

AIRGRAM

INTERNATIONAL COOPERATION ADMINISTRATION

ON-ABR-146

15187123

SECURITY CLASSIFICATION
UNCLASSIFIED

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336.2
11-8-77

FROM - W O V / J. J. A

SUBJECT - Report on Taxation of Guatemalan Agriculture

PAGE 1 OF 19
DATE SENT Nov. 23rd. 1960
DATE REC'D 11-30

REFERENCE -
(Check one below each address)

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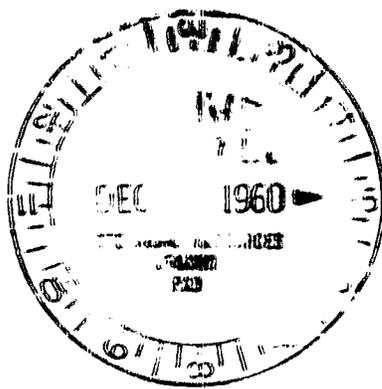
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Cecil Morgan

Transmitted herewith is Cecil Morgan's report containing certain background information on land and land ownership in Guatemala, as well as a description of the taxes affecting agriculture.

The outline followed in the report was drawn up in cooperation with Norman Ward and others in ICIA/W.

REFERENCE:



Attachment

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INTRODUCTION

With the promulgation of Decree No. 900, in 1952, Guatemala embarked upon a program of Agrarian Reform. Both the basic legislation and the administrative mechanism now in operation are decidedly different from the original (1) ones and the program is still moving forward. Up to June 30, 1960, some 130,000 hectares of land had been distributed to the landless, 3,586 families having received titles to their farms. An additional 500 titles, or thereabouts, are expected to be presented by December 1960. The above figures are said to represent only the new family-size tracts distributed; the number of people benefitted in one way or another under the program is said to total over 200,000.

The agrarian reform movement now in operation has four major aspects. First is the creation of new family-size farm units, as mentioned above. Roughly two-thirds of these units are located on formerly undeveloped state lands; the remainder were created by breaking up large estates purchased from private owners. A second aspect has been a program for making subsistence-size tracts of land available to the farm laboring class, so that this group can have at least a degree of financial security instead of being utterly dependent upon seasonal wages. The third aspect is that of helping the farm laborers who live in semi-urban communities to acquire better housing, better health facilities, school and recreational facilities, etc. Fourth is the making available of land to a community for the common use of the entire community. This is within the tradition of Guatemala since colonial times. The latter approach has been used in a number of special cases.

The first aspect mentioned above - that of creating a considerable number of new family-size farming units - is perhaps the most important aspect of the whole program in its long-term effects. Over two-thirds of Guatemala's farming operations in 1950 were of the subsistence type, with little or no surplus available for off-the-farm disposal. The creation of a new middle class group, producing more than its own needs of food and fiber, will, if it can be accomplished, inevitably be reflected in a better fed, better clothed and better housed population as a whole, as well as in greater political stability of the country.

The family-size farm program is at a critical point now, however. Settlers who have received lands are not keeping up their payments satisfactorily, on the whole. Up to October 31, 1960, payments due amounted to Q 509,239 and payments actually made to the Banco Nacional Agrario amounted to only Q 147,903 - 25.1% of the amount due. The operations of this institution have been unsatisfactory and the BN- requested a credit service, the agreement for which has recently been signed.

Most of the background information in Part I of this report can be found

in the original decree.

in considerably expanded form, in Bulletin No. PAS-51 of the U.S. Department of Agriculture, published in April 1959. This bulletin entitled, Guatemala: Its Agricultural Production and Trade, is frequently referred to herein. Since the PAS report is available in ICA/W and since most of the information contained in it is as valid today as it was in April 1959, it is suggested that it be read in conjunction with this report. The maps and tables contained in the PAS report will be found to be especially helpful; these are not duplicated herein.

PART I

LAND AND LAND OWNERSHIP

Extent and Location of Public Lands:

The total area of Guatemala is slightly more than 42,000 square miles, or about 26,907,000 acres. Of this, 7,811,000 acres was listed in 1950 as being in the forested areas of Peten and another 9,919,000 acres was accounted for as underdeveloped land or land taken up by roads, cities, lakes and streams. Altogether, almost 66% of the total country area consisted of land not in private ownership or use. Even in 1950, however, some portions of the public domain had been occupied by squatters so the figures above must be regarded as approximations. Today, ten years after the 1950 farm census, the amount of land remaining in the public domain is known to be somewhat smaller than it was in 1950 but nobody knows exactly how much smaller.

The public lands are located, for the most part, in the northern section of the country - in the Departments of Peten, Alta Verapaz, Izabal, Quiché, and Quetzaltenango. Some portions of the public lands are suitable for agricultural development but much of the land, especially that in El Peten and the adjacent areas, can probably never be agriculturally developed.

Mapping and Classification of Public Lands:

Maps showing the predominant soil classes have been prepared for the entire country. In the public land areas, where colonization has been done or is contemplated, rather exhaustive land classification studies have been made and detailed maps showing the areas suitable for the various kinds of agricultural development, the present vegetation cover, etc., have been prepared. Other maps, showing the size and location of the individual tracts sold (or to be sold) to settlers under the Agrarian Reform law, have been prepared.

Sale of Public Lands

Public lands can be sold to Guatemalans or to corporations in which Guatemalans have a controlling interest, in the ordinary course, following appraisal, advertisement for bids, etc. Payment may be made either in a lump sum or, at the option of the Ministry of Government, in ten equal annual instalments, at 6% interest on the unpaid balance.

Public lands constitute about two-thirds of the lands so far distributed under the Agrarian Reform program. These lands are being sold rather than given away. The law states that the sale price shall not exceed that of similar privately owned land, similarly located; in practice it is said that the price is determined largely by the cost of access roads and other public services to be provided to the settlers.

Lands sold under the Agrarian Reform law must be paid for within ten years - in ten equal instalments. If paid for earlier, the purchaser is entitled to a 10% discount on the instalments paid in advance. There is no interest charge if payments are made within six months of the due date. If payments are more than 6 months late, a 6% interest charge is added. If the purchaser gets as much as two years in arrears, he loses his right to complete the contract. In the latter case, however, he is entitled to a refund of the amount previously paid, as well as payment for any improvements he may have made during his tenancy (provided this amount exceeds a normal rental charge for the period he has used the land).

Applications for land under the Agrarian Reform law may be made to the Mayor of the municipality, who forwards them to the Direction General of Agrarian Affairs. In making allocations of land the DGAA is required to consider several criteria - citizenship, mental and physical capacity of the applicant, need for the land, knowledge of farming, residence in or near the locality, family responsibilities, etc. Once selected, the successful applicant is entitled to technical assistance of various kinds, to farm credit loans, etc.

An interesting feature of the Guatemalan Agrarian Reform program is that the tracts of land vary considerably in size. The average size is about 30 hectares but the size tract awarded in any individual case depends upon the fertility, slope and other characteristics of the land. The object is to see that each settler has a practical economic unit. Lands acquired under the program cannot be mortgaged, sold or subdivided for a period of 25 years, except with the approval of the DGAA.

Leasing of Public Lands

The same law that establishes a procedure for the sale of public lands sets up a similar procedure for the leasing of these lands. As far as can be determined, very little public land is actually leased for agricultural or grazing use at present. The small amount of revenue shown as "Rent and Income from

national property in the national budget is said to be derived from timber leases, mining leases and the like. The total area of land so leased could not be determined. The individual contracts are said to specify only the boundaries of the tracts leased, without mention of the areas involved.

Homesteading Opportunities:

There is no formal homesteading procedure in Guatemala now. That is, there is no procedure by which a settler can acquire without cost and without litigation a tract of land of pre-determined size. He can, however, move onto any tract of public land or unregistered land and can gain legal title on any size tract he can peacefully occupy and cultivate for a ten-year period.

Upon termination of the ten-year period he makes application for title to the court having jurisdiction in the area where the property is located. He produces witnesses to establish the fact of his residence and use of the land, has a licensed engineer or surveyor to run his boundaries and compute the area and has the owners of neighboring registered tracts, if any, verify the fact that no conflict of boundaries exists. The court can then certify him as eligible for title. Title is not final, however until it is registered in the Registro de Bienes Inmuebles, as is the case with all other titles.

Registration, in all cases, involves the filing of a cadastral map showing the location of the property, as well as the deed or patent itself.

PRIVATELY OWNED LANDS

The 1950 Agricultural Census shows 9,178,000 acres classified as farm land at that time. This amounts to 34.1% of the country's area. Of this amount, however, only 2,187,000 acres was classed as cultivated land. The complete breakdown is shown in Table I of the FAS Bulletin, to which reference has been made.

A special computation made by one of the officials of the DGAA for the present study shows a total of 8,929,988 acres of land under private ownership in 1950. An additional 571,776 acres is included in 78 National Farms which will be discussed more fully in a later paragraph. Since the figure shown above (8,929,988 acres) includes urban as well as rural lands in private ownership and since no figures are available as to the amount of land classified as urban (or non-farm), it is impossible to make an accurate estimate of the amount of land recently classified as farm land. It is believed, however, that the total would not vary greatly from the 1950 figure - 9,178,000 acres. The amount of land actually in cultivation now is said to be somewhat higher than it was in 1950. The main trend is said to have been toward a more intensive use of

lands previously classed as farm lands rather than toward the development, on any large scale, of new lands. Part of this is due to the fact that no transportation facilities exist outside of the already settled areas and part of it is due to the reluctance of the people - especially the Indians - to leave their home areas.

Location of Private Lands:

In general it may be said that the privately owned lands are concentrated in the same areas where the population is concentrated. Two exceptions to this rule should be mentioned, however. First are the National Farms which were formerly privately owned lands. Second are some of the lands held by the Indians in what might be called tribal ownership. In both these instances there may be relatively large numbers of people living on lands that are neither private, in the ordinary sense, nor public, in the sense of being available for settlement.

The National Farms:

The Finca~~s~~ Nacionales or National Farms constitute a special case in Guatemala. Asuntos Agrarios reported that in June 1960 there were 76 such farms, totaling some 572,800 acres. These farms were seized from their German owners during World War II and have remained in the custody of the government since then. They are operated by government-appointed administrators and the profits, if any, go into the Common Fund of the government.

The budget estimates for the entire group of National Farms for 1960-61, as presented by the operating division itself, show anticipated revenues of Q 21,489,683 and anticipated expenses of Q 8,614,025. This would indicate an anticipated operating profit of Q 2,875,658 for the year.

Mapping and Classification of Private Lands:

The same types of mapping and soil classification have been done for private lands as for public lands.

Size of Land Holdings:

Table 2 of the FAS bulletin shows a detailed breakdown of farm lands in Guatemala in 1956, both by size of farms and by type of tenure. Briefly stated, 84% of the farms are less than 17.3 acres in size; collectively, these farms include only 14.3% of all farm lands. 11.3% of the farms, including about 35% of total farm area, are in the range 17.3 acres to 1107 acres and approximately 200 farms, in the 1107-acre and-up range, take up the other half of the country's farm lands.

About 55% of all farms were (in 1950) operated by their owners, about 17% by renters, 12.4% by permanent laborers, 10% by occupants or squatters, .7% by administrators and 5% under some other form of tenancy. In the size range from 100 acres to 1107 acres, over 20% of the farms were operated by administrators and in the top size bracket - above 1107 acres - more than half the farms were so operated. Absentee ownership is the prevailing pattern, with respect to the vast majority of all farm lands which are included in the large-size farms.

Conditional Sale Contracts:

Conditional sale contracts are legal in Guatemala and are in common use. Usually title passes to the buyer, with the seller holding a mortgage for the balance due. Payment periods are, more often than not, limited to ten years or thereabouts.

Laws Governing Inheritance of Farm Lands:

The Guatemalan Constitution guarantees the right of a citizen to dispose of his property by will as he sees fit. If he dies intestate, his natural children share equally with the legitimate children. By reason of the fact that many small landowners do not leave wills and the additional fact that the heirs are more likely to subdivide the property among themselves than to permit it to be sold as a unit, the great majority of the farms get smaller and smaller with the passage of time.

At the other end of the scale there is something of an opposite tendency. The owners of large estates are often reluctant to see their estates broken up and a not uncommon stipulation in wills is that the property is to continue to be operated as a unit, with the heirs sharing in the proceeds of the operation. If the owner leaves no will, the heirs sometimes agree either to continue operating the property as a unit or to sell it as a unit (and divide the profits or the proceeds, as the case may be). Thus there is at least some tendency for the large tracts to remain large while the small tracts tend to get smaller still. Sometimes, too, the hired administrators of large estates are under pressure from the heirs to get the maximum cash return from the minimum cash outlay, with the result that the large estates are often "mined" instead of farmed.

Land Titles:

There are only two title registration offices in Guatemala - one in Guatemala City, serving the central and eastern portion of the country, and another in Quetzaltenango, serving the western part of the country. Deeds and mortgages are drawn by notaries. The notary is required, within eight days, to present the deed, together with a certified cadastral map, to the appropriate registry office for registration. No transfer of real estate (or right in real estate) is valid until the deed or other instrument is presented and accepted for registration.

The cost of registration is moderate - Q 2.00 for the first Q 1,000 of value on fraction thereof and 50¢ for each additional Q 1,000 of value stated in the instrument. There is a land transfer tax, amounting to one percent of the stated consideration, in addition to the registration fee.

Adequacy of Land Descriptions:

About 84% of the titles extant in Guatemala now are based upon cadastral maps. That is, the tract is described as "Tract No. so-and-so, Map No. so-and-so of Municipality so-and-so, Department of so-and-so". Such a description, together with the cadastral map, ties down completely the location of the property. Barring loss of the cadastral maps, there can be no question of the location and identity of the property in question.

Unfortunately, however, only about 1/3 of Guatemala, in terms of area, has yet been so mapped. In the remaining two-thirds of the country's area the descriptions are in terms of the names of surrounding property owners. Such descriptions are inherently weak.

Percentage of Land with Clear Title:

An official of the Land Registration Office estimates that only about 60% of the total area of the country is held under clear title, either public or private. The remaining land in private use is occupied by persons who are in the process of acquiring title, by squatters who may not even be trying to acquire legal title or by persons whose titles are insecure because of some defect in description or other defect.

Squatting and Legal Rights of Squatters:

Squatters who invade properly registered lands have no legal rights and are subject to eviction forthwith. Squatters who invade public lands and are able to prove that the land has been peacefully occupied for ten years can secure title, as mentioned in a previous section. Thus one squatter may occupy a tract for five years and sell or give his right to another. If the second squatter can remain for an additional five years, he is in position to acquire legal title to the land.

In the case of privately owned but unregistered land the owner can forestall the claims of squatters at any time during the ten-year period by registering his own title. If he fails to do so his own claim is not foreclosed but he will probably have a lawsuit on his hands.

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PART IX

TAXESTaxes Other Than Land Taxes

Guatemala has no individual income tax, although a proposal for such a tax is now being debated in the Congress. There is a graduated tax on business profits but this applies to agricultural earnings only in the case of corporate enterprises. The rate of this tax starts at 5% on net profits of Q 500 to Q 1,000, and goes up to 43% on profits in excess of Q 300,000.

There is also a graduated tax on income derived from capital. Included in this category is the income from interest, dividends from enterprises not subject to the business profits tax, rental income, income from participation in enterprises not subject to the business profits tax, income from raffles, private lotteries, etc. The rate of tax starts at 1% on the amount of such income between Q 500 and Q 1,000, and goes up to 12% on incomes between Q 14,500 and Q 15,000 per annum. This is not a Capital Gains tax in the American sense of that term, however.

There is also a graduated gift and inheritance tax. The rate depends upon the degree of relationship as well as the size of the gift or inheritance; it ranges from 1% on amounts of Q 50,000 or less to relatives of the first degree, to 25% on amounts in excess of Q 500,000 to non-relatives.

As will be noted in the budget estimates for 1960-61, shown in a later section, the only one of the taxes listed above which has any particular significance, in terms of revenue produced for the government, is the tax on business profits. This is expected to produce some Q 5.4 million in 1960-61. The inheritance and gift tax produced about Q 280,000 in 1959-60; the tax on capital some Q 713,000 in the same year.

The Land Tax:

The land tax now in effect was promulgated in 1921. It has been modified but slightly since that date, although several proposals for its modification have been made and at least one such proposal is now pending in the Congress.

The tax applies to "bienes inmuebles" or real property but the term is not precisely defined in the statute; this has given rise to some difference in interpretation by various administrators of the tax. Farm animals, tools and farm machinery are subject to the tax.

Except from the tax is property belonging to the State or any of its agencies, property used for public education or public worship and property belonging to persons who possess property having a total value of less than Q 500. Property of cooperative organizations is also exempt. 68,085 properties were on the tax roll in 1959-60, while 201,642 were exempt under the Q 500 limitation.

Rate of Tax:

The tax rate is fixed at Q 3 per Q 1,000 of declared value. This rate is for the national tax, the proceeds of which go into the national treasury. In addition, municipalities may be given authority by the Congress to collect municipal property taxes, at specific rates. At present Guatemala City is authorized to and does collect a municipal property tax at the annual rate of Q 3.50 per Q 1,000 of valuation.

Levy of the Tax:

Since the tax rates are set either by general law or by special act of Congress, it may be said that the National Government makes the levy for both national and municipal taxes.

Collection of the Land Tax:

The national land tax is collected quarterly by "Receptores". There is at least one receptor for each municipality in the country. In general, the receptors are not salaried employees; they usually work on a fee basis and retain as a collection fee 20% of the tax collected. The Departamento de Rentas maintains 30 district offices for the collection of all kinds of taxes; the employees of these offices are salaried.

Percentage of Collections:

The national office collected 86.3% of the property tax levy in 1959-60. The total levy was Q 1,358,534; the collections amounted to Q 1,295,453.

Cost of Administration:

The cost of administering the property tax is very high. Collection costs alone amount to more than 20% of the tax collected. Other direct administrative costs absorb at least another 20% of the product.

The indirect administrative costs cannot be calculated with any degree of precision but it is likely that these would bring the total administrative cost to 40% or more of the revenue produced by the tax.

Local Government Financing:

I had the opportunity to look into the local government revenue situation in only one locality - Guatemala City. Guatemala City is said to have a much greater degree of local autonomy than any other unit in the country and also to have the highest level of municipal services so it cannot be regarded as a typical municipality. Its total budget estimate for 1960-61 is about Q 7.6 million. Of this amount Q 1.0 million is expected from property taxes, Q 1.0 million from a tax of 1/3 ¢ on each bus ticket, Q 1.4 million from water service charges and water system maintenance fees, Q 916,000 from market fees and the remainder from a variety of other taxes and fees.

Guatemala City's property tax system seems to be very well administered. The property accounting system meets accepted modern standards and an intelligent, well-directed effort is being made to keep property values in line with current market values - and equitable one with another. Tax collections are said to have averaged about 90% or less of current levies for the past several years, resulting in a cumulative delinquency of about Q 2.0 million. A change has recently been made in the collection system which will, it is hoped, clear up the major part of the back taxes within the next two or three years.

The cost of administering the property tax in Guatemala City cannot be stated with any certainty. The assessor's office expenses amount to about 8% of the tax collected. But the cost of billing, using the IBM system, has not been determined, nor has there been any allocation of the collector's office expenses among the various taxes and fees collected by that office. The only thing that can be said is that the city's administrative cost is much smaller, per account, than that of the national government.

PROPORTIONATE SHARES OF TOTAL TAX BURDEN BORNE BY REAL PROPERTY

The estimated central government revenues for 1960-61, in slightly condensed form, are as follows:

1960-61 BUDGET ESTIMATES
ORDINARY REVENUES

1. Patrimonial Income:

Rent and income from National property	79,828
Sale of farm products	897
Dividends from investments	84,556
National Industries	208,946
	<u>374,227</u>

1. Public Services:

Post Office	1,310,465
Telecommunications	21,069
Customs Services	627,973
Educational Rights	22,603
Social Assistance Service	107,441
Others	192,762
	<u>2,282,313</u>

2. State Enterprises:

1,180,600

3. Taxes & Contributions:

Customs Collections	40,190,096
Consular Fees	124,235
Alcoholic & Malt Liquors (production tax)	13,027,211
Tobacco	4,641,083
Land Tax	1,455,609
Land Transfer Tax	767,855
Revenue Stamps & Stamped Paper	5,898,756
Tax on Public Spectacles	439,424
Vehicle License fees	315,940
Tax on Business Profits	5,458,299
Tax on banks, companies & enterprises	300,252
Public Health Tax (medicines)	123,958
Social Assistance Tax	34,359
Other Taxes & Fees	1,072,988
	<u>74,057,065</u>

5. Miscellaneous Revenues:

Profit from National Lottery	829,071
Other	1,797,725
	<u>2,626,796</u>

Total Ordinary Revenues

80,522,000

6. Extraordinary Revenues (Internal)

Profits from National Farms	800,000
Sale of National Property	1,000,000
Sale of government controlled articles and commercial products	514,701

Extraordinary Revenues (Internal) cont'd.

Fines	349,843
Treasury Bonds to be issued	1,035,700
Other Revenues	136,351
	<u>3,836,595</u>

Extraordinary Revenues (External)

Foreign Aid (ICA, UN, & OPR)	<u>6,799,899</u>
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Total Extraordinary Revenues	<u><u>10,636,484</u></u>
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earmarked revenues:

Additional taxes on whisky, beer manufacturers, cigarette manufacturers, etc.	<u>4,200,737</u>
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Payments to Court of Accounts:

10% of Import & export duties reserved for national debt service	4,465,566
Taxes - Telephone Companies	1,000,000
Others (including retirement deductions)	1,610,000
	<u>11,276,303</u>

GRAND TOTAL OF ESTIMATED REVENUES	<u><u>102,455,788</u></u>
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As can be seen above, the real estate tax produces only about 1.4% of central government revenue. On the other hand, if we take into account the 10% of customs receipts which is earmarked for national debt service, customs duties are expected to produce some 55% of all central government revenues.

Property Tax Assessments:

When the property tax went into effect in 1921 every landowner was required to file a declaration showing, among other things, his own estimate of the value of the property. These declarations were then submitted to a Revision Commission appointed by the Political Chiefs of the various Departments. If the Revision Commission failed to concur in the owners' valuations, it could order the appraisal of the property by experts. The taxpayer still had the right of appeal

to the Dirección General de Rentas and to the Minister of Finance. The Law required a revision of the tax roll every five years but the responsibility for making changes rested on the Director General of Contributions, who was authorized to have any or all properties revalued by experts if he saw fit to do so. In case a property changed hands, the public official handling the transfer was required to notify the Administración de Rentas of the sale price; if the sale price was greater than the assessed value, the assessment roll was corrected accordingly.

The procedure in effect now is essentially the same as that which was originally prescribed, except that the revaluation interval has been increased to 15 years. Very few revaluations have, however, been made, for the reason that these cost more money than has been available.

Basis of Assessments:

The legal basis for assessment is the "valor estimativo", as declared by the owner, or as fixed by the Board of Experts. If the property has been transferred, the price stated in the deed governs, provided it is higher than that previously declared. "Valor Estimativo" is thus indirectly defined as "market value".

Property Accounting System:

The assessment roll is an alphabetical list of the property owners in each municipality. It contains some other information besides the name and value of the property but does not offer any assurance that all taxable property is included. In the case of registered property, once it gets on the tax roll there is little likelihood of its loss by reason of transfer or sub-division. However, only two Departments - Guatemala and Quetzaltenango - have all property tied to cadastral map systems. In the remaining 20 Departments the cadastral maps are incomplete; it is therefore impossible to set up for those departments an area or geographically based property accounting system. It is easy, in such a situation, for property to escape taxation indefinitely.

The City Assessor's office in Guatemala City maintains a good record system. The individual property record cards are filed by street numbers and are related to block maps and zone maps in such a way as to guarantee that every piece of property is accounted for, whether it be taxable or exempt.

Ratio of Assessed Value to Market Value:

The two major tasks of any assessor's office are: first, to maintain a property accounting system that actually accounts for all property, whether taxable or exempt and, second, to keep the valuations in line with current market value. The second is by far the more difficult task. Landowners everywhere

are notoriously conservative when it comes to placing tax values on their own property, with the result that small credence can be placed in the owners' declarations. The sale prices shown in deeds are likewise fallible; it is easy for the contracting parties to falsify these. Mortgage figures are usually dependable, as far as they go, but a mortgage loan cannot be said to represent any constant percentage of market value in all cases. It may be anywhere from 10% to 90% of the value of the property, depending on the borrower's needs, the loan policy of the lender, etc. The only sure way of keeping assessed values current - and equitable - is by having all taxable property in the tax jurisdiction reappraised by experts at fairly frequent intervals.

The Guatemalan statute recognized this principle and provided for its implementation by requiring a complete reassessment every five years. Later this interval was extended to 15 years. But even that requirement is not observed. About 70 appraisers are employed but all of them are headquartered in Guatemala City. So much time and expense is therefore involved in the appraisal of properties remote from the Capital that no systematic, parcel-by-parcel reappraisal has ever been made except in a few selected areas.

The result is the familiar checkerboard pattern: occasional properties to which attention has been called are appraised by competent appraisers and the others are assessed at the owners' declared value. Even those properties which have been appraised by experts are not necessarily equitably assessed; one property may have been appraised last in 1925, at the 1925 value level, and the one next to it in 1955, at the 1955 value level.

Under the circumstances, it can be assumed that assessed valuations are not only far below today's market level but also that they are extremely variable from property to property. The average real estate tax paid is \$19.03 annually or \$4.76 quarterly.

Delinquent Tax Collections

The total amount of delinquent property tax was about Q 1,450,000 at the end of the 1959-60 tax year. This amounts to a little more than one year's levy. Tax payers who do not pay any quarterly instalment within three months of the due date are subject to a penalty of 25% of the amount due; if any instalment is not paid within six months the penalty goes up to 50% of the amount due. At any time after the instalment becomes delinquent the tax payer can be summoned before a special court (Juicio Economico Colectivo) having jurisdiction in such cases. The Departamento de Rentas also has authority to hire private lawyers as delinquent tax collectors; in such cases the delinquent tax payer must not only pay the tax and penalties accrued but must also pay the attorney's fee.

The most stringent collection device is a provision prohibiting the registration of any deed or other document affecting the property until all back taxes have been cleared.

It would appear that there is not too much of a problem of real estate tax delinquency in Guatemala. It seems likely that in many cases the amount of tax due is so small that tax payers would rather suffer a penalty of one or two dollars than make a special trip to the tax collection office.

Service - Charge Imposts:

One of the most common of service-charge imposts affecting farmers generally is an irrigation tax. Such a tax ordinarily spreads the cost of operating and maintaining the irrigation system among the users, either on the basis of the volume of water delivered or on the basis of the area of land which could be irrigated. Guatemala has, as yet, no public irrigation systems, in the ordinary sense. Such systems are in the planning stage, however, and it is important that a means of financing the operation costs be developed in the very near future. In any situation where it is possible to apportion expenses on a benefit - received basis it would seem most desirable to do so.

Tax Discrimination Against Foreigners:

Foreigners resident in Guatemala may not acquire real property in a strip 15 kilometers in width along the land borders of the Country or in a strip three kilometers wide along the coastlines, unless such property was acquired prior to March 1, 1956, the date the present Constitution was promulgated.

Foreigners may own land outside of these border and coastal areas and may engage in almost any business, including farming. The Government in granting timber concessions, however, must give preference to Guatemalans, other things being equal. Also foreign corporations must have executive authorization to operate in Guatemala and must pay an annual fee of Q 300 to Q 500 for such authorization.

Outside of the last mentioned fee, there are no special taxes or fees applicable to foreigners only. So far as is known, lands belonging to foreigners are assessed and taxed in the same manner as lands belonging to Guatemalans.

Other Taxes Affecting Agriculture:

Guatemala has a special tax on idle lands which deserves mention. The tax was instituted in 1956, as a part of the present Agrarian Statute. Purpose of the tax was to force the owners of large (90 hectares and up) estates to develop and use their lands rather than to allow them to lie idle for an indefinite period. Lands classified as "idle", as defined in the statute, are not only subject to the tax but are also subject to expropriation (for distribution to the landless), if the government should so desire.

The rate of tax on idle lands is based upon quality of the land. First class land (i.e., land suitable for intensive cultivation, with irrigation water

available and located on an asphalt road) is subject to a tax of Q 1.25 per hectare. Second class land is subject to a tax of Q 1.00 per hectare, third class to a tax of Q 0.75, etc. Fifth class land, the poorest class of land suitable for farming or grazing, is subject to a tax of Q 0.25 per hectare. These rates are for the first year only; in succeeding years they go up by 25% steps until they reach a maximum of twice the first year rates.

However laudable the purpose of the law, it has been impossible to administer. The law contains a number of loopholes, all of which have been discovered and used. The possibility of having their lands expropriated has so frightened landowners that in one case, where all the facts are known, the owner spent over Q 10,000 to avoid a first-year tax of Q 78. He did this not to avoid the tax but to prevent the classification of this finca as "idle land" (with the attendant possibility of expropriation).

In terms of revenue the tax has been worse than useless. Administrative costs far exceed the amount of tax levied; of the tax levied, less than 10% has actually been collected. Out of a two-year levy of some Q 49,000 only Q 3,800 was collected.

In addition to the Idle Lands tax, there are several others affecting agriculture. First in importance are the export duties, which are of course passed back to the producers. These duties are estimated at slightly more than Q 10 million for 1960-61. The export duty on coffee is the most important of these. The duty is graduated according to the market price of coffee, ranging from a 10% ad valorem duty (when the price is Q 30.00 or less) per 46-kilo bag to Q 10.00 per bag plus 25% of the price above Q 60.00 (when the price goes above Q 60.00). Chile is subject to an export duty of Q 5.00 per quintal; bananas to a duty of Q 0.02-0.04 per stem (depending on where they are grown) and certain lumber woods are subject to an export duty.

The duty on lumber varies from Q 1.00 to Q 10.00 per York ton, depending on the variety of lumber exported.

There is a small production tax on all coffee produced in the country, the proceeds going to the Producers Association. In at least some instances the municipalities are authorized to collect an additional production tax on coffee but so far the rates have been kept low.

There is also a small production tax on tobacco.

In general, it may be said that the taxes, both direct and indirect, upon agriculture in Guatemala are relatively low.

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UNCLASSIFIED

PART IIX

COMMENTS AND SUGGESTIONS

1 - Guatemala's present Agrarian Reform program seems to me to be, for the most part, well conceived. It is based on the sound philosophy that it is good business for the State to help those who have managerial ability and are willing to help themselves. Careful selection of applicants and rigid adherence by both parties to the contract terms can bring the program to a successful conclusion and result in a very considerable enlargement of the country's middle class farm group. If for any reason at all, however, the beneficiaries of the program are not required to fulfill their part of the contract the whole program will collapse, as did the ill-fated Arbens venture in "paternalism".

2 - It would seem desirable to discontinue the old practice of permitting settlers to acquire land under the ten-years-peaceful-occupation procedure, now that a more orderly procedure is in operation. Most of the land still in the public domain is not suitable for farming; once the forest cover is burned off, it is useless for generations. A change in this law, together with rigid enforcement, would save much needless destruction of the country's forest resources.

3 - The whole problem of the Fincas Nacionales should be thoroughly reviewed.

4 - The cadastral mapping program should be completed and all property - public and private - should be tied in with the map system. Owners of lands not now registered should be given an opportunity to establish their claims; if this is not done within a reasonable time, the State should take absolute title to these lands.

5 - In view of the government's need for revenue, a graduated individual income tax would appear to be most desirable. Even with a moderate rate schedule, such a tax can be very productive.

6 - The tax on capital should be amended so as to cover the capital gains from land transactions. This would not only produce a considerable amount of new government revenue but would also lessen the attractiveness of land speculation.

7 - The inheritance and gift tax should be studied, with the object of making it more productive than it now is. The 1959-60 return from this tax, Q 250,000, is an extremely small return from this source.

8 - The property tax should likewise be thoroughly studied. The fact that Guatemala City collects almost as much as the national government - at a rate only slightly higher than the national tax rate - suggests that this tax has unexplored possibilities. Furthermore the cost of administering the national tax is inordinately high. Even such a simple matter as a change from quarterly billing to annual billing, in the case of very small tax bills, would effect considerable saving.

9 - With public irrigation systems in the immediate offing, it would be most desirable to institute now an irrigation tax system whereby those who benefit from the water pay the costs of operating and maintaining the system. The central government is in no position to take on any more financial burdens than it now has.

10 - The Idle Lands tax, should either be overhauled completely or abandoned. At present it absorbs much more revenue than it produces and serves only as an irritant to landowners. It might be possible to get both revenue and compliance by integrating this tax with the property tax. That is, land whether idle or not, might be taxed on an area basis (using a graduated scale similar to that set up in the Idle Lands Tax) or on an ad valorem basis, whichever resulted in the higher tax. Such a tax would almost certainly bring in more money than the present property tax does; it would be easier to administer fairly than either the present property tax or the present Idle Lands tax.

The above comments and suggestions are very general in nature but perhaps they will serve as a basis for further study and discussion. The revenue needs are certainly pressing enough to warrant such study.