



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

**Country Responses to the QUESTIONNAIRE**

**Introduction**

This is a summary of country responses to the questionnaire on tax incentives. A total of 13 responses were received. The country responses include input from 4 countries in Africa, 2 countries in Asia and 6 Latin American countries. The contents below indicate the questions which were posted to the countries in the questionnaire and the summary of country responses.

**1. General Conditions**

**1.1 What type of tax incentives does your country use or has used in the past?**

Generally, it can be said that more countries are currently using tax incentives. The table below highlights the country responses on the current status and the previous experience on the use of different types of tax incentives in respective countries.

<b>Type of tax Incentive</b>	<b>Number of countries out of a total of 13 which currently use this type of tax incentive</b>	<b>Number of countries out of a total of 13 which used this type of tax incentive in the past</b>
Tax holidays	10	6
Reduced rates	11	2
Investment allowances or credits	11	5
VAT exemption/ reductions	10	2
Research and development tax incentives	9	1
Special economic zones	11	3
Payroll tax holiday	2	3

**1.2 Does your country maintain an inventory of tax incentives?**

Most countries maintain an inventory of tax incentives; out of a total of 13, 10 countries maintain an inventory of tax incentives.

### 1.3 Does your country maintain an inventory of non-tax incentives for investment?

The majority of countries do not maintain an inventory of non-tax incentives. The country responses indicate that only 4 of the 13 countries maintain such an inventory.

### 1.4 What is the rationale for your government deciding to use tax incentives?

It is observed that the most of countries' main reason for the governments' decision to use tax incentives is due to tax competition from neighbouring countries that share similar economic environment. However a significant number of countries also mentioned the other reasons as influencing the decisions around tax incentives.

The table below indicates the country responses which points out the reasons behind the governments' use of tax incentives.

<b>Rationale for the use of tax incentives</b>	<b>Number of countries out of a total of 13 which supports the rationale</b>
(a) Because of the non-tax conditions in your country ( infrastructure, skilled labor force and flexible labor code, foreign exchange rules, political stability) are seen as not conducive to foreign investment	7
(b) Because of tax competition from neighboring countries that share a similar economic environment	9
(c) Because specific interest groups in your country have the political power to obtain a favorable tax treatment	7

## 2. Process for Granting tax incentives

### 2.1 Which departments or agencies are involved in designing tax incentives regimes?

The following are departments which are involved in designing tax incentives regimes in a number of countries:

- a) Investment Promotion Agency/Board;
- b) Ministry of Finance, Ministry of Economics and Ministry of Trade;
- c) Revenue Authority.

## **2.2 Which departments or agencies are involved in approving tax incentives for specific investors?**

Generally across the countries the following are the departments that are involved in approving tax incentives:

- a) Investment Promotion Authority/Board;
- b) Ministry of Finance;
- c) Revenue Authority/Tax Administration.

## **2.3 Which departments or agency has the final decision on whether to grant tax incentives to specific investors?**

The departments which have the final decision on whether to grant tax incentives are commonly the following as indicated by country responses:

- a) Investment Board/Committee;
- b) Ministry of Finance;
- c) Revenue Authority/ Tax Administration.

## **2.4 Where does your country include the provisions of tax incentives regimes?**

In most countries the tax incentives are either provided in both tax and investment laws or they are included in one law not the other. The table below illustrates positions in respective countries pertaining to the codification of the provisions of the tax incentives in the law.

<b>Tax incentives provisions included in:</b>	<b>Number of countries out of the 13 countries which provides for tax incentives provisions in a specific option</b>
(a) The tax laws	12
(b) The investment laws	8
(c) Provisions for tax incentives not codified in any law	3

## **2.5 Does your country adopt an objective standard for granting tax incentives (such as meeting certain minimum levels of investment or primary activity in a specific sector)?**

A few countries adopt an objective standard for granting tax incentives; only 9 of the 13 countries adopt the objective standard for granting tax incentives.

## **2.6 Do officials have substantial discretion in granting tax incentives?**

The country responses generally show that there is no substantial discretion given to officials in granting tax incentives. In limited cases (2 of the 13 countries), the discretion is provided within the provisions of the law.

## **2.7 How much discretion is provided to officials with responsibility for granting tax incentives?**

There is primarily no discretion provided to officials in terms of the responsibility for granting tax incentives. Some (2) countries suggested that discretion is limited to what is provided in the laws.

## **2.8 Does your country offer a “menu” of tax and non-tax incentives for investment, so that investors and the government can choose between tax incentives and non-tax incentives?**

Only 3 of the 13 countries offer a “menu” of tax and non-tax incentives for investment. The majority of countries have no provision for the choice between tax incentives and non-tax benefits.

## **2.9 Does your country enter into specific agreements with corporations receiving tax incentives that set forth the terms and conditions of the tax incentives?**

There are only 6 of the 13 countries who use agreements with corporations receiving tax incentives, to set the terms and conditions of the tax incentives.

## **2.10 Does your country require an estimate of the costs and benefits of tax incentives for either the general tax incentive regime or for agreements with specific investor?**

Most countries require an estimate of the costs and benefits of tax incentives for either the general tax incentive or specific investment. At least 9 of the 13 countries confirmed this as a requirement in their countries.

## **2.11 Do the tax incentive regimes in your country have “sunset” provisions, whereby they expire after a number of years and are not automatically extended?**

The majority of countries have sunset provisions build within their tax incentives regimes for limited period and the period is not automatically extended. Only 3 of the 13 countries do not have the sunset provisions within their tax incentives regimes.

## **2.12 Does your government make publicly available information about the identity of a recipient of tax incentives and some estimate of the amount of tax savings?**

A good record of countries keep information about the recipients of the tax incentives and estimates of the tax savings confidential. It is worth noting that only 3 countries pointed out that this information is publicly available.

## **3. Monitoring**

### **3.1 Which departments or agencies are responsible for monitoring those businesses that receive tax incentives to ensure that they comply with the terms and conditions of the tax incentives?**

In most countries, the monitoring of businesses that receive tax incentives is the responsibility of these departments:

- a) Ministry of Economy;
- b) Ministry of Finance;
- c) Revenue Authority/Tax Administration;
- d) Investment Promotion Agency (to a very limited scope – at least in 3 of the 13 countries).



### **3.2 Are businesses receiving tax incentives required to file annual information returns?**

The majority of countries require businesses receiving tax incentives to file annual information return. It is important to note that it is only in 2 of 13 countries where this is not a requirement.

### **3.3 Does your country have a formal process for auditing investors to see if they comply with the terms and conditions of the tax incentives?**

It is observed that there is no formal process for auditing the investors to check compliance to the tax incentive conditions in many countries; at least 7 of 13 countries confirmed that this is the case in their countries.

### **3.4 After tax incentives are granted, is there flexibility for investors or the government to re-negotiate the terms of the tax incentive agreement to reflect changes in business operations or changes in the economic environment?**

10 of 13 countries submitted that in their respective countries there is no flexibility to re-negotiate the terms of tax incentives agreement to reflect either the changes in business operations or economic environment.

### **3.5 Are there specific penalties for failing to comply with the terms and conditions of tax incentives?**

Many countries make provision for specific penalties for failing to comply with the terms and conditions of tax incentives. 10 of 13 countries affirmed this position in their respective countries.

### **3.6 Can you list some of the common abuses that taxpayers engage in with respect to the tax incentive regimes?**

The countries submitted these as the common abuses that taxpayers engage with respect to tax incentives:

- a) Abusive tax planning;
- b) Non-compliance with tax incentives conditions and tax rules;
- c) Expanding/diverting operations to unduly benefit from tax incentives;
- d) False claims;
- e) Fraud;
- f) Profit shifting;
- g) Transfer pricing.

## **4. Determining costs and benefits of tax incentives**

### **4.1 Does your country have a formal process for determining the costs and benefits of tax incentives, either for the general tax incentive regime or for specific grants of tax incentives?**

There are few countries that have formal processes for determining the costs and benefits of tax incentives, only 5 countries suggested that they have these formal processes whilst 8 countries submitted that they don't have them.

#### **4.2 Are there specific methodologies that your country uses in estimating the costs and benefits of tax incentives?**

Only 6 of the 13 countries mentioned that there are specific methodologies to determine the costs and benefits of tax incentives in their countries.

#### **4.3 Are there examples in your country of economic studies completed for proposed, current, or past tax incentives?**

A great number of countries highlighted that there are completed economic studies for the proposed, current, or past tax incentives in their countries. 9 of the 13 countries confirmed having these study examples in their countries.

### **5. Challenges in designing and implementing tax incentives**

#### **5.1 What do you believe are the greatest challenges in using tax incentives to attract investment?**

The countries advanced various reasons as challenges in designing an effective tax incentive regime. The examples of such challenges are listed below:

- a) Establishing a proper tax incentive regime;
- b) Avoiding subsidizing investments that would have taken place without the tax incentive;
- c) Balancing between protecting the tax base and promoting investment;
- d) Managing the tax trade-off between income tax and new investment;
- e) Proper consideration of the costs and balancing with benefits.

#### **5.2 What are the greatest challenges in designing an effective tax incentive regime?**

Countries have identified main challenges in designing an effective tax incentive regime as:

- a) Defining allegeable activities, thresholds, size and duration of the tax incentive;
- b) Identifying the appropriate beneficiaries;
- c) Determining sectors that need tax incentives;
- d) Improving the quality of economic analysis establishing tax incentives;
- e) Finding the balance on the impact of tax incentives on tax neutrality, horizontal equity, and redistribution;
- f) Balancing the administrative and compliance costs;
- g) Lack of transparency and information;
- h) Lack of technical know-how;
- i) Lack of congruence and coordination amongst agencies administering tax incentives;
- j) Placing all tax incentives under one agency.

### **5.3 What are the greatest challenges in determining which and what type of tax incentive projects should be approved?**

The challenges faced by countries in determining the types of tax incentives projects to be approved are as follows:

- a) Avoiding the pressure of interest groups to obtain tax incentives;
- b) Lack of information per sector;
- c) Complicates the tax administration;
- d) Increase the tax administration and monitoring costs;
- e) Determining the right sectors that need tax incentives;
- f) Insufficient cost benefit analysis;
- g) Lack of risk analysis of the tax incentives;
- h) Requires extensive analytical research;
- i) Inconsistent and not strategically selected projects;
- j) Non-compliance to the standards for granting tax incentives.

### **5.4 What are the greatest challenges in monitoring a tax incentive regime?**

In monitoring tax incentives, countries submitted that they are faced with these great challenges:

- a) Avoidance and evasion;
- b) No clear compliance criteria;
- c) Lack of guidelines and reliable data for reporting and auditing requirements;
- d) Financial and resources constraints;
- e) Weak monitoring system;
- f) Non-compliance to the tax legislation;
- g) No integrated tax and monitoring system;
- h) Lack of cooperation from different stakeholders;
- i) Uninformed re-locations of taxpayers.