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# MAJOR LEGISLATION

Jan. - Dec., 1980

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## 1. Constitutional and Administrative Law

### Administrative Law

In the light of the shortage of fiscal sources, certain acts concerning taxation and administrative reform have been legislated. Enacted to remedy the inequality in taxation was the "income tax amendment act" (details of which are described later in this article).

With the legislation of the "Ad Hoc Council on Administrative Reform Act" (promulgated on Dec. 5, 1980, and put into force on Mar. 16, 1981, Ch. 103) a Second Ad Hoc Council of Administrative Reform, attached to the Prime Minister's Office, was inaugurated to deliberate on administrative reform and rationalization.

Furthermore, the Compensation for Criminal Injuries Act (promulgated on May 1, 1980, and put into force on Jan. 1, 1981, Ch. 36) was legislated for the relief of those who died or suffered grave injuries due to criminal offenses. Prior to the legislation of this act, victims or their bereaved families could only resort to criminal's civil liability which was insufficient. The new act, how-

ever, paved the way for improving the means of relief for them through payments by the state such as "benefits for bereaved families" and "benefits for bodily injuries."

The Licensed Tax Accountants (Amendment) Act (promulgated on Apr. 1, 1980, Ch. 26) was also enacted. The amendment act specified the "mission of tax accountants," while introducing amendments on "the work, rights and duties, qualifications and disciplinary punishment concerning licensed tax accountants." In addition, "a Licensed Tax Accountants Screening Committee" was established to conduct qualifying examinations for licensed tax accountants and deliberate on disciplinary punishment.

Although not a law, the local ordinance on the voting by ward residents concerning the selection of candidates for membership on the Nakano Ward Board of Education (promulgated and put into force on July 7, 1980, Nakano Ward regulation No. 23) is worthy of attention as a semi-public election system of the members of the Board of Education. Board of Education members have been "appointed" by the heads of local public entities with the consent of assemblies since Oct. 1, 1956 in accordance with Article 4 para. 1 of the "Act Concerning the System and Management of Local Educational Administrations." (This system has been observed across the country by local autonomies except Nakano Ward, Tokyo). With the legislation of the above-mentioned ordinance, a public election system was introduced in Nakano Ward requiring the head of the ward, when appointing members, "to take into consideration the results of voting by ward residents." This semi-public election system has been attracting the attention of the public as a new form of participation in local affairs by residents.

### **The Income Tax Amendment Act**

(Promulgated on Mar. 31, 1980. Ch. 8.)

In order to solve the shortage of state revenue sources, both the government and Finance Ministry thought of introducing a "general sales tax" and correcting the inequality in the taxation system.

The former was given up in the face of strong opposition raised by the people. As a result, the authorities embarked on a study of preventive measures against tax evasion and correction of the inequality in taxation relating to interest and dividends income.

At present, an optional system of either global taxation or separate taxation is in effect concerning income in the form of interest and/or dividends. In global taxation, those in the higher income bracket are subject to progressive tax rates of over 35 percent if their income from interest and dividends is totaled together with other incomes for global taxation. But in separate taxation, they are not subject to this tax rate. Under the optional system (in separate taxation), these higher income earners are favorably treated.

As a means to correct such inequality, it was proposed that interest and dividends income be subject to global taxation. To realize this change, however, it is essential to scrutinize each interest and dividends income accurately. Furthermore, it was pointed out that in the absence of such global taxation, the system of “tax exemption of small savings” would be abused.

Thereupon, a “taxpayer account number system” was proposed. It was projected to examine individual incomes by numbering each taxpayer. Scholars of the Constitution as well as those of tax laws raised opposition to such a plan on the ground that it runs counter to Article 29 of the Constitution, which guarantees the confidentiality of private properties and that information of the content of private properties could be used for purposes other than tax administration. As opposition gained momentum, the prospect to “realize the number system” was set aside, at least for the time being.

Taking such circumstances into account, the Tax Council in its recommendation on Dec. 10, 1979 proposed that interest and dividends income be shifted to global taxation, and as a means to prevent the abuse of the tax exemption system for small savings, anyone wishing to use this tax exemption system should be issued a “green card” upon “request.” The current act was legislated in response to such recommendation.

*[Gist of Amendment]*

According to Article 11-2, anyone wishing to obtain "tax exemption for small savings" must show at any financial institution his "User's Card for Tax Exemption of Small Sums of Savings" which is called a green card for short. Anyone wishing to obtain one must file an application, accompanied by a copy of a residency card, with the Director-General of the National Taxation Administration Agency, upon which the Director-General will issue a card to the applicant (Article 11-3).

Restrictions are imposed on the use of the card. "Excepting cases in which the recipient uses it for his own purpose, the card should not be used for purposes other than tax business" (Article 11-2 para. 2). With the adoption of the system, global taxation on interest and dividends income is to be implemented beginning Jan. 1, 1984.

*[Comment]*

Although users are issued cards "upon application," it is fully assumed that such cards could be linked to a computer. Therein lies the possibility that the proposed card system could fulfill the function of the taxpayer account number system. This possibility is all the more strengthened for lack of a provision calling for the return of the card. In this regard, scholars have been criticizing the card system in the same tone they criticized the "taxpayer account number system."

Since it is also assumed that the users of the "tax exemption system for small savings" are likely to be those in the higher income bracket, rather than small income earners, it presents a problem from the standpoint of correcting the inequality in taxation.

In addition to these criticisms, there appeared strong criticism from some quarters of the ruling Liberal Democratic Party that the new system may hamper their efforts in collecting election funds.

Against such a background, it is most likely that the act will either be abolished or largely amended before being put into force

in January, 1983.

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## **2. Law of Property and Obligations**

### **1. Act Providing for Promotion of Agricultural Land Utilization.**

(Promulgated on May 28, 1980, and put into force on Sept. 1, 1980. ch. 65. Fifteen articles in all, accompanied by seven supplementary provisions.)

### **2. Agricultural Land Act (Amendment Act).**

(Promulgated on May 28, 1980, and put into force on Oct. 1, 1980. ch. 66.)

### **3. Amendment of Acts concerning Agricultural Land Commission and Others.**

(Promulgated on May 28, 1980 and put into force on Sept. 20, 1980. ch. 67.)

#### ***[Comment]***

Legislation and amendment acts concerning the three mentioned above are generally called “The Three Acts on Agricultural Land.” With these acts, the contents of the agricultural land system were rearranged and improved for the purpose of promoting the mobility and utilization of farmland. Emphasis will be placed here on the Act Providing for Promotion of Agricultural Land Utilization, which is superior in significance to the other two acts on agricultural land.

This act was legislated “for the purpose of contributing toward the healthy development of agriculture through improvement of agricultural management and promotion of agricultural produc-