

## **Salient Features of the Major Ethiopian Income Tax Laws<sup>1</sup>**

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### **I. Introduction:**

Three separate income tax proclamations are currently in force in Ethiopia.

1. Proclamation No. 296 of 1986, applying to income derived from petroleum operations.

2. Proclamation No. 77 of 1976 (as amended) relating to income arising from agricultural activities.

3. Proclamation No. 173 of 1961 (as amended) dealing with all income obtained from sources other than petroleum operations and agricultural activities.

Of the three legislations mentioned above, the first one has not been treated in this article. This is because currently it has virtually no application since the production of petroleum in commercial quantity has not as yet materialized in Ethiopia.

The main concern of this article is to acquaint the reader with the Ethiopian income tax system in general. Accordingly it describes the chief aspects of the major Ethiopian income tax laws. Beginning with an explanation for the statutory definition of the word "income", it tries to provide answers to such questions as who are affected by the income tax laws and what are their major legal obligations? How are income tax collection and assessment carried out? What are the measures for ensuring compliance? What can taxpayers do when they are aggrieved at the way their tax liability is determined? Who is entitled to exemptions under the income tax laws?

The concluding section tries to bring to light some selective issues and problems of practical significance. In so doing, it underscores the need for

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improvement. It is hoped that this paper will make some contribution towards further research on the subject.

## **II. STATUTORY PARAMETERS OF INCOME**

That the word "income" is hard to define is a point that has often been reiterated in many writings and articles on the subject. Scholars and experts in various disciplines usually tend to give a definition to the term from the vantage-point of their own fields of specialization and concern, as a result of which a consensus on its meaning is hard to come by. Hence, in the area of what may be called applied taxation, it has become customary to obviate the aforementioned difficulty by means of statutory definitions.

Ethiopia's statutory meaning of "income" holds all payments in cash and benefits in kind as income, regardless of the whereabouts of the recipient, provided they originate from sources within the country.<sup>2</sup> Consequently, the treatment of payments in cash and benefits in kind that arise from sources outside Ethiopia as income is a matter of exception.<sup>3</sup>

Another statutory equivalent to the word "source" is "activity", which includes employment, professional and vocational occupations, agricultural undertakings and businesses of any sort. In principle, therefore, the word "income" applies to those payments in cash and benefits in kind that ensue from an activity.<sup>4</sup> Yet again, as an exception to the rule, dividends from share entitlements, royalties from use of patents and copyrights, as well as prizes and awards won by chance, such as in a lottery, fall within the domain of income.<sup>5</sup>

In daily parlance, different words are employed to refer to certain sums in money paid or received according to context: salaries, wages, bonuses, emoluments, interests, profits and so on. Likewise, benefits in kind offered or obtained may take on the form of goods or services of commercial value. Nonetheless, these distinctions in expression and appellation carry no relevance to the statutory definition of income, and in principle all of them attract tax unless legal exemptions avoid it.<sup>6</sup>

## **III. SUBJECTS OF INCOME TAX**

The term is one coined to stand for both actual tax-payers and tax collection intermediaries. Broadly speaking, all persons and organizations that are involved in

an offer or receipt of an income that attracts tax are subjects of income tax, whether as an actual tax payers or a tax collection intermediary or both.

The word " person" refers to individuals who may receive their income as an employee, a trader, an independent contractor, a farmer, an author, a composer, a prize winner, a share-holder, etc.<sup>7</sup> By " organization" is generally meant bodies corporate both of public and private nature which engage in trade, including state farms, joint ventures, corporations, share companies and so on.<sup>8</sup>

All subjects of income tax are required to comply with two main obligations, namely, declaration of income and payment of taxes. Certain categories of subjects of income tax also have another obligation, i.e. maintenance of books of accounts and records.<sup>9</sup>

#### IV. TAX COLLECTION SCHEMES

The imposition of the obligations to declare income and pay tax are obviously for the purpose of insuring tax collection. To this end, both the withholding and self-reporting systems are employed.

The application of the withholding system is in respect of incomes that arise from employment, share entitlements, chance winnings, and use of patents and copyrights. It also extends to payments made for services rendered from abroad. In such cases the individual or organization that advances income to another acts as tax-collection intermediary, since he, she or it is under the obligation to declare such income and transfer the tax thereon to the Income Tax Authority within one month from the date of effecting payment. Consequently, such an individual or organization is authorized by law to deduct from and with hold the tax levied on the income of the recipient.<sup>10</sup>

Another instance of the application of the withholding scheme is in relation to interests payable on loan to credit institutions. Under this situation, if the borrower happens to be a tax-payer, he, she or it is required to declare the income of the credit institution in question and transfer the tax thereon to the Income Tax Authority, upon the fulfilment of the obligations that relate to the income of the former. If the borrower has no tax-payer's status, the obligations must be met within four months from the end of the Ethiopian fiscal year.<sup>11</sup>

The self-reporting system is employed as regards all other income sources,

as well as employment in special situations. Individuals who work for more than one employer in one month or in entities that represent diplomatic interests of a foreign state are obligated to declare their income and pay tax thereon in person.<sup>12</sup> Individuals and organizations that are habitually engaged in professional and vocational occupations and businesses of any sort are obliged to declare their income and many pay the tax thereon within specified periods ranging from one to four months from the end of Ethiopian fiscal year, depending on the tax-payer's categorization.<sup>13</sup> Income from casual rental of property must be declared with a view to effecting tax payment within one month from the date of acquisition.<sup>14</sup>

In respect of income from agricultural activities, provisions are made for participation of peasant's associations in the process of tax collection. They are vested with the power to collect taxes from farmers up to annual taxable income of Birr 600.<sup>15</sup> Generally, the compliance with the obligations to declare income and pay tax thereon must be met each year within the period that runs from 1 Tahsas to 30 Miazia, in line with the prevailing harvest season in Ethiopia.<sup>16</sup>

## V. TAX ASSESSMENT

Assessment is the process of determining the taxable income to which a given tax rate applies. Generally, this process may not be difficult in respect of such withholding schemes involving income sources as chance winnings and use of patents and copyrights, unless there exists a collusion between the tax-collection intermediary and the actual tax-payer, with a view to concealment of income. As regards other sources of income, in particular those to which a profit tax attaches, the assessment process may not be so easy a task as it may seem.

Under the Ethiopian taxation system, income-tax liability is assessed either on the basis of books of accounts and records, or by estimation. Those tax-payers that are obliged to keep books of accounts and records are required to submit them to the Income Tax Authority for inspection upon request.<sup>17</sup> If they do so, and their books of accounts and records come up to the satisfaction of the Authority, their tax liability is assessed on the basis of such books of accounts and records.<sup>18</sup> Conversely, if these tax-payers either fail to submit their books of accounts and records, or if the Authority rejects them for any reason, assessment of tax liability is done by estimation. Tax liability is also assessed by estimation in respect of all tax-payers that are not bound by law to keep books of accounts and records.<sup>19</sup>

More often than not, there appears to exist a disparity in amounts between

the taxable income and the sum total income (gross income) of a tax-payer for a given accounting period. This is particularly true of such income sources as employment, professional and vocational occupations, agricultural undertakings and other businesses of every description. The reason for this lies in the provisions of the law that make allowance for excludable and deductible outgoings and losses.

As far as the Ethiopian tax system goes, the term "exclusion" means preclusion of certain classes of payments in cash and benefits in kind from the canvass of taxable income from employment. "Deduction", on the other hand, signifies the subtraction of certain items of expenses incurred or losses sustained in the process of creating income from gross earnings that accrued within a given accounting period.

In principle, the sum total income a worker receives in a month is taxable.<sup>20</sup> Nonetheless, four classes of payments which actually provide an advantage for the employee and present expenses to the employer may be excludable while assessing the tax liability of the former. Apart from the one that concerns medical treatment, the other classes of payment have to do with transportation and travelling expenses borne by the employer.<sup>21</sup>

As regards taxes on profits, the rule is to take away from gross income all expenses incurred and losses sustained for the purpose and in the process of generating the income on which tax is imposable in respect of a given accounting period. Statutory enumeration of deductible and non-deductible items of outgoing and losses is in fact provided.<sup>22</sup> This approach indeed goes a long way to the determination of deductibility.

Under the Ethiopian income tax system, aggregation is possible. However, it follows the schedular and not the global approach. There are three main schedules in the Ethiopian income tax system, one for income from employment, another for income from agricultural activities, and a third for those derived from all other sources of businesses, as well as professional and vocational occupations including those from casual rental of property.<sup>23</sup> In instances where incomes are obtained from more than one source under different schedules, it is not permissible to add up the taxable incomes and compute tax on the aggregate amount, as is generally the case in the global approach. Thus, aggregation of taxable income takes place only where the sources from which the incomes are derived fall under one and the same schedule and applies only where the incomes are obtained within the same accounting period.<sup>24</sup>

In relation to only one income source, viz. employment, an explicit provision for what may be called pro-rata computation is made. Thus, if an employee happens to be in a situation where he receives, say, his three months pay at once, tax liability may not be assessed on the sum-total income. First, the sum total income must be pro-rated over the number of months of services to which the pay corresponds, and then tax liability is computed.<sup>25</sup>

As regards income from agriculture, tax liability is generally worked out by the application of what may be called an anticipatory assessment. This version of assessment by estimation takes as a basis of computation the prospective income of a given farmer which is calculated by having a look at the harvest as it stands. Nevertheless, such assessments may not be conclusive; upon submission of convincing proofs, tax adjustments are allowable where proceeds from a sale of produce fall short of the income assessed by anticipation.<sup>26</sup>

The segregation of income into allowable and non-allowable portions to get at the taxable income by the use of the estimation method of assessment poses practical difficulties. Obviously, it is impossible to determine exactly the statutory allowable outgoings and losses for computing taxable income in the case of assessment by estimation. On the other hand, a tax-payer whose liability is assessed by estimation need not be totally denied access to fair play. This anomalous situation necessitates methods which can bring about results in line with equity.

To this end, general standards of profit rates in percentages are administratively set for a general application in respect of each type of activity, having due regard to, *inter alia*, the statutory allowable and non-allowable items of outlays and losses. Each standard profit rate applies to all tax-payers who carry on the type of activity to which it is meant to correspond. Thus, taxable income in case of assessment by estimation is calculated as that portion of the profit that accrues to a particular tax-payer in a given accounting period which tallies with the appropriate standard profit rate.

The process of assessment by estimation calls for unstinted effort for the acquisition of information conducive, on the one hand, to making comparative studies within the specified type of activity to get at reasonable and feasible standards of profit rates, and on the other, to determining the profits of a particular tax-payer in a given accounting year. Both lines of action, therefore, need effective inspection techniques and dependable skill in data analysis.

Needless to say, assessment, as a whole, necessitates being conversant with

the operative tax rates. Under the Ethiopian income tax system, one can discern three formulations.

The fixed rates in percentages are applicable to taxable incomes in respect of state farms, and all cases where the liability to pay tax rests with organizations to the exclusion of agricultural producers co-operatives. Such tax-payers, with the exception of joint ventures, pay in tax 50% of their annual taxable income.<sup>27</sup> The fixed rates in percentages are also applicable to royalties, dividends and prizes, and constitute 40%, 10% and 10% of such incomes respectively. One more application of fixed rates in percentages is with respect to payments made for services rendered abroad, which is set at 10%.<sup>28</sup>

Instance of application of specified rates in amounts are found in cases where incomes are derived from agriculture. In relation to agriculture, annual taxable income which does not exceed Birr 600 is subjected to a specified rate of Birr 10.<sup>29</sup>

The marginal rates in percentages are given application with regard to income from employment. They also apply to annual taxable income that exceed Birr 600 in case of agricultural undertakings, and that exceed Birr 300 in case of other activities.<sup>30</sup> For the purposes of determining tax liability, each rate is applicable to a portion of the taxable income that falls within the minimum and maximum income limits that correspond to it, and a summation of the results is made.

Generally speaking, assessment concerning income from professional and vocational occupations as well as other businesses and agricultural activities must be made within five years from the date when declaration of income is made by tax-payers. Failure to do this may result in barring the exercise of assessment in respect of tax-payers who complied with the obligation to declare income.<sup>31</sup> This statutory limitation to assessment may not, however, work in all cases of deceit relating to income and the activity the income is derived from.<sup>32</sup>

Once an assessment of tax liability is made, it is reduced into what is often called tax assessment notification to be served upon the concerned tax-payer.<sup>33</sup> The assessment notification must be prepared in such a way as to clearly indicate how the tax payable is computed. It should also spell out the types of penalties and their amounts, if there are any.<sup>34</sup>

## **VI. MEASURES TO ENSURE COMPLIANCE**

The enforcement of the three heretofore mentioned main obligations of income tax is hinged on penalties that are imposed as part of the tax payable in case of default.<sup>35</sup> Failure to maintain books of accounts and records as prescribed by the law carries with it a penalty of 20% of the amount of the tax finally assessed.<sup>36</sup> The same applies to non-compliance with the obligation to make declarations of income from businesses as well as professional and vocational activities.<sup>37</sup> Concerning agricultural income tax, the penalty imposed in default of the obligation to declare income is 25% of the tax finally assessed.<sup>38</sup> The penalty that ensues from omission of payment of tax on the due date is worked out in a somewhat different way, suggestive of interest.

As regards income from agriculture, failure to effect tax payment on the due date entails a penalty of 25% of the unpaid tax in respect of each month of delay.<sup>39</sup> As the penalty has, as its ceiling, 50% of the unpaid tax, it is obvious that it runs only for two months. For other income sources the rate at which this penalty increases is set at 2% per month, the maximum limit being the same as that stated above.<sup>40</sup>

Non-compliance may also result in the revocation of licenses under which activities are carried on. Municipalities and other appropriate public authorities are generally required by law to revoke the licenses of delinquent tax-payers at the request of the Ministry of Finance.<sup>41</sup>

Compliance may also be sought through judicial means. It is possible to distrain upon property for unpaid taxes, and settle the debt from the proceeds of the sale therefrom via execution proceedings.<sup>42</sup> Moreover, infractions of tax laws, in principle, constitute criminal liability punishable under the Penal Code.<sup>43</sup> Consequently, tax-payers are assumed to be deterred by the facts mentioned above from violating what is required of them by the law.

## **VII. GRIEVANCES**

Upon receipt of a tax assessment notification, the tax-payer is, in principle, obligated to settle accounts with the Income Tax Authority within one month.<sup>44</sup> Nonetheless, if the tax-payer feels unhappy about the way his/her or its liability is assessed, there are two options open for airing grievances.



First, the tax-payer may opt for administrative means. In such cases, an application for a review of the assessment notification is made to the Income Tax Authority and, usually, a three-man committee examines the validity of the tax-payer's claim. Generally, the investigation process involves going into the files of the tax-payer, and inspection of premises where activities are carried on. If the findings of the committee warrant revision of the assessment, it is performed accordingly, and the new assessment is served on the tax-payer afresh.

Second, the tax-payer may opt for a legal remedy which stems from the right to appeal against the assessment made by the Income Tax Authority. For the exercise of the right to appeal, however, the fulfilment of two preconditions are mandatory: the first relates to the time within which an appeal must be made, which runs for just one month from the date of receipt of an assessment notification. The second is the requirement to deposit the prescribed amount of money with the Income Tax Authority. The absence of either of the two preconditions bars the exercise of the right of appeal, in the event of which the assessment notification becomes final and conclusive and generally executory by courts.<sup>45</sup>

The appeal is lodged with a special tribunal at the first instance.<sup>46</sup> The tribunal is empowered to increase, reduce, confirm or annul the tax assessed by the Income Tax Authority, and to make consequential order for the disposition of the matter.<sup>47</sup>

Both parties, i.e., the tax-payer and the Income Tax Authority, have a right to appeal to courts whenever they are dissatisfied with the decision of the tribunal. The right is, however, restricted to points of law, as the courts are precluded from going into the merits of the case, and are required to send back the case to the tribunal having rectified only what they consider legally erroneous in the decision.<sup>48</sup>

## VIII. EXEMPTIONS AND INCENTIVES

Under the Ethiopian Income Tax System, exemptions are provided by (a) the income tax proclamations, (b) other municipal laws, and (c) international treaties and conventions.

As regards employment, monthly income of all employees not exceeding 50 Birr is tax-free.<sup>49</sup> In addition, income that accrues to unskilled workers under the conditions prescribed by the law entails no tax.<sup>50</sup> Exemption is also granted to an employee of a person or organization residing abroad in respect of the income he

receives from such an employer, provided his stay in Ethiopia in one year does not exceed 183 days, and provided further he may not work for another organization or person within Ethiopia. However, such an employee may be subjected to payment of tax on such income if the employer residing abroad has business in Ethiopia.<sup>51</sup>

Still another instance of exemption relating to employment pertains to diplomatic and consular corps. It also extends to other diplomatic passport-bearing personnel working in entities that represent the interests of a foreign state, provided such personnel have nationality of the state represented. The exemption applies, however, to the income they receive from the exercise of their normal functions only.<sup>52</sup>

Exemptions are also granted in respect of other income sources. Generally self-employed artisans who live outside municipal areas and townships earn tax-free income from their trade.<sup>53</sup> Likewise, interests accruing to persons from savings in credit institutions recognized by the law, and premiums collected by foreign reinsurers, entail no tax.<sup>54</sup> In addition, income from chance winnings which does not exceed Birr 100 does not give rise to tax liability.<sup>55</sup> Tax payers that derive income from sources chargeable under schedule C have also no liability to pay tax provided their taxable annual income does not exceed Birr 300.<sup>56</sup>

As regards cooperative societies, save those engaged in agricultural activities, the income retained by them is untaxable. If distribution of income amongst their members takes place, however, each member is exempted from payment of tax only to the extent to which his/her annual share does not exceed Birr 500.<sup>57</sup>

All exemptory provisions contained in international treaties and conventions to which Ethiopia is a signatory party are abided by and given application within the territory.<sup>58</sup> Thus, income received by officials of international organizations such as the specialized agencies of the United Nations is not subject to the payment of taxes.<sup>59</sup>

Exemptions from the payment of income tax may also result from municipal laws other than the tax legislations. The exemptions granted to the Relief and Rehabilitation Commission and the Sport Commission are just two instances of the above.<sup>60</sup>

Incentives by way of income tax are extended to joint ventures formed pursuant to Proclamation No. 32 of 1989. They are allowed to enjoy five years' tax holiday with respect to a newly launched project from the date of commencement

onwards. A three-year tax holiday relating to expansion is also stipulated. Besides, the fact that the rate applicable to their taxable income is set at 40% signifies additional favourable treatment.<sup>61</sup>

Investors in agricultural and industrial activities as well as hotel undertakings may become beneficiaries of exemptions from the payment of income tax for specified periods.<sup>62</sup>

With respect to agricultural activities, an investor shall be entitled to a tax holiday for two years, three years or five years as of the commencement of production provided the amount of capital invested is a) over Birr three hundred thousand but not more than Birr seven hundred and fifty thousand b) over Birr seven hundred and fifty thousand but not more than Birr two million and c) over Birr two million, respectively.

Here again the duration of the tax holiday is extended for a period of one year if the investment occurs in areas designated as preferred by the Council of Ministers. Investing in such areas in the field of industry also carries with it the benefit of being exempted from the payment of income tax for a period of two years as of the commencement of operations even in cases where the amount of the capital involved is Birr five hundred thousand or less but more than Birr fifty thousand.

The establishment of hotel services in preferred areas is encouraged by a grant of exemption from the payment of income tax for a period of two years as well. Enterprises of this nature must however, meet the standard criteria set by the Hotel and Tourism Commission in order to be eligible for the exemption.

Where major expansion is ascertained to have taken place in agricultural or industrial concerns in respect of which a tax holiday for two years, three years or five years has been granted, the income deriving from the expansion shall remain unaffected by income tax for one year, two years, and three years respectively.<sup>63</sup>

## **IX. CONCLUSION**

At the close of this brief survey of income tax in Ethiopia, some basic points are worth considering.

## **THE STATUTORY DEFINITION OF INCOME**

Does the Ethiopian statutory definition of the word "income" pose no problem? The answer to the above question appears to be "yes, it does.". In the first place, there is an ambiguity in the language of the meaning of "income", as to whether the "revenue" itself or the "source", i.e. the activity which gives rise thereto, must have its origin in Ethiopia. Secondly, there is nothing in the definition that indicates its extension to goods and services of commercial value, in contradistinction to other provisions of the law that appear to establish this fact. Consequently, there is a need for an improved definition of the word "income" aimed at rectification of the above-mentioned and other defects.

## **DIVIDENDS AND ROYALTIES**

How competently do the taxes on dividends and royalties operate ? Over ten years have passed since these taxes were introduced into the Ethiopian direct taxation system, and all attempts at their implementation have encountered difficulties.

As there is no provision in the law in respect of transnational companies with branches or subsidiaries in Ethiopia, it has become impossible to assess and collect dividend tax where such is the case. Even where the company has Ethiopia as its country of incorporation, the fact that the tax liability arises only when dividends are "declared and paid" enables the shareholders to circumvent collection by postponing the distribution of profit amongst themselves in their general meetings indefinitely, but creating subtle mechanisms, such as artificial loan agreements with the company which would ensure the benefits from their dividends.<sup>64</sup>

The tax on royalties with its high rate of 40%, has a clearly discouraging effect on the work and creativity of the mind, which has made its application unacceptable. Further, its scope is undefined in the income tax laws, and there is no separate legislation on patents and copyrights which governs the situation. All these factors tend to render its implementation difficult. Consequently, the reappraisal of the above two taxes in the light of the objective situations of present-day Ethiopia is felt necessary, and even imperative.

### **PAYMENTS FOR SERVICES RENDERED FROM ABROAD**

At least two major problems stand in the way of an attempt to implement the tax imposed on payments made for services rendered from abroad. In the first place, it is not clear whether the tax is intended to apply to cases where the actual performance of the service takes place outside Ethiopia. If this is so, the tax in question becomes an exception to that principle which holds the sources of all receipts of cash and benefits in kind within Ethiopia to constitute "income". Secondly, it is uncertain whether it is meant to apply only to casual instances or to all cases that involve transfer of service from abroad, including ongoing concerns. Thus, the provisions that deal with this tax need amendment.

### **CASUAL RENTAL FROM PROPERTY**

Incompatibility seems to exist between tax payment and assessment in respect of casual rental from property. The tax is required to be paid within one month from the date of receipt of such income, whereas its assessment is made pursuant to schedule C which is based on annual taxable income. This anomalous situation makes the levying of tax on casual rental from property quite difficult. The problem seems to render even aggregation complicated in a case where a given tax-payer happens to get income from sources such as trade in addition to casual rental from property. Viewed from the above problems, and the possibility of taxing any income from any source (activity) not specifically mentioned in the law under Schedule C, even a proposition that calls for the repeal of the provisions that deal with casual rental from property seems worth considering.

### **TAXATION OF PUBLIC ENTERPRISES AND FINANCIAL AGENCIES:**

Is it advisable to tax public enterprise, and financial agencies in the face of their obligation to transfer all surpluses to the central government? Detached from present circumstances, the negative side of the above issue appears too plausible to disclaim. It is plain that the application of double revenue raising channels to one subject and the same income simultaneously tends to result in operational redundancy, leading to waste of manpower, time and resources, thus putting the government to large and undesirable expense. With due recognition of all disadvantages implied in retaining the application of income tax to public enterprises, and financial agencies however, we may be justified in considering the other point of view. The question is one of time: to figure out exactly when to put

an end to the application of income tax as regards public enterprises and financial agencies. A swift shift from one system to an entirely new one is usually in danger of incompleteness and inefficiency, and perhaps all the more so in the case of handling public finance policies.

The application of taxes to public enterprises and financial agencies in the present circumstances is held as justified on the grounds that it serves the purpose of control and countercheck, and particularly as a means of calibrating economic performance. Yet as long as public enterprises and financial agencies continue to remain under income tax obligation, the need to coordinate operations so as to minimize the disadvantage is evident.

### **THE INCOME TAX RATES**

The present rates, with their unmistakably high progression are apparently meant to narrow the gap of income disparity. They show that the tax burden becomes heavier as income goes higher. However, social justice is not sought only along this line, and it is perhaps high time to think in terms of what is known as horizontal equity as well. That is to say, the tax burden should be lighter on individuals with dependents than those without dependents despite the fact that they get the same amount of income within the same accounting period. The structure of the present income tax rates may also come under criticism for discouraging private effort to engage in business that are both legal and profitable.

In the case of employment the cumulative rise of the rates amounts to 85% in respect of the monthly taxable income that exceeds birr 3,750. With regard to agricultural activities it goes as high as 89% for that portion of annual taxable income of individuals and producers co-operatives exceeding Birr 36,000.

For other businesses the cumulative rise of the rates amounts to 59% in respect of that part of annual taxable income of individuals exceeding Birr 24,000. From the above one can easily see the adverse impact of the rates on private business initiative which is expected to play a significant role in national development.

### **TAX APPEAL TRIBUNALS**

One of the considerations that called for the creation of tax appeal tribunals seems to be the idea that they may have a role to play in minimizing the work-

load of the regular courts. However, since the litigating parties more often than not exercise their right to appeal against the decisions of the tribunals, much of the strength of the above argument is lost. The restricting of the power of the regular courts to mere points of law, and the requirement to send back cases to tax appeal tribunals for final disposition, tend to result in undesirable prolongation of the judicial process.

Hence, it is felt to be of paramount importance to make a careful evaluation of the merits and demerits of the existence of these tax appeal tribunals, and even consider their abolition, in favour of the advantages attainable by setting up special tax divisions within the structure of the regular courts to deal with tax matters in their entirety.

#### **CO-OPERATIVE SOCIETIES**

The idea of granting exemption to co-operative societies presumably sprang from the need to give encouragement to their formation. Its formulation also goes with the acknowledged principle that the impact of taxes should be less on savings and more on consumption. As regards this question, however, the anomalous exemptory status of peasant producers co-operatives, the self-defeating exemptory provision in respect of members of co-operative societies as a whole, and the issue of collection of tax from those liable to payment have become problems of great concern.

#### **PARTICIPATION OF MASS ORGANIZATIONS IN TAX ADMINISTRATION**

To what extent is the participation of the Peasants' Associations useful and expedient in the process of taxation? It is not surprising that this issue should become a major concern, for effective use of appropriate mass organizations as an extended arm of the tax authorities goes a long way to enhancing the revenue raising capacity of the government. The Peasant Associations, as noted earlier, have had initial experience along this line and proper assessment of the experience would help not only to find out areas that need improvement, but also to devise better means of similar applications for the future. As a general remark, however, it may be stated that the feasibility of such scheme largely depends on the general level of education in the population, creation of a high level of tax awareness, and the degree to which responsibilities and functions are clearly defined in the law and directives.

To sum up, the issues, anomalies and shortcoming detectable in the present income tax system of Ethiopia may be many more, and much more diversified. There is a pressing need to improve the situation for implementing public finance policies, if income taxes are to be effective instruments. The removal of all encumbrances, of whatever nature, that bar proper and undifferentiated application of the income taxes is clearly of absolute necessity; yet the task of over-hauling the system will also demand a great deal of work.

The constraints on the application of the income tax system may have their origin in either the policy, the law or the administration, and the effort at the improvement of the system must be made from these three fundamental perspectives.

#### NOTES

1. The writer of this article had the opportunity to present a discussion paper entitled "Income And Property Taxes in Ethiopia- A Synopsis of Basic Functions and Salient Features" to the Ethiopian National Training Workshop on Public Finance for Development. The Workshop had been organized by the Economic Commission For Africa in collaboration with the Ministry of Finance from 22 to 26 October 1984.

It was the intention of the writer to have the above mentioned paper published in this Journal without any alterations. Nonetheless, the abridgement of the original text was required due to limitation of space. Further, it has become necessary to update the contents of the original text in light of the income tax and other relevant laws promulgated thereafter.

As can be gathered from the title of this article, all the discussions on property taxes are omitted by way of abridgement. On the other hand, much of that portion of the original text pertaining to income tax is retained intact.

2. See Art. 3 of Income Tax Proclamation No. 173 of 1961 (as amended). In this paper unless indicated otherwise all Articles refer to this Proclamation.
3. The exception is the tax imposed on payment for services rendered from abroad.
4. See the Amharic version of Art. 4 (a&b); see also Art. 3(9) of Proc. No. 77 of 1976 (as amended).
5. Art. 4 (c,d, & e).
6. Art. 6.



7. Art. 3(b).
8. Art. 3(a); Cf. Art.3 (3) of Proc. No. 77 of 1976 (as amended). Note that (a) co-operative societies are excluded from the definition accorded to "organization" as far as proc. No. 173 of 1961 (as amended) goes; (b) for the purpose of this text, "joint-venture" has to be understood in the context of Proc. No. 32 of 1989.
9. Art. 26 of Legal Notice No. 258 of 1962.
10. Arts. 30 and 34 (b,c,d & e).
11. Art. 21 (2,3, & 4) of L.N.No. 258 of 1962.
12. Arts. 32, 33, and 45. Though the law has nothing to say on the matter, practice holds that employees in international organizations with liability to pay income tax should declare in person to the Income Tax Authority the monthly income they receive from their employment and pay the tax thereon.
13. Art. 25 of L.N.No. 258 of 1962; see also Arts. 35 and 46. Note that the Ethiopian fiscal year runs from 1 Hamle to 30 Sene.
14. Art. 34 (a).
15. Arts. 17; see also Art 20 of Proc. No. 77 of 1976 (as amended).
16. Art. 13 of Proc. No. 77 of 1976 (as amended). Note that the obligations to declare income and pay tax must be met within thirty days from the date the farmer receives the income, even where it takes place prior to 1 Tahsas.
17. Art. 22.
18. Art. 39; see also Art. 21 of Proc. No. 77 of 1976 (as amended).
19. Art. 40; see also Art. 21 of Proc. No. 77 of 1976 (as amended).
20. Art. 8.
21. Art. 4 of L.N. No. 258 of 1962.
22. Art. 16 and 17 of L.N. No. 258 of 1962, as well as Art. 24 of Proc. No. 77 of 1976 (as amended).
23. Arts. 4, 7(b) (2) and 12(b,c & d); see also Art. 25(1 & 2) of Proc. No. 77 of 1976 (as amended).
24. Art 5 cum Art. 34 (c) of L.N. No. 258 of 1962; Cf. Art. 23 of Proc. No. 77 of 1976 (as

- amended).
25. Art. 7(a).
  26. Art. 15 of Proc. No. 77 of 1976 (as amended). Note that the Peasant Associations participate in the assessment process and, in fact much of the work rests with them. See Art. 16 of Proc. No. 77 of 1976 (as amended).
  27. Art. 17(c); see also Art. 25(1) of Proc. No. 77 of 1976 (as amended).
  28. Art. 17.
  29. Art. 17; see also Art. 20 of Proc. No. 77 of 1976 (as amended).
  30. For employment see Art. 7(b) (2); for agriculture see Art. 25(2) of Proc. 77 of 1976 (as amended) and for other sources of income Art. 12 (b) (2)
  31. Art. 41; see also Art. 26 (1) of Proc. No. 77 of 1976 (as amended).
  32. Art. 70; see also Art. 26 (2) of Proc. No. 17 of 1976 (as amended).
  33. Arts. 47 and 48.
  34. Art. 34 (d) of L.N. No. 258 of 1962 and Art. 27 (1) of Proc. No. 77 of 1976 (as amended).
  35. Art. 69; see also Art. 40 of Proc. No. 77 of 1976 (as amended).
  36. Art. 68; see also Art. 39(2) of Proc. No. 77 of 1976 (as amended). Note that it is problematic to apply the penalty in the case of tax on income from agriculture, for there is no regulation issued by the Minister of Finance to date.
  37. Art. 66.
  38. Art. 39 (3) of Proc. No. 77 of 1976 (as amended). Note that it would have been much better to put the percentage instead of cross-referring.
  39. Art. 39 (1) of Proc. No. 77 of 1976 (as amended).
  40. Art. 67.
  41. Art. 27.
  42. Art. 62; see also Art. 63 and Art. 41 of Proc. No. 77 of 1976 (as amended).
  43. Art. 70; see also Art. 43 of Proc. No. 77 of 1976 (as amended). The relevant Penal Code provisions are Arts 354-356; 362-740.

44. Art. 46.
45. Art. 54 and 55, Cf. Arts. 27(2) and 28 of Proc. No. 77 of 1976 (as amended).
46. Art. 49; see also Art. 29 of Proc.No. 77 of 1976 (as amended).
47. Art. 56. Cf. Art. 33 of Proc. No. 77 of 1976 (as amended).
48. Arts. 58-60; Cf. Arts. 34 and 35 of Proc. No. 77 of 1976 (as amended). Note that in the case of tax on income from agriculture the decision of the awraja court is non appealable.
49. Art. 7(b) (1).
50. Art. 18 (c); see also Art. 10 of L.N. No. 258 of 1962.
51. Art. 18(d); see also Art. 11 of L.N. No. 258 of 1962.
52. Art. 18(g).
53. Art. 18(b). Note that such persons should not employ workers on a permanent or regular basis, to benefit from the exemption. Cf. Art. 9 of the 1961 Commercial Code of Ethiopia.
54. Art. 18(e and f).
55. Art. 17(b) (1).
56. Art. 12(b) (2).
57. Art. 2(4) of Proc. No. 155 of 1978.
58. Art. 18(h).
59. Article 5 Section 18 of the Convention on the Privileges and Immunities of the United Nations, and Article 6 Section 19 of the Convention on the Privilege and Immunities of the Specialized Agencies of the United Nations.
60. Art. 9 of Proc. No. 203 of 1981 and Art. 23 of Proc. No. 92 of 1975.
61. Art. 27 (5) and (10) of Proc. No. 32 of 1989.
62. Arts. 11 and 12 of Council of State Special Decree No. 17 of 1990.
63. Pursuant to Art. 2 (2) of Council of State Special Decree No. 17 of 1990, "major expansion" means an increase of 50% or more of production or service rendering capacity.
64. Art. 34 (b). Cf. Art. 419 and 420 of the 1961 Commercial Code of Ethiopia.