

PART SIX
THE NETHERLANDS

by

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CHAPTER XXI

ADMINISTRATIVE ORGANIZATIONAL AND PERSONNEL FRAMEWORKS

Section A. *Administrative Organizational Framework*

1.1 *Introduction*

The Dutch administrative organization charged with the levying and collection of taxes has three levels: national, regional, and local.

Prime responsibility for the assessment of taxes lies in the local offices, i.e., with the 103 inspectorates, authorized by statute to make assessments and whose decisions cannot be overruled by superior officials. Administrative appeal by a taxpayer from assessments made by personnel working in those inspectorates is to that same local inspector. There is no appeal to a higher administrative level. Differences of opinion which cannot be settled locally must be taken to the courts.

Otherwise, however, the eight regional offices, headed by district directors, do operate as administrative superiors of the inspectors, *inspecteur der belastingen*. In turn, these regional offices are supervised by the National Office Directorate of Direct Taxes, one of the seven directors responsible to the Director-General of Taxes who, with his counterpart, the Director-General of Tax Affairs, reports directly to the Under Secretary of Finance, the actual head of the administrative structure.¹

The subdivision of the national office, called the Directorate of Direct Taxes, has five subdivisions. Two deal with the individual income tax, the corporation income tax, and the wage tax; three deal with collection and administration. The subdivisions dealing with income taxes handle requests for information from local offices relating to interpretative matters or to situations where an assessment was excessive but the time for administrative appeal within the local inspectorate has expired. This same division handles taxpayer requests for information on the tax consequences of proposed transactions.

¹The Minister of Finance is the titular head.

1.2 *Organizational framework, national office level*

Chart I, opposite, sets out the arrangement of the national office. The portion of the national office responsible for the levying and collection of all taxes is headed by the Under Secretary of Finance. Reporting directly to him are the two directors-general: the Director-General of Tax Affairs and the Director-General of Taxes.²

The staff of each of these two directorates is made up of inspectors or chief-inspectors of taxes (who have served varying lengths of time in local or district offices) supported by lower level personnel.

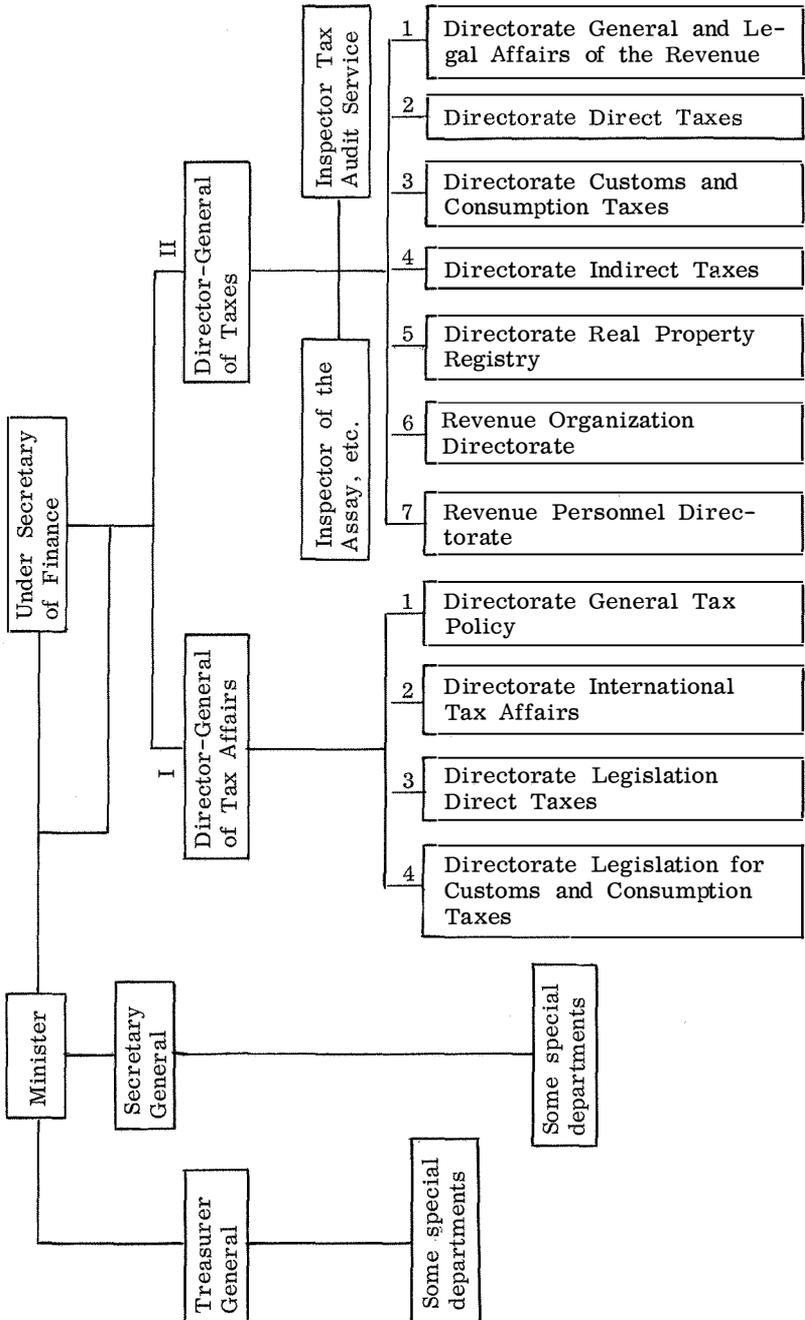
The Director-General of Tax Affairs handles tax policy, tax legislation, and international tax affairs. Reporting to him are four directors. None of these directors is directly responsible for the resolution of interpretative problems in individual cases, although the Director of Legislation for direct taxes is indirectly concerned with such matters. His office drafts proposed legislation and prepares legislative regulations and directives. Thus, whenever groups of affected taxpayers—i.e., insurance companies, banks, shipping-unions, chambers of commerce, trade-unions, agricultural societies—are dissatisfied with a statute or with its interpretation and desire a change in legislation, they contact this office.

Responsibility for the levying and collection of all taxes rests with the Director-General of Taxes who has seven directors reporting to him. Two deal with administrative matters, one with general and legal affairs, and the remaining four with the several kinds of taxes: direct, customs and excise, death, registration and stamp duties, cadastral, and mortgage. The Director of Direct Taxes is the one concerned with income and wage taxes, and as to these, his office performs varied functions. Occasionally it informs the local inspectorates of decisions reached in certain tax cases with which they should be familiar. It responds to requests from local offices for advice regarding litigation policy positions. It also determines future governmental policy regarding tax decisions reached by final judicial authority. Finally, it handles so-called hardship cases,³

² Prior to 1950 the functions of the two present directors-general were performed by a single Director-General. The increasing importance of preparing tax legislation and the emergence of pressing international fiscal problems led to the division of the office.

³ In nearly every tax statute, authority is conferred on the Minister of Finance to grant relief in situations where applications of the statute, even with a flexible interpretation would constitute a case of

CHART I



presented to it by inspectorates through the regional directors, although the Under Secretary of Finance actually announces the official decisions.⁴

1.3 *Organizational framework, regional office*

The eight regional directors' offices are concerned primarily with administrative matters. Each directorate contains a number of organizational units as set out in Chart II, opposite.

A regional director heads a staff ordinarily composed of four inspectors of academic level and of between thirty to fifty lower-level technical and administrative personnel.

The prime responsibility of a regional director is administrative supervision, to insure the smooth functioning of several local level offices. He personally does not perform any technical function with respect to the work of the local inspectorates which carry out audit, assessment, and collection functions and also handle their own administrative appeals.

In addition to his administrative responsibilities, the regional director has certain collateral functions. He remits tax payments in the case of insolvent taxpayers, and transmits so-called hardship cases to the national office, Directorate of Direct Taxes. Infrequently, a local inspector requests his advice in the handling of a particular case which poses interpretative difficulties or tactical questions. The regional director ordinarily responds to those exceptional situations, by forwarding the inspector's report, together with his own opinion, to the national office, Directorate of Direct Taxes. This same procedure is followed where a local inspectorate proposes to appeal a lower court decision to the Supreme Court, with ultimate approval regarding the appeal then resting with the national office.

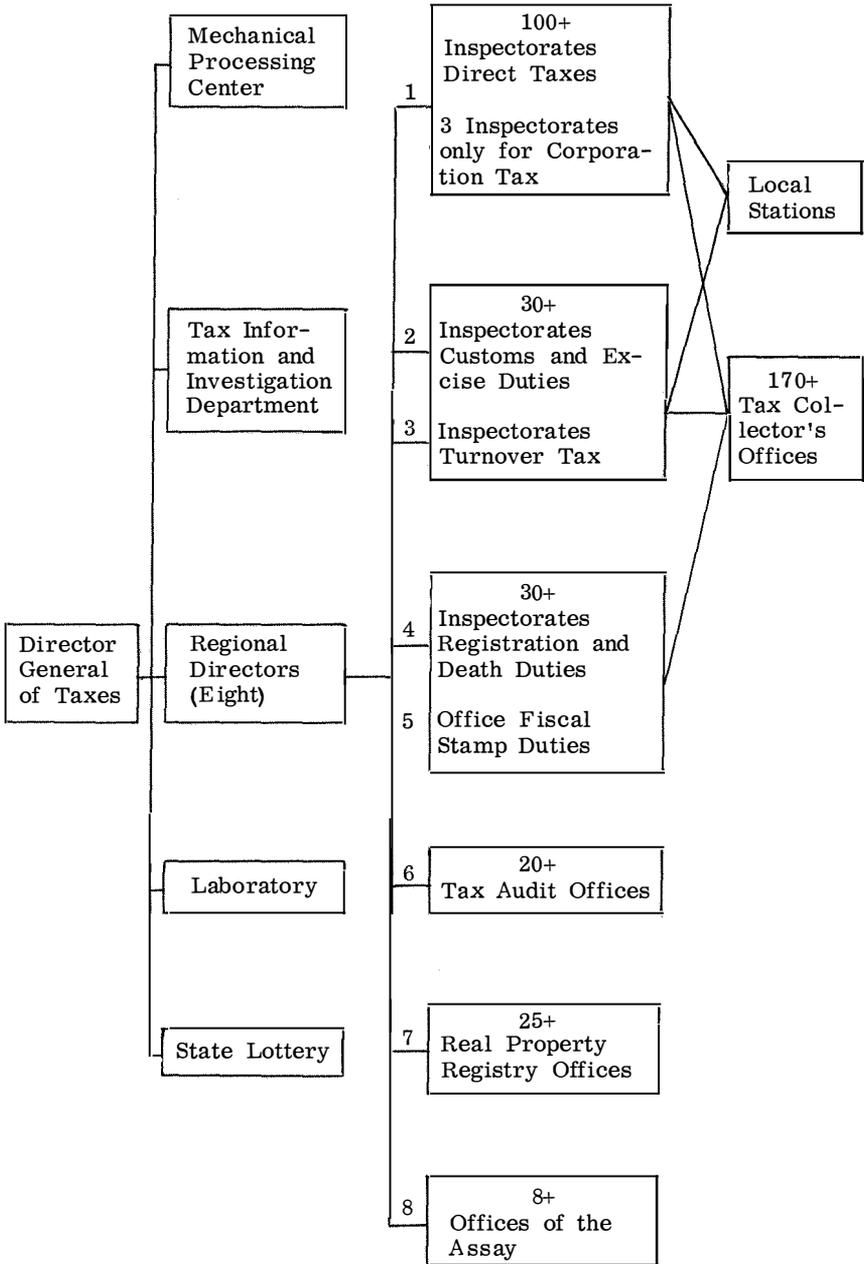
On occasion a taxpayer may complain to the regional director with respect to an inspector's conduct while handling a

(footnote continued)

hardship, that is, a case where a tax, although in conformity with the statute, would be contrary to the intention of the statute. No statute can provide a concrete solution for every factual situation which may occur and interpretation will not always result in a reasonable conclusion. Thus in such cases the Ministry can provide relief through remission or reduction of the tax. Taxpayers, however, cannot *claim* such relief; it is wholly discretionary.

⁴On some occasions, the national office, Directorate of Direct Taxes, delegates subsequent decisions in like situations to the regional or to the local offices.

CHART II



particular audit or assessment. Should the director conclude that the audit or assessment was incorrect, a theoretically possible but most improbable result, the director can recommend a change. The inspector, however, is free to disregard the recommendation; by statute he alone is empowered to change an assessment, though as a matter of prudence he may decide to shift his position. Should the inspector disregard the director's recommendation and the taxpayer decide to contest the assessment, the taxpayer can, of course, address the national office for hierarchic measures toward the disobedient inspector, though procedurally, he must lodge an administrative appeal with the same inspector. If the appeal is rejected, the taxpayer then can turn to the courts.

1.4 *Organizational framework, local office level*

As Chart II, *supra*, indicates, regional directors perform administrative functions with respect to eight different types of offices. Of these, however, only two deal with the income tax: the tax-audit or tax-accountant offices, and the inspectorates for direct taxes, *inspecties der belastingen*, who bear ultimate responsibility for all assessments.

There is wide variation in the size of the geographical area serviced by an inspectorate. Some cover as many as 800 square kilometers (480 square miles) some as few as 80⁵ (48 square miles). There are about one hundred inspectorates for direct taxes. Eighty deal only with individual income taxes and wage taxes. The remaining twenty deal with corporate income

⁵The area of the Netherlands is about 32,500 square kilometers, with 1 square kilometer equalling two-fifth of 1 square miles. There is a population of 12 million inhabitants, with an average population density of 370 per square kilometer. The provinces of Noord- and Zuid-Holland, which make up the western part of the Netherlands, have an area of about 5,200 square kilometers. The population of that western part equals 5 million inhabitants with a population density of 960 per square kilometer. By way of comparison, note the following:

<i>State of the United States</i>	<i>Area*</i>	<i>Population</i>	<i>Population Density**</i>
Rhode Island	3,150	0.9 million	280
New Hampshire	24,000	0.6 million	25
Michigan	148,000	7.0 million	47
District of Columbia	181	0.9 million	500

*Square kilometers.

**Per square kilometers.

taxes, as well as individual income and wage taxes.⁶ There are also approximately twenty tax audit offices. Their prime function is to audit the more complex income tax returns, usually those of corporations. Returns involving simpler, less complex issues are audited within the inspectorates by their own audit divisions. The twenty tax audit offices are staffed by chartered accountants who are considered equal to those of a university level, since they have passed several examinations in accounting, financial arithmetic, etc.

Inspectorates vary in size, from large, to medium, to small. The three large ones are located in Amsterdam, Rotterdam, and The Hague.

There are between forty and fifty inspectorates, respectively, in the medium and small categories.

Despite variations in size, all inspectorates have the same basic structural organization, headed by chiefs who have identical legal authority but whose titles and salaries vary depending on the importance of the inspectorate. Such persons are ultimately responsible, apart from supervision of subordinates, for assessments, hearing administrative appeals, and representing the inspectorate in litigation arising out of assessments it has made. To these ends, each inspectorate has either four or five divisions, the two most relevant here being the assessment and audit divisions. Except in small inspectorates, an assessment division will include several inspectors with a university background, and a number of less well educated *controleurs* and *commiezen*. In contrast, *controleurs* head up the staff of the audit divisions, and, in the case of small inspectorates, also the assessment divisions.

The assessment division performs the most important duties, concentrating on the income tax though also responsible for assessment of the tax on capital. Essentially, the other divisions are auxiliary to the assessment division; their function is to promote an optimal accomplishment of the entire assessment process (i.e., ordinary assessments, deficiency assessment, handling of administrative appeals). For example, the audit division has no power to review an assessment made by the assessment division. It simply collects information outside

⁶As of 1967, there were about 100 inspectorates for direct taxes, dealing only with individual income taxes. Eight inspectorates deal with corporate income taxes. No inspectorates deal with both individual and corporate income taxes.

the office and makes routine audits, both inside and outside the office, primarily of uncomplicated income tax cases.⁷

The following table shows that the number of assessments typically completed by an inspectorate varies depending on its size:

<i>Type of Inspectorate</i>	<i>Number of Assessments</i>
Small	6,000- 20,000
Medium	20,000- 50,000
Large	150,000-200,000

While inspectors, with a university background, handle the more complex cases, the table below from one recent year indicates that lower level personnel handle the greatest number:

<i>Levels of personnel performing assessments</i>	<i>Number of Assessments</i> ⁸		
	<i>Income Tax</i>		<i>Corporation Tax</i>
	<i>Average number per man</i>	<i>Total</i>	<i>Total</i>
Inspectors (with educational background at the university level)	1,000	200,000 (8%)	36,000
(<i>Hoofd</i>) <i>controleurs</i>	2,200	600,000 (24%)	
<i>Commiezen</i>	3,700	1,700,000 (68%)	

Other data of that same year show within the inspectorates the annual number of administrative appeals.

<i>Type of Tax</i>	<i>Annual Number of Administrative Appeals</i>
Corporation Income Tax	3,000
Individual Income Tax	230,000
Wage Tax	120,000

⁷ A separate administrative division also performs a variety of supporting functions, such as maintaining up-to-date files for each taxpayer. On the basis of the income established by the audit division, the administrative division computes the tax or, more accurately as of the present, forwards the data to the national computer center. This division also oversees the payment of the wage tax withheld by employers. A yet separate external services division, sometimes known as the active service because of its non-sedentary activities, accumulates other data pertaining to the assessment process.

⁸ The entire income tax of a majority of taxpayers (in 1963, about 2,900,000) is withheld from their wage payments. In consequence, there is no assessment in the case of this majority.

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

1.5 *Governmental professional personnel*

The Dutch Internal Revenue Service recruits its personnel from two distinct educational levels: those who have completed the course of study at a school of secondary instruction which prepares for admission to the university⁹ and those who have completed or attended the later years of a school of extended primary education.¹⁰ From the first group are drawn the future inspectors and their superiors, from the second the personnel at lower levels.

Graduates of the schools of secondary instruction apply to the Ministry of Finance for admission to a competitive examination covering general ability and character. If they pass this, they enter the training program. Prior to 1964 this took place at the State Academy of Instruction and Education for the Internal Revenue Service, *Rijksbelastingacademie*,¹¹ which was under the supervision of the Ministry of Finance.¹² The institution granted no degrees but a number of students secured master's degrees in law or economics from a university while enrolled in the Academy.

The *Rijksbelastingacademie* had a five-year course. The first half concentrated on public and private law and commercial economics; the second on taxation law and theory, with

⁹After attending a primary school for six or seven years, a child can enter one of the two main types of schools of secondary instruction: one with a five-year course stressing mathematics, modern languages, and/or economics and a six-year course which adds Latin and Greek.

¹⁰After attending a primary school for six or seven years, a child can enter a school of extended primary education which gives four years of study in general courses, mathematics, and French, German, and English.

¹¹The *Rijksbelastingacademie* was created by the Ministry of Finance in 1939. It was designed to supersede the then-existing practice of preparing in private institutions for admission after examination to the higher echelons of the Internal Revenue Service. Either these admission examinations or similar screening devices had been in existence for a considerable number of years. The administration dealing with death duties had introduced them in 1822, the Internal Revenue Service in 1910.

¹²Almost no inspectors between 1939 and 1964 entered the Internal Revenue Service other than through the *Rijksbelastingacademie*. The exceptions arose from a shortage in qualified personnel because of insufficient applicants.

particular emphasis on the income tax, both individual and corporate. In addition a few months were spent at an inspectorate, concentrating either on income taxes or on turnover, customs, and excise taxes. Practically all students finished this course of study and all who completed it entered the Service. The *esprit de corps*, based on *corps* traditions dating from the early nineteenth century, was an enormously cohesive factor and one of the major elements which prior to 1945 held all but a very few *Rijksbelastingacademie* graduates in the service. The post-war period, however, saw a marked change, in part because of the more attractive salaries and opportunities available in non-governmental service.

The difficulty in retaining trained personnel as well as in securing qualified applicants (partly because training did not take place within a university) led the Ministry of Finance to alter the training program for future inspectors. Since 1964 applicants who qualify for the training program have enrolled with the Law Faculty at one of the state universities. While the course of study is substantially similar to that provided by the *Rijksbelastingacademie*, on completion students now receive a master's degree in tax law and theory. This is followed by a short period of practical experience. A student enrolling in the program receives a government subsidy during his training period, but commits himself to remain with the Service for a certain number of years. Otherwise, the subsidy must be returned.

The corps of Dutch inspectors which is formed by the training program is not outstanding in terms of learning or intellectual qualities. Rather they are trustworthy and honest men, stolid and reliable in the performance of their duties.

In contrast to the extended academic preparation required of and provided for personnel who hope to become inspectors, most employees are hired at 17 or 18 years of age, directly after completion of all or part of the curriculum of a school of extended primary education and commence their duties immediately.

Such a young man enters a local office¹³ where he is taught how to do the simplest work in the administrative division. Later more difficult but still elementary work is assigned to him. Within two or three years, he is eligible to commence

¹³ Theoretically, there is no distinction in the recruitment pattern for this type of employee for whatever level of office; in practice, personnel in the district, and more particularly the national, office have served previously in one or more local offices.

a three-to-four year in-service training program, primarily involving study at home of various texts, the tax statute, and regulations. During some of this time, he also has oral instruction for about three hours a month. No complex subjects, such as corporate accounting, are studied. Upon completion of the course and passing of the final examination—which frequently is not accomplished upon the first attempt—these persons are promoted to *adjunct commies*, some six to seven years after entering the local office.¹⁴

Two lines of promotion are available to an *adjunct commies*. He may prefer to remain in the administrative division or in the lower levels of the assessment or audit division of his local office. In such a case, after service in one of these divisions for some time, he is eligible for promotion, upon recommendation,¹⁵ to the rank of *commies*, later to be followed by promotion to *hoofdcommies*. Under no circumstances, however, will he perform important work comparable to that of a *controleur*.¹⁶

If an *adjunct commies* believes he is capable of performing more demanding work than that performed by a *commies* or *hoofdcommies*, after two to seven years of competent service as an *adjunct commies* and at about age thirty, he may apply for admission to the group of candidate *controleurs*. A selection commission tests these applicants on their general ability, education, intelligence, and character. If chosen—and the chances of selection depend primarily upon the estimated anticipated demand for *controleurs* in relation to the supply of applicants—the candidate *controleur* attends a two-year in-service training school conducted by inspectors and located in the town of Arnheim.

The course offers two tracks of instruction, enrollment depending in part upon the candidate's wishes and in part on the Service's needs. One combines direct taxes and death duties, the other direct taxes and the turnover tax.¹⁷

While in attendance, each student weekly receives a day and a half of oral instruction, spends two days in a local office

¹⁴ Within this time, such an individual will have fulfilled his military service.

¹⁵ Selection is made by a Commission, made up of inspectors under the head of a district director.

¹⁶ A special in-service training program for the level of *commies* has been instituted since 1964. It has about 26 meetings a year.

¹⁷ In the second of the two tracks, varying proportions of the two-year period are devoted to the subjects which follow:

for practical training, and studies for the balance of his time. Upon completion of this course, the candidate *controleur* is eligible for promotion to the rank of *controleur* and subsequently to that of *hoofdcontroleur*. In most cases, he spends his life in the assessment or audit division of a local office, but in some cases he is transferred to a regional or to the national office. However, such an individual can never reach the rank of *inspecteur*, and hence can never head an inspectorate. He will be, rather, a right hand of the inspectors.

1.6 *Private tax practitioners*

There are no restrictions in the Netherlands upon the giving of tax advice.¹⁸ In consequence, the types of tax advisers range from a little bookkeeper to the tax expert, properly so-called, with a large number of individuals falling in the middle. Legally trained men are found only among the relatively few true tax experts.¹⁹

An individual, seeking assistance in filling out a simple income tax return or calculating the profit of a small sole proprietorship, typically utilizes the little bookkeeper type of tax adviser. The more competent advisers in this group also handle less difficult controversies with local inspectorates but rarely, if ever, appear in the courts.

Somewhat above the little bookkeeper type of tax adviser is an ill-defined middle group, without specific academic

(footnote continued)

<i>Subject</i>	<i>Approximate Percentage of Total Time Allocated</i>
Bookkeeping and accounting	23.0%
Civil law	23.0
General approach to tax law	4.0
Income tax	19.0
Wage tax, etc.	9.0
Corporation tax	7.5
Tax collection	1.5
Capital tax	5.5
Turnover tax	4.0
Real estate tax	3.5

¹⁸ Excluded from any consideration of tax practitioners are the notaries, *notarissen*, who handle practically all death and gift tax problems. There are jurists, with specialized knowledge of these taxes, appointed by the Queen.

¹⁹ While the middle range of tax consultants are known as *belasting des kund*, tax experts, their expertise is decidedly more limited than their name suggests.

training.²⁰ Its members deal not only with local offices but also frequently represent taxpayers in judicial proceedings though they are not lawyers. Indeed, the associations into which they have organized themselves²¹ require for membership only completion of an extended primary education. These associations have joined into a federation which has set up part-time training courses for the members.²² While the examinations are kept at a fairly high level, successful completion is no guarantee of professional expertise. At a minimum, a member of such an association, upon completing the course of study at a federation training school, would require several years of practice before attaining the level of knowledge and competence necessary to give reliable advice on relatively uncomplicated tax matters.

In truth, the Netherlands possesses very few true tax experts. Among these are former inspectors who will have graduated from the *Rijksbelastingacademie*. Others are lawyers who specialized in taxation. Frequently an office which concerns itself primarily with tax matters has a chartered accountant, a lawyer, and a tax expert, all working in close cooperation.

²⁰ A 1958 report by a Commission, instituted by the Under Secretary of Finance, advised the government to create a state examination to insure more uniformity among this middle group of tax advisers. To date, the government has taken no concrete action.

²¹ Some of these organizations have joined with others of comparable status in an effort to insure some degree of uniformity. To increase a sense of professional status, the members may, after passing examinations, identify themselves as Members of the Institute of Tax Advisers or whatever is the name of the particular organization. A 1967 act makes it possible for a qualified individual to be registered as a Registered Accountant.

²² The courses offered by the federation provide some general instruction in law, economics, and bookkeeping, followed by a special program in tax law which stresses individual and corporate income tax law. Generally theory, public finance, and related subjects are given little if any attention.