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INTER-GOVERNMENTAL CONFERENCE
FOR THE SETTING UP OF A EUROPEAN
SYSTEM FOR THE GRANT OF PATENTS

Brussels, 1 October 1971
BR/GT II/17/71

- Secretariat -

NOTE FROM THE SECRETARIAT

Subject: System of income tax applicable to officials of the
European Communities

At the 4th meeting of the Conference (20/28 April 1971) the Secretariat was instructed to explain the principles whereby the European Communities levy a Community tax on the salaries of their officials. This note is intended for the preparation of the work on this question which Working Party II has been requested to carry out (cf. report of the 4th meeting, BR/125/71, point 152).

The delegations on Working Party II will find a note to this effect annexed hereto.

BR/GT II/17 e/71 son/PB/prk

N O T E

Subject: System of income tax applicable to officials of the European Communities

I. Applicable texts

The system of income tax applicable to officials of the European Communities is laid down in the following provisions, the text of which is reproduced in the Annexes to this note:

- (a) Articles 13, 14 and 16 of the Protocol on the Privileges and Immunities of the European Economic Community (JO No. 152/67, page 15) (Annex I);
- (b) Regulation laying down the conditions and procedure for application of the tax instituted for the benefit of the European Communities (OJ No. L 56/68, pages 8 to 10) (Annex II);

- (c) Articles 2 and 3 of the Regulation determining the categories of officials and other employees of the European Communities to whom the provisions of Articles 11, 12, second paragraph, and 13 of the Protocol on the Privileges and Immunities of the European Communities apply (OJ No. 181, page 2880/63) (Annex III)

II. Principles

1. Purpose of the Community tax

The essential purpose of Article 13 of the Protocol on Privileges and Immunities, which replaces the various national income tax systems, is, firstly, to prevent the operation of different tax rates modifying to some extent the Member States' actual contributions to the Community budget, and secondly to avoid equality of remuneration between officials being affected.

2. Legal scope of the income tax system

Bearing in mind the object of instituting a genuine tax and not a mere pay arrangement the Community income tax system takes the legal form of a regulation directly applicable in the Member States.

3. Persons liable to the tax

Those persons who are officially recognised as being accorded the privilege of exemption from payment of national income tax are liable to Community tax (cf. Annex III).

4. Basis for tax assessment

The total earnings ("salaries, wages and emoluments") are subject to Community income tax.

The following are however exempt:

- (i) sums representing compensation for expenses incurred in the performance of duties;
- (ii) social and family allowances and benefits.

5. Monthly deduction of Community income tax

Community tax is deducted monthly at source.

The system of annual levying of income tax in force in the Member States has been eschewed for reasons of administrative simplicity.

Since income tax is levied at source, the principle of annual payment of income tax would involve procedures requiring annual settlements, which would in turn presuppose the existence of a special department to deal with taxes, whereas the principle of monthly tax payments enables the income tax to be levied every time salaries are paid. Thus problems of settling tax payments arise only in the event of :

- (i) payments for periods of less or more than one month;
- (ii) back payments covering several months.

6. Destination of the income tax

Article 13 of the Protocol on Privileges and Immunities lays down that the income tax is levied for the benefit of the European Communities; the tax revenue is thus entered as income in the Communities' budget.

III. Remarks on certain Articles of the Regulation on the Community tax

1. Article 3, paragraphs 1 to 3 (basis of assessment)

Pursuant to the provisions of Article 1, paragraphs 1 to 3, the following items of remuneration are liable to Community tax:

- (i) basic salary (Article 66 of the Service Regulations of officials of the European Communities);
- (ii) differential allowance in the event of temporary occupation of a post within a higher category (Article 7, paragraph 2 of the Service Regulations);
- (iii) flat-rate temporary allowance (Article 4 bis, Annex VII to the Service Regulations);
- (iv) remuneration for overtime (Article 1, Annex VI to the Service Regulations);
- (v) severance grant (Article 12, Annex VIII to the Service Regulations);
- (vi) compensation for annual leave unused at the time of leaving the Communities' service (Article 4, Annex V to the Service Regulations);
- (vii) special allowances paid for:
 - (a) arduous working conditions (Article 100 of the Service Regulations)
 - (b) exceptional service (Article 99 of the Service Regulations)
 - (c) patented inventions (Article 94 of the Service Regulations)

2. Article 3, paragraph 4 (abatement for occupational expenses and dependent children)

The abatements provided for are on a proportional basis; contrary to the provisions of certain national tax systems, it is not possible to take into account any individual cases of heavy expenses.

3. Article 3, paragraph 5 (tax allowance for social insurance contributions)

At present the following contributions are deductible for tax assessment purposes:

- (i) pensions contributions (6% of the basic salary);
- (ii) sickness insurance contributions (1.5%);
- (iii) accident insurance contributions (0.1%).

4. Article 4 (income tax schedule)

The overall rate of taxation on a taxable amount of:

15,000 FB is	1,152 FB	i.e.	7.67 %
25,000 FB	2,354 FB		9.41 %
40,000 FB	5,736 FB		14.34 %
60,000 FB	13,620 FB		22.70 %
80,000 FB	22,620 FB		28.27 %
100,000 FB	31,620 FB		31.62 %

5. Article 5 (application of a corrective factor)

This Article is intended to neutralise the effect of corrective factors applied:

- (i) to make allowance for differences in living conditions in the various places to which officials of the European Communities are seconded (Article 64 of the Service Regulations of officials of the European Communities); or, by way of exception,
- (ii) to make allowance - irrespective of annual adjustments in earnings - for substantial fluctuations in the cost of living (Article 65, paragraph 2 of the Service Regulations).

6. Article 6 (exceptions to the income tax schedule)

Paragraph 1

Since overtime earnings and other emoluments as provided for in this paragraph might have the effect of placing overall earnings in a higher income tax bracket, provision is made, to offset this eventuality, for such extra earnings and emoluments to be taxed at the rate which was applicable to the highest fraction of remuneration during the month preceding payment (this rate clearly being considerably higher than the actual rate of overall income tax). A preferential scale is applied to the severance grant referred to in Article 12 of Annex VIII to the Service Regulations of officials and in Article 39 of the conditions of employment of other employees.

Paragraph 2 (minimum subsistence rate)

In view of the fact that in principle any amount in excess of 803 FB is liable to tax, it has been necessary to specify that the application of the Community income tax shall not have the effect of reducing earnings to an amount less than the minimum subsistence rate (currently 8,480 FB). This provision applies in particular to certain survivors' pensions.

7. Article 8 (tax deduction)

In practice, all operations involved in the deduction of income tax are carried out by using the mechanographic process for payment of salaries.

8. Articles 9 and 10

These Articles cover certain special questions peculiar to the European Communities.

PROTOCOL ON PRIVILEGES AND IMMUNITIES
of the European Communities

Article 13

Officials and other servants of the Community shall be liable to a tax for the benefit of the Community on salaries, wages and emoluments paid to them by the Community, in accordance with the conditions and procedure laid down by the Council, acting on proposals submitted by the Commission within one year of the entry into force of this Treaty.

They shall be exempt from national taxes on salaries, wages and emoluments paid by the Community.

Article 14

In the application of income tax, wealth tax, and death duties and in the application of conventions on the avoidance of double taxation concluded between Member States of the Community, officials and other servants of the Community who, solely by reason of the performance of their duties in the service of the Community, establish their residence in the territory of a Member State other than their country of domicile for tax purposes at the time of entering the service of the Community, shall be considered, both in the country of their actual residence and in the country of domicile for tax purposes, as having maintained their domicile in the latter country provided that it is a member of the Community. This

provision shall also apply to a spouse, to the extent that the latter is not separately engaged in a gainful occupation, and to children dependent on and in the care of the persons referred to in this Article.

Movable property belonging to persons referred to in the first paragraph of this Article and situated in the territory of the country where they are staying shall be exempt from death duties in that country; such property shall, for the assessment of such duty, be considered as being in the country of domicile for tax purposes, subject to the rights of third countries and to the possible application of provisions of international conventions on double taxation.

Any domicile acquired solely by reason of the performance of duties in the service of other international organisations shall not be taken into consideration in applying the provisions of this Article.

Article 16

The Council shall, acting on a proposal from the Commission and after consulting the other institutions concerned, determine the categories of officials and other servants of the Community to whom the provisions of Articles 12, 13, second paragraph, and Article 14 shall apply, in whole or in part.

BR/GT II/17 (Annex I) e/71 nan/PB/prk

REGULATION (EEC, EURATOM, ECSC) No. 260/68 OF THE COUNCIL

of 29 February 1968

laying down the conditions and procedure for application
of the tax instituted for the benefit of the
European Communities

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAVING REGARD to the Treaty setting up a single Council and a single
Commission of the European Communities;

HAVING REGARD to the Protocol on the privileges and immunities of the
European Communities, and in particular Article 13 thereof;

HAVING REGARD to the proposal of the Commission;

WHEREAS it is necessary to lay down the conditions and procedure under
which the wages, salaries and emoluments of officials and other servants of
the Communities, as well as persons to whom Article 13 of the Protocol on
privileges and immunities also applies, shall be liable to the tax established
by the aforesaid Article;

HAS ADOPTED THIS REGULATION:—

ARTICLE 1

The tax on wages, salaries and emoluments paid by the Communities to
their officials and other servants, set up under Article 13(1) of the Protocol on
the privileges and immunities of the European Communities, shall be deter-
mined under the conditions and collected according to the procedure laid
down in this Regulation.

ARTICLE 2

The following shall be liable for the tax:—

persons subject to the Service Regulations or to the conditions of
employment for other servants of the Communities including recipients
of the compensation provided in the event of removal from office in the
interests of the service, except local employees;

recipients of invalidity, retirement and survivor's pensions paid by the
Communities;

recipients of the compensation on termination of service provided by
Article 5 of Regulation (EEC, Euratom, ECSC) No. 259/68 of the
Council.

ARTICLE 3

1. The tax shall be payable each month on wages, salaries and emoluments
paid by the Communities to each person liable.

2. However, monies and grants, whether lump sums or not, representing
compensation for expenses incurred in the performance of official duties,
shall be excluded from the basic tax assessment.

3. The family allowances and social benefits listed below, shall be deducted
from the basic taxable assessment:—

(a) Family allowances:

—head of household's allowance,

—dependent child's allowance,

—school fees allowance,

—allowance on the birth of a child;

(b) Social assistance;

(c) Allowances paid on account of occupation disease or accident;

(d) Pari payments on account of all kinds of family allowances.

The amount of deduction made shall be calculated, having regard where
necessary to the provisions of Article 5.

4. Subject to the provisions of Article 5, an abatement of 10% for occu-
pational and personal expenses shall be made from the amount resulting from
the application of the foregoing provisions.

A supplementary abatement equivalent to twice the amount of the
allowance for a dependent child shall be made for each dependent child of
the person liable as well as for each person assimilated to the status of a
dependent child within the meaning of Article 2(4) of Annex VII to the
Service Regulations.

5. Deductions from remuneration of persons liable on account of pensions
and retirement allowances or of social security shall be deducted from the
basic taxable assessment.

ARTICLE 4

The tax shall be calculated on the taxable amount obtained by applying
Article 3 and treating as nil any fraction not exceeding F.B. 803 and subject to
the provisions of Article 5 by also applying the rate of:—

8	% to fractions between 803 and 14.178 F.B.
10	% to fractions between 14.179 and 19.528 F.B.
12.50	% to fractions between 19.529 and 22.380 F.B.
15	% to fractions between 22.381 and 25.413 F.B.
17.50	% to fractions between 25.414 and 28.265 F.B.
20	% to fractions between 28.266 and 31.030 F.B.
22.50	% to fractions between 31.031 and 33.883 F.B.
25	% to fractions between 33.884 and 36.648 F.B.
27.50	% to fractions between 36.649 and 39.500 F.B.
30	% to fractions between 39.501 and 42.265 F.B.
32.50	% to fractions between 42.266 and 45.118 F.B.
35	% to fractions between 45.119 and 47.883 F.B.
40	% to fractions between 47.884 and 50.735 F.B.
45	% to fractions above 50.735 F.B.

ARTICLE 5

When wages, salaries and emoluments are subject to a corrective factor:—

- (a) the amount of each of the elements included in the calculation of the tax, except deductions made from the remuneration of persons liable by way of pensions, and retirement allowances or of social security, shall, for the purpose of giving effect to this Regulation, be obtained by applying the corrective factor to the amount of such element as calculated before applying any corrective factor to the remuneration;
- (b) the amount of abatements mentioned in Article 3(4) shall be obtained by applying the corrective factor to the amount of the abatements as calculated before the application of any corrective factor to the remuneration;
- (c) the amounts of the fractions of income shown in Article 4 shall be subject to the corrective factor.

ARTICLE 6

1. As exceptions to the provisions of Articles 3 and 4:—

(a) the sums paid:

- as compensation for extra hours worked,
- for extra heavy work,
- for exceptional services,
- for patented inventions,

shall be assessed for purposes of the tax which, in the month preceding that of payment, was applied to the highest fraction of the taxable amount of the official's remuneration;

(b) payments made on account of termination of service shall be payable, after applying the abatements laid down in Article 3(4), at a rate equal to two thirds of the ratio existing, at the time of last salary payment, between:

- the amount of tax payable and
- the basic taxable assessment as defined in Article 3.

2. The application of this Regulation shall not have the effect of reducing wages, salaries and emoluments of every kind paid by the Communities to an amount less than the minimum subsistence rate as defined in Article 6 of Annex VIII to the Service Regulations of Officials of the Communities.

ARTICLE 7

When the tax payment covers a period of less than one month, the payable rate of the tax shall be that which is applicable to the corresponding monthly payment.

When the tax payment covers a period of more than one month, the tax shall be calculated as if this payment had been spread evenly over the months to which it relates.

Corrective payments not related to the month during which they are paid shall be subject to the tax to which they would have been subject had they been made at the proper time.

ARTICLE 8

Tax shall be collected by means of deduction at source. Its amount shall be rounded off to the lower unit.

ARTICLE 9

The tax revenue shall be entered as income in the budgets of the Communities.

ARTICLE 10

The governing bodies of institutions of the Communities shall collaborate for the purpose of ensuring a uniform application of the provisions of this Regulation.

The Council shall adopt, on the proposal of the Commission, any provisions necessary for the application of this Regulation.

ARTICLE 11

This Regulation shall also apply:—

- to members of the Commission;
- to Judges Advocates General, the Registrar and Rapporteurs attached to the Court of Justice,
- to members of the Board of Audit.

ARTICLE 12

This Regulation shall apply to members of agencies of the European Investments Bank, as well as to members of its staff and recipients of the pensions it pays, who are included in the categories fixed by the Council in application of Article 16(1) of the Protocol on privileges and immunities, with regard to wages, salaries and emoluments as well as invalidity, retirement and survivor's pensions paid by the Bank.

ARTICLE 13

The Compensation grants and payments referred to in Article 13 of Regulation No. 32 (EEC), 12 (EAEC)⁽¹⁾, shall be exempt from the tax.

ARTICLE 14

Regulations No. 32 (EEC), 12 (EAEC) are hereby revoked.

ARTICLE 15

This Regulation shall come into force on the day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 February 1968

COUNCIL REGULATION No. 8/63/EURATOM, No. 127/63/EEC

of 3 December 1963

determining the categories of officials and other employees
of the European Atomic Energy Community and
the European Economic Community to whom the
provisions of Articles 11, 12, second paragraph, and
13 of the Protocols on the Privileges and Immunities
of the Communities apply

Article 2

The provisions of Article 12 second paragraph of the
Protocols on the Privileges and Immunities of the Community
are applicable to the following categories:

- (a) Persons coming under the Service Regulations or
Conditions of Employment applicable to other servants of
the Community, including those who receive the compensation
provided for in case of retirement from employment in the
interest of the Service, with the exception of local staff,
- (b) Persons receiving invalidity, retirement or survivors'
pensions paid by the Communities.

Article 3

The provisions of Article 13 of the Protocols on the Privileges and Immunities of the Communities are applicable to the following:

- (a) Officials who come under the Service Regulations of officials of the Communities;
 - (b) Staff coming under the Conditions of Employment applicable to other servants of the Communities, with the exception of local staff.
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