REFORM OF INCOME TAX ADMINISTRATION

A PROPOSED SCHEDULE

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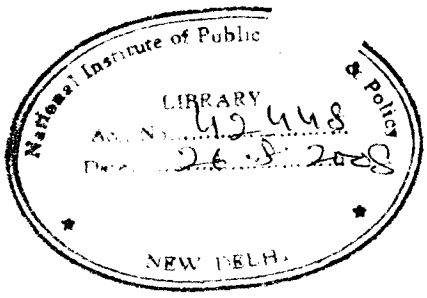

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INTRODUCTION

The Indian Economy embarked on a programme of structural reform and liberalization in 1991. The programme was aimed at removing bureaucratic controls on economic activity, reducing the public sector bias in its laws and rules, allowing greater initiative to the private sector and becoming more closely integrated with the international economy. An integral part of the reforms was the overhaul of the tax system. The tax system, as it existed at the start of the reform process, was riddled with provisions of various sorts designed to serve non-economic objectives, in particular the conferring of special benefits on the public sector and on priority sectors, activities or regions. Such provisions rendered all major taxes opaque and complicated. Furthermore, relatively high tax rates had, it was believed, led to rampant evasion of taxes with attendant pressure on the government budget and concomittant economic distortions. The existing tax administration machinery was also seen to be hopelessly outmoded and unable to cope with its responsibilities even with the existing, comparatively small, taxpayer population.

Reform of direct taxes was considered important to introduce greater taxpayer equity, induce greater compliance, remove provisions with no economic justification and improve the climate for foreign investment. The government constituted the Tax Reforms Committee (TRC) in August 1991, under the chairmanship of Professor Raja J. Chelliah to recommend measures for the reform of Central taxes. The Interim report of the Committee was submitted to the Government in December, 1991 and the Final Report - Part I was submitted in August, 1992. All recommendations on direct taxes were contained in these two reports. It was thought that the Interim Report would be implemented through the 1992 budget or, at the latest, the 1993 budget. In addition, recommendations for the reform of tax administration contained in the Final Report - Part I were expected to be speedily initiated.

In this note we propose a schedule for the implementation of administrative reform. The rationale for the different stages in the schedule is also discussed. As background, Annexure I examines the progress of the Government in implementing the TRC's recommendations (including recommendations for substantive reform). The exercise is instructive in that it provides a clear picture of the Government's lack of demonstrated commitment to date to serious fiscal reform as part of its liberalization efforts.

Before identifying operational principles of reform, it may be useful to provide an overview of the progress made in implementing tax reform proposals of the TRC.

PROGRESS IN IMPLEMENTING TRC RECOMMENDATIONS

This review is organized according to the various guiding principles of tax reform put forward by the TRC. However, it can be pointed out at the outset that the budgets of 1992 and 1993 show little if any evidence of acceptance of these principles.[1]

TRC Principle 1. The tax structure once established must remain stable unless economic conditions change radically. Ad hoc changes undermine rationality and re-introduce complications.

Amendments in Recent Budgets[2]	*1992*	*1993*
Number of Tax Law Sections Changed	*89*	*36*
Number of changes for 1993 announced in 1992	-	*2 (1 implemented)*
Number of future changes announced	*4*	*1*
Percentage of TRC Interim Report recommendations implemented[3]	*22*	*Nil*

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1. All references to sections or rules are to the Income Tax Act and Rules.

2. Income tax measures in the 1992 and 1993 budgets are listed in the third section below.

3. 17 of the 78 items listed here (counting each tax slab as a recommendation and ignoring guiding principles) had been implemented.

TRC Principle 2. Moderate tax rates and broader bases are required.

Amendments in Recent Budgets	*1992*	*1993*
Base Broadening Amendments	*7*	*2*
Base Narrowing Amendments	*10*	*11*
Average Effective Tax Rate[4]	*7.7%*	*8.5%*

TRC Principle 3. The Government should announce that the practice of introducing tax law changes in each year's budget is being given up and that only structural reform will be carried out according to an announced agenda. After public debate changes can be introduced, if absolutely necessary, once in five years.

No announcement made yet.

TRC Principle 4. A simple tax system with few rates and exclusions, leaving little discretionary room to officials to interpret the law, is needed.

Amendments in Recent Budgets	*1992*	*1993*
Number of simplifying amendments	*8*	*7*
Number of complicating amendments	*3*	*Nil*

TRC Principle 5. Tax administration should be modernized and tax enforcement improved.

No broad-based action has yet been taken on administrative reform.

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4. The Average Effective Tax Rate is for persons with 1989-90 taxable incomes upto one million rupees. It was 10.6% in 1991.

OPERATIONAL PRINCIPLES OF REFORM-PHASING

Principle 1. *The organization to be reformed must be made ready to co-operate with reforms.*

Antagonism from Income Tax Department staff will defeat any reform programme. There are genuine problems and handicaps under which Department staff suffer, many of which have been identified for reform by the TRC. Removal of these handicaps must be initiated, or at least announced, prior to other reforms in order to reduce staff resistance. At the same time, reform of administration per se should be given wide publicity among the staff to bring about enthusiasm for reform as well as fear of the consequences of being left out of the reform process. In particular, a dialogue should be started with staff associations and the sanction of enhanced facilities or benefits could be made contingent on visible improvement in administrative functioning. Measures identified by the TRC which will aid in motivating officers and staff towards reform include:

i. Enhanced prestige and status: by upgrading the rank of the Chairman and members of the CBDT.
ii. Increased financial and functional autonomy.
iii. Improved availability of residential and office accomodation and increased outlay on basic infrastructure.
iv. Special pay for particular duties [such as Departmental (legal) Representatives].
v. Less political interference in appointment and posting of Department staff through a self-denying ordinance by the political authority.
vi. Setting-up decentralized staff welfare funds under Commissioners or Chief Commissioners.

Principle 2. *Preliminary reform of the legal framework and similar enabling reforms should be undertaken prior to reforms which affect the functioning of the organization.*

A caveat to this principle arises from the fact that reform of the legal framework may meet obstacles from entities outside the Income Tax Department. Examples may help clarify this.

i. Reform of the provisions of Section 143(1)(a) covering prima facie assessment[5] presents no hurdles as it is a measure that will lead to less harassment of taxpayers, simplification in the task of assessing officers and less litigation. It should be implemented as soon as the legislation is drafted and the CBDT prepares guidelines for assessing officers.

ii. Introduction of Taxpayer Identification Numbers (TINs) to replace the existing Permanent Account Numbers and allotment of TINs through an All-India computer network[6] presents no difficulties, technical (in the opinion of the National Informatics Centre) or otherwise. However, the requirement that TINs be quoted in certain transactions[7] is likely to be controversial and can be introduced only after a sustained public awareness campaign. Similarly, resistance to the use of TINs by Department staff can be overcome only gradually by judicious employment of carrot and stick.

A review of various reform proposals of the TRC, for both substantive law as well as procedural law or administration, is in Annexure 1.

Principle 3. *Organizational reform planning and, to the extent possible, organizational reform itself, should precede reform of systems and procedures.*

The rationale is that most systems and procedures cannot be implemented in modular fashion (which would have ensured their compatibility with any organizational pattern). Instead, they must be tailored to fit the structure of the organization. Suggestions in the TRC that deal with restructuring include the following.

i. Setting up of a Directorate of Collection and Recovery.
ii. Setting up the National Court of Direct Taxes.
iii. Initiating the task of setting up the proposed Tax Council and the proposed Tax Research Bureau:
iv. Modification of the role of the Settlement Commission.

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5. Para 6.47 of the TRC Final Report - Part I.

6. Para 6.11 of the TRC Final Report - Part I.

7. Para 6.12 of the TRC Final Report - Part I.

v. Revised recruitment rules for officers.
vi. Introduction of new training programmes.
vii. Introduction of group assessment.

Principle 4. *Reform of systems and procedures that are least likely to encounter resistance from the staff should be taken up for implementation prior to less popular measures.*

This will ensure that the reform programme acquires momentum even if the initial reform is not in accordance with the priorities of the Government. Reforms that are likely to encounter the greatest staff resistance are:

i. The restructuring and computerization of assessment, especially scrutiny assessment.
ii. Removing verification of information from the purview of the Central Information Branch (CIB).
iii. Computerization of the CIB.

Principle 5. *A modular approach to reform should be followed. Subject to availability of senior personnel to oversee different areas of reform, all independent modules which do not directly impinge on line operations should be taken up simultaneously.*

Examples of independent areas include: appeals; prosecutions and departmental representation; the judicial system; settlement and compounding of cases; reform of the top management structure; recruitment and training; infrastructural planning; design and development (though not implementation) of management information systems; valuation machinery; computerization of areas other than assessment-investigation-treasury functions; search and seizure procedure; functioning of the "Appropriate Authority" (for immovable property); taxpayer information and publicity; taxpayer grievance redressal; and re-design of tax forms.

Principle 6. *The development of new systems which the organization is either ill-equipped to handle or can prima facie not be entrusted to develop, due to possible conflict of interest, should be entrusted to other agencies.*

The example of this is a (gazetted) employee-wise data-base of past assessment orders or other actions, to bring about greater accountability in assessment and other areas of work. This task could possibly be assigned to the C&AG. A second area is cost-effectiveness evaluation of Departmental policies towards assessment, investigation, tax recovery, appeals and prosecutions. This task could possibly entrusted to the C&AG as well.

Principle 7. *Until the reform process stabilizes, it should be overseen by a high-powered but time-bound committee made up of both external and internal experts.*

All committee members should be full-time with the exception of the Chairman of the CBDT and should continue as members for the duration of the committee (which should be not more than 3 years). The chief full-time internal expert could be a member of the CBDT. The role of the main external expert is that of a watch-dog to ensure that the pace of reform does not flag due to inertia and to ensure that the interests of the Government are safeguarded.[8] The committee should monitor the progress in implementing each component of the reform package on a regular basis, identify and remove obstacles in its implementation and ensure flexibility in implementing reforms. Furthermore, the committee should oversee the formulation of detailed micro-level implementation plans. A clear medium term reform plan should be laid down for the committee to implement prior to its formation.

Principle 8. *It is best to precede drastic reform of line operations by fixed duration pilot schemes to identify design deficiencies and overcome teething problems.*

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8. This is similar to monitoring done by international lenders or foreign aid donors, except for its full-time nature.

A SUGGESTED REFORM AGENDA

The reform agenda given here follows the principles enunciated above though it may not at this stage, cover all areas.

Legal or procedural reforms that may be implemented immediately.

Serial numbers of the legal or procedural reforms quoted here correspond to the serial numbers in Annexure 1.

1. Presumptive taxation: 63, 64 65 and 66.
2. For trusts: 73 to 78.
3. For income of non-residents, etc: 86 and 89.
4. Filing requirements: 121 to 123 and 171.
5. Prima facie assessment: 128 to 137 (except 130).
6. Appeals, prosecution, penalty and settlement: 153, 156, 162 and 166, 172, 173, 175, 176 and 177.

Reforms to be initiated in the first phase.

Reforms listed here will require limited initial groundwork and are related to areas other than work assignment in assessment-investigation-collection. Furthermore, these reforms should lead up naturally or, in certain cases, not hamper further reform envisaged in the second phase.

1. All reforms listed under Principle 1 above.

2. Enhanced tax-payer education efforts by the Directorate of RSP&PR with the help of an independent agency; publicity campaign to ensure the acceptance of new return forms (time-lag suggested: two years) and the eventual acceptance of the requirement to quote TINs in selected transactions.

3. TRC Recommendations with respect to recruitment and training of officers.

4. Organizational reforms listed under Principle 3 at serial numbers ii, iii, iv and v.

5. Initiation of discussion with the C&AG or other designated agency for the design and implementation of an officer's accountability monitoring system and a cost-effectiveness evaluation system (for investigation activities, appeals, prosecutions and audit objections).

6. Micro-design of the TIN allotment and retreival system and allotment through an All-India computer network.

7. Redesign of return forms and improved availability of forms as per the recommendations at serial numbers 116 to 120.

8. Dialogue with the Institute of Chartered Accountants to implement the scheme in serial number 130.

9. Reform of appeals and prosecutions policy as per serial numbers 158, 159, 167, 168, 169 and 170 below.

10. Development of computerization software-cum-hardware systems for "stand alone" areas other than assessment-investigation-collection with the help of external agencies. Stand alone areas include:

    CIT, CCIT and Board level management information systems (which can be integrated with assessment and collection systems when introduced); computerised data-bases for circulars, rules, notifications and direct tax acts; a judicial and tribunal decision reference data-base; accounting and payroll; infrastructure planning and inventory control software (CCIT level); taxpayer identification; challan processing; taxpayer information and assistance packages for PROs; personnel training and transfer control software (for the Board, CCITs); skill and experience inventory of officers; property value data-bases for (regional) Appropriate Authorities.

11. Augmenting the computer expertise available in the Directorate of Systems to enable in-house development of sensitive computer software and to ensure that expertise in the latest computer applications employed by assessees is available.

12. Initiation of a pilot Taxpayer Compliance Monitoring Survey (through Investigation Directorates in co-operation with the Directorate of O&M Services and an external agency).

13. Initiation of income measurement studies for the design of presumptive tax norms.

14. Initiation of a publicity campaign among employees and dialoge with employee associations to create an improved climate for reform.

15. Initiation of discussion with the RBI, banks, post offices and companies for systems on systems for the provision of returns and third party information in machine readable form and rendering assistance for receiving tax payments and returns from assessees.

The expected time required to implement each of these measures needs to be estimated. Furthermore, modalities for installation and limited training in the use of computer resources will require to be worked out in some cases after systems development. It should be emphasized that any computer software developed should be accessible to tax professionals even if they are not computer experts. Furthermore only the development of software for sensitive applications should be undertaken within the Depaerment.

In monitoring the progress and effect of these measures, channels of feedback will have to be established by the monitoring committee. For this, instead of "calling for information" in proforma's a system of inspection visits and meetings with senior officers should be worked out making use of Directorates attached to the Board. One crucial area that requires intensive monitoring is the morale of the Department in the face of first phase reforms.

Reforms in the second phase

The second phase of reforms should cover all measures not implemented in the first phase. It should commence, from a conceptual point of view, when the first phase of reforms has made sufficient progress and has gained acceptability among the staff. Broadly, it will encompass modernization and automation of the thrust areas of the income tax department, namely, assessment, investigation and collection. Initiation of certain reforms in these areas (e.g. scrutiny case selection procedures; group assessment) may commence even earlier if the Board deems fit. In fact, greater autonomy of the Board, if implemented in the first phase, will imply that

implementation of this phase will be internal to the Board. It is suggested for consideration that Principle 8 above be part of the strategy of implementing the widespread reform entailed in this stage.

Assuming that the reform of basic income tax operations is entrusted to a more or less autonomous CBDT in the second phase, accountability of the board to the Government will have to be ensured through a suitable monitoring mechanism in the hands of a designated independent agency. A performance evaluation formula is suggested with 6 statistical indicators:

Revenue indicators: The assessee identification gap; the return filing gap; the income concealment gap; and the tax recovery gap.[9] The four gaps can be combined to yield an estimate of the gap between potential and actual revenue collection.

The cost to revenue ratio: This reflects the efficiency in using resources to collect taxes.

The taxpayer satisfaction quotient: This should be arrived at on the basis of a sample survey by an independent agency.

Changes for the better or for the worse in these indicators could form the basis of overall evaluation of the Department.

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9. This terminology is due to Silvani.

Annexure 1

PROGRESS IN THE IMPLEMENTATION OF RECOMMENDATIONS OF THE TAX REFORMS COMMITTEE AND MEASURES IN RECENT BUDGETS

I. Recommendations for Reform of Substantive Tax Law

RECOMMENDATIONS MADE IN THE INTERIM REPORT

Transitional Tax Rate Schedules

The TRC presented cogent reasons to prefer a single rate income tax above a threshold. To achieve additional progression, however, it recommended that a two rate system, with the higher rate applicable at a relatively high income level, be introduced within three years. As a transitional measure, a three rate system was recommended. Perhaps on account of fear of erosion of tax revenue, the 1992 and 1993 budgets have only partially implemented TRC tax rate recommendations. Reform of corporate taxes has been put off to 1994 according to the Finance Minister.

	Marginal Tax Rates Recommended	*Rates Announced*	
1.	For Individuals	*1992*	*1993*
	Nil upto : Rs 28,000[10]	*Rs 28,000*	*Rs 30,000*
	Slab upto Rs 50,000 : 20%	*20%*	*20%*
	Slab upto Rs 200,000 : 27.5%	*30% upto Rs 100,000*	
	Slab above Rs 200,000: 40%	*40% plus 12% surcharge above Rs 1 lakh*	
2.	For Hindu Undivided Families	*1992*	*1993*
	Nil upto : Rs 12,000	*Rs 12,000*	*Rs 18,000*
	Slab upto Rs 100,000 : 27.5%	*20% to 50%*	*30%*
	Slab above Rs 100,000: 40%	*55% plus 12% surcharge*	*40% plus 12% surcharge*

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10. Rs 30,000 was recommended with the two rate system.

3. The distinction between "specified" and "non-specified" Hindu Undivided Families (HUFs) and taxation of non-specified HUFs at individual rates should continue.
No change in the status quo.

4. For local authorities, there should be a flat rate of 30 per cent.
Implemented in 1993 but surcharge at 12% retained.

5. For domestic companies, the (surcharge inclusive) tax rate should be reduced to the maximum marginal rate of tax (inclusive of surcharge) for individuals within three years.
Not yet implemented.

6. Different tax rates for companies in which the public are substantially/not substantially interested should be abolished within three years.
Not yet implemented.

7. When the recommended scheme of taxation of partnership firms, Associations of Persons (AOPs) and Bodies of Individuals (BOIs) recommended commences, no separate tax schedule for registered firms is required.
Not yet implemented. (for registered firms a flat 40% tax rate plus 12% surcharge was introduced in 1993).

8. Existing legal safeguards for aggregation of incomes in case of asset splitting should continue. In addition all non-wage income of a minor should be aggregated with the total income of parents (in the manner specified in the Interim Report in para 6.38)
Broadly implemented in 1992.

Tax Concessions

The last two budgets make it clear that the Finance Ministry has not accepted the TRC approach to rationalisation of tax concessions, especially with regard to concessions for saving.

9. Exemption of interest on notified Relief Bonds [section 10(15)(iic)] should be withdrawn.
Not yet implemented.

10. Exemption of interest on notified bonds or debentures from any public sector company [section 10(15)(iv)(h)] should be withdrawn.
Not yet implemented.

11. Exemption of interest received from the Government on deposits in notified scheme out of money due on retirement [section 10(15)(iv)(i)] should be withdrawn.
Not yet implemented.

12. Deduction [under section 80L] for interest or dividend income from specified sources should be withdrawn.
Not yet implemented (Deduction ceiling reduced from Rs 13000 to Rs 7,000 in 1992 and raised to Rs 10,000 in 1993).

13. The tax rebate at the minimum marginal tax rate [under section 88] for investment in specified schemes should continue but upto a reduced maximum of Rs. 10,000.
Not yet implemented (a rate higher than the entry point rate prescribed for authors, playwrights, etc).

14. This tax rebate above should be restricted to contributions to provident funds, life insurance policies and repayment of loans taken for purchase or construction of a residential house.
Not yet implemented (instead, the scope of the deduction was widened).

15. The tax concession [under section 80CCA] for investment in specified annuity plans should be withdrawn. The ceiling of Rs.40,000 for deposits in the National Savings Scheme should be increased to Rs.50,000.
Not yet implemented (concession withdrawn altogether in 1992).

16. The tax concession [under section 80CCB] for investment in equity linked saving schemes should be abolished.
Implemented in 1992.

17. Provisions relating to deductibility of specified contributions for social/economic development activities [of sections 35AC, 35CCA, 35CCB and 80GGA] should be amalgamated [with section 80G]. The 100 per cent deduction allowed at present should be restricted to 50 per cent as with other donations.
Not yet implemented.

18. Deductions should be allowed only for charitable donations to an approved association or institution and not for expenditure incurred on an in-house programme.
Not yet implemented.

19. Certain base-narrowing tax incentives [under sections 80HH, 80HHA, 80I, 80IA, 80JJ, 80QQ and 80QQA] should be abolished with immediate effect.
Not yet implemented.

Taxation of Fringe Benefits

No measures to tax fringe benefits have yet been announced or implemented. Consequently, income in the form of perquisites remains a major source of violation of horizontal equity by the income tax.

20. The perquisite value of concessional rent or rent-free accommodation should be determined so as to remove differential treatment of employees of the Government, companies in the private sector and public sector and other autonomous bodies (in the manner specified in para 6.71 of the interim report).
Not yet implemented.

21. The provision [of section 10(13A) read with Rule 2A] providing for exemption of house-rent allowance should be abolished.
Not yet implemented.

22. All taxpayers should be uniformly entitled to relief [under section 80GG] for rent paid (in the manner specified in para 6.71 of the interim report).
Not yet implemented.

23. Expenditure by employers on housing for employees in excess of 20 per cent of the salary of the employee, if not taxed in the hands of the employee, should bear a separate fringe benefit tax in the hands of the employer at a flat 30 per cent (as elaborated in para 6.71 of the interim report).
Not yet implemented.

24. At least 80 per cent of leave travel allowance, home travel allowance, travel allowance on retirement, passage money and such other payments should be taxed.
Not yet implemented.

25. The allowances paid to legislators should be fully taxed.
Not yet implemented.

26. Exemption of notified special allowances paid to salary earners [under section 10(14)(ii)] should not exceed 10 per cent of salary.
Not yet implemented.

27. All loans given to employees should be deemed be at 12 per cent interest. If lower interest is charged, this should be treated as a fringe benefit and taxed accordingly (with consequential amendments as specified in para 6.77 of the interim report).
Not yet implemented.

28. The value of certain other perquisites [those contained in Rule 3 of the Income-tax Rules] should be revised upward to take account of inflation since the values were last laid down.
Not yet implemented.

Taxation of Capital Gains

The TRC scheme for taxation of capital gains was broadly implemented in 1992. In particular, the calculation of long-term capital gain using inflation indexed acquisition costs was introduced. Non-implementation of several other relatively minor, but simplifying or distortion removing, recommendations is therefore inexplicable. This raises suspicions of slipshod drafting of Finance Bills.

29. A long-term capital asset should be defined as a capital asset transferred after one year from the end of the financial year in which the asset is acquired.
Not yet implemented for non-financial assets.

30. To compute long-term capital gains, all long-term capital assets should be deemed to have been acquired on the last day of the financial year in question and transferred on the first day of the financial year in which the transfer takes place.
Not yet implemented.

31. **The cost of assets acquired prior to a cut-off date should be converted, as at present, into the value of the asset on a cut-off date. The existing cut-off date of 1st April, 1974 should continue.**
Status quo retained as recommended.

32. The value of long term assets should be indexed for inflation for the subsequent period of holding (in the manner described in paras 6.87 to 6.99 of the interim report).
Broadly implemented in 1992.

33. Indexed long-term capital gains of non-corporate taxpayers should be taxed at the marginal rate applicable to the assessee in the concerned year subject to a maximum of 27.5 per cent. If income other than capital gains is below the exemption limit the tax on long term capital gains should be applied to the excess.
Not yet implemented. Instead, a flat rate of tax on long term capital gains at 20% was introduced.

34. For corporations, indexed long term capital gains should bear a flat tax at 40 per cent. When the tax on corporate profits is reduced to 40 per cent, the tax on their long-term capital gains should be at 30 per cent.
Not yet implemented.

35. For firms, income from capital gains should be apportioned among partners in proportion to their share in the partnership. This income should be treated as capital gains in the hands of the partner.
Not yet implemented.

36. Special exemptions to long term capital gains arising from houses or if reinvested in specified financial assets [under sections 53 and 54E] should be withdrawn.
Implemented in 1992.

37. Roll-over relief should be granted uniformly in each roll-over section of the Income-tax Act (in the manner specified in paras 6.87 - 6.99 of the interim report).
Not yet implemented.

38. The existing Capital Gains Accounts Scheme should be replaced by a simple scheme along the lines of a money-multiplier scheme promoted by some banks in the country.
Not yet implemented.

39. Computing the required re-investment period, with reference to the date of transfer, should be replaced by a method whereby the period is computed with reference to the financial year in which the asset is transferred.
Not yet implemented.

40. Capital loss should be computed after adjustment of the cost of the asset by the cost inflation index. Existing provisions relating to scaling down of long-term capital losses should consequently be removed.
Broadly implemented in 1992.

Treatment of Miscellaneous Expenses

Certain business expenses are prone to misuse given the difficulty in drawing a line between genuine business expenses and personal consumption. Hence the need for statutory ceilings on such expense deductions. For housing, the existence of various specific deductions could have led to differential treatment of persons with house property income. TRC recommendations, which facilitate rationalisation or administrative simplification in the taxation of income from business or house property, have been largely implemented.

41. Existing provisions seeking to restrict the deductibility of certain expenses in business should be reviewed and prescribed limits revised.
Implemented with respect to expenses on entertainment, tax consultants, advertising and travelling.

42. The deductions of Rs.3,600 for each residential unit forming part of a building [under the second proviso to section 23(1)] should be withdrawn.
Implemented in 1992.

43. The deduction for construction of new residential units should be withdrawn from Assessment Year 1993-94 even for residential units completed prior to the implementation of this recommendation.
Implemented in 1992.

44. 20% of the "annual value" of the property should be allowed as a statutory standard deduction for expenses on repair of the house property and collection of rent.
Implemented in 1992.

45. The number of years in which the interest on borrowed capital that is allowed as a deduction in the computation of "income from house property", if the house is yet to be completed, should be reduced from five to three.
Not yet implemented.

Taxation of Partnership Firms

The TRC envisaged no tax, in the normal course, on partnership firms except for withholding taxes on behalf of partners. Instead, partnership income, with specified exceptions, was to be apportioned to partners in proportion to their shares in the partnership and taxed in their hands. In essence, "full integration" of partnership income and partner's income was recommended. The scheme has not been implemented though stray elements of the TRC scheme have been accepted.

46. The scheme of registration of partnerships for income tax purposes should be abolished. All firms should be treated alike for income tax.
Implemented in 1992.

47. The separate tax on the income of the firm should be abolished. The firm should be required to calculate capital gains and its income other than capital gains separately. Income other than capital gains should be apportioned amongst partners in the ratio of their share in the profits of the firm, for taxation in their hands.
Not yet implemented. Instead. the partner's profit share in the firm (taxable at the maximum marginal rate at the level of the firm) is excludable from the taxable income of the partner.

48. Interest, salary, bonus, commission or remuneration paid to partners should be deductible from the income of the firm.
Implemented in 1992.

49. Where new partners are admitted to a partnership during the last nine months of the accounting year, the share of new partners in the firm's profits should be ignored and profits should be apportioned amongst the old partners (in the manner indicated in Chapter 6 of the interim report) only for that financial year.
Not yet implemented.

50. If a firm has income from capital gains, it should be eligible to claim roll-over relief. Any capital gain (after roll-over relief) or loss should be apportioned amongst partners in the ratio of their profit-shares.
Not yet implemented.

51. The relief for "bunching" of gains should be allowed to partners in their personal assessments.
Not yet implemented.

52. AOPs and BOPs should be taxed in the same way as firms.
Not yet implemented (AOPs and BOIs are still taxed as individuals).

53. If the shares of partners in a firm or of members in AOPs or BOIs are not specified, they should be presumed to be equal. No partner or member should be allowed to claim differently in future assessments.
Not yet implemented.

54. The firm or AOP or BOI should not be allowed any credit for tax deducted at source from payments received by it. However, it should be allowed to apportion this between its partners in the ratio of their shares.
Not yet implemented.

55. Firms should be required to pay advance tax on behalf of partners on both partnership income and other income. Advance-tax should be deposited with the Central Government through a single "challan". The firm should submit separate annual statements regarding advance-tax paid on behalf of each partner. Firms should issue tax payment certificates to each partner (as described in the interim report, paras 6.113 to 6.115).
Not yet implemented.

56. Even though there would be no tax liability on firms, AOPs and BOIs they should be required to file returns of income irrespective of their level of income.
Not applicable since other, prior, recommendations are not yet implemented.

57. If the income of the firm is increased as a result of additions or disallowances, the difference between assessed and declared income of the firm should be taxed at the maximum marginal rate but be exempt from any additional tax liability in the hands of partners. If loss is returned and additions made result in a reduced loss or in positive income, the income or loss computed should be apportioned among partners and consequential rectifications should be carried out in their tax assessments.
Not applicable as prior amendments are not yet implemented.

58. The problem of "benamidar" partners (fictitous partners or partners through proxies) should be tackled only by investigation under the Benami (Prohibition) Act, 1988 without distorting the tax structure. If it is established that a partner in a firm is a benamidar, the entire income of the firm (including any payment to partners) should be taxed at the maximum marginal rate.
Not yet implemented.

Income of Cooperative Societies

Though, it is an established legal doctrine that income cannot arise from a genuine mutual help society, in practice many co-operatives depart from this ideal and so should be taxed. Recommendations of the TRC, aimed at bringing about uniformity in the taxation of different co-operative societies and of co-operative societies with companies, have not been implemented.

59. The deductibility available to cooperative societies [under section 80P] for the whole of their profits from business, should be restricted to 20%. All other deductions [under section 80P] should be abolished.
Not yet implemented.

60. The exemption limit for cooperative societies should be increased to Rs.25,000.
Not yet implemented.

61. Income of the cooperative society above the exemption limit should be taxed at a flat rate of 30 per cent.
Not yet implemented.

Presumptive Taxation

In order to simplify the taxation of hard to tax groups and ensure they contribute their share of taxes, presumptive taxation has increasingly found acceptance as a leading option. The TRC proposed the introduction of presumptive taxes on select groups of taxpayers where the presumption was to be rebuttable and based on the taxpayers' own estimate of their turnover. Both recent budgets have implemented some of the TRC proposals. However, a major infirmity is present in the presumptive tax scheme as introduced to date in that the TRC's "Estimated Income Scheme" is yet to be implemented.

62. Under the presumptive tax scheme, traders and manufacturers with business income should be allowed an option to pay a lump sum tax of Rs.1,000, without filing a return, if they estimate their total turnover in business to be between Rs 300,000 and Rs.500,000.
Implemented in 1992 (but with lump sum tax fixed at Rs 1400).

63. Traders or manufacturers may also have income from other sources (brokerage, commission, interest, dividends, property income). The presumptive option should not be denied to them if income from other sources is modest. For brokerage income the limit may be Rs.25,000 to be taxed at a flat 20 per cent. The scheme should also be open if the receipts from other sources do not exceed Rs 10,000. However, the taxpayer should not be permitted to claim any refund of tax deducted at source on such receipts.
Not yet implemented.

64. Persons with turnover above Rs.500,000, brokerage or commission exceeding Rs.25,000 or other receipts above Rs.10,000 should be permitted to pay taxes under the Estimated Income Scheme (EIS).
Not yet implemented.

65. 10 per cent of receipts from contracts for the construction of roads, bridges, buildings, other public works and transportation should be presumed, by law, to be income.
Not yet implemented.

66. Efforts should be made to introduce the EIS on the basis of physical indices. For transport operators it may be presumed for the time being that a truck with an inter-State permit yields an income of Rs 4,000 per month while each truck with a State permit yields Rs 3,000 per month.
Not yet implemented.

Appeal Procedures: Please see below at number 158.

RECOMMENDATIONS IN THE FINAL REPORT PART I

Set-off and Carry Forward of Losses

Unless income from a given source is accorded schedular treatment under the income tax, according schedular treatment to the set-off of losses from this source is distortionary and can result in equity violations. Recommendations of the TRC in this area were aimed at removing restrictive loss set-off provisions which are in existence for most types of losses. These recommendations are still to be implemented.

67. The newly introduced section [71A] extending scheduler treatment to loss from house property should be revoked.
Not yet implemented.

68. Losses carried forward for set off in subsequent years separately under each head of income (other than losses from speculation or from owning and maintaining race horses) should all be allowed *inter se* set off.
Not yet implemented.

69. The condition that the business to which the loss relates should be carried on in the subsequent year in order that the business loss carried forward is allowed to be set off should be removed.
Not yet implemented.

70. The provisions for set-off and carry-forward of losses by certain companies [in Section 79] should either be deleted or should be as they were prior to its amendment by the Finance Act, 1988 in the larger economic interest.
Not yet implemented.

Treatment of Charitable Trusts

Charitable and other trusts are allegedly used as tax-shelters or even as channels to launder tax-evaded money. Over time, tax law provisions relating to trusts have therefore been made increasingly restrictive, hampering the functioning of genuine organizations. The TRC has recommended a series of measures to remove restrictive legal provisions. These remain unimplemented with the exception of one measure.

71. Applications for tax exempt status of trusts and deductibility of contributions to it should be processed together and with utmost expedition (within three months).
No enabling legislation introduced yet.

72. Approvals granted and renewal of approvals to trusts should be valid for 5 years.
Implemented in 1993, but with a discretionary element in the hands of the Income Tax Department.

73. If business income accruing to a trust or institution is not more than Rs. 5,00,000, it may continue to be exempt even if the business is not incidental to the attainment of its objectives.
Not yet implemented.

74. The restrictive provisions [in Section 13] for the withdrawal of exemptions of trust income [under Section 11 or 12] need to be reviewed.
No legislative changes made yet.

75. The monetary limit prescribed for charitable contributions [under section 13] may be raised.
Not yet implemented.

76. The last date for filing returns for tax exempt charitable organizations should be 31st December.
Not yet implemented.

77. The income limit for audit of accounts of trusts [in Section 12A(b)] may be enhanced.
Not yet implemented.

78. The law should be uniform for all charitable organizations irrespective of the dates on which they were set up.
Not yet implemented.

Taxation of Agricultural Income

Under the Indian Constitution, agricultural income cannot be taxed by the Central government but only be the States. This has left open a major loophole for tax avoidance and evasion and for the laundering of tax evaded money since most States do not tax agriculture to any major extent. The TRC has recommended that the Centre obtain the consent of States to act as their agent in taxing agricultural income in about the same manner as other business income. No dialogue with States has yet been initiated by the Centre.

79. Agricultural income above, say, Rs.25,000 accruing to non-agriculturists should be taxed to promote equity and reduce the scope for evasion. Non-agricultural income above the exemption limit and agricultural income in excess of Rs.25,000 should be taxed in aggregate. (Agricultural income should not include income from plantations subject to taxation by States). The Central Government should obtain the consent of States to enact a suitable enabling provision. The entire tax attributable to the agricultural component of income should be distributed to States on the basis of origin.
Reform not yet initiated.

Corporation Taxes and Non-Resident Income

The broad thrust of TRC recommendations in this area was to make the climate more attractive to foreign investment by removing anomalies and discrimination in comparison with domestic corporations. These recommendations have largely remained unimplemented with the exception of one procedural reform. However corporate tax reform has been promised in 1994 by the Finance Minister.

80. The existing "classical system" of taxation of corporations should be retained but with lower tax on domestic companies (45 per cent in 1993-94 and at 40 per cent in 1994-95).
Not yet implemented.

81. The general rate of depreciation on plant and machinery at 25 per cent should be retained.
No change in the status quo.

82. The provision [under section 43B] providing for deductibility of certain expenses when actually made violates the principle of accrual. However, given the need for prompt collection of revenue it should be retained but restricted only to taxes and duties.
Not yet implemented.

83. No capital gains tax or gift tax should be levied on Compromise, Arrangement and Reconstruction of companies. It should be clarified by the authorities that dividend income does not arise in these cases.
Not yet implemented.

84. Determination of the proportion of income of non-residents and foreign companies taxable in India, and of deductions to be allowed in its computation, should be made fairly (if not clearly specified in the law) and within a reasonable time. An amendment [in section 195(2)] to enable the recipient of such income to obtain from the assessing officer a determination of the proportion of income on which tax is deductible is necessary.
Not yet implemented.

85. Expeditious action in introducing a system of advance ruling as announced in the 1993 Budget Speech of the Finance Minister is required.
Legislation now in place (May, 1993).

86. The difference between the tax rate on domestic companies and on foreign companies is large, even at the withholding tax rate of 25 per cent, on dividends paid to foreign companies. The withholding differential for domestic and foreign companies should be around 7.5 percentage points and should not exceed 10 percentage points.
Not yet implemented.

87. To further to attract foreign investment and technical know-how, double taxation of fees obtained for technical services and salaries paid to foreign company personnel in India needs to be avoided. Salaries paid to such personnel should be exempt irrespective of the length of their period of stay.
Not yet implemented.

88. Interest payable by the Government, financial institutions and industrial undertakings on foreign borrowings should not be tax exempt.
Not yet implemented.

89. Conversion of foreign exchange payments (as for royalty and fees) into rupees to determine taxes due should be the exchange rate at which the foreign currency was purchased. (recommend for retrospective adoption from 1991-92).
Not yet implemented.

II. Recommendations for Administrative Reform

In the opinion of the Chelliah Committee, direct tax administration has several major problems: overlapping functions, lack of control over the execution of various duties, inefficient manual procedures, inadequate guidelines, poor Departmental handling of legal disputes, lack of an effective information system and deficient infrastructural facilities. Proposed reform should, the Committee felt, have three fundamental objectives: (a) modernizing administration in order to achieve better taxpayer control; (b) correcting weaknesses that result in an overlap of functions, deficient guidelines and lack of continuity; and (c) promoting decentralization. No concerted administrative reform has yet been initiated by the Government.

Taxpayer education and publicity

90. Greater public awareness of activities of the Department should be built up. If considered necessary, expert agencies could be consulted to prepare and publish tax education pamphlets.
No stepped up advertising or taxpayer education yet undertaken.

Restructuring Senior Management

91. The appointment of the Chairman and Members of the Central Board of Direct Taxes should be in the manner and for the duration described (in para 10.132 of the Final Report, Part I).
No announcement of a change in the procedure for making appointments has yet been made.

92. The Board should be given financial autonomy with separate financial advisers working under the supervision and control of the Chairman.
Not yet implemented.

93. The Chairman of the Board should be given the status of Secretary to the Government and Board members the rank of Special Secretary;
Not yet implemented.

94. The post of Revenue Secretary should be abolished.
Not yet implemented.

95. A Tax Council should be constituted and chaired by the Finance Secretary and with the Chairmen of both Tax Boards as Members. All tax policy matters and changes in law should be vetted by the Tax Council and should then be submitted by the Finance Secretary to the concerned Ministers.
Not yet implemented.

96. The Council should be serviced by a Tax Research Bureau consisting of experts who could conduct tax policy research for the Tax Council.
Not yet implemented.

Computerization

97. Technical assistance through multilateral financial institutions or from consulting agencies could be taken to introduce computerization. A team of officers from the Department should be associated with this exercise.
Not yet implemented.

98. The Departments should codify all case law on different topics with the help of computer experts.
Not yet implemented.

Improving Personnel Management

Accountability

99. Assessing officers should be accountable for their actions. If a designated percentage of additional demands is not upheld by Tribunals, the officer should be reprimanded. On the other hand an assessing officer should be defended if he has obeyed instructions of the Board and followed case law even though the Audit objects to his actions.
The administrative system to implement this recommendation has not yet been initiated.

Training:

100. The age limit for the Revenue Service examination should be lower than in the case of other government services.
Not yet implemented.

101. Officers appointed to senior posts should be thoroughly exposed to economic aspects of taxation and changing international practices.
Training facilities yet to be initiated.

102. Commissioners should be subjected to rigorous training for at least three months in the broader social aspects and economic consequences of taxation.
Not yet implemented.

Transfers and Postings

103. The entire task of transfers and postings must be within the jurisdiction of the Board. The political authority may be kept informed of what is being done but a self-denying ordinance on the part of Ministers is called for.
No ordinance yet proclaimed.

Promotion, Rewards and Punishment

104. In considering candidates for promotion to important positions like Income Tax Officers, their seniority, the results of a Departmental written examination, an interview and general confidential reports should all be considered.
No new promotion policy has yet been announced.

105. The Departmental examination for promotion should be of a much higher standard and conducted in greater secrecy than at present by an external agency or by a Directorate under the Board.
Not yet implemented.

106. Commendations and accelerated promotions should be given to honest and competent officers and adverse remarks given to officers who fail to complete assessments in time or who habitually make over- or under-assessments.
No new scheme of commendations or accelerated promotions has yet been announced.

107. Instead of giving rewards to individual officers, rewards should be credited to a fund for the welfare of officers or for distribution on an annual basis among all officers performing well (regardless of the nature of duties assigned).
Not yet implemented.

108. A 3-pronged approach to curbing corruption should be followed (described in paras 10.125 to 10.128 of the Final Report Part I).
Not yet implemented.

109. The existing grievance machinery and advisory councils should be activated.
Not yet implemented.

Taxpayer Identification

The existing permanent account number (PAN) system is not being utilized by the administration besides suffering from design problems. The TRC has recommended a system with wider coverage and features that will enhance its usefulness in carrying out income tax investigations. The use of computer and modern information technology is an essential part of the proposed package. Implementation of the package has yet to commence. Broadly, the

TRC system envisages identification and registration of all potential or effective taxpayers from internal or external sources and allotment of unique identification numbers to them. Numbers could be required to be quoted at the time of the undertaking certain transactions.

110. To restructure the existing identification system, a new Taxpayer Identification Number (TIN) should be allotted to, and obtained by *inter alia*, all persons and institutions, with shop licenses in cities and towns with more than one million population, with registered industrial units, with sales tax numbers, who are members of a professional association, who own trucks/buses/taxis/cars, who have credit cards, who are share brokers or small saving agents, who apply to a bank for fixed deposits, drafts or telegraphic transfers above Rs 50,000, and who sell goods exceeding Rs 1 lakh to the government, a public sector company or a public limited company, *and* any other persons requested a TIN.
Not yet implemented.

111. A photo-pass containing all relevant information relating to the identification of the entity concerned should be issued.
Not yet implemented.

112. TINs should allotted be through an all-India computer network with an on-line TIN directory to eliminate opportunities for fraud.
Not yet implemented.

113. To ensure that most economically active persons obtain a TIN, permission for certain transactions or trades should be contingent on the person having a TIN (for transactions laid down in para 6.12 of the Final Report, Part I).
Not yet implemented.

114. Once a broad-based identification system is developed it should be a statutory obligation to quote TINs in specified economic transactions.
Not yet implemented.

115. All potential and effective taxpayers should be registered in a Taxpayer Master File which is the basic control instrument of tax administration (as described in para 10.54 of the Final Report, Part I).
Not yet implemented.

Filing Requirements and Return Forms

TRC recommendations with regard to return forms and filing requirements are amend at, on the one hand, improving Departmental records of potential assessees and, on the other hand, enhancing taxpayer convenience. These recommendations have not yet been implemented, even though they are attractive and require almost no preparatory work.

116. As against the existing four forms for different categories of taxpayers, there should be seven different return of income forms (as described in para 6.84 of the Final Report Part I).
Not yet implemented.

117. The Department should ensure that forms are easily available to taxpayers such as through Post Offices, banks accepting payment of taxes and tax offices.
Not yet implemented.

118. The return of income must clearly indicate, against the relevant item, the requirement and nature of supporting evidence for summary assessment. Only minimal evidence should be required with returns to minimize compliance costs of taxpayers.
Not yet implemented.

119. The return form should be re-designed as a check sheet to seek specific information and to provide for logical sequencing of the steps in computation of income.
Not yet implemented.

120. A separate format should be prescribed, to be appended to returns by taxpayers who make depreciation claims.
Format not yet available.

121. Financial audit reports required under various provisions should be merged into a single, comprehensive audit report.
Not yet implemented.

122. Returns should be required from all persons whose income exceeds the exemption limit (except specified salaried employees) and also certain other categories of potential assessees (listed in para 6.89 of the Final Report, Part I).
Not yet implemented.

123. Once a return is filed, the taxpayer must be required to continue to file returns for three consecutive assessment years irrespective of the income level during these subsequent years.
Not yet implemented.

Assessment Procedures

A simple, computer implementable summary assessment scheme seems to be what the TRC has in mind. Some recommendations are also geared to reducing the scope for taxpayer harassment but in tandem with a greater use of automatic penalties (additional taxes) for defaults. Greater functional specialization and closer supervision of assessment within the Department have also been recommended.

124. The existing system of combining in an assessment officer the functions of collection, recovery and assessment should be replaced by a new system based on functional classification of jobs.
Not yet implemented.

125. To pool experience, improve effectiveness of assessment, increase the level of supervision and thereby ensure greater accountability, it is necessary to change over from the present system of single officer based assessment to a system of group assessment.
Not yet implemented.

126. A small proportion of returns needs to be selectively subjected to intense scrutiny.
No change in the status quo.

127. The existing scheme of summary assessment correcting for arithmetical errors and *prima facie* inadmissible claims should be continued.
No change in the status quo.

128. The scope and meaning of the term `*prima facie*' should be amended (as laid down in para 10.57 of the Final Report, Part I).
Not yet implemented.

129. For depreciation, incorrect block classification of assets should not be corrected through *prima facie* adjustments.
Implementation status not ascertainable.

130. A claim made on the basis of an Audit report given by an accountant should be corrected if *prima facie* inadmissible, but no additional tax should be levied in such cases. If the Auditor makes more than a specified number of mistakes, he should be debarred from practice for a minimum period.
Not yet implemented.

131. The Department should annually release a booklet codifying the guidelines on the scope of *prima facie* adjustments.
Not yet implemented.

132. No *prima facie* adjustment should be permitted after six months.
Not yet implemented.

133. The assessing officer should not be allowed to make any *suo moto* rectifications of summary assessment after three months from the end of the six month period for *prima facie* adjustment.
Not yet implemented.

134. The taxpayer should not be allowed to apply for rectification of *prima facie* adjustments after two years.
Not yet implemented.

135. Failure to dispose of the application for prima facie adjustment within the stipulated time should imply acceptance of the contentions of the taxpayer.
Not yet implemented.

136. The existing system of additional income tax [under Section 143(1A]) of the Income-tax Act should continue.
No change in the status quo.

137. The existing policy of first completing every case under summary assessment and only initiating scrutiny assessment thereafter should be continued.
No change in the status quo.

Selection of Scrutiny Cases

Strategies for the selection of (intensive) scrutiny assessment cases have been hampered by a poor information base and an orientation towards the detection of technical violations not involving deliberate tax evasion. TRC

recommendations are geared towards removal of these deficiencies. Even though a transitional selection procedure that can be implemented without much spade work was identified by the TRC, no headway in following these recommendations appears to have been made.

138. The procedure for selection of scrutiny cases should combine purposive and random selection (as described in para 6.66 to 6.70 of the Final Report, part I).
Implementation status not ascertainable.

139. Selection of scrutiny cases should be impersonal and leave little room for discretion. Selection should be made centrally or at a few centres which are not associated with assessment.
Not yet implemented.

140. Immediate steps should be initiated to undertake a Taxpayer Compliance Measurement study on a pilot basis.
Not yet undertaken.

141. Until a proper computer-aided selection system can be implemented a transitional procedure should be followed (as laid down in paras 6.71 to 6.77 of the Final Report, Part I).
Not yet implemented.

Audit Objections

The TRC found an antagonism rather than a co-operative attitude between auditors from the Office of the Comptroller and Auditor General and the Income Tax Department. This leads to infructuous work and causes taxpayer inconvenience. Besides criticisms made regarding the functioning of the C&AG, the Committee has suggested an approach for the Department to follow in dealing with audit objections.

142. Where audit objections are accepted by assessing officers, demand notices may be issued within one month from the date of receipt of the objection.
Implementation status not ascertainable.

143. Where audit observations are not accepted by assessing officers and referred to supervisors demand notice may be issued only in cases which would otherwise get time barred.
Implementation status not ascertainable.

144. In other cases, no show-cause notices should be issued until clear decisions are obtained by assessing officers from higher authorities.
Implementation status not ascertainable.

Collection and Recovery of Taxes

Recommendations for recovery operations are in line with the overall strategy of functional division of duties proposed by the TRC.

145. A new information system, "the tax account information system" should be instituted for collection and recovery of taxes.
Not yet instituted.

146. On completion of assessment, information on payments made, due or refundable should be transmitted to a newly created Collection and Recovery Directorate (without physical movement of assessment records) for necessary record keeping and action.
Not yet implemented.

Search and Seizure

The potential for taxpayer harassment and misuse of power by officers during searches of premises concerned the TRC, especially since search operations are much relied on by the Indian income tax authorities.

147. Only an officer of at least the level of Chief Commissioner should be empowered to authorize a search. Officers authorized to lead a search party should be at least Assistant Commissioners.
Not yet implemented.

148. The major focus of the search must be to unearth documents, concealed income and undisclosed assets. It is necessary to permit the assessee to call a lawyer to be present if he is called upon to make a statement to the search officer.
Not yet implemented.

149. After the person has made the statement required, he should be allowed to leave the premises being searched.
The legal position is currently under judicial review.

150. Paying a part of the additional tax collected on the basis of the search and confession as a reward to the members of the search party must be stopped.
Not yet implemented.

151. After the search, the search party should hand over to the persons concerned copies of statements made on oath by them.
Implementation status not ascertainable.

152. In the course of a search, if damage is done to property but no concealed articles are found, the Income Tax Department should be required by law to repair and restore the articles to their previous state.
Not yet implemented.

Appeals, Prosecutions, Penalties for Tax Violations and Settlement of Cases

The appeal machinery for the income tax and court proceedings are usually long drawn out and result in much wasted effort on the part of the Department and Tribunals/Courts, besides being a great source of taxpayer inconvenience. Streamlining these areas to improve their speed and effectiveness has long been recognized to be of paramount importance. The recommendations of the TRC add to the recommendations of earlier enquiry committees and it appears, are as likely to gather dust.

Appeals

153. (*From the Interim Report*) Appeals should be provided against any (prima facie) adjustments made during assessment [under section 143(1)(a)].
Implemented in 1992.

154. Disposal of first appeals should be within six months, on average. Temporary posts of Commissioner (Appeals) may be created to reduce the average time for disposal of appeals.
Not yet implemented.

155. Routine appeals should not be made by the Department. The Commissioner should be held accountable for frivolous appeals.
Not yet implemented.

156. The limit for appealing to the Income Tax Appellate Tribunal (ITAT) should be increased to Rs 25,000 if no substantial question of law is involved.
Not yet implemented.

157. The Board should ordinarily accept the ITAT's decisions.
Implementation status not ascertainable.

158. Special pay may be given to Departmental (Legal) Representatives at the rate for faculty members in training establishments.
Not yet implemented.

159. The work facilities for Departmental Representatives need to be improved.
Implementation status not ascertainable.

160. Vacancies in the post of Members of the Tribunals and their secretarial staff should be filled up immediately.
Not yet implemented.

161. Additional Benches in the ITAT are needed for a specified period to clear the backlog of pending appeals.
Not yet implemented.

162. To guard against frivolous and unnecessary appeals, there should be an admission procedure as provided under the Civil Procedure Code.
Not yet implemented.

Prosecutions

163. The Department should concentrate on large cases and be selective in prosecutions;
Already part of the announced policy of the Department (c.199192)

164. Prosecution cases, when they are launched, should be taken up seriously by engaging competent counsel for expeditious disposal.
Implementation status not ascertainable.

165. Efforts should be made to bring down the existing pendency of prosecution cases;

Pendency is still increasing annually.

166. The general power to prosecute for failure to remit in time tax deducted at source should be replaced by the specific power to prosecute only where the tax with interest and additional interest remains unpaid after a specified period of time.
Not yet implemented.

167. The Department should launch prosecutions for willful evasion of tax if the assessee fails to make the payment for over one year.
Not yet implemented.

168. Technical offenses should be compounded (if possible) rather than taken to court.
Implementation status not ascertainable.

169. There should be substantial delegation of powers to Chief Commissioners/Directors General to compound cases where necessary.
Not yet implemented.

170. The decision of the Government to set up a National Court of Direct Taxes should be implemented without any further delay.
Not yet implemented. Promised `shortly' by the Finance Minister in 1992 and 1993 budget speeches.

Monetary Penalties[11]

171. Automatic penalty in the form of a late fee may be imposed (in place of penal interest on taxes due but not paid) if a return is filed late.
Not yet implemented.

172. The Department should impose a late fee or penal interest for technical violations (such as failure to deduct or collect tax at source) instead of launching prosecutions. Such penal interest should be statutorily laid down and automatic.
Not yet implemented.

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11. The recommendation for penalties in para 10.43a(v) of the Final Report Part I appears to suffer from infirmities.

173. The levy of penalty/additional interest/fine should be as per the scales indicated (in chapter 5 of the Final Report, Part I).
Not yet implemented.

Settlement of Cases

174. Only complicated cases involving disputed facts and questions of law should be settled.
Not yet implemented.

175. The lower limit for referral to the Settlement Commission should be increased to at least Rs.100,000.
Not yet implemented.

176. Objections to applications to the Settlement Commission should be permitted from officers not below Chief Commissioner. The Commission should not be permitted to over-rule such objections.
Not yet implemented.

Miscellaneous Administrative Reform

177. Provisions for the levy of interest on advance tax should allow a margin of error in advance tax estimates (as explained in para 10.80 of the Final Report, Part I).
Not yet implemented.

178. The draft direct taxes code should be widely debated so that informed opinions that are aired can be taken into account before finalising the code.
Not yet implemented.

III. Income Tax Amendments in the 1992 and 1993 Union Budgets

Base Broadening Measures

1992

1. Introduction of a scheme for clubbing of minor's income with parents.
2. Replacement of deduction for contributions to the National Saving Scheme by tax rebate.

3. Replacement of deduction for purchase of mutual fund schemes by a tax rebate.
4. Reduced deduction limit for interest and dividends.
5. Introduction of a presumptive tax on retail trade.
6. Restriction on carry-forward of depreciation and investment allowance.

1993

1. Extension of presumptive tax to transport operators.
2. Withdrawal of deduction of inter-corporate dividends received from the Unit Trust of India.

Base Narrowing Measures

1992

1. Increase in the deduction limit for medical insurance premia.
2. Increase in the limit and broadening of the scope of deduction for medical treatment of handicapped dependents.
3. Increase in quantum and scope of rebates for specified savings and insurance premia.
4. Rebate to senior citizens under a new section 88B.
5. Enhanced standard deduction from salary income for women.
6. Exemption of the perquisite value of medical benefits in employer's hospitals.
7. Exemption of medical expenses outside India.
8. Extension of certain deductions for hospitals to nursing homes.
9. Increase in the limit for deductible entertaining expenses from business income.
10. Removal of the ceiling on deduction for professional fees for services in connection with legal proceedings relating to income tax.
11. Extension of tax exemption for public sector mutual funds to recognized private sector mutual funds.

1993

1. Extension of tax exemption on payments under voluntary retirement schemes to private sector companies.
2. Additional relief to senior citizens under section 88B.
3. Extension of deductions from profits to industrial units in backward States and Union Territories.
4. Extension of deductions from profits to new power generation projects.

5. Introduction of section 80HHE allowing 100 per cent deduction of income from software export.
6. Insertion of section 35 (2AA) allowing deduction for contributions to national laboratories for scientific research.
7. Extension of deduction for charitable donations to specified institutions.
8. Insertion of section 115AD providing for concessional tax to foreign institutional investors or income from securities.
9. Insertion of section 10(23BBB) providing exemption of investment income to the European Economic Community.
10. Extension of tax exemption for salaries [under section 10(6)(viia)] to non-resident Indian technicians.
11. Enhanced deduction for bad and doubtful debts for rural branches of banks.

Simplification or Rationalisation Measures

1992

1. Simplification of taxation of firms.
2. New scheme for capital gains taxation.
3. Exemption to capital gains on amalgamation of foreign companies holding shares in an Indian company.
4. Simplification of approval requirements for foreign technicians for granting of exemption on remuneration.
5. Presumptive tax on retail trade.
6. Raising of the floor for maintaining compulsory accounts.
7. Extension of tax deduction at source to certain additional activities.
8. Modification of capital gains treatment to protect non-resident indians from fluctuation in the rupee exchange rate.

1993

1. Increasing the period of approval for charitable institutions to 5 years.
2. Extension of the presumptive tax to transport operators.
3. Insertion of a scheme of advanced ruling for non-residents under a new Chapter XIX-B.
4. Rationalisation of section 11(2) regarding accumulation of income for charitable purposes.
5. Rationalisation of the definition of perquisites regarding medical treatment abroad.

6. Rationalisation of the deduction for head office expenditure of non-residents.
7. Rationalisation of procedures for deduction of tax at source.

Complication Measures

1992

1. Withdrawal of presumptive tax on liquor vendors.
2. Omission of tax deduction at source on bank deposits.
3. Limitation on units able to claim small scale industry deduction on profits.

1993

None.

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