

A SUMMARY OF THE BRITISH TAX SYSTEM

**WITH SPECIAL REFERENCE TO ITS
ADMINISTRATION**

By

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L. H. PARKER
ELDON P. KING**



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(II)

LETTER OF TRANSMITTAL

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON INTERNAL REVENUE TAXATION,
Washington, November 21, 1934.

To Members of the Joint Committee on Internal Revenue Taxation:

There is transmitted herewith a report on the British tax system, as prepared by Roswell Magill, special assistant to the Secretary of the Treasury; L. H. Parker, chief of staff of the committee; and Eldon P. King, special deputy commissioner of the Bureau of Internal Revenue.

The study of the British tax system was initiated by Hon. Henry Morgenthau, Jr., Secretary of the Treasury, who has kindly consented to the transmittal of this report to you with the thought that there is much material herein which would be helpful to the Members of Congress in connection with revenue legislation.

The report has been prepared after researches in England covering approximately 2 months. The authors of the report are thoroughly familiar with our own tax system, and their comments and comparative statements should be very valuable to the members of this committee and to the other committees of Congress dealing with tax matters. I suggest that the members of the committee give special attention to the conclusions contained in the report.

Very truly yours,

R. L. DOUGHTON,
Chairman Joint Committee on Internal Revenue Taxation.

LETTER OF SUBMITTAL

WASHINGTON, November 12, 1934.

HON. HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

HON. ROBERT L. DOUGHTON,
*Chairman Joint Committee on Internal Revenue
Taxation, Congress of the United States.*

SIRS: The undersigned have the honor to submit to you a report on the British tax system designed to set forth those features which we regard as most likely to be helpful in connection with proposals for the improvement of our own Federal tax system. The report has been prepared after a careful study of the literature on the subject in the United States, supplemented by research in England covering approximately 2 months. The visit to England, undertaken in accordance with instructions, has been most important in arriving at a clear understanding of the subject. Both British tax officials and British taxpayers have been consulted. The officials of the British Inland Revenue Service have cooperated with us in every way and have not only made available to us a large mass of printed data, but have supplied us with detailed memoranda to supplement our oral conferences on important aspects of our research. We are grateful for this cooperation, without which little of value could have been accomplished.

Respectfully submitted.

ROSWELL MAGILL,
Special Assistant to the Secretary of the Treasury.
L. H. PARKER,
Chief of Staff, Joint Committee on Internal Revenue Taxation.
ELDON P. KING,
Special Deputy Commissioner, Bureau of Internal Revenue.

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A SUMMARY OF THE BRITISH TAX SYSTEM WITH SPECIAL REFERENCE TO ITS ADMINISTRATION

FOREWORD

This report has been prepared with the object of setting forth those features of the British tax system which are deemed to be of special interest to those who deal with Federal tax legislation or with the administration thereof. To attempt a detailed description of every phase of the British tax laws and their administration would unduly delay the report and possibly conceal, under a mass of data, those facts which are most useful in connection with a comparative study. If the necessity arises, more extensive discussions of particular phases of the British system can be submitted on the basis of the data which have been collected. It is our opinion that many features of the British tax system would not operate well in the United States on account of the different conditions existing. On the other hand, we have been especially impressed by certain features of their administrative system, and by certain technical features of their laws. The productivity of the British taxes and the stability of the revenue resulting therefrom are also to be admired.

For the purpose of properly segregating the subject matter of this summary of the British tax system, the report is divided into four parts, as follows:

- I. Administration of the British income tax.
- II. General statement on British tax laws.
- III. General statement on British tax revenue.
- IV. Conclusions.

In the case of all of these subjects, the attempt will be made to bring out those facts which it is believed will be most helpful in considering the improvement of the Federal tax system. In addition, a series of exhibits are submitted with the report which give detailed information in respect to those subjects which are deemed most important in throwing some light on the problem of securing more equity, more finality, and more productivity in the case of Federal taxes.

I. ADMINISTRATION OF THE BRITISH INCOME TAX

The principal purpose of this investigation was to study the actual administrative machinery of the British income tax. Although the concept of taxable income in the two countries differs considerably, many of the problems confronting the organizations charged with the enforcement of the tax are the same. Some of the characteristic features of British practice are designed, of course, to meet conditions peculiar to that country; but many of them are the

practical developments of 100 years' experience with the income tax, which are worthy of consideration by any government employing this form of taxation. In the following summary, we shall endeavor to describe the high lights of the British system of administration. For purposes of clarity, we shall occasionally compare it with analogous institutions of our own, but without any attempt to evaluate the relative merits of the two systems, reserving any recommendations for the last part of this statement, entitled "Conclusions."

1. INSPECTORS OF TAXES¹

The keynote of the British revenue administration is decentralization and the pivotal figure is the local inspector or surveyor of taxes. For purpose of tax administration Great Britain is divided into some 725 districts, each in charge of an inspector, with one to three assistants and a clerical staff varying in size with the importance of the district. These districts are grouped under a series of inspecting officers, with a chief inspector in London. Although his work is periodically surveyed by his inspecting officer, and he may find it necessary to consult his head office, the inspector has a wide discretion and the whole spirit of the administration is to confer wide authority upon him and to hold him responsible for the prompt and satisfactory disposition of cases in his own district. An inspector who did not reach an agreement upon the liability with the taxpayer in the great majority of cases without any further reference or appeal, would certainly be regarded as falling below the normal standard of efficiency.

A more detailed statement of the inspector's operations will make the situation clearer. The returns are normally sent out in April or May, and are executed and filed by the taxpayers within 21 days thereafter, or some longer period, if extended. The tax is not paid at this time; indeed, the computation of the amount of the tax is not made by the taxpayer but by the inspector or, in some districts, by the clerk of the general commissioners. During the summer months the inspector and his staff examine the returns, confer with the taxpayer or his accountant, and request the taxpayer to supply such additional information as may be required for a correct determination of his tax liability. In fact, the inspector sends questionnaires to the taxpayer or his accountant in a considerable number of cases. These are not set forms, but are directed at the controversial matters in the particular case. Ordinarily the inspector does not examine the taxpayer's original books of entry, but relies upon statements prepared and certified by accountants who have audited the taxpayer's books. The extent to which these statements are accepted depends largely upon the extent of the accountant's audit and his standing before the department.

The assessments are made by the additional commissioners (or the special commissioners) who consider in particular the cases in which the inspector is not satisfied with the taxpayer's return. Notices of assessment go out to the taxpayers in the early fall, and the taxpayer may appeal to the general commissioners of his district, or

¹ See exhibit A for a brief description of the Federal income-tax procedure and the work of the internal revenue agents.

to the special commissioners in London (both of these bodies are discussed later herein), by giving notice to the inspector within 21 days after notice of the assessment. If there is no appeal from the assessment, the tax falls due and is paid either in full on January 1 or, in some cases, by installments. Thus, the tax collected in January 1934 relates to a return and assessment made in 1933, and is measured by income earned in the calendar year 1932 or a fiscal year ending prior to April 6, 1933. As heretofore noted, the taxpayer's right of appeal in the ordinary sense is to the general or special commissioners. The taxpayer may request the Board of Inland Revenue to consider his case, or the inspector may, of his own volition, or at the taxpayer's request, submit important questions to his inspecting officer, who may in turn refer some of them to the Board. This procedure does not constitute an appeal, but serves to insure uniformity of practice, and the consideration centrally of new issues.

We examined the statistics on appeals in a number of districts, both urban and rural. The Manchester area, consisting of 29 districts, with a population of over 1,000,000 and a great many important business enterprises, has a total of approximately 70,000 assessments of importance per year (other than small salaries and the like). Out of all the assessments in the area, only 120 to 130 are appealed to the general commissioners each year and 10 to the special commissioners. In other words, over 99 percent of all assessments are finally agreed upon between the inspector and the taxpayer without any further appeal to any other individual or tribunal. The result is that not only are taxpayers well satisfied with the system, because their liability is expeditiously and finally determined, but the treasury obtains its revenue currently, and is not plagued with old cases or with a great mass of litigation. Furthermore, because of the relatively small number of appeals, the general commissioners and special commissioners are current with their work; an appeal after an assessment made during the fall of 1933 will be decided by either body of commissioners before the summer of 1934, and the tax paid. A further description of the work of these two bodies of commissioners and of the courts appears below.

The question at once arises as to the fundamental reasons for these results. In the first place, the inspectors are carefully selected civil-service officials, well-trained after their entrance into the service. Many have completed a university education before they take the civil-service examination for the post, and they may have legal or accounting education as well. This examination is both written and oral, and while the applicant is given a considerable range of optional subjects, as well as required, the questions in these appear to be searching.² Following his entry into the service, the individual serves about 5 years as a cadet, during which period he receives instruction in law and accounting pertinent to his work, and is required to pass two further examinations thereon before he qualifies for regular duty as an inspector. The second of these examinations is so difficult that about one-third of the candidates fail to pass the first time. The qualified inspector then serves in a district, normally several years in one place, thus becoming thoroughly familiar

² See exhibit B for a more complete description of the British Civil Service system and examinations.

with the conditions in his district, and with the accounts of the various important taxpayers therein.

In the second place, as heretofore stated, the inspectors are given authority to settle tax liability finally, and are judged by their ability to do so satisfactorily. The evidence we secured indicates that the inspector seeks to arrive at a fair result, giving the taxpayer the benefit of any deductions or relief justified by the law, whether the taxpayer has formally claimed them or not. Hence the taxpayer and his professional advisers are willing to lay the facts before the inspector completely, with the reasonable assurance that a sound and equitable decision will be made. Most of the appeals which go to the commissioners and certainly most of those which go to the courts involve unique points of law, indicating that the great mass of ordinary questions of business expenses, depreciation, bad debts, losses, and the like are settled between the inspector and the taxpayer, without extended controversy.

The inspector cannot go to the books of original entry of the taxpayer as a matter of right. In cases of any importance involving business profits, he does request and receives statements of profit and loss and detailed supporting data certified by qualified accountants. These statements are normally relied upon by Inland Revenue officials, because the accountants take pride in their accuracy, since the standing of the accountant with his profession and the Inland Revenue depends upon the absolute integrity of the accounts he certifies. If such accounts prove unreliable, the inspector notifies the taxpayer that he will not receive further accounts certified by that accountant. It was stated to us that instances of this kind are very rare. Obviously a tremendous amount of time which would otherwise be spent in checking original books of entry and accounts is saved in this way. If a case goes to appeal, either to the general or special commissioners, the commissioners may require the taxpayer to produce his original books and accounts.

In conclusion, the success of the British system seems to turn in the end upon the high caliber of the inspectors, upon the general reliability of the information furnished them by the taxpayer, particularly as regards accounts certified by professional accountants and upon the desire of the inspector and the taxpayer to arrive at a correct and equitable determination of the tax liability at an early date. There seems to be a general satisfaction with the operation of the system, as well as a conviction that the amounts of tax legally due are being collected.

2. INSPECTING OFFICERS AND BOARD OF INLAND REVENUE

Next above the inspectors within the chief inspector's branch of the department are the inspecting officers headed by a group of some 50 principal inspectors. Not all the men holding the rank of principal inspector are inspecting officers, for it is customary to shift them from time to time from such duty to actual charge of an important district. Thus the inspector in charge of Edinburgh district no. 1, in which are located many banks and insurance companies operating throughout the world, holds the rank of principal inspector.

The inspecting officers are available for consultation on important points to inspectors within their respective areas. They may also

take charge of the actual disposition of some case, involving, for example, an unusually complex reorganization having ramifications in several districts. They make visits at least twice a year to the various districts in their charge, in order to check the work being done there, and to appraise the personnel for purposes of promotion. Except in the respects noted, the inspecting officers do not review cases determined by the inspectors or members of their staffs. We were advised that, if the inspecting officer discovers errors in the disposition of cases in the course of his annual inspection, he would not ordinarily reopen the case in the absence of fraud or a material error, due, for example, to failure to secure all the relevant facts; but would simply direct that the error be avoided in the future. As a matter of policy, it is desired so far as possible to treat a settlement between a taxpayer and an inspector as final. By the same token, unless the taxpayer appeals from an assessment, it is ordinarily final, and he may not thereafter sue to recover any part of the payment made. The law, however, provides in certain circumstances for the reopening of assessments found to be excessive by reason of some error in the taxpayer's return.

The inspecting staff is headed by a chief inspector at Somerset House in London. The positions of chief inspector and inspecting officer are filled by promotions from the inspectors. The duties of the chief inspector with respect to the whole inspecting service are similar to those of the inspecting officer with respect to his area. The chief inspector's staff in London receives many inquiries from the field forces with respect to important points, particularly different kinds of questions involving specialized experience or technique, such as questions relating to Dominion income-tax relief, life assurance companies, or mines. These topics are assigned respectively to specialists on the chief inspector's staff, who are, however, shifted from one assignment to another from time to time. The questions from the field are presented quite informally through the inspecting officers in the field, frequently over the telephone, and a prompt answer is given. The answers are not made available to the public, although occasionally statements on matters of general importance are issued to the newspapers. In the British income-tax law, the power of regulation is very limited, and extends only to matters of machinery. The interpretation of the law rests with the courts, and any question affecting the scope of the tax has to be determined by reference to the provisions of the law and relevant judicial decisions. Explanatory notes are issued with return forms giving a general explanation of the scope of the charge, but the department does not generally undertake any exposition of the law for the information of the taxpayer.

In contrast to England, the Bureau of Internal Revenue publishes a great deal of material for the benefit of the taxpayer. Treasury Regulations are issued for each of the important taxes, which not only prescribe the formal administrative procedure, but set forth the official interpretation of the law. In the case of the income tax, the last Regulations (No. 77) contained 370 pages of text. The Internal Revenue Bulletin, issued weekly and cumulated semiannually, contains those rulings of the Bureau which decide novel questions or which are deemed to be of general interest. Finally, various bulle-

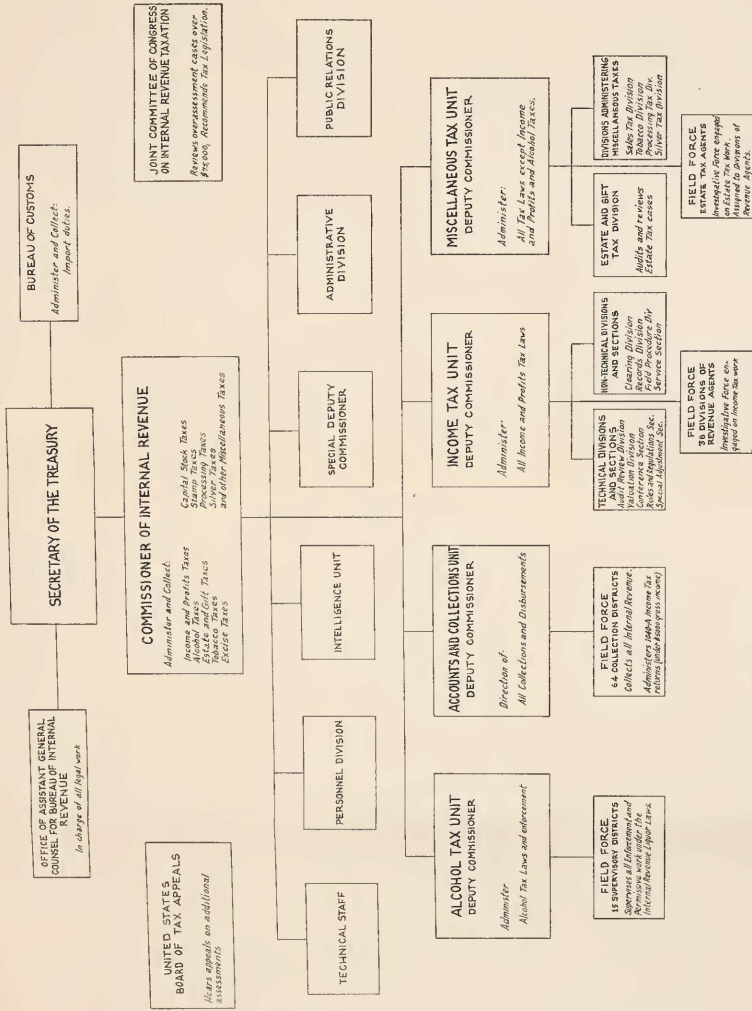
tins on special topics, such as depreciation, have been issued from time to time.

The general administration of the department is in the hands of the Board of Inland Revenue, consisting of a chairman, deputy chairman, and three other members. All of these men are permanent civil-service officials who do not change with a change in the party in power, but they are not necessarily appointed from among the staff of the department. The present chairman, for example, Sir Edward Forber, was previously chairman of the Board of Customs and Excise. On the other hand, the present deputy chairman, Sir Percy Thompson, has long been connected with the Board of Inland Revenue. There are three separate civil-service examinations, other than the special examinations for tax inspectors and the foreign service, open to men who desire to enter the service in the major departments—the administrative, the executive, and the clerical. Those passing the administrative examination, who are usually university graduates of high standing, and are relatively few in number, are in line for the higher posts in the service, the permanent secretariat in the various Government departments. Members of the board are ordinarily drawn from the administrative group. The executive examination taken and passed by a much larger number of men qualifies for the posts immediately below. A special examination is given for tax inspectors, which has an official standing below the administrative, but above the executive examination. It must not be understood from the above that the higher posts in the service are uniformly filled from the administrative group.

The board are commissioners appointed by the Crown and are charged by statute with the general duties of the care and management of the income tax and other inland revenue duties. They are responsible for seeing that the tax is assessed and collected in the measure laid down by the law. The inspectors of taxes are their subordinates and their activities are governed by instructions issued by the board which are designed to secure that the practice throughout the country is uniform and in accordance with the law. Important questions involving issues not covered by the departmental instructions come before the board for consideration as the administering authority of the department and also every case in which either the department or the taxpayer contemplates an appeal to the courts. Only in one or two matters of minor importance is the board vested with original jurisdiction in regard to questions of liability to tax and its administrative powers are not those of an assessing authority but those of an authority directed to ensuring that the assessing machinery acts fairly and uniformly as between the taxpayer and the Exchequer. The taxpayer may present his case for the consideration of the board without prejudice to his statutory right to appeal to the general or special commissioners if he objects to an assessment and in this way a taxpayer can be assured that the action of the local inspector of taxes conforms with the general practice.

The board advise the Chancellor of the Exchequer, who is the minister responsible to the House of Commons for all questions relating to public revenue, on all legislative proposals relating to

BUREAU OF INTERNAL REVENUE
UNITED STATES OF AMERICA



OFFICE OF
COUNSEL FOR
1
In char

UNITED STATES
BOARD OF TAX APPEALS
*Hears appeals on additional
assessments.*

COMMITTEE OF CONGRESS
ON REVENUE TAXATION
*Reviews assessment cases over
and recommends Tax Legislation.*

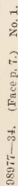
TECHNICAL STAFF

PUBLIC RELATIONS
DIVISION

ALCOHOL TAX UNIT
DEPUTY COMMISSIONER
*Administer
Alcohol Tax Laws and emp
s.*

FIELD FORCE MINSTERING
15 SUPERVISORY DISTRICTS
*Supervises all Enforcement Division
Permissive work under Division
Internal Revenue Liquor Tax Div.
Division*

CHANCELLOR OF THE EXCHEQUER



STATISTICS AND
INTELLIGENCE BRANCH

ACCOUNTS OFFICE
COMPTROLLER
Valuations
es

GENERAL COMMISSIONERS
(for each district)
(Non-remunerative)

Assess: Schedules A, B, D, E, except when
special commissioners assess
schedule D.
Hear appeals on taxes assessed by them.
Power to appoint additional Commissioners.

DEPARTMENT OF INCOME TAX

on rail-
road div-
income
elects.
tax cases,
D appeals.

ASSESSORS

LOCAL COLLECTORS
(few)
(will gradually disappear)

CLERKS
COMMISSIONERS

often same man

inland revenue duties. They advise in particular on any changes in the law which their experience as administering authority may suggest to be advisable and on the effect of any amendments which may be moved in the legislature to the legislative proposals of the Chancellor of the Exchequer as embodied in the annual finance bills. These memoranda are bound and retained from year to year. Although they are not official interpretations, unless given publicity by the Chancellor, they do constitute a helpful permanent record for use of the board.

It is to be borne in mind that in the British legislature the initiation of taxation proposals is vested in the government of the day. The taxation proposals must receive the assent of the House of Commons by way of a resolution and the powers of individual members of the legislature do not extend to formulating any proposal which would increase the charge that the government proposes.

The Chancellor of the Exchequer has no function in relation to the actual assessment and collection of the tax, the duties of assessment and appeal being vested in the general and special commissioners and the duties of collection and general care and management being vested in the Board of Inland Revenue.

In order to visualize the organization provided for the collection of the revenue in the United Kingdom, a chart is submitted showing such organization. A similar chart is also submitted for the United States for comparative purposes.

3. GENERAL COMMISSIONERS ³

The "commissioners for the general purposes of the income tax" are the bodies theoretically responsible for the administration of the income tax in their respective districts. General commissioners, normally 7 or 14 in number, are designated, either for a single district or for a group of neighboring districts, from among the land tax commissioners. The land tax commissioners consist of all the justices of the peace for the county, together with a number of local persons nominated in a "Names Act" passed periodically by Parliament. The actual selection is by vote of the land-tax commissioners. The law requires a general commissioner to have certain property qualifications. In a rural area, the general commissioners are likely to be landowners or retired professional men; in an urban area, merchants, or professional men in active practice. The position is purely honorary, no salary being attached to it, but the work is apparently performed conscientiously and fairly. Inland Revenue officials commend the services of these unpaid local commissioners in performing their statutory duties in relation to assessments and appeals. Since they are independent of the Executive Government, the taxpayer feels that they assure fair and impartial local administration of the tax.

Although the general commissioners have a wide range of duties, in practice their work seems to be largely the hearing and determination of appeals from assessments. The inspector in fact carries out many duties nominally assigned to the commissioners, and the clerk

³ There is no body corresponding to the general commissioners in the United States.

to the commissioners, ordinarily a solicitor, who is appointed by them, performs others. The clerk is not a full-time official, but may engage in private practice as well.

The inspector receives the notices of appeal, and notifies the clerk to the commissioners when a sufficient number of appeals have accumulated in the fall to warrant a meeting of the commissioners. The frequency of such meetings depends, of course, upon the size and character of the district, varying from perhaps three per year in a rural district, such as Winchester, to once a week from September to April or June in an urban district, such as Manchester. The commissioners will rarely all attend any meeting; two constitute a quorum, and by agreement between the inspector and the taxpayer, even a single commissioner may hear an appeal.

One large class of cases appealed to the general commissioners are those in which the inspector has been unable to secure satisfactory accounts from the taxpayer. The inspector may therefore have submitted the case to the additional commissioners who have made an assessment of a round figure greater than the income shown in the taxpayer's return, from which the taxpayer has appealed. Since the taxpayer has the burden of introducing evidence to show that the assessment is erroneous, the commissioners will call upon him to produce certified accounts to show what his income actually was. Another usual practice is to give him a further period of 14 to 21 days to produce such accounts. Although the procedure before the general commissioners is technically subject to the usual legal rules for the admission of evidence, in fact it is likely to be somewhat informal, in the interests of a quick disposition of the case. Thus in a single morning session, the general commissioners will dispose of 15 to 20 appeals ordinarily rendering their decisions immediately after the evidence is in. These decisions are not published in any form and the hearing is not open to the public.

The inspector normally represents the Crown at these proceedings, and the taxpayer appears in person, frequently with his accountant. It is not very usual for a solicitor to represent the taxpayer, and a barrister seldom appears. The clerk to the commissioners is also present to advise the commissioners on questions of law and to keep minutes of the evidence and of the decisions.

In number, more appeals are taken to the general commissioners than to the special commissioners, although the taxpayer has the option of appealing to either body. Originally the value of the general commissioners lay largely in their knowledge of local affairs, and of the financial condition of different taxpayers. At present, their utility seems to be rather in the assurance they give the taxpayer that his appeal is being determined by impartial men of standing in the community, frequently possessing long experience in business or in the professions as well. Whether the taxpayer actually appeals or not, he apparently feels that the general commissioners constitute a bulwark to protect him against any arbitrary action by the Inland Revenue officials. Although the general commissioners are not full-time officials, and although their capacity must vary considerably, they are likely to render a common-sense business judgment on the facts, and they have the assistance of the clerk on questions of law. The taxpayer apparently takes the more

complicated, technical, or legal questions to the special commissioners, but utilizes the general commissioners on cases involving more usual questions of fact or law. The taxpayer undoubtedly has confidence in the general commissioners, since they are selected from his own community, but no one suggested that their decisions are other than fair and impartial. In fact, the Crown appealed to the High Court a smaller percentage of cases decided by the general commissioners than of those decided by the special commissioners.

Either party may appeal on a point of law from the decision of the general commissioners, by "expressing dissatisfaction" with the decision immediately after it is rendered; and demanding a "stated case", embodying the facts and contentions of the parties and the decision, within 21 days thereafter. The stated case is normally prepared by the clerk to the commissioners, but is submitted to the representatives of the two parties for their suggestions. When finally completed, it is conclusive on the facts of the case. In practice, not many decisions are appealed to the High Court. In the 5-year period 1929-33, only 115 appeals from decisions of all the general commissioners were actually prosecuted before the High Court, of which 63 were taken by the Crown. Out of 85 of these which were disposed of and reported to the Board of Inland Revenue, the general commissioners were sustained in 49. Approximately a like number of appeals were taken from decisions of the special commissioners (see the next section). The total volume of tax litigation in the High Court of Judicature in 5 years was 262 cases, an average of 52 per year.

4. SPECIAL COMMISSIONERS

Unlike the general commissioners, the special commissioners are full-time officials, with headquarters in London. The body consists of eight men, designated by the Chancellor of the Exchequer, half chosen from the Inland Revenue and half from outside; and about half barristers or solicitors and half accountants. The positions are permanent until the incumbent reaches the retiring age.

The special commissioners have a wide variety of duties, of which the most important and characteristic for our purposes is the hearing of appeals from assessments. In addition, however, they administer assessments under schedule D on the request of a taxpayer who prefers not to have his accounts examined by the local commissioners; they administer the surtax; and assess all railways and officials of railway companies in the United Kingdom. For the purpose of these latter duties, there are assigned to them a staff of about 750 Inland Revenue men, who work under the direction of one of the special commissioners. Under the British law, it is quite possible for the special commissioners to hear an appeal from an assessment of income tax or surtax which they have made themselves, with the qualifications that, as stated, the computation of the assessment will in fact have been made by the staff of Inland Revenue men; and the assessment will actually have been signed by a different special commissioner from the two who hear the appeal. The special commissioners are quite independent from the Treasury or from the Inland Revenue; their principal function is judicial in character, and they perform it like judges.

The procedure on appeals possesses a peculiar interest to us, since the special commissioners perform in this respect functions quite analogous to those of our Board of Tax Appeals; and since they are current in their work. The special commissioners are regarded as especially competent from training and experience to hear appeals in which important questions of law or fact are involved. The number of appeals taken to them each year seems to be much smaller than the number taken to the general commissioners, but still aggregates about 10,000. No formal petition is required to institute an appeal. The taxpayer notifies the inspector within 21 days after notice of the assessment, ordinarily by letter, that he wishes to take an appeal from it, and his grounds, but no set form is required and the special commissioners may go into other matters. As soon as the appeal is taken, negotiations are undertaken to settle it; not infrequently the taxpayer is advised that because of this decision or that state of facts, the chance of success in the appeal is relatively slight; or the inspector may concede points to the taxpayer. Cases are not compromised in the sense of "splitting the difference", but rather the effort is made to arrive at an agreement for the proper disposition of each of the various points involved. As a result of this procedure nearly nine-tenths of the appeals taken are never actually heard, but are satisfactorily disposed of and the tax paid. It should further be noted that these settlements are normally reached between the time when the assessments are made in the fall and April of the following year. In other words, the taking of an appeal, followed by negotiations for settlement, delays the payment of the tax only a few months, if at all.

Some 1,100 appeals remain to be heard by the special commissioners, two of whom sit on each appeal. Hearings are conducted both in London and on circuit. The special commissioners attempt to clear up the London calendar by Christmas and the circuit calendars by April 5, the close of the fiscal year. The hearings are conducted similarly to a judicial proceeding. The appellant has the right to open and close the oral argument. The oral argument is apparently a valuable aid in the disposition of the case; relevant decisions are fully discussed, frequently with a colloquy with the commissioners, so that at the end of the argument the points of law have been fully developed and analyzed by both sides. Witnesses are ordinarily not sworn, except in fraud cases, but the rules of evidence are strictly adhered to. The facts may be stipulated in advance between the parties. The taxpayer is normally represented by a qualified accountant, but he may appear personally, or be represented by a barrister or solicitor. The Crown usually is represented by the inspector for the taxpayer's district, but in a case involving an important question of law, may be represented by one of the staff of the Solicitor of Inland Revenue. Minutes are taken of the evidence and of the opinion, but in an important case a stenographer may be present. No one is admitted to the hearing of the appeal except the parties, their representatives, the witnesses, the commissioners, and the person engaged in taking the minutes.

The opinion of the commissioners is usually given orally immediately after the close of the hearing, but it may be reserved and sent to the parties by post. At the longest, it is rendered within the

same week that the appeal is heard. The opinions are not published, either officially or unofficially, but memoranda are kept of them by the commissioners' clerks for reference in future cases. The Royal Commission in 1920 recommended their publication at the discretion of the commissioners and without breach of secrecy (sec. 365), but this recommendation has not been carried out.

If the losing party wishes to appeal, he must "express dissatisfaction" with the decision immediately after the opinion is given. He then has a period of 21 days in which he may demand a stated case from the commissioners for the purposes of the appeal. Appeal lies only on a question of law, as the findings of facts of the commissioners are final. It is the normal course to express dissatisfaction, but in only 109 out of 1,100 appeals in the past year was a stated case actually demanded, and only 50 of these were actually taken to the High Court. The stated case is prepared in the first instance by one of the special commissioners who heard the appeal. It contains a statement of the facts presented to the commissioners, and the contentions of the taxpayer and of the Crown, together with the decision of the commissioners. This statement is then tendered in succession to the respective solicitors for the two parties, who are permitted to suggest amendments or additions. Thereafter, the special commissioners settle upon the final stated case, disregarding or accepting the solicitors' suggestions as they see fit. The stated case is conclusive upon the facts before the High Court, only questions of law presented by the facts being available for argument. The parties may, however, supplement the stated case with stipulations, or the court may send the stated case back to the commissioners with a request for a further statement.

From this brief outline, several noteworthy features of the procedure on appeal to the special commissioners will be observed. In the first place, the appeal papers are reduced to the absolute minimum, and are far less than those required before the Board of Tax Appeals. Instead of a formal petition and answer, there is an informal letter, and more important, no written or printed briefs are ever filed. There is a large resultant saving in legal expense, and a corresponding saving in time. Moreover, the emphasis upon the oral argument instead of printed briefs undoubtedly results in a sharper presentation of the opposing contentions, and the ready elimination of much argument on points in fact conceded by the other side, or on matters in fact regarded by the commissioners as immaterial. In the second place, the immediate rendition of the decision, while the facts and arguments are fresh in the commissioners' minds, is in striking contrast with our own situation. We may wonder whether the commissioners reach as sound a conclusion as they would if they took weeks or months to ponder on the case. On the whole, the statistical record amply demonstrates that the parties are satisfied and that the decisions are sound, for less than 5 percent of the decisions are actually appealed; and of these, two-thirds were in fact affirmed by the High Court. In other words, out of 1,100 decisions rendered, 1,050 stood without appeal; and 33 more were affirmed on appeal. Thus, a total of nearly 99 percent of decisions of the special commissioners either were not appealed or were affirmed on appeal. Again, a considerable saving results from the

practice of giving short oral opinions and of preparing a statement of facts only in cases in which the parties intend to appeal. This gain is in part offset by the absence of records, available to the bar and accountants generally, of the decisions of the special commissioners. Nevertheless, it is at least possible that we could cut down without great loss our volume of published precedents of one kind and another, which by their very mass serve rather to obscure than to elucidate the really basic provisions of the statute and the leading decisions of the court. Finally, the practice of requiring the tax to be paid as soon as the opinion is rendered, and the stated case to be demanded within 21 days thereafter, doubtless considerably reduces the total number of appeals to the courts.⁴

5. HIGH COURT OF JUDICATURE

Appeals on questions of law may be taken as a matter of right from decisions of the general or special commissioners, provided the appellant has "expressed dissatisfaction" immediately upon the rendition of the decision, has demanded a stated case from them within 21 days thereafter, and has paid the fee of £1 therefor. In England the appeal goes to the King's Bench division, and is there heard by a single judge of that court. Ordinarily the same judge hears and decides revenue cases for a period of years; the present judge being Lord Finlay, who was previously junior counsel for the Crown in revenue cases. In Scotland, the appeal goes to the Court of Session, where it is heard by three judges. The number of appeals to the High Court each year is insignificant in comparison with the total number of assessments; last year there were 60; and the 5-year average is 45. All court decisions in tax cases (King's Bench division, Court of Session, Court of Appeal, and the House of Lords) are included in the official publication, *Reports of Tax Cases*, which runs to only 17 volumes for the 58-year period, 1875-1933, or 1 volume of decisions for every 3 or 4 years.⁵

There are no appeal papers other than the stated case, prepared by the general or special commissioners from whose decision the appeal is being taken. The stated case contains a statement of the facts, the contentions of the parties, and the decision of the commissioners. The decision is stated in summary form without any opinion; the whole document is quite short. It may, however, be supplemented by stipulations of the parties on points which they agree ought to be elaborated. The stated case, as supplemented (or not) by stipulations, is entirely conclusive on the facts of the case. There is no other petition, assignment of errors, or record of the proceedings below.

The appeal is ordinarily heard by the High Court within a few months after it is taken. In the particular case we heard, the appeal was heard by the special commissioners on July 10, 1933; and their decision was rendered the same day. The stated case was filed with the High Court on March 7, 1934; the appeal was heard on July 13, 1934; and the decision was handed down orally from the bench immediately after the argument. Since the appeal is limited to questions of law, no witnesses are heard, but only arguments of

⁴ See exhibit C for a discussion of the system of appeals in the United States.

⁵ See exhibit D for statistics on appeals in United States.

counsel on both sides. Both parties are represented before the court by barristers, the Crown by the Attorney General, Solicitor General, or junior counsel; but following the English practice briefs for use of counsel are prepared by the solicitors for the two parties. The oral argument is similar to an oral argument before our Federal Circuit Court of Appeals. There are frequent colloquies between counsel and the judge about cited decisions or provisions of the statute, for the judge apparently makes a practice of having before him on the bench each statutory provision or decision cited by counsel and satisfies himself about its proper application to the case as the argument proceeds. Counsel for the appellant has the right to open and close. The entire argument is normally concluded in a few hours. No briefs are filed with the court; the case is usually decided from the bench immediately after the argument.

Costs on the appeal are paid by the losing party. These consist not merely of the filing fees, etc., in the court itself but allowances determined by the taxing master of the court for all the individual items of work performed by solicitors and counsel on the appeal, such as correspondence, preparing the trial brief, counsel's fees, etc. The total costs to be paid to the winning party will thus amount to something like £100 in the ordinary case and may well be more. There seems to be no question that the allowance of costs acts as a powerful deterrent on ill-founded appeals. In cases involving important new questions (test cases), however, the Crown may exceptionally agree with the taxpayer's representatives to bear its own costs, or even to share the taxpayer's costs.

An appeal lies as a matter of right from the decision of the single judge of the King's Bench division to the Court of Appeal, and from the Court of Appeal to the House of Lords. In Scotland the appeal lies from the Court of Session directly to the House of Lords. In the case of any of these appeals, the only papers filed are the stated case and the opinion of the judge or judges below. The appeal to the Court of Appeal must be filed within 14 days after the opinion is rendered below and to the House of Lords within 6 months. The hearing occurs within 3 or 4 months after the appeal is filed. Costs in the Court of Appeal are higher than in the King's Bench division and in the House of Lords very much higher still. The losing party frequently does not appeal further after the adverse decision below. In the 5-year period, 1929-33, 221 decisions were handed down by the King's Bench division and Court of Session, 78 cases were taken to the Court of Appeal, and 33 to the House of Lords.

The principal virtues of the British court procedure in revenue cases are great simplicity and economy in the appeal papers; speed in the hearing and determination of the appeals; and the discouragement of dilatory or ill-founded appeals through requiring (1) the tax to be paid after the decision of the commissioners and (2) costs to be paid by the losing party in reimbursement of the winning party's expenses. The courts are substantially current in their work. The saving to the taxpayers that results from the reduction of appeals papers to a few printed pages and from the prompt hearing and determination of appeal must be very great indeed.

Considerable thought has been given to simplification of the British tax law and administration as is shown by the various com-

(6) EFFORTS AT SIMPLIFICATION OF LAW AND ADMINISTRATION

missions appointed for these purposes. The first commission was appointed in 1851 and reappointed the following year. Another committee was appointed in 1861 and another in 1874. In 1904 a departmental committee was appointed which made its report the following year. In 1906 a committee was created for the purpose of inquiring into the practicability of (1) graduation, (2) differentiation as between earned and unearned incomes, and (3) abandonment of taxation at source. In 1919 the Royal Commission on the Income Tax was appointed to inquire into the income tax in all its aspects and to report when alterations of law and practice were necessary or desirable to maintain the yield and generally simplify the administration of the law. In 50 hearings the commission heard 187 witnesses, including 21 high administrative officials of the Inland Revenue Service. The record of evidence before this commission is contained in seven large volumes. In 1923 the Chancellor of the Exchequer appointed a committee of seven members, presided over by a revenue judge of the High Court of Justice (King's Bench), for the purpose of devising methods looking to simplification of procedure. In June 1927 there was created by the Chancellor of the Exchequer a committee of lawyers expert in tax matters to undertake the task of consolidating and rewriting the income-tax law. This body has held numerous hearings at which it has heard witnesses representative of English business, economic, and professional life, and apparently has compiled a considerable mass of evidence but has not yet made its report.

In England, as in the United States, there is a constant urge for simplification of tax laws and administration, including the tax returns and the accompanying forms. The bureau in London considers these investigations highly constructive and as being conducted in a nonpartisan manner. Considerable burden is thrown on the bureau through requests of the commissions for information and testimony of bureau employees. In the United States the demand for simplification is met primarily through study of suggestions made from all sources by the bodies primarily responsible for recommendations on tax legislation, viz, the Bureau, the Treasury, the staff of the Joint Committee on Internal Revenue Taxation, and the several committees of Congress having jurisdiction over tax matters. In England proposals for tax legislation are made to Parliament by the Chancellor of the Exchequer, whose recommendations, as one of the leaders of the majority party, are ordinarily accepted by Parliament without substantial amendment. In the United States tax legislation under the Constitution must originate in the House of Representatives.

II. GENERAL STATEMENT ON BRITISH TAX LAWS

The British national or Crown revenue is derived from inland revenue taxes, customs and excise taxes, motor-vehicle duties, and from miscellaneous sources, such as post-office operation, Crown lands, sundry loans, etc. The local taxes are principally taxes on real property, known as "the rates", and certain license fees and the like. In Great Britain, roughly speaking, two-thirds of the revenue is collected by the Crown and one-third by the local subdivisions, while in the United States the reverse is true and one-third is collected by the Federal Government and two-thirds by the States and subdivisions thereof.

The following table shows the inland revenue taxes from which revenue was derived for the year ending March 1, 1933:

INLAND REVENUE TAXES

Tax on incomes, consisting of—

Income tax at a standard rate (graduated by means of allowances and reliefs).

Surtax at graduated rates.

Death duties, consisting of—

Estate duty (applicable to deaths occurring at present).

Legacy duty (applicable to deaths occurring at present).

Succession duty (applicable to deaths occurring at present).

Probate (or inventory) duty (applicable to past—unimportant now).

Account duty (applicable to past—unimportant now).

Temporary estate duty (applicable to past—unimportant now).

Settlement estate duty (applicable to past—unimportant now).

Corporation duty^a (applicable at present and levied on corporations to compensate for the loss of revenue resulting from their perpetual character).

Stamp duties, consisting of taxes on—

Conveyances, leases, mortgages, etc.

Transfers of stocks, bonds, debentures, etc.

Companies' share capital duty.

Checks, bills of exchange, etc.

Receipts, etc.

Bills of lading and marine insurance policies.

Certificates and licenses.

Miscellaneous, such as life- and fire-insurance policies, settlements, agreements, and miscellaneous documents.

Land tax and mineral-rights duty.

Excess profits duty and corporation profits tax. (These taxes are not assessed for current years and are not important.)

The following table shows the most important articles or occupations subject to customs or excise duty:

CUSTOMS AND EXCISE

Spirits.

Beer.

Wine.

Table water.

Tea, coffee, cocoa.

Tobacco.

Sugar.

Dried or preserved fruit.

Matches and mechanical lighters.

Hydrocarbon oils.

Entertainments.

Brewers, distillers, etc.

Dealers in spirits, beer, and wine.

Retailers of spirits, beer, and wine.

Tobacco dealers.

Miscellaneous occupations.

^a Could also be classed as a stamp duty.

There are also duties on silk and artificial silk, on certain medicines, on cinematograph films, on clocks and watches, etc.

The motor-vehicle duties consist of taxes laid on motor cars and motorcycles in proportion to the horsepower or cylinder capacity of such vehicles. The Exchequer retains approximately one-third of the proceeds of such duties, the remainder going to the local authorities.

The Exchequer receipts from all taxes, including customs, amounted to £683,479,000 (approximately \$3,417,395,000) for the fiscal year ending March 31, 1934. Of this amount, £281,522,000 (approximately \$1,407,610,000), or 41 percent, came from the tax on incomes (income and surtax). The tax on income is by far the most important of all the British taxes, and this tax will therefore be discussed first.

A. INLAND REVENUE TAXES

1. TAX ON INCOMES

In Great Britain the word "income" tax is used in two senses; in some cases it is used to include the surtax and in other cases it is used to denote only the tax imposed on incomes at the standard rate (or one-half the standard rate) and is exclusive of the surtax. Under this particular heading we shall use the word "income" tax in the latter sense, thus distinguishing it from surtax.

(a) *History*.—While the taxation of incomes originated in England in 1798, it was not in effect for a number of years, and the present income-tax system may be said to have originated in 1842. In fact, the act of that year may be said to form the basis of the present system. While court decisions and even the law for these early years have an important bearing on the interpretation of the present income tax and surtax, nevertheless it is not often necessary for practical purposes to go back of the finance act of 1918, since in that act the attempt was made to consolidate the income-tax laws into one statute. Since 1918, however, the changes in the finance act of that year have been made by numerous amendments carried in the subsequent finance acts. None of these later acts attempts to make a complete restatement of existing law as has repeatedly been the case in the revenue acts of the United States. We shall concern ourselves almost exclusively with the status of the present law; that is, the finance act of 1918 as amended by the subsequent acts. The last finance act became effective on July 12, 1934, and the most important change in that act in respect to the income tax was a reduction in the standard rate from 5 shillings to 4½ shillings in the pound (from 25 percent to 22½ percent). Those endeavoring to arrive at a complete understanding of the British tax on incomes from the statutes themselves should note the following quotation from *The Law of Income Tax* by E. M. Konstam, K. C.:

Many of the cardinal principles on which the liability to income tax is based and by which the amount of that liability is measured are left unexpressed in the income tax acts and are to be found only in the decisions of the courts and of the House of Lords, which are based upon inferences drawn from the "general scheme" of the acts.

(b) *Rates and year of assessment.*—Income tax (exclusive of sur-tax) is now assessed annually at the standard rate of 4½ shillings in the pound. Certain reliefs are granted and some income is only subject to one-half the standard rate, as will be described later. The tax is assessed separately under five schedules (A to E, inclusive), and is not only assessed separately but is generally paid separately.

Income tax is assessed for every year beginning on the 6th day of April and ending on the following 5th day of April, and is, in general, payable on the 1st day of January occurring between those two dates; that is, for the year 1934–35 (beginning on Apr. 6, 1934, and ending on Apr. 5, 1935) income tax will be due on January 1, 1935, or about 3 months before the close of the year. Under those circumstances, it is, of course, impossible to measure the tax by the actual income of the year 1934–35; therefore, although the tax is paid for that year, the income used to measure the tax is, in most cases, the income of the prior calendar or fiscal year. This conception of an income tax for 1 year measured by the income of a prior year is somewhat confusing in that it is entirely different from our Federal conception and therefore a description of this matter will be found in exhibit E, under the heading of Year of Assessment and How the Assessment Is Measured.

By way of comparison with our Federal system, it should be pointed out that the taxpayer in England does not compute the tax and transmit it with his return as in the United States. He merely reports his income shortly after April 6 of the taxable year and is assessed the tax normally in September by the general commissioners under one or more of the schedules already mentioned. This system has certain advantages and certain disadvantages, which will be discussed later.

(c) *Schedular system.*—It is necessary to describe briefly the five schedules under which income tax is assessed, because, while in some respects this seems a complicated system, in other respects it will be shown to have important advantages in respect to the discovery of income.

Under schedule A, the British taxpayer is assessed on all income arising from the ownership of lands, tenements, and hereditaments. The tax may be collected from the owner or it may be collected at the source from the lessee, as will be subsequently described. The British conceive income to arise from all occupied real property whether or not such income is actually received in the form of money or money's worth. If the property is occupied even by the owner, income is computed on the basis of the average rental value. This is entirely different from the conception in the United States. In the latter country, if a man owns and occupies a \$10,000 house, which might normally rent for \$1,000 per year, he is considered to receive no income from the house; on the other hand, in England, in a like case, he will be assessed on the annual value; that is, he will include \$1,000 in his schedule A income.

Under schedule B, the British taxpayer is assessed on the profits from the occupation of lands. This schedule is principally important in respect to farm lands and farm houses, woodlands, and the like.

The tax under schedule B is in addition to the tax under schedule A, which is in respect of the income (rent) derived from the ownership of the land. The original idea of schedule B seems to have been to arrive at a rule-of-thumb method by which the farmer would be taxed on his profits rather than to attempt the actual computation of such profits under schedule D. It is not always easy to distinguish between property assessable under schedules A and B, and even D, but it is unnecessary to go into the technicalities of this matter here. For example, although the gross schedules A and B assessments are the same, a farmer, on the submission of proof that his actual profits are below the average rental value indicated by the gross assessment, may claim a reduction in his tax corresponding to his reduced profits.

Under schedule C, tax is charged in respect to interest, dividends, annuities, and the like, payable out of the public revenue (or out of the revenue of any foreign state or British possession, if such revenue is payable in the United Kingdom to a British resident).

Schedule D is possibly the most important of all the schedules. Under it, tax is charged on the profits of trades, businesses, and professions; on all kinds of interest (except that assessed under schedule C); on dividends from foreign securities; and on profits from miscellaneous sources. The greater part of the income of all corporations, therefore, is assessed under schedule D. The dividends from domestic corporations are not assessed against the individual, since these profits have already paid tax at the source. Such dividends are, however, included in the taxpayer's income for surtax purposes.

Under schedule E, the British taxpayer is assessed on the income arising from offices and employments in all cases whether the employer is a corporation, an individual, or a Government department. Pensions are also assessable under this schedule.

The relative importance of these schedules from a revenue standpoint may be seen from the gross income⁷ under each for the year 1931-32 in the United Kingdom, as shown by the following statement:

Gross income, 1931-33

Schedule A-----	£481, 313, 637
Schedule B-----	47, 900, 000
Schedule C-----	180, 696, 190
Schedule D-----	1, 268, 692, 074
Schedule E:	
(a) Salaries of offices-----	856, 428, 650
(b) Weekly wage earners-----	556, 271, 870
Total gross income-----	3, 391, 302, 421

The question arises as to the need for schedules classifying income instead of including all income in one return. Investigation shows, however, that these schedules serve a useful purpose. It must be remembered that the British income-tax administration is highly decentralized and that each district is primarily responsible for the

⁷ Gross income means income assessable before reliefs and before depreciation and allowances for repairs and the like, but not before deductions for cost of goods sold, business expenses, and the like.

income arising within its borders. Thus a man who is paid a director's salary in 5 different banks in 5 different districts may be properly assessed under schedule E in each of those 5 different districts. Then there are information returns from all employers to be considered, as well as the numerous cases of collection at the source. In brief, the system of assessing tax under separate schedules as actually carried out leads to the discovery of income and thus prevents tax evasion.

(d) *Collection at the source.*—About 70 percent of the British income tax is collected at the source. However, this figure includes all the income tax collected from corporations, and, therefore, on the same basis we might say that under normal conditions about 50 percent of the Federal income tax is collected at the source. The reason that the British collect more at the source is because they require in most cases the payment of the tax by the payor of rent, interest, royalties, annuities, and similar annual charges. The payor, however, is not hurt by this system, since in all cases he is entitled to deduct the tax paid the Government from the amount due the payee. Thus, the payor in these cases becomes simply a tax collector for the Crown. The tax on salaries and wages, however, is not ordinarily collected at the source. The British system of collection at the source no doubt prevents much tax evasion. The system is more thoroughly described in exhibit F, attached to this report.

It must not be assumed because of the fact that British income tax is assessed separately under different schedules and because it is often collected at the source, that the income tax is a series of taxes. It is one tax, and the final result is always worked out on this basis. For example, suppose a man owns a house in London and receives a gross rent of £100 per annum, less £22½ deducted by the tenant at the source. In addition, suppose this man is in business and sustains an operating loss of £500. In such a case, the man may obtain a refund from the Government of the £22½ deducted at the source, since considering his schedules A and D profits together, he had no income and should pay no tax.

(e) *Allowances.*—The income of the taxpayer is reducible by certain reliefs in arriving at taxable income, as follows:

(1) *Earned income:* In case of earned income a taxpayer is entitled to a deduction of one-fifth of the amount of such earned income, except that the deduction may not exceed £300.

(2) *Personal allowances:* Single persons are allowed a deduction of £100, and married persons of £150, in arriving at taxable income.

(3) *Allowances for children:* A deduction is allowed in arriving at taxable income of £50 for the first child and £40 for each additional child. The children must be under 16 years of age, unless attending a recognized educational establishment.

(4) *Allowances for housekeeper:* A widower or widow is entitled to a deduction of £50 if a housekeeper is employed.

(5) *Allowances for aged or infirm relatives:* A taxpayer is entitled to a deduction of £25 in arriving at his taxable income for each aged or infirm relative whom he supports.

(6) *Persons over 65:* Where a person is over 65, he is entitled to the earned income relief of one-fifth, even though his income is

not earned but comes from investments, provided his income does not exceed £500.

Certain deductions are permitted for wear and tear of machinery used in trade and for repairs which under the British concept are treated rather as reliefs than as necessary business expenses. No depreciation is allowed on buildings. The earned income relief and allowances for personal status are, of course, confined to individuals.

After the taxable income is arrived at, the individual is taxed on the first £175 at one-half the standard rate and on the remainder at the full standard rate. A tax credit is also allowed in case of insurance policies taken out after June 22, 1916, computed at one-half the standard rate on the amount of the premiums paid. Special rules apply in the case of policies taken out before the above-mentioned date. Credits are also given in special cases to prevent double taxation by the Crown and by the Dominions.

(f) *Concept of income.*—For the purpose of this report, it will not be necessary to describe all the technical features of the British law. It will be sufficient to point out certain differences between the British conception of income and the conception of income established under our Federal Constitution and laws, and to discuss certain special features, such as capital gains and losses; depreciation, depletion and obsolescence; losses applicable to the income of subsequent years; bad debts, etc.

The British law, of course, is final as to what constitutes income. On the other hand, our Federal income tax laws are subject to the limitations of the Constitution. In both Great Britain and in the United States the rent received from a house is income; but if the owner occupies the house instead of renting it, the rental value of the house is still income in Great Britain, but not in the United States. Under the Constitution it is probable that we cannot tax the theoretical income arising from the occupation of a house by its owner.⁸ As between taxpayers, however, the British system appears more equitable. In the United States a man with a \$10,000 salary and \$15,000 invested in 4-percent bonds will pay substantially more tax than a man with a \$10,000 salary and \$15,000 invested in a home, although he is as well able to pay, since the rent paid by the first man (and not deductible for income tax purposes) will more than offset the 4-percent interest on bonds. In Great Britain, this substantial difference in tax burden does not exist. In like manner, the British tax the actual or estimated profits arising from the occupation of land.

The British do not consider income to arise in the case of gains arising from the sale of capital assets, unless the taxpayer makes transactions in such assets his trade or business. Inasmuch as they do not tax capital gains, they do not allow capital losses to be deducted from income. In the United States, of course, the reverse is true; the capital gains are taxed and the capital losses are allowed (under certain limitations).

In Great Britain, since capital gains and losses are not taken into account in computing income, profits are often taxed in their en-

⁸ See *Helvering v. Independent Life Insurance Co.*, 292 U. S. 371.

tirety even though the earning of these profits involves a wastage of capital. For instance, the owner of an apartment house must pay tax on the gross rent, less taxes and repairs, without being able to recoup his capital by depreciation deductions as in the United States. Likewise, there is no depletion deduction on account of the exhaustion of natural resources, such as mines. It is true depreciation is allowed on machinery and equipment, but no obsolescence is allowed unless and until such machinery is actually replaced.

It may be worth while to compare at somewhat greater length certain technical features of the British tax law and our Federal law, even though some of these features have already been briefly mentioned.

(g) *Capital gains and losses*.—Much controversy has arisen over the question of whether or not capital gains are properly income. The British say no; our laws say yes. In the British income tax code the concept of income excludes capital appreciation whether realized or not. Except where the buying and selling of investments forms part of the business of the taxpayer (in which case, of course, the investments are really stock in trade) any gain made on the realization of an investment would not be income in the eyes of the British. The nature of the British concept is shown by the terms of the general charge under Schedule D, which imposes tax in respect of the “*annual* profits and gains arising and accruing from trade etc. * * * and in respect of all interest of money annuities and other *annual* profits and gains” but although *prima facie* the word “*annual*” to some extent connotes recurrence it is settled law that the charge extends to casual or isolated transactions if the casual or isolated transaction is of the nature of a trading transaction or consists of the rendering of services. Thus the gain made by a single purchase of a stock of goods and subsequent sale to one person was held to be profit arising from trade though the taxpayer did not normally carry on any business in the commodity in question. As a Scottish court has put it, “a single plunge may be enough provided that the plunge is made in the waters of trade.” The realization of a capital asset would not normally be such a plunge.

On the other hand in the United States our law defines as income any gain made from any dealings in property and thus covers any gain made by anyone upon the realization of any investment. We argue that profits from sales of capital assets are just as much income as profits from the sales of boots and shoes.

Whatever may be the merits of the two views, it is certain that although the British method avoids many technical and administrative questions and tends to produce a more stable revenue over years of prosperity and of depression, it raises many other questions we do not meet here. (See exhibit G, attached.)

(h) *Depreciation and obsolescence*.—As has already been pointed out, the British do not feel obligated to return to the taxpayer free from tax any such amount of profits for the purpose of recouping wasted capital as is the case in the United States. They make no allowance for depletion, allow depreciation only on machinery and

equipment,⁹ and allow for no loss on the discard of machinery and equipment not replaced. On the other hand, in the United States we scrupulously allow deductions, in every case equaling the cost or March 1, 1913, value of the property. It results that the taxable income of our corporations and individuals is reduced by these deductions to a much greater extent than is the case in Great Britain. Standard rates of depreciation are set up for many of the industries. These rates are at a fixed percentage for all years, in spite of the fact that such rates are applied to the depreciated cost of the property. The Treasury is now applying this method of depreciation on the depreciated balance in the United States under the Revenue Act of 1934. The rates used in Great Britain generally result in depreciating the cost of the machinery and equipment to about 10 percent of its cost at the end of the useful life of such items. The fact that the British do not take account of capital gains and losses, accounts in part for their policy in restricting deductions for the wastage of capital. (See exhibit H, attached.)

(i) *Carrying forward business losses.*—In the United States we look only at 1 year in the determination of income tax; the British do not confine themselves to 1 year. This is especially true as to operating losses. It is true that in the United States a business loss could at one time be carried forward for 2 years, but this principle was abandoned. In Great Britain business losses may be used to offset income for as long a time as 6 subsequent years. Furthermore, such business losses may be used not only to offset subsequent business gains, but may also offset income from lands, from interest, and from other miscellaneous sources for the same year as the year in which the loss is incurred. From the point of view of equity, there is much to be said for the British system, although it is evident that the revenue must be adversely affected.

(j) *Bad debts.*—The question of the year in which a bad debt should be allowed has been particularly troublesome in the United States. The deduction is only allowable in the year in which the debt was ascertained to be worthless and charged off. There is constant controversy between the Government and taxpayer as to the year in which the deduction is to be taken. Thus, in the United States, a man may never be allowed a bad-debt deduction to which he is equitably entitled. In Great Britain, the rule for allowance is the same as in the United States, but little difficulty arises in administering it.

(k) *Statute of limitations.*—The bar of the statute of limitations is not applied in Great Britain until after 6 years instead of after 3 years as in the United States. The closing of cases and the elimination of old cases is taken care of primarily by other features of the British tax system and not by the statute of limitations. Everyone admits that a statute of limitation is not an equitable provision, but one of practical merit in order to put an end to controversy. Our statute of limitations may be extended by either the Government or the taxpayer if the proper steps are taken and its main object of

⁹ An allowance of one-sixth of the annual rental value of premises peculiarly subject to depreciation, such as, mills and factory buildings, is permitted, which gives limited relief in lieu of depreciation.

finality is thus defeated. The British system seems to produce the better result in many respects.

(l) *Consolidated returns*.—The consolidated return is not permitted in Great Britain. Each company must file its own return. Dividends paid from one company to another are treated so that there is no double taxation. For instance, company A owns all the stock of an operating subsidiary, company B. If B makes £1,000, it pays a tax of £225. Now, if company B declares a gross dividend of £1,000, it deducts the £225 at the source and pays £775 to company A. Company A has tax-free income of the £1,000 gross dividends, although it receives net £775. If company A declares a gross dividend of £1,000 to its individual stockholders, it will, of course, show a deduction of £225, giving the stockholder a net payment of £775. Each stockholder will take up the gross dividend in his return, but this gross dividend will be free from normal income tax and subject only to surtax. This system effectively prevents pyramiding of the tax and secures the tax from the company where the income first arises.

(m) *Insurance companies*.—Insurance companies are subject to tax upon the interest and dividends derived from their investments or upon the profits of their business under the rules applicable to schedule D. The Crown has the right to choose the method giving the greater tax.

Speaking generally, therefore, the British system places a full tax upon insurance companies and what relief is given is to the policyholders directly. This is the reverse of the system employed in the United States.

Relief is given to the individual in cases where—

(1) The premium, whether annual or not, is paid for lump-sum insurance on his own life or that of the wife or husband.

(2) The premium is paid by any person in fulfillment of a liability imposed by an act of Parliament.

(3) The amount is deducted from a person's salary under conditions of employment to secure a deferred annuity to widow or provision for children.

The relief given to the individual is represented by an allowance computed at one-half the standard rate. The amount of the premium to which the standard rate is to be applied is restricted as follows:

(1) The amount must not exceed one-sixth of the total income from all sources.

(2) The amount must not exceed 7 percent of the lump-sum payable at the completion of the contract.

(3) The amount on which the allowance is calculated must not exceed £100 in cases where the benefits secured are not on a lump-sum basis.

Special rules exist for insurance contracts made on or before June 22, 1916. Where a bonus or dividend is applied in reduction of premium, the allowance is calculated on the net amount paid.

(n) *Foreign tax credit*.—The British do not give a tax credit for foreign taxes paid by a British resident on income received by him in Great Britain. In general, the British charge all income arising to residents, whether remitted home or not, but in the case of for-

eign possessions not being stocks, securities, rents, or shares, the charge falls only on the amount remitted. The British do not give a tax credit for tax paid to a foreign country, but in assessing any income which has borne foreign tax, the amount of that tax is allowed as a deduction from income. In the case of incomes subject to Dominion income tax, substantial relief is given. "In general, the relief given is at the rate of one-half the 'appropriate rate of' United Kingdom income tax; but where the Dominion rate is one-half, or less than one-half, of the 'appropriate rate', the relief is measured by the Dominion rate itself." (Quotation from The Law of Income Tax, by E. M. Konstam, K. C.)

A survey of the statutory provisions of the British income-tax law in comparison with the statutory provisions of our own law, leads to the general conclusion that the more general terms employed in the former and the fewer specifically technical provisions used allows the British to administer their law with more regard for the equity of each individual case. In the United States, equity often has to step aside because of mere technicalities.

(o) *Surtax*.—Since 1929, surtax has superseded supertax in the United Kingdom. For our purposes, it will be unnecessary to go into the supertax, since this is now obsolete and since it accomplished the same general purpose as the surtax. The rules for the computation of income under the income tax proper and under the surtax are the same. Of course, certain income, such as dividends, on which the tax is deducted at the source, is not taxed directly to the recipient of such income in the case of the income tax, but this class of income is brought in and taxed under the surtax. There is no collection of tax at the source in the case of the surtax. This tax is always a direct tax on the recipient of the income. Surtax applies to individuals only, and not to corporations.

Surtax collections lag 1 year behind income-tax collections; that is, surtax assessed for 1933-34 is payable on January 1, 1935, instead of on January 1, 1934, as is the case with the income tax.

Separate surtax returns are not required from the taxpayer, and the assessments are ordinarily made from the returns made by the taxpayer in respect of the income tax. The assessments are made by the special commissioners and not by the general commissioners. The following table shows the rates of surtax at present in force:

On the first £2,000 of income:	nothing in the £.
On the next £500 of income:	1s. 0d. in the £, plus 10 percent (5.5 percent).
On the next £500 of income:	1s. 3d. in the £, plus 10 percent (6.875 percent).
On the next £1,000 of income:	2s. 0d. in the £, plus 10 percent (11 percent).
On the next £1,000 of income:	3s. 0d. in the £, plus 10 percent (16.5 percent).
On the next £1,000 of income:	3s. 6d. in the £, plus 10 percent (19.25 percent).
On the next £2,000 of income:	4s. 0d. in the £, plus 10 percent (22 percent).
On the next £2,000 of income:	5s. 0d. in the £, plus 10 percent (27.5 percent).
On the next £5,000 of income:	5s. 6d. in the £, plus 10 percent (30.25 percent).
On the next £5,000 of income:	6s. 0d. in the £, plus 10 percent (33 percent).
On the next £10,000 of income:	6s. 6d. in the £, plus 10 percent (35.75 percent).
On the next £20,000 of income:	7s. 0d. in the £, plus 10 percent (38.5 percent).
On all over £50,000 of income:	7s. 6d. in the £, plus 10 percent (41.25 percent).

The current maximum rate of tax in the United Kingdom, therefore, is 63¾ percent (22.5 percent income tax, 41.25 percent surtax). The current maximum rate of tax in the United States is 63 percent (4 percent normal tax and 59 percent surtax).

The British have encountered the same trouble from the avoidance of surtaxes by incorporation that we have encountered in the United States. The remedy adopted by the British in their finance acts of 1922, 1927, and 1928 is somewhat similar to the remedy adopted in the United States in the Revenue Act of 1934.

Section 21 of the finance act of 1922 as amended by subsequent acts provides for the assessment of supertax or surtax upon the shareholder in the name of the company on that part of the company's total income to which the shareholder's interest entitles him, in those cases where it is determined that reasonable distributions of profits have not been made. The section applies to any company which is under the control of not more than five persons and which is not a subsidiary company or a company in which the public is substantially interested. A company is in control of not more than five persons when its voting power is in the hands of not more than five relatives. A husband, wife, ancestor, lineal descendant, brother, or sister count as one relative. The British have created a board of referees to determine the difficult question of "unreasonable accumulation of profits." The board consists of about 100 representatives of the different industries and professions. The clerk to the board calls to the hearing only a few of the members who are experienced in the particular type of business. From the board, an appeal lies to the high court.

Under the Revenue Act of 1934, title I-A applies to personal holding companies and imposes a surtax on the company itself (instead of on its stockholders as in the British system) where more than 20 percent of its income is undistributed. A personal holding company is defined as one where the control is in not more than five persons, as is the case with the British provision. In addition, however, a corporation does not come within the purview of this title unless 80 percent or more of its income is derived from royalties, dividends, interest, annuities, and gains from the sale of stock and securities. The British plan seems to have been helpful in curbing tax avoidance through incorporation; it remains to be seen how the Federal plan will work out.

In closing the discussion of the surtax it is proper to point out that the British have only a negligible amount of interest on bonds exempt from this tax. On the other hand, in the United States enormous amounts of interest payable on Federal, State, and local indebtedness are entirely exempt from both income and surtax. This fact renders it easy for the residents of our country to escape the effects of a graduated tax system, while in the United Kingdom no such method of escape is possible.

(p) *Total income and surtax burden.*—Finally, in order that the total income tax and surtax burden in the United States and Great Britain may be visualized, the following comparative table of the total tax on specimen net incomes of individuals is submitted:

*Income tax, individual, married man, no dependents, all "earned income"—
Comparison of tax payable on specified net incomes, United States and Great
Britain*

[Conversion unit £1—\$5]

Net income	United States (Revenue Act of 1934)	Great Britain (Finance Act of 1934)	Net income	United States (Revenue Act of 1934)	Great Britain (Finance Act of 1934)
\$1,000.....	\$0	\$5. 63	\$14,000.....	\$809	\$2, 785. 94
\$1,500.....	0	50. 63	\$16,000.....	1, 044	3, 414. 69
\$2,000.....	0	95. 63	\$18,000.....	1, 299	4, 084. 69
\$2,500.....	0	182. 81	\$20,000.....	1, 589	4, 754. 69
\$3,000.....	8	272. 81	\$25,000.....	2, 489	6, 704. 69
\$3,500.....	26	362. 81	\$30,000.....	3, 569	8, 792. 19
\$4,000.....	44	452. 81	\$40,000.....	5, 979	13, 242. 19
\$4,500.....	62	542. 81	\$50,000.....	8, 869	18, 242. 19
\$5,000.....	80	632. 81	\$60,000.....	12, 239	23, 517. 19
\$6,000.....	116	812. 81	\$70,000.....	16, 104	28, 792. 19
\$7,000.....	172	992. 81	\$80,000.....	20, 494	34, 204. 69
\$8,000.....	248	1, 195. 31	\$100,000.....	30, 394	45, 304. 69
\$9,000.....	329	1, 420. 31	\$200,000.....	87, 019	104, 929. 69
\$10,000.....	415	1, 645. 31	\$500,000.....	263, 944	294, 804. 69
\$12,000.....	602	2, 205. 31	\$1,000,000.....	571, 394	613, 554. 69

2. DEATH DUTIES

(a) *General description.*—There are only four British death duties of any present importance; namely, the estate duty, the legacy duty, the succession duty, and the corporation duty. The most important of these duties from a revenue standpoint is the estate duty. The corporation duty is not really a death duty at all, but we are bringing it under this classification as a matter of convenience, since it is levied on a corporation to compensate for the fact that the property of a corporation cannot be reached by a death duty or transfer duty because of its perpetual character.

The estate duty is a graduated tax levied on the net value of property wherever situated, except real property (including leasehold interests in land) located abroad. It is assessed on the net value of the entire estate, without regard to the number of beneficiaries or their relationship to the deceased. The rates vary from 1 percent on estates between £100 and £500 to 50 percent on estates in excess of £2,000,000. Estates of less than £100 are exempt. The rates are applied by totality instead of by bracket. In the case of the British income tax, and both the Federal income and estate tax the rates are applied by bracket and not by totality.

The basic provisions of the estate duty will be found in the finance act of 1894. The rates of tax in this act were graduated from 1 percent to 8 percent. There have been numerous amendments to the basic provisions since the passage of the original act.

It will be sufficient to point out here a few facts in connection with the British estate duty which may be helpful in connection with a study of our Federal estate tax.

It should be especially noted that the British estate duty reaches all estates in excess of £100. In the United States our estate tax does not apply on estates having a net value of \$50,000 (£10,000) or less. Thus, the British tax applies on many more estates and is a more productive source of revenue. This is partly offset by our State death duties.

The practice has been followed in the United States until recently in valuing stocks and bonds to give a discount on the value when the decedent has a large amount of such property, on the theory that putting all this property on the market on one day would materially depress the price at which the stock or bonds could be sold. The British do not recognize this theory, although they formerly did to a limited extent prior to an amendment to the law in 1910. Stocks and bonds which are quoted on the market are valued at the price quoted on the date of death or the date nearest thereto.

The British have no gift tax, but they include in the value of the decedent's estate all gifts made within 3 years of the date of death, except gifts which in the case of any donee do not exceed £100 in value, as well as gifts *causa mortis* and revocable gifts made more than 3 years before the date of death. In our opinion, however, the combination of gift tax and estate tax now employed in the United States is far more effective in preventing the avoidance of the estate tax than is the British system.

The British have a unique provision in respect to property taxed in the hands of a prior decedent. Under federal law, property is exempt from tax in the estate of the second decedent if it was subject to estate tax in the estate of the first decedent, and if the prior decedent died within 5 years of the date of the second decedent's death. Under British estate duty the amount payable is reduced as follows:

Where the second death occurs within—

	<i>Percent</i>
1 year of the first death.....	50
2 years of the first death.....	40
3 years of the first death.....	30
4 years of the first death.....	20
5 years of the first death.....	10

The legacy duty and succession duty imposed by Great Britain are similar in character except that the first applies to personal property and the second to real property. The rates of tax are graduated, but such graduation is based on consanguinity and not on the size of the share received by each beneficiary. The rates in the case of both of these taxes are as follows:

	<i>Percent</i>
On shares passing to husband or wife, child or lineal descendant of child, father or mother or any lineal ancestor.....	1
On shares passing to brother or sister, or lineal descendant of brother or sister.....	5
On shares passing to any other person.....	10

No legacy or succession duty is imposed if the estate out of which the benefit is payable does not exceed £1,000. The 1 percent rate of duty (family and lineal issue) has an exemption for cases where (a) the total estate did not exceed £15,000, (b) the value of the benefit does not exceed £1,000, and (c) widow or minor child receives less than £2,000.

The corporation duty, levied on corporations in order to compensate for the revenue lost by reason of such corporations not being liable for death duties, is imposed annually at the rate of 5 percent on the net annual value, income, or profits of such companies. The exemptions are numerous and the tax does not bring in a great

amount of revenue. For instance, property of a corporation is exempt from this tax where its capital stock is so divided and held as to be liable to be charged with legacy and succession duty.

A comparative table of the estate-tax burden in the United States and Great Britain on net estates of specified amounts follows:

Estate tax, comparison of the estate tax (before credit) payable on specimen net estates in the United States (under the Revenue Act of 1934) and in Great Britain (under the Finance Act, 1930)

Net estate (before exemption ¹)	United States tax (before credit ²)	British tax (in dollars at \$5 for £1)	Net estate (before exemption ¹)	United States tax (before credit ²)	British tax (in dollars at \$5 for £1)
\$2,500	None	\$25	\$500,000	\$59,100	\$95,000
5,000	None	100	600,000	78,100	120,000
25,000	None	750	800,000	120,600	192,000
50,000	None	2,000	1,000,000	169,100	240,000
100,000	\$1,500	8,000	2,000,000	461,100	600,000
150,000	5,600	15,000	5,000,000	1,692,600	1,900,000
200,000	11,600	24,000	10,000,000	4,387,600	4,500,000
300,000	25,600	48,000	50,000,000	28,386,600	25,000,000
400,000	41,600	72,000	100,000,000	58,386,600	50,000,000

¹ The specific exemption for the purpose of the Federal estate tax is \$50,000; for the purpose of the British estate duty, £100. (See also the following note.)

² The tax credit allowed is for State inheritance, estate legacy, or succession taxes paid. This credit is limited to 80 percent of the tax computed under the Revenue Act of 1926, for the purpose of which computation the specific exemption is \$100,000.

(b) *Administration.*—The administration of the death duties is highly centralized in contrast with the decentralized administration of income-tax cases. Death-duty returns are filed in London and administered from London. After the returns are filed they pass through certain audit and valuation groups, depending upon the size and difficulty of the particular return. The taxpayer may appeal from the findings of these groups to the chief examiners and particularly difficult questions of law or policy may find their way to the head of this branch known as the “controller of death duties” and from him to the Board of Inland Revenue. However, as with the administration of income tax, the policy is to pass the responsibility of decision downward in the individual case. In death-duty matters, appeal lies from the bureau to the courts on fact as well as law questions. This is in contrast with the procedure in income-tax matters, where appeal lies from the general and special commissioners to the courts only on legal questions. The centralized administration in London is accounted for largely through the fact that all lands and leaseholds, including natural resources, have been valued for income-tax purposes, and the further fact that local probate proceedings are not entertained until after certification from the bureau in London of its satisfaction of estate or other death-duty returns. This removes to a considerable extent the necessity for field investigations which is present in the United States.

The employees in the estate and death-duty branch are recruited from various parts of the bureau and from outside the bureau. Income-tax inspectors specialize in accounting, while estate- and death-duty employees specialize in law, as a general knowledge of the law of property is requisite for the determination of many questions of liability. An employee with approved qualifications in the

estate- and death-duty office or some other branch of the bureau is given every opportunity to become admitted to the bar, his duties being lightened in order to afford him this opportunity. Unlike the income-tax inspector, he is not subjected to a separate bureau course in order to qualify him for the work and later examined within the bureau. There is also not the age limit restriction on employment in this branch that is found in the income-tax branch.

3. STAMP DUTIES

The British impose a great variety of stamp duties. A list of the most important of these duties will be found in exhibit I, attached.

It may be fairly said that almost every document having to do with property, money, or privilege is subject to a stamp duty. For example, the following documents must bear stamps: Affidavits, bills of exchange, bills of lading, bonds, checks, conveyances of all kinds, certificates of birth, marriage, and death; declarations of trust, insurance policies of all kinds, letters patent, mortgages, securities (issue and transfer), notarial act of any kind, passports, power of attorney, receipts for over £2, valuation of property, etc. In addition, there are stamp duties on admission to any inn or court, and on grants to certain honors and dignities.

4. LAND TAX AND MINERAL-RIGHTS DUTY

The "land tax" is not a very important source of revenue today. It is based on a statute enacted in 1797. At that time a total sum of about £2,000,000 was levied on real estate and subsequently made a perpetual charge subject to redemption. The redemption amount is 25 times the annual charge on the property. At present the annual revenue from this tax is only about £3,000,000.

The mineral-rights duty is levied at the rate of 1 shilling in the pound on the rental value of all rights to work minerals.

5. EXCESS-PROFITS DUTY AND CORPORATION-PROFITS TAX

These taxes are now obsolete and the revenue derived therefrom represents back-tax collections.

B. CUSTOMS AND EXCISE

Customs and excise duties are under the control of the commissioners of customs and excise and not under the Inland Revenue commissioners, although the excise duties in the United States are included in internal-revenue taxes. We are not primarily interested in customs duties for the purpose of this report, but the receipts from the import duties on tobacco, sugar, hydrocarbon oils, beer, and spirits are so large as to merit at least a statement as to the amount of these duties. It will be convenient to discuss the matter of customs and excise by commodity:

1. SPIRITS

The excise duty on home-made spirits is 72 shillings 6 pence per proof gallon (approximately \$18.13). The corresponding customs full duty is 75 shillings 4 pence on some spirits and 75 shillings 5 pence on others, with (in some cases) a surtax of 1 shilling on spirits imported in bottles, the preferential rates for British Empire spirits being 2 shillings 6 pence less, but no excise duty is charged in addition. The corresponding excise duty in the United States is \$2 per gallon. The customs duty is \$5 per gallon in addition to the excise duty. The British proof gallon contains 57.1 percent of alcohol by volume at 60° F.; the United States proof gallon contains 50 percent of alcohol by volume at 60° F. The British gallon contains 277.274 cubic inches; the United States gallon contains 231 cubic inches. Reducing the British gallon to the United States gallon and the British proof gallon to the United States proof gallon, the following comparisons are substantially correct.

Excise tax, home-made spirits

United States (per United States gallon)-----	\$2. 00
Great Britain (per United States gallon)-----	12. 86

Customs and excise, imported spirits

United States (per United States gallon)-----	\$7. 00
Great Britain (per United States gallon)-----	13. 36

It is not surprising that under the heavy tax imposed on spirits the consumption of duty-paid spirits in the United Kingdom has steadily declined. The total gallons consumed in 1923-24 was 15,293,105. By 1932-33 consumption had declined to 10,018,015 gallons, a decrease of about 33½ percent. For the year 1932-33, the net receipts from the excise tax on spirits amounted to \$150,299,355 and from customs duties to \$22,194,220. Thus, the total revenue from this source was \$172,493,575.

In the United States the excise revenue for the fiscal year 1934 from distilled spirits amounted to \$80,818,031, and the customs revenue to \$18,652,976, a total of \$99,471,007. Nearly all of this amount, of course, was collected in the last 7 months of the year, since the sale of such products was not legal until the repeal of the eighteenth amendment in December 1933. Mathematically speaking, the present revenue yield from spirits is about \$171,000,000 annually, although it is expected that this figure will actually be considerably larger.

2. BEER

The excise duty on domestic beer is graduated according to the original gravity of the "worts." The rate is 24 shillings on a barrel of 36 gallons having an original gravity up to and including 1,027, and 2 shillings additional for each additional degree of gravity. Beer of a gravity of 1,027 is very light in alcoholic content (less than 2½ percent by weight). Beer of a gravity of 1,055 pays a tax of 80 shillings per barrel and contains about 4.44 percent of alcohol by weight. The Federal tax on domestic beer is \$5 per barrel

of 31 gallons. On a comparative basis, therefore, the British tax on a United States barrel of 31 gallons would be about \$14.35 for beer of a gravity of 1,055. The British customs duty adds only about 1 shilling 3 pence per barrel to the excise. In the United States, however, the duty on imported beer adds \$31 per barrel of 31 gallons to the internal-revenue tax.

Prior to April 26, 1933, the tax on a barrel of beer of 1,055 gravity was 114 shillings, having been raised from 83 shillings on September 11, 1931. Under this heavy United Kingdom tax the production of duty-paid domestic beer decreased from 18,070,504 barrels in 1930-31 to 12,658,324 barrels in 1932-33. The consumption of imported beer decreased from 1,541,385 barrels to 1,157,186 barrels in the same period. Figures showing the effect of the rate reduction of April 26, 1933, are not yet available.

In 1932-33 the excise revenue from beer amounted to \$335,487,905, and the customs revenue to \$33,139,230, a total of \$368,627,135. For the fiscal year 1934 the Government of the United States collected \$163,297,622 from the excise tax on beer and only a negligible amount from customs (\$496,000).

3. WINE

The British customs duties on wine differentiate between light and heavy wine according to proof spirit content. The full rates per gallon are 4s. 0d. up to 25 percent of proof spirit, 8s. 0d. over 25 percent up to 42 percent, and 8d. additional for each 1 percent over 42 percent, with surtaxes of 12s. 6d. on sparkling wine and 2s. 0d. on still wine in bottle. The preferential rates per gallon on British Empire wine are 2s. 0d. up to 27 percent of proof spirit, 4s. 0d. over 27 percent up to 42 percent, and 4d. additional for each 1 percent over 42 percent, with surtaxes of 6s. 3d. on sparkling wine and 1s. 0d. on still wine in bottle. The British excise duties per gallon on home-made wine are 1s. 6d. on still wine and 7s. 6d. on sparkling wine, irrespective of strength.

These rates are on the British gallon; the comparative rates in the United States per United States gallon are as follows:

	Tax	Customs
Light wine (less than 14 percent alcohol)	\$0.10	\$1.25
Heavy wine (between 21 and 24 percent alcohol)40	1.25
Sparkling wine80	6.00

The customs and excise revenue from wines amounted to \$19,985,375 in 1932-33. In the United States customs and excise revenue from this source amounted to \$9,388,048 in 1934 (about 7 months' collections).

4. TABLE WATER (UNSWEETENED)

Both the customs and excise duty on mineral and other table waters are at the rate of 8 pence per imperial gallon.

5. TEA, COFFEE, AND COCOA

The following customs duties are imposed on tea, coffee, and cocoa :

	Non-Empire	Empire
Tea.....	4d. per pound.....	2d. per pound.
Coffee.....	14s. per hundredweight.....	4s. 8d. per hundredweight.
Cocoa.....	do.....	11s. 8d. per hundredweight.

Tea, coffee, and cocoa beans are on the free list in the United States.

6. TOBACCO

The basic rate of duty on tobacco is the customs full rate on unmanufactured, unstripped tobacco containing not less than 10 per cent of moisture, which is 9s. 6d. per pound. The corresponding preferential rate on British Empire tobacco is 7s. 5½d., and the corresponding excise rate on home-grown tobacco is 7s. 3½d. The amount of home-grown tobacco is trifling. Over 99 per cent of the total revenue from tobacco is collected on unmanufactured tobacco.

The customs revenue to Great Britain from all tobacco products amounted to \$336,144,825, and the excise revenue to \$7,820 for the fiscal year 1932-33. In the United States for the calendar year 1933 the customs revenue was \$21,541,789, and for the fiscal year 1934 the excise revenue was \$425,168,897, a total of \$446,710,686 for an annual period.

The following approximate comparison of the tax imposed on ordinary forms of tobacco in the United States and Great Britain may be of interest:

	United States	Great Britain
Small cigarettes per pack of 20.....	6 cents.....	11 to 14 cents.
United States 5-cent cigar (average size).....	2 mills.....	3.4 to 4.3 cents.
United States 10-cent cigar (average size).....	½ cent.....	Do.
Smoking and chewing tobacco (per pound).....	18 cents.....	\$1.86 to \$2.38.

7. SUGAR, ETC.

The rate of customs on imported sugar is about 11 shillings 8 pence per hundredweight on non-Empire products, and about 5 shillings 10 pence on Empire products. The precise rate of duty on sugar depends on the degree of polarization, but for the sake of brevity the variations in the duty will not be described. There is an excise duty of about 4 shillings 7 pence on sugar manufactured from beets grown in Great Britain. Duties of corresponding magnitude are imposed on molasses, glucose, and saccharin. Nearly all imported articles containing sugar are dutiable, but it is not feasible to describe all such articles here. The customs and excise revenue for the year 1932-33 on these products amounted to

\$63,161,075. In the United States for the calendar year 1933, the revenue was \$67,406,361 from the same source.

8. DRIED OR PRESERVED FRUIT

There is no duty on these products when grown within the Empire. The duty is 10 shillings 6 pence per hundredweight on figs, plums, prunes, and raisins, and 2 shillings per hundredweight on currants.

9. MATCHES AND MECHANICAL LIGHTERS

The unit of charge of the British duty on matches is the container, the rate varying according to the number of matches in the containers. The main rate of duty is that applicable to containers with from 21 to 50 matches, which in 1932-33 accounted for 90 per cent of the total match revenue, the customs rate being 4s. 9d. per gross of containers on all imports and the excise rate on home production 4s. 2d. per gross. On mechanical lighters the customs duty is 1s. 6d. each and the excise duty 1s. 0d.

The British revenue from these customs and excise duties amounted to \$19,066,945 for the fiscal year 1932-33. In the United States in the fiscal year 1934 the total customs and excise receipts from matches only was about \$7,300,000.

10. HYDROCARBON OILS

The customs duty on gasoline and other hydrocarbon oils is 8 pence per gallon on light oils and 1 pence per gallon on heavy oils. The British revenue from this duty on oil and gasoline amounted to \$176,551,650 for the fiscal year 1932-33. The duty on heavy oils was not in force in that year. The United States revenue from the Federal excise tax on gasoline and lubricating oil only, without including the substantial revenue obtained by the States from this source, amounted to \$227,830,020 in the fiscal year 1934.

11. ENTERTAINMENTS

The excise duties on entertainments are as follows:

Admissions up to and including 2d.....	Exempt
Admissions from 2d. to 2½d.....	½d.
Admissions from 2½d. to 6d.....	1d.
Admissions from 6d. to 7½d.....	1½d.
Admissions from 7½d. to 10d.....	2d.
Admissions from 10d. to 1s. ½d.....	2½d.
Admissions from 1s. ½d. to 1s. 3d.....	3d.

1d. tax for every 5d. of admission price in excess of 1s. 3d.

The admission prices shown above are exclusive of the duty.

The British excise tax on entertainments yielded \$46,593,110 in the year 1932-33. Our excise tax on admissions yielded \$14,613,414 for the fiscal year 1934. The rate of tax on admissions in the United States is 1 cent for each 10 cents or fraction thereof of the amount paid, with an exemption from tax of all admissions sold for less than 41 cents.

The principal annual excise taxes on occupations such as brewers and distillers are as follows:

Beer manufacturers-----	£2 for first 200 barrels; 8s. for every additional 50 barrels
Beer dealers, wholesale-----	£10 10s.
Beer dealers, retail-----	One third annual value of premises, subject to certain minimum duties
Distillers-----	£10 first 50,000 gallons and £10 for every additional 25,000 gallons
Auctioneers-----	£10
Appraisers and house agents-----	£2
Money lenders-----	£15

There are many other occupational taxes, including taxes on retail and wholesale liquor dealers and rectifiers, which are too numerous to enumerate here. The taxes on retailers of spirits are very important from a revenue standpoint but are not described for the sake of brevity.

The British revenue from liquor licenses alone totalled about \$21,000,000 in 1932-33. Our Federal occupational taxes on liquor and beer amount to about \$10,800,000 annually.

There are a number of other customs and excise duties but a further description of these seems unnecessary for the purposes of this report.

C. LOCAL TAXES

Practically, the only true tax imposed by the local authorities in the United Kingdom is that tax known as "the rates", which corresponds to our local property tax. It is true that the local governments have two other sources of revenue, one from "grants-in-aid" from the Crown, and the other from fees, tolls, and receipts from Government owned and operated utilities. These latter, however, cannot be classed as taxes.

Great Britain thus avoids our multiplicity, duplication, and overlapping of taxes, and this in spite of the fact that it has a complicated system of local government to meet the needs of each individual community. In fact, there are some 15,000 local governmental units composed of county councils, town councils (county boroughs and municipal boroughs), metropolitan borough councils, urban district councils, rural district councils, parish councils, and parish meetings. In addition, there are numerous commissions, boards, and committees in connection with these local jurisdictions.

The "rates" are imposed on the "annual value" of the property, not on its total value as in the United States. The "annual value" is approximately the fair annual rental value of the property whether rented or not. Certain deductions are given for repairs, insurance, and maintenance, so that the gross rental value is reduced to the net rental or ratable value. For the year 1932-33, the ratable value of property in England and Wales was £278,000,000. The taxes collected on this value amounted to £149,000,000, so that approximately 53 percent of the net rental value was taken in taxes. If we assume the net rental value of property in the United States is 6 percent of its total value, then the British rates would average \$3.18 per \$100 of total value. This is somewhat above the average

property tax rate on 100 percent values in the United States (estimated at \$2.19). Certain reliefs are given on unoccupied property held for rent in Great Britain, which tend toward equity. For example, in the United States a person would pay the same real property tax on an apartment building whether it was fully rented or only half rented, while in England, a considerable tax relief would be granted in the latter case on proof being submitted that every reasonable effort had been made to rent the unoccupied apartments.

It is interesting to note that the farmer of Great Britain has been laboring under difficulties for a long time as in this country. One of the substantial reliefs given to the farmer was brought about in 1929 when agricultural land and buildings were exempted from "the rates." The loss of revenue suffered by the local governments on account of this "derating" is made up by an increase in the "grants-in-aid" from the central Government to the local governments.

Some license fees are administered by the local authorities, the most important of which are those levied on vehicles of all kinds. Private motor cars pay an annual license fee of £6, if not over 6 horsepower, and pay £1 additional for every horsepower or fraction thereof in excess of 6 horsepower. The finance act of 1934 provides for some reduction in the rates on motor vehicles beginning with January 1, 1935. All commercial vehicles pay substantial license fees whether propelled by steam, electricity, or oil. Carriages are taxed at different rates according to the number of horses used in their operation. The dog license fee is 7 shillings 6 pence. A portion of the motor vehicle license fees is allocated to the Exchequer. But all these fees are uniform throughout the Kingdom. In respect to "the rates", however, there is no uniformity throughout the Kingdom, and very large variations occur.

III. GENERAL STATEMENT ON BRITISH TAX REVENUE

1. REVENUES

A fair idea of the importance of the various British National Government taxes may be obtained from an examination of the revenues derived from such taxes. This revenue is shown for the fiscal years 1932-33 and 1933-34 in the following table:

Classification of tax	Exchequer receipts	
	1932-33	1933-34
Income tax.....	£251,539,000	£228,932,000
Surtax.....	60,650,000	52,590,000
Death duties.....	77,140,000	85,270,000
Stamp taxes.....	19,220,000	22,710,000
Excess profits duty, etc. (back taxes).....	2,200,000	1,800,000
Land tax and miscellaneous.....	770,000	800,000
Total internal revenue.....	411,519,000	392,102,000
Customs.....	167,235,000	179,177,000
Excise.....	120,900,000	107,000,000
Total customs and excise.....	288,135,000	286,177,000
Motor vehicle duties (exchequer share).....	5,000,000	5,200,000
Grand total tax revenue.....	704,654,000	683,479,000

It is apparent from the above figures that the income and surtax form the most important source of the British tax revenue. The percentage of total tax revenue returned by each tax shown in the table already given is set forth below for 1933-34, the taxes being arranged in order of their productivity:

	Percent
Income and surtax.....	41.2
Customs.....	26.2
Excise.....	15.6
Death duties.....	12.5
Stamp taxes.....	3.3
Motor vehicles duties (exchequer share).....	.8
Excess profits duty, etc. (back taxes).....	.3
Land tax and miscellaneous.....	.1
Total.....	100.0

It will be interesting to compare the Federal revenue receipts with the British revenue receipts for the fiscal year 1934, as follows:

Percentage of Yield of Tax to Total Yield

Classification	United States ¹	British
Income and surtax.....	31.3	41.2
Customs.....	12.0	26.2
Excise.....	49.9	15.6
Death duties (and gift tax).....	4.3	12.5
Stamp taxes.....	2.5	3.3
Miscellaneous.....		1.2
Total.....	100.0	100.0

¹ Processing tax not included in United States tax.

It can be seen from the above table that a greater proportion of the tax burden is placed on income in Great Britain than is placed on incomes in the United States. The customs collections are greater in Great Britain. Nearly 40 percent of the British customs collections, however, come from tobacco, while in the United States our customs collections from this source are comparatively small and we obtain a very large revenue from the excise tax on tobacco. The British derive little revenue from excise taxes on tobacco as practically no tobacco is grown in England. The British collected about twice as much from the estate duty than was collected in the United States. Total tax collections in Great Britain, however, amounted to \$3,417,395,000 against \$2,614,250,000 in the United States (processing taxes in the United States of \$371,000,000 excluded). This represents a large difference in the tax burden imposed by the national governments when it is recalled that the population of the United Kingdom is about 46,000,000 against about 126,000,000 for the United States. It must not be overlooked, however, that the local taxes in the United Kingdom are considerably less than in the United States.

We now come to the question of the total tax burden. In neither the United States nor Great Britain are the data covering local revenue or receipts entirely satisfactory or up-to-date. However, some close approximations of the total tax burden may be made.

Tax and customs revenue, United Kingdom, year 1933-34

Total National Government receipts, taxes, and customs-----	\$3, 417, 395, 000
Total local government receipts from taxes-----	¹⁰ 1, 142, 425, 000
Total -----	4, 559, 820, 000
Per capita burden-----	99. 11

Tax and customs receipts, United States, fiscal year 1934

Total National Government receipts, taxes and customs-----	¹¹ \$2, 985, 673, 000
Total local government receipts from taxes-----	¹⁰ 6, 416, 064, 000
Total -----	9, 401, 737, 000
Per capita burden-----	74.37

It can be seen from the above data that the per capita tax burden in Great Britain is about 33 percent more than the per capita burden in the United States. The British National Government collects about three times the amount collected by the local subdivisions. In the United States the reverse is true, and the local subdivisions collect over twice the amount of tax collected by the National Government.

2. EXPENDITURES

It should be noted, however, in connection with the fact that the per capita tax burden in the United States is considerably less than in the United Kingdom, that in respect to expenditures at this particular time a number of factors must be considered. Although between March 4, 1933, and June 30, 1934, the national debt had increased by about 6 billion, there are important offsets to this amount, including such items as an increase in cash balance, "profit" result-

¹⁰ Partly estimated and based on 1932-33 data.

¹¹ Includes processing taxes.

ing from the change in the gold content of the dollar, securities consisting of notes and other obligations held by various agencies in which the Government has an interest, and projects financed in whole or in part from Federal funds. In making comparisons of the local and national tax burdens in the two countries, it is difficult to give effect to the weights of these various factors. Therefore, for present purposes they are eliminated and the following comparisons are noted merely from the angle of actual expenditures:

Total expenditures

United Kingdom, year 1933-34:

Total National Government expenditures, including grants to local governments.....	\$3, 467, 095, 000
Total local government expenditures, excluding expenditures out of grants from National Government.....	¹² 1, 840, 000, 000
Total.....	5, 307, 095, 000
Per capita expenditure.....	115

United States, fiscal year 1934:

Total National Government expenditures.....	7, 105, 050, 000
Total local government expenditures.....	¹² 9, 679, 000, 000
Total.....	16, 784, 050, 000
Per capita expenditure.....	133

In respect to expenditures, therefore, it would appear that the per capita expenditure in the United States during the past fiscal year was about 16 percent more than the per capita British expenditure.

The above comparisons do not take into account certain receipts from interest, lands, tolls, etc., in the respective countries.

3. NATIONAL DEBT

It is perhaps fitting to compare the national debt of the United Kingdom and the United States, since the payment of these debts is an important consideration in connection with revenue requirements.

National debt

United Kingdom, Mar. 31, 1934:

Total internal debt.....	\$34, 543, 405, 000
Total external debt.....	5, 182, 725, 000
Total gross debt.....	39, 726, 130, 000
Total net debt.....	39, 111, 650, 000
Per capita debt.....	850

United States, June 30, 1934:

Total public national debt.....	27, 053, 141, 414
Per capita debt.....	215

It further may be estimated from reliable sources that the debt of the local subdivisions in the United Kingdom amounts to about \$6,505,000,000, and in the United States to about \$19,600,000,000. Accepting these figures as approximately correct, we may state the grand total of all public debts per capita in the two countries as follows:

Total per capita public debt

United Kingdom (national and local).....	\$991
United States (national and local).....	370

¹² Estimated and based on prior year figures.

It is obvious, therefore, that as to the total per capita public debt the United States is in a much better position than Great Britain.

To sum up the comparative revenue and financial situation of the United States and the United Kingdom, the following points will be briefly stated:

1. The total tax burden per capita is about 33 percent more in Great Britain than in the United States.

2. In respect to the relative productivity of the taxes imposed by the National Governments, there is comparatively little difference in the two countries, except that the United Kingdom derives somewhat more from death duties and income taxes in proportion to the total collection and somewhat less from excises than is the case in the United States.

3. The per capita expenditure in the United States is about 16 percent greater than the per capita expenditure in Great Britain.

4. The per capita public debt of the United Kingdom including the debt of the local subdivisions is approximately two and one-half times the per capita public debt of the United States and the States, including their local subdivisions.

IV. CONCLUSIONS

We have endeavored in this report to furnish a plain statement of those aspects of the British tax system which appear to be worthy of consideration in this country. It has been our purpose in this way to provide a basis for a comparative study of the relative merits of the British system and our own, particularly on the administrative side. No doubt all would agree that many features of our law and practice are better adapted to our conditions than the alternatives which are in effect in Great Britain. Consequently, if changes are to be made in our system, the details should be carefully worked out by men who are thoroughly familiar with the virtues and vices of our present practice. Although much more time and thought must be put upon the solution of questions of administrative procedure and substantive law than we have been able to give in a single summer, it may be helpful to conclude with a few general recommendations outlining the principal ways in which we believe some improvements in our Federal revenue system might be accomplished.

1. DECENTRALIZATION

The assessment and collection of taxes in Great Britain has been kept practically current; appeals are comparatively few; and taxpayers are well satisfied with the fairness and efficiency of the revenue service. These results appear to be mainly due to the British system of decentralization and to the excellent personnel which has been developed. Broad powers are conferred upon the tax inspector in the field, and his work is not subject to repeated and time-consuming reviews by higher revenue officials as is the case in the United States. The local inspector is encouraged in every way to reach a final settlement with the taxpayer, particularly upon questions of fact; and only in the rare case is this settlement subsequently reopened. If errors of judgment or interpretation are found, they are pointed out to the inspector, in order that he may avoid them in the future; but as a general rule the case remains closed. The British employ practically double the number of field men employed in the United States. This larger staff permits more careful inspection of returns, as well as more conferences between the tax inspector and taxpayer to reconcile their differences.

The most frequent criticism directed against the Federal system of administration is not inaccuracy of determinations, but delay in the final disposition of cases. The British, by delegating the authority downward to the tax inspectors, with the higher officials acting principally in an advisory capacity, have avoided this criticism, and have secured finality without serious loss of consistency or accuracy. The good results secured under the British system of administration suggest a more decentralized administration of the Federal income tax and the employment of a sufficient field force to make a more thorough and accurate determination at the first point

of contact with the taxpayer. Because of present practical considerations, it is probable that this plan should first be tried out in one area.

2. PERSONNEL

The British civil-service system provides an admirable personnel for the work of revenue administration. It would obviously be impossible for a highly decentralized system to be administered efficiently without first-rate men in the field. The Treasury further profits greatly by the excellent staff in the higher administrative positions. The civil service is regarded as a career, and as a career it is attractive to the best university graduates. The important positions in the revenue service, including the Board of Inland Revenue itself, are filled from the civil service; the tenure is entirely independent of political considerations. The salaries, though not large, are satisfactory, and in line with salaries paid by business concerns in that country; and the pension system provides adequate security for old age. Promotions are made upon the basis of experience in the service, and of individual merit.

Since the efficiency of any revenue system largely depends upon the ability, training, and integrity of the personnel, we recommend that every effort be made to maintain and to improve its quality in this country. The fact that the turn-over of Treasury employees is much greater in the United States than in Great Britain and that many of our most efficient men find better positions outside the service suggests that steps be taken to remedy this situation. Among the desirable steps are: That the personnel be recruited through the civil service; that security of tenure, satisfactory salary and pension provisions be established; and that the civil-service examinations themselves be studied to make sure that only men with adequate educational background and ethical standards can be admitted to the service. The adoption of these steps should attract the best quality of men to the service, and substantially reduce the turn-over.

3. BOARD PROCEDURE

Although the number of special commissioners is half that of members of the Board of Tax Appeals, it disposes of somewhat more appeals per year, and keeps current with its work. Apparently this result is due to several factors, which appear to be worth consideration: (1) The settlement machinery eliminates nine-tenths of the appeals within a few months after they are taken, without the necessity of a hearing; (2) cases are heard and decided by two commissioners, without review by the remaining members; (3) cases are decided by bench decisions, without any delay and without elaborate opinions; (4) oral argument by counsel, accompanied by discussion between counsel and the commissioners on all moot points, is utilized to get at the heart of the case, and the actual issue between the parties accurately and expeditiously.

4. COURT PROCEDURE

In general, the British taxpayer may not sue to recover a tax which he has once paid. The taxpayer receives formal notice of

assessment ordinarily in September; the tax is payable January 1. In most cases, the assessment has been agreed upon between the inspector and the taxpayer during the summer months, when the former audited the return. If, however, the taxpayer is not in agreement with the assessment, he must appeal therefrom to the general commissioners or the special commissioners within 21 days. If he does not exercise his right of appeal, he cannot afterward petition to revise the assessment, or to recover tax paid, with some few exceptions.

In this country, on the other hand, there is a 3-year period from the time the return is filed within which a claim for refund may be filed. If such a claim is filed, the case remains open until the Commissioner rejects the claim, and then the taxpayer may bring suit in the Federal district courts or the Court of Claims at any time within 2 years of the date of rejection. His suit under different situations may be against the United States, a collector in office, a collector out of office, or even the personal representative of a deceased collector. The procedure in the suit against the United States differs somewhat from that in the suit against the collector.

The complexity and delays incident to this system suggest that Congress should consider (1) whether suits for refund of taxes should not be further restricted; (2) whether, in any event, so great a variety of tribunals and procedures for such suits is necessary or desirable; and (3) whether, to discourage appeals taken only for delay, it would be well to adopt the British system of compelling the losing party to pay the expenses of the winning party incident to the appeal.

5. OTHER IMPROVEMENTS IN ADMINISTRATION

One important condition to successful tax administration is the existence of a spirit of cooperation and good will between the taxpayer and the representative of the Government. Although the British income-tax rates are high, taxpayers appear to accept them with good grace, since they are convinced that the revenue administration is both fair and efficient. The recommendations already made above, which look toward a more speedy and final determination of tax liability, are among the best means for insuring a similar cooperation between the Treasury and the taxpayer here. However, there are other steps which should be considered which will tend to promote cooperation, such as simplification of Bureau administrative practice, revision and codification of administrative provisions of the law, and procedure to improve the relations and contacts between the taxpayer and the representatives of the Treasury. Revision of the law in a way which will give more recognition to equitable principles and which will allow it to be administered with less regard to technicalities would be extremely helpful. More than 10 years ago the Tax Simplification Board performed useful service in recommending improvements in Bureau procedure and forms. This Board consisted of representatives of the public and the Bureau. It appears that a similar board composed of representatives of the public, and of the executive and legislative branches of the Government, might serve a useful purpose in considering complaints and in recommending improvements in our present administrative system.

6. RESTATEMENT AND IMPROVEMENT OF THE LAW

Although our income tax laws are to be commended as examples of unusually skillful draftmanship, their difficulty and complexity is a commonplace. It is possible that, in a complex society, a reasonably simple and comprehensible tax law is out of the question. Nevertheless, an attempt to restate and codify the Federal income tax law would be likely to result in clarification, particularly of the unexpressed and sometimes conflicting theories on which some of the provisions are framed. If the task were well done, it should be possible to secure a statute which would not need substantial changes from year to year, except in its rate schedules.

The work of restatement itself would have to be performed by a few trained men, thoroughly familiar with the present law and with the practice under it. A group of advisers drawn from the Treasury, the bar, and the accounting profession should be formed for consultation and criticism, as in the case of the various restatements of the law fostered by the American Law Institute. To be most effective, it is particularly necessary that the restatement should be made only after the fullest consideration of the present practice. A similar undertaking in Great Britain is just now being completed.

In the course of such restatement, it will probably be found that greater simplicity and equity could be obtained in some instances, and more regard given to economic conditions, if the existing law were changed. Also, some minor changes might result from the mere restatement of the law. It is believed, therefore, that those in charge of the restatement of the law should have direct contact with the proper committees of the Congress, as well as with the group of advisers above mentioned. The following major questions, involving possible changes in the substantive law, might well be considered: (1) Should we depend more on a general (instead of detailed) statement of a statutory rule, coupled with a delegation of discretionary power to the tax administration to make the detailed application; (2) should we eliminate the taxation of capital gains and the deduction of capital losses, in order to secure a more stable revenue and to avoid many complex questions in connection with valuations and reorganizations; (3) should we, as corollary to (2), limit the deductions for depreciation and depletion as has been done in England; (4) should we collect more revenue at the source, especially in the case of income going out of the country; and (5) should we revise our provisions relating to interest, penalties, and filing of returns.

The persons responsible for the restatement of the law should prepare and submit the new legislation to the congressional committees having such legislation in charge, with a full statement of present practice and the reasons for the proposed changes. These committees would, of course, initiate the legislation, after reviewing or revising the prepared draft in the light of a full consideration of the restatement and explanations.

ACKNOWLEDGMENTS

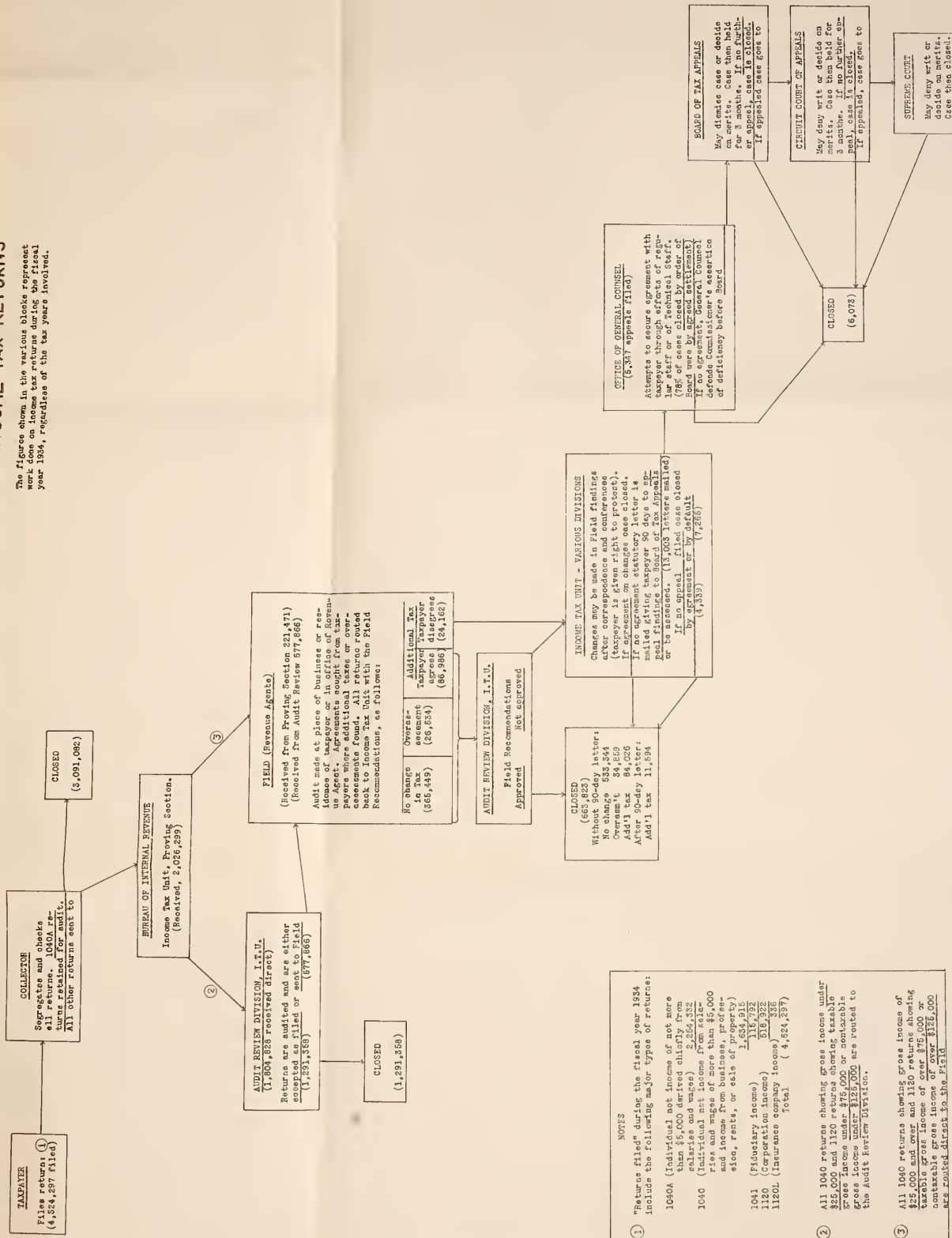
In conclusion, we desire to acknowledge our indebtedness to the British Inland Revenue officials whose uniform kindness and courtesy greatly assisted us in the prosecution of this study. Among those

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(6,073)

OUTLINE OF PROCEDURE LEADING TO CLOSING OF INCOME TAX RETURNS

The figures shown in the various blocks represent work done on the returns of taxpayers during the fiscal year 1934, regardless of the tax years involved.



1944-1945

1944-1945

1. The first section of the report is devoted to a general description of the work done during the year.

2. The second section is devoted to a description of the work done during the year.

3. The third section is devoted to a description of the work done during the year.

4. The fourth section is devoted to a description of the work done during the year.

5. The fifth section is devoted to a description of the work done during the year.

APPENDIX

EXHIBIT A

FEDERAL INCOME TAX PROCEDURE

Although this report is intended merely to describe the fundamental characteristics of the administration of the British tax system, it appears necessary to describe the American administrative system briefly, in order to facilitate a comparison. No attempt will be made to evaluate the relative merits of the two systems.

There are now 64 collection districts in the United States, each in charge of a collector of internal revenue, appointed by the President, with the advice and consent of the Senate. The average number of employees in a collector's office, including the deputies and clerical staff, is about 70. About one-third the employees in this office have a civil-service status and the other two-thirds serve under direct appointment from the collector. The collector chooses his chief assistant. In addition, there are 38 field divisions of the Bureau of Internal Revenue, which do not necessarily correspond with the collection districts. In each district there is located an internal-revenue agent in charge. The average number of employees in a district, including the revenue agents and clerical staff, is about 80. All of these employees are appointed through competitive civil-service examinations. The revenue agents in charge of the districts are selected by the Commissioner. They are selected on a basis of merit from within the civil-service group and retain their civil-service status.

Most income-tax returns are made on a calendar-year basis, and are filed on March 15, at which time at least one-fourth of the tax must be paid. Thus, to the extent of the tax shown on the return, the tax is self-assessed. The returns are filed with the collector of internal revenue of the district in which the taxpayer resides or has his office. He segregates the "small" returns, form 1040A, on which are reported net incomes of not more than \$5,000 derived chiefly from salaries, audits them, conducts any necessary negotiations with the taxpayers, and closes these cases.

During the fiscal year 1934, 4,524,297 returns of all kinds were filed. About two-thirds of these were the 1040A returns of the small-salaried taxpayer and such returns were closed in the field without reference to Washington. The remaining one-third of the returns were sent to the proving section of the Income Tax Unit in Washington after a preliminary check. The proving section, after examination, referred these returns to the Audit Review Division or directly to the revenue agents in the field. In 1934 about 70 percent of the returns received by the Audit Review Division were accepted as filed.

The procedure of handling Federal income tax returns is shown on the accompanying chart.

The internal-revenue agents may, and normally do, inspect the taxpayer's books and records on a field audit in respect to the cases submitted to them. Although accountant's statements and summaries are frequently submitted, the agents ordinarily go behind them to the books of original entry. Five hundred and three thousand one hundred thirty-one audits of this sort were conducted in 1934. The results of the field audits in 1934 were recommendations by the internal-revenue agents in the field as follows: In about three-fourths of the cases (365,449) no change in the return as made; in about one-twentieth (26,534), an overassessment (i. e., the taxpayer had overstated his liability); in one-fifth (111,148) an additional tax due from the taxpayer. The taxpayer receives notice of these recommendations, and may protest, file a memorandum brief, and have a hearing in the local internal-revenue agent's office. Thereafter, the agent's final recommendations are transmitted to Washington for review. The taxpayer may protest these recommendations, and may have a further hearing before representatives of the conference section of the Income Tax Unit which section is directly responsible to the Deputy Commissioner. Although only a single hearing is formally provided for, a number of additional informal conferences may be held from time to time between the taxpayer's representative and officials of the Bureau; additional information may be requested and filed, with a further brief; questions of law may be referred to the office of the Assistant General Counsel for the Bureau, and additional discussions held there; and finally several reviews of any determination will usually be made by superiors of the particular conferees as a matter of course. Not all these steps will occur in every case; but in important ones, they are not unusual. If the Income Tax Unit finally determines that an additional tax is due, a "90-day letter" is sent out, formally advising the taxpayer to that effect; he then has 90 days in which to file an appeal with the Board of Tax Appeals. Thirteen thousand and three letters of this sort were mailed in 1934, and 5,347 appeals were filed, the remainder being settled by agreement or default.

Thus, it will be observed that, excepting the case of the small returns of salaries, the administration of the income tax is centralized in Washington to a considerable extent, since in Washington is determined what returns are to be subjected to a field audit; and the recommendations of the agent in the field are there reviewed, and accepted, modified, or rejected. Further, there is express provision for review within the Bureau at the instance of the taxpayer of recommendations of the internal-revenue agent of which the taxpayer disapproves. Finally, the work appears to be less nearly current than in England, with more investigations or suits pending with respect to past years. Thus, on January 1, 1934, a total of 53,783 returns for 1931 and prior tax years were under investigation or in litigation, involving proposed deficiencies of over \$750,000,000.

The following tabulation is submitted to show the number of personnel in the United States and in the United Kingdom, as well as the cost of collection in the two countries stated as a percentage of gross revenue:

*Comparative tabulation of number of personnel, United States and
United Kingdom inland revenue service*

Year	United States, all paid	United Kingdom ¹		
		Established or civil service	Unestab- lished or noncivil service, whole or part time (does not include General Commis- sioners)	Total
1929.....	12, 273	15, 942	4, 967	20, 909
1930.....	11, 979	16, 463	4, 596	21, 059
1931.....	11, 833	17, 055	5, 042	22, 097
1932.....	11, 716	17, 581	5, 082	22, 663
1933.....	11, 524	19, 189	3, 400	22, 589

¹ Source of data: House of Commons, Sessional Papers covering civil service and revenue.

Cost of collection, United States and United Kingdom

Year	Gross collections		Cost as percentage of gross collections	
	United States	United King- dom ¹	United States	United Kingdom
1929.....	\$2, 939, 054, 375	\$2, 285, 914, 240	1. 17	1. 70
1930.....	3, 040, 145, 733	2, 265, 624, 745	1. 13	1. 69
1931.....	2, 428, 228, 754	2, 408, 142, 540	1. 40	1. 65
1932.....	1, 557, 729, 042	2, 546, 750, 590	2. 17	1. 61
1933.....	1, 619, 839, 224	2, 338, 373, 010	1. 85	1. 74

¹Annual reports of the commissioners of His Majesty's Inland Revenue (pounds converted to dollars at \$5 per pound).

EXHIBIT B

BRITISH CIVIL SERVICE SYSTEM AND EXAMINATIONS

System.—The British civil-service system operates very successfully in that it provides a good method for selection of the men entering the service, a good method of promotion on merit, and a good method of reward tending to retain the efficient men in the service. Following are some of the points worthy of note:

In addition to the special examinations for tax inspectors and the foreign service, there are three separate examinations for those who wish to enter the service, the administrative, the executive, and the clerical. The requirements for these examinations are shown in the latter part of this exhibit. It is important to note that the candidate is given an oral as well as a written examination so that his general appearance and bearing can be appraised as well as his academic knowledge.

The work of a man who has entered the service is under observation by his superior officer and his promotion depends on the efficient and faithful performance of his duties. Thus, promotions of the tax inspectors are passed upon by the principal inspector, deputy

chief inspector, chief inspector, director of establishments, and assistant secretary of establishments. Where the inspectors appeal from their decisions an additional member of the Secretariat sits with those just mentioned for the purpose of hearing the appeal. Except for appointments to certain specialized positions, e. g., special commissioners, valuation divisions and legal staff, a man enters the service at an early age and advances step by step without unreasonably fast promotion. Thus, it is rare to find a man in a position of authority without the necessary background of training and experience.

The salaries paid in the Inland Revenue Department are somewhat higher than in the United States in respect to the administrative and executive officers and somewhat lower in respect to the minor positions carrying little responsibility. When the cost of living in the two countries is taken into account, it is believed that the compensation of the civil-service employees in England is substantially more than in the United States, and is more comparable with the rate of compensation paid in the commercial world. For instance, the chairman of the Board of Inland Revenue receives \$15,000 per annum and the deputy chairman, \$11,000, while our Commissioner of Internal Revenue receives only \$10,000 a year. There are a very considerable number of employees receiving over \$5,000 in the Inland Revenue service in England and a considerably smaller number in the United States. The pay of the clerks (legal advisors) to the general commissioners is very substantial in the more important districts, and may be as high as \$15,000 per annum. On the other hand, in the rural districts the pay may be not in excess of \$1,000.

The provisions for annual leave in Great Britain are far more liberal than in the United States. The amount of leave is based on length of service and position in the service. For instance, the inspectors in charge of the 725 field districts receive on an average about 48 working days leave per year.

The pension system is especially worthy of note since it is this system which has great effect in keeping the most able men in the service. A man is normally retired at 60 and his rate of retirement pay is the number of years in the service divided by eighty and multiplied by his average salary for 3 years prior to retirement. For instance, if a man has worked for 40 years in the service, he draws one-half pay for life. In addition, he is paid a lump sum on retirement equal to the number of his years of service divided by thirty and multiplied by his salary. Thus, if a man enters the service at 20 as many do, and retires at 60 when he is drawing a \$7,500 salary, he is paid \$10,000 in cash and \$3,750 per annum for life.

The British civil-service system thus opens up a lifetime career for a man with the assurance of fair pay, proper recognition, and a competency for his old age.

Examinations.—The following extracts are from the Civil Service Commission Pamphlet Containing Instructions and Information for the Recruitment of Services of the Tax Inspector Group:

The limits of age for these situations are 21 and 24; candidates must be of the prescribed age on September 1 of the year in which the examination is held. (A candidate who attained the lower limit of age on the governing date would be admitted, but a candidate who attained the upper limit of age on that date would not be admitted.)

In reckoning age for competition the following allowances will be made, viz:

(a) Candidates who served or are serving in the Army, Navy, or Air Force may deduct from their actual age any time during which they have so served.

(b) Candidates who have served in any established civil situation to which they were admitted with the certificate of the civil service commissioners may deduct from their actual age any time not exceeding 2 years which they may have spent in such service.

Candidates must satisfy the civil service commissioners as to their health and character. Female candidates must be unmarried or widows, and will be required to resign their appointments on marriage.

The examination will be in the following subjects:

SECTION A		<i>Maximum marks</i>	SECTION B—continued		<i>Maximum marks</i>
1. Essay-----		100	16. Roman law-----		100
2. English-----		100	17. French-----		200
3. Present day-----		100	18. German-----		200
4. Everyday science-----		100	19. Italian-----		200
5. Viva voce-----		300	20. Spanish-----		200
			21. Russian-----		200
SECTION B			22. Latin-----		200
6. Business organization-----		100	23. Ancient Greek-----		200
7. Accounting-----		100	24. English history-----		200
8. Economics-----		200	25. European history-----		200
9. Banking and exchange-----		100	26. Statistics-----		100
10. Industrial history-----		100	27. Lower mathematics-----		200
11. Contracts and torts-----		100	28. Higher mathematics-----		200
12. Law of trusts, etc-----		100	29. Geography-----		200
13. Real and personal property-----		100	30. Physics-----		200
14. Constitutional law-----		100	31. Chemistry-----		200
15. Law of evidence-----		100	32. Botany-----		200
			33. Geology-----		200

In section A candidates take all subjects; in section B the candidate may offer subjects up to a maximum mark of 600, provided that not more than 4 of the subjects numbered 11 to 16, or more than 2 of the subjects numbered 17 to 23, or more than 2 of the subjects numbered 29 to 33 may be offered.

A candidate desiring to offer any of the subjects 30 to 33 must produce evidence satisfactory to the civil service commissioners of laboratory training in an institution of university rank. For geography, other equivalent training will be required.

Candidates must obtain such an aggregate of marks in the examination as a whole, apart from the viva voce marks, as to satisfy the civil service commissioners.

The pamphlet contains a brief description of the compulsory and other subjects named. The description of compulsory subjects is quoted below. Titles of the other subjects are largely self-explanatory.

ESSAY

1. A choice of subjects will be given.

ENGLISH

2. This paper, like the essay, is intended to test the understanding of English and the workmanlike use of words.

PRESENT DAY

3. Questions on contemporary subjects, social, economic, and political. A liberal choice of questions will be given. Effective and skillful exposition will be rewarded.

EVERYDAY SCIENCE

4. In this subject such knowledge will be expected as candidates will have who have studied science intelligently at school and have since then kept their eyes open. A liberal choice of questions will be given. Attention should be paid to orderly, effective, and exact expression.

5. The examination will be in matters of general interest, not in matters of academic interest; it is intended to test the candidate's alertness, intelligence, and general outlook, and other personal qualities of value for the situation or situations to be filled from the competition. The candidate will be afforded an opportunity of furnishing the record of his life and education. On the interview and record the commissioners judge the value of the candidate's personality for each situation for which he is entered. His value may differ for different situations, and in that case the mark by which the commissioners express their decision will differ for different services.

The administrative examination covers the same required subjects except that elementary economics may be substituted for present day by candidates for certain of the Government branches and auxiliary language is added as a compulsory subject in certain other branches. The optional subjects are also increased from 28 to 60 and the required total marks in optional subjects differ slightly, depending on the branch of service. The age limits are 21-24.

The executive examination covers three required subjects—English, arithmetic, and general knowledge—with a choice of 3 or 4 of 13 optional subjects. (To give effect to this provision the commissioners make suitable additions to the marks gained by candidates who offer 3 optional subjects or suitable deductions from the marks gained by candidates who offer 4 subjects.) The age limits are 18 and 19.

The required subjects for the clerical examination are English and arithmetic, and a choice is given of 3 or 4 out of 5 optional subjects. The age limits are 16 and 17.

Those who enter the civil service at the earlier ages through the executive or clerical examinations, have an opportunity to prepare for the higher examinations.

EXHIBIT C

SYSTEM OF APPEALS IN THE UNITED STATES

The United States Board of Tax Appeals corresponds fairly closely to the special commissioners in function. The Board consists of 16 members, appointed by the President with the advice and consent of the Senate for 12-year terms. The present Board consists entirely of lawyers (although the statute does not require it); eight served in the Bureau at some time prior to appointment. The Board is a quasi-judicial body, entirely independent of the Treasury.

The Board has no powers to make assessments, but is empowered to hear appeals from determinations of the Commissioner of Internal Revenue that a deficiency exists. In the fiscal year 1933, 5,930 appeals were filed with the Board and 67 appeals were reopened. The Board had pending 20,536 appeals at the beginning of that fiscal year. During the year 8,386 appeals were disposed of. The Board actually heard and decided 1,537 on the merits; but during the year 5,727 were disposed of by agreement between the technical staff of the Bureau or the attorneys of the office of the general counsel

on the one hand and the taxpayer on the other. The remaining 1,122 cases were defaulted for nonappearance or were dismissed for want of jurisdiction. Eighteen thousand and eighty appeals were pending at the end of the year, involving deficiencies in taxes, as determined by the Bureau, of \$772,476,433.84, substantially the same amount as the total collections of income and estate taxes in that fiscal year.

The proceeding is instituted by a formal petition by the taxpayer, which must be answered by the commissioner. Ordinarily a year elapses before a hearing is held. The hearing is conducted like a trial in a court, generally before one member, but sometimes before three. At the hearing the evidence is normally taken down by a stenographer to form the record. The Board rarely hears an oral argument by counsel; the usual procedure is to allow 60 days for printed briefs to be filed. The Board rarely, if ever, decides a case from the bench; the average period which elapses between the hearing and the decision is 9 months. Difficult cases are referred to and considered by the entire Board. The decisions are published as rendered, usually with a finding of facts and opinion approximating a judicial opinion in style and length.

The losing party may obtain a review of the Board's decision as a matter of right by filing a petition for that purpose within 3 months after the decision is rendered. Since the decision is frequently that the tax liability be recomputed in the light of the Board's opinion, and is therefore not finally entered for some time after the Board member hands down his opinion, the time between the hearing before the Board and the review on appeal is likely to be at least a year, and may be much longer. Furthermore, the conduct of appeals on behalf of the Government is in the hands of attorneys in the Department of Justice, whereas the proceedings before the Board are conducted by attorneys in the Bureau; hence some time must be allowed for the former to familiarize themselves with the record. The appeal is heard by the Court of Appeals of the District of Columbia or by one of the circuit courts of appeals. Here there will be an oral argument, followed by printed briefs on both sides. The decision will rarely be made from the bench, and several months will usually elapse before it is rendered.

During the fiscal year 1933, 571 petitions for review were filed. In the 448 decisions rendered by the appellate courts during that year, the Board was reversed in about 25 percent of the cases. During the fiscal year 1934, 780 Board decisions were appealed. The appellate courts handed down in that year 579 decisions, in which the Board decision was affirmed in 418, modified in 9, and reversed in 161.

EXHIBIT D

STATISTICS ON APPEALS IN UNITED STATES

The following figures on tax appeals in the United States are taken from the Annual Report of the Commissioner of Internal Revenue for the fiscal year 1933 (p. 19) :

Cases in circuit courts on appeal from the Board of Tax Appeals

Pending at beginning of fiscal year.....	816
Appealed during fiscal year.....	571
Total	<u>1,387</u>
Closed during fiscal year.....	448
Taken to Supreme Court.....	52
Total number taken out of circuit courts.....	<u>500</u>

The Supreme Court closed 19 of the 52 appeals to it during the year. In other words, neither appellate court kept abreast of its current work.

These figures do not include suits originally begun in the United States District Court or the United States Court of Claims, or those thereafter appealed from these courts to the circuit courts of appeals or the Supreme Court. These are shown in the Commissioner's report, as follows (p. 23):

Pending in court July 1, 1932.....	3,931
Commenced during the year.....	1,496
Total	<u>5,427</u>
Cases closed during the year.....	1,420
Pending July 1, 1933.....	<u>4,007</u>
Cases tried.....	342
Cases decided.....	426

In other words, the total number of court decisions in Federal tax cases in this country was about 18 times that in England, although the number of returns filed by taxpayers was approximately the same.

EXHIBIT E

INCOME TAX, UNITED KINGDOM

YEAR OF ASSESSMENT AND HOW THE ASSESSMENT IS MEASURED

Every assessment and charge to tax shall be made for a year commencing on the 6th day of April and ending on the following 5th day of April, except where under the provision of this act weekly wage earners are to be assessed and charged half-yearly (sec. 2, 1918 act, as amended).

The income tax for the year of assessment, as defined above, is due on the 1st day of January following the beginning of such year. For instance, the income tax for the year of assessment 1933-34 (Apr. 6, 1933, to Apr. 5, 1934, inclusive) is due on January 1, 1934. The income tax payable by individuals on earned income (profits, salary, etc.) is payable in two equal installments on January 1 and July 1. There are five schedules (A, B, C, D, and E) under the income tax and the tax under each schedule is paid separately. In spite of the fact that the tax is paid for the year of assessment, the amount of income assessed may be measured by the profits of some prior year. In the case of assessments under schedule D (trading, profits, etc.) and schedule E (income from employment), the income assessed for a given year of assessment is measured by the income of the pre-

ceding year; for example, the income assessed for the assessment year 1933-34 is measured by the profits from any trade, profession, or vocation for the calendar year 1932 (if the taxpayer's accounts are on a calendar-year basis). In the case of taxed-at-the-source income, and schedule A income, the income for income tax purposes is the income of the year of assessment. The income tax for the assessment year 1933-34 is payable on January 1, 1934. Fiscal year returns are permitted in the United Kingdom in respect of profits from trades, professions, and vocations on practically the same basis as now used in the United States under the Revenue Act of 1934. The British have never prorated the tax (unless for exceptional purposes) so as to apply different rates of tax to the same year's income as was formerly the practice in the United States. The taxpayer's profits for the first fiscal year ending on or before April 5 are used as the measure of the income for the year of assessment beginning on the April 6 following. For instance, if a taxpayer's accounting period ends on June 30, his income from any trade, profession, or vocation for income-tax purposes for the year of assessment 1933-34 will be measured by his profits for the fiscal year ending June 30, 1932. If the taxpayer's accounting period ends on March 31, then for the same assessment year his income will be measured by his business profits for the fiscal year ending March 31, 1933. Taxed-at-the-source income, schedule A income, and employment income must always be returned on the Government's fiscal year basis ending April 5.

Special rules apply in cases where the taxpayer begins business and goes out of business. For example, suppose a taxpayer starts business on April 6, 1932, and closes his account on the calendar year basis, namely, on December 31, 1932. He will be assessed first for the year of assessment 1932-33, and his income will be measured by his actual profits for the 9 months of 1932 plus the profits (usually estimated pro rata) for 3 months additional. When he is assessed for 1933-34, his income will be measured a second time by his first year's profits. The taxpayer may, however, elect to have the assessment for the first 3 years adjusted to the actual profits of the year. On the other hand, if this same taxpayer goes out of business on December 31, 1937, his income tax liability for the year 1937-38, which but for this fact would have been measured by the profits of 1936, is corrected to charge tax for 1937-38 on the actual profits made for the 9 months to December 31, 1937, and the 1926 act, in section 31, provides also for the revision of the 1936-37 tax liability. This special rule was provided in the act of 1926 and an incidental effect was to prevent tax avoidance by cessation of business in a year the actual profits of which were greater than the profits of the preceding year.

The basis for the surtax may be said to lag 1 year behind the income tax. The surtax was substituted for the supertax, for the purpose of simplification, in the act of 1927. Section 42 of that act provides as follows:

Surtax shall be due and payable as a deferred installment of income tax on or before the 1st day of January next after the end of the year of assessment for which it is payable, except that surtax or any part of any surtax

included in an assessment which is signed and allowed on or after the said 1st day of January shall be deemed to be due and payable on the day next after the day on which the assessment is signed and allowed.

It has already been shown that (in the case of a taxpayer on the calendar-year basis) the income tax for the year of assessment 1933-34 is measured by the profits of the year 1932 and is payable on January 1, 1934. In the case of the surtax, due to the application of section 42, quoted above, the tax payable on January 1, 1934, is based on the business profits of the year 1931, and surtax is not payable on 1932 profits until January 1, 1935. Income from employments and taxed-at-the-source income are treated somewhat differently, and the practical way in which the surtax is handled may best be shown by a hypothetical case, as follows:

Mr. A. closes his accounts on December 31.

His 1932-33 income-tax return is based on:

- (1) Trade profits of £5,000 earned in 1931;
- (2) Plus directors' fees of £1,000 received up to April 5, 1932;
- (3) Plus taxed-at-source income of £500 received up to April 5, 1932;
- (4) Plus income of £200 under schedule A received up to April 5, 1932.

His 1933-34 income-tax return is based on:

- (5) Trade profits of £6,000 earned in 1932;
- (6) Plus directors' fees of £1,500 received up to April 5, 1933;
- (7) Plus taxed-at-source income of £700 received up to April 5, 1933;
- (8) Plus income of £300 under schedule A received up to April 5, 1933.

His surtax payable on January 1, 1934, will be computed from both the above returns, the tax being assessed on the income under the following item numbers shown above: (1), (2), (7), and (8).

Ordinarily the taxpayer does not make a surtax return as was the practice in the case of the supertax. He is permitted to make a surtax return if desired, but ordinarily such return is made by the inspector and assessed by the special commissioners.

It is important to keep in mind throughout a study of the British income-tax law that the fundamental conception is that a man is paying the tax on his income for the year of assessment, even though such statutory income may be measured by the actual income of a prior year.

The general procedure followed in respect to the assessment and collection of the tax may be seen from the following example:

Year of assessment, 1933-34.

Returns sent to taxpayer on or about April 6, 1933.

Returns due from taxpayer about 21 days later.

Tax assessed about September 1933.

Tax payable January 1, 1934.

The taxes arising under the income-tax schedules and the surtax schedules are all due on January 1, but individuals may pay income tax arising on earned income out of schedules B, D, and E in two equal installments, namely, on January 1 and on July 1.

Appeals must be made within 21 days of the time when assessment against the taxpayer is made. In most cases appeals are to the general commissioners, but in some cases they are made to the special commissioners. They cannot be taken successively to both.

EXHIBIT F

INCOME TAX, UNITED KINGDOM

COLLECTION AT THE SOURCE

A taxpayer's income for income-tax assessment purposes must include income which he pays away to any other person entitled to a share of his profits, or which he pays to any other person under a bond or covenant. The law gives such a taxpayer the right to deduct the tax paid from the person to whom he pays such profit or such charge.

In the case of collection at the source, the payer becomes, in a practical way, the tax collector of the Government. The amount of the payments which he makes is the same as he would have paid if there was no collection at the source, since he is entitled to deduct from the amount paid the payee the tax which he pays to the Government.

The principal cases of deduction at the source may be classified and briefly described as follows:

(1) *Rents*.—Income tax under schedule A is charged in respect to lands, tenements, and hereditaments. There are some exceptions to this rule which are not important here. The income is measured by the annual value of such property. Annual value means, roughly speaking, the annual rent paid for the property or the estimated annual rent which would be paid for the property if it were rented. In general, it is the occupant and not the owner who reports the income and pays the tax, unless the occupant and the owner are the same person, in which case, of course, the owner pays. This system of collecting tax from the tenant is one of the important cases of tax collected at the source.

The tenant is allowed to deduct and retain the tax paid by him to the Government from his rent. He pays and deducts the tax on the annual value, not upon the amount of the rent, unless the annual value exceeds the rent. The annual value of property is determined every 5 years.

The tenant cannot deduct the tax from his rent until he has paid it. In the usual case, the tenant would pay the tax on the annual value of the property assessed for 1933-34 on January 1, 1934, and would deduct such tax from his next rent payment. In cases where because of the termination of the lease or for other cause there is no further rent payment, the tax may be recovered from the landlord as a debt.

As far as the landlord of rented property is concerned for the purpose of the income tax, he is allowed a deduction from his tax of the tax deducted at the source by the tenant. For the purpose of the surtax, however, the gross rent received must be included in the landlord's taxable income.

(2) *Interest and royalties*.—Tax is deducted at the source in the case of nearly all interest payments, except in the case of interest paid to recognized banks and building associations. Interest is usually chargeable under schedule D, except in the case of interest on Government securities, which is chargeable under schedule C.

The recipient of the interest which has thus been taxed at the source is, of course, entitled to allowance for such tax in his income-tax return. The tax having been deducted at the full standard rate, the recipient may in certain cases (if his income is small), be entitled to a refund of part or all of the tax withheld at the source.

Royalties are treated in a similar manner to interest. It should be observed, however, that where the royalty represents a share of the profits which are subject to tax then the payer may retain the tax deducted at the source instead of remitting it to the Government as in the usual case. Since in computing business profits interest payments are not allowed a deduction, it is also true that the payer of the interest may retain the tax thereon, inasmuch as the profits out of which the interest was paid have already been charged with the tax.

(3) *Annuities or similar annual payments.*—In the ordinary case of annuities payable for life, the whole of the annuity is regarded as income and tax is collected at the source. But where an annuity certain is purchased, which is payable for a fixed term of years independent of any contingency, only that part of the annuity which represents interest is taxable as income.

(4) *Dividends.*—It has been stated that 70 percent of the British income tax is collected at the source. This is largely because the tax paid by a corporation on its income is considered as a tax collected at the source. However, when the corporation deducts the tax from the dividend, the tax has already been paid by the corporation, and it retains the amount deducted to recoup itself in whole or in part for the tax already paid on its profits. It may happen, in fact, that the profits have been taxed at a different rate from that used in making the deduction from the dividend, and, therefore, there may be a profit or a loss to the corporation on the transaction according to the facts in the case.

The rule is that a corporation is charged on the full amount of its profits under schedule D before any dividend is taken into account, but the corporation is entitled to deduct and retain from dividends paid an amount computed at the standard rate for the year in which such dividend is due and payable.

The following quotation from *The Law of Income Tax*, by E. M. Konstam, K. C., on the subject of collection at the source, is instructive as bearing on the question of foreign tax credits allowed in the income-tax law of the United States:

It is under the above rules that shareholders in companies and so forth have the income tax upon their dividends deducted against them "at the source" (d). For a long time it was held that a company pays the income tax on behalf of the shareholders amongst whom its profits are distributed, while the shareholders, as the persons beneficially concerned, ultimately bear the burden (e). A more modern view was expressed in the following passage: "Plainly, a company paying income tax on its profits does not pay it as agent for its shareholders. It pays as a taxpayer, and if no dividend is declared the shareholders have no direct concern in the payment. If a dividend is declared, the company is entitled to deduct from such dividend a proportionate part of the amount of the tax previously paid by the company; and in that case the payment by the company operates in relief of the shareholder. But no agency, properly so called, is involved" (f). Recently, however, it has been said "that the company is one taxpayer and that each individual shareholder is another and a separate taxpayer on whose behalf the company deducts a tax when it pays a dividend, but on whose behalf it is not paying the tax when it

pays its own tax to the Crown"; and accordingly it has been held that where a company in paying the dividend deducts a larger amount of tax than it has previously paid (because it has paid tax on an income smaller than the amount distributed) the whole of the dividend distributed to the shareholder, together with the tax deducted, forms part of his total income (ff). (Quotation from pp. 269-270, *The Law of Income Tax*, Konstam.)

EXHIBIT G

INCOME TAX, UNITED KINGDOM

CAPITAL GAINS AND LOSSES

In Great Britain capital gains are not taxed and capital losses are not allowed to be deducted from income, unless the gains or losses are realized in connection with carrying on a regular business.

It has oftentimes been stated that if a man had more than 10 or 12 transactions on the stock market, he would be subject to a tax on his capital gains. This statement was investigated but could not be substantiated. If a man devotes his entire time to speculation on the stock market, then he will be taxed; but if he has a regular business and his stock speculation is merely incidental, he will not be subjected to any tax upon the gains.

Dealers in stocks and bonds are taxed on their transactions exactly as if the stocks and bonds constituted their stock in trade. That is, a dealer in stocks and bonds must inventory such securities at cost or market price, whichever is lower, exactly as a boot and shoe dealer would inventory his boots and shoes. Banks are treated similarly to dealers in securities. They are taxed upon their profits and are allowed their losses.

It is to be noted that the general public in Great Britain do not speculate on the stock market to the extent to which the general public in the United States speculate. Furthermore, there are fewer reorganizations of corporations and hence fewer offerings of new stock upon the market.

EXHIBIT H

INCOME TAX, UNITED KINGDOM

DEPRECIATION AND OBSOLESCENCE

Rule 6, applicable to schedule D, cases I and II, of the act of 1918 provides in part as follows:

(1) In charging the profits or gains of a trade (c) under this schedule, such deduction may be allowed as the commissioners having jurisdiction in the matter may consider just and reasonable, as representing the diminished value by reason of wear and tear during the year of any machinery or plant used for the purposes of the trade and belonging to the person by whom it is carried on.

(2) Where machinery or plant is let to the person by whom the trade is carried on, on the terms of his being bound to maintain the same and deliver it over in good condition at the end of the lease, the machinery or plant shall be deemed to belong to that person for the purpose of this rule.

The application of this rule was extended by section 16 of the act of 1925 to profits (whether assessable under schedule D or otherwise), arising from professions, employments, vocations, or offices, and to profits from lands, including woodlands, ascertained otherwise than by reference to assessable value.

In respect to the arbitrary allowance, allowed in lieu of depreciation on lands and buildings, where the tax is charged upon the annual value of such lands and buildings estimated otherwise than by relation to profits, see rule 7 applicable to schedule A of the act of 1918.

In Great Britain depreciation is allowed upon a written-down cost of the depreciable property. The rate used is not varied in the general case, and, therefore, it results that the depreciation is larger in the first year than in any other succeeding year. For instance, suppose a man bought a machine for £100 and that its life was estimated to be 30 years. The rate allowed would be $7\frac{1}{2}$ percent, which would write the value down in 30 years to about £9.64. The first year's depreciation would be £7.5; the second year's depreciation would be about £7; the third year's depreciation would be about £6.4; the tenth year's depreciation would be about £3.7; the twentieth year's depreciation would be about £1.7; and the thirtieth year's depreciation would be about £0.8. If the machine lasted longer than 30 years, of course, depreciation would be allowed in diminishing amounts each year. It is obvious as a mathematical proposition that no matter how long the machine may last, the value will never be written down to zero, although the written-down value will approach zero as a limit. Depreciation tables, showing how the written-down value of each year is arrived at under a uniform rate, may be found in an official publication entitled "Tables of Tax on Net Income." Information was received at the office of the principal inspector of taxes that the life of machinery shown in the pamphlet on depreciation, published by the Bureau of Internal Revenue in the United States, checks fairly closely with the life estimated by the British authorities.

It is obvious, however, that the British have not been obliged to cope with theoretical values representing plant costs. For instance, they have no March 1, 1913, valuation. They never had the loophole which existed in the United States for a number of years, whereby through reorganization a company could write up the depreciation basis of its plant and property.

Furthermore, in setting the rates of depreciation the British figure on an average to allow only about 90 percent of the original cost to be returned over the life of the property. Or, looking at the matter in another way, they assume that the scrap value of the equipment will be about 10 percent of its original cost.

In Great Britain, depreciation is not inclusive of obsolescence as in the United States. The term "obsolescence", as used in Great Britain, corresponds more closely with the American term "loss of useful value." That is, in Great Britain, obsolescence is allowed when realized, and if a piece of machinery is abandoned before the end of its originally estimated life, then the remaining value is allowed to be charged off, provided that such piece of equipment is

replaced. If a taxpayer merely abandons equipment and does not replace it, he is not allowed a loss.

During the consideration of the Revenue Act of 1934, the Treasury announced the policy of a general tightening up of the administration of depreciation allowances. One phase of this program involves the determination of depreciation under methods analogous to the declining balance method used in Great Britain. The net result of the Treasury policy has been to reduce substantially the depreciation allowances.

It should be noted that the British give an allowance for the depreciation of leased machinery, the allowance being given to the lessor or the lessee according to which bears the actual cost of maintaining or restoring the plant. On this point we have had much controversy in the United States, the Bureau having held that in such cases neither the lessor nor the lessee was entitled to depreciation. The British rule seems more reasonable.

EXHIBIT I

List of important stamp duties, showing rates ¹³

	£	s.	d.
Admission to the degree of barrister.....	50	0	0
Admission as solicitor or proctor.....	25	0	0
Admission to any inn of court.....	25	0	0
Admission as fellow of College of Physicians.....	25	0	0
Admission as burgess.....	1	0	0
Admission to faculty as notary public.....	30	0	0
Affidavit or statutory declaration.....	0	2	6
Alkali works (registration).....	10	0	0
Appointment of new trustee.....	0	10	0
Appraisement or valuation:			
Not exceeding £10.....	0	0	6
Graduated to exceeding £500.....	1	0	0
Apprenticeship indentures.....	0	2	6
Arms, grant of.....	10	0	0
Articles of clerkship to solicitor.....	80	0	0
Award.....	0	10	0
Bank note for money payable on demand (graduated):			
On £1.....	0	0	5
On £10.....	0	1	9
On £100.....	0	8	6
Bankers' annual license.....	30	0	2
Bankers' checks.....	0	0	2
Bills of exchange:			
Demand.....	0	0	2
Not on demand: ¹⁴			
Inland.....	(¹⁵)		
Foreign.....	(¹⁶)		
Bill of lading.....	0	0	6
Bond for securing an annuity per £5.....	0	2	6
Bond on securing letters of administration.....	0	5	0
Capital share duty per £100 of nominal capital.....	0	10	0
Capital loan duty, on each £100.....	0	2	6

¹³ Source: Whitacker's Almanac for 1934.

¹⁴ Both taxes graduated.

¹⁵ About 1s. per £100.

¹⁶ About 6s. per £100.

Certificate (annual) required of every solicitor, law agent, notary public, etc.....	£	s.	d.
Certificate of birth, marriage, death, etc.....	9	0	0
Checks, payable on demand.....	0	0	1
Contract note for purchase of stock and securities (graduated):			
£5 to £100.....	0	0	6
To over £20,000.....	1	0	0
Conveyance or transfer of—			
Bank of England stock.....	0	15	6
Colonial stock.....	0	5	0
Conveyance or transfer of stock or shares (graduated):			
Less than £5.....	0	1	0
£5 to £10.....	0	2	0
£10 to £15.....	0	3	0
£15 to £20.....	0	4	0
£20 to £25.....	0	5	0
For each additional £25 up to £300.....	0	5	0
For each additional £50 over £300.....	0	10	0
Conveyance or transfer of other property same as rates on stocks and shares.			
Copy or extract (attested).....	0	1	0
Declaration of trust.....	0	10	0
Deed (miscellaneous).....	0	10	0
Deputation of a gamekeeper.....	0	10	0
Faculty or dispensation.....	30	0	0
Hire, purchase agreements:			
Under hand.....	0	0	6
Under seal.....	0	10	0
Inebriate's retreats licenses.....	5	0	0
Insurance policies, life:			
For sum not exceeding £10.....	0	0	1
£10 to £25.....	0	0	3
£25 to £500 (per every £50).....	0	0	6
£500 to £1,000 (per every £100).....	0	1	0
Over £1,000 (per every £1,000).....	0	10	0
Insurance policies, indemnity:			
Under hand.....	0	0	6
Under seal.....	0	10	0
Insurance policies:			
Accidental death.....	0	0	6
Marine, various.....			(¹⁰)
Leases, dwelling houses:			

Annual rent	Not exceeding 35 years			Between 35 and 100 years			Over 100 years		
	£	s.	d.	£	s.	d.	£	s.	d.
To £5.....	0	1	0	0	6	0	0	12	0
From £5 to £10.....	0	2	0	0	12	0	1	4	0
From £10 to £15.....	0	3	0	0	18	0	1	16	0
From £15 to £20.....	0	4	0	1	4	0	2	8	0
From £20 to £25.....	0	5	0	1	10	0	3	0	0
From £25 to £50.....	0	10	0	3	0	0	6	0	0
From £50 to £75.....	0	15	0	4	10	0	9	0	0
From £75 to £100.....	1	0	0	6	0	0	12	0	0
Over £100 per £50.....	0	10	0	3	0	0	6	0	0

Letters of marque and reprisal.....	£	s.	d.
Letters patent, grants to any honor or dignity, for example:	5	0	0
Duke.....	350	0	0
Baron.....	150	0	0
Baronet.....	100	0	0
Lunacy act, license for house.....	0	10	0
Lunatic, grant of custody of.....	2	0	0

¹⁰ About 6d. per £100.

	£	s.	d.
Marketable securities, transferred for delivery:			
Colonial government securities per £100-----	0	5	0
Colonial municipal securities per £10-----	0	2	0
Other securities per £10-----	0	4	0
Mortgage, bond, etc:			
Not exceeding £10-----	0	0	3
£ 10 to £ 25-----	0	0	8
£ 25 to £ 50-----	0	1	3
£ 50 to £100-----	0	2	6
£100 to £150-----	0	3	9
£150 to £200-----	0	5	0
£200 to £250-----	0	6	3
£250 to £300-----	0	7	6
Over £300 for each £100-----	0	2	6
Notarial act of any kind-----	0	1	0
Passport-----	0	0	6
Patent (on invention) (total)-----	5	0	0
Power of attorney:			
For receiving prize money or wages-----	0	1	0
For receipt of money-----	0	5	0
For receipt of dividend and interest-----	0	1	0
Proxy-----	0	0	1
Any other kind-----	0	10	0
Protest of bill of exchange-----	0	1	0
Receipts of £2 and upward-----	0	0	2
Revocation of trust-----	0	10	0
Scrip certificate-----	0	0	2
Settlements (deeds of)-----	0	5	0