

JAPAN INTERNATIONAL COOPERATION AGENCY (JICA)

General Department of National Taxation

MONGOLIA

THE STUDY ON THE SUPPORT
FOR THE ECONOMIC TRANSITION AND
DEVELOPMENT IN MONGOLIA

TAX COLLECTION ENHANCEMENT PHASE II

FINAL REPORT (SUMMARY)

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INSTITUTE FOR FINANCIAL AFFAIRS, INC.

Abbreviations

JICA	Japan International Cooperation Agency
GDNT	General Department of National Taxation
Tg	Togrog

Currency Equivalents

As of July 2001

1,096 Tg / USD 1.00

125.40 Yen / USD 1.00



PREFACE

In response to a request from the Government of Mongolia, the Government of Japan agreed to conduct a "Study on Tax Collection Enhancement", under the framework of the "Study on the Support for the Economic Transition and Development in Mongolia" and entrusted the study to the Japan International Cooperation Agency (JICA).

JICA selected and dispatched a study team headed by Mr. Yujiro KOYANAGI of Institute for Financial Affairs, Inc. to Mongolia, seven times from July 2000 to July 2001. In addition, JICA set up an Advisory Committee, headed by Prof. Shinji ASANUMA, Asian Tax and Public Policy Program, Hitotsubashi University, which examined the Study from specialist and technical point of view.

The Team held discussions with the officials concerned in the Government of Mongolia and the General Department of National Taxation and conducted field surveys and implemented seminars on the reform of the tax collection system. Upon returning to Japan, the Team conducted further studies and prepared this report.

I hope this report will contribute to establishing a proper and fair taxation system and to securing stable tax revenue for the government of Mongolia, I also hope it enhances the friendly relationship between our two countries.

Finally, I wish to express my sincere appreciation to the officials concerned in the Government of Mongolia and to the General Department of National Taxation for their close cooperation throughout the study.

August 2001



Kunihiko Saito

President

Japan International Cooperation Agency

August 2001

Mr. Kunihiko Saito
President
Japan International Cooperation Agency

Dear Mr. Saito,

Letter of Transmittal

We, hereby, have the pleasure of submitting our report entitled "Tax Collection Enhancement Phase II" for the "Study on the Support for the Economic Transition and Development in Mongolia". The report describes the results of the Study conducted by Institute for Financial Affairs, Inc. in accordance with the contract entered into with the Japan International Cooperation Agency (JICA).

Our Study Team carried out field surveys seven times within the period July 2000 and July 2001. Based on the results of these surveys in Mongolia and study activities in Japan, the Study Team drew up recommendations to contribute to Tax Collection Enhancement in cooperation with the Mongolian side. Regarding these recommendations, the Team conducted seminars for the tax officials and finally prepared this report.

In view of the necessity of tax collection enhancement in Mongolia and the need for socio-economic development of Mongolia as a whole, we recommend that the Mongolian government implement these recommendations as a top priority.

We wish to take this opportunity to express our sincere gratitude to your Agency, the Ministry of Foreign Affairs, the Japanese Embassy in Mongolia and the JICA Ulaanbaatar office. We also wish to express our deep gratitude to the Government of Mongolia, the General Department of National Taxation and other concerned organizations for the kind cooperation they extended to our Team, as well as for the warm hospitality provided during our stay in Mongolia.

Very truly yours,

小柳友志郎

Yujiro Koyanagi

Team Leader

The Tax Collection Enhancement Study Phase II

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1 Background and Objectives

1.1 Background to the Study

The Government of Mongolia made a request to the Government of Japan for support in the establishment of development strategies, public investment plans and concrete economic reform programs during the transition from a socialist economy to a market economy and requested the implementation of a development study for the purpose of nurturing economic policy planners in Mongolia. This development study was conducted between September 1998 to March 2000.

Tax Collection Enhancement Study Phase I was conducted as one of the principal components of the studies. The objectives established for the study were to present recommendations for the enhancement of capabilities for the collection of fiscal revenues and to undertake technology transfer in order to develop tax collection officers in the fields for the General Department of National Taxation (GDNT) in Mongolia. The results of the study were compiled in a Final Report, which was submitted to Mongolia in August 1999.

The Government of Mongolia highly evaluated the JICA Tax Collection Enhancement component of the studies and requested the Japanese Government to provide ongoing assistance in this area. Based on its judgment that the benefits of the technology transfer implemented in Phase I would be further enhanced by improving the execution of tax collection in each tax category, the Japanese Government thus concluded that a Study Phase II should be implemented. Tax Collection Enhancement Study Phase II was subsequently initiated in July 2000 and was completed in July 2001.

1.2 Objectives of the Study

This Study for the Tax Collection Enhancement is to enhance tax administrative capabilities and executive function and to increase the flow of fiscal revenues in order to enable an adaptation to existing economic realities (transition to a market economy) in Mongolia.

Especially in Tax Collection Enhancement Study Phase II, the principal objectives were: study the GDNT's tax collection mechanism; study the tax payment mechanism of the Mongolian taxpayers; examine the preparation of various environments to supplement both of the above mechanisms; and examine the introduction of new taxes that are more effective. Based on such examinations, recommendations and technical transfers would be provided for each of the items.

The ultimate goal is to improve the effectiveness of the tax administration and enable to increase fiscal revenues.

2 Track Record of the Study

Activities that have been implemented in Phase I and Phase II thus far by the Mongolian Government based on the recommendations of the Study Team are outlined below.

2.1 Phase I Study

The Government of Mongolia, based on the recommendations made by the Phase I Study conducted by the Study Team, has since implemented recommendations or has decided upon the implementation of the following major items.

- (a) A major functional and organizational reform of the entire Mongolian tax collection organization (February 2000)
- (b) Decision to introduce the "Registration System" for large-scale taxpayers and the Statutory Receipt System issued by the GDNT (directive of the Minister of Finance and Minister of Agriculture and Forestry issued March 2000 and Government directive issued January 2001)
- (c) Adoption of inspection methodologies and manuals that were recommended as innovative methods, guides and manuals relating to the detection of concealed income (assets), its taxation and collection (February 2000)
- (d) Improvement of incentive systems to information providers in order to facilitate the collection of information related to tax evaders
- (e) Redesign of performance reviews, promotion and salary adjustments and incentive criteria for tax officials

2.2 Phase II Study

At the time of the initiation of the Phase II Study, a request was made by the Government of Mongolia for assistance in the review of an overall tax law reform as a matter of urgency. The Study Team undertook tasks involving the reform and creation of the entire set of tax laws of the country from July through December 2000 and made recommendations relating to the reform and creation of the tax laws.

As of May 2001, proposed revisions were being deliberated in the national assembly but the principal tax systems that had been enacted based on the assistance of the Study Team as of this point in time include the followings:

- (a) **Creation of the Real Estate Tax Law and Special Stamp Duty Law**
- (b) **Amendments to various tax laws**
 - **Individual Income Tax Law**
 - **Corporation Tax Law**
 - **Value Added Tax Law**
 - **Special Tax Law**
 - **Automobile Tax Law**
 - **Automobile Gasoline and Diesel Fuel Tax Law**

The laws that still being deliberated by the national assembly are; the Law on Supervision of Tax Assessment, Payment and Tax Collection (Process Law), which defines the execution of tax administration and contains amendments of critical importance to the GDNT; and the General Tax Law, the basic law shred by the entire tax code.

2.3 Summary of Recommendations in Phase II

The Final Report promotes concrete recommendations based on the findings of the studies in Phase I and Phase II relating to the environment surrounding fiscal revenues in Mongolia as well as the results of detailed examinations from various perspectives. These recommendations offer practicable means for achieving the establishment of a tax system based on the underlying assumptions of fairness and impartiality enabling low-cost collection and trouble-free implementation with a sense of urgency, while promoting an expansion of the tax base rather than raising tax rate.

Recommendations focused on the following two aspects:

- (a) The feasibility of setting up sweeping measures capable of dealing with obligors who are earning income without regard for taxation including measures related to the taxation and collection of taxes from the underground economy, an issue that is of paramount importance to the GDNT, and measures for the taxation and collection of taxes from cash operators
- (b) Ways in which taxation, examinations and collections can be conducted assuming the objectives of the efficient execution of tax administration

Below is a summary of the Phase II recommendations.

2.3.1 Tax System

The focuses on the recommendation for the tax systems are as follows:

- (a) Primary objective is the enhancement of fiscal revenues for Mongolia.
- (b) To minimize taxpayer resistance in the short term with a content that facilitates acceptance by the taxpayer while it looks to the future of Mongolia
- (c) To minimize the incremental costs of tax collection associated with the reforms and creation of the system
- (d) To limit only to those items that urgently require amendments or creation

In the tax laws that have already been enacted, there are some aspects that do not fully reflect the Study Team's recommendations. In consideration of their materiality, the Study Team proposed the recommendations regarding the principal tax categories deemed to be amended as well as the General Tax Law which is currently being deliberated in the national assembly. In the main report, recommendations are presented in the following areas to improve common tax law, tax enforcement law and major individual tax laws that are important in the existing tax system based on the existing laws.

- General Tax Law
- Law on Supervision of Tax Assessment, Payment and Tax Collection
- Corporation Tax Law
- Individual Income Tax Law
- Items that are common between the Corporation Tax Law and the Individual Income Tax Law
- Value Added Tax Law
- Real Estate Tax Law
- Inheritance Tax Law and Gift Tax Law

2.3.2 Establishment of a Statutory Receipt System

By providing in the statutes a requirement for an issuance of receipts for economic transaction above a certain value, it enables the state to directly identify economic transactions above certain amounts transacted among the populations or enterprises. As a result, GDNT will acquire a means of directly ascertaining the appropriateness of the contents of tax returns submitted by tax obligors as well as facilitating the identification of those who fail to file tax returns; thus, enabling to cheaply and easily levy and collect taxes directly from the black market and cash transaction operators within a short period of time. We recommend a creation of the Statutory Receipt System as a means of achieving this objective.

2.3.3 Presumptive Taxation

Even with a complete implementation of a Statutory Receipt System, as in any other society, there will be those who will attempt to evade taxes and many tax evaders currently exist in Mongolia; therefore, a vitally important issue exists, which is the need for the Mongolian taxation authorities establish a method to accurately collect taxes on incomes of the tax obligors defined under the various tax laws using presumptive taxation. The Study Team presented recommendations for addressing the issues in "Presumptive Taxation" section.

Under the self-assessment system, the principle is for taxpayer calculates the taxable income and the tax amount based on bookkeeping records of business revenues and expenses. It is patently clear from the principle of fairness in tax burden that the fact of the lack of bookkeeping records will not exonerate the taxpayer from his obligations for taxes.

A method to deal with such situations in which the income is determined by estimation data other than bookkeeping records is referred to as Presumptive Taxation. In the General Tax Law, Individual Income Tax Law and notices based on the laws all contain provisions for estimation of income by comparison with some other benchmarks. In actual tax inspections, determinations of income are being done by method using comparisons. However, it should not be ignored that if the resulting tax assessment is contested in the court of law, due to the lack of ways to verify the reasonableness of the method of estimation by objective evidential documents, there is a high likelihood of the tax assessment being overturned.

The guide for Presumptive Taxation has been prepared to present a source of reference for concrete methods in a logical and systematic manner as a means to deal with these situations. In addition to this, the technical transfer seminar was held against the tax officials.

2.3.4 Corporate Income Tax Inspections

One issue that exists in the Mongolian corporate tax system is the inefficiency in the inspection system that examines the propriety of the taxpayer's tax returns. Specifically, the problems reside in areas of the selection of inspection targets, method of preparation for the inspection, the method of inspection and the tax information data system. The following items have been recommended for these issues.

- (a) Improvements in the rough screening of inspection target enterprises
- (b) Improvement of the preliminary inspections
- (c) Creation of tax records
- (d) Diversification of tax inspection methods
- (e) Establishment of excellent achievement study meetings
- (f) Establishment of a tax information system and its effective utilization
- (g) Improvement of inspector capability

2.3.5 Introduction of the Blue Return System

It is our view that providing preferential treatment to those taxpayers who diligently file income tax returns and pay their taxes from that given to other types of taxpayers will further enhance the taxpayer awareness of such diligent taxpayers and at the same time lead to an increase in the number of diligent taxpayers as a result of many more wanting to receive such preferential measures; therefore, we recommend a creation of a system of commendation for the diligent taxpayers.

A Blue Return System is a system in which reward or incentives are provided to individuals engaged in businesses or enterprises for calculating income for the purpose of reporting income for taxation based on bookkeeping documents that records daily transactions. It is an extremely effective means to promote the acceptance of the self-assessment system.

However, the reality is that upon inspection of the state of records including taxpayer's bookkeeping records, excluding the foreign affiliated enterprises and some

medium and small-scale enterprises, practice of maintaining bookkeeping records is non-existent among most of the taxpayers.

It is important to prepare the taxpayer environment so that the taxpayer would regard the special blue return deductions and other benefits that are provided to blue return filers as being of value and desirable and be able to receive such benefits. For those who do not maintain bookkeeping records, taxation needs to be strengthened through the application of Presumptive Taxation or other methods. Besides, the tax inspections need to be conducted to instill the recognition that the payment of taxes is unavoidable regardless of the existence of bookkeeping records and that the lack of such records is unfavorable tax inspections instill the recognition that payment of taxes is unavoidable. Combined with this, the tax administration needs to make public relations efforts to elevate the taxpaying mentality, the spread bookkeeping expertise and enhance bookkeeping training and the Blue Return System should be introduced at a stage where certain degree of completion can be confirmed.

2.3.6 Taxation for Businesses and Services with Indefinite Income

As there is gross unfairness that exists under the Individual Income Tax Law, this is a recommendation on rectification of such unfairness.

The taxation method that is being applied to taxpayers who are engaged in businesses and services with indefinite income is not a desirable method of taxation from the point of view of fairness.

The Study Team recommended that this system be abolished as soon as practicable and replace the system with in principle taxation under the Individual Income Tax Law. However, the immediate elimination of this system involves many issues including issues relating to the lack of taxpayer awareness on the part of the taxpayers, issues relating to the lack of acceptance of the practice of bookkeeping and issues relating to the inadequacies that exist in the executive organization of the tax administration. Therefore, the elimination of the system is seen difficult from the standpoint of securing in an efficient manner at least minimal amount of tax revenues

even at the expense of minor level of unfairness in taxation.

The Study Team made several recommendations as a resolution method with the ultimate objective of the total elimination of the system.

- (a) Reduce the number of industries to which the existing law would apply and revise the schedule of patent payments to reflect the existing conditions
- (b) Make the patent payment be an advance payment of the annual tax with such advance being settled at a year-end tax adjustment process
- (c) Interpret the existing law that the taxpayers who are enjoying high levels of income while making patent payment will no longer fall under the taxpayers who engaged in businesses and services with indefinite income

2.3.7 The Tax Accounting System

In order to secure tax revenues appropriately and efficiently, in addition to the reforms in the tax administration, the tax accounting system should be widely accepted and well understood among the population and enterprises. Therefore, the Study Team proposed an establishment of an accounting system (bookkeeping system) and a creation of tax accountant system.

One of the causes for the lack of effective functioning of the tax administration is the lack of understanding of accounting on the part of the taxpayers. Mongolian Government is currently instructing taxpayers to follow the double-entry bookkeeping system. However, further measures to firmly establish double-entry bookkeeping is required and instruction to maintain bookkeeping records including general ledger and preparation of financial statements should be implemented. The Study Team has created an introductory level of bookkeeping textbook as a sample in order that the taxpayer gains a broad knowledge of bookkeeping. If the taxpayer consciousness were enhanced and this system were accepted, laws such as “Income Tax Law for Self-employed Persons Engaged in Businesses and Services with Indefinite Income” would be amended soon and the perception of unfairness under taxation would be corrected.

The creation of the Tax Accountant System would lead to the securing of social and economic security for the tax officials after retirement, as an integral component of enhancement of revenues. Its introduction would also provide a means to break the status quo of the lack of acceptance of the bookkeeping system among the taxpayers, which makes tax administration and its execution extremely difficult for the GDNT. If a tax accountant who is a professional with regard to taxation, bookkeeping and accounting were able to become involved in the preparation of tax returns for taxpayers and other processes related to tax payment, it would lead directly to enhance revenues.

2.3.8 The Investigation System

The Final Report identifies issues and bears mind the existing conditions in Mongolia, and provides a set of recommendations regarding Investigation System, which is a system to punish specific taxpayers with criminal punishment as a means to give a lesson.

Investigation is the most potent among the tax inspection tools; thus, it is vital that it be conducted in a thorough and accurate manner so as to force the subject tax obligor at its conclusion, to accept the investigation findings. It should also be conducted by the most capable inspectors in an organized manner under the supervision of officials who have the authority to make responsible decisions in order that the results will gain the credence of the judicial authorities.

2.3.9 Tax Disputes

In Mongolia, when tax disputes are brought against the tax administration relating to taxation, inspection and collection, quite a few are the cases that the tax administration have lost. Even items that ought be rejected outright such as cases where taxpayers who are in violation of tax deadlines or legal provisions stipulated by the law are being accepted and in fact the tax administration loses such cases.

Followings have been presented as recommendations to remedy this situation.

(a) Legal powers of the tax administration and tax officials responsible for taxation should be expanded and ambiguous legal provisions should be eliminated.

(b) Enhance the capabilities relating to the presentment of evidence.

Inspectors' daily tasks should be performed based on facts that are shown to be true regarding the taxpayer and indication of fraudulent reporting or under-reporting must be based on verifiable facts evidenced as being true. If application of standard taxation method cannot be avoided, taxation should be conducted in a way that will enable favorable judgment in case court action is brought and as a priority item, the GDNT should examine such methodologies.

(c) The Tax Dispute Resolution Council's functions should be enhanced.

Dispute resolution by the Tax Dispute Resolution Council should be based on detailed considerations with an assumption of a follow-on legal action being brought. If legal actions are assumed, then membership in the council should include officials from the Ministry of Justice or a judge as a full time member. The GDNT should, for this end, should establish jointly with the judicial authorities (specifically the Ministry of Justice and the Supreme Court) a working deliberation council.

2.3.10 The Tax Officials Corruption Prevention System

It is thought that the primary form of corruption is the receipt of cash in return for reduction in the taxes imposed. The single most important factor behind the staff committing corrupt actions is, it goes without saying, even before considering the staff lacking in morals, is the low level of wages. In order to eliminate corruption from the ranks of the tax staff, in addition to measures to enhance the moral standards, measures to improve the income level of the staff need to be examined.

Following three items have been presented as recommendations for improvement:

(a) Improvements in the pecuniary compensation level of tax officials

(b) Establish post for conducting clandestine monitoring

(c) Introduction of a periodic staff rotation system and enhancement of

commendation system and a creation of Tax Accountant System

2.3.11 Creation of a Favorable Environment for Tax Payment

The followings are recommendations regarding taxpayer education and public relations toward taxpayers.

1. Taxpayer Education

- (a) The recognition of the obligation to pay taxes should not be limited to just to taxpayers but should be shared by all Mongolians. In considering the future of Mongolia, tax education should be incorporated into the ongoing curricula of elementary, junior high schools and high schools. Taxpayer's rights and obligations should be educated to the youths at a national level as a text level subject matter. Tax education should not be confined to the teaching of bookkeeping techniques for calculation of taxes but should also incorporate educating the students of the role of taxes in the maintenance and development of a democratic civic society. Thus, tax education should be taught as an integral component in teaching the workings of the national society.
- (b) We recommended that in all areas of research relating to taxation, measures should be taken to achieve an enhancement to the level of research. This may not be a measure that will bring about immediate improvements to the taxation system, but this is an element that is essential in the achievement of above measures, or in another words, infrastructure investments into tax education is required.
- (c) A recommendation regarding an establishment of a cross-sectional organization (preferably a body with some authority such as a governmental commission. If a specific item is being researched a flexible form of organization such as a project team may be desirable) within the government with the GDNT serving as the secretariat, to promote research relating to taxation was made.

2. Public Relations toward Taxpayers

- (a) In order to heighten the level of interest of the general public, a recommendation by the GDNT by providing appropriate information to the mass media, to harness and direct the influence of the mass media toward the enhancement of taxpayer awareness. Specifically, this would include the disclosure of names of taxpayers who have paid taxes above a threshold amount and names of tax evaders
- (b) Each new taxpayer registrants should be required to attend 1-year courses covering each tax classification (e.g. once a quarter) regarding supervision of tax payment and laws regarding tax collection with the GDNT directly conducting such courses as well as conducting the necessary public relations tasks.
- (c) Fostering and organization of taxpayers with proper knowledge of taxation should be undertaken and steps to solicit cooperation in measures to raise the level of taxpayer awareness be undertaken were recommended.

With regard to details of the recommendations above, if the Mongolian Government were to swiftly implement such reforms not only can a dramatic enhancements in the tax collection at a low collection costs, it would ensure fairness in taxation and dramatically expand the tax base; therefore, the Mongolian Government should effect various measures to ensure early implementation of these recommendations.

3 Remaining Issues

The most conspicuous characteristics of Mongolia may be summarized as follows:

- (a) Population is small, approximately 3 million.
- (b) Special numbers are assigned by the state to the people and to enterprises.
- (c) The level of taxpayer awareness is limited. However, the level of sophistication of the public is at a relatively high level and, depending on the methods adopted, introduction of new and different ways can be accomplished relatively easily. This is evident in the case of the creation of the Real Estate Tax Law.
- (d) An underground economy exists but the presence of an organized underground economy appears to be limited.

Assuming the above characteristics, efforts should be made to promote the creation and prompt implementation of the Statutory Receipt System, which would target the entire taxpayer population and would enable the enhancement of the country's fiscal revenues based on the assurance of fairness in taxation and the execution of taxation and collection directly, accurately, at low cost and easily in a short period of time.

Next, even if the Statutory Receipt System were implemented, there would be those who attempt to evade taxes, as in any society; therefore, the prompt establishment of a tax assessment system in standard taxation that would enable favorable judgments in legal actions should be ensured.

Finally, the rate of taxation applied to income from the sale of real estate under the Individual Income Tax Law and the Corporation Tax Law should not be at the special tax rate but, rather, the tax laws should be amended as soon as practicable to have base tax rates applied to such income. There is a marked rate of appreciation in real estate values in Mongolia, particularly in Ulaanbaatar and, based on the fact that such price appreciation has just begun, this income, having the nature of unearned income, should be taxed at least by applying a base tax rate and additional taxation should be considered for capital gains from assets that are held for only a short period of time after acquisition.

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