

PART FOUR

GERMANY

by

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CHAPTER XIII

ADMINISTRATIVE ORGANIZATIONAL AND PERSONNEL FRAMEWORKS

Section A. *Administrative Organizational Framework*

1.1 *Introduction*

Under the Constitution, the Federal Republic of Germany is composed of states, *Laender*, each of which, independently of the federal government, exercises legislative, administrative, and judicial powers. While fiscal powers are exercised simultaneously by the two levels of government, the states and the federal government, the Constitution does allocate certain functions between them by reference to the distinctions between (a) the authority to enact laws, (b) the authority to exercise administrative jurisdiction, and (c) the authority to dispose of the revenue from a given tax.

Taxes as to which all three powers are vested in the Federation are called federal taxes. These include especially the turnover tax, the transport tax, and the excise taxes, with the exception of the beer tax, the revenue from which accrues to the States.

The Federation is also authorized, and exercises authority, to legislate on taxes which are administered by, and accrue to, the States. This is true of the capital tax, *Vermogensteuer*, the inheritance and gift tax, *Erbschaftsteuer* and *Schenkungssteuer*, the motor vehicles tax, *Kraftfahrzeugsteuer*. And above all, this category includes the income and the corporation tax where,¹ however, part of the revenue accrues to the Federation which, to the latter extent, also has the administrative authority. Also within this group is the trade tax, *Gewerbesteuer*, the revenue from which accrues to the municipalities.

Only as to very few taxes do the States have legislative power, the most important being the real property transfer tax, *Grundwerbsteuer*.

¹ While the Federation exercises the legislative function, the states indirectly play a part through the Bundesrat, which represents the states in the federal legislative procedure.

The federal tax structure is headed by the Federal Minister of Finance, with comparable state officials at the head of the tax structure of each state. These are distinct administrative offices; the Minister of Finance for a state is not the subordinate of the Federal Minister of Finance.

At the regional level, however, the chief administrative official (Chief Finance President, *Oberfinanz-praesident*) is simultaneously a federal and a state official. The sixteen Regional Finance Offices, *Oberfinanzdirektionen*, comprise both federal and state offices, some divisions therein being concerned with federal and others with state taxes, and their respective employees belong either to the state or to the federal government.²

This contrasts with the local level where separate federal and state offices do exist. However, the federal offices, *Zoll-aemter*, are responsible only for customs duties and excise taxes, whereas the state offices, *Finanzaemter*, are responsible for the individual and corporate income taxes and also for the turnover tax. The fact that all of the turnover tax revenue and a portion of that produced by the income tax is turned over to the federal government³ does not in practice, diminish the authority of the local state offices. They have full, actual responsibility for local administration of these taxes because, to the extent of the Federation's share of such revenue, these state offices in effect act as agents of the Federation. In consequence, duplication of local administration is avoided.⁴

1.2 Organizational framework, national office level

A. Federal tax administration

As noted previously, the Federal Minister of Finance is the highest ranking officer in the federal tax administration. As such, he engages actively in policy determination. In addition,

²The Federal Republic of Germany is made up of states, *Laender*. The smaller states and the city states, such as Bremen, Hamburg, and West Berlin, have only one regional office. The larger states may have two or three.

³The revenue from the income tax is divided between the federal government and the states. The federal quota is variable and may be modified at two-year intervals. For the fiscal years 1964 and 1965, the federal government received 39% of the total income tax revenue.

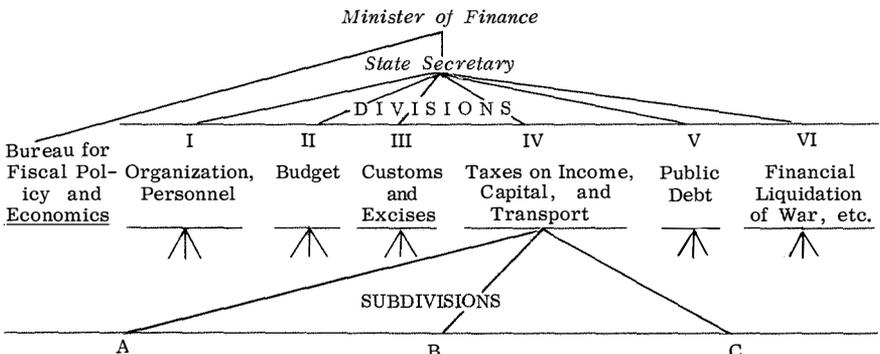
⁴In theory, the responsibility of administering the Federation's turnover tax rests with the Regional Offices. But, as the law stands, the Regional Offices may request the assistance of the state finance offices. In practice, as a result of this set-up, the state finance offices actually administer the turnover tax.

he is responsible for organizational and personnel matters and for matters pertaining to the application of federal tax laws. In practice, however, the State Secretary of the ministry handles the day-by-day business.

Reporting directly to the Minister of Finance is a bureau concerned with fiscal policy and economic matters. Apart from that, the Ministry houses the six divisions set out in Chart I, each headed by a Ministerial-Director. Only the Third and Fourth Divisions are concerned directly with taxes. The divisions are divided into subdivisions, headed by Ministerial Deputy Directors, each of which in turn is broken down into sections, headed by senior officials, usually with the rank of Ministerial Counselor. These officials act on their own responsibility in that they make the first decision on all matters within their competence.

The most important tax division (Division IV) has responsibilities with respect to both turnover and income taxes, but these responsibilities are not identical. For taxes collected solely for the benefit of the federal government, such as the turnover tax, this division drafts laws, issues regulations, and hands down decisions in appellate proceedings. For taxes collected only in part for the federal government, such as income taxes, the division exercises less sweeping authority. Its formal direct responsibility is limited to the drafting of legislation. It also contributes to uniformity in interpretation, however, by having the prime responsibility for the drafting of regulations. Further, it plays a major role in the coordination of, and cooperation in, administrative measures taken by state tax administration. Rulings are not issued by the federal government, but by state governments; however, prior to issuance, the federal government in fact prepares and approves them. This, again, insures uniformity. Also, meetings of senior state and federal tax officials are called by and presided over by the Federal Finance Ministry with the end of insuring maximum uniformity in the actual application of the tax laws. To that same end, and to safeguard its interest in the revenues thus produced, the Central Federal Auditing Office within the Federal Ministry of Finance exercises its right to participate in the auditing activity which theoretically is the concern of the various states. For like reasons, acquiescence of the federal tax administration is also required with respect to the forgiveness of individual and corporate income taxes which exceed a certain sum.

CHART I



A

Law of taxation. Fiscal courts. Turnover tax. Transfer tax. Tax examinations.

Section 1
Double taxation. International integration of taxes. Foreign tax credits. Tax problems of international organizations.

Section 2
Turnover tax (except as assigned to Section 3). Berlin Aid.

Section 3
Turnover tax: International aspects, Saar territory, exports, additional turnover tax, agriculture, reform questions, extensions of time for payment, abatements of tax.

Section 4
Transfer taxes and related taxes and charges.

Section 5
Training of fiscal personnel, Federal Finance College.

B

Taxes on income and profits. Tax simplification.

Section 1
Income tax and supplementary income tax laws (except agriculture and forestry and foreign tax credits).

Section 2
Income tax: Agriculture and forestry. Emergency contribution for Berlin. Extensions of time for payment and abatement of tax. Law on Tax Advisers. Tax-exempt Organizations.

Section 3
Wage tax and other income taxes collected at the source. Taxation of married couples.

Section 4
Corporation income tax (except foreign tax credits). Trade tax.

Section 5
Miscellaneous tax matters. Principles of fiscal law tax procedures. Legal assistance in federal tax collection.

Section 6
Simplification of taxes. Automatic data processing.

C

Taxes on net worth. Valuation. Contributions under the Equalization of Burdens Law.

Section 1
Valuation: General rules and valuation of business property. Net worth tax. Inheritance tax.

Section 2
Valuation: Agricultural property and property devoted to forestry. Inventorization of arable land.

Section 3
Valuation: Real property and business real property. Real property tax.

Section 4
Contributions under the Equalization of Burdens Law.

Section 5
Tax examinations.

B. State tax administration

As previously noted, none of the eleven State Ministries of Finance are subordinate to the Federal Ministry. The former are organized, however, along lines similar but not identical to those of the federal ministry, the difference being attributed to the fact that some functions are performed solely at the federal level. Nevertheless, each does have a tax division which is subdivided. The State ministry consists of several *divisions* subdivided into *groups* (which are the equivalent of the subdivisions of the Federal Ministry of Finance); each group comprises a number of *sections*—depending on the range and importance of the tasks assigned to it. As in the case of the Federal Ministry of Finance, these sections constitute the basic operational units of the ministry.

In the area of individual and corporate income taxes the Ministry of Finance for a particular state supervises implementation of the tax laws by lower-level authorities (regional finance offices and the local finance offices). In this process, instruction is given concerning assessment, auditing, tax forgiveness, etc. In some circumstances the state ministry hands down a decision in an individual situation.

However, all questions of common interest to tax administrations in the other states as well as questions relating to future legislation are referred to the federal tax administration by the state tax administrations. Moreover, no state ministry has any direct concern in the drafting of statutes dealing with individual or corporate income taxes.

1.3 Organizational framework, regional office level

As previously noted, the Regional Finance Offices serve as regional authority for both the state and federal tax administrations. The head, known as Chief Finance President, *Oberfinanzpraesident*, serves under joint nomination by the Federal and the appropriate state Ministers of Finance.

The heads of the several divisions, the Finance Presidents, *Finanzpraesident*, are subordinate to the Chief Finance President. However, the Customs and Excises Division is staffed with federal employees and its head is responsible to the Chief Finance President in the latter's capacity as a federal official, while the Division for Income, Profits, Net Worth, and Transfer Taxes is staffed with state employees and its head is responsible to the same regional Chief Finance President but in his capacity as a state official. Further, while the Group Unit for federal Turnover and Transport Taxes is attached to the Division

for Taxes on Income, Profits, Net Worth, and for Transfer Taxes, the former unit actually is independent of the latter division's authority and reports directly to the Chief Finance President in his capacity as a federal official.

The tax division is concerned primarily with supervision of the local state tax offices, *Finanzaemter*, where the actual work of tax administration is carried on. Within limits set by the State Ministry of Finance, the Regional Finance Office instructs the local offices on all aspects of income tax and trade tax administration, with particular attention to assessment, auditing, and tax forgiveness procedures. It also usually works with the local offices in auditing the more important enterprises in the region.⁵ Further, under certain circumstances it hands down decisions covering particular fact situations which have been referred to it. In addition, the officials of this division of the Regional Finance Office conduct personal inspections to determine if the tax law is being enforced properly and if there is compliance with Regional Finance Office instructions. Finally, information forwarded by the local offices to the regional tax division is analyzed and matters of general interest called to the attention of the State Ministry of Finance.

1.4 *Organizational framework, local office level*

The actual administration of the tax laws falls upon the approximately 500 local offices which are severally responsible for geographical areas varying sharply in size and number of taxpayers. The number of local offices in a particular state depends upon geographic and economic considerations. In the City State of Bremen, only 5 local offices are needed, whereas 45 are established in the State of Hesse, 63 in Lower Saxony, 101 in North-Rhine Westphalia with its huge industrial centers, and 128 in Bavaria with its large rural districts. Also, the number of local offices serving under a particular Regional Finance Office varies according to the circumstances, and ranges from 5 (Bremen) to 69 (Munich).

The geographical areas assigned to the various local offices also vary in size. In a city with a great number of people and businesses concentrated in a relatively small area, the district of a local tax office is necessarily much more restricted

⁵Among the other functions of the auditing section is the responsibility of fixing, on the basis of criteria and data collected by the local authorities, the standard rates for estimating the turnover and profits of enterprise.

than in rural areas with widely dispersed settlements. The number of individual taxpayers—as distinct from residents—within the jurisdiction of a local office also varies. In the federal territory approximately 3.2 million individuals are assessed for income tax. The number accommodated by a particular local office ranges from four thousand taxpayers to a high of twelve thousand or more, with an average in the neighborhood of seven thousand.⁶ Throughout the Federal Republic of Germany there are approximately 60,000 corporate taxpayers. In some of the larger cities, responsibility for the assessment of the corporate income tax has been given to special offices for corporations⁷ but no data is available to indicate the average number of corporate taxpayers for which a typical office is responsible.

Each local finance office is divided into a number of branches which, in turn, are subdivided into working units, each of which is responsible for either a certain residential area or a certain category of taxpayers, such as corporations. The number of branches and of employees in a particular finance office depends upon the size of the area and the number of taxpayers.⁸ To some extent these same factors control the services performed by a given local office, as in the case of auditing. Certain small local offices do not have an auditing staff. Where this situation exists, assessment personnel perform office audits, but the more complex audits are turned over to the auditing staff of a nearby larger local office which customarily does have such a staff. Further, all auditing activity within a particular region is coordinated by the auditing section of the Regional Finance Office to insure uniformity.

The head of each local office is subordinate to the head of the Regional Finance Office, though his rank depends upon the size of the local office. He supervises the local administrative personnel, including the heads of the branches who, in

⁶Excluded from these figures are those taxpayers who are required to file tax returns but for some reason (i.e., income below minimum taxable) are not liable for any tax. Also excluded are those taxpayers who have had their taxes (i.e., wage tax, capital yields tax) withheld at the source.

⁷In these same large cities, other local offices are charged with the centralized administration of certain other kinds of taxes, such as those on transactions, the inheritance tax, etc.

⁸Offices in larger towns and industrial centers usually have staffs of considerable size, up to 450, and more branches than smaller offices in rural areas. These latter average about 50 employees to an office.

turn, supervise the work of the working units. In the larger local offices, one or two heads of branches are denominated coordinators for taxes of particular importance, such as individual and corporate income taxes, turnover taxes, or for a group of related taxes, such as capital transfer taxes. These coordinators perform consultative and coordinating activities with respect to the particular taxes falling within their respective competence.

Each taxpayer falls within the jurisdiction of some particular local office. If an individual, jurisdiction is determined by his domicile; if a corporation, by the seat of management; if a foreign enterprise, by the site of the permanent establishment.

In fulfilling its role as part of the state tax administration, each local office assesses, enforces, and collects individual and corporate income taxes from those falling within its jurisdiction. Although the revenues from the turnover tax accrue to the federal government, local administration is handled by the state's local office, acting as agent for the federal government. In fact, before preparing a taxpayer's income tax assessment, the state official in the local office first computes the turnover for establishing the turnover tax. After all, the turnover, measured by gross receipts, serves as a point of departure in computing the taxpayer's income.⁹ Moreover, in smaller and medium-sized tax offices, when the income tax assessment for a business is being prepared, the assessing official concurrently handles the work involved in computing the amount of the municipal trade tax, income being one of the multiple components which constitute the base of that tax.

Should the taxpayer wish to raise any questions relating to his tax, two administrative remedies are available. One, the protest, *Einspruch*, goes to the substance of tax liability; the other, the complaint, *Beschwerde*, involves discretionary matters which in practice raise procedural issues, e.g., forgiveness of taxes, or delay in filing returns because, illustratively, of *force majeure* or temporary absence from the country. Under both procedures, the protest and the complaint, the local office hands down a decision. Should the local office deny the taxpayer's protest, the taxpayer has no further level of administrative

⁹ If a taxpayer's business has establishments in two or more municipalities, the office apports the trade tax receipts between the concerned municipalities. To facilitate the collection process, the larger municipalities have their own tax offices which administer not only the trade tax but other municipal taxes as well, including the real estate tax, levied in much the same manner.

appeal but must bring his case before the appropriate fiscal court. In the case of a complaint, however, the taxpayer may have the denial submitted to the regional office. Should the regional office deny relief, the taxpayer then may proceed before the fiscal court.

To summarize the work of the local office with respect to the income tax, this office determines the basis of taxation and then assesses and collects the amounts due. The same office also handles all administrative appeals with respect to substance and the first of the two levels of administrative appeals with respect to procedure.

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

1.5 *Governmental professional personnel*

With very few exceptions the tax administrations¹⁰ of the Federal Republic and of the several states are staffed by civil servants.¹¹ These fall into four classes—senior, administrative, clerical, and subclerical. Classification depends to a very substantial degree upon the individual's educational level at the time of entry. This educational level also determines the particular in-service training program into which an individual is channeled.

The lowest level of employment for the senior class is as head of a branch in one of the local tax offices. However, such a position may be one of the top levels for a member of the second or administrative class, although officials of this class are employed as assistants to the senior class officials

¹⁰ Fiscal administration is subdivided into three branches: taxes, customs, property and construction. This subdivision is particularly evident in the structure of the Regional Finance Offices. See 1.3 *supra*.

¹¹ The term civil servant includes those persons whose status as such is governed by public law rather than by a private contract of employment. While theoretically practically all functions assigned to civil servants may be performed by salaried employees, the latter play only a minor part in tax administration. Where employed, salaried employees typically perform clerical work but sometimes, where there is a need and their qualifications are satisfactory, they will be utilized in administrative posts. Relatively often such employees with particular competence in tax matters and accounting practices will be employed in auditing sections. However, the majority of such posts are filled by civil servants.

at all higher levels, and occasionally will be promoted into the senior class. Clerical and subclerical classes have no administrative responsibilities, being employed in subordinate capacities.

Since tax administration involves the application of relevant laws and—at the higher levels of the federal hierarchy—the drafting of appropriate legislation, extensive legal knowledge is required of all officials who deal with other than purely administrative matters. In consequence, the senior posts within the tax administration are filled typically by lawyers, although in some instances these positions are filled by university graduates other than lawyers—i.e., from economics, etc.—or by officials promoted from the administrative class¹² to the so-called senior class.

A lawyer applying for a senior class civil servant classification in the tax administration, like all other lawyers, has completed approximately seven years of training in a university and in post-university apprenticeships and has passed his First and Second Legal State Examinations, and thus qualifies for the title of Assessor.¹³ If the appropriate State Ministry of Finance¹⁴ accepts his application, the young Assessor is enrolled by a Regional Office as a Finance Assessor and undergoes a training period lasting from eighteen months to two years. The bulk of this period is utilized in practical training. He spends ten to sixteen months at a local office, where stress is placed on auditing, four months at the Regional Finance Office, and one month at a Finance Court. On the theoretical side, the Finance Assessor attends three training courses, each lasting about one month, at the Federal Finance College, supervised by the Federal Ministry of Finance.¹⁵

¹² Officials in the top brackets of the administrative class frequently have duties comparable to those of senior officials. Therefore, they may move into the senior class without first qualifying through the examination process normally required.

¹³ This training is made up of two parts. First, there are at least seven half-year terms of legal training at a university, concluded by the First Legal State Examination, *Referendar Examination*. This is followed by at least three and a half years of apprenticeship training in courts, administrative authorities, and law offices, successful completion of which entitles the student to take the Second Legal State Examination, Assessor Examination.

¹⁴ The Federal Ministry of Finance handles the employment of attorneys to be used in the turnover and transactions tax areas.

¹⁵ In addition to the Federal Finance College, there are several finance training schools conducted by the several states.

The courses at the Federal Finance College are designed to supplement the university legal training and give the Finance Assessor a broader and more detailed knowledge of the tax law as well as information in other areas (i.e., business administration with particular stress on industrial management) essential for tax administration. Special attention is given to accounting and the analysis of balance sheets. In addition, there is some discussion of certain aspects of economics, sociology, personnel management, industrial relations, and related subjects. Supplementing the formal course work are lectures of a general character, covering political, cultural, and scientific topics.

Upon successful completion of the training program, the Finance Assessor is appointed a Government Assessor, *Regierungsassessor*. Normally, his first assignment is as head of a branch at a small local office, but after two or three years he is promoted to Government Counselor, *Regierungsrat*, which is the lowest ordinary rank, according to Table A, of the seven ranks in the senior class.

TABLE A

Officials of the Senior Class:
Promotion Sequence

Government Counselor	<i>Regierungsrat</i>
Chief Government Counselor	<i>Oberregierungsrat</i>
Government Director	<i>Regierungsdirektor</i>
Chief Government Director } ¹⁶	{ <i>Leitender Regierungsdirektor</i> or <i>Ministerialrat</i>
Ministerial Counselor }	
Ministerial Deputy Director.	<i>Ministerialdirigent</i>
Ministerial Director.	<i>Ministerialdirektor</i>

This bottom rank heads branches in the larger local offices. In the largest local offices, however, the heads of the more important branches are Chief Government Counselors, *Oberregierungsrat*. The rank held by heads of local finance offices depends upon the size of the particular offices. Most offices are headed by experienced personnel who have progressed through two or three, sometimes in the case of larger offices even four, ranks. A few very small offices are headed by men of the lowest rank.

¹⁶ These two officials occupy an equal rank and enjoy an equal salary. The difference in title depends upon where the official in question works; the *Leitender Regierungsdirektor* works in the field, the *Ministerialrat* in either the state or federal Finance Ministry.

In the Regional Offices, section chiefs are either Government Counselors, *Regierungsrat*, or Chief Government Counselors, *Oberregierungsrat*, while officials in charge of groups (made up of sections) are Government Directors, *Regierungsdirektor*.

Within the State Ministries, the rank of the head of the tax division depends upon the size of that division. Usually this division is headed by an official who holds the second highest rank in the senior class, i.e., a Ministerial Deputy Director, *Ministerialdirigent*. Groups working on the level below that of the division are headed by Ministerial Counselors, *Ministerialrat*, or Government Directors, *Regierungsdirektor*, with the section chiefs holding the rank of Chief Government Counselor, *Oberregierungsrat*.

While the educational qualifications for tax officials of the second or so-called *administrative* class are not nearly as demanding as the standards applied to those who seek to enter the senior class, the wide variety and complexity of the tasks performed by the former does require them to have a sound basic educational background. Federal and state laws¹⁷ set out minimum requirements—i.e., completion of training at an intermediate-level school (e.g., commercial school) or qualification for the upper years at a high school¹⁸—but in practice the tax administration prefers candidates with somewhat greater qualifications—i.e., completion of training at a high school.

The candidate, upon acceptance of his application by the Regional Finance Office, commences his apprenticeship training at a local office, the training period lasting at least three years. The state-administered training programs are generally similar although they differ in detail. The bulk of the apprenticeship training, geared to familiarize the candidates with the work of the local offices, involves actual work in the different branches of these offices. In the course of the training, knowledge of administrative class functions is acquired through contact with experienced officials. Simultaneously, the candidate is introduced gradually to progressively more difficult cases.

¹⁷The Federal Law on Civil Servants, which fixes the general requirements, is binding on the several states. In addition, each state has its own particular laws.

¹⁸In the school system in effect throughout Germany, the subjects taught in the upper years at high school correspond at least in part to the subjects taught in the first two years in a college in the United States.

In addition to this practical training, a minimum of nine months is spent in theoretical studies. To this end, six states maintain special training schools;¹⁹ in the other states, Regional Finance Offices are responsible for administration of the training programs.

Typically, the first introductory course, usually lasting three but sometimes as long as ten months, begins after the candidate has had a short period of practical experience in a local office. This brief course, concluding by a preliminary examination, provides the theoretical knowledge necessary for successful continuation in the training program. A second course follows a substantial period of practical training and is concluded by written and oral examinations covering the important subjects a candidate will employ in his future work. These include: government and administration, accounting, balance-sheet analysis, auditing, individual income tax, corporate income tax, turnover tax, general tax law, capital tax, criminal law pertaining to fiscal offenses, enforcement measures, budgetary administration, etc.

Candidates successfully passing this second examination are classed as civil servants on probation and are hired as supernumerary Tax Inspectors. After satisfactory service during the probation period (normally two years), they are appointed to the lowest bracket of the administrative class, Tax Inspectors, and assigned a specific post within a local tax office.

Typically the working unit of a local office is headed by a Tax Inspector or Chief Tax Inspector. Such an official, with the aid of one or two assistants, handles the assessment work. Inspectors also bear the prime responsibility for field audits. The two highest ranks of the administrative class, Tax Superiors and Tax Counselors, are to be found for the most part as heads of branches in Regional Finance Offices. However, all four ranks of the administrative class also occupy posts at regional, state, and federal levels as assistants to senior class officials.

Normally, throughout the tax administration, the careers of all persons in the senior and administrative classes commence in a local tax office. From the staffs of these offices, appointments are made to the regional offices. The state ministries of finance draw their personnel both from the regional and the local offices. The Federal Ministry of Finance draws its staff

¹⁹ As of 1964 there were nine such training schools.

from the tax administrations of all states, the several state governments consenting to the transfer.

When an official is transferred from a lower to a higher office, i.e., from the regional office to the state or the federal ministry, he will not be expected to secure further education or on-the-job training. Such an official is already a member of a particular class and he will continue, albeit on a higher level, to perform the duties of that class. Hence, such a promotion merely presumes superior qualifications, such as a high degree of specialized knowledge, administrative or executive capacities, creative imagination, and initiative. These are the essentials for appointment to the state and federal ministries; no consideration is given to proportional representation of lower level authorities or any particular class of personnel.

1.6 *Private tax practitioners*

With the heavy post-war tax burden, the services of tax advisors have become increasingly important. These advisors fall into two main groups—Tax Consultants, *Steuerberater*, and Agents in Tax Matters, *Steuerbevollmächtigte*—and presently number respectively 4,000 and 20,000. To insure suitable educational background and necessary professional qualifications, the 1961 Law on Tax Advisors, applicable to all the states, set up certain requirements for admission to the respective professional examinations.

To sit for the Tax Consultant examination, an individual must have completed a full course of university study in law or economics and subsequently must have been employed for at least three years by an individual or company admitted to tax practice. There are somewhat less stringent requirements for the Agent in Tax Matters examination. Admission to this examination is granted on the basis of a high school or accredited school-of-commerce education followed by an apprenticeship with a tax or business advisor or a trader and four years practical experience in the giving of tax advice while employed by a Tax Consultant or Agent in Tax Matters.

In cooperation with the respective professional associations, the State Ministries of Finance conduct the examinations for Tax Consultants, the Regional Finance Offices for Agents in Tax Matters. Because of the high level of competence demanded, between 20 and 25 percent of the applicants fail to pass. Both types of examinations cover tax law, relevant criminal law and procedure, accounting with particular emphasis on balance sheet analysis, civil law, and professional law. The Tax

Consultant examination, in addition to requiring a more extensive and sophisticated knowledge of these subjects, includes commercial and company law, public finance, and economics.

Candidates for the examinations may not attend the federal or state in-service training programs. Instead they attend private courses conducted by experienced teachers including Tax Consultants, Certified Public Accountants, and senior or administrative class tax officials. In addition textbooks and correspondence courses are available.

The typical candidate for the rank of Tax Consultant has completed his university training before taking the qualifying examination. However, the examination may be taken by two groups who lack university training: Agents in Tax Matters who have had ten years of full time service considered satisfactory by the head of the local finance office most familiar with their capabilities, and former tax administration officials (in practice members of the non-senior class) who in the ten years prior to their retirement had worked for five years as head of a branch. If such a former non-senior class tax administration official had headed a section or working unit under the same conditions, he may sit for the Agent for Tax Matters examination.

No qualifying examination for Tax Consultant is required of two groups: former judges of fiscal courts and senior class tax officials who for five of the ten years directly preceding retirement have headed a branch in a local office or occupied an equivalent position. Their technical knowledge is considered sufficient to warrant this special arrangement.

These two groups of tax advisors—Tax Consultants and Agents in Tax Matters—perform essentially the same functions, including closing taxpayers' books, establishing balance sheets, preparing tax returns, representing taxpayers in dealings with the tax administration or before the fiscal courts. However, Agents in Tax Matters handle primarily tax affairs of small- and medium-sized firms with less complex financial dealings, while Tax Consultants are retained by larger firms with more complicated tax problems. Only Tax Consultants may be the members of the boards of managers of the hundred-odd corporations or limited liability companies organized to engage in tax practice.

Both Tax Consultants and Agents in Tax Matters may represent taxpayers in administrative proceedings and in the tax courts. Two other groups of professional tax advisors have the same privilege: a very small and steadily decreasing group

of Certified Auditors, *vereidigter Buchprüfer*; and the much more important group of Certified Public Accountants, numbering about 150, who have completed university training in economics and related fields, have had six years of professional accounting experience, and have passed a difficult qualifying examination.

Because a taxpayer can use members of any of these four groups as tax advisers and as representatives in tax litigation, it is not necessary to have a lawyer represent him. Yet representation in tax litigation is the only tax area where lawyers are at all active, for the giving of tax advice is almost entirely handled by members of other professional groups.