

## BRIDGING THE GAP BETWEEN TAX POLICY PLANNING AND PLANNING FOR TAX

### ADMINISTRATION: SOME ASPECTS OF THE PHILIPPINE EXPERIENCE

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The role of taxation in less developed areas has lately been the focus of increasing interest. This concern has been made more compelling by the strivings of these countries to get the wherewithal for a spurred rate of economic growth. Emphasis has thus been paced on realistic approaches to the problem of allocating resources to the governmental sector so that it can cope with mounting yearly expenditures. The pervasive goal is to increase the ratio of tax revenue to national income. In the Philippines, the ratio never exceeded 10 per cent - a ratio which is deemed low. This is usually attained by increasing revenue from taxation by means of the imposition of new taxes by increasing existing tax rates, reducing exemptions or improving tax administration. Systematic planning in these areas is therefore, demanding.

Tax policy planning, as a constituent aspect of fiscal policy planning relates to the formulation of blueprints -- both long and short-range -- in the determination of appropriate substantive tax laws to maximize the utility of taxation. It refers to setting up a framework for legislative action encompassing what or who are to be taxed, how much and for what end. Planning for tax administration, on the other hand, involves the drawing up of programs and projects to ensure the effective administration of tax laws. This connotes the anticipation of problems apt to be encountered and the utilization of sound management techniques to bring about a firm but fair implementation of tax laws. Where the tax system is mainly based on voluntary compliance, utmost efforts are to be exerted in plugging loopholes to the end that non-compliance is deterred or, correlatively, that sanctions are effectively enforced. Simultaneously, plans should be designed to inculcate a greater tax consciousness in the population through tax education.

Planning for tax policy and planning for tax administration are however, not mutually exclusive but closely intertwined. Failure to recognize this linkage can stymie tax policy formulation and tax administration as well. Under such a setting, tax laws would tend to be unrealistic and imprecisely drafted, and tax administration problems would abound. As Luther Gulick, a reknowned authority on organization and management, stated:

"Many a fine tax theory will continue to be a mirage until and unless we can embody the tax theory in appropriate laws, rules and regulations, administrative structure, trained personnel, and the consonant pattern of official and taxpayer behavior. . ." (1)

(1) Gulick, Luther. Basic Goals of Tax Administration: Income Tax Administration conducted by the Tax Institute Inc., (New York, Dec.15-17,1948),p.13

A scheme of coordination between policy planning and implementation should therefore be set up.

The topic assigned to me is "Bridging the Gap Between Tax Policy Planning and Planning for Tax Administration." The scope of the subject is very wide and, if not properly delimited, can induce excursions into its ramified, even tenuous details. I will therefore limit my discussion to some selected aspects of the Philippine experience.

This paper deals essentially with the salient organizational aspects and other relevant features of the Joint Legislative-Executive Tax Commission that have contributed to, or are designed to, reduce the gap between tax policy and its implementation. Part I is an overview of the Philippine tax system, including its historical background and key problems. Part II deals with the organizational framework, laying particular emphasis on the objectives, structure and operational procedures of the Tax Commission within the broader policy milieu. Part III discusses some important activities and policies which, in one way or another, would reduce the gap between policy and implementation.

## I THE PHILIPPINE TAX SYSTEM

### A. Historical Background

The Philippine tax system is essentially a colonial legacy. Beginning with the Spanish period (3 centuries and a half) up to the American era (48 years), the tax system was basically massbased. The tax system under Spanish rule practically imposed the whole tax burden on those who could least afford to bear it. Land remained essentially free from taxation due to the powerful role of landowners in determining the policies of the government. This set-up fostered the imposition of the bulk of the burden upon those whose property was not in land to offset the losses in revenue arising from this tax avoid.

Even with the advent of American sovereignty toward the close of the 19th century, the overall tax structure remained basically the same. President Queson of the Commonwealth in 1938 condemned it as "source of the greatest injustice", as the "burden of taxation rests most heavily upon the masses and very lightly upon the rich."

A year later, the first Tax Commission created to study and effect changes in the tax system, reiterated that the tax system in 1938 was essentially the tax system established in 1904 which made it inappropriate and inadequate under the impact of political, social and economic transformation. Its six-month study culminated in the enactment of the National Internal Revenue Code in 1939 (Commonwealth Act 466). This "Tax Code" is the basic Law governing our present tax system together with a number of special laws.<sup>(1)</sup>

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(1) Residence Tax Law (enacted January 1, 1940 as Commonwealth Act 465, amended by Republic Act 1903, January 16, 1956); Tax Census Law (enacted 1958 as Republic Act 2070; amended by Republic Act 2212 in 1959);

The present scheme of taxation drew heavily from this background -- more predominantly so from its American counterpart. The Tax Code, with but a few minor modifications such as in rates, is essentially that enacted thirty years ago when the country's political and economic interests were ancillary to those of the United States. Distinctively, therefore, the tax system is anachronistic. Some of the rates in the Tax Code are of 1904 vintage, many of them can be reasonably increased by as much as 500 per cent if only to approximate them to realistic levels; some tax subjects are left out, such as new businesses and specialised occupations and professions which by and large, were not thought of at the time the code was framed; numerous tax exemption laws have eroded the tax base. Of the 82 tax laws enacted over a 10 year period (1957-1966), fifty accorded tax concessions in varying form and extent; some sectors do not contribute their fair share to the cost of government. For instance, only 40 per cent of "legitimate" taxpayers paid business taxes and only 60.7 per cent of self-employed professionals pay taxes.

The valuation system is outdated e.g., real property tax is, on the average, imposed and collected on only 45 per cent of the actual value of property.

There is over-dependence on indirect taxes constituting over 75 per cent of tax revenues, a factor that largely accounts for the regressive nature of the tax system and for its failure to capture a bigger share of increases in national income. The power of taxation has been greatly restricted by rigid constitutional and statutory limitations which militate against changes in our tax structure correlative to changing fiscal, economic and political conditions. For instance, under the Constitution (Sec. 22(3), Art. XI), cementeries, churches and parsonages or convents with appurtenance thereto, and buildings, and improvements used exclusively for religious, charitable, or educational purposes are tax exempt. As will be discussed presently, substantial flaws in the tax system are compounded by deficiencies in the administration of tax laws.

Against this backdrop, planning for both substantive tax policies and administration would naturally follow as a logical concomitant. However up until the creation of the third and present Tax Commission in 1959, there was no concerted and sustained effort in this area. In 1938 the first Tax Commission was created to update an outmoded tax system; the second was formed in 1946 along similar grounds. Again in 1955 the Tax Advisory Board was created by administrative fiat to look into the same and nagging problems of the tax system.

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Narcotics Drug Act (enacted 1959 as Republic Act 2338); Tariff and Customs Code (enacted 1959 as Republic Act 1937); and the numerous tax exemption laws, most important of which are the Basic Industries Act (enacted 1961 as Republic Act 3127) and the Investments Act (enacted in 1967 as Republic Act 5186).

The point I am trying to make is that tax planning is, and should be, a continuous endeavor rather than an intermittent outburst of enthusiasm. Our experience has shown that it is an immense job which requires a methodical and painstaking appraisal of an ever increasing array of actual and potential problems.

The present Tax Commission has not provided the panacea for this serious dearth in planning. But it has established a more stable mechanism for continued coordination and research work which are essential in the formulation of sound tax policies.

#### B Problems in Executive-Legislative Coordination

In our government system of demarcated powers, formulation of policies is vested by the Constitution in a bicameral Congress. While tax policy formulation is essentially legislative, the Executive and the Judiciary share in its efficacy. The President by his administrative and veto prerogatives is given extensive powers in the implementation of tax policies. The Legislative branch, as is the experience in other representative governments, provides only the basic policy guidelines because the growing complexity of government precludes a meticulously detailed approach. The Executive branch fills up this gap. The Judiciary by its interpretation of tax laws and regulations necessarily plays a decisive role: tax policy in practice may appear different from tax policy in statutes as a result of judicial declarations in disputed cases.

The crucial area in the formulation of tax policy within this framework of separation of powers is in legislative-executive coordination. Even when partisan conflicts have been minimized, i.e., where the President belongs to the ruling party in Congress, the need for harmonising nonpartisan conflicts of views is still there. Legislators, as a general rule, are not expected to be steeped in the intricate details of taxation although under a democratic system, they are entrusted with the cardinal responsibility of legislating on tax matters. They therefore tend to seek counsel from persons with the technical proficiency.

A conglomerate of factors may pose a barrier to executive-legislator coordination. Thus, if the public image of the tax enforcement entities is not beyond reproach, legislators are likely to nurture the feeling that the stance of the tax administrators jibes with the public interest. In like manner, this rapport cannot be subserved to its purpose if the lawmaker's prime concern is the furtherance of their particularistic interest.

Another principal factor relates to the performance of tax administrators as advisors in tax policy planning. If the legislators feel that sound counsel is not forthcoming, another serious obstacle is interposed to the active participation of tax administrators in planning.

Still another drawback ensues where either the legislator or the tax administrator takes an insular position by viewing the often nebulous area between tax policy and administration too seriously. This position is not tenable considering the practical realities of the situation where tax

policy has perforce to draw on the experience involved in the process of tax enforcement.

Another problem to be contended with pertains to precision on legislative drafting. Substantive tax legislation constitutes the matrix of tax enforcement. From this perspective, one cannot overstress the vital significance of careful and precise drafting of tax legislation. Definitely, here is one area where tax administration can assist lawmakers and their technical staff by proffering recommendations. A misplaced comma, a seemingly innocuous phrase and other slips in tax bill drafting, albeit unintentional, can make havoc of legislative intent aside from leaving a trail of unsound effects in tax administration. All too often, it can spell the material difference between the government fully realizing taxes due it and persons and concerns going scotfree with respect to tax obligations. (1)

Philippine tax jurisprudence is replete with instances where lapses in legal drafting have precipitated conflict and long-drawn out litigation between the government and certain sectors of the taxpaying public. Particularly notable is a case decided by the Philippine Supreme Court in 1954, whereby religious educational institutions managed to free themselves from the corporate income tax because, as claimed no part of their net income accrues to the benefit of any private stockholder or individual. (2)

Two issues which have still to be resolved by the courts relate to whether exemption from income tax can be enjoyed by all mines or is limited to gold mines, and whether a professional earning of less than P200.00 is exempt from the privilege tax on professional occupations.

To the extent that these and other related problems are resolved, can one expect some improvement of a corresponding extent in arriving at sound and administratively feasible tax measures. From the foregoing we can see that there is the need for an intermediary agency to provide a basic linkage. The Joint Legislative-Executive Tax Commission, the role of which I shall now discuss, occupies a strategic vantage point in this vital area due to the very nature of its organization to its objective and to its performance over a decade of existence. I now wish to call your attention to this agency.

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(1) Avelino B. Lim, "The Case for Tax Revision," Philippine Journal of Public Administration (July, 1962), pp. 195-197.

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(2) Jesus Sacred Heart College vs. Collector of Internal Revenue, G.R. L-6807, promulgated May 24, 1954.

## II ORGANIZATION FOR TAX POLICY FORMULATION:

### Executive-Legislative Coordination as A Key Factor

The Joint Legislative-Executive Tax Commission was created on substantially similar grounds attendant to the first and second Tax Commissions, i.e., to institute tax reforms. However, it possesses three distinct relative advantages which have proven useful, expedient and even vital to its continued existence: 1) it is a joint body with legislative and executive representation in its membership; 2) it is a congressional creation; and 3) it is granted broad powers by Congress.

The Tax Commission consists of nine (9) members, three of whom are appointed by the President of the Philippines; three are Senators appointed by the President of the Senate, one of whom must be a minority member and three are Representatives, appointed by the Speaker of the House of Representatives, one of whom must likewise be a minority member. This joint composition has provided for a rapport between the legislative and executive branches on tax matters. As a staff entity, the Tax Commission functions as a clearing house in that it provides expert assistance to policy-makers. It also coordinates and synchronizes conflicting interests not only between the two branches of government but also between the government on the one hand and the private sector on the other, by virtue of the already traditional private sector representation in the body. It was envisioned to fill a glaring vacuum which may be occasioned by lack of coordination in the strategically expanding role of fiscal policy and administration in our development aspirations.

The traditional membership of the Secretary of Finance who supervises the two principal revenue enforcement entities has a twofold advantage. For one, the desire of the President as to what taxes are to be imposed and as to what objectives are to be pursued, immediately communicated to the Commission. The programming of tax measures is therefore made relatively easier. His presence also provides some degree of assurance that the programming of substantive measures is within the range of existing administrative capabilities.

Also, traditionally, the respective chairmen of the Ways and Means Committees of both houses of the Philippine Congress are members of the Commission. This arrangement expedites the introduction and approval of tax proposals in Congress. Together with the other congressional members, they assist in assuring the agency of an adequate budget. It will be noted that these committees are in charge of all measures involving money and are therefore deemed powerful.

The presence of ranking minority members allows for effective controls which is the essence of our two-party system.

A second distinct advantage over the previous tax commissions is that the present one is a congressional creation with the enactment of Republic Act 2211 in 1959. The two previous ones were created by executive orders.

This gives the Tax Commission a greater degree of stability, particularly in the matter of funding.

The third desirable feature of the Tax Commission relates to its having blanket authority on certain strategic matters. The agency has the power to hold hearings, administer oaths or affirmations to witnesses appearing before it or require by subpoena duces tecum the production of such books or records as it may require in its work. It also has the power to secure assistance from any governmental agency and instrumentality as it may require, including the detail of officials or employees, technical information, the production of records and submission of suggestion, or plans.

#### A. Objectives

The Joint Legislative-Executive Tax Commission is charged with the following objectives:

- a) To undertake a comprehensive study on the need for additional revenue for accelerated national development and the sources from which this might most equitably be derived.
- b) To conduct researches on taxation for the purpose of improving the tax system and tax policy.
- c) To pass upon all tax measures and revenue proposals.
- d) To recommend such reforms or revisions as may be necessary to improve revenue collection and administration and to formulate sound tax policy and a more efficient tax structure.

Of these functions the task of passing upon all tax measures and revenue proposals encompasses the total gamut of responsibilities of the Commission. Herein lies the strategic role of the agency in minimizing legislative-executive bottlenecks by providing in as objective a manner as possible, the research support that is a requisite of sound tax policy. It is this function which makes possible the non-approval of measures which tend to depart from national objectives. All tax bills introduced in Congress are to pass to the Tax Commission for study and comment, besides the tax studies initiated by the Commission itself. It is worth mentioning that before the creation of the Tax Commission, any interested party could present a bill and follow it through to its logical conclusion. While today anybody still can, the bills are centrally cleared at the Commission before their consideration by Congress. The creation of the Tax Commission has thus provided a workable link in the initial stages of policy formulation.

The fourth objective - to recommend the required reforms or revisions in revenue administration and tax policy formulation-, is an explicit recognition of the imperative need for improvement in these areas, such as

the reconciliation of conflicts and problems to eliminate the discrepancy between policy and implementation.

To study the need for additional revenue implies some degree of coordination with expenditure or budget policy. No formal coordinative scheme has been devised in this regard. But, in general, the efforts at revision are in response to the conspicuous lag of revenues as compared with mounting expenditure. In more specific terms, it is quite true that a number of the tax proposals so far evolved are geared to specific expenditure needs. Cases to the point are two tax laws - part of the 1968 Tax Program which was approved last year-, creating the Special Education Fund and the Special Science Fund and accordingly earmaking tax resources.

The function of re-examining the tax system and tax policy structure clearly suggests, at least in a normative sense, the permanence of the Commission. This stems from the now recognized fact that tax revision is a continuous task.

To conduct research is basic in the existence of the Tax Commission, as it is in the formulation of well-designed tax measures. The increasing need for statistical and informational support in tax policy formulation is apparent if a tax measure is to be economically sound, administratively feasible, legally and politically workable, fair, and "popularly" acceptable.

#### B. Organization (1)

The structural set-up of the Tax Commission may be divided into two parts the Commission proper and the Technical Staff. From among the members of the Commission, a Chairman and Vice-Chairman are elected. The Chairman is usually elected alternately among senator-members and representative-members representing the majority officials concerned, in the absence of a term of office fixed by law. Thus, unless sooner terminated, the term of the legislative members is co-terminus with their respective terms as senators and representatives; while the Presidential appointees serve at the pleasure of the President.

The organizational pattern of the Technical Staff is functional. The work program of the Tax Commission is distributed to the branches on the basis of specialization and teamwork. Lines are drawn between each sphere of activity providing opportunity for a workable delegation of authority and responsibility, thoroughness of unit analysis, flexibility and personnel development.

The Executive Director supervises and coordinates the work of the Technical Staff, serves as liaison officer with both the public and private sector and acts as chief administrative officer. He is assisted by 2 Assistant Executive Directors.

The branches of the Technical Staff are grouped following the delineation, though approximate, of key areas in our tax system and relevant considerations

(1) see chart I.

in research. These are either line branches or staff units. There are 5 line branches: Direct Internal Revenue Taxes Branch, Indirect Internal Revenue Taxes Branch, Revenue Administration Branch, Local Finance Branch, and Tariff and Customs Branch. There are 4 staff units: Legal Staff, Economy policy Staff, Legislative Services and Statistical Research Services.

The branches conduct specialized research studies on the relevant structure of the Philippine tax system. Studies on direct taxes such as individual and corporate income tax-transfer taxes and correlative tax exemption laws are undertaken by the Direct Internal Revenue Taxes Branch. While studies on indirect taxes e.g., specific taxes, percentage taxes, privilege tax on business and occupation, documentary stamp tax, mining taxes are assigned to the Indirect Internal Revenue Taxes Branch. The Tariff and Customs Branch studies tariff and Customs matters, taking into account among other things, the promotion of foreign trade and the development of domestic industry. The Local Finance Branch conducts studies on local government finance and on the strengthening of the fiscal relationships between the national and the local units. One of its continuing functions is to assist local government in the codification of their various tax ordinances. The Revenue Administration Branch examines particular tax provisions and proposals from the standpoint of enforcement and compliance feasibility. It coordinates studies on tax administration and revenue collection and, with the cooperation of the other branches, assists the Executive Director in implementing the Commission's program to foster tax consciousness.

The staff units provide support to the line branches and also conduct studies in a broader perspective. Thus the Economic Policy Staff studies the overall effects of tax proposals on the national economy -- effect on government revenue and expenditure, public debt and debt management, money, credit and banking and integrated fiscal relationships. The Legal Staff analysis the legal implications of tax proposals and conducts background legal research on current studies of other branches the Statistical Research Services undertakes statistical research and analysis on tax consciousness, tax incidence, taxable capacity and tax surveys, in addition to collecting statistical data. The Legislative Services undertakes the drafting of bills after studies have been finalized by the various branches. It also initiates studies on special aspects of taxation.

Individual legislators often call on members of the Technical Staff for assistance in their legislative work. This arrangement ensures a continuing dialogue between the Commission and Congress.

The success of a research office depends in a large measure on the adequacy of its library facilities. It is important to note that it is a Commission policy to provide a blanket for this service.

another important feature of the organizational set up of the Commission is adherence to the career concept. In general, the Technical Staff is insulated from partisan political patronage. In this respect, despite its being part of Congress, the Commission has been successful in basing the appointment of technical personnel on a career concept. Very recently, a merit and promotions system has been adopted to ensure the continuity of the merit system in the Technical Staff.

### C. Working Procedures (1)

Tax proposals presented to Congress by the Commission come from any of the following sources: (1) the Tax Commission itself, (2) congressional committees as well as individual members of Congress who refer tax bills to the Tax Commission for study and comment, (3) Office of the President, (4) other government agencies such as the Bureau of Internal Revenue and the Bureau of Customs, and (5) the private sector, *i.e.*, various chambers of commerce and industry, universities, business firms and individuals.

For each proposal, the overall picture, broad and specific objectives, approaches and methodology and statistical requirements are identified. The economic and legal implications of the proposal are pin pointed together with its relation to the entire tax system and structure and to its bearing on completed tax studies or on those being conducted by the Technical Staff along the same lines.

As a rule, a vast amount of reading and investigation is undertaken by the person engaged in research at the branch to which the proposal is assigned. All available facts and materials pertinent to the subject are gathered and its historical background is reviewed. Philippine tax practices and whatever information is available on practices of other countries on the subject, are drawn into the research. Likewise, the views and observations of other branches are sought in order to elicit all possible effects and implications of the proposal.

Whenever further elucidation on certain aspects is deemed necessary, the study is (a) returned to the sponsoring branch or to another branch for further study and for more substantiation or documentation; (b) referred to outside experts on the subject, or (c) presented at a public hearing. A public hearing is called when very important or controversial issues are involved, in which case all who are interested in, or who may be affected by, the proposal are invited to appear personally or to submit their views in writing.

The following is the sequential order followed before a tax proposal is presented to the Chairman and members of the Commission for their consideration.

1. It is assigned to the proper branch which undertakes research work, taking into consideration the legal, economic and administrative implications.

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(1) See Charts 2 and 3.

2. The findings and conclusions of the branch are reviewed by the Technical Staff, composed by the Executive Director, the Assistant Executive Directors and chiefs of branches or alternatively by a committee or working group the membership of which is drawn from the different branches. At this stage, those who made the study identify the issues, state the arguments pro and con, and give their evaluation on the views and comments of other governmental agencies and private groups.

3. In case the Executive Director does not sit in the committee, the report and recommendations of the committee are submitted to him for the final decision to be given by the Technical Staff.

This working procedure is by no means inflexible; modifications are made, especially when time is scarce.

The study, together with the dissenting views, if any, is finally sent to the members of the Commission. The decision of the Commission is usually obtained at a formal meeting of the members, or by means of referendum. If acceptable to the majority, the tax proposal, in bill form, is sponsored either at the Lower House or at the Senate by one or more of the legislative members of the Commission. In certain instances, individual members of the Commission, on their own initiative, file bills drafted by the Technical Staff even without the stamp of approval of the commission.

When the bill is deliberated upon in Congress (either at the committee level or in the floor), members of the Technical Staff are called upon for technical assistance.

### III Some Policies, Guidelines and Applications

Shortly after its inception in 1959, the Tax Commission established six basic policy guidelines to carry out the objectives set forth in its charter. This section will briefly discuss three of these policy guidelines, together with some relevant applications and developments related to minimizing the gap between policy and implementation. These policies are:

1. The Tax Commission shall endeavor to establish and immediately implement a positive education tax program intended to foster tax consciousness among the people -- that the payment of taxes is one of the fundamental duties that should be discharged by both citizens and aliens.

2. The Tax Commission shall endeavor to establish a tax structure which will ensure a fair and equitable distribution of the tax burden.

3. The Tax Commission, in considering any new tax proposal, or in the revision of any existing tax law, shall endeavor to include there in administrative provisions which will result in a fair and effective system of tax administration, such as those which will minimize evasion and delinquency in the payment of taxes and promote economy, convenience and efficiency in the assessment and collection of taxes both for the government and for taxpayers.

In order to strengthen and substantiate these policies, three principal projects were undertaken by the Commission. The first was a nation wide survey on tax consciousness conducted in 1960, and again in 1967, in order to gain insights into, and obtain supporting statistical data on, the attitude of the population toward taxation in general, as well as on specific issues bearing on this vital subject. This was followed by a Study on Tax Burden in Income Classification designed to assess the impact and incidence of taxes in the Philippine setting. In 1965, another study --on tax administration-- was conducted in order to lay the groundwork for the introduction of much-needed reforms in the revenue administration machinery.

I will now attempt to briefly discuss the application of these three policy guidelines in some of the problem areas and cite the remedial measures we have introduced.

A. On the development of a program to foster tax consciousness among the people.

The fostering of tax consciousness by means of tax education is vital to a system based on voluntary compliance. This becomes more difficult when one considers the "problem of growing up" that is faced by all developing nations. Basic attitudes and traditional values may be diametrically opposed to optimal efficiency in administration; rooted vested interests many times lead to compromises adverse to the public interest; nonchalance on the part of citizens arising partly from poor literacy deters tax compliance. All of these and many more missing interconnected factors may make attempts at tax education insubstantial. This, however, did not deter the Tax Commission from pursuing a tax education program. As a basic approach, however, it needs to have statistical support for which reason it undertakes periodic nationwide surveys on the overall level of tax consciousness. These surveys reveal the degree of the people's support and rejection to tax legislation, the degree of compliance with direct taxes, the filling of income tax and census returns, their awareness of indirect taxes, their interest in certain proposed taxes and their attitudes towards tax officials.

The findings of the two surveys undertaken in 1960 and 1967 have been the basis for our programs of teaching taxation at the schools, and for our more intensive tax information campaigns. It is recognized that the effects of these programs may be seen in the long range. Nevertheless, they are considered as calculated steps to reduce the wide gap existing between policy and implementation, between tax laws and compliance therewith.

Perhaps another by-product of our tax consciousness surveys deserves brief mention. We found out that taxpayers want to know where their taxes go and would be willing to pay if tax money is spent for worthy ends. For instance, we found out that 87 per cent of the population under survey is willing to pay a school tax.

B. On the Distribution of the Tax Burden

The very nature of our political set-up dictates that taxes should be politically acceptable and fair to the population. This calls for knowledge on who bear the relative burden of taxation. While certain general features of the tax system are intuitively known --and these are common to most developing countries --, more definite knowledge is necessary to provide a solid basis for policy formulation. The Commission, therefore, undertook a study on the distribution of tax burden by income class.

The study brought out a very significant inequality in the distribution of income as shown in the following table:

LORENZ DISTRIBUTION OF INCOME IN THE  
PHILIPPINES

Cumulative : percentage : of households :	Cumulative Percentage of Income		
	Before all taxes	After taxes on income and property	After taxes on production and sales
Lower 20	3.7	4.1	3.2
Lower 50	17.5	18.7	16.4
Lower 90	60.4	64.1	58.9
Upper 10	39.6	35.9	41.1

About 40 per cent of the income belongs to the upper 10 per cent of the cumulative number of households. This far exceeds the 18 per cent cumulative percentage of income found in the lower 50 per cent of total households, and is only 20 per cent lower than the cumulative percentage of income belonging to the lower 90 per cent of households.

Viewed from the impact of direct and indirect taxes on the overall distribution of income, the table further indicates the regressive characteristics of the tax system: Taxes on income and property (direct taxes) affected the position of the upper income group and improved the position of the low income group; and taxes on production and sales (indirect taxes) worsen income distribution.

What may well be considered direct applications of the study on the distribution of the tax burden in the Philippines, are five Tax Commission measures -- part of the 1968 Tax Program of the Administration -- which were recently approved by Congress. These are:

1. Amendments to the Individual Income Tax Law (Republic Act No.5325), making the individual income tax more progressive at the upper brackets.

2. Amendments to the Corporate Income Tax Law (Republic Act No.5324), which, among other things, increases the rate of tax on corporate income and subjects government corporations to the payment of income tax, with certain special exceptions:

3. Imposition of an additional tax on privately-owned cars, motorcycles and scooters (Republic Act No.5443);

4. Imposition of an additional one per cent real property tax (Republic Act No.5447).

Aside from their revenue implications, the value of these measures in reducing the inequality existing with respect to the tax burden and in injecting progress into the tax system can hardly be over-emphasized. The tax system will be more consistent with the principle of "ability-to-pay", and will give room for the attainment of greater built-in flexibility, thus enabling the government to attain greater increases in income.

Ability-to-pay, while technically abstruse this principle has been useful in obtaining acceptance of certain tax policies where the gap between-"have" and "have nots" is wide.

### C. On the Effective Implementation of Tax Laws

There is no disagreement on the fact that the effectiveness of tax laws is dependent not only on their intrinsic merit but also on the level of efficiency of the administrative apparatus. Sound tax legislation can well be nullified if the performance of the tax machinery does not come up to expectations. The tax Commission endeavors to coordinate its activities with those of the Bureau of Internal Revenue. In the study of tax proposals, the opinion of the Bureau of Internal Revenue is always sought. Similarly, the Bureau's tax administration proposals are sent to the Tax Commission for comment. Cases in point are the assistance provided by the Tax Commission in the revision of supplementary regulations on income tax, and in a joint tax commission-BIR-Ways and Means Working Group which sat down to evaluate proposals aired during the public hearing on our proposed Omnibus Tax Code Bill.

However, what is considered a signal breakthrough in the Commission's search for basic facts to improve tax administration is its 1965 tax administration study. The Commission identified the manifold problems which have hampered revenue administration and recommended the necessary courses of action to be considered by policy-makers and administrators. The study grouped the existing problems of tax administration into seven key areas: Organization, Personnel, Assessment, Collections Tax Fraud Investigation, System for Internal Control, and Office of the Commissioner.

The unsatisfactory performance of the revenue machinery has been the object of research. The Bureau of Internal Revenue itself and the Philippine government as a whole, have not been blind to the existence of the problems pointed out in the study. In fact, shortly after he assumed office in 1965, the present Commissioner of Internal Revenue submitted a report to the

President of the Philippine on the conditions prevailing at the Bureau and suggested solutions to organizational and operational deficiencies. In the following year 1966, the imperative need for reform in the agency was stressed by the President in his budget message to Congress. The strengthening of the Bureau was one of his eleven priority objectives.

In the light of these developments, the Bureau of Internal Revenue formulated a master plan in 1966 for the modernizing of tax administration. In line with this master plan, the Bureau has introduced measures and undertaken projects along similar avenues suggested by the Tax Commission Study.

Significant developments have taken place in the Bureau's personnel administration, all of which are aimed at improving the career service at the Bureau. Qualification standards for all positions were approved by the Civil Service Commission in 1968 in a statement of the minimal job requirements for positions in terms of education, training and experience, physical fitness and eligibility. A new performance evaluation system was approved and is now being implemented. A further boost to personnel administration in the Bureau was the upgrading of salaries of revenue personnel with the recent approval and implementation of Republic Act No. 4900. Specific guidelines for personnel assignment were formulated in 1965. The Bureau issued a regulation on the manner of rotating personnel in the field so as to prevent fraternization between bureau personnel and taxpayers.

The perennial problem of the low level of tax revenues has been partly due to the difficulty of unearthing sources which would serve as bases for assessment over and above the tax returns that are filed. The Congress has offered part of the solution by enacting the Tax Census Law which in general terms authorizes the setting up of a tax register on the basis of the results of the tax census statements. Additional legislation has been proposed that would require another governmental office to provide information to help the Bureau in the establishment of the tax register.

In the area of assessment, the Bureau conducted a pilot project which proved that the procedure is feasible for nationwide adoption. The procedures have been substantially incorporated into an audit operation manual that contains operational instruction covering the processing, handling and sorting of tax returns, classification of all types of tax returns for audit purposes procedures for audit, examination of returns, and the issuance of the corresponding letters of authority, guides and standards for planning reviews and contact with taxpayers, conference procedures and the making of audit reports, processing and review of audit reports at all levels, rules of conduct for examiners and the supervision of audit activities, qualifications standard for assessment personnel, revenue district officers and group supervisors and the submission of monthly reports from personnel in the field to the Commissioner.

The manual is the first step in a plan to further improve assessment work in the Bureau along the following lines: development of a measuring device for the accomplishments of auditors in the field development of criteria for the systematic selection of returns for audit, establishment of controls and reporting system, and other steps that will improve the quality of assessment reports.

Some of the difficulties in the field of collections have been solved by means of legislative and administrative measures. Republic Act. No.5203, approved in 1968, provides a definite period within which to serve the warrant of distraint and levy. It likewise decentralizes the authority to serve such a warrant and allows collectors to use part of their collections to meet the cost of advertising and of selling distrained properties.

The dearth of trained field collectors is being solved. A 1967 Tax Commission survey indicated that most of them have received general training but the same survey indicated that they need some more specialized training.

Our experience has shown that there is a need for a plan of utilization of electronic data processing before its overall application. A Pilot test on automatic data processing for improved tax administration was conducted in 1966, covering among other things, the establishment of a centralized revenue accounting system, the improvement of accounting techniques and methods for controlling all revenue accounts including receipts, current and delinquent accounts and administrative allotments.

Up until 1966, the emphasis of tax enforcement had been laid on the assessment and collection of taxes. The criminal aspect of tax violations had been overlooked so long as violators paid the taxes assessed against them. Thus the Bureau has been unable to generate the deterrent effect of convictions for tax evasion not attain from it the positive result of a high degree of voluntary compliance from others. The Bureau took a corrective step by re-defining its policy on tax enforcement. In 1968, its national tax fraud unit was elevated into a division to handle all tax fraud cases.

In this connection, the Tax Commission has proposed an amendment to Republic Act No.1405. This law which prevents the inquiry into bank deposits has been a stumbling block to the effective investigation of cases of tax fraud. The Tax Commission amendment would allow inquiry into bank deposits upon order of the court in those cases in which there is evidence of fraud, concealment or misrepresentation involving tax matters.

At this juncture, it is perhaps worthwhile to recognize the value of foreign technical assistance and continuous conversations with foreign experts. <sup>(1)</sup> In this connection, a useful device to improve tax legislation, tax education and tax administration in the Philippines has been the assistance of the Tax Team of the US Internal Revenue Service. In the Philippines,

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<sup>(1)</sup> In the late 1966, I was privileged to visit Thailand along with the Deputy Commissioner of the Bureau of Internal Revenue and Senior Tax Advisor. We not only had the opportunity to observe some of the specific areas of tax improvement but also had the excellent opportunity of discussing future improvement plans for the Philippines involving the Tax Commission, the Bureau and the Tax Advisory Team.

we have had a three man team comprising the Senior Advisor and Collections and Audit specialists. The members of this team have been augmented from time to time with the presence of short-terms consultants and experts in tax legislation, data processing, criminal tax fraud and so forth. The Tax Team is assigned through the USAID to both the Bureau of Internal Revenue and the Tax Commission.

The Tax Team has been able to provide expertise and knowledge to the Commission on the workings and potentialities of the Bureau of Internal Revenue and they have done this without hampering their relationship with the Commissioner of Internal Revenue. The main areas in which assistance has been provided by the U.S. Tax Team have been tax legislation, public tax education, and the full breadth of the field of tax administration. In addition to our having benefited from the services of the Tax Advisory Team, we have received assistance under the USAID/IRS Assistance Program by sending trainees to the USA and receiving commodity support to our projects, which includes valuable tax reference materials.

#### D. Attempts at a Comprehensive Revision: Disaggregating the Approach

The three foregoing policies and relevant activities and applications are but some of the key involements of the Tax Commission. Since 1959, we have been concerned with multifarious activities designed to make the system an effective instrument for the attainment of desired ends. Permit me at this point to cite one further lesson from our experience, which is that innovations in tax policy and implementation should be tempered with the realistic constraints of the situation. After knowing what people want vis-a-vis tax matters, after approximating the relative distribution of our tax burden and after a careful and searching examination of our administrative capabilities (or incapacibilities) - all these and more -, we proposed a comprehensive revision of our tax code. It was labelled "The Tax Code Bill". We attempted to have it approved by Congress as a voluminous package in 1965. Up until now we have not succeeded. The job of putting out the package was less difficult because we have a Tax Code to start with. But the task of pushing through a voluminous proposal; containing hundreds of recommendations covering both substantive tax administration aspects, is almost impossible. There are more conflicts to reconcile; an objection to a single provision will hold the approval of the entire thing; last but not least. legislators get so scared with a thick volume that some of them would not even bother to read it.

One important aim, however, was attained by our attempts at a single comprehensive revision of the Code. At least we came up with a coherent whole which erstwhile, was a hodge-podge of unrelated provisions. Using this as a master guide, we have followed an easier and more practical approach: We desaggregate for legislation purposes. We therefore have included in our tax programs individual measures which are consistent with other parts of the Proposed Revised Code Bill. As a matter of fact, some eleven of them recently became part of tax statutes. Five of these change existing rates, five institute improvements in administration and one makes the conditions for certain tax exemptions stricter.

### Concluding Statement

It is safe to conclude that the Philippines has, in certain aspects, succeeded in reducing the gap between tax policy planning and planning for tax administration. In others, however, we are still trying. Obtaining the much needed tax legislation is an optional goal. Our partial success in this regard is no reason for complacency. Tax legislation is an arduous task in my country where taxation has always been a strong political issue since elections are held every two years. The present administration has started a new and more rational orientation towards taxation. In 1968, determined efforts never equalled in our tax history, were made to push through a tax program consisting of 29 tax measures. After persistence attempts, 11 received Congressional approval. This year, an election year notwithstanding, the 1969 program is being pushed through with renewed vigor consisting of the residue of the 1968 program and some altogether new measures.

The measures we have so far instituted and the direction and style of approach to reform and improve the tax system have not been of a rigorous theoretical nature but have of necessity been tempered with, or have allowed for, the socio-political and administrative realities unique to our own milieu and stage of development. They are not the only solutions. Maybe they are not even the best. Some of these measures have yielded encouraging results. Others may be fairly assessed only in time. Again, it is possible time may prove us wrong.

If, on the net, our attempts to bridge the gap yield satisfactory results, will it be wise to abstract from our experience and prescribe the same policies and programs for another country in a similar stage of development? The answer is both yes and no. Yes, because there are common denominators among such countries which permit, with but some modifications, the adoption of the lessons or experience of one or the other. Innovative change in policy and implementation, while severely conditioned by endemic factors, can draw from the failures or successes of other systems.

The answer is no in the sense of a complete transplant of the same set of measures. Even in human anatomy there are the so-called body rejections of transplanted organs, in spite of the known precise similitude of body functions. Will it not be more so in the tax system which is riddled with imperfections of all sorts arising from volatile human, social, political and economic factors?

The same set of fiscal policies and tools cannot therefore be totally applicable in another place or another time. For no country's successful experience with reforms and policy instruments is a complete paradigm for others.

CHART 1  
ORGANIZATIONAL CHART  
OF THE  
JOINT LEGISLATIVE-EXECUTIVE TAX COMMISSION

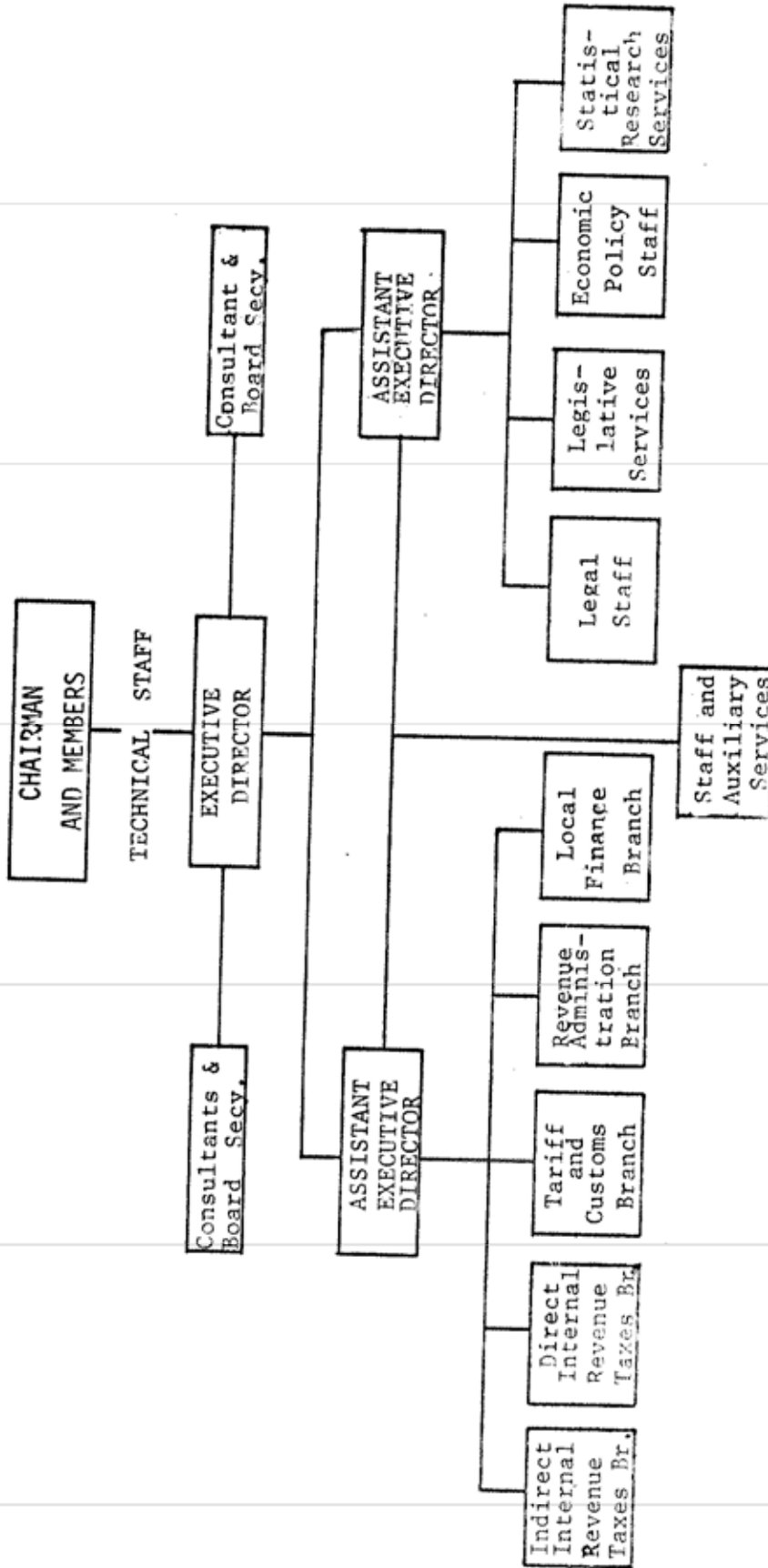


CHART 2

THE TAX COMMISSION: ITS WORKING RELATIONSHIPS

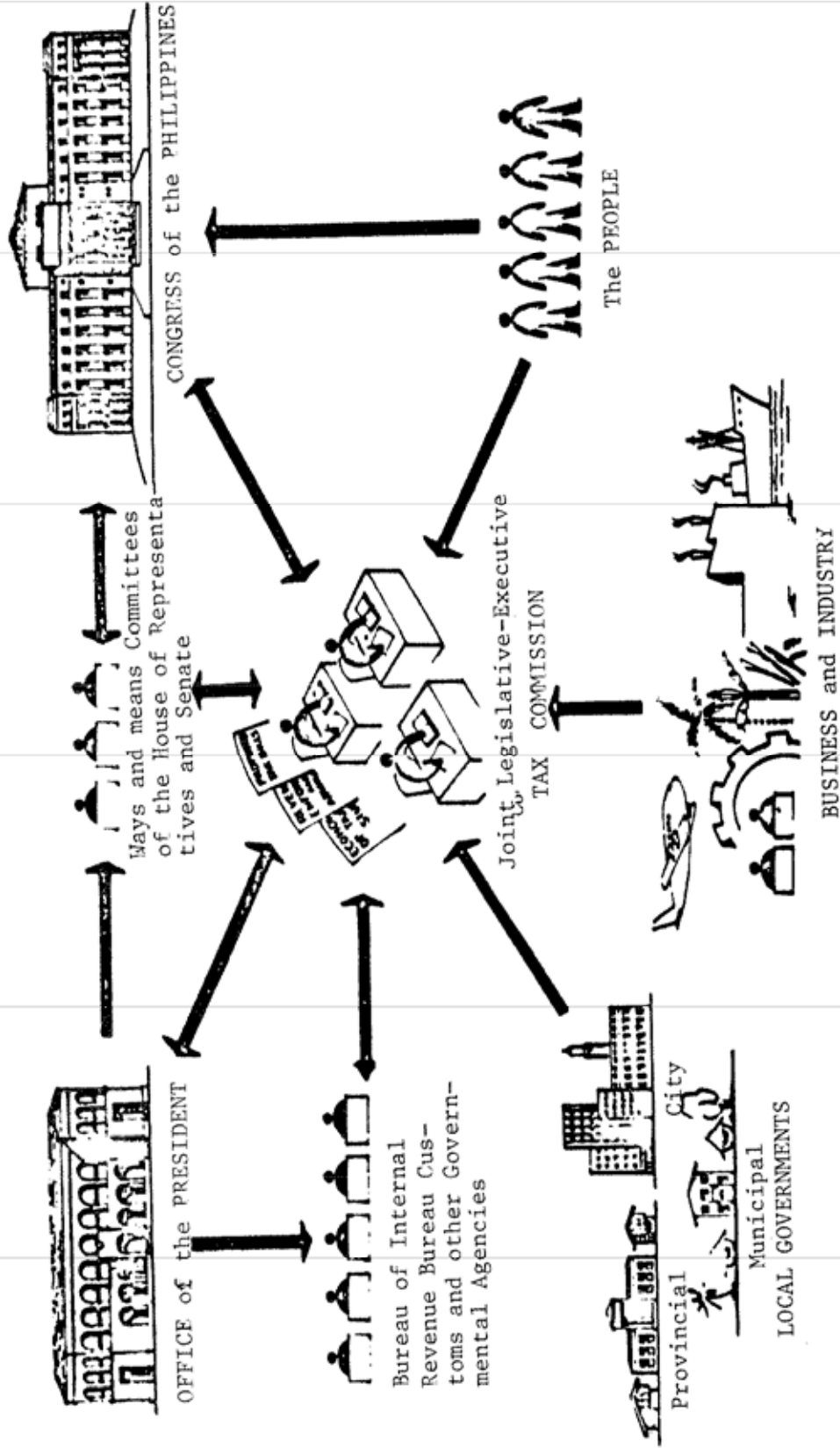


CHART 3

WORKING PROCEDURES OF THE TAX COMMISSION

