



UN Capacity Development Programme in International Tax Cooperation

Workshop on Tax Incentives and Base Protection New York, 23-24 April 2015

BACKGROUND NOTE

1. Introduction

Governments in developed and developing countries use tax incentives to attract new investment. In some cases, tax incentives have clearly played an important role in attracting new investment that contributed to substantial increases in growth and development. In other cases, however, tax incentive regimes have resulted in little new investment, with a substantial cost to the government.

Many tax advisors contend that tax incentives, particularly for foreign investment, have been ineffective and subject to abuse. The challenges of designing effective tax incentive regimes may be greater in developing countries where the potential for significant base erosion is likely higher.

This workshop seeks to provide an overview of key issues facing policymakers in deciding whether to use tax incentives to attract investment and how to best design and administer these incentives. It also seeks to provide officials with guidance in developing methodologies for estimating the costs and benefits of past, current or proposed tax incentives.

2. Scope of the Workshop

The workshop's objective is to provide government officials in developing countries with the information and tools to allow them to best design and administer tax incentives to increase their effectiveness. The workshop will have six key components:

(a) Overview of Tax Incentives

This part will provide an introduction to tax incentives, a discussion of the benefits and costs of using incentives, a review of some general design and administrative consideration, an overview of common abuses, and a discussion of how tax systems in developed countries may influence the desirability and effectiveness of tax incentives in developing countries.

(b) Selected Issues in Design and Administration of Tax Incentives

This part will focus on key issues in drafting tax incentive rules. A tax incentive may take various legal forms: from a government agreement, to a dedicated investment law or a dedicated regime in a tax law. Tax incentive rules must be focused and interface with general tax rules. A lack of targeting and coordination can create uncertainty, leading to abuse, difficulties in tax administration and complex anti-abuse rules. This part will review some basic principles of legal drafting for laws, regulations and contracts between the governments and investors. Participants will then review sample legal provisions to identify the strengths and weaknesses of different approaches.

(c) Case Study

This case study will provide an opportunity to examine key design and implementation issues in the context of a proposed investment project. It will examine the objectives of investors and governments in using tax incentives and highlight different alternatives for achieving those objectives. It will also focus on the challenges to both investors and governments in complying with the conditions of tax incentive provisions, especially in times of changing economic conditions.

(d) Country Experience

Many countries have a long history of using tax incentives. This experience is valuable in determining the strengths and weaknesses of different tax incentive regimes as well understanding the evolution of different types of tax incentives in a particular country. Government officials with experience in tax policy, tax administration, and trade and investment policies will share their perspectives on the challenges in designing, implementing, and monitoring tax incentive regimes.

(e) Estimating the Costs and Benefits of Tax Incentives

This part will examine approaches for estimating the costs and benefits of tax incentives regimes. Participants will review an existing study that sets forth the purported costs and benefits for a proposed investment project and tax incentive package. There will then be a review of the information required to estimate costs and benefits and the key assumptions that are explicit or implicit in the analysis. This part will then provide guidance on how countries can develop methodologies for estimating the costs and benefits of tax incentive regimes.

(f) Case Study and Country Reports

For this case study, the participants will be asked to take specific roles in designing and negotiating a tax incentive project for a potential investor. The case study will also provide an opportunity for country representatives to share their experiences in designing and implementing tax incentives and to identify those areas with the greatest challenges.

3. Participants

Successful implementation of tax incentives requires cooperation of government officials responsible for tax policy, tax administration, and trade and investment policies. Participating countries will be asked to send representatives from each of the government offices with responsibilities for tax incentives.

Participants will include senior country representatives from: (i) tax administration offices with experience in implementing and monitoring tax incentives; (ii) the Ministry of Finance with responsibilities for designing policies or drafting laws on tax incentives, and (iii) the Ministry of Investment or Trade with responsibilities for designing tax incentives and negotiating agreements with investors.

The workshop will be conducted in English without translation. Participants will be required to have good working knowledge of the English language.