

Land-Value Taxation Law in Jamaica

EARLIER this year the Jamaican Government completed its new land valuation* and sent to all land owners a notice of valuation and of tax payable.

Valuations are based on market value and take into account location and use, zoning, development potential, land prices in the area, type of land, size of land and other relevant factors.

On receipt of a Notice of Valuation, a person dissatisfied with the valuation is entitled to lodge an objection in writing to the Commissioner of Valuations. This must be done within sixty days of service of the Notice of Valuation.

GROUNDINGS FOR OBJECTION

Objections may be made on the following grounds:

- a) that the values assessed are too high or too low;
- b) that lands which should be included in one valuation have been valued separately;
- c) that lands which should be valued separately have been included in one valuation;
- d) that the person named in the notice is not the owner of the land.

The Commissioner, after considering the objection, may either disallow it or allow it, wholly or in part. If the objector is not satisfied with the Commissioner's decision, he may, within sixty days of that decision, appeal to the Revenue Court.

If either the Commissioner or objector is dissatisfied with the decision of the Revenue Court, he may appeal to the Court of Appeal within sixty days of the decision of the Revenue Court.

Where the objection is to the value assessed, the landowner may make a 'declaration of value'—the amount for which, in his opinion, the land should

be valued. The land owner may then pay whatever amount of tax would be due at the value that he has declared.

If his objection is turned down, however, any amounts underpaid will be collected as arrears of tax and will attract 15 per cent per annum interest penalty. If the tax were overpaid, a refund would be made.

The lodging of an objection does not excuse non-payment of the tax due. The tax due should be paid. Any amount overpaid will be refunded.

THE NEW PROPERTY TAX RATES

Values not exceeding \$2,000	—\$5.00 minimum
First \$2,000 value	—\$5.00 minimum
Next \$2,000 value (up to \$4,000 value)	—1% or 1c. per dollar of value
Next \$6,000 (up to \$10,000 value)	—\$1.75% or 1.75c per dollar of value
Next \$6,000 (up to \$16,000 value)	—\$2.50% or 2.50c. per dollar of value
Next \$9,000 (up to \$25,000 value)	—\$3.25% or 3.25c. per dollar of value
Values exceeding \$25,000 but not exceeding \$50,000	—\$4% or 4c. per dollar of value
Values exceeding \$50,000	—\$4.50% or 4.50c. per dollar of value

Derating Relief is 75 per cent for agricultural land and 25 per cent for hotel land. Derating cannot reduce tax payable below the minimum \$5.00.

DERATING CERTIFICATES

Any person liable to pay land tax in respect of any land may apply in the prescribed manner on the prescribed form, and within the prescribed time to the Land Taxation Relief Board for a Derating Certificate, if he considers—

- a) that the land is used exclusively or principally for agricultural purposes;
- b) that the land is used for purposes of a *bona fide* hotel enterprise or for purposes of a hotel approved under the Hotels (Incentives) Act 1968.

A Derating Certificate is usually issued for one year, but the Board may, in its absolute discretion, issue a Certificate for a period not exceeding three years, and this ceases to have effect as soon as the land or any part thereof is subdivided or used for any purpose other than that for which it was being used when the application for a Derating Certificate was made.

EXISTING USE AND POTENTIAL USE

Relief is given where the valuation takes into account potentiality for use higher than the existing use of the land. The Land Taxation (Relief) Law, 1960, provides for the granting of a Relief Certificate

* See *Land & Liberty*, May & June

by the Land Taxation (Relief) Board. The Law takes into account three categories of hardship cases.

CASE 1: Agricultural Land

That the land is being used and at the time of valuation was being used *bona fide* as agricultural land and the valuation thereof took into account the potentialities of the land for use other than as agricultural land.

CASE 2: Private Dwelling Houses

That a building on the land is being used and at the time of valuation was being used *bona fide* as a private dwelling house and the valuation of the land took into account the potentialities of that land as a suitable site for any of the following types of development:-

- i) Hotel or guest house
- ii) Shop, office or other commercial building
- iii) Industrial building
- iv) Block of residential flats
- v) Type of residence which would necessitate re-development of the land and involve substantial capital expenditure.

CASE 3: Approved Organisations

That the land is being used and at the time of valuation was being used *bona fide* for an approved purpose by an approved organisation and that the valuation takes into account the potentialities of that land as suitable for subdivision or for any of the types of development purposes given in Case 2. "Approved purposes" means a purpose as relating to the provision of playing fields for cricket, football and other outdoor games. "Approved organisation" means, in relation to an approved purpose, an organisation specified as relating to Members' Clubs registered as such under the Registration of Clubs Law.

Notwithstanding the limitation regarding approved purpose and approved organisation, the Minister of Finance is empowered to amend the first schedule to the Land Taxation (Relief) Law, 1960, by adding thereto any purpose or any organisation as an approved purpose or organisation if he is satisfied that either the purpose or the organisation as the case may be, is mainly of a social, religious, cultural or educational nature.

GRANTING OF RELIEF CERTIFICATES

On receipt of an application for the grant of a Relief Certificate in relation to any land, the Board shall determine whether any land tax which is payable in respect of that land, should be reduced to an annual amount or by a percentage.

Where the application is refused, the applicant and the Collector of Taxes for the area in which the

land is situated will be notified.

Where the application is approved by the reduction of the land tax to an annual amount or by a percentage, a Relief Certificate is issued.

A Relief Certificate is sufficient authority to a Collector of Taxes to make such adjustments including any refunds in any land tax payable by the recipient of a Relief Certificate.

EFFECT AND DURATION OF RELIEF

A Relief Certificate, unless the Board otherwise decides and so stipulates in the Certificate, is effective from the date on which any land tax to which it relates becomes payable on the valuation giving rise to the application for relief. Relief Certificates, unless revoked in accordance with this Law, continue in force until—

- i) a new valuation roll comes into force regarding the land to which the Relief Certificate relates;
- ii) the person to whom it is granted dies;
- iii) the land to which it relates or any part is—
 - a) sold, exchanged or given away;
 - b) leased, licensed or otherwise disposed of on terms whereby the land or part thereof may be used for any purpose other than the purpose for which it was being used at the time when the application for a Relief Certificate was made.

SPECIAL RELIEFS

When—in spite of reliefs provided by Derating Certificates and Relief Certificates — there still appear to be genuine cases of hardship, other reliefs are permitted under the Property Tax Law. In such cases application for remission of tax may be made to the Minister of Finance through the Collector of Taxes.

There can be little doubt that the graduated rate of tax which gives tax advantages to those with land of comparatively low value is a concession thought necessary to secure the support of a wider number of small land owners. Had the tax been a uniform rate pitched at the highest rate in the pound, there would no doubt have been sufficient opposition from all land owners to resist this land tax.

Ideally, all land holders should pay at a uniform rate. And ideally this rate should be 100 per cent, since land rent or land value measures the natural advantages that land holders enjoy over the landless. Looked at from one point of view, a uniform rate of tax is fair in that it treats all land owners alike within the context of an *ad valorem* tax. Yet it could be argued that it does not in practice treat them all alike, because it leaves unequal amounts of land value with land owners.

Anything short of the collection of the whole

rent of land can be regarded as a continuation in part at least of the injustice of the private appropriation of land value.

Politically a 100 per cent collection of the rent of land immediately, may justifiably be claimed as impracticable whatever may be the objective for the future. Therefore, if a compromise has to be made, it could well be argued that a graduated rate of tax achieves more than would a uniformly low rate.

Regarding the derating of agricultural land and hotel land, it would appear again that political forces have been at work, but these exemptions represent quite a different principle of compromise. Relief for agricultural land cannot be justified either economically or ethically. The value of land in no way enters into the cost of production, so that if the government had in mind that the rating relief for agricultural land might in some way keep agricultural prices down or prevent them from going up, then they are clearly misguided.

The derating of hotel land, while the concession is only 25 per cent, is equally unjustifiable. Here again, it would appear that it is intended that tourism is to be encouraged, and that a 25 per cent derating relief will encourage more hotel land to be used than otherwise. But the profits from hotels are, or should be, made simply on the capital employed, not upon the land in use. In short, this derating relief is simply a gift to the owners of hotel land.

Another flaw in this land-value legislation is the apparent concession to "existing use." It would appear that, for just so long as a plot of land is being used for agricultural purposes, for a private dwelling house, or for an approved purpose by an approved organisation, whatever its potential, it will not be valued as for any higher use. This is intended to avoid penalising farmers, homeowners and approved organizations where the development potential of their land *is not* realized—not the same as where it *cannot* be realised or is not permitted. This reduces the incentive for, say a home owner to make his land available for development and buy a more suitable house plot somewhere else. As an extreme example, one could imagine a private dwelling house continuing to exist in a very valuable shopping area indefinitely.

In due course, the economic and social effects of these departures from the principle of site-value taxation will make themselves felt, making it necessary to take a further look at these concessions.

However, whatever the shortcomings of Jamaica's land-value taxes, if the valuations are kept up-to-date there should be an increasing flow of land-value revenue into the public purse.