

Taxes and Social Justice

Policy Brief

PALESTINE



Freedom from dependence on occupation
and pursuit of tax justice

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ANND works in 12 Arab countries with 9 national networks
(with an extended membership of 250 CSOs from different
backgrounds) and 23 NGO members.

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Background:

The history of taxation in Palestine is long and complex, and is linked to colonialism and the various countries that ruled Palestine in modern history, which made taxation a tool for financing the regimes. It also aimed to subjugate and impoverish people, often leading to limited social revolutions or large tax evasions. Taxes were also used to deprive farmers from their lands to be concentrated in the hands of few feudalists affiliated with the ruling elite.

The “Israeli” occupation adopted the same well-known colonial tax practices. In fact, it imposed laws, decrees and military orders to collect taxes from Palestinians to impoverish them and make pressure to let them leave their country, and to expel them and confiscate their property. This forced Palestinians to rebel against these laws and taxes, either by evasion, by not declaring the full income and profits, or by direct confrontation and resistance as in the case of the civil disobedience of Beit Sahour, where most of the city’s residents refused to pay taxes and deal with the military administration of the occupation at the time.

There is a long history of hatred between Palestinians and taxes imposed on them, reflecting the oppressive depth of taxes. Even after the establishment of the Palestinian Authority, it was not easy to impose or re-apply tax laws that are still widely seen as a product of the occupation, particularly the fruit of the Paris Protocol which “legitimized” the laws and decisions of the tax occupation, and gave the Palestinian Authority a single tax decision space, specifically what is related to the

income tax law. Despite this, the law did not differ from the laws of the surrounding Arab countries on the one hand, and on the other hand, its financial impact did not exceed 8% of the total taxes and customs duties collected by the Authority.

The quick overview of the history of taxation contributes to determining the factors influencing tax and collection policies in the West Bank and the Gaza Strip, which are still largely external/colonial, and demonstrate that political and financial dimensions are more important than economic and social ones. This was made clear in the study entitled “Palestinian taxes between colonialism and the absence of justice” which is the basis of this policy paper.

• Fiscal framework:

Laws and decisions governing the tax framework in the West Bank and the Gaza Strip:

1. The Income Tax Law and its amendments for 2011
2. The Investment Promotion Law of 1998
3. Paris Protocol
4. Jordanian laws pertaining to the property and fuel tax, including the Building and Land Tax Law within Municipalities no. 11 of 1954, the Land Tax Law no. 30 of 1955 and the Jordanian amendments thereto until 1967 and other amendments as per “Israeli” military orders that are in effect until now, as well as the Jordanian Customs and Excise Law no. 1 of 1962
5. British laws related to the property tax, including the British Property Tax Law no. 42 of 1940, which was called the “Property within Cities Tax Law” and which is applied within the Gaza Strip

6. “Israeli” military orders related to the value added tax, which are still applied

There are many commonalities between the Paris Protocol and “Israeli” military orders, specifically in the field of the value added tax and the “Blue” fuel tax. The Protocol worked to “legitimize” and give a fee aspect to military orders in a framework agreed upon with the Palestine Liberation Organization (PLO) then.

Types of taxes imposed on Palestinians:

First: Direct taxes ¹:

Income Tax: It shall be imposed and collected from the various taxpayers working in the territory of the sovereign State. It shall be imposed on the profits of business, salaries and similar income of individuals and companies, including:

- a. Personal Income Tax:** A tax imposed on the Palestinian citizen (natural person) residing in the West Bank and the Gaza Strip (excluding Jerusalem) for at least 120 consecutive days.
- b. Corporate Income Tax:** This is the tax imposed on and collected from both private and public shareholding companies. Companies and investment projects that have an investment exemption certificate in accordance with the Palestinian Investment Promotion Law no. 1 of 1998 and its amendments shall be exempted from the corporate income tax.

¹ Abdel Karim Nasr & others, 2015; an assessment study of the income tax law of 2011 and its amendments under the perspective of economic and social justice; Ramallah, Miftah

Property Tax: It is the tax levied on real estate belonging to Palestinians (excluding Jerusalem). This tax equals 17% of the net rental, real estate or land value after deducting 20% as depreciation.

Second: Indirect taxes:

These taxes are imposed on consumption, production and import activities, and are also imposed on the real estate wealth.

a. Local VAT: A tax that is calculated on all goods and services consumed by citizens. The Paris Protocol provides that the proportion of such tax in the areas controlled by the Palestinian Authority must not be 2% more or less than those in force in “Israel”.

b. Purchase Tax: This tax is levied on specific goods such as alcohol, cigarettes, chemicals and automobiles.

c. Clearing Tax (Unified Invoice): It is the value added tax collected by tax authorities from the Palestinian private sector as a result of purchasing from “Israel” or importing from abroad via its border crossings. The tax is paid to the “Israeli” occupation authorities, which in turn transfer it to the Ministry of Finance at the end of every month through the agreed clearing mechanism.

d. Fuel tax: The tax levied on the various fuels used in the Palestinian territories. There is no special law in Palestine for this tax to be based on. It is considered a purchase tax, like a special law in Palestine on which this tax is based, the same as the fees imposed on cigarettes and tobacco. The legal basis of these taxes is the Jordanian Customs and Excise Law no. 1 of 1962.

- e. **Customs duties and excise:** The Jordanian Customs and Excise Law no. 1 of 1962 and subsequent “Israeli” military orders shall apply. It is a tax imposed on goods, services and merchandises imported from different countries in favor of the private sector, which is collected by the customs of the “Israeli” occupation in favor of the Palestinian treasury according to the Paris Protocol.
- f. **Production Tax:** The Jordanian Local Products Fees Law no. 16 of 1963, except for agricultural products, is applicable.

Tax revenues:

The GDP of 2017 is expected to reach 13.717 billion USD, according to the Ministry of Finance, while it is 8,311 billion USD according to the Central Bureau of Statistics. The total local revenues collected by the Palestinian government amount to 3.544 billion USD, i.e. 25.8% of the GDP according to the Ministry of Finance, and 42.6% according to the Central Bureau of Statistics.

Tax revenues accounted for most of the domestic revenues, reaching 70.8% of the total revenues in 2015, while this percentage dropped exceptionally in 2016 and 2017 due to the payment of license renewal fees by telecom and cell phone companies.

Clearing revenues for 2015 were about 2,054 million USD, and rose in 2017 to 2,251 million USD. Clearing revenues are double the local revenues, whether tax or non-tax revenues.

Table number (1) Total tax and clearing revenues out of the total revenues ²:

Year	Total taxes and customs duties (Million USD)	Percentage of total revenues	Percentage of GDP *	Percentage of GDP **
2015	2,659	91.5%	21.5%	34.4%
2016	2,972	83.2%	22%	37%
2017	3,056	86.2%	22.3%	36.8%

* According to the accounts of the Ministry of Finance.

**According to the Central Bureau of Statistics

The revenues collected by the Palestinian Authority from taxes and customs duties represented 91.5% in 2015, i.e., they depended fully on the Palestinian taxpayer to finance their activities and expenditures. Although the percentage declined in 2016 and 2017 due to one-time transfers by the occupation and license fees of telecommunications companies, this decrease is temporary and the percentage will get back to its previous levels.

² The calculations made by the researcher are based on the sources and reports of the Ministry of Finance and the Palestinian Central Bureau of Statistics.

The tax base out of the total GDP amounts to 22% according to the Ministry of Finance, and according to the Central Bureau of Statistics, it varies between 34% and 37%, which is a very large percentage. The Palestinian citizen bears most of the burden of taxes and customs; individuals also bear the biggest burden versus companies. In comparison with other countries, the average tax burden in Jordan is 16%, 19% in Egypt, 20% in Tunisia, and 21%³ in Morocco. Therefore, the tax burden in Palestine is very high compared to these countries.

Suggested policy interventions:

This paper is based on the study entitled “Palestinian taxes between colonialism and the absence of justice” issued by the Social and Economic Policies Monitor in the framework of a joint project with the Arab NGO Network for Development (ANND), co-implemented by several Arab countries. The project is also implemented in a regional framework to increase the role and effectiveness of the civil society in research and advocacy for tax justice.

The policy paper aims at building a vision/orientation for the Palestinian tax system on the basis of liberalization and the pursuit of tax justice, through a series of structural, legal and conceptual interventions on the Palestinian economic/tax system.

³ Abdel Karim Nasr, ibid

First: Overall framework of taxes:

The overall framework of taxation in the West Bank and the Gaza Strip regulates two basic structures: the first is the occupation through a set of laws and military orders that are still in force; and the Paris Protocol with the Palestinian Authority which restricts its ability to legislate in this area; the second are the overall financial, economic and social policies of the Palestinian Authority, which are based on liberal pillars, yet distorted and consequential.

Based on that, the policy orientations of this paper deal with these structures, namely, the elimination and liberation from dependence on the occupation, on the one hand, and re-building a socio-economic system that provides for social justice on the other hand. The changes required at the macro level can be summarized to include the following issues:

1. Cancel/suspend the Paris Protocol which defines and restricts the fiscal and tax framework of the Palestinian Authority, which in turn implements it on the Palestinian citizens. The abolition of the Protocol will give the Authority the possibility of developing laws and regulations based on the interests and needs of the Palestinian society, taking into account the economic system directed towards social justice, while seeking to break dependency on the occupation.
2. Abolish the aforementioned protocol and acquire an economic freedom that should be based on controlling the crossings to the West Bank and the Gaza Strip and exercising sovereignty over them so that the Palestinians can impose and collect customs duties and impose Palestinian laws and specifications.

3. Review and re-establish social and economic policies based on social justice, including getting rid of the interventions of the World Bank and the International Monetary Fund, and the various prescriptions provided by these international parties. This includes tax collection, spending/distribution through the services provided by the Authority, development projects, i.e. the budget, which is currently based on the provision of minimum services, and the satisfaction of elites and institutions at the expense of building a development vision working for citizens, and taking into account the need to direct budgets to specific sectors/services and/or marginalized areas.

Second: Palestinian tax trends:

There is a need for a comprehensive re-examination of the development system of the Palestinian Authority including the tax system, which, as we said above, is dependent on the subordination and collection in order to maintain the large bureaucratic cadres; until a national liberation is achieved by eliminating the occupation and agreements concluded with it, different aspects of the Palestinian tax system can be worked on:

- Promulgate Palestinian legislations and laws that replace “Israeli”, Jordanian, and British laws, decrees and military orders, so that these laws are modern and based on the principles of freedom from subordination, social justice, equality and equity.

- Develop a tax policy that is not only based on collection and financing the public budget, but also deals with taxation within a developmental system that works to develop marginalized areas, provides quality services to all citizens, and works to support the national productive sectors.
- Treat tax evasion, specifically the evasion of Palestinian merchants from submitting clearing bills; therefore, according to multiple studies, the size of financial loss resulting from the non-payment of taxes on imported goods and the smuggling of goods from “Israel” to the Palestinian markets is estimated at 305 million USD annually. A Palestinian presence and supervision of border crossings or an electronic control system on goods and imports coming through border crossings can be a solution to this issue of evasion.
- Stop the deduction of the commission charged by “Israel”, i.e. 3% of the value of the amounts transferred by the occupation authority and deducted before transferring these funds, estimated at 50 million USD.
- Require the receipt and transfer of the full income tax that “Israel” collects from Palestinians working within the Green Line, where “Israel” transfers only 75% of the tax.
- Treat the funds accumulated by the (Israeli) Ministry of Finance between 1970 and 1994; the equality tax, which is a deduction from the salaries of Palestinian workers, amounts to 6.5 billion USD. It needs to be addressed through international interventions with an honest review of these funds and accumulated interests.

- Reduce the fuel tax, whereby the Protocol stipulates that the price of fuel in the areas of the Palestinian Authority should not be less than 15% of the price in “Israel”; after calculating the huge difference in income and in the available system of transportation, the Palestinian citizen pays a huge price for fuel consumption, and this needs to be adjusted and reduced to suit the purchasing power of the Palestinian citizen and the income rate.
- The Palestinian Authority applies a value added tax system similar to that applied in “Israel”, currently VAT in the areas of the Palestinian Authority amounts to 16%; it is a tax collected from the final consumer. It is necessary to separate the Palestinian tax from that of the occupation; this tax must be reviewed under many aspects:
 1. Exempt basic goods and services from the value added tax, specifically consumer goods as it is the case in some Arab countries, due to their role in helping poor families to provide basic material without additional costs.
 2. Fix several brackets for the value added tax, so that there is a hierarchy in the tax rates according to their importance in the consumption basket of Palestinian families, i.e. 0% for some goods, 5% for essential goods, 10% for important goods, and up to 20% for luxury goods.
 3. Control and pay the value added tax from merchants and service providers, because the size of the evasion of these taxes is large, that is, the citizen pays the tax in the end to the merchant/service provider, meaning that there is a need to develop the penalties to be deterrent and commensurate with the size of the tax evasion.

Addressing these aspects of the income tax will ensure that this tax is not blind, i.e. it is levied and affects mainly poor and low-income people, while its impact remains small on the rich compared to their income. This tax shall be based on the vision of social justice.

Third: Income and Investment Tax:

The income tax law is the only one under the direct control of the Palestinian Authority. Nevertheless, the law suffers from fundamental problems. The essence of the law is not to achieve social justice and balanced collection in accordance with the principle of progressive income. On the contrary, it is aimed at establishing inequality and exploitation. The law has been subject to successive amendments within few years, i.e. 10 amendments so far; these amendments aimed in general at serving the interests of companies and rich categories.

The following framework can be proposed to amend the Investment Promotion Law:

- Some 600 Palestinian companies benefit from the Investment Promotion Law. This means that the largest Palestinian companies that make large profits are exempted from the income tax on their profits. Most of these companies are monopolistic or service companies. They operate in profit-guaranteed sectors with insignificant competition. Therefore, this law should be amended:

- Stop investment exemptions directed to Palestinian companies operating in service sectors, high-profit sectors or those operating in accordance with declared or undeclared monopolies.

- Stop companies' manipulation of the legal gaps that allow the extension of the period available to take advantage of the exemptions and privileges included in the law.
- Develop a list of types of companies eligible for specific exemptions and for a period not exceeding five years, including companies that work in vital productive sectors such as agriculture and manufacturing, companies that rely on high employment for Palestinian workers, startups established by young people or women for limited periods, and companies that make profits for social, civil and non-lucrative purposes.
- Develop a list of marginalized areas that can be called development areas where companies are entitled to specific tax exemptions for a medium duration.

The following framework can be proposed to amend the Income Tax Law and the income tax management:

- Suspend the amendment of the law by the Council of Ministers, which in turn delegated this capacity to the Minister of Finance, knowing that the Council of Ministers or the Minister of Finance does not have this legal authority, and the Legislative Council is authorized to issue legislation and laws. In case of disruption and out of necessity, the President shall be entitled to decide the promulgation of laws until the Legislative Council convenes.
- Apply the principle of progressive income tax like other countries so that the highest bracket reaches 35% of the income earned on corporate profits, specifically monopolies, holding companies and banks.

- Amend the law to include tax brackets of 20%, 25% and 30% according to the sizes of profits realized by companies in ascending order.
- Amend the law to include tax brackets of 20% and 25% according to the profits realized by individuals in ascending order.
- Amend the law to include the income earned by individuals resulting from the distribution of a special remuneration for corporate profits; this may be conditional on the fact that the remuneration shall be more than a total of three salaries annually.
- Agricultural companies should remain within the 10% bracket given the national productive value of their work regardless of the value of profits earned by these companies.
- Exempt farmers and families working in agriculture from the income tax.
- Amend the end of service indemnities exemption clause without a maximum period of one month, i.e. exempting the end of service indemnities from tax.
- Include the capital profits of selling shares, securities and speculations in the areas covered by the Income Tax Law.
- Impose a tax on wealth.

- The business sector contributes by 11% to the total income tax revenues; this percentage must be gradually increased to represent the size of the sector's entry, which includes large income generating activities such as doctors, lawyers, accountants, engineers and contractors.
- The tax exemption must be linked to the number of family members, the existence of chronic diseases, aging, and persons with disabilities. This means developing specific social criteria allowing the family – if met – to have the right to obtain more tax exemptions, without a ceiling of income due for exemption, which is currently 36 thousand Shekels.
- The penalties stipulated in the law, i.e. imprisonment for a period not less than one month and not more than one year, and a fine not less than 1,000 Shekels and not more than 10,000 Shekels or both penalties in cases of tax evasion, are not deterrent. Therefore, the fines and the length of imprisonment must be increased according to the size of the tax evasion.
- Tax settlements should be based on clear rules and fair standards, and there should be no accumulated record of tax evasion for individuals or companies.
- Develop a data collection and documentation system that will provide reliable tax information and analytical studies.
- Increase income tax department staff significantly, contributing to the implementation of inspections on the sector liberal professions and professionals, which helps increase this sector's share of the tax in the total income tax.

