

PART TWO

BELGIUM

by

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CHAPTER V

ADMINISTRATIVE ORGANIZATIONAL AND PERSONNEL FRAMEWORKS

Section A. *Administrative Organizational Framework*

1.1 *Introduction*

The Belgian Ministry of Finance has three branches charged with the levying of taxes:

Administration of Customs and Excises, *Administration des douanes et accises*: collects customs and excise duties

Administration of Registration and National Property, *Administration de l'enregistrement et des domaines*: collects recording and stamp fees, inheritance taxes, transfer taxes, and similar levies

Administration of Direct Taxes, *Administration des contributions directes*: collects the direct taxes

So-called direct taxes fall into two main categories: the income taxes, properly so-called, and other taxes of somewhat less importance.¹ The true income taxes² include the following:

Individual income tax, *Impôt des personnes physiques*

Corporate income tax, *Impôt des sociétés*

Income tax on juridical persons, *Impôt des personnes morales*

Nonresident income tax, *Impôt des non-residents*

¹ Other taxes under the jurisdiction of the Administration of Direct Taxes fall into the two following groups:

(a) Special taxes of which the most important is the tax on motor vehicles, *taxe de circulation sur les véhicules à moteur*.

(b) Additional taxes for the benefit of provinces and municipalities, *additionnels provinciaux et communaux*, on income from immovable property, and on the global income of corporations and individuals. Law of July 31, 1963.

² Law of November 20, 1962, in force from fiscal year 1963 for corporations, *sociétés par actions*, and from fiscal year 1964 for individuals, partnerships, and private companies, *sociétés de personnes*.

The bulk of these income taxes are prepaid through a system of withholding tax, *précomptes*:

Withholding on income from immovable property, *précompte immobilier*

Withholding on income from personal property such as securities, loans, royalties, bank deposits, *précompte mobilier*

Withholding on income from wages, salaries, etc., *précompte professionnel*

At the head of the Administration of Direct Taxes is the Director General of Direct Taxes, *Directeur Général*, who is responsible to the Minister of Finance. Under the Director General are (a) the heads of the five divisions, and (b) the general inspectors, *Inspecteurs Généraux*. These latter, the general inspectors, have two functions: they maintain liaison with the offices of the regional directors and they supervise the Special Office of Direct Taxes to which interpretative questions posed by the regional directors are referred.

These regional directors, with whom the central administration maintain liaison through the general inspectors, are responsible for all revenue activity within their respective regions. This includes the resolution of interpretative questions referred to them by taxpayers in the course of administrative appeals.

There are fourteen regional directors for direct taxes, distributed as shown in the following table:

<i>Province</i>	<i>Population</i>	<i>Number of Directors</i>
Antwerp	1,455,644	2
Brabant	2,011,842	4
East Flanders	1,276,803	1
Hainaut	1,249,536	2
Liège	1,007,516	1
Limbourg	586,279	1
Luxembourg	216,975	1
Namur	370,870	1
West Flanders	1,075,949	1

The office of each regional director maintains liaison with the field offices through another group of inspectors, *inspecteurs des contributions*. There are two types of field offices:

the *controles* and the *receveurs des contributions*. The *controles* are concerned primarily with the examination of tax returns, assessment, and audit. Some, however, have a particular area of specialization such as the taxation of corporations throughout an entire regional area. The offices of the collectors, *receveurs des contributions*, handle tax payments and prosecute delinquent taxpayers.

1.2 *Organizational framework, national office level*

Chart I (pages 172-73) reflects the organization of the Central Administration of Direct Taxes at the national level.

The head of the Central Administration of Direct Taxes, the Director General, has under him (a) the heads of the five divisions plus (b) the general inspectors, *Inspecteurs Généreaux*. Of the five divisions, the first four are organized along both functional and tax lines. The fifth division's prime responsibilities are administrative in character, covering the areas of statistics, accounting, personnel, housing, and equipment.

The first division has two subdivisions. The first deals with legislative matters (i.e., drafting of bills, assisting the Ministry of Finance in the course of the legislative process) and with the implementation of legislation by Royal Decree. The second subdivision deals primarily with the taxation of non-residents and in consequence conducts tax treaty negotiations. The first of those two subdivisions is not concerned directly with the resolution of interpretative questions, but should a court resolve an interpretative issue adversely to the government, the Ministry of Finance frequently decides to introduce corrective legislation. In consequence, the first subdivision, through its legislative activities, necessarily becomes involved in matters of interpretation.

The second division deals primarily with the taxation of corporations, juridical persons, private companies, and partnerships, as well as with the prepayments of taxes on movable property, *précompte mobilier*.

The third division deals with individual income taxes.

The fourth division has five subdivisions. The first three have two main functions: representing the administration in tax litigation and in interpreting old tax legislation (i.e., laws in force prior to the effective dates of the major reform enacted November 20, 1962). The fourth subdivision supervises the collection of taxes. The fifth has two areas of concern: prepayment of tax on income from immovable property, *précompte immobilier*, and various minor taxes, such as those on motor vehicles, *taxe de circulation sur les vehicules à moteur*.

Chart I



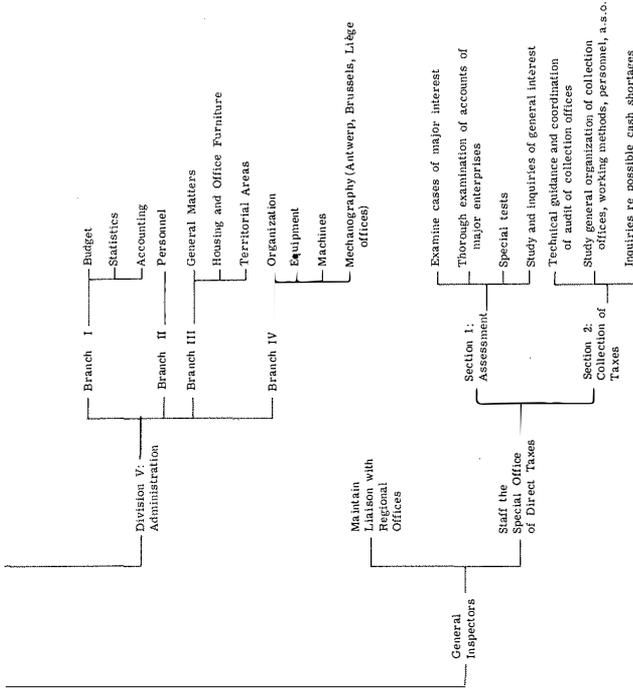


Chart I

The divisions of the Central Administration of Direct Taxes deal only indirectly with interpretative problems, by reviewing regional inspectors' decisions on interpretative issues submitted by taxpayers in the course of administrative appeals. In contrast, the Special Office of Direct Taxes (staffed by general inspectors but responsible also to the General Director) deals directly with interpretative issues. Those interpretative questions which are laid before regional directors are sent to the Special Office of Direct Taxes which, lacking a superior office to which it may refer them, handles them itself.

1.3 *Organizational framework, regional office level*

Chart II (page 175) sets out the structural arrangement of both regional and local offices concerned with direct taxes.

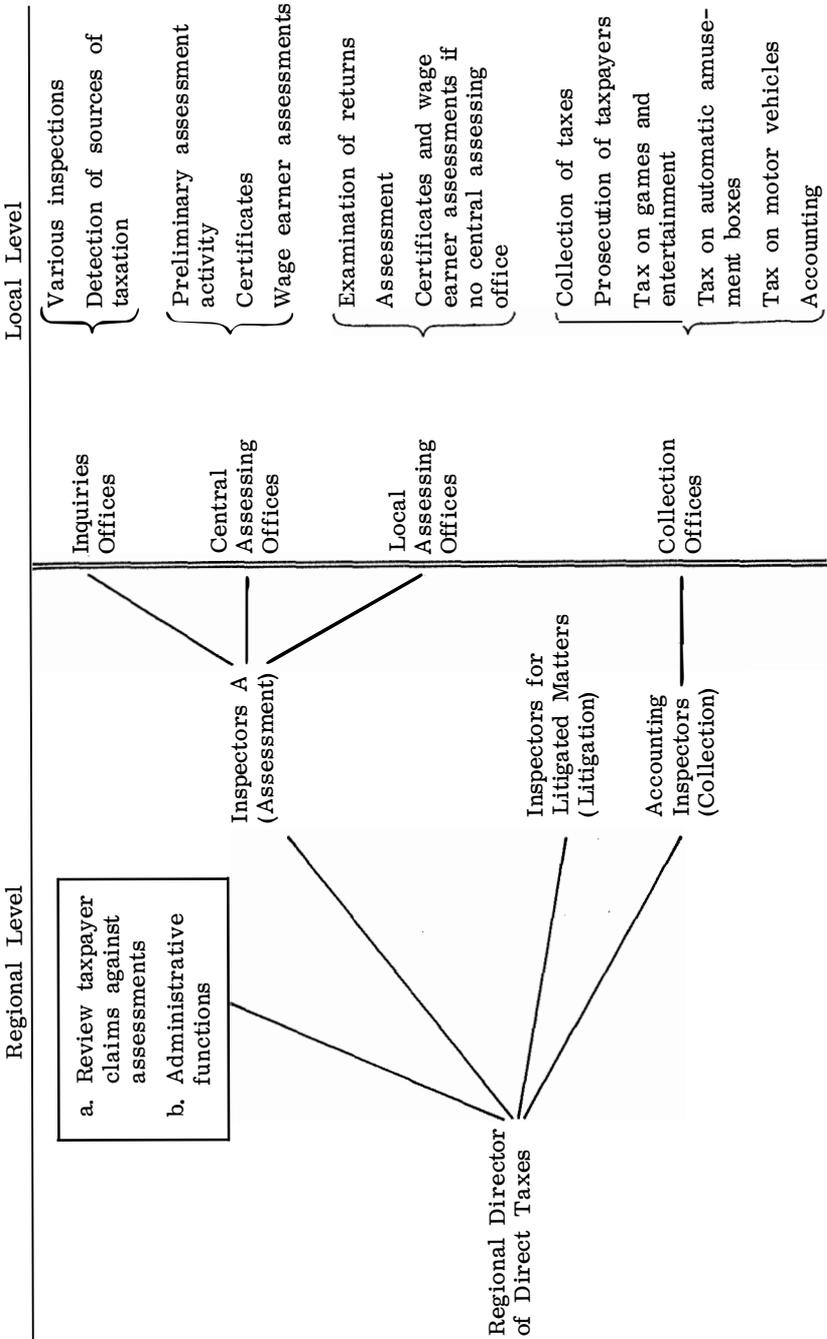
As noted *supra*, liaison with the 14 regional directors of direct taxes, distributed through the 9 provinces, is maintained by the Director General of Direct Taxes (the head of the Central Administration of Direct Taxes) through the general inspectors. In turn the regional director, the chief administrator for his area,³ maintains liaison with the local offices through the *inspecteurs de contributions*. This group of inspectors is subdivided into three groups. The members of the first group, the accounting inspectors, handle the collection of taxes and supervise the local collection offices, headed by the *receveurs des contributions*. The two other groups, inspectors A and the inspectors for litigated matters, deal with assessment of taxes. Inspectors A supervise those local offices which deal with inquiries and with assessments, *controles*. This supervision includes a review of uncontested decisions made by the local assessing officials. In addition, inspectors A furnish advice to the local assessing officials in connection with interpretative issues encountered *prior* to making the actual assessment.

Inspectors for litigated matters, in contrast to inspectors A, do not supervise the work of lower officials. They assist the regional director in resolving administrative appeals lodged with the regional director by taxpayers *following* assessment by the local assessing offices.

Thus, through the two different sets of inspectors, the regional director is concerned with the resolution of substantive interpretative income tax questions at three points: first, when

³ As chief administrator, he is assisted by one or two assistant directors as to matters such as housing, equipment of offices, and personnel over all his territory.

Chart II



inspectors A are consulted by the local assessing officials prior to actual assessment; second, indirectly, as inspectors A review uncontested decisions made by the local assessing officials; and third, directly, when inspectors for litigated matters deal with administrative appeals lodged by taxpayers with respect to assessments made by the local assessing officials.

1.4 *Organizational framework, local office level*

In 1.3 *supra*, it was noted that inspectors A, in addition to other specified duties, supervise the locally situated assessing offices, *controles*. Each inspector A is in charge of some particular part of the region to which he is assigned. Each such area has a number of local assessing offices.

These local assessment offices are of three kinds: (1) typical local assessment offices which deal with income tax returns of individuals within their respective areas, (2) central assessing offices which are located only in more populous areas and handle the less complex returns of individuals, leaving to the first mentioned local assessing offices within that same populous area the task of examining and assessing more complex individual returns, and (3) corporation assessing offices which are responsible solely for the income tax returns of corporations and private companies.

Irrespective of the type of return with which a particular assessing office is concerned, the basic pattern of its activity is similar to that of all other assessing offices. Each assessing office distributes, examines, and corrects returns. An attempt is made to iron out differences of opinion with taxpayers. If such differences cannot be resolved, the head of the local office, *controleur*, makes whatever decision he believes to be correct, including resolution of interpretative issues. On the basis of such decision, assessment is made. Administrative appeal from such an assessment is lodged with the *controleur's* superior, the regional director.

Belgium has about 325 local assessment offices to accommodate the returns of individuals. Where such an office is located in a city, it is responsible for between 15,000 and 20,000 people. Where located in the country, the number rises to about 30,000. Since the territorial area fixed for a particular local assessment office is governed by population density, there is considerable variation. Illustratively, 20 or more small municipalities may be included within the area for which one rural assessment office is responsible, while Antwerp and Brussels, suburbs excluded, have respectively 15 and 16 local assessment offices.

More populous cities of this type also have central assessment offices which are responsible for the more or less routine examination and assessment of wage-earners' returns (which present fewer interpretative questions than do other returns). Such central assessment offices also accomplish the preparatory work in collecting information about other taxpayers who fall under the jurisdiction of the various local assessment offices in that same area, and also the tax withholding. Thus local assessing offices within the area covered by the central assessing office are free to concentrate on a thorough examination of the more complex individual returns.

To increase efficiency in the examination of ordinary individual income tax returns, the larger local assessment offices classify such returns on the basis of the business or profession of the taxpayer. Each such occupational group then will be assigned to a particular official who specializes in that particular category. Because he becomes familiar with the tax problems likely to be encountered by such individuals, he can resolve more readily questions relating to expenses and deductions.

The duties of the third type of locally situated assessment offices (those which handle income tax returns of corporations and private companies) parallel the duties of the offices concerned with individual returns. They distribute and examine returns, resolve differences of opinion with taxpayers, and make assessments. While these offices concentrate on corporate returns, they necessarily work in close contact with the central assessment offices. Throughout Belgium there are about 80 corporation assessment offices. On the average, each examines the returns of about 600 corporations or private companies. There is no uniformity in size of the territory each covers, since it depends upon the number of corporations or companies within a given area. Illustratively, the entire province of Luxembourg has one corporation assessment office, while Brussels and its suburbs have twenty-five.

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

1.5 *Governmental professional personnel*

All employees of the Administration of Direct Taxes are subject to a statute covering all government officials or employees. For an individual to be employed at any level in the

Administration of Direct Taxes, he must pass a competitive examination, administered by the central government recruiting office. Such an examination is held when requested by the Administration of Direct Taxes, usually once a year.

While there are four categories of government employees, tax administration employees charged with interpretative matters fall into the first two. The first category includes the heads of assessment offices, *controleurs*, chief collectors of taxes, *receveurs principaux*, inspectors, directors, and other higher ranking officials. The second category includes the technical clerks, *redacteurs*, as well as collectors and verifier-accountants.

Typically personnel dealing with income tax matters enter the Administration of Direct Taxes at the second category. Entrance at the first category, which requires a university degree, is very unusual.

Admission to the examination for the second category requires that the applicant be between 17 and 30 years of age⁴ and have completed a secondary education—i.e., college, technical school, etc. The examination is designed to measure the applicant's general knowledge and includes questions on elementary mathematics, geography, and Belgian history. In addition, each candidate attends a lecture dealing with a topic of general interest. Without taking notes, he must summarize and comment thereon.

Successful candidates are admitted on probation. The probation period, for both the first and second categories, lasts two years, at the end of which comes a final examination dealing only with income tax laws. In case of failure, a second examination may be taken, but failure here entails dismissal from the service on three months' notice.

After at least four years' satisfactory service in the second category, officials are eligible for a competitive promotion-examination to qualify for appointment to the first category. This examination tests knowledge not only of areas included within the earlier entrance examination but also of tax laws and regulations, civil and commercial law, accounting, etc. However, once an individual reaches the first category of government employees, promotions no longer depend upon examinations.

⁴Some members of the metropolitan or former African administration are excepted from the age limit.

There is an extensive in-service training program, partly to prepare probationers for their final examination and partly for all levels of permanent employees, whether in preparation for promotion-examinations or in an effort to keep abreast of current developments in the statutes, decisional law, and administrative regulations. This training takes place almost entirely outside the regular hours of employment; "full-time" in-service training is completely unknown.

The government also pays the full expense of technical clerks who subscribe to a correspondence course dealing with commercial, industrial, and corporate accounting and with balance sheet analysis. Under exceptional circumstances—as in the case of the sweeping tax reform of November 20, 1962—additional lecture courses are given. Otherwise, in-service training is based primarily on private study of material published by the Central Administration of Direct Taxes. This material includes codifications of laws, the regulations, and official instructions (available to the public as well), and manuals such as the following: Organization of Public Administration, Relations with the Taxpayer, Public Finance, Elementary Concepts of Public and Private Law, Auditing Handbook.

1.6 *Private tax practitioners*

Two classes of private tax practitioners handle the tax affairs of individuals or corporations: tax lawyers and tax experts. The tax lawyer has a university background, with a degree either as *docteur en droit* or *licencié en notariat*. While he has passed an examination in tax law, this constitutes insufficient background for tax practice. Typically, a young law graduate planning to specialize in tax law spends many years in the office of one of the very few experienced tax lawyers, first as *stagiaire* and then as assistant. During that period, he gains practical experience and studies all types of tax materials.

The tax lawyer acts as a barrister in representing a taxpayer in the courts, and also furnishes advice when a taxpayer has a major difference of opinion with the tax administration as well as when an important transaction is under consideration.

The so-called tax expert, on the other hand, typically is not an attorney, although a few have graduated from a university with a degree in law or economics. The majority are accountants and have acquired their knowledge of taxation through experience. The government has not established any

formal rules governing recognition of tax experts,⁵ although the major professional associations act as winnowing agents by accepting as members only those who have a good reputation and essential qualifications. If a tax expert is a member of an accounting firm, the firm usually will handle both the accounting and tax affairs of a client. However, some tax experts maintain an office as independent consultants or, at the other extreme, are employees of a large corporation. Such corporations expect the heads of their accounting departments to be knowledgeable and experienced in tax problems. In whatever capacity a tax expert works, he is likely to be engaged on a continuing basis in dealing with the current tax matters of one or more individuals or corporations. He is responsible not only for the annual preparation of income tax returns with their supporting documentation, but also represents his client or clients in resolving those differences of opinion with the tax administration which do not require a legal opinion.

⁵Other than the negative provision of the law of November 20, 1962, Art. 60, which enables the Minister of Finance to deny a tax expert the right to represent a taxpayer before the tax administration if he has not observed the ethical standards of his profession.