

PART THREE

FRANCE

by

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CHAPTER IX

ADMINISTRATIVE ORGANIZATIONAL AND PERSONNEL FRAMEWORKS

Section A. *Administrative Organizational Framework*

1.1 *Introduction*

French standards of assessment for each tax, whether imposed for national or local purposes, are uniform throughout the country. While rates imposed by local units are not uniform, the subject-matter of all assessments, i.e., the property or transactions against which taxes are imposed, are governed by standards fixed at the national level. Thus the General Director of Taxes,¹ as head of the division charged with administration and collection of all direct taxes, must provide for uniformity in the subject-matter of assessment while simultaneously utilizing decentralized administrative organization to determine and collect local taxes in accordance with locally-set rates, as well as national taxes.

There are three levels in the French tax administration: the central or national office, departmental or regional offices, and local tax offices which, while covering geographical areas of varying sizes, are supposed to have approximately identical work loads.

1.2 *Organizational framework, national office level*

At the head of the central administration, *L'Administration centrale de la Direction Générale des Impôts*, is the Director General. Serving under the authority of the Ministry of Finance and of Economic Affairs, he is concerned both with tax policy and administration of the French tax system at the national and local levels. His office has three important subordinate divisions, excluding those responsible for personnel matters or for supervision of departmental and local offices: the International Relations Service, *Le Service des Relations Internationales*, the

¹The Director General of the Customs occupies an equivalent position with respect to this class of tax. The administrative divisions headed by these two officials bear the prime responsibility for French taxes.

Legislative Service, *Le Service de la Législation*, and the Legal Service, *Le Service du Contentieux*.

The International Relations Service handles the preparation, negotiation, and interpretation of tax conventions.

The Legislative Service has two subdivisions: one deals with income taxes on enterprises with particular attention to industrial and commercial activity, *Sous-Direction des impôts sur les entreprises*, and the other with taxes on individual incomes, *Sous-Direction des impôts sur les personnes physiques*.

By allocating to each subdivision of the Legislative Service responsibility for a particular type of tax, a coordinated approach to that tax becomes possible. The same office proposes reforms to the Ministry and, if the proposal is approved, goes on to draft the bill together with the accompanying explanation of its objectives and significance. When the draft bill reaches the Council of State, the office participates in the discussion. And when the bill reaches the legislature, the office assists the Ministry in preparing for the debates, by developing the Ministry's statements of explanation, *interventions*, and in advising the Ministry on the significance of any proposed amendment. Since the debates are published in the official journal, the Ministry's *interventions* are considered of major importance should it later be necessary, because of interpretative difficulties, to determine the legislative intent. Finally, upon enactment, the same office prepares a variety of implementing materials. These range from statements designed to explain to agents of the administrative division the interpretative position of the Director of Taxes² to formulation of decrees which, in effect, are supplements to the legislation itself.

A French statute tends to do no more than state the basic principles of a tax, i.e., general rules. Subsequently, an appropriate administrative office drafts a decree which sets out the method of application. Illustratively, when use of the declining balance method of depreciation was authorized by statute, the determination of the consequent depreciation rates was left to the tax administration. Its draft of a decree setting out this rate pattern was then submitted for examination to the Council of State, with the appropriate office participating in the discussion. Should unforeseen interpretative difficulties arise thereafter, the same office prepares an explanation which, upon

² These statements are published in an official bulletin distributed to all agents. Private publishers make this information available to the public.

approval by appropriate superiors in the administrative hierarchy, then becomes the administration's official position.

1.3 *Organizational framework, regional office level*

A regional office has been placed in each of the ninety departments in France, except for the Seine, which, because of the heavy population concentrated in and around Paris, has two such offices. Since the departments vary in population density and economic activity, there are marked differences in workload among the ninety-one offices.

At most, a departmental office will have ten qualified technical personnel on its staff, though the average is five to an office (including the director). The offices will also have an average of four other less qualified agents who are, however, well acquainted with fiscal legislation. These offices perform two functions, overseeing local office activity and dealing with specific problems arising at the local office level.

A wide variety of controls are exercised by the departmental office over the local offices under its supervision. Principal inspectors, attached to the departmental office, each supervise two or more local offices and advise the departmental director of the state of affairs in each.

After a local office has assembled the figures relating to the income and deductions for taxpayers within its geographical jurisdiction, it sends this data to the departmental office, which then computes the tax for each taxpayer on the basis of the figures supplied. Only then are taxpayers informed of the tax due.³ Auditing programs for the local offices are also fixed at the departmental level. Further, it develops the formulae used in estimating the actual taxes to be paid by certain groups of French taxpayers—small tradesmen, skilled artisans, professional men including doctors, dentists, architects, and lawyers—who are subject to the *régime du forfait*, a form of estimated or presumptive taxation.⁴ Similarly, farm income assessment bases are determined at the departmental level after consultation with farm organization representatives.⁵

Specific problems arising at the local level also are brought to the departmental office, some by the local office but most by taxpayers. A local office may encounter either a factual situation not dealt with at all by statute or regulation or an

³ Local offices also forward the relevant information upon which the departmental office fixes penalties.

⁴ See Chap. XI, 3.2b *infra*.

⁵ *Id.*

ordinary interpretative question it cannot resolve. Either may be laid before the departmental office. If the question cannot be resolved there, the matter is forwarded to the Director General. Some taxpayers encounter problems which fall within the peculiar competence of departmental offices. These problems spring from unexpected financial hardship, arising from circumstances beyond the taxpayer's control, such as the death of a husband or a catastrophe such as fire or flood which terminates productive activity. Under such conditions, the departmental office may remit the tax in whole or in part up to specified monetary limits. Should the amount exceed such limits, the taxpayer's petition goes to the Director General, accompanied by the taxpayer's file and a report prepared by an agent of the local office reflecting the petitioner's tax base and the agent's opinion regarding available resources and the accuracy of the facts alleged.

Other taxpayers may challenge the imposition of a tax on the basis of an interpretative issue. Here scrupulous adherence to the strict conditions of a form set out by statute is required: failure to comply results in automatic rejection of the claim. Such claims are submitted initially to the same departmental office which earlier made the final determination of his taxes. If the form is correct, the claim is then forwarded to the appropriate local office where the inspector who determined the income analyzes the facts and points of law and prepares a report reflecting his opinion on the merits. The report goes to the departmental office, which is empowered to waive the tax if the taxpayer's claim is considered valid. If it is not, the claim is rejected by letter. After such a rejection, a taxpayer must use the courts for any further challenge.

1.4 *Organizational framework, local office level*

Below the departmental directions and directly responsible for preparing the assessment rolls are the 1700 local offices distributed throughout France. Each office has approximately the same work-load, though the territory under each—termed a section—varies, depending as it does upon population density. Thus a section in a rural area may include several communes, while a so-called mixed section may include a town and one or more adjacent rural communes. Sections in urban areas may include all of a small city, or only a portion of a major one.⁶

⁶ Illustratively, an urban section might include a portion of Marseilles, a rural section might include St. Valery en Caux, located in Normandy, a mixed section might include a city of 9,000 such as Vitre with the neighboring communes.

The following table illustrates the number of communes and of taxpayers likely to be found in each of the three major types of sections:

	Type of Section		
	<i>Urban</i>	<i>Rural</i>	<i>Mixed</i>
<i>Extent of section, or number of communes</i>	Part of the city	82	30
<i>Number of inhabitants</i>	22,236	31,659	31,900
<i>Number of files (tax on income, local taxes)</i>	15,068	9,440	7,500
<i>Number of taxpayers subject to income tax</i>	3,538	2,382	2,442

Each section is headed by an inspector, assisted by one or more tax examiners and several clerks. There are 2400 inspectors for the whole of France, for certain sections have two. Technically qualified agents assisting these inspectors total 1200.⁷

Each section's prime responsibility is to determine the tax base. About one-third of its effort goes into preparation of assessment rolls for *local* taxes (the land tax upon real property, the tax on occupancy, and license and franchise taxes). Even more effort is involved in preparing assessment rolls for income taxes, based either upon taxpayer declarations of income (as in the case of income from salaries, sales of personalty, and from commercial and industrial activity), or upon estimates of income (as in the case of profits from agricultural activity, from small shops, or from the exercise of the liberal professions).

To assist the inspector to make the assessments for all these taxes each section maintains individual files for each taxpayer. A file includes not only the declarations or estimates of the taxpayer's income but also reports sent in from other sources. These reports may be from the local bank (covering the opening or closing of bank accounts, and income from securities collected by the bank for the taxpayer), or from the registry of automobiles reporting on a taxpayer's purchase or sale of an automobile, or from other sources indicating his purchases or sales of realty or other property.

⁷ The insufficient number of personnel is recognized but all French administrative agencies experience difficulty in securing sufficient personnel.

An effort presently is being made to regroup the local offices in metropolitan centers, though without any fundamental change in functions or organizations. Even now, the offices of more than one section are sometimes housed in the same building and are called tax centers, some consolidation of minor administrative functions having also been accomplished, such as receipt and dispatch of mail. A principal inspector of taxes supervises the work of the inspectors of one or more of these tax centers, and reports directly to the departmental director.

Section B. *Personnel Framework (Governmental and Non-Governmental)*

1.5 *Governmental professional personnel*

Quite different methods of recruitment and standards of qualification are applied to the two principal groups of officials associated with the tax administration: the top echelon of the national office, and all other officials.

Prior to 1945, officials in the top echelon of the national tax administration, and in all other comparable divisions of the government, had worked up through the lower levels of the particular agency, qualifying on the basis of seniority and rank for a rigorous competitive examination. While this system produced men with great technical competence, it did not contribute to their awareness of non-agency factors and problems relevant to the governing process.

To remedy this situation, the provisional government in 1944 established a school, under the Prime Minister, to recruit and train top level officials for all ministries, *L'École Nationale d'Administration*. Upon admission the students are considered as officials, and are paid by the state⁸ during the course of study which lasts for twenty-eight months. The competitive examination for admission may be taken by two groups. To qualify for the first, an individual must be less than 26 years of age, and either hold a degree of bachelor of laws or possess a diploma from the Institute of Political Studies, *L'Institut d'Études Politiques*, or from some other comparable institute. To qualify for the second, an individual must be a public official, less than 30 years of age, with a minimum of five years

⁸ Between 1946 and 1964, the School of National Administration graduated 1282 administrators. Of these 45 have been appointed to the tax administration, representing about half the effective force of that agency.

of public service. Only about ten percent of the candidates survive the initial examination and the majority of these hold both the degree of bachelor of laws and a diploma from the Institute of Political Studies, courses which can be pursued simultaneously.

The written portion of the initial competitive examination has a broad economic, social, and political orientation, covering (1) the evolution of some ideas and political, social, or economic developments since the eighteenth century, (2) policy considerations bearing on a contemporary economic issue, (3) the current political institutions of some important nation, international organization, or constituent of French administration, and (4) a translation into French of a text in a foreign language chosen by the candidate. Candidates who survive that test then take a penetrating oral examination designed to test the candidates' ability to deal competently and exhaustively with some matter of political or economic philosophy, within the framework of a brief speech, prepared on short notice, followed by questioning from the board of examiners.⁹ Then follows a series consisting of four additional oral examinations dealing with the following areas: (1) the candidates' general knowledge, (2) some social question, (3) either administrative law or fiscal legislation, as chosen by the candidates themselves, and (4), again at the choice of the candidates, either international organizations or economic and human geography. This series of examinations is concluded by a test dealing with the candidates' physical qualifications.

The candidates receive points on the basis of their performance in each examination, and the totals are multiplied by individual coefficients. From these come the rankings which determine the comparative standing of each individual.¹⁰

⁹"For the second examination, the corresponding interrogation consists of a conversation with the board of examiners, lasting about twenty minutes after a preparation of ten minutes, having as a point of departure a text which both interests the tax administration and enables the board to determine the experience acquired by the candidate.

"This interrogation is entirely conversational, born of the idea that practical experience of some years is as valuable as academic training and that equality between the candidates is better assured if each is considered in terms of the personal training which he is supposed to have acquired in service. But the examiners obviously cannot confine themselves to subjects too technical and do not limit themselves to administrative techniques." *École Nationale d'Administration, Concours et scolarité* 35 (1964).

¹⁰" . . . at each examination, the members of the board of examiners are careful to test, as to these matters, the extent of the education

Upon admission to the National School of Administration, the students are sent to some unfamiliar part of France or to a foreign country, where for eleven months they work with top level French or international officials to provide practical experience as well as an awareness of administrative realities.¹¹

The second period of study, lasting some seventeen months, is spent attending lectures, administrative conferences, and in working in either private or public offices and on practical exercises.

At the conclusion of this second period, the students are ranked, and select their careers in the order of rank.¹² Before commencing work, however, a student must sign a pledge to serve the state for at least ten years. If he refuses to sign, he must refund the salary he received during his period of study.

Only at this point do the young administrators or judges begin to familiarize themselves with the specific requirements of their assigned functions. Illustratively, at the Ministry of Finance, administrators attached to the office of the Director General of Taxes now begin to learn the details of the French tax law. Previously, they knew only the principles and major outlines of that law, but with the typical background in law and economics, adjustment is rapid.

(footnote continued)

of the candidates; this is equally true with respect to basic and elementary ideas which, as to practical subjects, one has the right to expect of a future student of *l'École nationale d'administration*.

"As another president wrote, 'The examination should permit the selection of students capable of benefiting from the full complement of the training given at *l'École* and of adaptation to the functions of top-level administration; it is less important to probe the extent of the candidates' knowledge than their presence of mind, their skill in shifting from one subject to another, and, this done, to consider the new subject in its totality, their frankness in acknowledging ignorance or their skill in palliating this, and finally their possibility of growth within the service.'" *École Nationale d'Administration, Concours et scolarité* 34 (1964).

¹¹At the conclusion of this period, each student prepares a detailed memorandum on some aspect of political, economic financial, social, or administrative problems.

¹²The posts to which the students may be appointed include the Council of State, *le Conseil d'Etat*, the Court of Accounts, *le Cour des Comptes*, the administrative tribunals, *les tribunaux administratifs*, the Office of the Inspector of Finances, *l'Inspection des Finances*, Administrator for the Ministries of Finance, Foreign Affairs, Work, National Education, and of the Interior, *Ministères des Finances, des Affaires Étrangères, du Travail, de l'Éducation Nationale, de l'Intérieur*.

Other lesser officials enter the tax administration by taking either the examination for examiner or that for an inspector.

To qualify for the former, a candidate must be less than 26 years of age, and hold a diploma evidencing his completion of the secondary level of education.¹³ Success on the examination is followed by a one-year training period during which trainees are paid. The training period includes a three and a half month period of study at the National School for Taxes, *L'École Nationale des Impôts*, and an eight and a half month period of on-the-job training in the field.¹⁴ Then after five years service as an examiner, during which he assists an inspector, an individual may take the examination for inspector. One-fifth of the inspector vacancies are reserved for examiners.¹⁵

Otherwise, admission to the examination for inspector requires that the candidate be less than 28 years of age and have completed at least one year's study toward a bachelor's degree in law. Indeed, the written examination itself covers some of the matters studied in that first year, for it requires preparation of (1) memoranda on some phase of economic policy or fiscal legislation, and on some aspect of civil or commercial law, and (2) at the choice of the candidate, either the solution of certain mathematical problems or a memorandum on constitutional law and political institutions.¹⁶ The candidate is subject also to oral interrogatories.

Students who successfully complete the examinations are then paid while taking the two-year course of study for inspectors at the National School for Taxes, *L'École Nationale des Impôts*. This program includes two periods of practical experience in the field and two periods of study in Paris.¹⁷ The

¹³ The written portion of the examination requires the candidate to solve certain mathematical problems, to prepare an essay on a subject of general information and a memorandum on some aspect of France's governmental organization. Also the candidate must explain orally a text of general significance and submit to interrogation on financial legislation.

¹⁴ Located since October 1966 in Clermont-Ferrand.

¹⁵ The examiners have the further advantage of being excused from the requirement of further academic study, i.e., they need not secure the degree of bachelor of laws.

¹⁶ While optional with each candidate, competence in foreign language and/or accounting may be demonstrated in addition to the required proofs of admissibility.

¹⁷ Since October 1966, located in Clermont-Ferrand.

schedule deliberately is planned to permit the students to attend simultaneously the law school and thus secure their degrees in law. The first period of study emphasizes comparative tax systems, social and economic aspects of the French tax structure, principles of taxation embodied in French fiscal legislation, and principles of commercial accounting. Before the first year ends, the students choose between specialization in turnover taxes, *taxes sur le chiffre d'affaires*, or in registry and direct taxes, *contributions directes et enregistrement*. This choice largely controls the materials to be studied during the second year, though all students also continue to study accounting principles and procedures.

If the candidates for the rank of inspector did not possess a bachelor of laws degree upon entering the training program, they are required to obtain the degree before completing that program. Those candidates who are unable to obtain such a degree are classified as examiners.¹⁸ Upon graduating from the National School for Taxes, students must agree to serve the state for at least eight years; sums previously advanced must be refunded if the agreement is broken.

New inspectors are assigned to either the national or departmental offices, or placed at the head of a local office. After ten years, they may take the competitive examination for the rank of principal inspector.¹⁹

Principal inspectors may work under departmental directors, supervisory inspectors who either audit accounts or establish the assessment rolls. Alternatively, a principal inspector may be given specific duties of his own relative to either audit or assessment. Occasionally, principal inspectors also serve as technical associates in the national office or as departmental directors.

1.6 *Private tax practitioners*

There are three main groups of tax advisors: former inspectors of taxes, expert accountants, and specialized advocates.

¹⁸ Since the training program includes two periods of residence, initially in Paris, since October 1966 in Clermont-Ferrand, it is entirely feasible to acquire the required law degree.

¹⁹ While account is taken of the professional qualities and general abilities of the candidates, each candidate also must prepare an essay on an economic or financial problem and a very detailed memorandum on a specific tax question, his only reference being to the general tax code. Finally, oral examinations also are given to test his technical knowledge, his reasoning abilities, qualities of judgment, and his general aptitude in administrative and control techniques.

Former inspectors of taxes comprise the largest single group of lawyers specializing in tax practice. These men have a bachelor's degree in law,²⁰ have been trained at the National School for Taxes, and couple their practical experience with intimate knowledge of the inner workings of the tax system.

In consequence, this group typically represents taxpayers in contested cases, both at the administrative level and in the courts.

Because other lawyers who lack this in-service experience do counsel on business matters, some inevitably also give advice on tax problems. Their earlier formal education did not deal with the fine points of tax legislation. The subject was touched upon in only two of their courses: Public Finance, and Commercial and Tax Law of Business Transactions, which is required of students concentrating in private law but not of public law concentrates. In consequence, except for the very few who have devoted much time mastering the details of tax law, these advocates tend to be far less competent in tax matters than the previously described group of former inspectors.

Members of a final group of tax advisers were trained as accountants in accounting offices, though some have completed studies at the university level in either schools of commerce or law. The examinations for an accountant's diploma emphasize primarily accounting techniques and only secondarily touch upon legal matters. These accountants, after preparing the financial statements for a business enterprise, apply the tax law in extracting the data necessary to fill out declarations of income from taxable profits.

²⁰ Except for former examiners who qualified for the rank of inspector and were excused from this requirement.