform either. The taxable income bracket (above the exemption floor) for Schedule A taxpayers started at 1400 ETB while for that of Schedule B and C taxpayers, it started at 1800 ETB.⁸⁰ The tax rate differentials as well as the disparate income brackets were largely the product of the piecemeal revision of income tax laws and were probably unintentional.⁸¹

These problems of income tax reform in Ethiopia became one of the major reasons why the Ethiopian Government undertook what might justifiably be called ‘comprehensive’ income tax reforms culminating with the passing of income tax laws in 2002. The 2002 income tax laws put an end to the incremental approach to revision of income tax laws and repealed all previous income tax laws in force up to that time, except the autonomous income tax regimes in agriculture and mining sector.⁸²

The 2002 income tax laws introduced many changes to the Ethiopian income tax system, one of which was the implementation of uniform tax rates and income brackets for different categories of taxpayers subject to income tax under the main income tax system.⁸³ Nonetheless, the 2002 tax laws retained

⁷⁹ See Proclamation No. 62/1993, cited above, Article 2(3), and Proclamation No. 107/1994, cited above, Articles 2(2) and 2(3)

⁸⁰ See Proclamation No. 62/1993, cited above and Proclamation No. 107/1994, cited above

⁸¹ See Taddese Lencho, **Income Tax Reforms of 2002: An Appraisal of some Substantive Principles**, a manuscript in author’s possession

⁸² See Income Tax Proclamation No. 286/2002, op cit, Article 119

⁸³ For more on this and critique of the reforms, see Taddese Lencho, *supra note 81*.

the schedular structure of Ethiopian income tax system and introduced very little to the content of the existing schedules.

In terms of modernization of the income tax system, the 2002 income tax laws must stand head and shoulders above all of the previous income tax reform attempts in Ethiopia. The 2002 income tax laws succeeded in bringing together scattered pieces of income tax legislation in a single body of principal income tax laws (a proclamation and regulations) –although the situation has since then unfortunately gone back to the bad habits of the old times.⁸⁴ The 2002 income tax reforms have also introduced some modern principles of income taxation, such as the extension of Ethiopian income tax jurisdiction over the worldwide income of residents, the insertion of provisions to combat avoidance of income taxation and, and special sections and rules on income tax accounting.⁸⁵ Most of these reforms are of symbolic significance only as the Ethiopian Tax Administration has yet to create the capacity to implement some of the modern-sounding principles of income taxation on the ground.

4. Special Income Tax Regimes: Petroleum and Mining Income Taxes

For much of the modern history of income taxation, only the agricultural sector charted its own autonomous course of history of income taxation in Ethiopia (the exception, as previously noted, was the period between 1967 and 1975, when agricultural income taxes were incorporated into the main body of Ethiopian income tax system). Many economic sectors were the subject of special government regulations in Ethiopia, but these special treatments never spilled over into taxation. For example, the exploration and extraction of minerals attracted special government regulation and attention since 1971 but the main income tax system continued to apply to this sector with minor adjustments.⁸⁶

In 1986, the immense wealth to be had from petroleum extraction prompted the Ethiopian Government to fashion special incentive schemes for those involved in the exploration and extraction of petroleum in Ethiopia.⁸⁷ In that

⁸⁴ See Income Tax (Amendment), 2008, Proc. No. 608, *Federal Negarit Gazeta*, 15th year, No. 15

⁸⁵ See Income Tax Proclamation 286/2002, cited above, Articles 2(4) (5), 3-5, 22, 23, 29, 59-63

⁸⁶ The tax rate applicable to the mining income was 51%, a much higher rate than the regular income tax rate at the time; see Article 4(1) of Proclamation No. 282/1971.

⁸⁷ Wondemagegnehu G. Selassie, "Mining and Development: an Overview of the Ethiopian Experience Within the Context of Mining Laws," *Ethiopian Bar Review*, Vol. 2, No. 2, March 2008

year, the Ethiopian Government issued a proclamation to impose tax on petroleum operations along with a law that purported to regulate the operation of petroleum explorations in the country.⁸⁸ The main objective of this law was not to raise revenues but to respond to the special characteristics of petroleum explorations, thus encouraging investment in the area. The 1986 petroleum operations law states that the issuance of a special law regulating petroleum exploration would foster petroleum infrastructure and develop domestic expertise in the area of petroleum explorations.⁸⁹ The preamble of the 1986 petroleum income tax law strengthens this by stating that the 'nature of petroleum operations calls for special law to regulate income tax thereon'. And the special rules to regulate become immediately clear when we read the provisions of this income tax law. The accounting / tax year is different from the tax year under the main income tax laws – Gregorian calendar – perhaps recognition of the fact that the exploring companies would be foreign owned concerns. There was a long list of special definitions as it is to be expected befitting such special law. There are special rules on the meaning of taxable income, deductions, capital expenditure and valuation, among others. The applicable tax rate at first was 50% at the organization level, but the distribution of dividends was exempted from income tax.⁹⁰ A definition of taxable income in this special income tax law is different from what we are used to in other income tax laws. The 1986 petroleum income tax law defines 'taxable income' as the value of all petroleum produced and saved in accordance with special agreement between contractor and the government'.

In general, the petroleum income tax law was not intended to generate revenues from existing activities but to encourage investment in the field of petroleum exploration by providing for special benefits and incentives through the tax system. It was perhaps in response to the specific request of petroleum exploration companies that demanded some guarantees through special tax regimes for their activities.

Another special income tax regime joined the Ethiopian income tax system in 1993, when a special mining law and an income tax law were issued.⁹¹ The

⁸⁸ See Petroleum Operations Income Tax, 1986, Proc. No. 296, *Negarit Gazeta*, 45th year, No. 7; and Petroleum Operations, 1986, Proc. No. 295, *Negarit Gazeta*, 45th Year, No. 6

⁸⁹ See the preamble of Petroleum Operations Proclamation No. 295/1986, cited above

⁹⁰ The tax rate has since fallen to the current rate of 30%; see A Proclamation to Amend the Petroleum Operations Income Tax, 2000, Proc. No. 226, *Federal Negarit Gazeta*, 7th year, No. 8

⁹¹ See Mining Proclamation, 1993, Proc. No. 52, *Negarit Gazeta*, 52nd year, No. 42 and Mining Income Tax, 1993, Proc. No. 53, *Negarit Gazeta*, 52nd year, No. 43

1993 mining income tax law has *sui generis* rules for businesses engaged in exploration and extraction of minerals. The tax rate at the time of its introduction was 35% for small-scale mining activities and 45% for large-scale mining activities.⁹² The mining income tax law has, like the petroleum income tax law, special definitions for taxable income, gross income, revenue expenditure, depreciation, reinvestment deduction and permitted losses.⁹³ All these rules are different from comparable situations under the main income tax law. To mention some of the special rules that apply to mining activities, the mining income tax law permits depreciation allowance at a straight-line deduction over the useful life of all capital expenditures and pre-production costs for four consecutive years.⁹⁴ The mining income tax law also allows deduction of 'reinvestment' income (5% of the gross income of the mining company) if the company wishes to reinvest its profits, and more importantly, there are rules for deduction of financial losses and physical losses, in the former case allowing the mining company a carry-forward of its losses for ten consecutive accounting years.⁹⁵ While the petroleum income tax law exempted dividends,⁹⁶ the 1993 mining income tax law imposes 10% tax on dividends.⁹⁷ Since the 1986 petroleum income tax has not been repealed, companies engaged in petroleum operations may take advantage of the exemption provisions therein. All indications are that the mining income tax law, like its predecessor, the petroleum income tax, was intended primarily to encourage investment in the mineral extraction sector rather than to generate revenues for the government.

The differences between the petroleum and mining income tax laws seem trivial and accidental on closer examination. The two tax regimes reveal substantial similarities, and if anyone is paying attention, it may be appropriate to merge the two tax regimes and issue a new tax law for mining sector, including petroleum extractions (**for timeline of special income taxes, see appendix 2 below**).

5. Provisional Income Taxes

Governments are never as inventive in their fiscal policies and instruments as in times when they are strapped for money, such as in times of war and economic crisis. The history of taxation throughout the world is a testament

⁹² See Mining Income Tax Proclamation No. 53/1993, cited above, Article 4

⁹³ See *id.*, Articles 4, 7, 8, 9 and 10

⁹⁴ See *id.*, Article 8

⁹⁵ See *id.*, Article 10 and compare that with Article 28 of the Income Tax Proclamation No. 286/2002, cited above

⁹⁶ See Proclamation No. 296/1986, cited above, Article 12

⁹⁷ See Proclamation No. 53/1993, cited above, Article 12(2)

to the tremendous creative energy governments unleash in their search for new sources of revenue during times of crisis. Some of the taxes that we take for granted today were introduced in times of crisis. Income taxes are today recognized throughout the world as popular sources of revenue for governments but it is often forgotten that these taxes were first introduced by England in order to ease its financial burden as a result of the ongoing war with Napoleon at the time.⁹⁸ The United States first experimented with the income tax during the American Civil War and later returned to this tax as one of its major sources of revenue today.⁹⁹

In the Ethiopian tax history, temporary taxes are not unheard of – although we may disagree upon what names we should give these taxes. One such tax is the so-called ‘contributions’ law of 1988. This law was issued at a time when the Government was hard-pressed for money by war particularly in the northern parts of the country. It had a long title – ‘Contributions for the unity and territorial integrity of the Motherland Council of State Special Decree’.¹⁰⁰ The contributions law of 1988 covered virtually everybody – employees, pensioners, peasants, companies, professionals, Ethiopian nationals living abroad, producers’ cooperatives, lottery winners, urban dwellers, agricultural service cooperatives, thrift and credit associations, public enterprises, and the National Bank of Ethiopia. Although it was called a ‘contribution,’ there was little doubt that this was an additional tax. The use of the word ‘contribution’ was a pure rhetorical device to stir some patriotic feelings in time of war. The contribution law imposed tax primarily on the basis of income. Employees, pensioners, and peasants were to pay an amount equal to one month of their income payable in 12 equal installments. The tax rates were not proportional at all. Some classes of taxpayers were subject to heavier tax rates than others. For example, persons engaged in petroleum trade and commission agency were to pay 15% of their total assessment annual income, thrift and credit associations to 25% of their total assessment annual income and public enterprises to 10% of the amount transferred to their general reserves. The 1988 ‘contribution’ law may be cited as a legislative example of temporary taxes but it is a matter of public knowledge that these kinds of contributions in Ethiopia are intermittent sources of public revenues in times of great crises like famine and the initiation of public projects, the latest prominent example of which is the ‘the Renaissance Dam’ on the Abay River.

⁹⁸ See Edwin R. A. Seligman, **The Income Tax, A Study of the History , theory and practice of income taxation at home and abroad**, The Macmillan company, 1911

⁹⁹ Ibid,

¹⁰⁰ See Contribution for the Unity and Territorial Integrity of the Motherland Council of State Special Decree, 1988, Decree No. 2, *Negarit Gazeta*, 47th year, No. 21

6. Excise and Sales Taxes

a. Excise Taxes

Excise – A hateful tax levied upon commodities, and adjudged not by the common judges of property, but wretches hired by those to whom excise is paid.

Samuel Johnson¹⁰¹

Excise taxes are indirect taxes ‘imposed upon the production or sale of particular commodities or related groups of commodities’.¹⁰² Excise taxes are nothing but sales taxes imposed on a limited category of goods.¹⁰³ Excise taxes were one of the first modern taxes to be spotted by the Ethiopian Government as potential sources of revenue. Some excise taxes had already been introduced before the Italian occupation targeting goods that were considered luxuries or primary exports at the time.¹⁰⁴ Before the Italian occupation, selective excise taxation was introduced in 1931 targeting products like alcoholic drinks, cigarettes, incense, carpets and wear.¹⁰⁵ This tax was introduced for the specific purpose of financing the purchase of Bank of Abyssinia, which was under the British concern at the time.¹⁰⁶

In the post-Italian period, excise taxes became one of the first taxes to be introduced – they at least preceded general sales taxes by more than a decade. This is hardly surprising. Excise taxes, as selective taxes or production taxes, are much easier to administer than sales taxes with application on broad range of goods. The nascent Ethiopian tax administration at the time pursued a prudent policy of first introducing taxes on selective goods and then later extending the net to cover larger number of goods.

The first target of excise taxation was tobacco – in 1942. In that year, the Government asserted a state monopoly over the ‘manufacture, purchase,

¹⁰¹ Quoted in Ben J. M. Tarra, ‘Excises’, in Victor Thuronyi, **Tax Law Design and Drafting**, International Monetary Fund, vol. 1, 1996, p. 146

¹⁰² Babak A. Rastogoufard, “Too Much Smoke and Not Enough Mirrors: the Case Against Excise Taxes and for Gasoline Taxes,” **Urban Lawyer**, vol. 36, 411, Summer 2004

¹⁰³ Excise taxes are typically imposed at the producers’ or manufacturers’ level, but some countries also impose excise taxes at the retail level (e.g., the US imposes gasoline taxes at the retail level); see Victor Thuronyi, **Comparative Tax Law**, (2003), Kluwer Law International, p. 58

¹⁰⁴ See Bahru Zewde, *supra note 2*, pp. 114-115

¹⁰⁵ Bahru Zewde, “Relations between Ethiopia and the Sudan on the Western Ethiopia Frontier,” 1976, 301, quoted in Eshetu Chole, *supra note 11*, p. 72

¹⁰⁶ Bahru Zewde, 1976, 301, quoted in Eshetu Chole, *supra note 9*, p. 72; Bahru Zewde, *supra note 2*, p. 115

preparation, sale, import and export of tobacco.¹⁰⁷ The 1942 law also established a Tobacco Monopoly Board, which was empowered to license tobacco production and, more importantly, to collect taxes, a proportion of which was to go to the Ministry of Finance as general revenue.

The second targets of excise taxation were alcohol and alcoholic products – in 1943.¹⁰⁸ The excise duty of 1943 levied *ad-rem* duties upon the production of alcohol, and befitting the nature of the tax, the amount of duty depended upon the alcoholic content and concentration of an alcoholic product.¹⁰⁹ The excise tax regime on alcoholic products went beyond taxation of alcohol and alcoholic products. A series of regulations were successively issued in the 1940s, some with a view to regulating the production of alcohol in the country, and others with a view to regulating the licensing and warehousing of alcoholic production.¹¹⁰ At first, alcohol excise duties were limited to foreign produced alcoholic products but these duties were later extended in the mid 1950s to locally produced wine and bar beverages.¹¹¹ But these alcohol excise duties prudently relieved the production of *tej* and *tella* (traditional alcoholic beverages) from the payment of excise duties.¹¹² It would have been administratively impractical to levy excise duties on these products as they are produced in innumerable households with no attachment to modern commercial establishments. Although not mentioned in name, the omission of '*chat*' (a mildly addictive chewable plant) from the list of products subject to excise duties must have been motivated by the traditional nature of '*chat*' production in Ethiopia. As part of the excise tax regime, the taxation of alcohol and tobacco production is usually accompanied by warehousing obligations.¹¹³ It is administratively easy (or at

¹⁰⁷ A Proclamation to Establish A State Monopoly in Respect of Tobacco, Matches, and Pocket Lighters, 1942, see Article 3, Proc. No. 30, *Negarit Gazeta*, 2nd year, No. 2

¹⁰⁸ Alcohol Excise Duty, 1943, Proc. No. 40, *Negarit Gazeta*, 2nd year, No. 10

¹⁰⁹ See the Alcohol Excise Duty rules, 1943, Legal Notice No. 23, *Negarit Gazeta*, 2nd year, No. 10

¹¹⁰ See Alcohol Excise Duty, 1944, Proc. No. 51, *Negarit Gazeta*, 3rd year, No. 6; Legal Notice No. 44/1944, *Negarit Gazeta*, 3rd year, No. 6; Legal Notice No. 108/1947, *Negarit Gazeta*, 7th year, No. 3; Proclamation No. 108/1949; Legal Notice No. 129/1949, *Negarit Gazeta*, 8th year, No. 12; Legal Notice No. 130/1949, *Negarit Gazeta*, 8th year, No. 12

¹¹¹ See A Decree to Provide for the Payment of Federal Alcohol Consumption Tax, 1956, Proc. No. 18, *Negarit Gazeta*, 18th year, No. 13; Legal Notice No. 203/1956, *Negarit Gazeta*, 18th year, No. 13

¹¹² See a Decree to Provide for the Payment of Federal Alcohol Consumption Tax, 1959, Article 17, Proc. No. 33, *Negarit Gazeta*, 18th year, No. 17

¹¹³ Alcohol producers are required to obtain special license for alcoholic production and to construct bonded warehouses approved by the Tax Authorities.

least manageable) to enforce warehousing obligations upon alcohol and tobacco producers – since the producers employ modern technology of organized production. It is extremely difficult to enforce warehousing regulations on the production of traditional products like *tej*, *tella* and *chat*.¹¹⁴

In 1948, another species of excise taxation was added to the excise tax regime of Ethiopia – Highway Renovation Tax.¹¹⁵ The Highway Renovation tax targeted one type of product – petrol – as a way of raising revenues for and recovering expenses of highway maintenance and construction. Petrol was selected as a target because of its close functional affinity with roads. Those who used highways used petrol to drive around. It is only appropriate that they were made to foot the burden of highway maintenance and construction. To convey the message that the tax was levied for purposes of raising revenues for highway maintenance and construction, the 1948 law prescribed the setting up of a special account called ‘Highway Renovation Account’ to which the proceeds from the tax were to go. The law instructed the Ministry of Finance to disburse from the account amounts for contracts signed by the Ministry of Public Works and Communications (at the time the public body in charge of highways).¹¹⁶ It was clear that the construction of roads and highways was one of the major public work priorities of the Government at the time as the Ethiopian Government introduced a road tax in the same year, which was enforceable as a road toll on major highways. The road tax law of 1948 empowered the Ministry of Communications to specify highways upon which the road toll was to be imposed, and the rate of taxation was to be determined for every 100 kilometers of road used.¹¹⁷

¹¹⁴ See the Customs Revised Import and Export Regulations, 1951, Legal Notice No. 153, *Negarit Gazeta*, 10th year, No. 8; incidentally, chat was the subject of other types of taxes from a fairly early period in the modern tax history of Ethiopia. It was a subject of export taxes since 1951(see below), and income taxes since 1987. The 1987 income tax law required payment of tax by any person ‘possessing, carrying, or otherwise handling chat for sale or destined for sale’. The chat tax is today enforced by both the Federal Government and the Regional Governments, collected usually at certain points of entry of chat into the market (called *kella* or toll booths).

¹¹⁵ A Proclamation to Provide for the Renovation of Highways, 1948, Proc. No. 103, *Negarit Gazeta*, 8th year, No. 4

¹¹⁶ *Id.*, Article 6

¹¹⁷ Although, it was not clearly indicated in the law as to how the tax was to be collected, it would certainly have required installment of toll-booths on highways selected for collection of road tolls. Motor cars were to pay 0.25 Birr while other vehicles were to pay varying rates depending on their loading capacity. Those who used vehicles which do not normally use roads (e.g. tractors) needed to pay specified fees and special permit from the Ministry of Communications to be able to use roads. The road tax of 1948 exempted all vehicles of Ministry of Public Works from the road

The highway renovation tax, as well as the road tax, of 1948 was seen as one source of revenue for construction and maintenance of highways. It was evident that the proceeds from these taxes were never going to be sufficient to cover the enormous costs of road construction and maintenance in a country with an extremely low density of highways. This was in any case made very clear in the laws when it was stated that the tax would not alter the normal budgetary allocation for construction of highways.¹¹⁸

The 1948 Highway Renovation Tax established some important principles of taxation, which were sadly discarded in later developments of taxation in Ethiopia. The first principle is the principle of transparency of aims and objectives of taxation. The 1948 tax law was transparent not only in the use of the expressive name - 'highway renovation tax',¹¹⁹ but also in the specification of the objectives for which the tax was imposed - which was to cover the costs of highway maintenance and construction.

In the 1940s and early 1950s, excise taxes were faithful to the traditional tax policy objectives of excise taxes.¹²⁰ We observe this admirably reflected in the alcohol and tobacco excise taxes of 1940s and 1950s and the highway renovation tax of the 1948. However frequently the government revised the tax laws, we can see that the excise tax regimes were broadly faithful to the textbook version of excise taxation. Excise taxes as instruments for discouraging consumption of harmful products were admirably reflected in alcohol and tobacco excise taxes. Excise taxes as benefit taxes were also reflected in highway renovation taxes. With respect to benefit excises, the policy considerations were faithfully adhered to until the late 1960s when the laws in this regard took care to exempt petroleum not destined for highways. The 1967 petroleum excise tax, for example (the successor to the highway

tax. The 1948 road tax was the only known toll law in Ethiopian tax history; See Road Tax Proclamation, 1948, Proc. No. 98, *Negarit Gazeta*, 7th year, No. 8

¹¹⁸ A Proclamation to Provide for the Renovation of Highways No 103/1948, cited above, Article 7

¹¹⁹ In this regard, the 'Highway Renovation' Tax of 1948 shares the plaudits with some other taxes that came out during the same period, namely the Education Tax of 1947 and the Health Expenditure Tax of 1959 (*see above*)

¹²⁰ According to Cnossen, excise taxes are distinguished by their selectivity in coverage, discrimination in intent and some form of quantitative measurement in determining tax liability; see Sijbren Cnossen, *Excise Systems* (1977), quoted by Ben J. M. Terra, *Excises*, in Victor Thuronyi (ed.), **Tax Law Design and Drafting**, International Monetary Fund, vol. 1, 1996, p. 248; see also John F. Due and Ann F. Friedlaender, **Government Finance, Economics of the Public Sector**, 2002, pp. 390-402; Ward M. Hussey and Donald C. Lubick (eds.), **Basic World Tax Code and Commentary**, Harvard University International Tax Program, 1992

renovation tax), exempted petroleum destined for use by the navy, railways, and industries.¹²¹

As an earmarked tax, the ‘highway renovation’ tax of 1948 could have served as a model for some other taxes, which should be earmarked given the aims for which these taxes are introduced in the first place. In other tax systems, the idea of earmarking a tax is not confined to benefit excises as such. We see some countries earmarking excise taxes on alcohol, tobacco, and other harmful products like asbestos. In the US, for example, excise tax proceeds imposed on coal mining are set aside for the benefit of miners who suffer from black lung cancer – an ailment associated with coal mining.¹²² The proceeds from the excise duties on coal mining go to a special account called “Black Lung Disability Trust” from which disbursements are made to take care of those afflicted by black lung cancer.¹²³ Similarly, the proceeds from excise taxes on cigarettes are placed in a special account to benefit those who suffer from cigarettes smoking.¹²⁴ In Ethiopian tax history, the Highway Renovation, education and health taxes were the only taxes that were earmarked for the purposes for which the taxes were introduced in the first place. The wisdom of earmarking could have been extended to excise taxes on cigarettes, alcohol and some other harmful products. The idea of earmarking seems to have been completely abandoned as the requirements for earmarking faded from the later amendments of petrol taxes and as the education and health taxes were repealed. The production and import of products like alcohol, cigarettes and some other products out there has become just an excuse for raising additional revenues from these products.

From the middle of the 1950s and increasingly after that, Ethiopian Governments began to see excise taxes not merely as instruments of specific public policy but also as sources of easy revenues. Hence, we had an excise tax regime targeting salt in 1955.¹²⁵ The aim of this tax –which incidentally continues to this day – is revenue generation, although some people might argue that the aim is to discourage consumption of salt (a harmful product?).¹²⁶ Although some variety of salt can be harmful to health (and

¹²¹ See a Proclamation to Provide for Payment of Excise Tax on Petroleum Products and Lubricants, 1967, Proc. No. 249, *Negarit Gazeta*, 26th year, No. 14

¹²² Federal Tax Course, CCH 1999 CCH Incorporated p. 124

¹²³ *Ibid*

¹²⁴ *Ibid*

¹²⁵ See a Proclamation to Amend the Federal Tax Proclamation, 1955, Proc. No. 146, *Negarit Gazeta*, 14th year, No. 19

¹²⁶ Initially, those people who argue that the taxation of salt has something to do with it being ‘harmful’ product may have a point. The first salt tax law of 1955 imposed

therefore an occasion for excise taxation), the taxation of salt in Ethiopian context remains to be predominantly motivated by the desire to generate additional revenues from an easy target – i.e., the collection of salt tax in places where salt is mined (mainly in the Afar Region- *Afdera*).

In 1956, the excise tax regime was unabashedly deployed to target unconventional but easy targets of excise taxation. The 1956 excise tax law extended the reach of excise taxes to widely consumable goods like sugar, yarn of cotton and textile fabrics.¹²⁷ And a year later, the net of excise taxes was widened to target locally produced goods like eucalyptus trees, stones, chalk, sand, jewelry and coal – clearly indicating the aim of the government to use excise taxes as means of generating additional revenues.¹²⁸ Another excise tax, introduced in 1960, further broadened the regime of excises, with taxes then levied on building materials like planks and rafters produced at sawmills, tiles and bricks.¹²⁹ This period represented a moment of unprecedented expansion for excise tax regimes in Ethiopia.

Luckily, some of these extensions of the excise tax regime beyond the traditionally ‘excisable’ products did not meet with approval with the then parliament. The excise taxes on local products like eucalyptus trees and stones and the excise taxes on building materials were rejected by the then parliament when the government presented them for approval in 1963.¹³⁰ The excise taxes on goods like eucalyptus trees, stones and sand and the excise taxes on building materials have never been revived again after the disapproval of the then parliament. However, these setbacks never seemed to dampen the appetite of Ethiopian governments over the use of excise taxes as sources of additional revenues from selected products out there. In the same year when ‘building materials’ excise taxes were turned down by the then Parliament, the Government succeeded in getting approval for an excise tax regime that targeted widely consumable goods like sugar, cotton and textile

differential rates of tax based on the ‘foreign elements’ of salt and exempted from salt tax salt used for dressing hides and skins and salt used for the preparation of canned meat. These provisions seem to suggest that the aim was at least in part to discourage the consumption of salt. As in other areas of excise taxation, these aims were lost in later revisions of these taxes. ; see Salt Tax Regulations, 1962, Regs. No. 254, *Negarit Gazeta*, 21st year, No. 9

¹²⁷ See Federal Excise Tax Decree, 1956, Decree No. 16, *Negarit Gazeta*, 15th year, No. 11; and Federal Excise Tax Regulations, 1956, Regs. No. 205, *Negarit Gazeta*, 16th year, No. 1

¹²⁸ See Local Products Excise Tax, 1957, Decree No. 1, *Negarit Gazeta*, 17th year, No. 1

¹²⁹ See Building Materials Excise Tax, 1960, Decree No. 41, *Negarit Gazeta*, 19th year, No. 11

¹³⁰ See Notice of Disapproval No. 1/1963

fabrics –which were already in force since 1956 in the form of decrees.¹³¹ Unlike the excise taxes on building materials, the excise taxes on sugar and textile products have been so well-established in the Ethiopian excise tax regime as to become part of the ‘tax canon’ of Ethiopian excise taxation. The policy justification for levying excise duties upon these products may be tenuous, but this has not prevented Ethiopian governments from continuing to view these as legitimate targets of excise taxation.

Excise taxes are some of the most frequently revised tax laws in the books, most for purposes of revising the tax rates. By 1960s, the products upon which Ethiopian excise taxes were levied seemed to be clearly established and the tax regime has stabilized by and large since then. We could clearly discern at least four categories of excise taxes since 1960s.¹³² There are excise taxes on products selected for sumptuary purposes (e.g., sumptuary excises on alcohol, tobacco, and asbestos). There are also the so-called ‘benefit’ excises imposed upon petroleum and kindred products to recoup the costs of road construction and maintenance. And thirdly, we have so-called luxury excises imposed on luxury items like watches, jewelry and vehicles. And fourthly, we have ‘revenue’ excises levied upon widely consumable goods like sugar and textile products.¹³³

These four categories were clearly distinguishable particularly until the end of the 1980s as excise tax laws were issued separately for all the four categories. We had therefore excise taxes separately for tobacco, alcohol, for petroleum products and lubricants, for widely consumable goods like sugar and textiles and for luxuries. Some of these tax laws were identified by the products upon which the excise taxes were to be imposed – e.g., as alcohol excise taxes, petroleum and lubricants excise taxes, while others were simply known by the generic name ‘excise taxes’.¹³⁴

¹³¹ See a Proclamation to Provide for Payment of Excise Tax, 1963, Proc. No. 204, *Negarit Gazeta*, 22nd year, No. 17

¹³² For classification of excise taxes, please see Due and Friedlaender, *supra note* 120, pp. 390-402

¹³³ Like all classifications, these classifications are not watertight. Due and Friedlaender identify four different excise tax categories: excises designed to improve efficiency in the use of resources (sumptuary excises), excises in lieu of charges (benefit excises), excises for general revenue, and miscellaneous excises; see Due and Friedlaender, *supra note* 120, pp. 391-402

¹³⁴ See, for example, a Proclamation to Provide for the Payment of an Excise Tax on Alcohol, 1965, Proc. No. 217, *Negarit Gazeta*, 24th year, No. 10, which applied obviously to alcohol and alcoholic products; a Proclamation to Provide for the Payment of Excise Tax on Petroleum Products and Lubricants, 1967, Proc. No. 249, *Negarit Gazeta*, 26th year, No. 14; and compare them with a Proclamation to Provide

Separate legislation of excise taxes (as if to stress their specific and select character) came to an end with the issuance of a consolidated excise (and sales) tax law in 1990.¹³⁵ The consolidation of 1990 clearly made excise tax laws accessible. Almost by single stroke, the 1990 tax law brought together the previously separate pieces of legislation on excise taxes, alcohol excise taxes, petroleum products and lubricants excise taxes, salt tax, and transaction taxes.¹³⁶

However, the consolidation of excise tax regimes (while commendable on accessibility grounds) may have relegated the policy considerations which made excise taxes relevant in the first place. Excise taxes are nowadays virtually indistinguishable from other forms of taxes except for the fact that all the products that are subject to excise taxes are listed in a schedule.

Later developments of the excise tax regimes of Ethiopia abandoned the policy considerations altogether. Petroleum continues to be the subject of excise taxation but the proceeds are no longer placed in a special account as in the early modern period, which means that the proceeds might be used for general government services.¹³⁷ Various types of alcoholic products also continue to be the subject of excise taxation even when these products are destined for desirable objectives, like the use for treatment in hospitals.¹³⁸

for the Payment of Excise Tax, which with that generic name applied to widely consumable goods like sugar, yarn of natural cotton and textile fabrics; see a Proclamation to Provide for the Payment of Excise Tax, 1963, Proc. No. 204, *Negarit Gazeta*, 22nd year, No. 17.

¹³⁵ See Sales Tax Council of State Special Decree, 1990, Decree No. 16, *Negarit Gazeta*, 49th year, No. 11

¹³⁶ The 1990 law repealed the Excise Tax Proclamation No. 204/1963; the Alcohol Excise Tax Proclamation No. 217/1965; the Petroleum Products and Lubricants Excise Tax Proclamation No. 249/1967, the Federal Salt Tax Proclamation No. 144/1955 and the Transaction Tax Proclamation No. 205/1963; see Article 3 of Decree No. 16/1990, cited above.

¹³⁷ There is, incidentally, an intention to revive the practice of earmarking some taxes for the construction and maintenance of roads, as can be gathered from the reading of the Road Fund Proclamation of 1997. This Proclamation lists the sources of this Fund, one of which is the so-called 'Road Maintenance Fuel Levy'. The Proclamation authorizes the Council of Ministers to issue regulations for this levy, but no such regulations have been issued so far; see Road Fund Establishment Proclamation, 1997, Articles 5 and 5, Proc. No. 66, *Federal Negarit Gazeta*, 3rd year, No. 24

¹³⁸ The 1990 Excise Tax Law, for example, charges alcohol destined for 'medical, industrial, scientific or technical purposes' with an excise tax rate of 239%, a little less than alcohol destined for beverages, which is chargeable with 267%; see Schedule A of Decree No. 16/1990; Compare the Schedules of Ethiopian Excise Tax Proclamation with the list of items subject to excise taxation in the Basic World Tax Code; more

The reason for all of these developments is that the recent excise tax laws of Ethiopia no longer contain provisions that enjoin the government to earmark the proceeds or exempt the products when they are used for desirable goals. In sum, excise taxes have become taxes by a different name.

The other controversial development of excise taxes is the use of excises as revenue generation schemes. The imposition of excise taxes on sugar, salt and textile products has no other explanation (in Ethiopian context) than the generation of easy revenues from easily accessible products out there. The burden on these products has not been relieved even in times when there is scarcity of these products in the market. We can also take issue with the list of so-called luxury items in the Ethiopian excise tax regime. The import and production of vehicles attracts excise taxation regardless of the make of the vehicle.¹³⁹ Contrary to the nature of conventional excise taxes (which are normally used as fiscal tools for discouraging harmful products in the market), the excise tax regime on vehicles has the unintended consequence of recycling old vehicles in the market, with deleterious consequences upon the environment. The heavy excise duties upon imported vehicles force consumers to opt for the less environmentally friendly used cars. Sometimes, the excise tax rates defy reason. There was a time when the import of four-wheel drive vehicles carried 20% excise tax rate when other types of cars attracted as much as 100%.¹⁴⁰

In general, excise tax regimes have become the first taxes to turn to whenever governments feel under pressure to raise extra revenues from selected products. The 1990 excise tax law is a case in point in this regard. This tax law- which incidentally came out when the government was waging civil wars in the north- came close to being a general sales tax law, with excises levied on not just the conventional excise target goods like tobacco and alcohol, but also on products like sandals, boots, vermin traps, advertising models, goods imported by hotels, chemicals and reagents, and flour and agricultural products (**see appendix 3 below**).

than half of the items subject to excise taxation in Ethiopia are not mentioned in the Basic World Tax Code; the Code mentions alcoholic products, tobacco products and motor vehicles as subject to excise taxation; see Ward M. Hussey and Donald C. Lubick (eds.), **Basic World Tax Code and Commentary**, Harvard University International Tax Program, 1992, pp. 119-127.

¹³⁹ See Schedule D of Sales and Excise Tax Proclamation, 1993, Proc. No. 68, *Negarit Gazeta*, 52nd year, No. 61

¹⁴⁰ See the Schedule attached to Proclamation No. 68/1993 (now repealed), cited above

Since the consolidation of disparate excise taxes in the 1990s, the Ethiopian excise tax regime maintained a unified body. With the exception of revisions involving tax rates, the substance of excise tax regime has remained largely unchanged in the 1990s and 2000s. Excise taxes formed part of the comprehensive tax reform package of 2002, but though the law changed, the tax reforms actually changed very little about the existing excise tax regime at the time.¹⁴¹

b. Transactions Taxes/Sales Taxes

General sales taxes were comparatively late comers onto the scene of Ethiopian tax system. General sales taxes apply to a wide range of supplies of goods and services compared to excise taxes, which are limited in application. As a result, general sales taxes are comparatively more difficult to administer. That explains why the Ethiopian Government waited until 1954 to introduce a general sales tax law and even then a sales tax law with limited application. In that year, the Government introduced what it called 'Federal Tax' to be levied on imports and exports of goods in general.¹⁴² At first reading, the 1954 Federal Tax law may be difficult to pin down for taxonomists. The law uses a generic name 'federal tax' which says little about the nature of the tax. Even more puzzling is that the 1954 Federal Tax Law applied on imports and exports. We may be inclined to call it a tax on imports and exports as result, but since Ethiopia had already had customs duties by that time, it is fair to conclude that the 1954 law was the first general sales tax law in Ethiopia.¹⁴³ In any case, since the 1954 law replaced

¹⁴¹ See the Turnover Tax, 2002, Proc. No. 308, *Federal Negarit Gazeta*, 9th year, No. 21, and compare it with Sales and Excise Tax, 1993, Proc. No. 68, *Negarit Gazeta*, 52nd year, No. 61, which it replaced

¹⁴² See Federal Tax Proclamation, 1954, Proc. No. 143, *Negarit Gazeta*, 14th year, No. 2; by the way, the prefix 'federal' is a reference to the Federation of Ethiopia with Eritrea at the time; it is sometimes difficult to label some taxes in the early period as 'this' or 'that' type of tax. This is to be expected – governments, under pressure to raise revenues, are more interested in how revenues are raised than what experts would call their taxes.

¹⁴³ At the time of the introduction of federal tax in 1954, Ethiopia had already had an import and export duties law preceding the 1954 law by more than a decade. The 1954 Federal Tax was not intended as replacement of the customs duties of Ethiopia at the time, but as an additional and different tax on imports and exports. It appears that the points of imports and exports were selected solely for their administrative ease – entirely understandable given the limited administrative resources of Ethiopian tax system at the time; see Customs and Exports Duties Proclamation, 1943, Proc. No. 39, *Negarit Gazeta*, 2nd Year, No. 10 (now repealed); see below for more on customs duties

by a transaction tax law in 1956, this should dispel any doubts about the nature of the 1954 tax law.

The 1956 Transaction Tax law extended the scope of the sales tax regime from imports and exports to goods manufactured locally – the first sales tax on manufacturers.¹⁴⁴ Although the scope of application of transaction taxes was wider than excise taxes, we could see that the scope was still limited to one level of distribution and even then to limited number of goods. The imports, exports and the collection of tax from manufacturers were carefully selected for their ease of tax administration. Imports and exports are the easiest points of reach and manufacturers are more easily accessible than other actors in the supply chain (wholesalers and retailers) as the number of manufacturers is generally fewer than wholesalers and retailers.

The 1956 Transaction Tax law was further limited in scope by the wide range of exemptions granted to supplies of certain goods. Imports of agricultural and industrial machinery, implements and spare parts, supplies used as inputs or raw materials, goods manufactured by small businesses, goods produced by flour mills, bakeries and dairies were among the long list of goods exempted from the payment of transaction tax at the time.¹⁴⁵ Some of these exemptions were justified by the need to maintain that the sales tax regime remain a consumption tax and not a production tax (e.g., the exemption for agricultural and industrial machinery was intended to prevent the tax from becoming a production tax). Other exemptions were motivated at least in part by the realization that the resources of the tax administration were limited (e.g., exemptions for small business manufacturers).

Subsequent amendments of Ethiopian sales tax laws predictably widened the coverage of sales taxes as the tax administration became more confident in its enforcement capacities. Thus, in 1963, a transaction law that replaced the 1956 transaction tax decree extended the sales tax regime to wholesalers and retailers by introducing a turnover tax upon all sales at all levels.¹⁴⁶ The 1963 transaction tax law also extended the sales tax regime to services for the first time – although only one type of service (i.e., construction work) was

¹⁴⁴ See Decree to Provide for the Payment of a Federal Transaction Tax, 1956, Articles 4 and 7, Decree No. 17, *Negarit Gazeta*, 15th year, No. 11

¹⁴⁵ See id, Article 5 and 7

¹⁴⁶ See a Proclamation to Provide for Payment of Transaction Taxes, 1963, Proc. No. 205, *Negarit Gazeta*, 22nd year, No. 18

chargeable with sales taxes at that time.¹⁴⁷ The turnover tax became a popular form of sales tax for the government in the 1970s, 80s and early 90s.

The landscape of sales taxation largely remained unaffected by the developments of the Ethiopian Revolution and its aftermath. Although sales taxes were a subject of numerous revisions (almost all of them in respect of rates), at the end of the day, the sales tax regime laid down during the Imperial period was maintained for much of the 1970s and 1980s. In 1990, the sales taxes and excise taxes were issued in a consolidated piece of legislation, but apart from the consolidation, there was little change in the substance of the taxes themselves.

After the change of the regime in 1991, sales taxes became a subject of a major revision in 1993. The sales and excise tax law of 1993 slightly contracted the scope of application of the sales tax regime. Turnover taxes were eliminated from the sales tax and the sales tax regime became a thoroughly single-stage sales tax regime with application upon imports, goods manufactured locally and a limited number of services.¹⁴⁸

After a hiatus of about a decade, the turnover taxes returned after the comprehensive tax reforms of 2002, this time as supplementary taxes to the value added tax (VAT).¹⁴⁹ The introduction of the value added tax in 2002 (effective 2003) clearly marked the biggest transformation of the sales tax regime of Ethiopia of recent times.¹⁵⁰ The value added tax, along with the supplementary turnover tax of 2002, broadened the reach of the sales tax regime in Ethiopia, with sales taxes potentially reaching small retail products, not just production as was previously the case. The turnover taxes are provisional taxes, readmitted into the Ethiopian tax system as necessary evil.¹⁵¹ We have every reason to believe that the turnover taxes will eventually peter out as more and more transactions are brought under the regime of VAT or for that matter another type of general sales tax.

¹⁴⁷ The 1963 transaction tax law referred to one type of service only as subject to transaction taxes - namely, construction work. All other types of services were exempted by omission.

¹⁴⁸ See Sales and Excise Tax, 1993, Proc. No. 68, *Negarit Gazeta*, 52nd year, No. 61

¹⁴⁹ See the Turnover Tax, 2002, Proc. No. 307, *Federal Negarit Gazeta*, 9th year, No. 21

¹⁵⁰ See the Value Added Tax, 2002, Proc. No. 285, *Federal Negarit Gazeta*, 8th year, No. 33, Value Added Tax Regulations, 2002, Regs. No. 79, *Federal Negarit Gazeta*, 9th year, No. 19

¹⁵¹ For the distortionary effects of turnover taxes, see Due and Friedlaender, *supra* note 120, pp. 415-416

7. Customs Duties – Import and Export Duties

a. Import Duties

The first customs duties of the modern era were issued in 1943.¹⁵² The customs duties of 1943 covered both import duties and export duties. For duties on imports, a tariff schedule was attached (as it has always ever since been) to the customs law of 1943 – a long list of goods classified into categories, with rates attached thereto. The rates ranged from ‘free’ to duties as high as 70% at the time. The rates were both *ad rem* (based on the unit of the good charged) and *ad valoreum* (based on the value of the good charged). The *ad rem* rates were used on class II goods of the customs tariffs, which included alcoholic products and cigarettes – no doubt to discourage their import through the import duties.

Customs duties are some of the most frequently revised tax laws, and indeed of any laws in the land. Most of these amendments are in the area of the customs tariffs, which require revising from time to time whenever a need arises for changing the tax rates, sometimes for reclassifying the goods and at times for completing the customs tariff laws, which, at the time of issuance, did not cover some subjects like regulation of customs warehousing and customs invoicing. When taxes are the subject of frequent revision, there is always a problem of keeping track of which tax laws are in force and which have been repealed. This problem is very acute in the area of customs tariffs. The Government was able to relieve some of the difficulties in this regard by undertaking a consolidation of the various customs’ tariff laws at various times in modern history. The first consolidation was done in 1955¹⁵³ and since then consolidated customs laws were issued at various times.¹⁵⁴ The most unstable part of the customs laws, the tariffs schedules, kept pouring out every now and then.

Customs duties have never been disinterested sources of revenue – not anywhere, not in Ethiopia.¹⁵⁵ Customs duties are often used by governments

¹⁵² See Customs and Exports Duties Proclamation, 1943, Proc. No. 39, *Negarit Gazeta*, 2nd Year, No. 10; for the history of customs duties before the Italian invasion, see Mahteme Sillassie Wolde Meskel, Zikra Nagar, 2nd Issue (in Amharic), 1962 E.C., pp. 172ff; see also Bahru Zewde, *supra note 2*

¹⁵³ See a Proclamation to Consolidate and Amend the Law Relating to the Customs, 1955, Proc. No. 145, *Negarit Gazeta*, 14th year, No. 7

¹⁵⁴ The latest is in 2009; see Customs Proclamation, 2009, Proc. No. 622, *Federal Negarit Gazeta*, 15th year, No. 27

¹⁵⁵ See generally, John F. Due, “Customs, Excise, Export duties,” in Milton C. Taylor (ed.), Taxation for African Economic Development, Hutchinson Educational Ltd., 1970, pp. 392-413

to promote specific public policies other than generation of revenues. Their differential rates or tariffs are ideal for enforcing these policies. The history of customs duties in Ethiopia is no different. The government sought to discourage the consumption of certain imports (e.g., alcohol and tobacco) by imposing heavier burdens of customs duties upon these imports and encourage the consumption or use of other imports (e.g., agricultural machinery and books) by relieving these imports from customs duties.¹⁵⁶

Apart from the customs tariffs, imports are a convenient route for imposing various forms of taxes. As goods enter through designated customs routes, governments have used these places as proxies for levying many of the other taxes in customs offices. Most of the indirect taxes (e.g., sales and excise taxes) have always used imports as a point for tax collection. Imports have also been used as convenient collection points for even income taxes (withholding taxes) and sometimes sur-taxes. At the time of writing, for example, imports are used for levying withholding income taxes (3%) and sur-taxes, which are imposed on most goods imported into Ethiopia.¹⁵⁷

b. Export Duties

The export duties – which were introduced along with import duties in 1943 – were not as extensive as the import duties. Few products were at first listed as subject to export duties: hides and skins, civet, bees wax and coffee.¹⁵⁸ Then in 1951, the range of commodities subject to the export duties was broadened to include oil seeds, *chat*, sheep and lamb skins, goat and kid skins, leopard skins, ivory, saffron, butter, bazaar and ghee.¹⁵⁹ The limitation of export taxes to specified products should not be surprising. The exports of Ethiopia were limited to begin with (compared to the imports). It would have been pointless to issue an export tariff as extensive as that of the import tariffs. Secondly, even if there were other goods exported from Ethiopia, they weren't in any significant quantity – hence the concentration on high value exports like coffee and hides and skins. The export duties used both *ad rem* and *ad valorem* rates. *Ad valorem* rates were used for hides and skins, bees wax and coffee while an *ad rem* rate was used for civet.

¹⁵⁶ See the Customs Revised Import and Export Regulations, 1951, Legal Notice No. 153, *Negarit Gazeta*, 10th year, No. 8

¹⁵⁷ See Income Tax Proclamation No. 286/2002, cited above, Article 52; Import Sur-Tax Council of Ministers Regulations, 2007, Regs. No. 133, *Federal Negarit Gazeta*, 13th year, No. 23

¹⁵⁸ See Customs and Export Duties Proclamation No. 39/1943, *op cit*; see also Eshetu Chole, *supra note* 11, p. 70

¹⁵⁹ See The Customs Revised Imports and Export Regulations, 1951, Legal Notice No. 153, *Negarit Gazeta*, 10th year, No. 8

Coffee – being the premium export product of Ethiopia for a long time – was frequently a subject of various forms of export duties. In addition to the regular duties imposed as part of the regular customs duties, coffee was subject to various additional duties at various times. For example, a regulation issued in 1954 increased coffee export duty and imposed a surtax of Birr 40 per 100 kg of coffee based on the price quotations on the New York Coffee Exchange.¹⁶⁰ And in 1957, the Ministry of Commerce and Industry was authorized by law to impose a cess¹⁶¹ on all coffee products produced in and exported from Ethiopia.¹⁶² A year later a National Coffee Board Cess Regulations¹⁶³ was issued, imposing 1 Birr per quintal of coffee exported. Although the cess was to be collected by the Customs Department (for obvious reasons), the law instructed the Department to appropriate the proceeds to the National Coffee Board for its administration. It was clearly an indirect tax to defray the costs of administration by the Board.

The outlook on exports has changed significantly in the 1990s and 2000s, with the government keen to promote the export sector by removing all kinds of barriers to exports, including taxes and duties. Instead of imposing export duties, the government introduced a number of laws aimed at removing all taxes and duties on exports, allowing exporters to import inputs duty-free and drawing back any taxes and duties paid upon goods exported from Ethiopia.¹⁶⁴ Exporters have also enjoyed zero-rated privileges under the VAT regime, which allows them to compete in international trade without the deadweight of Ethiopian taxes and duties.¹⁶⁵ However, the government has been slow to give up revenues from the premium product of Ethiopia –

¹⁶⁰ See the Customs Import and Export Duties Regulations, 1954, Article 5, Legal Notice No. 185, *Negarit Gazeta*, 13th year, No. 9

¹⁶¹ The term ‘cess’ (a shortened form of “assess”; the spelling is due to a mistaken connection with *census*) generally means a tax; <http://en.wikipedia.org/wiki/Cess>, visited on July 10, 2011; it stands in general for a levy, an assessment or tax, and in some countries used in connection only with local taxes (Britain), land taxes (Scotland) and taxes on commodities (India); see **Merriam Webster’s Dictionary**, Third International Edition; Black’s Law Dictionary defines a ‘cesse’ as an ‘assessment or tax’; see **Black’s Law Dictionary**, With Pronunciations, 6th edition. .

¹⁶² See A Decree to Make Provision for the Establishment of a National Coffee Board, 1957, Decree No. 28, *Negarit Gazeta*, 17th year, No. 4

¹⁶³ See the National Coffee Board Cess Regulations, 1958, Legal Notice No. 217, *Negarit Gazeta*, 17th year, No. 10

¹⁶⁴ See a Proclamation to Establish Export Trade Duty Incentive Scheme, 1993, Proc. No. 69, *Negarit Gazeta*, 52nd year, No. 62

¹⁶⁵ See Value Added Tax Proclamation No. 285/2002, cited above, Article 7(2) (a) and (b)

coffee. It has waited until 2002 to remove export duties upon coffee, but even then, the government has kept a window open to reintroduce export duties on coffee if the 'international price of coffee improves'.¹⁶⁶

Like import duties, export duties are seldom about revenues *per se*. Export duties have been used by various governments as instruments of various public policies. For instance, export duties are sometimes used by governments to discourage certain exports.¹⁶⁷ In Ethiopia, while the curtain on revenue export duties seemed to have been brought down, the other kind of export duties has emerged as a driver of certain public policies – export duties as instruments for discouraging the export of raw/unprocessed products from Ethiopia. The Raw and Semi-Processed Hides and Skins Export Tax Law of 2008 is a very good example of this type of export duties.¹⁶⁸ The preamble of this law makes the aim of the duty abundantly clear when it reads in part “... *the tax system will serve as an instrument to encourage industries engaged in the production of hides and skins (sic) shift to exporting processed hides and skins than exporting raw and semi-processed hides skins.*” The 2008 export duty law imposes differential tax rates upon the value of exports ranging from 5% (on wet blue goat skins) to 150% (on raw hides and skins).¹⁶⁹

8. Stamp Duties

1943 was probably the busiest year on Ethiopian tax calendar. The first stamp duties were issued, like customs duties and many other taxes already considered, in 1943.¹⁷⁰ Stamp duties are transfer taxes distinguished from many other taxes due to their close association with documents that contain certain legal rights or involve the transfer of certain legal rights over property.¹⁷¹ Stamp duties are invariably imposed on documents, although their impact ultimately falls on whoever benefits from the authentication and enforcement of those documents by the government. The first stamp duty law of Ethiopia listed the documents which are chargeable with stamp duties:

¹⁶⁶ See Tax on Coffee Exported from Ethiopia (Amendment) Proclamation, 2002, Article 2(2), Proc. No. 287, *Federal Negarit Gazeta*, 8th year, No. 35

¹⁶⁷ See generally, John F. Due, “Customs, Excise, Export duties,” in Milton C. Taylor (ed.), **Taxation for African Economic Development**, Hutchinson Educational Ltd., 1970, pp. 392-413

¹⁶⁸ See Raw and Semi-Processed Hides and Skins Export Tax, 2008, Proc. No. 567, *Federal Negarit Gazeta*, 14th year, No. 18

¹⁶⁹ *Id.*, Article 4

¹⁷⁰ See a Proclamation to Provide for Stamp Duties, 1943, Proc. No. 41, *Negarit Gazeta*, 2nd year, No. 11

¹⁷¹ Stamp duties derive their name from the conventional method of enforcement of stamp duties, which is by affixing stamps.

affidavits, articles of association, awards, bills of exchange, bonds, cheques, conveyances, customs bonds, leases, mortgages, notarial acts, powers of attorneys, petitions, receipts, share warrants and tickets of admission to places of public entertainment.¹⁷² These lists have been repeated in successive stamp duty laws.

Apart from their association with documents, stamp duties are also distinguished by their method of enforcement. There are two aspects to the enforcement of stamp duties that distinguishes them from other types of taxes. The first is that stamp duties are paid by affixing adhesive stamps, which are available in various denominations for purchase by those obligated to affix documents with the stamps.¹⁷³ The second trademark enforcement of stamp duties is a provision of the law that denies any legal notice to documents that are not affixed with stamp duties. Except in criminal proceedings, documents which do not bear evidence of payment of stamp duties are not entitled to notice by public authorities and therefore remain unenforceable until stamp duties are paid.¹⁷⁴ The withdrawal of public notice from documents is perhaps unique to stamp duties. In addition to this peculiar method of enforcement, stamp duties laws also contain provisions that impose penalties upon parties obligated to affix stamp duties on documents.

Since 1943, the stamp duties regime in Ethiopia has been revised in a major way at least four times, in 1957, 1987, and 1998.¹⁷⁵ However, the substance of stamp duties laws has changed very little since 1943. Most of the revisions are in the redefinition of the documents¹⁷⁶ and of course the tax rates or the amounts of tax chargeable to each document. With few exceptions, most of

¹⁷² See Proclamation to Provide for Stamp Duties No. 41/1943, cited above

¹⁷³ This form of payment is effected as long as the amount of duty is not in excess of a threshold amount (e.g., \$50 ETB). An amount in excess of the threshold is usually paid directly to the tax authorities; see Stamp Duty Proclamation, 1998, Article 7(2), Proc. No. 110, *Federal Negarit Gazeta*, 4th year, No. 36

¹⁷⁴ See Stamp Duties Proclamation, 1998, Article 10, Proc. No. 110, *Federal Negarit Gazeta*, 4th year, No. 36

¹⁷⁵ See Stamp Duty Decree, 1957, Decree No. 26, *Negarit Gazeta*, 17th year, No. 4; Stamp Duty Proclamation, 1987, Proc. No. 334, 46th year, No. 23; Stamp Duty Proclamation, 1998, Proc. No. 110, *Federal Negarit Gazeta*, 4th year, No. 36; Stamp Duty (Amendment) Proclamation, 2008, Proc. No. 612, *Federal Negarit Gazeta*, 15th year, No. 9

¹⁷⁶ For example, the document regarding transfer of immovable property later became documents of title to property; contracts in the early laws branched out into contracts in general, contracts of employment and collective agreements in more recent stamp duties laws

the documents that were listed as chargeable with stamp duties in 1943 have been retained over the years. With the decentralization of government in the post 1991 period, many Regional Governments have issued their own stamp duty laws although in this, as in many other cases, they have simply copied Federal Stamp Duty law of 1998.¹⁷⁷

9. Urban Taxes – Municipality Taxes – Property Taxes

Municipality taxes were anticipated as sources of revenue immediately after the end of the Italian occupation.¹⁷⁸ And in 1945, a law was issued authorizing municipalities and townships to impose and collect various rates, taxes and fees on the inhabitants of municipalities.¹⁷⁹ Municipalities and townships were authorized to raise and finance their expenditures by levying what were known as ‘municipality taxes’ – really an assortment of ‘rates’, ‘taxes’, and ‘fees’ on town dwellers.¹⁸⁰ Not all of them were taxes. What really qualified as a property tax in the strict sense of the word was the tax or rate on immovable property. Others were really ‘fees’ – a distinction which is significant in tax literature.¹⁸¹ In any event, municipalities and townships were authorized to raise revenues from license fees, market fees (stall fees), and municipality service fees (e.g. fees for fire brigades and fees for considering and approving building plans).¹⁸² The municipality rates were to be developed by the ‘municipality councils’ and needed the approval by the

¹⁷⁷ see, for example, The Southern Nations Nationalities and Peoples’ Regional State Stamp Duty Proclamation No. 25/1999, *Debub Negarit Gazeta*, 4th year, No. 5; Benishangul Gumuz Regional State Proclamation to Provide for the Payment of Stamp Duty No. 61/2006

¹⁷⁸ See *Teklay Ghizat Administration*, 1942, Decree No. 1, Year 1, No. 6, Parts 74, 75 and 76.

¹⁷⁹ See Article 11 of a Proclamation to Provide for the Control of Municipalities and Townships, 1945, Proc. 74, *Negarit Gazeta*, 4th year, No. 7; the 1945 law classified Ethiopian towns and cities into two categories calling them ‘municipalities’ and ‘townships’. *Addis Ababa, Gondar, Harar, Jimma, Dessie, and Dire Dawa* were ‘municipalities’. All others were ‘townships’. The townships were further classified into three classes as ‘first class’, ‘second class’ and ‘third class’ townships; See the Schedule attached to Control of Municipalities and Townships Proclamation No. 74/1945, cited above

¹⁸⁰ See Proclamation No. 74/1945, cited above, Article 11 (i) – (iv)

¹⁸¹ For a distinction, see Laurie Reynolds, “Taxes, Fees, Assessments, Dues, and the “Get What you Pay for” Model of Local Government,” *Florida Law Review*, April, 2004; see also Victor Thuronyi, *Comparative Tax Law*, Kluwer Law International, 2003, p. 58

¹⁸² See Proclamation No. 74/1945, cited above, Article 11(i) – (iv)

Minister of Interior at the time to become law. These municipality rates were effective only after publication in the *Negarit Gazeta*.¹⁸³

The first municipality rates were issued for the city of Addis Ababa in 1947 (no surprise there).¹⁸⁴ The first Addis Ababa City regulations covered a tax on immovable property, which was based on area (in square metres) and the location of the immovable property. The city was classified as 'first class' and 'second class' and three categories were created for each 'class' to apply differential property tax rates. First category of first class, for instance, paid \$3 per 50 square metres, while third category of first class paid \$4 per 500 square metres.¹⁸⁵

Some municipalities followed Addis Ababa in issuing their municipality rates and taxes. For example, the city of Nazareth (now *Adama*) issued its own rates and taxes in 1968, which in form as well as content were similar to the rates and taxes issued by the municipality of Addis Ababa.¹⁸⁶ Municipality rates and taxes for specific cities were the exception rather than the rule. For most other towns, the municipality rates and taxes were fixed for whole provinces, instead of specific towns or municipalities, with wider application in all towns that fell under those provinces. Municipality rates and taxes were, for example, issued for provinces like *Arussi* (*Arsi* now),¹⁸⁷ *Wellega*,¹⁸⁸ *Sidamo*,¹⁸⁹ *Shoa*,¹⁹⁰ and *Illubabor*¹⁹¹ (now *Illu-Abba-Bora*). Issued by the then Ministry of the Interior, these municipality rates and taxes often

¹⁸³ Id, Article 11(v)

¹⁸⁴ See the Municipalities Proclamation 1945 Order, 1947, Legal Notice Nos. 111 and 112

¹⁸⁵ See also Addis Ababa Land Tax (classification) Regulations, 1968, Legal Notice No. 341, *Negarit Gazeta*, 27th year, No. 21

¹⁸⁶ Nazareth Municipality Rates, 1968, Legal Notice No. 339, issued pursuant to Municipalities Proclamation No. 74/1945

¹⁸⁷ See Arussi Teklay Gizat Municipalities Rates and Fees Regulations, 1969, Legal Notice No. 369, *Negarit Gazeta*, 28th year, No. 20

¹⁸⁸ Rates, Dues and Fees Regulations for the Municipalities of *Welega Tekaly Gizat*, 1969, Legal Notice No. 372, *Negarit Gazeta*, 28th year, No. 27

¹⁸⁹ See the Sidamo Teklay Gizat Municipalities Rates and Fees Regulations, 1969, Legal Notice No. 378, *Negarit Gazeta*, 29th year, No. 5

¹⁹⁰ See Rates, Dues and Fees Regulations for the Municipalities of Shoa Teklay Gizat, 1970, Legal Notice No. 385, *Negarit Gazeta*, 29th year, No. 21

¹⁹¹ See Rates, Dues and Fees Regulations for the Municipalities of Illubabor Teklay Gizat, 1970, Legal Notice No. 386, *Negarit Gazeta*, 29th year, No. 24

contained multiple tables of rates and taxes corresponding to major towns falling under those provinces.¹⁹²

Like in the rural land and agricultural taxes, the Ethiopian Revolution of 1974 affected the state of land taxes in urban areas quite significantly. The abolition in 1975 of private ownership of land in both rural and urban areas and the expropriation of extra urban houses¹⁹³ all but abolished the taxes that were associated with urban lands and urban houses. In any case, an Urban Land Rent and Urban Houses Tax law was promulgated in 1976 abolishing all the urban land and house taxes that prevailed during the Imperial period.¹⁹⁴ The urban land taxes were abolished and replaced by urban land rent, which was to be based on the grade of the land. One type of tax nonetheless survived – urban house tax (for those who survived the expropriation and those who built houses after the Revolution), which was based on the estimated rental value of a house.¹⁹⁵ The Urban Rent and Urban Houses Tax law of 1976 contained a uniform schedule of rates (Schedule 1, 2, 3) for rent and tax, but town administrations could issue their own rates in consultation with the then Ministry of Public Works and Housing.¹⁹⁶ The City of Addis Ababa, always at the forefront in this regard, issued a regulation in the same year,¹⁹⁷ which divided the city into three grades and applied differential rates based on these grades.

And in 1979, provincial urban land rent and urban house tax regulations were issued for the urban centers in the provinces.¹⁹⁸ These Regulations classified all the urban centers outside Addis Ababa into four categories, for

¹⁹² The municipality rates and taxes for Wellega, for example, came out with multiple rates and tables for the towns of *Lekemte (now Nekemte)*, *Gimbi*, *Arjo*, *Shambu*, *Sirey*, *Nejo*, *Mendi*, *Asosa*, and *Dembi Dollo*; see Legal Notice No. 372/1969, *op cit*

¹⁹³ Shortly after the promulgation of the public ownership of rural lands, the Provisional Military Administrative Council issued the Urban Land and Extra Houses Proclamation in July 1975. This Proclamation did to the urban lands what the Rural Land Proclamation did to the rural lands (i.e. nationalize all urban lands for public ownership and expropriate extra houses). As in the case of rural lands, no person could from then onwards buy, sell or transfer urban land.

¹⁹⁴ See Urban Land and Urban Houses Tax, 1976, Proc. No. 80, *Negarit Gazeta*, 35th year, No. 25

¹⁹⁵ See *id*, Article 6(1)

¹⁹⁶ *Id*, Article 19

¹⁹⁷ See Addis Ababa Land Use Rent and House Tax, 1976, Legal Notice No. 36, *Negarit Gazeta*, 35th year, No. 25

¹⁹⁸ See Provincial Urban Land Rent and Urban House Tax Regulations, 1979, Legal Notice No. 64, *Negarit Gazeta*, 38th year, No. 9

which schedules were developed for land rent and house tax payments.¹⁹⁹ The urban centers were categorized in orders of their size, with the city of Asmara (then part of Ethiopia, now capital of independent Eritrea) having its own schedule, while other urban centers were categorized in groups in orders of their size.²⁰⁰

In spite of the adoption by the country of a federal system of government after 1991, the urban rent and urban houses tax law of 1976 as well as the regulations issued by the City of Addis Ababa in the same year have remained in force long after Derg was toppled.²⁰¹ Indeed, some of the taxes and rates that are still applicable in Addis Ababa are traceable to the Imperial times.²⁰² A case in point is the 'Amusement Tax' law – a tax on tickets of admission to places of amusement (theatres, cinemas, stadiums, etc), issued back in 1964 – is still applicable today, as were the license rates and fees issued back in 1947 and 1952.²⁰³

While Addis Ababa continues to rely upon municipality tax laws issued as far back as the Imperial times, some of the Regional States have issued their own legislation on fees and taxes following the decentralization of power in the post 1991 period. The practice in some of the Regional States is that the minimum and maximum tariff rates as well as the division and rank of cities within a regional state are determined by the Regional Council while the cities and towns determine the actual tariff amounts based on the 'objective situation of the locality'. The Regional Tariff Rates for municipalities and towns contain 'benefit taxes' and fee rates for various services provided at the municipality and township level. The taxes are levied on taxpayers without the municipalities and towns showing evidence of specific service while the fees or charges are imposed directly upon the beneficiaries of specific public services. The Amhara Regional State Tariff Rates for Cities in the State, for

¹⁹⁹ See *id.*, Article 4

²⁰⁰ The second Schedule was for medium-sized cities like *Assela*, *Bahr Dar* and *Gonder*, while the third Schedule was devoted to smaller cities like *Dilla* and *Gimbi*, and the last Schedule was devoted to small towns like *Dodola* and *Dukem*; See the schedules attached to the 1979 Regulations.

²⁰¹ The rates for some of municipal services have been revised but the laws of 1976 have remained intact; interview with Ato Gebrelibanos Welde-Aregay, ERCA, Yeka-Sub-City Revenues Bureau, on December 28, 2010

²⁰² See, however, Regulations No. 6/1998 Issued to Collect Service Charge on Outdoor Advertisement, *Addis Negarit Gazeta*, 1st year, No. 6

²⁰³ See Municipality of Addis Ababa Amusement Tax Regulations, 1964, Legal Notice No. 291, *Negarit Gazeta*, 23rd year, No. 20; Legal Notice No. 167/1952, and Legal Notice No. 112/1947

example, authorizes cities and towns to levy what it calls ‘Trade and Professional Service Tax’ which is to be assessed based on five factors: size of land holding, annual gross sales, environmental impacts of the activity, the location of business, and the amount of capital invested.²⁰⁴ Similarly, Tigray Regional State has a law authorizing cities and towns in Tigray to levy ‘Trade and Professional Service Tax’ the amount of which varies according to factors like the rank of the city or town in which a trader or a professional service provider operates.²⁰⁵

Finally, it is important to note that some Cities in Ethiopia have a special constitutional status that gives them the power to act not just as municipalities but also as virtual regional states. The City of Addis Ababa has a special constitutional status as the seat of the Federal Government.²⁰⁶ The City of Addis Ababa is also recognized as a separate city administration and collects tax revenues not just from what are traditionally known as ‘municipal taxes and rates’ but also taxes assigned by the Ethiopian Constitution to the Regional Governments.²⁰⁷ The City of Dire Dawa, which obtained special status due to ‘competing claims’ from the Oromia and Somali Regions, also operates pretty much like a region, with all the fiscal powers of a regional government.²⁰⁸

10. Tax Incentives

Most tax incentives in Ethiopia came out in separate tax legislations, justifying their separate treatment here.²⁰⁹ They were usually issued in the body of investment incentive laws in general. The first mention of tax incentives as deliberate policies to encourage investment was in the 1949 income tax law. The 1949 income tax law granted an income tax exemption – what is today called a tax holiday – to ‘long term investments in industrial,

²⁰⁴ The Amhara National Regional State Revised Cities Revenue Title and Tariff Determination, 2009, Council of the Regional Government Regulation No. 69, *Zikra Hig*, 14th year, No. 11.

²⁰⁵ የትግራይ ብሔራዊ ክልላዊ መንግስት ምክር ቤት፣ የመዘጋጃ ቤቶች፣ የሞያ ስራዎችና የአገልግሎት ክፍያዎች የግብር እና የቀረጥ ታሪፍ ደንብ ቁጥር 6/1990፣ ነጋሪት ጋዜጣ ትግራይ፣ 6ኛ ዓመት ቁጥር 6

²⁰⁶ See The Constitution of the Federal Democratic Republic of Ethiopia, 1995, Article 49, Proc. No. 1, *Federal Negarit Gazeta*, 1st year, No. 1

²⁰⁷ See *id.*, Article 97; see also Addis Ababa City Government Revised Charter Proclamation, 2003, Article 52, Proc. No. 361, *Federal Negarit Gazeta*, 9th year, No. 86

²⁰⁸ See the Dire Dawa Administration Charter Proclamation, 2004, Article 43, Proc. No. 416, *Federal Negarit Gazeta*, 10th year, No. 60, Article 43

²⁰⁹ For the early development of tax incentives in Ethiopia, see Timothy P. Bodman, “Income Tax Exemption as an Incentive to Investment in Ethiopia,” ***Journal of Ethiopian Law***, vol. 6, No. 1, 1969, pp. 215-225

transport, or mining enterprises, and the exemption period was five years.²¹⁰ A legal notice was issued shortly afterwards with a title 'Statement of Policy' providing a tax incentive to foreign capital investment – tax holiday extending to five years to newly established foreign investments.²¹¹ These were the earliest instances of Ethiopian government using the tax system to stimulate investment in Ethiopia. And in 1954, a separate law was issued to 'encourage agricultural and industrial expansion' in Ethiopia.²¹² This law exempted agricultural or industrial machines and parts from all kinds of taxes that were in existence at the time – customs duties and taxes, health and education taxes, personal or business taxes, and municipal taxes.²¹³

The desire to use taxes as instruments for attracting investment continued in the 1960s – with the issuance of a proclamation to encourage capital investment in Ethiopia in 1966.²¹⁴ This law really became a model for subsequent investment incentive laws. In terms of scope, the 1966 investment incentive law contained tax and non-tax incentives. In its tax incentive sections, it provided for tax incentives in the form of income tax reliefs (income tax holidays), import duty reliefs and export duty reliefs.²¹⁵ In its non-tax incentives sections, the 1966 law included such schemes like repatriation guarantees and access to immovables by foreign investors,²¹⁶

Newly established enterprises with a capital of not less than ETB \$200, 000 enjoyed a five year income tax holiday and enterprises which had expanded their existing businesses enjoyed an income tax holiday for three years. All types of enterprises were beneficiaries of this income tax holiday, except industries engaged in manufacture of alcoholic beverages and liquors.²¹⁷

²¹⁰ See Proclamation No. 107/1949, op cit, Article 3(iii)

²¹¹ See Statement of Policy for the Encouragement of Foreign Capital Investment, 1950, Legal Notice No. 10, *Negarit Gazeta*, 9th year, No. 6

²¹² See A Proclamation to Encourage Agricultural and Industrial Expansion, 1954, Proc. No. 145, *Negarit Gazeta*, 14th year, No. 3

²¹³ Although the list of taxes, from which agricultural or industrial machines were exempted, was very expansive, the 1954 was actually limited to exemption from import duties – the other taxes were not imposed on these machines in any case; see a Proclamation to Encourage Agricultural and Industrial Expansion, 1954, Article 2, Proc. No. 145, *Negarit Gazeta*, 14th year, No. 3.

²¹⁴ See a Proclamation to Provide for the Encouragement of Capital Investment in Ethiopia, 1966, Proc. No. 242, *Negarit Gazeta*, 26th year, No. 2.

²¹⁵ See id, Articles 5, 6 and 7

²¹⁶ See id, Articles 8 and 10

²¹⁷ See id, Article 5(3)

The customs duties relief was limited to agricultural and industrial enterprises and available only if the imports were not produced within Ethiopia.²¹⁸ The beneficiaries of this relief were exempted from not just import tariffs, but also transaction taxes on imports, municipal and all other taxes due on imports.²¹⁹ The export duty incentive was available on discretionary basis to manufactured finished goods destined for export. The incentive period was not specified (the law simply says 'reasonable period'). It depended on the determination of the 'Investment Committee' which would extend the relief if it was convinced that the relief would assure the competitive position of the goods on export markets.²²⁰

The early decade of the 1974 Revolution was marked by overt hostility towards private investment and private capital formation in general. Instead of encouraging investment (domestic or foreign), the Government actually took action to impose heavy burdens of taxation – with the obvious intent to stamp out private investment and arrest the development of capitalism. The 1978 income tax law with its extraordinarily steep marginal tax rates (up to 89%) was an example of hostile government policy towards private investment and capital formation (**see above**). The steep tax rates of the 1978 income tax law followed on the footsteps of legislations which nationalized land in both rural and urban areas, extra houses in urban areas and expropriated major economic sectors and brought them under the ownership of the government.

There was a relaxation of this antipathy towards private investment (partially at least) in the early and late 1980s. First, the Military Government issued a Joint Venture Proclamation in 1983 to encourage the participation of domestic and foreign investors to participate in joint venture investments.²²¹ The joint venture law of 1983 contained a number of tax incentives for investors that signed the joint venture agreement with the government at the time. The tax incentives contained the usual stock – exemption from customs duties on import of investment goods and spare parts, income tax holidays for five years in case of new projects, for three years in case of extension of existing projects, possible exemptions from customs duties for imports of raw materials, and from customs and transactions taxes for goods exported.²²²

²¹⁸ See id, Article 6(1)

²¹⁹ Ibid

²²⁰ See id, Article 7

²²¹ Joint Venture Proclamation, 1983, Proc. No. 235, *Negarit Gazeta*, 42nd year, No. 6

²²² See id, Article 27

Another law which contained tax incentives at the height of socialism in Ethiopia was the Petroleum Operations law of 1986, which was followed immediately by the issuance of Petroleum operations income tax.²²³ The 1986 petroleum operations law provided for tax incentives – exemption from import duties for import of machinery, equipments, vehicles, fuels, and chemicals necessary for the operations of petroleum explorations and extractions.²²⁴ In addition, the expatriates to be hired by petroleum companies were exempted from import duties for import of goods and personal effects and from personal income taxes.²²⁵

As the Military Regime relaxed its tight grip upon the economy and embraced a mixed economic policy, it adopted a more aggressive investment and/or tax policy to encourage investment from the private sector. The regime issued an investment incentive law in 1990 in a bid to stimulate private capital investment in general.²²⁶ The 1990 investment incentive law effectively ended the hostility of the regime to private investment and extended wide open arms to those who wished to invest in agriculture, industry, construction and hotel services.

The outlook for domestic and foreign investment changed for the better after change of government in 1991. A proclamation was issued in 1992 to ‘encourage, expand and coordinate investment.’²²⁷ The 1992 law contained a long list of tax exemptions for domestic and foreign investment: exemption from import duties for import up to the 15% of the capital invested of capital goods and spare parts; income tax holidays for three years for commencement and 2 years for expansion; exemption from export duties; tax deductions for research and development expenses, loss carry-forward beyond the tax holiday period and income tax holiday for three years for reinvestment.²²⁸ The export sector received a huge boost with the issuance in

²²³ See a Proclamation to Regulate Petroleum Operations, 1986, Proc. No. 295, *Negarit Gazeta*, 45th year, No. 6, and Petroleum Operations Income Tax Proclamation, 1986, Proc. No. 296, *Negarit Gazeta*, 45th year, No. 7

²²⁴ See Petroleum Operations Proclamation No. 295/1986, cited above, Article 21

²²⁵ *Ibid*

²²⁶ See Council of State Special Decree, 1990, Decree No. 17, *Negarit Gazeta*, 49th year, No. 12

²²⁷ See Proclamation to provide for the Encouragement, Expansion and Coordination of Investment, 1992, Proc. No. 15, *Negarit Gazeta*, 51st year, No. 11

²²⁸ See *id*, Article 13

1993 of a law that abolished all taxes and duties on export goods, with the exception of coffee.²²⁹

Many tax incentives issued during this period were of general application to both domestic and foreign investment. But there were incentives that targeted specific economic sectors. One such tax incentive was, for example, offered in 1992 to importers of passenger and freight commercial vehicles.²³⁰ The 1992 Regulations for the transport sector offered duty free privileges to imports of vehicles of a certain carrying capacity.²³¹ The 1993 mining law was another example.²³² The 1992 mining law was of course a general law regulating the operations of the mining sector (with tax incentives as minor footnotes) but its overall objective was to acknowledge the role of private investment in capital formation, technology transfer and marketing of minerals.²³³ The 1993 mining law devoted a few provisions to tax incentives. It exempted expatriates working for mining companies from the payment of income tax.²³⁴ It relieved the import of all equipment, machinery, vehicles, spare parts for mining operations from the payment of customs duties and taxes, and it relieved the export of all minerals from Ethiopia from export duties.²³⁵

Tax incentives are controversial instruments of public policy. Many writers believe that tax incentives are ineffective instruments for attracting investment and argue that tax incentives result only in revenue losses for governments.²³⁶ Tax incentive regimes of Ethiopia have attracted their fair share of criticism from various quarters. The jury is still out on whether the tax incentive regimes of Ethiopia have actually attracted investment into the country. Due to legislative and administrative gaps, tax incentive regimes have also gained some notoriety in Ethiopia for providing some unscrupulous beneficiaries with opportunities for tax evasion and avoidance.

²²⁹ See a Proclamation to Cancel Taxes and Duties Levied on Export Goods, 1993, Proc. No. 38, *Negarit Gazeta*, 52nd year, No. 23

²³⁰ See Council of Ministers Regulations, 1992, Regs. No. 3, *Negarit Gazeta*, 51st year, No. 12

²³¹ A carrying capacity of 44 passengers or 100 quintals; see *id.*, Article 3(1)

²³² See Mining Proclamation, 1993, Proc. No. 52, *Negarit Gazeta*, 52nd year, No. 42

²³³ See *id.*, the preamble

²³⁴ *Id.*, Article 38(2)

²³⁵ See *id.*, Articles 34(2) and 41(4)

²³⁶ See David Holland and Richard Vann, "Incentives for Investment", in Victor Thuronyi (ed.), **Tax Law Design and Drafting**, International Monetary Fund, 1998, vol. 2; United Nations Conference on Trade and Development, **Tax Incentives and Foreign Direct Investment**, A Global Survey, ASIT Advisory Studies, Geneva, 2000

The reported cases of tax incentive abuses and overall doubts about the effectiveness of tax incentives have yet to dampen the appetite of the Ethiopian Government in this regard, as successive amendments to investment incentives have only maintained most of the benefits.²³⁷ Sometimes, however, the Ethiopian Government has reacted to the news of abuses by taking away some tax incentives and privileges, although it has yet to jettison the whole tax incentive regime.

11. Conclusion

We have outlined the beginnings, developments and transformations of the modern Ethiopian tax system over the last seven decades. Leaving the details to the main body of this article, we note the following developments:

- Of all the modern taxes of Ethiopia, the agricultural taxes (land and income taxes) have gone through extreme vicissitudes largely spawned by the ideological shifts Ethiopia went through during the modern period. The agricultural taxes also appear to be the most susceptible to popular sentiments with regard to these taxes (no doubt, in large part due to the sentimental attachment of the people towards land and agriculture). They are not an important source of government revenue but they are an important source of political capital or political anguish depending on how they are viewed by the public.
- While the structural frameworks of the income taxes have remained largely unchanged (e.g., the schedular orientation of Ethiopian income tax system), the income taxes have developed from purely presumptive income taxes of the early days to modern income taxes which are based on declaration of actual income for fairly large taxpayers (category A and B taxpayers). The income tax bases have also progressively broadened over the years.
- Indirect taxes like the sales and excise taxes have also broadened their bases over the years. Although excise taxes are normally limited to a few 'excisable' goods, the Ethiopian excise tax regime has increasingly become just another tax to generate revenues (easy revenues as that) for Ethiopian governments. The remarkable policy orientations of the early excise tax regimes have also been overlooked in the recent tax

²³⁷ See Investment (Amendment) Proclamation, 2003, Proc. No. 373, Federal Negarit Gazeta, 10th year, No. 8; Council of Ministers Regulations on Investment Incentives and Investment Areas Reserved for Domestic Incentives, 2003, Regs. No. 84, Federal Negarit Gazeta, 9th year, No. 34; see Eden Sahle, "Hotels Pay up for Duty-free Abuse," *Fortune*, vol. 11, No. 550, Nov. 14, 2010

reforms of the Ethiopian excise tax regime – once again turning excise taxes to just taxes with a different name to generate revenues for the governments. The modern excise tax regimes have a lot to learn from the early excise taxes in this regard.

- The most important feature of the development of modern taxation – one habit that dies hard – is the haphazard way tax reforms and legislations have been introduced in each successive period. With few exceptions, the piecemeal revision of each tax, almost unconnected with other taxes, has continued to this day. The consolidation attempts in the 1990 sales and excise tax system and the income taxes in 2002 should have spilled over to all the other taxes of Ethiopia, but these ‘ideals’ were soon forgotten even for those taxes which were consolidated through those efforts. Subsequent amendments of these taxes have overturned the ‘ideals’ of consolidation, returning the tax system to its haphazard ways. These developments have been serious challenges in understanding the Ethiopian tax system as a whole, and even more of a challenge to average taxpayers who have to pay taxes whether they understood these taxes properly or not. Luckily, much of the tax system relies upon intermediaries, who are significantly fewer than the much larger number of taxpayers. Whatever it is, it is a development which needs to be brought to an end in future tax reforms of the Ethiopian tax system.
- Although the progress of Ethiopian tax system has been uneven, there is a lot of progress in many respects. But, as often happens in history, the early income tax laws have a lesson or two for modern tax laws of Ethiopia. It is sometimes necessary to go back and revisit how some taxes were designed in the early period and take lessons from these designs because the early modern taxes of Ethiopia were surprisingly very modern even for today’s needs. If only for this, the study of the history of modern taxation of Ethiopia is worth paying attention to. After all it is not without reason that William Faulkner famously said ‘the past is not dead, it is not even past’, if we care to look back.

Appendix 1: Time line of the Key Developments in the history of Main Income Tax System of Ethiopia

Years	Schedule A	Schedule B	Schedule C	Schedule D
1944	Personal income	Business income	Sur-tax on Schedule B taxpayers (excess profits)	N/A

			tax)	
1949	Salaries, wages, personal compensation, rents on property in a non-commercial setting	Business income	Sur-tax on Schedule B taxpayers	N/A
1954			Sur-tax repealed	N/A
1956	Wages, salaries, pensions and other personal emoluments	Rent of lands and buildings used other than for agricultural produce, cattle breeding purposes	Income from business, professional and vocational occupation, exploitation of wood and other sources not mentioned elsewhere	N/A
1961	Same	Same	Same	N/A
1967				Income from agricultural activities incorporated in the main income tax system
1975	Same	Repealed	Same	Same
1976	Same	Repealed	Same	repealed
1978	Same		Same	Income from miscellaneous sources included for the first time: royalties, income from technical services, income from games of chance, and dividends.
1993	Same	Reintroduced as a tax on rental of buildings	Same	Same

1994				Capital gains taxation introduced for the first time
2002	Revised	Revised	Revised	Revised

Appendix 2: Time line of Autonomous Income Tax Regimes

Years	Type of Income Tax
1944	Tax in lieu of tithes
1967	Incorporation of agricultural income tax into the main body of income tax system
1976	Promulgation of autonomous agricultural income tax
1978	Revision of agricultural income tax
1986	Introduction of petroleum income tax
1992	Decentralization of agricultural income taxation to the Regions
1993	Introduction of mining income tax
1995	Constitutional Recognition of decentralization of agricultural income taxation to the Regional States

Appendix 3: Time Line of Key Events in the Ethiopian Excise Tax System

Year	Type of excise tax	Chargeable Goods/products
1942	Tobacco Excise Tax	Tobacco and cigarettes
1943	Alcohol Excise Tax	Alcohol and Alcoholic Products
1948	Highway Renovation Tax; Road Toll Tax	Petrol, vehicles
1950s, 1960s, 1970s	Alcohol Excise Tax; Petroleum and lubricants Excise Tax; Excise Tax	Alcohol, alcoholic liquors, wine, beer and stout, perfumes, tej and tella, manufactured in factories; Petroleum, benzene, naphta, Kerosene, Grease and oils, sugar, yarn of natural cotton, textile fabrics, soft drinks, iron and steel rods, footwear, plastic rubber

1990	Sales and Excise Tax Consolidated	Sugar, drinks (soft drinks, beer, wine), alcohol and alcoholic products, tobacco and tobacco products, salt, textile fabrics, sandals, boots, vermin traps, advertising models, goods imported by hotels, chemicals and reagents, and flour and agricultural products
1993	Sales and Excise Tax Revised	Sugar, drinks (soft drinks, mineral water), alcohol and alcoholic drinks, tobacco and tobacco products, salt, fuel, perfumes, leather, textile, personal adornments, dish washing machines, video decks, TV, video cameras, receivers, passenger vehicles, and 4-wheel drives
2002	Separate Excise Tax	Sugar, drinks (soft drinks, bottled water, alcoholic drinks (beer, wine, whisky, and others), pure alcohol, tobacco and tobacco products, salt, fuel, perfumes and toilet waters, textile and textile products, personal adornment, dish washing machines, washing machines, video decks, TV, video cameras, vehicles, carpets, asbestos and asbestos products, clocks and watches, dolls and toys