

ANNUAL MEETING - JUNE 1965Position of ICNAF under Canadian tax laws

by the Executive Secretary

1. Since the last meeting an investigation has been made of the position of the Secretariat under Canadian tax laws.
2. With reference to sales taxation, an enquiry of the federal Department of National Revenue elicited the information that the Excise Tax Act provides exemptions for printed matter "of an educational, technical, cultural or literary character" in certain cases and, following submission of sample copies for appraisal, the Commission's publications have now been granted such exemption. In addition, application for refund of \$1,245.26 in Federal Sales Tax paid in the last two years has been successful.

The Commission has also been relieved of the hospital tax imposed by the Province of Nova Scotia and application has been made for refund of \$857.17 in tax paid since 1 January 1959.

3. With reference to income taxation, the Deputy Minister of National Revenue (Taxation) has provided the following advice:

" I refer to the letter from the Honourable H. J. Robichaud, Minister of Fisheries, dated December 11, 1964, and your request for comments on the income tax aspects. I can confirm that the Income Tax Act does not exempt the salary received by Canadian citizens who are employed in Canada by international agencies. Furthermore it is my understanding that the Department of Finance wish to maintain this policy and, when Parliament has enacted legislation concerning international agencies, the right has been reserved to tax Canadian citizens resident in Canada. For example, Section 2 of the Privileges and Immunities (United Nations) Act, R.S.C. 1952, Chapter 219, provides:

- '2. The Governor in Council may authorize the accession of Canada to the Convention on the Privileges and Immunities of the United Nations ... set out in the Schedule, with the reservation that exemption from taxation imposed by any law in Canada on salaries and emoluments shall not extend to a Canadian citizen residing or ordinarily resident in Canada, and may make such orders as appear to him to be necessary for that purpose and for the purpose of carrying out the obligations of Canada thereunder.'

" If the aforementioned policy is to remain unchanged and if no exception to the policy is to be made for ICNAF, the only provision in the Income Tax Act that might be of assistance is Section 41(4). Under that provision a resident of Canada is given a tax credit if he is an employee of an organization defined for the purpose of Section 3 of the Privileges and Immunities (United Nations) Act and is required to pay a levy imposed by that organization to be used to defray its expenses. Bill S-24, which was passed by the Senate on 10th June, 1964, but which has not yet been passed by the House of Commons, will extend the organizations defined by the said Section 3 to include:

- '3(b). Any international organization of which Canada is a member, the primary purpose of which is the maintenance of international peace or the economic or social well-being of the community of nations.'

" If ICNAF should qualify under the proposed extension of the Privileges and Immunities (United Nations) Act and if it should decide to impose a levy on its employees in order to defray part of its expenses, residents of Canada who are employees of the organization would remain subject to tax in Canada but would receive a tax credit for the amount of the levy paid by them and this credit might reasonably be viewed as an additional contribution by Canada to the work of the organization. So long as the levy on the employee's salary was not greater than the Canadian income tax otherwise payable on the salary, the employee would not be affected. At present all employees of the organization are residents of Canada but non-residents might be employed later on and the organization would need to consider the effect of a levy on employees who were residents of other countries. "

In this connection, it was reported by the federal Treasury Board that

" The Department of External Affairs reports informally that Canadian employees of the International Civil Aviation Organization in Montreal are allowed to deduct from their federal income tax a levy ICAO makes on them (in fact, it is higher than the federal income tax so these employees pay no federal income tax). They do have to pay Quebec income tax and an item to reimburse ICAO (which reimburses its employees) for this tax is included in the External Affairs estimates. Perhaps a similar approach could be taken on behalf of the employees of ICNAF. The Department of External Affairs should be able to provide you with the details of this arrangement. "

On further enquiry, the Department of External Affairs reported as follows:

" A Canadian employee of I. C. A. O. is exempt from federal income tax but is required to pay an equivalent amount to I. C. A. O. in the form of a staff assessment. This procedure was adopted by I. C. A. O. as a result of the problem arising out of the desire of international organizations to provide equal terms of employment for all staff members and the unwillingness of member states to establish a tax-free class of citizens. A Canadian employee is permitted to deduct the I. C. A. O. staff assessment from his federal income tax. "

The net result of the procedure just outlined is that the Commission would become the beneficiary (in whole or in part) of revenue that ordinarily would be collected from the staff of the Secretariat by the Government of Canada. If it is considered that this possibility should be followed up with the Canadian authorities, the Commissioners of that country would be pleased to do so.