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CIAT Technical Conference

Strengthening of the Tax Administration's Capacity

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INDEX

Presentation on CIAT ix

Inaugural Ceremony

Statement by the CIAT Executive Secretary, Dr. Claudino Pita xvii

INAUGURAL CONFERENCE

The Impact of the Global Crisis on Public Finances and Tax Administrations, Teresa Ter-Minassian, Former Director Fiscal Affairs Department (IMF) 3

TOPIC 1: THE DESIGN AND IMPLEMENTATION OF TAX POLICY: THE ROLE OF THE TAX ADMINISTRATION

Lecture

TOPIC 1 The Design and Implementation of Tax Policy: The Role of the Tax Administration, Andréa Lemgruber-Viol, Senior Economist (IMF) 17

Case Studies

TOPIC 1.1 Social Acceptance of the Tax: The Simplification of the Tax Systems, Henri Osmont d'Amilly, Head of the Department of Simplification, General Directorate of Public Finances (France) 37

TOPIC 1.1 Social Acceptance of the Tax: The Simplification of the Tax Systems, Nelson Hernández, Director General of Revenue, General Directorate of Taxation (Uruguay) 49

TOPIC 1.2 Factors Contributing to the Equity of the Tax Systems: Expansion of Bases, Carlos M. Carrasco Vicuña, Director General, Internal Revenue Service (Ecuador) . 67

TOPIC 1.3 Tax Decentralization and Coordination in the Administration of Taxes: The Spanish Case, Fernando Díaz Yubero, Director Organizational Programming and International Relationships, Dept. State Agency of Tax Administration (Spain) 81

TOPIC 1.3 Tax Decentralization and Coordination in Brazil's Tax Administration, Valmar Menezes, General Coordinator, Federal Revenue Secretariat (Brazil) 113

TOPIC 2 KEY ASPECTS FOR IMPROVING THE TAX ADMINISTRATION'S CONTROL CAPACITY

Lecture

TOPIC 2 Key Aspects for Improving the Tax Administration's Control Capacity, Luigi Magistro, Central Director, Italian Revenue Agency-Central Directorate (Italy) 141

Case Studies

TOPIC 2.1 Information Exchange and Administrative Assistance for Recovery as Effective Mechanisms for Controlling Fraud, Evasion and Avoidance, Stefano Gesuelli, Head International Cooperation Unit, General Directorate, Guardia di Finanza (Italy) 155

TOPIC 2.1 Information Exchange and Administrative Assistance for Recovery as Effective Mechanisms for Controlling Fraud, Evasion and Avoidance, Patricia Spice, Director, Competent Authority Services, Compliance Programs Branch (Canada Revenue Agency) 165

TOPIC 2.1 Information Exchange and Administrative Assistance for Recovery as Effective Mechanisms for Controlling Fraud, Evasion and Avoidance, Grace Perez-Navarro, Deputy Director, Centre for Tax Policy and Administration (OECD) 185

TOPIC 2.1 Transparency in Foreign Trade Transactions. Use of Countries which Lack Fiscal Transparency, Carlos Sánchez, Deputy Director General of Operations, Federal Administration of Public Revenues (Argentina) 199

TOPIC 2.2 New Technologies to Improve Control Capacity, Han Wijers, Manager, National Supervision Organization, Tax and Customs Administration (The Netherlands) ... 221

TOPIC 2.2 New Technologies to Improve Control Capacity, Germania Montás, Deputy Director General, General Directorate of Internal Taxes (Dominican Republic) .. 243

TOPIC 2.3 Creation of Large Taxpayer Units and The Inclusion of Large Individual Taxpayers, Douglas O'Donnell, Director, Treaty Administration and International, Internal Revenue Service (United States) 247

TOPIC 3 MANAGEMENT TOOL AND RELEVANT CONTEXTUAL ASPECTS FOR STRENGTHENING THE TAX ADMINISTRATION

Lecture

TOPIC 3 Management Tool and Relevant Contextual Aspects for Strengthening the Tax Administration, Andrew Reed, Assistant Commissioner, Australian Taxation Office (Australia) 269

Case Studies

TOPIC 3.1 The Use of Intranets by Tax Administrations, Ricardo Escobar, Director, Internal Revenue Service (Chile) 283

TOPIC 3.2 Economic Integration and Harmonization of the Tax Systems and Administrations, Clara Urteaga, Legal National Intendant, National Superintendence of Tax Administration (Peru) 311

TOPIC 3.2 Economic Integration and Harmonization of the Tax Systems and Administrations, Luiz Villela, Fiscal Economist (Inter-American Development Bank, IDB) .. 335

TOPIC 3.3 Strategic Planning as Factor Contributing to The Improvement of the Institutional Capacity, Mario Visco, Head of Unit, International Relations Office, Ministry of Economy and Finance (Italy) 363

TOPIC 3.3 Strategic Planning as Factor Contributing to the Improvement of Institutional Capacity, Néstor Díaz, Director General, Directorate of Taxes and National Customs (Colombia) 387

Closing Session

Technical Program 411

List of Participants 421

PRESENTATION ON CIAT

PRESENTATION ON CIAT

CIAT is a public international organization established in 1967 to promote the improvement of the tax administrations through: exchange of ideas and experiences; technical assistance and training; compilation and distribution of information; and promotion of technical research.

The Center is formed by 38 countries: 29 countries from the Americas and 5 European countries as full members, and 4 countries as Associate Members: Czech Republic, India, Kenya and South Africa. The Minister of Finance or Treasury of each country designates the positions in his tax administration, the incumbents of which are the Representatives at CIAT.

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INAUGURAL CEREMONY

WELCOME SPEECH BY CIAT'S EXECUTIVE SECRETARY
Dr. Claudino Pita

Dr. Claudino Pita

Mrs. Fabrizia Lapecorella, Director General of Finances of Italia, Mr. Juan Hernandez, President of CIAT Executive Council, Representatives of the member countries and other officials members of the delegations of the CIAT member countries, delegations from International organizations and from other tax administration, accompanying us, Ladies and Gentlemen, first I wish to thank you for your kindness in accompanying us to this event.

At the same time I wish to state our profound appreciation to the authorities and all officials of the Italian government that have made possible the realization of this Conference in the magnificent city of Naples, which is significant due to its historical importance and beauty, and which receives us today with its usual sympathy and hospitality.

The Conference that we begin today and which main topic is **"THE STRENGTHENING OF THE CAPACITY OF THE TAX ADMINISTRATION,"** gives us the opportunity of exchanging and reflecting together on important issues of common interest.

In this central topic there are many aspects that can be framed within the same, during this event we will focus on three of these:

- **The Design and the Implementation of Tax Policy: the Role of the Tax Administration.**
- **Key aspects to improve the control capacity of the Tax Administration.**
- **Management tool and relevant context aspects or the strengthening of the Tax Administration.**

The presentations on these three broad issues will be complemented with the presentation of the topics linked to the same, under the form of specific experiences which may serve as good practices examples.

Regarding the role of the Tax Administration in the design and implementation of tax policy, is an issue that increasingly takes greater interest. This administration, in support of its basic functions needs to accompany and permanently analyze collection behavior vis-à-vis the main macroeconomic variations, Tax Administration the same it is in the best capacity of evaluating the viability of properly managing determinate taxes, due to the resources the Tax Administration has at hand or because of the characteristics of the environment, being able to contribute ideas on the most adequate technical structure of the taxes to meet the objectives where it is appropriate to link them. All this allows to conclude that the Tax Administration must have an active role regarding other instances, to advise them in decision making on the issues of tax policy, contributing elements for analysis which allow to further the relevance of the measures proposed, mainly in terms of the fiscal costs that they entail and the real possibilities that they have an effective application.

The need to develop efficient control actions is increased in our days regarding certain effects of the current crisis that potentiate evasion tendencies.

Undoubtedly the crisis with its effects of increasing unemployment rates, liquidity and difficulties in access to financing increases evasion tendencies.

On the other hand, anti-cyclical tax measures incorporate new tax benefits that add to pre-existing promotional treatments and require additional control efforts that prevent the abusive use of these benefits.

To strengthen control actions of the Tax Administration, beyond their immediate results, also means to generate the perception that people are undertaking a significant risk when they evade and this shall encourage them for better compliance.

On the other hand, the current evolution of technology, the principles and public management techniques, often supported by the developments of the private sector offer various references for the strengthening of the Tax Administration, as for example, total quality, control dashboards, strategic planning, etc. All these represent positive effects for the strengthening of the Tax Administrations, as in fact many have been doing.

Among these positive aspects it is also important to highlight the use of comparative Studies and reference systems, which facilitate the identification of strengths and weaknesses of an administration and its tax system, and which may orient the necessary actions for the perfection of the same.

I will now like to stop to formulate some quick considerations about our center and being close to the end of my tenure as CIAT's Executive Secretary, I wish to reiterate some of the concepts that I stated during my first presentation in this position during the General Assembly held in April 2006 at Florianopolis, and which I think are still valid today.

At the time I said that "the environment in which the public and private organizations operate has been transformed in recent years, specifically in terms of greater uncertainty and interdependence. Changes that happen one after another and unforeseeably, often chaotic and dangerous to whoever is not paying attention to same.

The uncertainty and interdependence that make us strategically think, act and learn as never before. Regarding the uncertainty, we need to be attentive and construe the signs of the surroundings to define effective strategies.

I also said that we have learned that the transformations that we help are not just evolving, but often break with the past, and this determines that the tools of traditional planning, based on estimates and forecasting as from historical data, represent a limited solution to effectively respond to new challenges to take full advantage of the new opportunities arising from changes.

On the other hand, to know towards what kind of organization we must head to, we should ask ourselves to important questions: Why

we exist and for what?; What values are important in our organization?

At the time my answers to these two questions regarding CIAT were there following.

On the question, why we exist and for what? We would say:

Because CIAT's existence supposes for its member countries to permanently dispose structured support, product of a joint effort between organizations that are recognized as similar regarding the purposes and the changes to be faced, which strengthens the Tax Administration and favors the fulfillment of its mission, and also allows its insertion with cohesion into the international arena, benefiting the defense of its points of view and common interests.

Because beyond the institutional and operational strength that an administration has been able to reach, it is indispensable to have reference to support improvement processes, the references that can be obtained from these with joint exchange and analysis of experiences, that CIAT promotes during meetings such as this one.

Regarding the second question posed: What values are important in our organization? We said that there are at least four: equality, solidarity, respect for others and transparency.

Equality, among all member countries in the enforcement of the uniform treatment of standards, our Bylaws, and opportunities to participate in CIAT's development and decision making processes.

Solidarity as the value consisting of showing unity among the Tax Administrations of our member countries and which entails a feeling of fraternity, of feeling affected by the lacks of others and help them overcome them.

In this item, I open a parenthesis to comment that in our organization we should not create categories, such as, i.e. 'donor' member countries and beneficiary member countries. We must prevent distinctions o this nature and prioritize the two principles that we have just commented about: equality and solidarity, and the later demands that if there are those that contribute more and those that

benefit more, this does not justify differences in the treatment that CIAT gives, in any event, if a difference should be made, it would be to prioritize our actions in countries with less resources.

Regarding the third value, respect for others, not discriminate and respect diversity, focusing our attention on essentially technical - tax aspects. This is precisely where one of the great strengths of CIAT rests: cooperative daily living in diversity.

CIAT being an American organization in its essence, opens up to the world to generate synergies, share concerns and seek solutions that may benefit all countries. CIAT is not an organization exclusive of developed countries, or emerging countries, or developing countries, it is formed by countries of different degree of socioeconomic advance, which determines that the issues analyzed and the consensus reached here, are distinguished for their universality, regarding its focus and the interests taken into consideration.

Finally, transparency is to communicate and facilitate the knowledge on how the resources of our member countries contribute to CIAT, in terms of the efficiency with which the programs are executed such as the merit and the respect for the strategies, norms and guidelines defined by CIAT competent branches attending to the expectations of all our Tax Administrations.

At the time we concluded by saying that we believe that if we stop to analyze the considerations realized on "why we exist and what for" and on the most important values in our organization, we will find sufficiently reasons to affirm that CIAT is an organization highly active, consolidated, that has the decisive support of its member countries, and that holds one of the most outstanding positions among all international organizations that are dedicated to or enter into the tax field or furthermore, as the most outstanding one if we are specifically referring to the issues of the Tax Administration.

In concluding, we wish to reiterate our recognition to the Italian authorities and also to thank the important contribution received and the intense work carried out by the valuable team of persons that works at the headquarters of the Executive Secretariat, formed by its International and local officials as well as the Chief of the French

Mission, Angel Gonzalez, who I publically recognize and thank him publically for his extremely positive work since his incorporation into the development of our programs. Soon the new Chief of the Spanish Mission Luis Cremades will come to the Executive Secretariat, Mr. Cremades has tremendous experience, and he will undoubtedly become a real and very valuable support to our activities.

To all, I wish a very happy stay in this beautiful city and very productive Technical Conference.

INAUGURAL CONFERENCE

THE IMPACT OF THE GLOBAL CRISIS ON PUBLIC FINANCES AND TAX ADMINISTRATIONS

Teresa Ter-Minassian
Former Director Fiscal Affairs Department
(International Monetary Fund)

CONTENTS: I. Introduction.- II. Macroeconomic trends and prospects.- III. Impact of the crisis on public finances.- IV. Impact of the crisis on Tax Administrations.- V. Medium-term challenges ahead.

I. INTRODUCTION

The global economic and financial crisis unleashed by the subprime mortgage debacle in the United States has posed in recent months, and will likely continue to pose in the years ahead, increased challenges for tax administrations worldwide. This presentation discusses the roots of these challenges, and makes some broadly applicable suggestions to address them, highlighting the fact that each country's strategy to strengthen its tax administration needs to be tailored to its specific economic and institutional circumstances.

The paper begins in Section II with an overview of the crisis, and its social cost; the varying policy responses to it around the world; and the short-term prospects for economic recovery. This analysis is brief and broad-brush, since the roots and social effects of the crisis have already been extensively analyzed in many national and international publications. Section III discusses the fiscal consequences of the crisis, which reflect the operation of the so-called automatic stabilizers, the wide-ranging discretionary stimulus measures enacted by various governments, and the public support measures for domestic financial systems introduced in a number of countries. Section IV focuses

more specifically on the impact of the crisis on tax administrations, discussing various damaging effects on both voluntary tax compliance and enforcement, and possible short-term remedial steps. Section V takes a longer- term view of looming challenges for fiscal policymakers in advanced, as well as developing, countries, and the role of tax administrations in meeting such challenges; and emphasizes the need for strengthened international cooperation, including in tax administration, in this endeavor.

II. MACROECONOMIC TRENDS AND PROSPECTS

1) A Truly Global Crisis, with Strong Impact on Living Standards

The crisis originating in the housing and financial sectors of some advanced countries (in particular the United States and the United Kingdom) propagated quickly to the rest of the world through a number of channels:

- A widespread freeze in credit markets, which dried up financing for both households and enterprises in most countries;
- precipitous declines in asset prices, which impacted negatively household wealth, as well as the balance sheets of financial and nonfinancial enterprises;
- a collapse in households' and business confidence; and
- sharp falls in international trade volumes and prices, workers' remittances, and foreign direct investment (FDI).

Reflecting the increased trade and financial integration of the global economy, the crisis impacted countries at all levels of development and spared no region around the world, although the impact was, on average, more marked on advanced than on emerging and developing economies (see Table 1).

Table 1. Latest WEO Projections

	1991-2000 Average	2001-2006 Average	2007	2008	2009	2010	2008 Q4-Q4	2009 Q4-Q4	2010 Q4-Q4
World	3.1	3.9	5.2	3	-1.1	3.1	- 0.1	0. 8	3.2
Advanced	2.8	2.3	2.7	0.6	-3.4	1.3	2.2	-1.3	1.7
US	3.4	2.5	2.1	0.6	-2.7	1.5	-1.9	-1.1	1.9
Euro area	….	1.7	2.7	0.7	-4.2	0.3	-1.7	-2.5	0.9
EM and LICs	3.6	6.2	8.3	6	1.7	5.1	3.3	3.8	5.5
Africa	2.4	5.9	6.3	5.2	1.7	4	…	…	…
CEE	2	4.9	5.5	3	-5	1.8	2.3	-14.	2.4
CIS	….	7.1	8.6	5.5	-6.7	2.1	…	…	…
Devel. Asia	7.4	8.1	10.6	7.6	6.2	7.3	5.5	7.7	7.8
Middle East	4	5.1	6.2	5.4	2	0.2	…	…	…
LAC	3.3	3.3	5.7	4.2	-2.5	2.9	…	…	….

Source: October 2009 WEO.

The crisis brought to an abrupt halt the steady progress in living standards made in the last decade. Real per capita income is estimated to fall by 4 percent in advanced countries in 2009. It is projected to nearly stagnate on average in emerging and developing economies, compared with a growth of over 5 percent a year in 2001–08. Unemployment has risen to levels unprecedented in recent decades (to over 10 percent of the labor force in the United States, and to over 9.5 percent in the Euro area). The loss of jobs has caused millions of people to fall under poverty levels, especially in countries with weak social safety nets.

2) A Strong Policy Response

Most countries have responded to the crisis with aggressive monetary and fiscal stimulus. The IMF estimates that fiscal stimulus packages averaged the equivalent of 2 percent of GDP in 2009 and 1.6 percent of GDP in 2010 in G-20 countries. The size of such packages varied however significantly across countries, reflecting the availability of financing, initial deficit and debt conditions, and other indicators of fiscal space. Among the largest were the fiscal stimulus packages introduced by China, Russia, Korea, Japan, and Saudi Arabia.

Many countries have also supported their financial sectors with liquidity and/or capital injections, and widespread guarantees. Announced support measures for the financial sector (including support by central banks) averaged the equivalent of nearly 23.5 percent of GDP in G-20 countries, but their upfront budgetary cost is estimated at less than 4 percent of GDP. Utilization rates of the announced packages have varied significantly across countries and types of support measures, but on average have been relatively low so far.

Some progress has been made in strengthening the regulatory and prudential frameworks for the financial system; but clearly more needs to be done, in an internationally coordinated fashion. The Financial Stability Forum, expanded to encompass all G-20 countries, has been given responsibility for spearheading, with support from institutions like the IMF and the BIS, a coordinated effort in this crucial area.

A massive increase in official financing (by the IMF, the EU, the World Bank, and regional development banks) has replaced part of private sector flows to emerging and developing countries, thus helping to moderate the depth of their downturn. For example, IMF lending to crisis-affected countries (including under precautionary arrangements such as the Flexible Credit Line (FCL)) has exceeded SDR 100 billion over the last year or so.

3) Prospects for Recovery

Some recent cyclical indicators point to an incipient recovery, especially in emerging markets in Asia and Latin America:

- Indices of stress in financial markets have declined significantly.
- Asset prices (especially equities) have rebounded.
- Capital flows to emerging markets have picked up significantly.
- Most commodity prices have recovered part of the sharp loss recorded in the fourth quarter of 2008 and the first quarter of 2009.
- Consumers' and business confidence indices are beginning to turn upward.
- Inventories have stopped falling, and in a number of countries are being rebuilt.

But, the robustness and sustainability of the recovery remain quite uncertain:

- Recent cyclical indicators in advanced countries provide mixed signals.
- Domestic demand is still falling in some emerging markets facing external financing constraints (for example in Eastern Europe).
- Credit growth remains slow worldwide, as many financial institutions need to continue de-leveraging to repair their balance sheets. Consumers and SMEs in particular continue to face strong difficulties in obtaining financing.
- The residential and commercial real estate sectors remain under pressure in most countries.
- Unemployment continues to rise, especially in the advanced countries.
- World trade has picked up only modestly.
- Uncertainties about the timing and path of "exit policies" from the monetary and fiscal stimulus are keeping long-term market interest rates up.
- There is much debate in academic and policy circles about the likely shape of the recovery (L? U? W? or V?).

The latest IMF's World Economic Outlook (WEO) forecast (October 2009) has revised upward the projections for world output in both 2009 (+ 0.3 percent) and 2010 (+0.6 percent) , but still anticipates an only moderate recovery through the end of next year, particularly in the advanced countries.

The significant uncertainty on the strength and durability of the recovery is confronting economic policymakers (especially in advanced countries) with difficult dilemmas regarding the timing and extent of exit from monetary and fiscal expansions. Clearly, there is no one-size-fits-all prescription in this respect, as different countries face different circumstances regarding inter alia the size of their output gap, the extent of inflationary pressures, the degree of fiscal space available, the exchange rate regime, and the vulnerability of their financial systems. But on balance, the current consensus among

policymakers (as reiterated in recent communiqués of the G-20) is that the stimulus should be sustained through 2010 in most countries.

III. IMPACT OF THE CRISIS ON PUBLIC FINANCES

1) Channels of Transmission of the Crisis to the Public Finances

The crisis has affected the public finances through a number of channels, which have impacted countries in different ways and to different extents. A first channel of transmission has been the operation of automatic stabilizers, encompassing both revenue responses to the downturn in output, and increases in cyclically-sensitive expenditures (unemployment benefits and other social welfare programs). The size of automatic stabilizers is influenced by a number of factors, including the extent of the output gap; the level and composition of the tax burden; the elasticities of various tax bases to changes in output, and of tax revenues to changes in the respective bases; and the coverage of social safety nets. Accordingly, automatic stabilizers tend to be significantly larger in industrial countries than in emerging markets (see Table 2 below).

Budgets have also been impacted, in different ways and to different extents by other factors:

- The sharp decline in commodity prices between mid-2008 and the second quarter of 2009. The decline has affected adversely countries dependent on revenues from commodity exports. In contrast, it has moderated the budgetary cost of energy and food subsidies in a number of countries which had seen this cost escalate in recent years as commodity prices rose.
- The decline in the prices of real (especially housing) and financial assets, which has eroded the bases of income and property taxes.
- The increase in the cost of government financing, as risk premiums especially for emerging markets shot up in the aftermath of the Lehman collapse. In contrast, the budgets of a number of advanced countries (in particular the United States) have benefited from reductions in policy interest rates.

Table 2 presents estimates by the IMF staff of the average budgetary impact of automatic stabilizers and other factors for the G-20 countries. It shows that the effects were in general more pronounced for the advanced than for the emerging G-20 members.

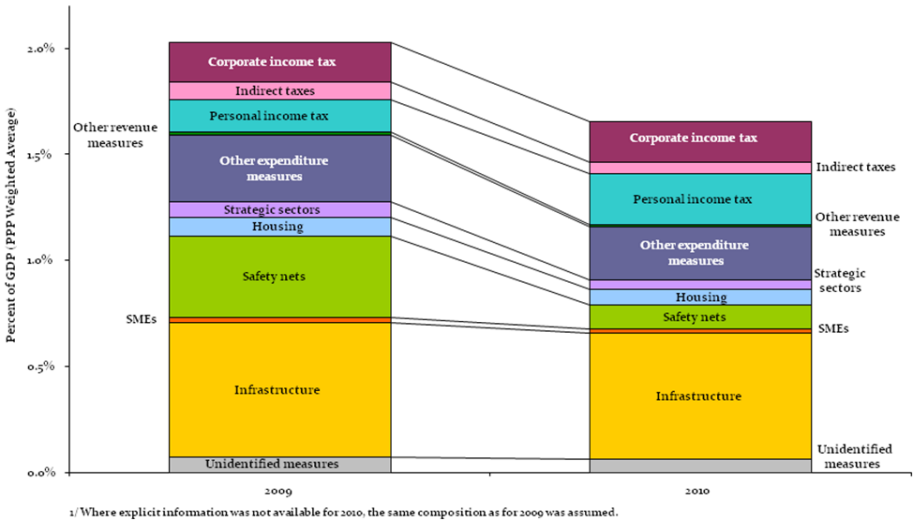
Table 2. Estimated Impact of Automatic Stabilizers and Other Factors on Budgets of G-20s
(As percent of GDP)

	Revenue/GDP	Automatic Stabilizers	Automatic Stabilizers	Other Factors	Other Factors
	2007	2009	2010	2009	2010
All G-20	31.8	-1.9	-2	-1.6	-1.9
Advanced G-20	35	-2.4	-2.5	-1.6	-2.1
Emerging market G-20	26.2	-1.1	-1.2	-1.7	-1.5

Source: M. Horton, M. Kumar, and P. Mauro (2009): The State of Public Finances: A Cross-Country Fiscal Monitor, IMF, Washington, D.C.

A third source of deterioration of fiscal balances in many countries has been the discretionary fiscal stimulus packages referred to in Section II above. These have varied substantially, both in size and composition, across countries. Figure 1 below shows that revenue measures have accounted on average for about one-third of the stimulus packages announced by G-20 countries. Cuts in income taxes have significantly outweighed those in indirect taxes. Among expenditure measures, the most significant have been increases in infrastructure and social safety net spending. Investment in infrastructure typically has a stronger, but more delayed (due to implementation lags) impact on aggregate demand than social transfers, as a part of the latter may be saved, rather than spent, by their recipients. If appropriately designed and implemented, infrastructure projects can have also a longer-lasting impact on growth because they boost productive capacity over the longer term. Strengthened social safety nets, on the other hand, have effects that are more immediate, and better targeted from a distributional standpoint.

Figure 1. Composition of Fiscal Stimulus Packages in G-20 Countries



Source: IMF Fiscal Monitor.

Finally, as mentioned in Section II above, the budgets of (mainly advanced) countries have been affected by the upfront cost of measures to support the financial sector. Some of these measures do not affect budgetary accounts, as they are classified as below-the-line operations, but they do increase the public debt. Moreover, the extensive provision of government (or central bank) guarantees to financial and nonfinancial institutions in many countries has created significant contingent liabilities for future government budgets.

2) Short term-outlook for fiscal balances and public debt

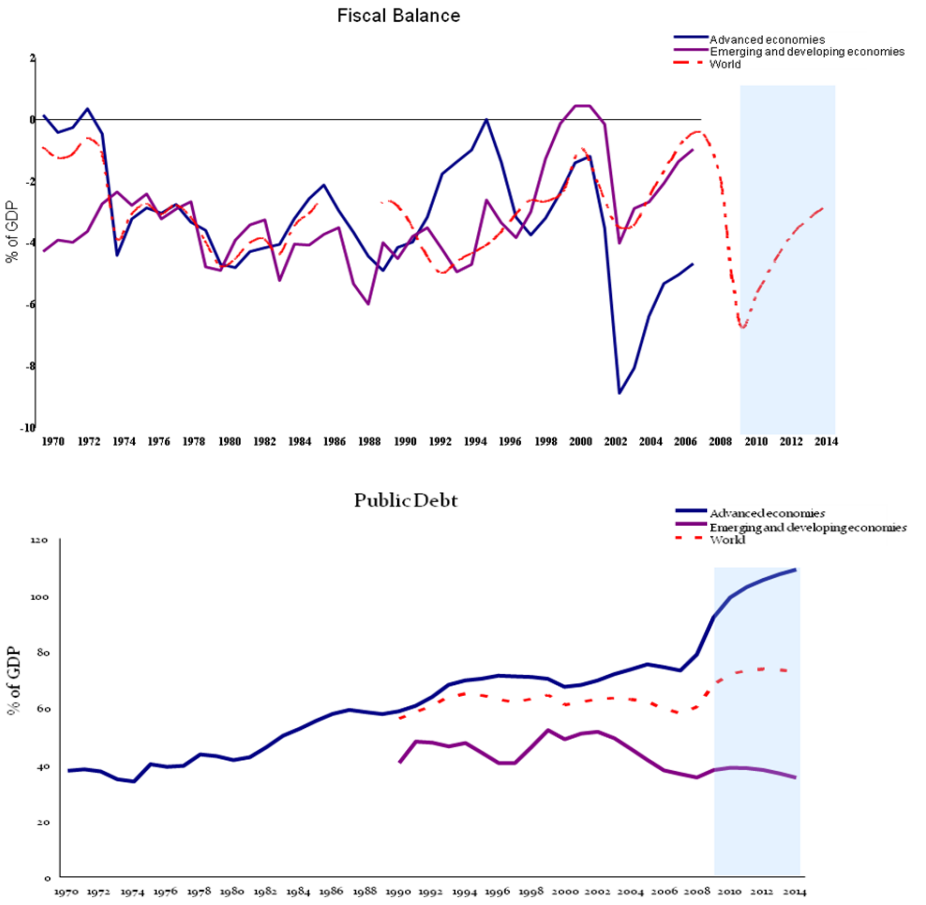
The combined impact of the factors outlined above is expected to result in substantial deteriorations of both actual and structural fiscal positions of most countries in 2009–10. For the reasons explained above, the deteriorations are projected to be significantly stronger on average for advanced than for emerging market countries (Table 3 and Figure 2).

Table 3. Fiscal Balances in G-20 Countries
(As percent of GDP)

	2007	2008	2009	2010
Advanced countries				
Actual balance	-1.2	-3.5	-8.9	-8.1
Structural balance	-1.4	-3	-4.9	-5.1
Emerging and developing countries				
Actual balance	0.5	-0.1	-4.1	-2.9

Source: IMF Fiscal Monitor.

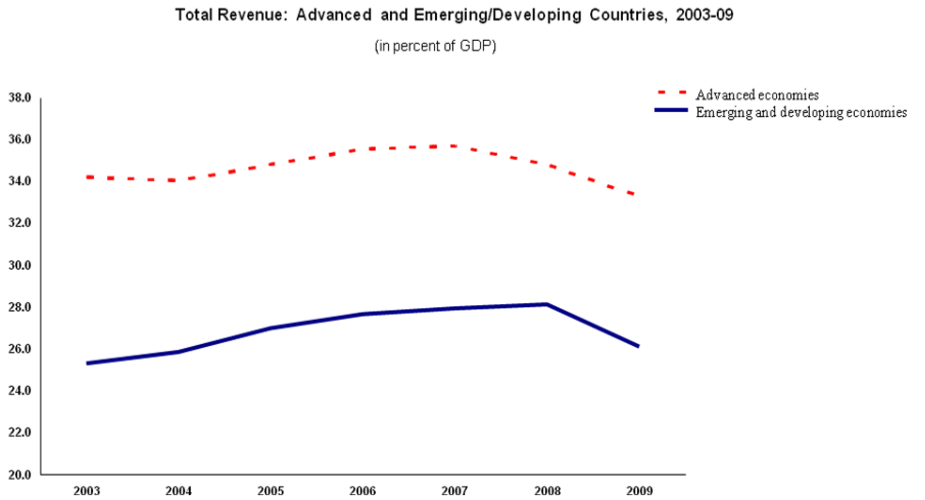
Figure 2: IMF Projections ofFiscal Balances and Public Debt



Source: IMF World Economic Outlook, October2009.

IV. IMPACT OF THE CRISIS ON TAX ADMINISTRATIONS

The global crisis has taken a substantial toll on revenues worldwide



Source: IMF, October 2009 WEO.

The decline in tax revenues reflects cyclical developments in the tax bases, as well as the impact of discretionary tax relief measures. Robust empirical evidence of a decline in tax compliance is scarce, due to the difficulty of disentangling the different factors responsible for the decline in revenues in different countries. But, a number of empirical studies (reviewed in a recent IMF paper[1]) point to a significant impact of previous cyclical downturns on tax compliance.

A number of factors are likely to have contributed to declines in tax compliance during the crisis:

- The sharp increase in the number of taxpayers (both firms and individuals) that are liquidity- and credit-constrained. Some of these taxpayers may have faced a choice between paying taxes and going bankrupt.
- The decline in the share of imports (that are easier to tax) in consumption.
- The increase in the share of informal activities (that are more difficult to tax) in the economy.
- Possible political pressures on tax administrations to “go easy” on taxpayers facing financial difficulties.

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1 *Brondolo, John, 2009, Collecting Taxes During an Economic Crisis” IMF Staff Position Note SPN/09/17 (Washington: IMF).*

- Cuts in the budgets of tax administrations that may have weakened their enforcement capacity.

The challenges created for tax administrations by a risk, or the occurrence of, a decline in voluntary taxpayers' compliance require comprehensive preventive and remedial efforts by tax officials.[2]

The preventive strategy should include strengthened efforts to promptly detect signs of weakening compliance, with a view to preventing the accumulation of large arrears; and to identify, and strengthen communication with, taxpayers most at risk. In addition, and depending on individual country circumstances, tax authorities may consider adjusting advance payments to reflect the likely decline in tax liabilities of taxpayers affected by the crisis; accelerating tax refunds to taxpayers with good compliance records; and extending installment facilities for liquidity-constrained but viable taxpayers (but not granting tax amnesties…).

At the same time, tax administrations can, and should take a number of steps to strengthen enforcement, including increasing their focus on large taxpayers, and on those in sectors most at risk; intensifying, and improve the targeting of arrears collection (i.e. , going after recent, more recoverable ones); securing tax withholding; and increasing their scrutiny of large reported losses.

It is crucial that, in pursuing these efforts, tax authorities be provided by the government the necessary legal basis and financial resources.

V. MEDIUM-TERM CHALLENGES AHEAD

The crisis is expected to take a lasting toll on the public finances, especially of advanced countries, because of a number of factors:

- Potential output growth may be lower, and output gaps will likely persist for some years, with resulting adverse effects on revenues and some social spending programs.
- Even if interest rates were to stay relatively low, the cost of servicing the increased debt will be higher.
- It may be politically difficult to unwind all the discretionary stimulus measures.
- A number of contingent budgetary liabilities (especially those related to support of the financial sector) will be realized.

2 *See Brondolo (2009) for details.*

The IMF estimates that by 2014 public debt ratios for the advanced G-20 economies will approach 120 percent of GDP on average (albeit with some differentiation across countries). Similar estimates have been put forward by some other national and international institutions (for example the OECD and the EC). The longer-term outlook for the public finances of most advanced countries is further complicated by the fact that, beyond the middle of the next decade, they will face rapidly rising burdens of aging-related expenditures.

The debt outlook is better on average for emerging and developing countries, but financial markets' "debt tolerance "tends to be lower for such countries. Moreover, financing for many of them may be reduced because of "crowding-out" by the advanced countries. And, finally some of the emerging and developing countries (notably China) also face a serious aging population burden.

Large public debts create a number of problems for macroeconomic and fiscal management. They increase market perceptions of governments' solvency risks, and/or inflation risks, leading to higher sovereign risk premiums, and sometime to unsustainable debt dynamics; they preempt large shares of available savings, thereby constraining the growth of private investment; and interest payments on them limit the fiscal space for desirable social or infrastructure spending.

Large and prolonged fiscal consolidation efforts will be needed to reduce public debts to more sustainable levels. In its latest Fiscal Monitor, the IMF estimates that a cumulative adjustment equivalent to around 8 percentage points of GDP would be needed on average in the advanced G-20 countries to bring their public debt levels to or below 60 percent of GDP (higher for countries like Japan and Italy). In most cases, the brunt of these efforts will have to fall on the expenditure side, including reforms of major entitlement programs, such as pension and health. Institutional reforms (such as the adoption of sound medium-term fiscal frameworks or rules) can strengthen the credibility of governments' commitment to fiscal consolidation strategies. However, given the size of the required adjustment, significant revenue mobilization efforts are also likely to be needed in many countries, to complement expenditure reduction strategies. Most countries will need to eschew tax rate increases, to preserve incentives to save and invest, and avoid capital flight. The focus of revenue mobilization will therefore need to be on efficient new taxes (e.g., carbon taxes); effective measures to expand existing tax bases (in particular by reducing tax expenditures); and improving tax compliance and enforcement.

Effective medium-term strategies to strengthen tax administration need, of course, to be tailored to individual country circumstances. There is no one-

size-fits-all model. But, no strategy, however well designed, can achieve lasting results, unless it receives strong high-level political support and adequate budgetary and human resources.

While revenue mobilization efforts are clearly each country's responsibility, they can also benefit from strengthened international cooperation in both tax policy and tax administration. On the one hand, in today's globalized economies, a degree of coordination in tax policies is necessary to avoid a "race to the bottom." Coordination is especially important in the taxation of the more mobile factors of production (in particular capital); also in the taxation of global spillovers (e.g., carbon emissions).

On the other hand, the effectiveness of efforts to strengthen domestic tax administrations can be enhanced by improved information-sharing among tax authorities. This can take a number of forms:

- Sharing of know-how and best practices, leading to positive demonstration effects. There are already a number of international and regional forums for such cooperation, and the CIAT represents a very good example in this respect.
- Commitment to observance of international standards of transparency and exchange of information, supported by peer reviews of the implementation of the commitment.
- Regional/multilateral agreements on cooperation in tax administration.

Recent initiatives in this area under the G-20 umbrella constitute welcome steps in this direction. At the recent meeting of the Global Forum on Transparency and Exchange of Information, 70 participating countries reviewed the progress made to date in commitments to observance of the global standards in this area, and instituted a peer review mechanism to monitor implementation of the commitments. The report of the Forum was endorsed by the G-20 group.

In conclusion, the global crisis has substantially increased the challenges facing tax administrations worldwide. This conference, by promoting a lively and informed debate on such challenges, and a sharing of experiences on strategies to face them, should make a valuable contribution to their resolution.

TEMA 1

DISEÑO E IMPLEMENTACIÓN DE LA POLÍTICA TRIBUTARIA: EL ROL DE LA ADMINISTRACIÓN TRIBUTARIA

Lecture

Topic 1

THE DESIGN AND IMPLEMENTATION OF TAX POLICY: THE ROLE OF THE TAX ADMINISTRATION

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CONTENTS: 1. The Interaction between tax policy and Tax Administration.- 2. Models of interaction between tax policy and administration.- 3. Specialized policy units: Their role within a Tax Administration.- 4. Some technical constraints and solutions.- 5. Some developing country experiences.- 6. References

1. THE INTERACTION BETWEEN TAX POLICY AND TAX ADMINISTRATION

Tax policy and administration are intertwined functions and, hence, tax design and implementation are also highly connected and should be exercised in coordination. Indeed, tax design and implementation should be seen as a continuous feedback mechanism. If it is true that implementation follows design by definition, it also applies that implementation feedback is key for informing policy-makers about their successes and mistakes. In this sense, implementation is a permanent fine-tuning and adjusting mechanism for design. In an ever-changing and complex world, quality policy design should rely on a solid, well-informed implementation feedback.

Tax policy and administration are actually part of the same process: “state revenue financing”. In other words, each piece cannot exist in isolation: on one hand, tax policy should aim at being effectively implemented (and should use administrative feasibility as one good design principle along with equity and efficiency); on the other hand, tax implementation should aim at properly applying the laws and regulations with fairness and cost-effectiveness. The

expected revenue mobilization level is only achieved when both pieces work accordingly. Otherwise, unexpected results in terms of noncompliance, avoidance, evasion, and long and costly judicial disputes, for example, would happen. These problems add to a country's compliance and administrative costs, and the inefficient use of resources.

Faria and Yucelik (1995) nicely articulated this idea: "Put simply, idealistic tax policy can complicate tax administration, while ineffective tax administration can undermine tax policy". The authors conclude that a failure in coordination between policy and administration would probably negatively affect the pace and sustainability of any process of tax reform.

This is particularly true for developing countries where capacity limitations in implementation can play a significant restriction in policy design. Bird (2004) said: "The best tax policy in the world is worth little if it cannot be implemented effectively. Tax policy design in developing and transitional countries must therefore take the administrative dimension of taxation carefully into account. What can be done to a considerable extent determines what is done in any country."

From the point of view of a tax administration, a well-designed tax system is vital and should have some characteristics: simplicity, few exceptions to the main rules, clarity, and stability. A tax system should be simple (regarding the number of taxes to be administered and its design), with few exceptions (such as deductions, credits, benefits, exemptions, and special regimes), designed with clarity (understandable in order to avoid difficulties in interpretation and regulation, and leading to the least possible judicial litigation), and stable (avoiding recurrent changes that imply major implementation difficulties, continuous training needs, and information systems adaptations). If such characteristics were not in place, an administration would face significant implementation problems, higher costs and higher risks of avoidance and evasion.

Given this tight connection between policy and administration, the question is how these activities can be coordinated and exercised in practice. Given the complexity of the issues involved and the size of organizations playing a role in these activities, the classic principle of "labor division" and specialization led to the existence of different groups in charge of different parts of this integrated process. Typically, one group is in charge of conceiving the system (policy-makers); another one is responsible of its implementation (tax administration). This is not different from any project management cycle, where some people work in planning and others in execution. However, this is a very fine line with two main characteristics: (i) there is a broad "transition space" or "gray zone" and (ii) there is a vital need of feedback between both activities.

Unfortunately, what generally happens in practice is that the institutional framework segregates this integral process into groups that, at the end of the day, may not work in coordination. In many circumstances, both groups work in isolation without considering the externalities one group has on the other. It is quite common to find fiscal policy units doing revenue estimation and policy design without exchanging information with the tax administration, despite the fact that in most cases both agencies work for the same Ministry.

Examples of the disconnection between both sides abound in practice. There are income tax structures fixing a considerably low exemption level, creating a large number of tax returns with no relevant collection but causing an administrative nightmare and a high cost-benefit. There are VAT structures with five or more rates and many exemptions creating huge control problems for the tax administration and encouraging fraud schemes. At the same time, in some places, the administrative rationale overshadows a good policy design and the tax system ends up having a disproportional weight of presumptive and cascade taxes that pose a lot of economic inefficiencies and inequity. Another example is the amount of withholding mechanisms (sometimes fixed at a far too high level) leading to a break in the economic logic of the VAT chain.

Aggravating the problem, even though the "implementation job" is (often) well defined into institutions with clear executive mandate (tax, customs, and social security administrations[1]), the "design job" is sometimes left to different groups at different parts of the government without a clear job description and coordination. Some countries do not even have clearly defined technical units in charge of tax policy. The result is a break between design and implementation and, in many cases, the two activities are not seen as components of an integral process anymore. Therefore, policy and administration should work together, through a clear feedback mechanism, analyzing not only new proposals but also evaluating the current system's dysfunctions.

This paper will address the issues of interrelationship between tax policy and administration from an institutional point-of-view. It aims at reviewing the most important aspects of the tax administration role in designing and supporting policy design. In other words:

- what is the ideal institutional framework that would allow an effective coordination between tax design and implementation?

[1] *The revenue administration institutional framework varies across countries: some have different administrations for customs, social security, and domestic taxes, and others have integrated approaches.*

- how a government could ensure a smooth and well-functioning feedback mechanism?
- what institutions are involved in tax design, and in particular, what is the role of the tax administration in this activity?

2. MODELS OF INTERACTION BETWEEN TAX POLICY AND ADMINISTRATION

When analyzing the interaction between policy and administration one should keep in mind that they are activities belonging to the same process: "state revenue financing". For reasons of specialization and complexity, this process was divided into conception and execution, mainly known as policy design and implementation. As a result, institutions or governmental units have been created to play each role. There is no doubt that, even in models with clearly defined roles, an ample room of transition between both areas does exist and the externalities or impacts between both activities are significant. As a result, coordination and an institutionally-supported feedback mechanism is key.

There is no dispute that tax administrations play a core role in the implementation of tax policy. However, there has been a lot of debate on whether tax administrations should get involved in tax policy design – and to what extent this involvement should go. This debate is a reflex of different models around the world, ranging from tax administrations that have a very small engagement in policy design to others that are the true "think tankers" and major contributors to the tax policy-making in the government. There is no black and white solution. This is a matter of dosage in a continuous spectrum of an integrated process and many cultural and institutional settings may affect the solution.

However, it is important that a minimum institutional arrangement should be in place, with clear reporting lines and coordination. For that, one should note that the "state revenue financing process" is exercised in different levels by different institutions, involving political, technical and administrative decisions. Barrand, Norregaard and Mansour (2008) articulate this point, distinguishing three broad contexts: tax policy advice, policy interpretation, and administrative policy. The authors' definition of each context is the following:

- Tax policy advice deals with analyzing and evaluating policy ideas to enhance the role that tax policy plays in an economy;
- Policy interpretation is directed towards interpreting the provisions of existing tax legislation, and providing guidance on how the existing tax code and regulations are to be applied in practice;

- Administrative policy deals with the role of the tax administration's headquarters in relation to tax administration core functions (taxpayer services, returns and payments processing, collection enforcement, and audit, for example).

Naturally, at the highest level the tax laws are approved by the political level at the Congress. This level should represent and decide on the various demands of the society regarding the desirable tax system. This decision should be supported by a sound and solid technical level, which should provide all inputs needed for a well-informed decision-making. After the decision is taken, implementation should happen accordingly and results should be constantly monitored and evaluated. Therefore, in any case, a basic institutional arrangement should be in place to ensure the existence of a sound feedback mechanism between policy and implementation. For that, the tax administration should be prepared to actively provide a permanent and sustainable feedback, based on data analysis, and to discuss the tax policy impact on implementation.

In other words, it is important to note that all tax administrations do play a role in design. Even in highly segregated models (i.e., one where the primary function of tax policy is at the Ministry of Finance completely separated from the tax administration), the administration has a key role providing a solid feedback mechanism to policy-makers. It must be an active voice representing the "implementation knowledge" in policy-making. Indeed, it plays a role when drafting regulations, defining the official position of the tax administration on specific legal issues, giving feedback to the policy makers on loopholes, and identifying implementation problems that need a legal fix.

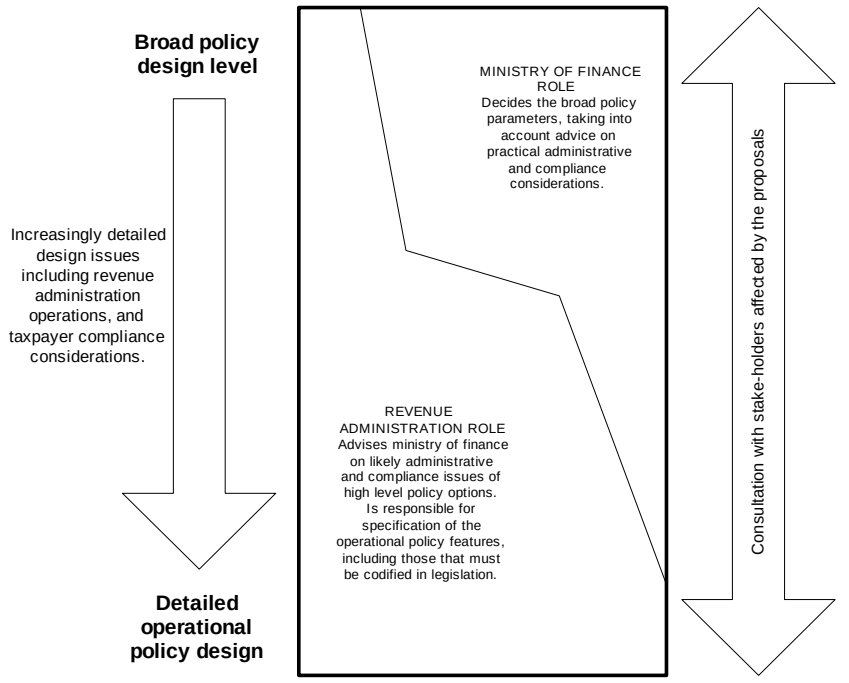
Moreover, many tax administrations have set up units or departments of economic analysis, which are in charge of revenue forecasting, economic simulations of tax reforms, and estimation of non-compliance and evasion, among other issues. Such economic analyses and simulations are a key component of tax policy formulation and are typically considered an important supporting role played by tax administrations. The rationale for this role is that tax administrations have a unique position of guardians of the tax databases and knowledge of how the tax system is effectively run. Tax data are subject to strict secrecy rules and this poses a problem for having "outsiders" run micro-simulation methods that generally imply working on tax returns at an individual level (especially for large taxpayers).

In some countries, such units – which are commonly known as specialized tax policy units – end up playing a larger role in design given their specialization, knowledge, and access to tax databases. A caveat follows, though: when referring to tax policy units inside a tax administration, this is merely an issue of level of engagement and empowerment of the tax

administration in the overall policy debate. Tax policy is part of a country's overall economic policy and has an interplay with many other policy variables such as income redistribution, economic efficiency and resource allocation. Therefore, many stakeholders and different social factions are involved in tax design and tax administrations are part of this dialogue. When tax administrations actively participate in this dialogue, a better feedback mechanism is reached and administrative concerns are reflected in the policy design.

As a result, tax administrations should work in coordination with and/or support to other tax or fiscal units at the Ministry of Finance (or any other office in charge of tax design), given the need for policy consistency and the direct effects of tax policy in economic variables. Barrand, Norregaard and Mansour (2008) reinforce this idea by mentioning that "A critical relationship exists between the tax policy unit—whether located in the ministry of finance or revenue administration (or both)—and the legal/technical and operational departments, within the revenue administration." The authors illustrated the inter-relationship in the following figure, showing that the Ministry of Finance's fiscal policy unit plays a larger role in the early stages of policy design (where broad policy issues are decided), while the tax administration's policy unit has a larger influence regarding more detailed issues and operational design. Of course, other stakeholders are also involved in the discussion, such as the congress and other legislative bodies (including tax policy units at the legislative branch); line ministries dealing with tax-related matters (education, social affairs, and commerce, for example); think tankers and universities; business associations; and the private sector.

Figure 1: The tax policy development life cycle.



Source: Barrand, Peter, John Norregaard and Mario Mansour (2008)

Indeed, USAID (2009) states that "there are advantages to having more than one Fiscal Policy Unit perform fiscal policy analysis in the country". If well coordinated, multiple units can perform different analyses, provide checks and balances, enhance transparency, and lead to higher quality overall.

One should note that there are advantages and disadvantages in having tax administrations largely involved in the policy debate. Knowing these positive and negative points is fundamental to design a unit that can enhance its advantages and minimize its disadvantages.

Smaller engagement of the tax administration. Advantages are the clear separation between design and implementation, with lesser lobbies and influences reaching the tax administration. Disadvantages are the lack of "insider knowledge" of those working outside tax administrations, low level of integration between design and implementation, and a bias to design without considering the practical aspects of tax systems, or the "administrative feasibility" side.

Larger engagement of the tax administration. Advantages are the high technical knowledge involved, well-informed decisions, better access to data and micro-simulations, higher applicability of design, and better feedback mechanism between implementation and design. Disadvantages involve putting administrative feasibility above other good principles when designing the tax system (e.g., efficiency and equity) and the risk of disturbing the focus of the administration, which is implementation (this could be a serious risk in countries where the fundamentals of a sound tax administration are not in place).

Particularly in developing countries, some tax administrations have been playing a larger role in tax designing. The reasons for that may be: (i) in many developing countries, tax administrations are by far the most prepared and solid fiscal institution in the government (due to better resources, personnel, credibility, external image, etc.); (ii) administrative capacity do play an important role in developing countries and determine what would be a "viable" tax design; (iii) many reforms in developing countries are revenue-oriented given their low tax-to-GDP ratio and revenue-mobilization needs (in contrast to more efficiency-enhancing reforms in developed countries); (iv) in high-evasion environments, the administrative dimension of tax reforms is seen as a critical component of tax reforms; and (v) in the absence of an institutional framework that counts with strong and qualified fiscal and/or tax policy units, tax design will be largely determined by those who collect the revenue.

Therefore, it is important to better understand how tax administrations can exercise a role in supporting design and review some examples of countries that have opted for establishing empowered economic and policy units within their tax administrations. By assessing and better defining how tax administrations can play this role, it would be possible to establish good practices on how to institutionalize policy units in a tax administration. In such a model, tax administrations can be a true, qualified voice in tax design without compromising their implementation mandate.

In summary, a clear institutional framework to support a better coordination between policy and administration is necessary. Some basic steps should be followed:

- a political level in charge of the final decision-making regarding tax laws that is efficiently supported by technical inputs;
- a technical department in charge of tax policy design, (depending on the country, there can be different units working in coordination – for example one at the Ministry of Finance and other at the Congress). Most important, tax policy cannot be done without a systematic, consistent group of analysis to support decision making;

- an implementation level with clear mandate of applying the system and regulating it, which is exercised by tax administrations with an active voice in the policy debate given its knowledge, access to data, and "reality checking" by supporting the Ministry of Finance's tax policy unit;
- an institutional and sound feedback mechanism should be established between the above-mentioned institutions working with policy and administration;
- The feedback mechanism should include: (i) a tax administration counting with a technical unit of policy and economic analysis (in order to have a high-quality counterpart in the feedback process); (ii) systematic production of papers and analysis of policy impact on implementation; and (iii) the establishment of regular working groups or committees involving tax policy and administration units (working not only with new proposals but also with permanently evaluating the current system and its possible malfunctions).

This institutional structure is important because, in practice, many tax administrations play this role even without acknowledging it or without having a clear, defined unit responsible for it. The result is an undesired mix of clarity, delegation and responsibility that can damage the administration credibility and mandate, and contribute to a poorly designed tax system. This topic has not been fully explored in the international literature and, hence, there is a need for better assessment and exchange of experience among countries.

3. SPECIALIZED POLICY UNITS: THEIR ROLE WITHIN A TAX ADMINISTRATION

What is a Research and Policy Unit (RPU)? An RPU is an area or department responsible for assisting the tax administration in performing economic analyses of revenues and tax reform proposals; estimating revenue projections; calculating and publishing economic-related studies such as tax evasion and compliance, tax burden, and tax incentives reports; evaluating the potential outcomes (using micro-simulation or other methods) of proposed policy options; liaising with external counterparts involved in tax policy and administration design; and supporting internal core functions by providing analytical data for audits and other tax administration functions (e.g., risk analysis by economic sector, evasion by type of tax). Many tax administrations have these types of units in their organizational structure, even though their names may vary.

The RPU is a type of specialized Fiscal Policy Unit (FPU)[2]. USAID (2009) categorizes FPUs in comprehensive (dealing with multiple aspects of fiscal policy) and specialized (addressing some narrower portfolio or specific sectors or areas of fiscal policy) units. The above-mentioned paper states that "specialized FPUs, such as those that perform tax analysis, have the advantage of being able to invest their resources to develop deep analytical capacity in specific areas. This allows for the development of expertise and, if well designed, may allow for the application of state of the art methodologies in the analysis of those specialized areas." This is, therefore, consistent with the idea of having the tax administration playing a larger role in tax design, in coordination with other TPUs or external stakeholders.

The paper also notes that some countries decided to create specialized FPUs (rather than comprehensive ones) especially in tax policy, generally being established within their revenue authority agency. "These specialized units are created to further the public debate on tax issues, but most importantly to produce fiscal research and analysis on revenue impacts, revenue projections and policy recommendations on different revenue sources in the country".

What type of work is performed by a typical RPU? A typical list of tasks performed by an RPU includes the following:

- Monitoring and analysis of revenue trends
- Revenue forecasting and data submission for budgetary purposes
- Analysis of tax policy impacts on economic variables
- Analysis of the current tax system performance, strengthens and weaknesses and suggestions for improvements
- Analysis of tax reform proposals (proposed by the tax administration itself, the Ministry of Finance or external stakeholders – most of the proposals and draft laws often come from the National Congress)
- Quantification of major tax-related indicators such as the tax gap, the tax burden, and the tax expenditures
- Elaboration and publication of tax studies and analytical papers
- Preparation of technical notes on tax issues to support the tax administration's position on public debates and tax reform dialogues
- Quality maintenance of tax databases (checking for inconsistencies and

[2] *USAID (2009) has the following definition of an FPU: "An FPU is an entity, formed either inside or outside of government that assists the government in fiscal planning by providing quantitative fiscal reports and analyses and advising decision makers on achieving broad policy goals". This is a good, comprehensive definition that explains the type of work that is performed by some specialized units within tax administrations.*

proposing changes on current data sources or asking for new data, for example)
- Follow-up and feedback on tax implementation issues
- Support in drafting tax laws and regulations
- Representation in economic committees and forums discussing tax system and reform, including those addressing issues of inter-governmental relations (e.g., tax committees in the Congress).

This paper will not detail each of the above-mentioned tasks but it is important to identify what type of resources and major skills and competences are necessary to perform those tasks.

What type of resources and competences should an RPU have? An ideal RPU should invest in well-trained human resources, a state of the art technology, a reliable and high-quality database, and a good institutional framework to operate in.

- **Well-trained and specialized human resources**. Staffing is a key concern and basic requirement for a strong and solid RPU. Some profile requirements are: knowledge of economic theory (public finance and taxation theory); knowledge of the country's tax system and administration (laws and codes that apply to a specific country); knowledge of statistics, econometrics and simulations methods; quantitative and computational skills; and writing skills. In general, those skills are going to be found in different individuals at different levels, so it is important to have a good mix of those skills when building the team. Individuals working at an RPU should have a solid academic background with a good on-the-job experience. It takes some years of experience in order to develop a solid team of professionals who are able to give high-quality responses in tax design.
- **State of the art technology**. As already mentioned, a significant part of the RPU work relies on micro-simulation and quantitative analysis. Therefore, an RPU should count with state of the art technology, in particular a good investment in hardware and software that goes beyond general PC applications (e.g., data-warehouses, statistical and econometric packages, and others).
- **Reliable and high-quality database**. Reliable and quality information is key to produce economic analysis. An RPU requires a full-time and flexible access to multiple internal and external data. For example, internal data would include an unstructured access to tax returns (i.e., the possibility to perform multiples cross-checks for consistency, mathematical equations and simulations, statistical analysis); external data would include information from different economic sources (i.e., input-output matrix, national accounts, public financial statements of large taxpayers; economic data by sectors, economic variables for forecasting analysis); as well as a good and updated library of books and papers on tax and economics.

- **Good institutional framework**. It is also important to clearly establish the RPU as a particular area or department of the tax administration, at a strategic level of the organization and with well-defined competencies and lines of reporting. The international experience is to have the RPU close to the commissioner, at an advisory level in his/her staff team, or at the same hierarchical level as the core functions of the tax administration. Some countries also merge this unit with strategic planning, in the sense both activities are directly under the same director.

What channels of communications an RPU should use? The RPU typically represents the tax administration's voice in the "public outreach agenda". There are four main channels of communication. First, some countries have permanent policy dialogue committees or boards in which the tax administration may keep a representative (e.g., tax committee at the national congress, tax policy committee, intra-federative coordination forums, and regional tax harmonization forums). Second, some tax administrations have a permanent media agenda with systematic press releases (e.g., monthly revenue collection performance, annual tax burden calculations, tax expenditures budget). Third, many RPUs publish their papers and studies on the tax administration's web page and other media channels. Fourth, RPUs participate in academic forums, university debates and other public and private sector seminars (e.g., small business associations, exporter associations, chambers of commerce) in order to discuss tax policy proposals and their impact on the administration.

Box 1. Specialized RPU operating within tax administrations

- **Definition.** An RPU is a department or unit responsible for assisting the tax administration in performing economic analyses of revenues and tax reform proposals, as well as other studies and simulations that would support the country's tax policy-making. It represents the tax administration's voice in the overall policy debate and helps strengthen the feedback mechanism between implementation and policy design.
- **Relevance of specialization.** If well conceived, a specialized RPU within the tax administration may encourage well-informed decisions, better access to data and simulations, higher applicability of design and a sound and continuous feedback mechanism between implementation and design.
- **Organization.** RPUs are typically located at the departmental level of a tax administration – at the same hierarchical level as the administration's core functions. In some tax administrations, given their size and development level, RPUs are merged with the Strategic Planning Department.

- **Staffing.** RPUs are generally small departments, ranging from 20 to 40 employees for a medium-size tax administration. Staff should have a strong background in economics and superior quantitative and technology skills. It is recommended to invest in continuous training activities.
- **Institutional Framework.** Beyond establishing a clear RPU in the organizational chart, a tax administration should build a strong institutional framework for its RPU: insulation from political influencing and lobbying (e.g., technical staffing and decision-making, career path, code of conduct, IT security systems); tasks and reporting lines established in the tax administration's by-laws, as well as clear job descriptions; strong coordination and liaison with external RPUs; transparency and accountability (e.g., clear work methodology, log records, simulation records, technical notes, publication of main studies and statistics); access to a high-quality and secure IT database for tax simulations; and proper performance reviews (as any other tax administration's functions and/or employees).
- **Main Publications.** A major outcome coming from an RPU is having a systematic and consistent publication of statistical data and economic studies, which would encourage knowledge dissemination and fiscal transparency. The recommendation calls for a regularly elaboration and publication of major data and papers, such as: revenue analysis (e.g., time series, data by economic sector, type of tax, type of taxpayers, trends, etc.); tax gap analysis or tax evasion estimates; tax expenditure budget; international comparative analysis of a country's tax system and performance (e.g., main taxes' productivity, rates comparison, level of exemptions, regional integration issues); and periodic reports on recent changes in the tax system and their impacts on the economy and/or revenue performance (some tax administrations hold monthly press releases on revenue performance). It is also recommended that tax administrations create a special link for disseminating such information and papers on their websites.

4. SOME TECHNICAL CONSTRAINTS AND SOLUTIONS

In their daily work activities, RPUs face diverse challenges that, if go unaddressed, may negatively affect their performance and objectives.

The difficulty of representing the administrative side of the policy design without disturbing the delicate balance (and trade-off) among economic efficiency, equity, and administrative feasibility. The risk for super-strong units led by administrations is that the tax design may end up giving too much weigh to

administrative easiness, with a risk of “economically-bad but administrative-simple” taxes (e.g., cascade taxes, multiples VAT withholding mechanisms). A way to avoid such pitfall would be to invest in solid economic academic background for the RPU staff and to have the work being done in coordination with the other tax policy units a country may have (which would provide for checks and balances).

Faria and Yucelik (1995) cite that “an appropriate strategy for tax reform would first involve studying the tax structure and setting appropriate policy goals, and then modifying these in the short term by taking cognizance of the associated administrative problems. If the ordering were reversed and administrative considerations became the binding constraint in a tax reform, which by its very nature is a longer-term process, the tax system is likely to play only a very limited role in achieving economic policy objectives” .

The firefighter’s syndrome. RPUs are typically under pressure for responding multiples proposals for tax change, simulations, speech preparations and so on. After a while, the unit may stop having the capacity to deliver its own work plan and to invest in long-term proposals and papers. The quality of the work may be compromised and the unit may be converted in a shortsighted reactive group, rather than a solid, proactive department. It is important to have a structured RPU with a sufficient number of personnel who can work in both fronts: quickly addressing Ministerial and external demands but also developing a long-term plan of studies and simulations that can improve the tax system design and performance.

A low interaction with the other functions of a tax administration. Given that the nature of the RPU work is quite different from the core functions of the tax administration, many times it ends up working as a separate entity. In other words, the RPU becomes closely related to the Commissioner and Deputy Commissioners, and acts in high-level and external decisions, but ends up being weakly coordinated to the core functions and departments of the tax administration.

Such a problem should be avoided because there are many benefits coming from a larger interaction between the RPU and the rest of the tax administration in both ways. One of the reasons for a tax policy unit inside a tax administration is exactly to “listen” to the implementation issues and to “learn” from practical issues, in order to avoid designs that cannot be administered pragmatically. On the other hand, the RPU produces a number of analyses that should feed the tax administration core functions and improve data management and performance in general. For example, the tax evasion estimations should be a target for improving overall effectiveness of the tax administration. Tax expenditures analysis may point to some problems and areas that deserve a better audit program. Data inconsistencies or data

patterns can feed risk management systems for audit selection. It is important to develop a high quality interaction between these functions.

The risk of being under political pressure and lobbying. Even though tax administrations may suffer political influence while performing their implementation role, this may be exacerbated when dealing with tax design issues. The tax system is a place where all social and political groups direct their various, diverse interests – and naturally a considerable amount of lobbying goes along those interests. This problem should be dealt by establishing a professional and technical RPU, with career path civil servants, and subject to all ethical rules and codes of conduct that also apply to the other professionals at the tax administration. The official position of the RPU should always be registered on technical notes and/or memorandums with explicit economic rationale and simulations recorded on such documents.

If those main pitfalls can be avoided, a tax administration has all the advantages to strongly be one of the best voices in tax design and policymaking. The advantages of such a model have been already listed before but two main points should be highlighted: (i) higher probability of designing a administratively feasible and cost-effective tax system; and (ii) better-informed decisions in tax design, especially if the RPU counts with a solid database and simulation analysis. Given the specialization and complexity of modern tax systems, a desirable model would be a sound RPU (within the tax administration) working in coordination with a Fiscal Policy Unit (outside the tax administration) in order to ensure economic policy consistency and adequacy, and proper checks and balances.

Box 2. Specialized RPUs: 5 Do's and Don'ts

Do's

- Do establish a technical and sound RPU within the tax administration, capable of providing a high-quality support to the country's tax policy design, and reporting to the Commissioner or Deputy Commissioner.
- Do design the RPU as a specialized policy unit for economic and statistical analysis that should liaise with other fiscal policy units through regular meetings and committees, and support the work of the Ministry of Finance in tax-related matters.
- Do define clear job descriptions, staffing qualifications, tasks and competences, annual work plan (integrated into the tax administration's strategic and operational plans), as well as other measures that would help institutionalize the RPU as any other department at the tax administration.

- Do integrate the RPU fully into the tax administration work in order to provide for a sound and concrete interrelation between design and implementation. The head of the RPU should participate in all top management meetings and decisions, strategic planning exercises, and encourages a deep integration with the core functions of the tax administration.
- Do create a culture of fiscal transparency, producing and publishing periodic reports and statistics, stating clearly the methodology used and sources of information for major outputs, and recording decisions taken in internal memos and technical notes.

Don'ts

- Don't let lobbies and ideological bias dominate the policy debate at the administrative level.
- Don't produce technical justifications in order to support issues or outcomes that have already been politically decided. This would destroy the RPU's credibility.
- Don't use the RPU to push administrative feasibility or capacity limitations to a point that compromises economic efficiency and equity, distorting the good principles and balance of a sound tax system.
- Don't let the tax administration's engagement in the policy debate as a supporting voice distort its leading focus on implementation, or change the tax administration's implementation priorities. This is especially true for tax administrations that do not have all the fundamentals in place (e.g., structured functional approach, separation between central and decentralized activities, planning capacity)
- Don't let urgent matters set the agenda of the RPU, overshadowing the long-term analysis and papers that would provide a high-quality and solid input to the policy discussion. A small sub-group working with daily, non-routine issues and quick Ministerial demands would be recommendable, while the other group can keep the substantial analytical work being delivered.

5. SOME DEVELOPING COUNTRY EXPERIENCES[3]

Some developing countries have adopted well-structured RPUs in their tax administrations, commonly known as "economic studies units". In Latin America, for example, those units are solid and quite matured, and even

[3] *The information of this section was provided by some tax administrations and employee numbers refer to the position in September 2009. In order to harmonize the concepts and help translation from Spanish into English (there were several different terms for the same hierarchical level in different tax administrations), in this section we called "Department" the highest level of the main core functions of a tax administration (e.g., audit, appeals, etc.) and "Division" the immediate level below a Department.*

intra-regional meetings of some administrations' RPUs have happened in order to exchange information and discuss best practices. Some examples of RPU's in Latin America are Argentina, Brazil, Chile, Guatemala and Peru.

ARGENTINA

In Argentina, the tax administration (AFIP) has a special department (Dirección de Estudios) for dealing with tax studies and economic analysis. Clearly, AFIP is not responsible for tax design but supports the Ministry of Finance in this activity. Therefore, the Dirección de Estudios is a kind of specialized unit working in coordination with the Ministry of Finance in order to provide studies and data that supports their policy design. The RPU counts with a division for statistics and another one for general economic studies.

The Dirección de Estudios counts with 25 employees and has the same rank as the core business functions at the tax administration. The employees have specialization in economics, accounting, sociology and information technology. This department was created more than 40 years ago (within the former domestic tax administration) but has assumed a larger role in tax design support since the revenue authority (AFIP) establishment in 1997 – i.e., when there was a merge between domestic taxes, customs and social security.

This unit has clear competencies and tasks defined in the tax administration's by-laws. Its main tasks are: elaborate tax-related studies, including those regarding comparative analysis; monitor the country's tax revenues; participate in projects that propose changes in the tax laws; and coordinate the exchange of information between AFIP and other entities.

BRAZIL

Receita Federal do Brasil (RFB) counts with an RPU called Department of Tax and Economic Studies (dubbed Department of Tax Policy during 2001-2008), which also belongs to the same hierarchical level of the main core functions of the administration. This Department has two divisions: one for revenue forecasting and monitoring, and the other for general economic and tax-related studies. It counts with 20 people who have, in general, academic background in economics and engineering.

The department major tasks are defined in the RFB by-laws and the most important activities are: quantification of the tax burden and tax expenditures budget; revenue forecast and monitoring (and well as its submission to the Ministry of Planning for budgetary purposes); analysis and quantifications of draft laws and projects involving tax changes; and RFB representation in tax

reform committees and other boards (such as the tax policy council at the state-level tax administrations).

This department has developed an increasing capacity for working with micro-simulation analysis. Currently it does tax reform quantification and analysis directly accessing the whole universe of tax returns (almost 100% delivered electronically in Brazil), rather than working with samples or averages.

CHILE

In Chile, the SII (Servicio de Impuestos Internos) has a Department of Studies (Subdirección de Estudios) that is one of the nine departments (core business functions) that report to the Commissioner. The Department of Studies counts with a special division for tax and economic studies (Departamento de Estudios Económico-Tributarios). This division was created in 1990. As in other Latin American countries, the tax policy design is led by the Ministry of Finance and SII supports it through the work of this area.

The division counts with 16 employees with strong engineering background. Some of them have master's degree in economics, IT management, and public management.

The main tasks developed in this area are: review of the tax legislation and evaluation of proposals of legal changes and its impacts on tax revenues, administration and compliance; maintenance and analysis of tax statistics; monitoring of tax revenues; estimation of tax evasion with a special support to the audit team (providing studies and suggestions in order to improve the audit performance); and elaboration of tax-related studies. The strong link between the RPU and the audit department has been a point of success in the Chilean model.

GUATEMALA

In Guatemala, the revenue authority (SAT) counts with a Department of Planning and Institutional Development (Gerencia de Planificacion y Desarrollo Institucional), which is divided in two divisions – one of which is dedicated to statistics and tax analysis. This division (which acts as the RPU for SAT) is located at one level below the core business functions departments (Gerencias) and was created in the establishment of the SAT (XX). It has 11 employees with specialization in engineering, economics and information technology (the majority has Master's degrees).

The typical work of the division is: statistical quantification and monitoring (especially related to revenue targets); analysis and quantifications of draft laws involving tax changes; release of statistical information to media and

press conferences; SAT representation in diverse technical groups involving tax-related matters; and elaboration of studies on tax expenditures, tax evasion, and contraband.

This division works as a supporting unit to the Ministry of Finance. Its level of experience and solid technical knowledge makes the division a very important and active voice in the tax design activity in the country.

PERU

In Peru, SUNAT also provides support to the policy design, which is led by the Ministry of Finance. The RPU is called Gerencia de Estudios Económicos, which reports to the Department of Tax Studies and Planning. The RPU counts with 18 permanent employees and 3 trainees, who have generaly academic background in economics (some with Master's and Ph.Ds). It was created 15 years ago.
The tasks performed by the RPU are revenue forecasting and monitoring; analysis of the economic impact of legal changes; evaluation of tax proposals involving tax policy and administration; preparation of studies by economic sectors; estimation of noncompliance levels. This unit has been very effective for the budget process and as a supporting function to the Ministry of Finance regarding tax policy.

TANZANIA

USAID (2009) mentions the Tanzanian experience with specialized FPUs within the tax administration. The Tanzania unit is called Research, Policy and Planning Department (RPPD) and operates within the Tanzania's Tax Revenue Authority (TRA). It was created in 1995 with USAID support. The Department seems to be a successful story of specialized units in developing countries: it has... "the principal responsibility for making tax policy recommendations for the TRA to pass on to the Ministry of Finance. The creation of the RPPD led to a comprehensive, home-grown, and ongoing tax reform in Tanzania." USAID (2009) puts it as an "effective leader in setting the tax policy agenda in the country".

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Case Study

Topic 1.1

SOCIAL ACCEPTANCE OF THE TAX: THE SIMPLIFICATION OF THE TAX SYSTEMS

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CONTENTS: Summary.- Introduction.- 1. Administrative organization and summary of 2001-2008 results .- 1.1 Starting up an ongoing simplification device.- 1.2 Main results.- 2. Main tools used to overcome difficulties in simplification activities.- 2.1. Annual simplification laws and reinforcement of the prior evaluation of new legislative regulation.- 2.2 The problem of the numeric evaluation of gains resulting from simplification measures for Tax Administration users.

SUMMARY

Tax simplification takes on different forms, such us, for instance, the development of tele-procedures, the improvement of information and the reception of different taxpayer categories of administration users, all these domains in which France acts very actively. But the heart of the matter is the attainment of clearer and more stable fiscal regulations that may limit reporting obligations to what is strictly necessary and thus reduce the time expended by bona fide users in clearly understanding their obligations before fulfilling them. It is, then, a fight against useless complexity (Introduction).

France has pragmatically been establishing a permanent simplification device which has yielded significant results (part one).

Since 2001-2002, the use of network-originated proposals has shown their potential as well as their limitations. Therefore, a dedicate mission, called

"Simplification Mission", was created at the central administration in 2003 with the purpose of coordinating, encouraging and evaluating a network-linked ambitious policy based on the execution of an ongoing process of simplifications within the frame of the three-year execution agreements.

Among the most significant results stand out: the elimination of the learning tax return for all employers and the tax return relative to the continuous professional formation of employers having less than 10 workers.

Although difficulties exist, these results were successfully achieved and the drawbacks in exercising administrative simplification were overcome with the utilization of new tools (part two).

Most of the set of fiscal regulations and obligations are protected by the law: the motion to appeal against simplification laws has been imposed progressively each year since 2003. Alternatively, as a consequence of the coming into force of the organic law on parliamentary rights in 2009, the requirement of a prior assessment of any new device has been systematized. However, the problem with the figures of gains induced by simplification measures for users and the Tax Administration remains a difficult exercise.

The future continues to be relevant and diverse: two examples follow (conclusion):

The modernization and simplification of fiscal documents, containing the visual identity of the new "General Office of Public Finance" and the efforts to improve pre-filled income tax returns.

INTRODUCTION

Simplification means looking for clearer and more stable tax regulations that may reduce to the minimum possible users' reporting obligations and exercise costs: the time expended by a bona fide user to clearly understand their obligations before fulfilling them.

Simplification does not mean reducing or suppressing the amount of due taxes, that is, of tax collection; neither does it mean deregulating in any manner, which would turn the subsequent tax control more difficult and facilitate tax evasion.

What are the expectations and the concrete results attained by the French Tax Administration in simplifying the systems and procedures managed by it? What tools and what organization does it use? This is the purpose of my presentation today.

Before discussing this issue, let me give you some methodological considerations on the concept of simplification.

• I will not be talking today about the remedy of tele-procedures and most generally the dematerialization in the issue of tax obligations, although in broader terms it is a way of simplification that contributes indirectly to the acceptance of taxes and the reduction in the cost of administrative management. Alternatively, France has shown good results this year, particularly regarding income taxes. I could later provide you, if you wish, with some details on this issue.

• I will not be talking either about the very active policy aimed at improving information and attracting the different taxpayers categories. This is particularly evident in the mass inquiries received at call centers, tax service centers and more recently in the ongoing creation of a single tax booth for individual users throughout the territory, which is one of the most relevant consequences of the recent merger of the General Office of Taxes with the General Office of Public Accountings, which unifies tax collection and coverage in France. If you wish, I could also answer your questions on this profound reform that is obviously going to simplify the everyday life of taxpayers. At any rate, it is important to be aware that the merger works on a national and local level, and that the new General Office of Public Finance has been grouping, since 2008, 125,000 agents and 5,000 services throughout the territory. This will allow improving the service rendered in light of the multiple synergies; and will result in a positive acceptance of taxes.

• What is then the core of the matter? It is an extensive issue and taxation is often referred to as a typical example of excess in regulations and procedures, characteristic of the French political-administrative system, perceived as unbearable by citizens and companies.

If you allow me this comparison, the fight against tax complexity amid the incoming tide of new tax regulations approved each year reminds me of the myth of Sisyphus. A personal story: when I took over my function as chief of the Simplification Mission before the tax director general – a man of a great culture – he encouraged me to read and meditate about some writings by a great French Nobel prize-winner writer, Albert Camus, which showed that philosophically speaking Sisyphus can be happy! The advice was good and I can tell you that after four years of experience in this function that I believe Camus was right.

Before ending with a promising note I will try to share with you my experience by presenting our administrative organization which has been strongly devoted to looking for tax simplifications and results over the last years (first part); and the main tools used to pave the way for it (second part).

PART ONE

1. ADMINISTRATIVE ORGANIZATION AND SUMMARY OF 2001-2008 RESULTS

It is a transparent objective: to fight against useless complexity and thus reduce the cost of “paper taxes” for users and control tax management costs for the Tax Administration.

After examining some considerations, the administrative organization accepted in France draws on the principle that states that a positive simplification must serve users and tax management agents at the same time (win-win principle). Therefore, among the multiple simplification measures used in France since 2003, some forty of them serve particularly for territorial purposes, expediting and simplifying the relevant work of agents in managing files or surveillance procedures.

1.1 Starting up an Ongoing Simplification Device

a) Since 2001-2002, the General Director of Taxes, Mr. François Villeroy de Galhau, has organized on his own initiative two consultation campaigns targeted at the group of agents at the General Office of Taxes, working both in central services and the local network, in order to obtain concrete proposals for simplification. A relevant communication, the newness of the method and the agent engagement resulted in the arrival of over 1,000 proposals, which Mr. Villeroy undertook to analyze and, where possible, implement regularly. Eventually, 250 significant measures were retained and implemented progressively after the relevant juridical, computer and budget analyses were carried out.

However, this first experience evidenced the drawbacks of this type of devices, in that the flow of proposals was difficult to manage and not entirely understandable.

b) This is why in 2003 the General Office of Taxes undertook to establish an ongoing process of simplifications within the frame of its three-year execution contract.

The purpose of the process was to trigger a lower number but more significant simplification proposals which would favor a more global management based on a reexamination procedure of the whole (for example, the follow-up chain of a tax return, complete follow-up of a file). The need was emphasized of developing simplifications apt to favor users and allow facilitation of procedures by rationalizing or ruling out a great number of basically material tasks executed daily by agents when managing files.

- In 2003 a mission was created with the purpose of undertaking this ambitious simplification policy. This mission reports directly to the general director and the team is composed of four senior officers having a vast experience. The mission is not a substitute for the “state-appointed offices” responsible for directing the management of diverse taxes, but rather assures the coordination and functioning of the new measures among experts, and their subsequent evaluation. Its attributes cover the whole network and are a continuous example of the need to work together with other ministerial offices, particularly with the General Office of Public Accountings which was at the very beginning of the creation of the General Office of Public Finance in 2008.

Therefore, the Simplification Mission must supervise in particular:

- Together with the Office of Tax Legislation, the preparation and the positive execution of all projects containing simplification measures, especially within the frame of legal and financial simplification acts;

- The follow-up of an ongoing simplification device created in 2004[1], with a view to encouraging specific proposals from agents and services, fewer but more significant than in the past;
- A reexamination of the procedures and processing links of taxes within the frame of ministerial reengineering or modernization audits during internal reengineering;
- The promotion of simplifications carried through, with special emphasis on quantification, and the subsequent outlining of the volume of simplifications made.

1.2 Main Results

a) Among the most significant simplifications stand out:

- The elimination of differential motor vehicle taxes (automobile card) which originate the issuance of over 2.1 million documents a year from tax accounting.

- The reform of the system of imposition of real estate revaluation deriving from the imposition of 16%-preferential taxes, increased by social deductions, and whose tax return is entrusted to notary publics who withhold tax after sale of the property: this reform allows eliminating 270,000 tax returns a year and expedites the existing reactivation work with relation to notary public deeds.

1 *On-line on Eole, the intranet of the General Office of Public Finance allocated to fiscal management.*

- The reform of the stamp tax, resulting in:

  - The elimination of the right to a “dimension” stamp, simplifying calculation and liquidation tasks carried out to record 10 million deeds a year.
  - And with relation to the “mobile” stamp:
  - free-cost access to the administrative justice by all justiciable subjects, ruling out the •-15 stamp right for requesting administrative jurisdiction and, as a result, the issuance of 200,000 tax stamps;
  - the elimination of low-performance stamp rights earned on the registration rights of certain competitions and exams, resulting in the elimination of 400,000 paper stamps;
  - the progressive elimination of mobile stamps (hunting permits, passports) through new payment modalities, especially through dematerialization: the electronic stamp.

- An emblem of this management is the elimination, through the simplification act of December 20 of 2007[2], of the learning tax return for all employers, as well as the tax return relative to ongoing professional formation of employers having less than ten workers. I will elaborate on this later.

  This reform, which took several years of efforts, has allowed eliminating more than **2.4 million paper tax returns a year** from companies (nearly 1.1 to 1.3 million tax returns of each tax). Several stages were required.

  - To begin with, the General Office of Taxes requested at that moment the reengineering of the processing chain of such taxes. This was carried out by the General Inspection of Finance of the ministry with the support and aid of the Simplification Mission. The investigation began with “the ground” (the services responsible for administering taxes) during the last quarter of 2004. As a result of the observations made, a report was immediately prepared by the General Inspection of Finance in January 2005, the conclusions of which were immediately validated by the General Office of Taxes.
  - It began to function with the adoption of the tax simplification provisions of December 7 of 2005[3], which eliminate, as from January 1st of 2006, the obligation of companies subject to the learning tax to make a duly justified express request for exoneration of the expenses incurred during the year for the payment of such tax; over 800,000 annual exoneration request files were eliminated.

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2 Act N° 2007-1787 of December 20 of 2007, relative to the simplification act (relevant section: 12).

3 Executive Order N° 2005-1512 of December 7 of 2005, relative to tax simplification measures and the harmonization and organization of the criminal regime (relevant section: 26).

- The reform ends with the above cited simplification act of December 20 of 2007 (section 12): the two related taxes, the learning tax (as well as its corresponding surtax, the contribution to learning development which was declared in the same document), applicable to all employers, and the contribution relative to the ongoing professional formation applicable to employees having less than ten workers, have the same tax base, the group of company's workers, with the application of one tax over such base. The two tax returns are then ruled out in exchange of the addition of 5 endorsements – very short- in another existing tax and social return: the social information annual tax return (known as "DADS"). The required endorsement order, already prepared, will come into force on December 26 of 2007[4], and will allow the application of the reform from January 1st of 2008.

b) Also worth mentioning is the special effort made in the Value-Added Tax domain (VAT):

• The significant reduction in the delays of VAT credit refund requests, especially with the establishment of a bridge that allows transfer of the information contained in two computer applications: MEDOC management (which governs the VAT) and REBECA (which governs the follow-up of VAT credit refund requests). This has evidently improved the companies' social acceptance of the tax.

• The annual basis of VAT payments of very small companies results in the removal of quarterly account payments for 600,000 companies;

• The flexibilization of recollection notice regulation (1.9 million notices issued each year), which notices are no longer required to be sent by recommended post office with acknowledgment of receipt, simplifies the tasks of the Companies Tax Services (SIE);

• The simplification of the VAT regime over debits (replacement of the procedure of prior authorization from the DSF by a simple option executed by debtor) allows speeding up offices' work.

c) Finally, other measures have been implemented, such as:

- **For Individuals:**

• The elimination of the obligation to sign a provisory income tax return during the year of the change in fiscal domicile outside France, thus speeding up

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4 Executive Order N° 2007-1887 of December 26 of 2007, section 1°.

the work of the tax center for non-residents in the management of over 40,000 expatriates, who will hereafter be governed by the submittal of their tax return in accordance with the common law procedure.

• Effective since 2006, the exemption of the submittal of a succession tax return for heirs in the direct line and the surviving spouse, where the gross estate is less than • 50,000 (elimination of 100,000 tax returns a year – no taxes due).

• The elimination of the administration's obligation to grant receipts for certain tax returns signed by third-party declarants in succession matters, particularly life insurance agreement declarations. This measure implies 300,000 paper receipts a year. Hence, the simplification will allow speeding up the delivery of sums pertaining to individuals entitled to benefits.

- For Professionals:

• The expediting of the tax return relative to professional formation of 150,000 companies employing 10 workers: the obligation to present justifying documents before the administration is replaced by a statement made under oath of honor;

• The elimination, for individual owners subject to the micro-company regime, of the obligation to attach to their income statement an annex presenting useful elements to calculate their professional taxes (elimination of 500,000 specific statements), which simplifies the calculation over the tax base upon allowing the automatic retransmission of information of interest to the Company Tax Services.

To conclude, the continuity of the simplification policy started has been translated into numerous measures which, linked together, result in the elimination of several millions of annual documents that limited considerably certain functions of collection, analysis, management and re-launching of files, carried out every day; and help avoid a great deal of repetitive and useless agents' work.

PART TWO:

2. MAIN TOOLS USED TO OVERCOME DIFFICULTIES IN SIMPLIFICATION ACTIVITIES

2.1. Annual simplification laws and reinforcement of the prior evaluation of new legislative regulation

France is obviously not the only country in which most tax regulations and obligations are based on statutes. Most modernization or simplification measures must, therefore, be voted in Parliament.

I would like to insist on two “good practices” recently approved in our legislation and our administrative practices.

a) The motion to appeal every year against the simplification laws which always contain provisions proposed by the Tax Administration.

This good practice has been implemented progressively since 2003. It should be underlined that it concerns bills presented by the Government; that is, proposed laws submitted by the President of the Legislative Commission of the National Assembly, Mr. M. Warsmann, who is highly aware of the need to “simplify laws to correct a French ill”. Evidently, it always involves an issue of proposed simplifications discussed with the tax administration.

The interest of appealing regularly against the simplification law vector:

The advantages of simplification laws are multiple:

- the law “morally” demands the annual presentation of a tax simplification-related issue: this drives energies and facilitates the work of the Simplification Mission.
- the law allows associating in the same text directly applicable measures with regulated authorizations to execute adaptation, correction and simplification measures; this is how the tax penalization regime was entirely rewritten and simplified, coded in the Book of Fiscal Procedures, by a regulation of December 7 of 2005, with an over 40-page content!
- It allows discussing relevant modernization issues while at the same time correcting multiple obsolete and badly drafted legislative provisions, which are reasons for taxpayer conflicts and legal insecurity.
- It allows regrouping in one single text, that is, in one single parliamentary debate and in one single presentation to the State’s Council, a group of measures which, in default of this device, would have to be submitted before

each ministry. From this perspective, the simplification act saves time both for the Government and the Parliament, and the authorization to legislate regulations reinforces this time-saving even more, because regulations do not require the same parliamentary debate as an ordinary law does.
- The content of simplification law bills is largely consensual and results in a rapid debate in Parliament. The image of the "auto-broom" over all our complexities may illustrate the interest in this instrument.

b) The reinforcement made in 2009 – by means of an organic law- of constitutional requirements relative to the evaluation of bills and the publicity given to this parliamentary evaluation.

It is a consequence of 2008's constitutional review, which was specially aimed at reinforcing the rights of the French Parliament.

So to sum up, it concerns the group of fiscal measures in light that it addresses the field of this obligation.

An important factor is that the impact on natural and juridical persons should also be analyzed, as well as on public administrations. What is intended is to present the specific consequences of the measure, particularly when it comes down to creating a new device.

To be sure, in most cases the fiscal measures presented for the Finance Act have been preceded by a summary evaluation of its implications, and are subject to intense previous consultation.

The news is that this requirement has been systematized, including specifically an assessment of the consequences of the contemplated provisions in terms of the management costs incurred by the administrations – and therefore the chief of the Tax Administration – and users. The assessment of the consequences on the employment of public officers should be stated. Another genuine innovation is that the results of these previous assessments must be communicated to the State's Council and the Parliament, so that they may serve as tools for public decision-making processes.

Even though the device should be simpler for the provisions introduced by way of amendments to be discussed in Parliament, it is legitimate to expect eventually a beneficial result from it: a lower complexity of new fiscal regulations thanks to the public nature of these prior evaluations – it is, then, a "protective barrier" whose implementation is worth following up.

2.2. The Problem of The Numeric Evaluation of Gains Resulting from Simplification Measures for Tax Administration Users

It is a difficult exercise because the core of the simplification policy is highly heterogeneous:

- Merger of existing tax returns or procedures (above cited example of the simplification in the field of added taxes on salaries);
- Replacement of justification documents for statements made under oath of honor;
- Replacement of the procedures for consents or authorizations for ordinary tax returns;
- De-concentration of the competition;
- Elimination of derogation systems;
- Base homogenization;
- Elimination of procedures or weak – even null – added value obligations;
- Clarification of confusing tax regulations.

If the simplification measures are always documented with relation to the economies they produce, in particular the volume of eliminated fiscal documents and the time saved by users and Administrations, making scientific evaluations is not always easy.

When it comes down to the Tax Administration, if the expenses inherent in the printing of forms or tax returns, as well as post office expenses, can be easily measured, the real difficulty lies in measuring the gains earned in terms of the time devoted by each agent to the management of a simplified procedure.

The full-time equivalent is used to measure the number of minutes, hours or days to be saved. It is usually, though not always, possible.

I could illustrate my purpose if you wish to make some questions.

Despite this conceptual difficulty, it is true that since 2003, when it was first implemented in France, the tax administration has undertaken to carry out a productivity investigation which has led it to impose on itself the rule of not replacing two retired officers with one, and thus avoid impairing the service rendered to users. The active simplification policy has undoubtedly contributed thereto, as well as the ambitious policy of tele-procedure development and the unification of existing information systems between the General Office of Taxes and the General Office of Public Accountings.

The conclusion concerns two very promising large simplification actions that are yet to be completed and are very different from each other: this illustrates the variety of the work.

1 The first one is an ambitious action of progressive modernization of all fiscal documents, with the purpose of simplifying and improving the visual identity.

We have begun the reformulation of a group of listed imposition notices (income tax, local taxes, social deductions) equivalent this year to over 100 million of documents targeted at taxpayers.

The reading is more legible and coherent; as to the form, the overall presentation is identical, over a white background, and the taxpayer information in the form is organized around three blocks:

- "your references";
- "your situation" = (with a clear indication of payable amounts)"
- "for your information" = this is a block of "contacts" that provides users with a group of contact people within the tax administration, including an indication of tax-service centers (call centers) for individuals and their public finance local center, which will from now on be a single booth for consulting information on taxpayer's personal situation (taxable base and collection of due taxes) or for delivery of fiscal documents.

2 Second work: pre-completed tax return:

Taxpayers will progressively receive an annual income tax return form containing the elements known by the administration for taxpayer verification purposes. This stage concerns the different salary income and a great portion of movable capital income. The purpose is to facilitate and save the time required by individuals to fulfill their reporting obligations. The ideal scenario is that they should only have to return a single statement completed and signed previously, without having to introduce modifications.

With time, this innovation should largely facilitate tax acceptance and contribute objectively to a highly-prioritized simplification. Let us move forward!

Case study

Topic 1.1

SOCIAL ACCEPTANCE OF THE TAX: THE SIMPLIFICATION OF THE TAX SYSTEMS

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CONTENTS: 1. Introduction,.- 2. Social acceptance of tax.- 3. The Tax Administration's role.- 4. Practical case: "The tax reform process in Uruguay".- 4.1. The reform as a process.- 4.2 The simplification of the system.- 4.2.1. annulment of a large number of taxes.- 4.2.2 Annulment of exemptions – expansion of the taxable base.- 4.2.3. "Dual" income tax on individuals (IRPF).- 4.2.4. IRPF with few deductions and relatively low tax rates.- 4.2.5 Simplified regimes for taxpayers with a reduced economic dimension.- 4.2.6. Current stage of the reform process.

1. INTRODUCTION

All economic theories accept in greater or lesser degree that the Public Sector is called upon to play a role in the economy.

One duty that is undoubtedly assigned to it is to detract from the economy the necessary resources to finance government expense.

Among the different instruments suitable to detract resources we find taxes and, in particular, tax collection.

When designing the tax policy, arbitration will be taking place between different criteria aimed at distributing the government expense cost among the population as a whole.

To that effect, “benefit principle” and “tax-paying capability” have been traditionally been identified from the public treasury theory as the basic principles in this matter.

According to the benefit principle, each citizen must contribute to the financing of public burdens on the basis of the goods and services provided by the State.

However, is we abide by the tax-paying capability principle, the contribution to the financing of government expense must be made on the basis of each one’s economic possibilities, fully disregarding the benefit obtained from the public sector activity.

In the modern State conception, where the re-distributive function is relevant, ha the tax-paying capability principle has clearly prevailed, more in accordance with justice and equity.

Without detriment of the shades and emphasis of the underlying ideology, all ideological trends acknowledge the essential role played by taxes in democratic life.

2. SOCIAL ACCEPTANCE OF TAX

If the importance of taxes in contemporary life becomes so evident, we must then ask ourselves: why are taxpayers so reluctant to pay them? and, ¿why isn’t there a full social acceptance of taxes?.

The questions above may be analyzed from different focuses and disciplines.

The possible answers are multiple and of diverse nature, and their analysis broadly exceeds the purpose of this presentation, nonetheless, in this case, some causes linked to the topic under analysis must be pointed out:

a) The “other side of the coin” of paying taxes: public services. Social legitimization of the tax system

It is unquestionable that if the State does not provide good public services the proclivity of its citizens to pay taxes will be (in the best of cases) low.

All citizens in a greater or lesser degree, consciously or unconsciously analyze, from the benefit principle point of view, the relation between the taxes they pay and the public services used by them.

In emerging economies, particularly in Latin America, results from that comparison are usually not good.

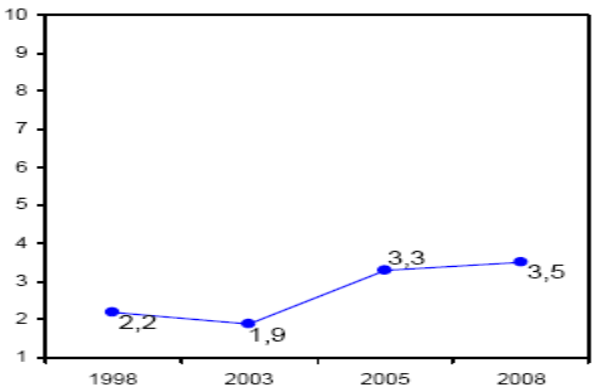
There are public opinion studies in Latin America[1] that make evident a disturbing reality where, when asked How justifiable do you think it is to evade taxes? it is evident that Latin Americans have increased tax evasion justification from 1998 to date.

TAX MORAL

LATIN AMERICA 1998 - 2008 / TOTALS PER COUNTRY 2008

Source: Latinobarómetro 1998 – 2008

P. In a 1 to 10 scale, where 1 is "Not justifiable at all" and 10 is "Fully justifiable", How justifiable do you think it is to evade taxes? *Only average here.



Fuente: Latinobarómetro 1998 – 2008

Likewise, it is clearly seen from the same study that Latin American citizens are not pleased at all with the services they receive from the State.

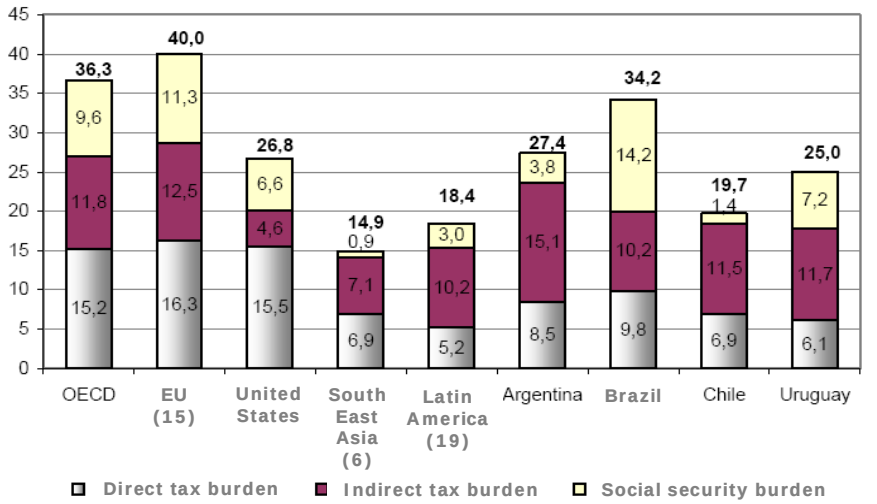
On the other hand, a reality is evident in Latin America, which implies that many of the tax paying citizens do not receive or practically do not use State services and, at the same time, those receiving or using said services do not pay taxes.

In this manner, citizens with higher income (and therefore those who should be taxed the most) receive almost no benefits from the public sector, having as consequence the perception that collected funds are poorly spent, hypothesis that does not have to be necessarily correct.

[1] *2008 Report Latinobarometro Corporation Pages 41 and following.*

Concomitantly to the above, high degrees of evasion and informality are detected, which leads those who pay their tax obligations in a regular manner to be affected by a high tax pressure, while the la as a whole is subject to low tax pressure figures[2], as is shown in the following graph.

INTERNATIONAL TAX BURDEN COMPARISONS
2006



SOURCE: Gomez Sabaini, Ricardo Martner

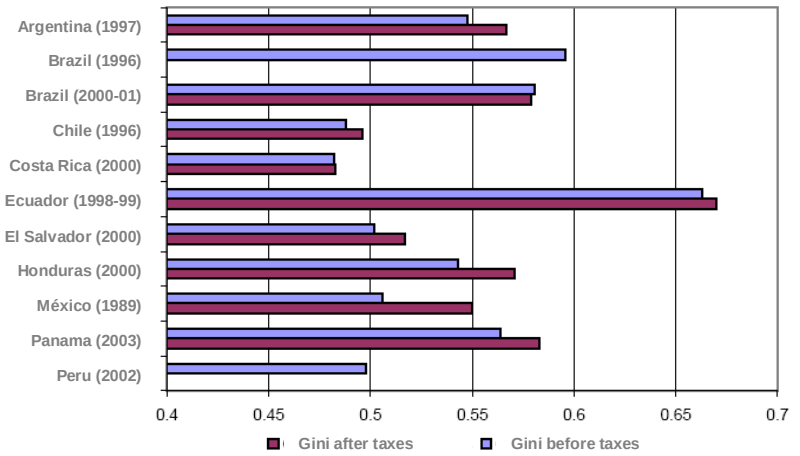
It must also be pointed out that, due to several reasons, clearly regressive tax systems have been established in several Latin American countries[3], which negatively affect the social perception of the same.

This is clearly seen by analyzing the Gini Index before and after the tax policy action. In that sense it is seen that in most Latin American countries the after-tax Gini Index grows with respect to the index calculated before appreciating the effects of the tax system action.

[2] *See Gómez Sabaini & Martner, document presented at the XX International Seminar on Fiscal Policy (ECLAC) "Latin America: Global view of its tax system and main policy topics".*

[3] *Gómez Sabaini & Martner (op. cit.)*

LATIN AMERICA: DISTRIBUTIVE EFFECTS OF THE TAX POLICY
(GINI COEFFICIENTS BEFORE AND AFTER TAXES)



Source: Gómez Sabían (2005-b)

This reality shows a lack of legitimization of the tax system that contributes to its lack of acceptance by the civil society.

b) The complexity of the tax system

It becomes evident that the complexity of the system implies an obstacle for voluntary compliance by taxpayers.

The simplification of the system contributes, through different aspects, to voluntary compliance and, therefore, to social acceptance of taxes.

The impact on small and medium-sized taxpayers

One first aspect to highlight in this sense is that the complexity of the system determines an increase in compliance cost. In effect, the greater the complexity, the more and better advise is required by the taxpayers, which undoubtedly has its corresponding cost associated to it.

This reality implies that in the small and medium enterprises (SMEs) threshold, compliance cost often acquires an overreaching relative importance vis-à-vis tax cost itself.

Under certain circumstances, compliance cost may even exceed the cost of the involved taxes.

In this reduced economic dimension taxpayer profile, compliance cost may be a determining factor at the time said taxpayers decide their inclusion or not in the formal sector of the economy.

Simplification of the tax system for this taxpayer profile not only has tax connotations, but also poses very relevant social implications, determining the coverage or lack thereof of important population sectors by the social security public policies.

Therefore, extreme efforts must be made to achieve a regime that is adequate to each country's economic and social reality.

On the other hand, an adequate design of simplified systems applicable for reduced economic dimension undertakings, may become a double incentive for inclusion in the economy's formal sector, enabling not only a reduction in compliance costs but also an effective reduction in the cost of taxes through the definition of implied regimes.

In this manner, a simplified tax regime for this type of entities may become an interesting incentive for the formalization of their activities.

The impact on the rest of the taxpayers

A second aspect to point out is that complex systems, with diverse differential treatments, with multiple exceptions, contribute to the proliferation of interpretations that, in many taxpayers constitute a true "temptation" towards elusive practices, as consequence of very sophisticated fiscal planning schemes.

Fiscal planning that takes advantage of the system's complexity setting up true works of "fiscal engineering" undermines the basis of social acceptance of the tax.

Although these practices may not be fully eradicated with the design of simple systems, it is a given that their practice may be considerably reduced by these means.

c) Control incapacity – risk perception

Linked to the foregoing item, it is not necessary to go into further arguments to prove that the control of a complex tax system is more difficult for the Tax Administration, than the one linked to a simple system.

The difficulty further increases when considering that a feedback phenomenon thereof is generated, because the complex tax system is difficult to control,

and while it promotes fiscal engineering and tax planning practices, these imply an even greater additional difficulty for the Tax Administration in its control task.
Therefore, it becomes necessary for the complexity of the tax system to keep an adequate relation with the degree of development of the Tax Administration in charge of managing it.

In that sense, at the time of defining tax policies special consideration must be given to the Administration's capacity to meet the requirements imposed on it by the tax system design and, in this case as well as in many other cases, that en "a tax system is worth as much as the worth of the organization in charge of its administration[4]" is applicable.

Likewise, the level of development and penetration of the technological advances in the reference society must also be taken into consideration.

It must be highlighted here that, for an effective voluntary compliance by the taxpayers, it becomes necessary for the same to perceive an effective risk vis-à-vis the hypothesis of non-compliance with tax obligations.

Extremely complex tax systems, which cannot be effectively controlled by the administrations, attempt against the risk perception by taxpayers, which results in the erosion of voluntary compliance and acceptance of the system.

3. THE TAX ADMINISTRATION'S ROLE

With respect to the factors outlined above, it is important to point out that tax administrations may have different degrees of incidence on them, going from a relevant effective incidence on certain aspects, up to others where their effective incidence is practically null.

In effect, the margin of incidence the Tax Administration may have with respect to the quality of the public services provided to the citizens is practically null, it may barely affect the services it grants to its users (taxpayers).

But in another one of the factors, its incidence may be greater.

Such is the case, for example, in its role as advisor to the Executive Branch in the elaboration of tax policies where, apart from technical tax advise pertaining to its specialization in the matter, it must also be always vigilant so the system does not acquire a complexity of such magnitude that implies that the same becomes uncontrollable, identifying and pointing out to those

[4] *Richard Musgrave*

that have the responsibility for outlining the tax policy, deviations that are verified.

It then becomes very important for the tax administrations to assume an active role, vigilant with respect to the system's simplicity because, in general, they are the sole actors that participate in the process to approve the laws on this matter, and nobody knows better than them their possibilities to implement and control the approved policies.

Concurrently, the Tax Administration must apply maximum efforts to provide a taxpayer service and assistance service that allows the same to comply with all requirements established by the system.

It must also be noted that the Tax Administration may assume the role of promoting, supporting and advising in tax education matters.

Through this task, the aim is to transmit social responsibility and solidarity values to the new generations. It is an undertaking whose results will be visualized in the long run.

In sum, the Administration is not only called to play a key role in controlling and repressing fiscal fraud, but it also must, by collaborating with the Executive Power, and the taxpayers, support tax education tasks, contribute whenever possible towards the development of social perception for the acceptance of the tax system by increasing the degree of social collaboration with the administration.

4. PRACTICAL CASE: "THE TAX REFORM PROCESS IN URUGUAY"

The tax reform process recently implemented in Uruguay seeks to show how various aspects focused on the goal of achieving the social acceptance of taxes are identified.

In this regard special emphasis will be placed on how said goal is attained by analyzing the system's simplification, as well as other measures that have the same purpose will also be mentioned.

4.1. The Reform as a Process

The first aspect to highlight is the idea of conceiving the tax reform as a process and not as an isolated act that wears itself out.

Traditionally in Latin America, various tax reforms have been conceived as regulatory reforms, taking into account that the amendment of the norms that established the tax structure was accomplished with the reform.

Whereas, in the case under analysis, the reform was conceived as a gradual process, which was guided by a strategic vision that “had a tendency” to further the goal set forth beforehand.

In this manner, a series of actions prior to the reform can be identified, these actions generated Basic conditions for the adequate operation of the new system, considering, specifically the social acceptance thereof.

The Tax Administration Reform

Along the same line as mentioned above, the reform began with an in-depth reform of the Tax Administration, so that it was prepared to fully face the challenges of the new tax system.

It is useless to design a technically perfect system if the bodies in charge of managing and overseeing it are not trained for the task.

Tax Education

In a second instance the tax education process was perfected and extended at primary level, where children learned about the elemental tax concepts, but by basically transmitting the basic values of citizen solidarity.

This education process had the support of psychologists and teachers who articulated a training strategy in agreement with the public objective, and, where recreational activities acquire relevant importance.

This task involved the joint action of the Tax Administration with all levels (from the maximum authorities including the teachers who taught the courses) of the organization that oversees education in Uruguay.

The purpose of this action is to introduce changes in the scale of values of the citizens so that in the long term, citizens will display a tax behavior that is more adequate for the desired equality and solidarity guidelines.

Citizen Consultation

The third step began after there was a proposal defined for the new tax structure, and a completely new stage began for the country’s fiscal history: citizen consultation.

This activity, after informing the public opinion on the basic pillars of the proposed tax system, consisted in opening an instance for citizens to voice their opinions to that respect, either individually, or through the different organizations that make up civil society.

In this manner, all the activity centers – business unions, worker unions, diverse organizations, citizens in general – after becoming appraised of the basic guidelines, sent their opinions to the Ministry of Economy and Finance with respect to the published guidelines and their alternative proposals.

The positions posed by the civil society were analyzed through arduous work, and those suggestions considered as congruent with general interest and compatible with the Tax Administration's progress status were collected.

With this activity, worthy of the country's best democratic traditions, it was considered that citizens' participation would imply a greater involvement with the new tax system that would afterwards contribute to higher levels of social acceptance of the same.

4.2. The Simplification of the System

In general terms, the system's reform implied a deep simplification of the same, which can be appreciated from different angles.

In order to dimension the degree of simplification it becomes necessary to consider the starting tax structure, to be able to evaluate the intensity of the simplifying action in the comparison.

From that point of view, the starting point was from a very complex initial situation, made up by a chaotic constellation of taxes arising from partial modifications derived from situational, and not integral, visions of the system[5].

4.2.1. Annulment of a Large Number of Taxes

The previous tax system counted with a large number of taxes (28), of which most were totally inefficient and which distorted the economic activity.

In that structure, 9 taxes represented 95,5% of the collections, while the remaining 19 only collected 4,5%.

The structure under the new tax system shows a completely different reality: 5 taxes collect 95,7% of the total, while 10 collect 4,3%.

The modification that took place after the tax reform is very evident, as is shown in the charts below:

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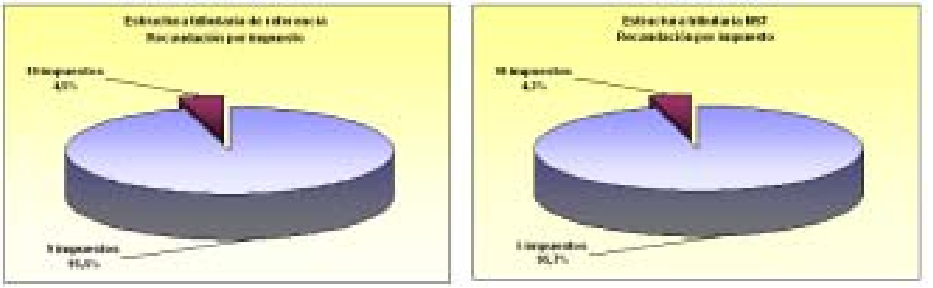
[5] *MEF public consultation document(http://www.mef.gub.uy/documentos/consulta_publica_rt.pdf)*

Tax system structure before and after the reform[6]:



The tax reform annulled 14 taxes and empowered the Executive Branch to annul 3 more, and the use of that power was used for the case of the Foreign Currency Purchase Tax.

The taxes annulled were:

- Personal Earnings Tax
- Social Security Financing Contribution Tax
- Banking Companies' Assets Tax
- Financial System Control Tax
- Health Services Specific Tax
- Small Enterprises Tax
- Commissions Tax
- Telecommunications Tax
- Credit Card Tax
- Forced Sales Tax
- Agricultural Income Tax
- Rights Assignment Tax on Sportsmen
- Movable Property Public Auction Sales Tax
- Tax on Contests, Raffles and Competitions

These annulled taxes made the work of the supervision agencies very difficult, and increased the compliance cost of the good taxpayers.

4.2.2. Annulment of Exemptions – Expansion of the Taxable Base

The previous tax system displayed a large amount of exemptions, many of which had been undermining the system's structure, assigning priority and serving partial and sector claims, foreign to the general interest, affecting in many cases the equity principle.

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[6] *Source: DGI Economic Counseling*

The idea behind the expansion of the taxable base was to correct situations of evident inequity, and to discourage tax planning and evasion practices promoted by the chaos of the previous regime.

Both in consumption and sales-related taxation, the reduction of the tax expense also allowed for a reduction in the nominal tax rates in force.

4.2.3. "Dual" Income Tax on Individuals (IRPF)

The design of the IRPF foresaw a dual structure for this tax.

One of the factors weighed in the decision for a dual system was the greater simplicity the same implies vis-à-vis a traditional or synthetic tax.

A tax was implemented with this modality, where the category III income (capital income) by being taxed by a proportional (flat) tax rate, allow liberalizing retention mechanisms at the source for the taxpayer.

This effect must be carefully considered, taking into account that, in Uruguay, personal income tax had been annulled during the last 33 years, therefore citizens were not familiarized with the requirements of this tax.

Given that the income derived from the capital factor are taxed by a flat tax rate, a definite retention at the source was determined that fully releases the taxpayer, even from the filing of a sworn return.

This design alternative it was possible to avoid that an important amount of taxpayers had to assess the tax, but also contributing to the financing of the public accounts.

4.2.4. IRPF with Few Deductions and Relatively Low Tax Rates

The finally approved IRPF admits a scarce number of deductions, some of them proportional to the income (benefits contributions), or by means of implied line items (dependents).

In this manner, just like in the previous section, endeavors were made to free many taxpayers from filing the sworn statement, foreseeing that employers may perform definite retentions that release the taxpayer.

Undoubtedly, the fact that the deductions are few and simple aids in achieving this goal, and also facilitates taxpayer control by the supervising agencies.

4.2.5. Simplified Regimes for Taxpayers with a Reduced Economic Dimension

Convinced that informality attempts against citizens' solidarity, eroding the system's credibility bases, directly impacting on the social acceptance of the system, it was understood that implementing measures that specially focus on this reality was necessary.

The task also undertaken considering the particular relevance that small and medium enterprises have in the country's economy.

Consequently, the proposed solution should, on the one hand, serve as stimulus for small enterprises to enter into the economy's formal sector, thus achieving the incorporation of the workers of said sectors into the social security, but without this becoming a way to diminish the tax base of the rest of the system's taxpayers.

This means that the simplified regime should not become an "exit window" from formality to informality, but rather the contrary, that is to say that it becomes a true "entry door" into formality; on the other hand, it cannot serve as an instrument to "perforate" the system.

It had been verified in previous experiences that these simplified regimes could affect the taxable base in two manners:

a) Tax dwarfism practices

With these practices, by means of understating income or other factors, certain taxpayers that should be included in the general tax regime, are deliberately included in these special regimes, benefiting from the advantages of said regimes.

b) SMES that generate fiscal losses for larger taxpayers

In this case, certain taxpayers artificially fraction specific activities that are really integrated in a single enterprise but, in this manner, appear as being invoiced by apparently independent enterprises.

In this manner, certain schemes are created where the artificial enterprise benefits from the simplified regime, with a reduced tax burden, while the main enterprise computes the expense incurred with this entity, benefiting from the deduction of the general corporate tax rate.

In view of the aforementioned risk, special care was taken so that the goods or services invoiced by those who are included in these special regimes do not constitute costs or expenses deductible from corporate income tax.

In this manner, the idea is to discourage the aforementioned “tax dwarfism” practices, as well as the diminishment of the taxable base in the general system.

The foregoing implied the establishment of the so-called “padlock rule” that does not allow the deduction from the corporate tax of expenses and costs incurred with enterprises included in special tax regimes.

In view of the above, these simplified systems are practically aimed at enterprises that are focused on sales to the public, and not in tax engineering processes, integrated with other enterprises.

In any event, the system allows under circumstances, depending on specific situations, to exempt specific activities or businesses.

Another aspect that deserved special attention was the one of performing an adequate stratification of the small and medium sized taxpayers, associating special regimes to them that are in accordance with their reality.

Starting from the premise that not all small and medium sized taxpayers are the same, different strata were foreseen with adequate solutions for each one of them.

In this context, three different special regimes were foreseen:

a) Simplified Regime for Small Taxpayers ("Monotributo")

b) Minimum VAT

c) Implied income determination regime

The considerations that were established above were taken into account in the design of the same, so that the system truly contributes to the formalization of the small enterprises that were found in informality, attempting to avoid that those enterprises that already were inside the economy’s formal sector pass into systems where the quality of the information they contribute is inferior.

Concurrently with the above, an armoring of the general regime was provided for, not allowing the calculation of the tax credit for purchases made by general regime enterprises to enterprises included in subparagraphs a) and b) below.

With respect to the formalization of new enterprises included in subparagraph a) 5,206 registrations were made during 2008 (first full civil year after the entry into force of the new system), while under subparagraph b) registrations increased by 4,877 during the same period.

The above figures are relevant when considering that the total enterprises included in each one of the categories by the beginning of 2008 totaled 15,500 and 30,600 respectively.

a) Simplified Regime for Small Taxpayers ("Monotributo")

For the smaller taxpayers level, the payment of a single contribution was established, called simplified regime for small taxpayers ("monotributo"), which substitutes the payment of any other tax, even those linked to the financing of the social security regimes.

Taxpayers that wish to enter said regime must comply with a series of conditions, to wit:

Legal form: this tax can only be accessed by single-person enterprises with up to one dependent, or de-facto enterprises composed by two partners (or three in the case they are relatives) without dependents.

Maximum sales level: in order to enter into the regime, company revenues may not exceed an annual sum set at approximately U$S 24,500 (twenty four thousand United States Dollars) in the case of the de-facto companies and U$S 14,700 (fourteen thousand seven hundred United States Dollars).

Physical conditions: taxpayers under the simplified regime for small taxpayers ("monotributo") may not possess more than one stand or establishment whose dimensions may not exceed 15m2 (fifteen square meters).

Only sales to end-consumers are allowed in the regime.

Lastly, it must be pointed out that enterprises that were in the general regime when the simplified regime for small taxpayers ("monotributo") was approved, had a 90-day period to apply for their transfer into the new regime.

b) Minimum VAT

This regime implies the payment of a single monthly line item in concept of Value Added Tax, and the exemption of the corporate income tax.

Therefore, with the payment of a single monthly line item (apart from the payment of social security contributions) the company regularizes its situation with the Tax Authorities.

Unlike the simplified regime for small taxpayers (“monotributo”), it does not substitute the payment of the payment of special social security contributions.

In order to be included in this regime, taxpayer revenues may not exceed U$S 24,500 (twenty four thousand United States Dollars) annually.

Once a taxpayer begins to be taxed by the general regime, the same may not return to this regime until three 3 fiscal years have passed under the general regime.

These enterprises do not have the limitation of having to sell exclusively to the end-consumers, but all the same it must be borne in mind that invoicing of entities included in this regime is not deductible from the business income tax.

c) Implied income determination regime

This regime only affects the assessment of the corporate income tax, this regime does not foresee anything special for the rest of the taxes, and general solutions apply.

This regime allows to determine the enterprise’s income in an implied manner, without the need for sufficient accounting according to accounting standards.

Fiscal income is calculated as a percentage of the enterprise’s total income, admitting some deduction according to the enterprise’s line of business. The percentage to be applied on the income varies based on the enterprise’s income level.

Entry into and exit from this regime is completely free.

Invoicing by these enterprises is fully deductible by enterprises included in the general taxation regime.

4.2.6 Current Stage of the Reform Process

Consistent with the idea of promoting and facilitating the formalization of reduced economic dimension enterprises, two measures that strongly contribute to the proposed objectives have been recently introduced.

The same are the result of the proposals received as consequence of a new public consultation convoked by the Ministry of Economy and Finance, jointly with the Uruguay Fomenta Program (Uruguay Promotes Program).

Gradual inclusion in the Minimum VAT regime

During the month of July 2009, a Draft Bill was sent to the National Parliament that provides a special regime for enterprises that start activities and enter in the "Minimum VAT" system.

The novelty of the regime implies that, during the first three years in the regime, the enterprise will only pay a percentage of the Minimum VAT quota, according to the following table:

First fiscal year: 25%
Second fiscal year: 50%

The enterprises will have exactly the same scale at the time of paying the special social security contributions (employer contributions).

Only as of the third fiscal year will the enterprise pay the full quota arising from the Minimum VAT and social security regime.

This system attempts to mark the rhythm of the growth and maturation process the small and medium sized enterprises with tax obligations.

In this measure, one can clearly visualize the two incentives we mentioned above: Relief from indirect costs (they pay a fixed quota, very simple), and the reduction of the tax cost (they only pay a percentage of what they should pay).

On the other hand, it must be pointed out that this is a transitory regime, with a specific termination date, no enterprise may remain in the same for a period greater than three years.

Special VAT "quota" regime

This simplified regime establishes that taxpayers of the general VAT regime that do not exceed a specific annual sales figure, may make monthly VAT payments with a fixed quota for the whole year, which will arise from the VAT paid during the previous fiscal year divided by twelve, an increased by 10%.

Finally, during the last month of the fiscal year the enterprise will assess the VAT corresponding to the whole fiscal year, and will deduct from it the eleven payments made by means of the fixed quota system.

Case study

Topic 1.2

FACTORS CONTRIBUTING TO THE EQUITY OF THE TAX SYSTEMS: EXPANSION OF BASES

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Internal Revenue Service
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CONTENTS: 1. Introduction.- 2. Collecting capacity and equity.- 3. Legal tariffs and equity.- 4. Quantitative base increase.- 5. Qualitative base increase.- 6. Tax morale 7. Other reforms.- 8. Conclusions

1. INTRODUCTION

When Alexander Von Humboldt arrived in Ecuador, he was amazed at the geography, flora, and fauna, and it was difficult for him to understand how the inhabitants could sleep so placidly at the foot of volcanoes. In Humboldt's vision, these people were like beggars sitting on a sack full of gold, in reference to the infinite natural riches. Two-hundred years after this anecdote on the famous German scientist, we again wonder how it is possible for such a rich country, full of so many natural and cultural riches, a country bathed by the waters of the Pacific Ocean and where majestic rivers run through, to have six out of 10 Ecuadorian men and women who cannot meet their basic needs? How can we Ecuadorian men and women sleep placidly when lack of governance, inequalities, and inequities prevail? How can society pretend to develop cohesively when not all its members fulfill their tax obligations?

Social and economic policies make up society. Economic policies guided by our principles try to achieve a fairer and more egalitarian society. Weaving the fabric of a nation cohesively by using the power of being able to levy and

collect taxes is therefore a task that is very necessary for coexistence and the prosperity of the State and society, just like air is necessary for mankind to breathe.

Social cohesion requires having a sufficient tax system, and to do so collecting capacity must increase and the efficiency of tax administration must improve. Collecting capacity belongs to the realm of tax policies, and it has to do with such variables as the level of tax rates, the magnitude of the taxable base, and the tax morals of a country. The efficiency of tax administration is the capacity of being able to carry out collection from taxpayers[1] and with it, influence and persuade the rest of taxpayers who have decided or are thinking about not paying taxes.

Even though the use of tax policies and administration for redistribution purposes is a controversial issue, it is clear that taxation in itself does have effects on the distribution of the revenues of a society.

This presentation focuses on Ecuador's tax situation, stressing the progress made on the collecting capacity of tax administration, the regulatory changes made since the enactment of the Law on Tax Equity of December 2007, and improvement in control processes. Whereas the regulatory changes have been able to quantitatively and qualitatively improve internal tax collection when many countries have lost tax revenues due to the international financial crisis, the new orientation in Ecuador's tax policies and administration has led to a change in the structure of permanent taxes, making the same tax system more equitable.

2. COLLECTING CAPACITY AND EQUITY

A socially sufficient and efficient tax system must increase the collecting capacity and improve the efficiency of tax administration.

The collecting capacity belongs to the realm of tax policies and has to do with such variables as the level of tax rates, the magnitude of taxable bases, and the tax morale of a country. Tax morale refers to the attitude Ecuadorian men and women have toward taxes and the tax system.

The efficiency in tax administration is the capacity of being able to collect from taxpayers and with it, being able to influence and persuade those taxpayers who have decided or are thinking about not paying taxes.

[1] *It is important to stress that collection actions could be achieved through voluntary or forceful payments with major differences in the costs linked to one or the other form of payment.*

The coercive capacity and services of tax administration clearly depend upon the design of tax policies and, being no less important than the collecting capacity, are the ones that help the system enforce its redistributive features, and not only the collecting ones.

As Jose Sevilla suggests, “when regulations are not implemented adequately, tax collection is not the one that feels it, but the rule of law; in other words, the state’s capacity as the entity that organizes society, which is much more serious.” This vision by Sevilla of the Internal Revenues Service translates into the various institutional strengthening initiatives, such as the Administration Improvement Program that has been in effect since 2007. No socially responsible tax policy can be alienated from improving institutional management.

Going back to collecting capacity, it stems from the design of tax policies. The level of tax rates influences the behavior of individuals. High rates adversely affect consumption-related decisions, savings, and investments, and under an orthodox vision, are conducive to a tax evasion behavior. As part of the regulatory design, rates are established by types of taxpayers and types of goods or services. The structure of rates helps the progressiveness of the tax system, but makes its administration more expensive. By types of taxes, direct taxes meet the objective of being progressive, and indirect taxes are perceived as easy to collect, but bad to redistribute wealth.

The collecting capacity also depends upon the taxable base. It is usually defined as the number of taxpayers within a system. Economic characteristics, particularly the importance of the informal sector, make it difficult to quantify the taxable base. In addition to the information problems to gauge the taxable base, such factors as tax expenses have effects on its size and therefore on the collection of a tax system.

The third determining factor of collecting capacity is tax morale, which includes both tax culture and the idiosyncrasy of a society that knows its rights and duties and is willing to help the State. A united society that sees the State with distrust and little credibility when it, through its political systems, has not known how to respond to the demands of the majority while meeting the needs of the minority will have little incentives to contribute with this State.

The Ecuadorian tax capacity has been the subject of structural reforms that are trying to increment its fiscal efforts. In the 1990s, tax pressure represented barely 5 percent and reached 8 percent when the Internal Revenues Service was born from the former Revenues Directorate General in the late 1999. Beginning that year, the objective of the legal reforms is to strengthen the capacity of administration services, managing to structure a tax administration whose main role was to look at taxpayers as clients. Invoicing systems,

Internet tax returns, the coverage of agencies and services, the integration into the financial system made voluntary tax payments make Ecuador have a tax pressure close to 10.9 percent in 2006.

The studies conducted by the Internal Revenues Service, however, show that 66 percent of income taxes and 30 percent of the VAT are evaded. Comparing tax efforts to the rest of the region, Ecuador falls within the quintile of countries with less tax burden[2]. From the point of view of collection sufficiency, estimated as the amount of tax revenues (without including tariffs) from the total National Budget, coverage is close to 50 percent, an unprecedented fiscal weakness vis-à-vis the need for more fiscal revenues that will enable the financing of social expenditures and replace the dependence on the ever-changing oil revenues.

For 2009, fiscal efforts will reach 12.5 percent, which corresponds to the strategy defined in the National Development Plan to increase it to 14 percent by 2001. In addition, the progressiveness of the tax system will have to be improved with more participation from direct taxes compared to indirect taxes, as well as the tax base will have to be expanded quantitative and qualitatively, as mandated by our Constitution.

3. LEGAL TARIFFS AND EQUITY

Tariff structures are difficult to compare. One alternative is to take the middle levels of marginal aliquots with limitations related to the different treatment regarding deductions and exemptions.

The definition of taxable facts is very similar in all countries, even though there are countries, mainly the Central American countries that tax net revenues under territorial criteria vis-à-vis another group of countries that tax under the world revenues criteria. Likewise, the determination of the taxable base changes from country to country in terms of the expenses considered to be fiscally deductible. In general terms, however, it is determined as the net revenues obtained by taxpayers. In Ecuador, the income tax rate has not gone through considerable changes in the last few years, except in the case of individuals; in the case of corporations, it is established at 25 percent of joint corporations and individuals obligated to do their accounting. According to a study conducted by Deloitte[3], the Ibero-American average reaches 30 percent, Chile being the lowest case. Therefore, in Ecuador it can be said that its rate on business profits is below the average.

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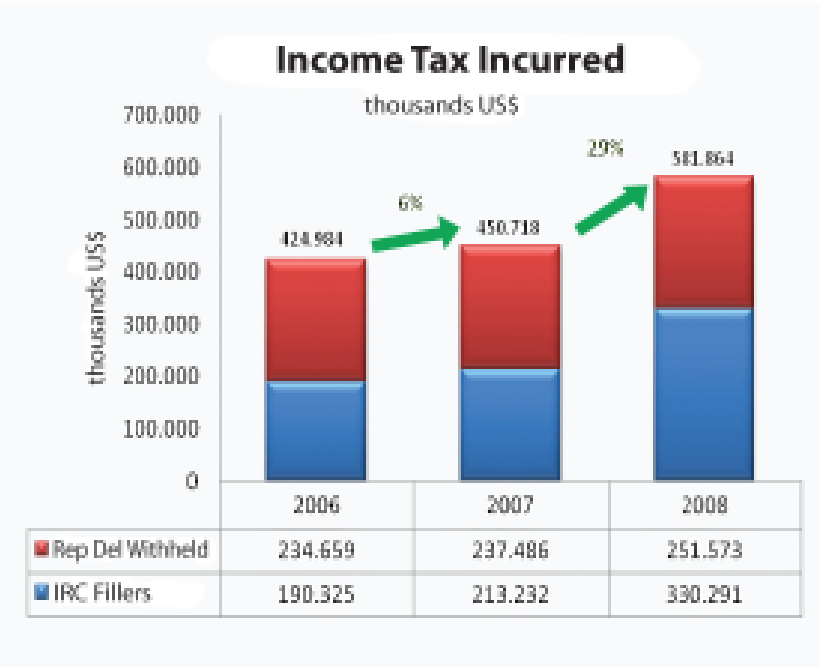
[2] *Tax efforts refer to the case of the taxes managed by the SRI. It does not include Tariffs, Property Taxes, or Social Security dues.*

[3] *Ibero-American Fiscal Synthesis 2008, Deloitte.*

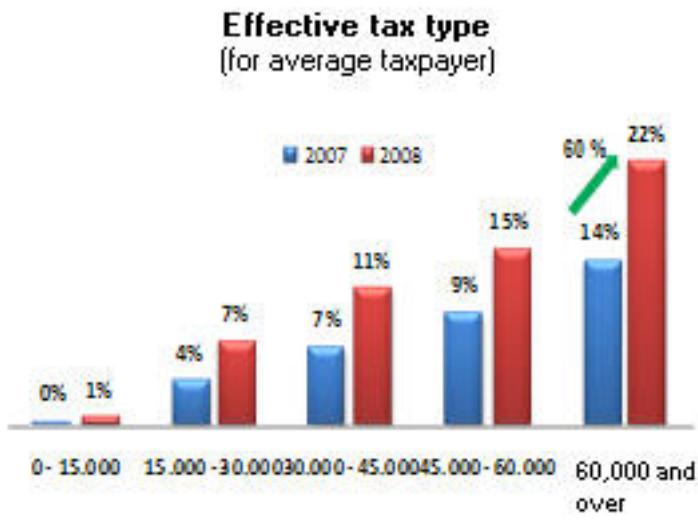
In 2007, the Law on Tax Equity included a change to the income tax structure under the premise of reducing income tax by changing the way to estimate the Advanced Income Tax paid by taxpayers in advance and charged to the following year's income tax and forcing it to become a minimum if in five years, the taxpayers have a balance in their favor as tax credit because it has accumulated. The objective of the reform implies determining a minimum tax base particularly for companies that report continuous losses for consecutive years.

It is worth mentioning that at the regional level, there now are fewer and fewer voices that demand reduced rates for direct taxes as a complement for IED; however, we still have to figure out the case of Ecuador, where certain ill-named incentives that have generated them represent fiscal shields and bring about unfair fiscal competition among regions and sectors in the country.

Regarding the income taxes of individuals, the vision of tax policies was to improve their progressive structures, and this is why it went through two important changes: the increase in marginal tariffs from 30 percent to 35 percent and including the concept of net revenues, an aspect we will explain later on. Regarding the expansion of the tax base, it is applicable to income exceeding 60,000 dollars worth of net income after the deduction of personal expenses, which equals keeping a marginal rate close to 28 percent for a person whose income is close to 60,000 dollars a year.



	2006	2007	2008
Rep Del Withheld	234.659	237.486	251.573
IRC Fillers	190.325	213.232	330.291



The results of the reform are positive. The increase in Income Tax exceeded 24 percent in 2008, and thus far in 2009, it has a 15% growth, thus promoting the change in the direct tax structure, beginning with 34 percent of direct taxes, compared to the total for 2006. Thus far, it constitutes 43 percent of the total taxes managed by the SRI, thus improving the quality of collection.

Tax Structure

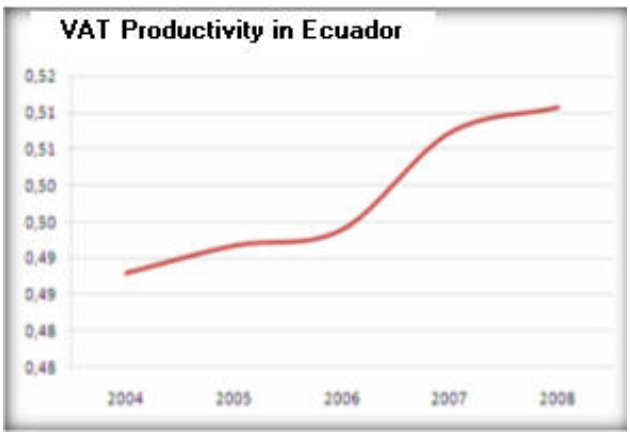
Taxes	2006	2007	2008	2009 Jan-Jul
Income Tax	34%	35%	39%	42%
VAT + ICE + Others	66%	65%	61%	58%

Overall Collection Increase 13% (Jul 09)
Tax Pressure 2008 = 12.2%

With regard to the effective rates on the levying of income tax on individuals, they were considerably increased in the higher brackets, improving the progressiveness so that whoever has more, pays more, and introducing the concept of net income by regarding as deductions such expenses as health, education, housing, food, and clothing, limiting them to 50 percent of the gross income with a ceiling that is 1.3 times the exempt minimum base, which will equal 11,000 dollars in 2009.

The immediate effect of the measure was the use of the invoicing system, thus improving the collection of VAT and income taxes in traditionally informal sectors, such as medical services, home rental, food, and clothing purchasing in informal markets. From the 2008 data, the increase in the cadastre in these sectors doubled compared to previous years as a result of the incentive implied by the fact that those taxpayers who wish to make personal deductions ask for their invoice.

In fact, this type of measures favor the expansion of the coverage of the tax system, and this is why despite having one of the region's lowest VAT aliquots (12 percent and zero tariffs on goods and services from the basic family basket), it represents a high level of productivity, which has improved in the last few years (currently 6 percent of the GDP corresponds to VAT fiscal efforts).



Source and preparation: DNPC SRI 2009 Reports

In spite of it, there are doubts on whether the VAT is an apparently progressive tax, because the goods typical of higher income pay a tax that is higher than the tax paid on goods typical of lower income. This progressiveness is a full illusion because workers allocate almost all their revenues to consumption, while capital revenues are usually allocated to investments. Capital yields a gain in value, and this gain in value is invested to yield more capital. This is how the VAT becomes a regressive tax in which in proportion to income revenues, the income revenues of workers pay more than capital revenues. Income revenues are the ones that pay VAT through consumption, while capital revenues are exempt from this tax by normally reinvesting the gains in value obtained.

Engels in his "On the History of the Communist League" tells us what the 15th point of this program was: "The introduction of steeply progressive taxation

and the abolition of taxes on consumption goods." Marx and Engels never had high hopes on the fact that taxes could help solve the problems of the proletariat, but they would have objected to an indirect and regressive tax as the VAT, which is largely levied on work incomes.

This is why based upon a study conducted by the Fiscal Studies Center on the impact of VAT and equity, there has been an evaluation of the progressiveness of the VAT on goods and services, from which it was decided to levy zero taxes on certain family basket products whose prices increased considerably in 2008 as a result of the food crisis, as well as on agricultural raw materials in order to mitigate the negative effects on the family basket of the poorer. Logically, this fact increases the complexity of the system, particularly VAT returns; however, there are more benefits than costs.

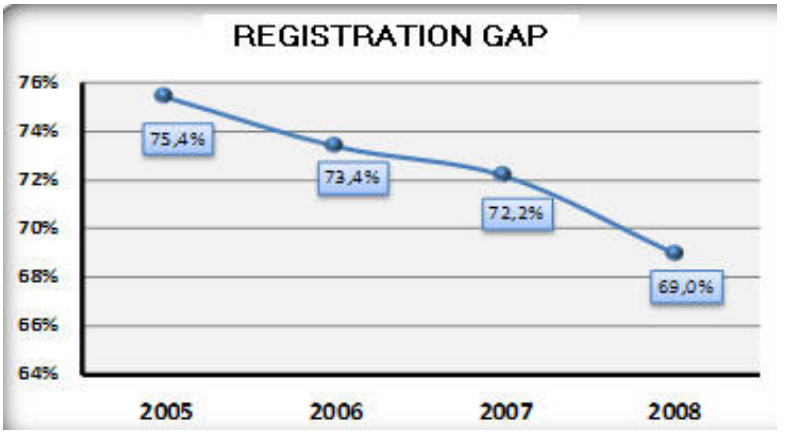
Also from the aforementioned study, several proposals have been made on the review of certain products within the framework of a system of differentiated rates for the VAT, particularly services that are mostly rendered to citizens in the public sector, such as medical services and education. The VAT could be socially responsible, but there still are pending matters, such as the coexistence of a broad and egalitarian system in view of an informal economy and low tax morale.

4. QUANTITATIVE BASE INCREASE

Throughout time, different interpretative currents tried to define the informal sector, but faced difficulties given its heterogeneity and the various features it has. The name of the informal sector dates back to the 1970s, and it was used by Keith Hart, but the one who defined its meaning was Michael Todaro. In his studies, he found the major heterogeneity of the urban informal sector within the economically active population in several countries in Africa. Unlike dualists who identified the informal sector by the manner in which they manufacture their products, Todaro identified the informal sector by the way in which production and exchanges with the rest of the economy are organized. While the former said that the traditional sector was going to disappear insofar as the modern sector would gain strength, Todaro said that the traditional sector was not going to disappear and that the informal sector was going to be part of this sector, even though it was going to be limited to the rural sector.

Another person who studied the issue, J. Freyssinet, asserted that informality must be treated beginning with the structural homogeneity regarding the manner in which economic activities are organized as part of international relations. From the initial work done by Schneider, as well as from the impulse given by the ILO to conceptualize, gauge, and understand the causes of

informality, in Ecuador important actions such as measuring and characterization have begun, and mainly actions taken to face this phenomenon, which according to surveys would reach 45 percent of those informally occupied. From a tax point of view, this measure would reach 60 percent of the EAP.



The measure used to support the formalization process created the Simplified Tax System (RISE), which is an optional system to estimate income taxes on sales designed for individuals with only wholesales that do not exceed the 60,000-dollar threshold a year. The proposed system included VAT and Income Tax payments in a simplified manner, and this is why it implied differentiating among the monthly installment payments by sectors in order to be able to compare the levels of tax revenues.

SIMPLIFIED SYSTEM	GENERAL SYSTEM
1. No Returns Only the payment of installments (A US $10 charge to fill in forms by third parties)	1. VAT and Income Tax Returns (A US $10 charge to fill in forms by third parties)
2. No obligation to keep accounting records	2. Obligation to keep accounting records
3. Exempt from withholdings (No one can withhold values, not even IFIs)	3. Subject to retention (100%, 70%, or 30% of VAT; 1%, 2%, and 8% of Income tax)
4. Simplified Invoicing (Submitting slips without detailing VAT or Tax Credit carried over or detailing goods and services. Taxpayer identification to enable the deduction of costs and expenses).	4. Normal invoicing (Submitting of invoices detailing goods and services, explanation of VAT rate, and subject to retentions by Special Taxpayers, Corporations, or Individuals Obligated to Keep Accounting Records).

The RISE began operations in August 2008, and its first results show an average registration of 15,000 additional average taxpayers a month thanks to the work of the mobile brigades nationwide.

As a complement to this registration process, several fiscal support policies by sector demanded having registered in the RISE as a minimum requirement. An important program that is part of it is the so-called Partner Sows, which allocated a fiscal aid amount for individuals whose agricultural productions was adversely affected by inclement weather and the crisis in the primary exporting sector in 2008.

As part of inter-institutional cooperation, a co-shared system has been developed along with the Social Security and Public Banking institutions in order to include in the RISE dues a contribution to Social Security that will enable [workers] to have access to certain medical services or to a pension, at the discretion of taxpayers. It will also be useful [for them] to accumulate points for the granting of preferential loans on the part of Public Banks.

Among the additional measures that seek to promote an increase in the quantitative base, the implementation of a Tax Lottery is mentioned to support the use of invoices as a formal mechanism to support the tax system.

5. QUALITATIVE BASE INCREASE

One of the main axes of tax policies in Ecuador is to achieve further transparency in tax expenditures and manage to establish a system to reorganize it by also linking the tax incentives stemming from the Law on Investments.

It is a dual objective: first, to considerably reduce the level of tax expenditures, which was 4.4 percent in 2008, and second, to link tax incentives to the system of performance indicators of incremental and job generating investments.

BY TYPE OF TAXES Fiscal Year 2008					
TOTAL TAX EXPENSE					
	2008				
Category	**In Millions of US $**	**% of Total Tax Expense**	**% of Budget**	**% of Collection**	**% of GDP**
Total Tax Expense	2,303.0	100%	22.2%	37.1%	4.4%
Direct (Tax Revenue)	1,140.0	49.5%	11.0%	16.4%	2.2%
Individuals	760.4	33.0%	7.3%	12.3%	1.4%
Corporations	379.6	16.5%	3.7%	6.1%	0.7%
Indirect (VAT)	1,163.0	50.5%	11.2%	10.0%	2.2%
On Goods	664.3	28.8%	6.4%	10.7%	1.3%
On Services	498.7	21.7%	4.8%	8.0%	0.9%

Source and preparation: Fiscal Studies Center - Study on Tax Expenditures 2009

As mentioned earlier, a strategy to organize Tax Expenditures has been structured. Among others, its main objective is to improve tax collection by improving the levels of vertical and horizontal equality, which implies affecting the deductions and exemptions of both the VAT and income taxes. The Law on Tax Equity among other things stipulates reducing the limit of exemptions and deductions particularly on income taxes, such as the allocation of reinvestment of corporate profits toward such production assets as Machinery and Related Assets, thus preventing the generalization of the measure.

6. TAX MORALE

Tax morale within society can be defined as the behavior of citizens toward what is acceptable regarding compliance with tax obligations.

This type of behavior exists if society regards tax evasion as something reproachable. In this case, taxpayers may feel guilty when they evade taxes and ashamed when they are discovered.

Perception of Tax Evasion Reasons	
	Total
To have more benefits for themselves and their companies	24%
To profit and get richer	15%
Because they deduct their profits and revenues	6%
Failure to know how to pay taxes	13%
Lack of tax culture	9%
Lack of information and education	9%
Failure to fulfill tax/accounting responsibilities	16%
Corruption	13%
Lack of money / the country's economy is terrible	6%

Source: Tax Perception Survey SRI - INEC

Insofar as society further dislikes tax evasion, there will be further voluntary compliance on the part of taxpayers. This behavior is being gauged through surveys since 2007, and we hope to be able to define a baseline and analyze how our efforts are influencing the behavior of Ecuadorians.

Even though values come from home, the SRI is certain that it is also necessary to promote, develop, and teach children and youths, through their formal education, a program of tax knowledge and strong values. This is why the Tax Culture project has been carried out along with the Ministry of Education, a project in which adequate knowledge is taught for compliance with tax obligations, as well as awareness of correct citizen practices toward the State.

An innovative way to promote tax morale is to enforce what is stipulated in the Ecuadorian Tax Code on the publication of the income tax payments made by taxpayers, and this is why in the institution's website www.sri.gov.ec, it is possible to review how the payments of each Ecuadorian have been made; in fact, the Communications Plan in 2007 was "And you, have you paid your taxes?" a factor that has made the country aware of how certain public people have made minimum payments to the state, which constitutes a form of social pressure for tax payments.

7. OTHER REFORMS

- **Integrate Dividends as Part of the Overall Income of Individuals**

  A measure recently implemented is to eliminate the exemption of dividends as the integration of overall income. The objective of this measure is not only to increase the base of the contribution by eliminating said exemption, but it also seeks further equity among the

income of the corporations that pay 25 percent and the income of individuals who pay up to 35 percent.

The distribution of dividends among local or foreign companies is excluded from this measure.

- **Change in the Income Tax Advance of Corporations to Minimum Advance in Cases Where the IRC Is Less.**

  In order to improve the payment of Income Tax, in 2009 it is planned to return to the Minimum Tax System, but payable in the form of Improvement in the Payment of Income Tax of Corporations and Individuals Obligated to Keep Accounting Records who currently have a very low or nil tax burden for evasion effects.

  This advance payment will become Income Tax in case it exceeds the Payable Income Tax. Therefore, it does not affect those corporations whose tax burden is reasonable. The possibility of return is considered as controlled by the SRI when the corporation reports losses and up to one time every three years.

  The objective of this change is to stimulate companies to be socially and fiscally responsible without affecting the productive sector that pays its taxes responsibly. This is how the Minimum Tax System implies a strict form of expanding the tax base toward an economically small level, but with a much broader base.

- **Incorporation of Service Imports as a VAT Taxable Matter, as well as Intangibles**

  This measure incorporates the import of Services and VAT taxable matters, as well as intangibles. This is how a standardization with international guidelines is created and consistency is generated regarding the criterion of country of destination of the services, so that they are taxed in the country where their utilization, exploitation, or economic use are made, preventing unfair competition with the services rendered by individuals in the country.

8. CONCLUSIONS

- The expansion of the base of the tax system leads to adjustments in the tax system, from the expansion of a contribution base, whether it is by controlling the rate levels, the number of taxpayers, as well as by controlling the use of exemption and deductions from tax payments.

- Any strategy to improve the equity and sufficiency of Tax Systems must be proposed simultaneously with tax policies and management.

- In Ecuador, we are focusing the problem with the Informal Economy not only as a structural problem that adversely affects horizontal equity, but also as a phenomenon in many cases caused by the lack of opportunities the economy and society may offer, as well as the partial focus that often implies the implementation of our tax and regulatory systems. We hope that the second phase of the Simplified System can better contribute to the social inclusion of these sectors, ensuring that the tax system can adjust to the formal system and this alternative system without having strong reductions in terms of collection.

- We have implemented several additional measures both quantitatively and qualitatively focused on increasing the base of contributions, including the Tax Expenditures Reorganization Plan, and this is why the current incentives and exemptions are not only being reviewed and gauged, but also are being integrated, focusing on legal changes to the Law on Public Finances, both the obligation of transparency in Tax Expenditures as well as the obligation of their evaluation on the part of the sectorial ministries benefited from it.

- All these actions will not be able to be used if there are no radical changes to the tax morale of Ecuadorians.

…we still have a path to conquer…

Case study

Topic 1.3

TAX DECENTRALIZATION AND COORDINATION IN THE ADMINISTRATION OF TAXES THE SPANISH CASE

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CONTENTS: 1. Possible models of tax decentralization.- 2. The Spanish case: Coexistence of three tax administrations.- 2.1 Competencies of the national tax administration.- 2.2 Competencies of the autonomous communities.- 2.3 Competencies of the local entities.- 2.4 Collaboration agencies and instruments.- 2.5 Conclusion on the spanish system.- 3.The Spanish experience: Current situation.- 4. The Spanish experience: Future outlook.- 4.1 New model of collaboration.- 4.2 Advantages of the proposed model: Tax co-responsibility and visibility.

1. POSSIBLE MODELS OF TAX DECENTRALIZATION

In the countries' overall practice there is a close link between, on the one hand the political structure of the State and its financing model, and, on the other, the financing model and the organization of the administration that manages said model. Thus, the political structure of the State must be the starting point, as well as the point of reference that must be taken into consideration to establish the best financing model for the sub-national government levels, and only after having defined and decided this extreme, it will make sense to make comment on the best way to organize a multi-level tax administration. Many of the problems that arise on these matters lie on the imbalances that can occur between the territorial distribution of the political power existing in the country and the organization of the tax administration.

Focusing this paper on the decentralized states, one can say that a State is politically decentralized when there is, at least, one level of intermediate

government between the central government and the local governments, whether it is state, regional, provincial, etc., with constitutionally established competencies. Consequently, in the decentralized states, whose main figure is a federal state, the capacities or competencies of the central State appear constitutionally distributed among the different levels of government. Based on this, the question is how, according to various criteria, to finance the existing different government levels.

To respond to this issue, one must basically choose an alternative[1]:

- The central treasury obtains from the citizens all or the majority of the public income, a part of which must be subsequently distributed among the sub-national treasuries, or
- Each level of treasury, central and sub-national, has its own financial instruments, basically taxes, which are used to obtain income directly from the citizens.

In the first alternative, the sub-national treasuries' biggest share of the financing will come from transfers from the central treasury and, consequently, their financial autonomy will be scarce. In spite of that, this is an alternative more frequently used by countries that have gone through decentralization processes, based on a centralist origin. Experience shows, without going any further in analyzing the Spanish case, that it is relatively simpler to decentralize expenses than it is to decentralize income. Therefore, it is not odd to see that many countries, including those traditionally with a federal type of government, have opted to decentralize expenses while keeping income centralized.

The second alternative that has been considered is, without a doubt, that which allows greater financial autonomy, leaving in the hands of each government, the power to decide the volume, as well as the structure of its income and such is the case and characteristic of federal-type of countries made up of states that were previously independent.

Undoubtedly, income decentralization usually gives greater stability to the sub-national governments' financing system because, when they need resources, instead of exerting pressure on the central treasury, which is the case in the centralist models, they will have to ask their respective citizens for them, something that leaves a more coherent and stable space for the decision-making process. Thus, to the extent that, as a consequence of the political organization of the state, the sub-central governments gain power, it might be advisable to advance in the decentralization of income, but, in any

[1] *Naturally, there are variants of each of these possibilities, which rarely occur in their pure state.*

case, with the central treasury claiming responsibility and the tools for the implementation, with autonomy, of the policies that make up the inter-territorial re-distribution. In effect, a very well-known problem posed by income decentralization lies on the fact that the economic disparities that always exist among the different territories of a country will be reflected in the corresponding treasuries and, consequently, in their ability to offer public services to its citizens. Especially in countries whose origin is that of decentralized states, it becomes advisable for the central treasury to implement leveling mechanisms to bring closer the capacity that the various same-level sub-national treasuries have to spend on each inhabitant. The instrument for this objective is usually "the leveling transfers" through which the central treasury guarantees a volume of minimum resources for each sub-national treasury.

It should be noted that income decentralization has, in turn, followed two tracks:

- In some cases, all taxes available are distributed among the various government levels. We can call this variant "distributed taxes" and it allows for smaller margins of financial autonomy, which we will discuss later on, because, by using each treasury level, only one tax category will have lesser possibilities to carry out its distributive policies, as a full demanded by a financial autonomy. It is a situation that, in fact, occurs in the United States where the federal government, in addition to the social security tax, imposes a tax on income and on inheritance, as well as other specific taxes on certain consumer goods. While the states basically tax retail sales (without detriment to applying, although to a smaller extent, a tax on income) and, finally, local governments obtain a substantial part of their income with taxes on property, especially real estate.

- In other cases, all treasury levels can use all the taxes. It would be the variant of "shared taxes". However, and because of unity of market reasons, the sub-national levels will have to do without some taxes, but that does not translate into limiting their financial autonomy. Thus, the sub-national governments would not have customs duties or other taxes available to them, taxes that, because of their nature, can be subject to be transferred to a jurisdiction other than that which established them (such is the case of sales taxes applied in a phase previous to the retail phase) or taxes, that, out of prudence, would not be imposed on corporate profits.

Furthermore, it is usually considered that the application of taxes in a decentralized tax system compels one to make three decisions:

- what level of government has the regulating capacity to create and modify taxes,

- how will the tax collection be distributed among the various government levels, and
- what government level will manage and control the tax system.

Based on how these decisions are made, we can establish the following theoretical tax decentralization models:

MODEL	REGULATING CAPACITY	FINANCIAL LEVELING	TAX ADMINISTRATION
Centralist	State	Vertical Conditioned	Exclusively Centralized
Decentralized medium	Limited Decentralization	Vertical Not Conditioned	Shared (being able to manage others' taxes)
Decentralized broad	Shared Full	Horizontal Not Conditioned	Shared (each manages its own taxes)
Federal	Decentralization	Non-existent	Exclusively Decentralized

As it normally occurs in practice, these theoretical models are not usually found in a pure state. In fact, they are found with all kinds of possible combinations among the models indicated. So, it is possible to find from systems with exclusive regulating capacity or basically state and decentralized tax administrations (GERMANY), to systems with decentralized regulating capacity and centralized tax administration, or, at least, shared but one in which the central administration manages part of the sub-national taxes (CANADA).

Notwithstanding, the majority of the existing tax models present a series of common characteristics with regard to the three elements that were mentioned:

- The Central Government has a greater regulating capacity than the Decentralized Administrations.
- There are instruments of financial leveling among the various government levels.
- Various tax administrations coexist (the Central and the Decentralized administrations).

There are true organizational problems in the models with decentralized income, where it is suitable for each sub-national treasury to have its own tax administration which, obviously, opens up a full scenario of needs for coordination. Such is the case of many historical federal countries; however,

it does not constitute the only solution or will necessarily be the one used in centralists countries that are becoming decentralized. In effect, just like the countries that have arrived at becoming a federation through the integration of pre-existing states have started out based on the existence of several tax administrations for each of the integrated political units, in the case of the countries that become decentralized, the situation is exactly the opposite, that is the existence of a single tax administration originally stemming from the old centralized state. Therefore, in these cases, there is the doubt of whether the decentralizing process should be extended or not to the tax administration itself, dismembering it.

In this sense, in the decision about an organizational model for the tax administration two basic references are used:

- A first one is effectiveness, which would surely call for using a single tax administration to manage the taxes of all treasuries, given that tax management is an activity that by pure logic presents enormous scale economies. Hence, if the goal is to attain a tax administration that operates satisfactorily and that is capable of minimizing costs, for its own management, as well as for complying with taxpayers, one would have to clearly opt for the single tax administration alternative.

- However, there is another value that should be considered in the decision. It is the political autonomy of the sub-national governments, which, naturally, goes hand in hand with financial autonomy. In this sense, it is usually stated that he who can do more (decide and collect taxes) should also be able to do less (manage them) and, thus, he claims such power for himself, something that would lead us to a situation of multiple tax administrations, one for each autonomous government. This attempt may gain great strength in countries that are becoming decentralized (such as, precisely, the Spanish case, which we will analyze throughout this paper), because the decentralization process itself involves a struggle over jurisdiction between the central government and the sub-national governments. Therefore, it is easy that these latter governments, especially those of the new creation, will not agree with having their taxes managed by the central government's tax administration, because they understand that this form of operating limits their recently acquired autonomy.

Following Martínez-Vázquez and Timofeev[2], when the time comes to choose between a centralized and a decentralized model, one must bear in mind which of the two will better achieve the following objectives:

[2] *Choosing between Centralized and Decentralized Models for Tax Administration. Economy Department and International Studies Program, Andrew Young School of Policy Studies. Georgia State University.*

- be efficient and maximize tax collection,
- obtain the established collection with the lowest administrative costs possible,
- reduce taxpayers' compliance costs,
- render accounts to government level or levels to which tax collection is being made.

These authors maintain that it is difficult for a model to comply with all four objectives at the same time, better than the other, because the normal thing to happen is for centralized models to comply with some objectives and for decentralized models with others. Thus, the final selection will depend on how said objectives are pondered.

They also point to, as aspect to be considered, the possible interest of decentralized tax administrations to control the appointment of its directors and the problems that derive from the proximity of taxpayers in the decentralized models, although they say that there is no evidence that allows to affirm that the risk of corruption in these models is higher than in the existing centralized models.

In reality, however, it seems that the degree of tax decentralization of a country usually follows reasons that are basically historic, foreign, in general, to considerations of a financial type, although it is no less true that social demands have an influence on the history of a country, including those that demand greater efficiency on the part of the administration.

What can be seen is that, in most cases, a country's financial-tax model is direct consequence of its territorial organization. Notwithstanding, in many countries with a high level of decentralization and tax autonomy, taxes are managed by the central administration. This is what happens in the Nordic countries (Sweden, Finland, Denmark, Norway, and Iceland) and in Belgium, where the participation in tax collection of the sub-national level is among the highest in the world.

It can also be maintained that the level of desired decentralization varies based on the tax. In this sense, Rubinfield has already argued that externalities of information, cost structures, and required training levels cause income taxes, VAT, the income from customs, taxes on natural resources, and social security contributions to be managed more efficiently by central tax administrations while property taxes, rates, and others can be better managed at a local level.

In addition, it can be confirmed that, in systems with tax administrations at different government levels, coordination is essential in matters such as the census, the identification of taxpayers, and the exchange of information.

In addition, it can be seen that for shared taxes the centralized administration is the norm and the decentralized administration is the exception.

The above-mentioned Martínez-Vázquez and Timofeev would advise a country that is considering a reform in its tax administration following a decentralized model, not to decentralize shared taxes between central and local governments or the sub-national taxes that are applied as surcharges over national taxes. However, they do consider that the sub-national tax administrations are more effective in managing taxes that are exclusively sub-national over those presenting advantages with regard to information and compliance at the local level. However, they explain that, even in this case, its administration could be attributed to the central treasury, but that would need to be accompanied by incentives contracts to guarantee that the central administrators would use the same zeal to collect central taxes as they do with the sub-national taxes.

What does seem clear is that, when the system works with multiple levels of tax administration, a high degree of dialogue and cooperation among them must be established. To avoid a lack of efforts and guarantee uniform treatment for all taxpayers, the national legislation can foresee the necessary conditions for an adequate coordination among the independent tax administrations. For example, the nation's Finance Ministry could provide complete and uniform training to sub-national tax agents, establish obligatory compliance with directives to inspect and offer information, compel sub-national tax administrations to use the same tax identification number for each taxpayer that the central tax administration uses, and implement the necessary mechanisms to periodically share information obtained in control actions carried out by the central tax administration, as well as by its sub-national counterparts. In turn, the central tax administration authorities should grant sub-national tax authorities access to the national databases to help in fraud control. This is one of the keys to guarantee effective tax compliance at the sub-national level. The various tax administration levels should establish collaboration protocols in order to share information, so that data can be exchanged and meetings could be held regularly to discuss problems and common solutions.

Meanwhile, José Víctor Sevilla, lists the following advantages for greater decentralization:

- It can reduce political tensions because it adjusts better to the existence of a decentralized territorial organization and turns leveling mechanisms among the various territories, a frequent source of disputes among them, into a matter of secondary importance.

- It fosters, among the managers of the various administrations, a greater degree of interest and responsibility because they become co-participants of the tax system and not just officials fulfilling a marked task at the central level.

- Prompts taxpayers to obtain a higher level of tax awareness because of the close relations between paid taxes and services rendered.

However, he also points to some of the drawbacks of decentralization:

- Introduces greater technical and management difficulties for the Tax Administration, due to the higher complexity of the system.

- Promotes the development of local attitudes, turning international cooperation in tax administration more difficult.

- If the information exchange system is not good, it makes the struggle against tax evasion more difficult.

2. THE SPANISH CASE: COEXISTENCE OF THREE TAX ADMINISTRATIONS

In the Spanish State there are three tax administration levels: one Central (STATE) and two decentralized (AUTONOMOUS COMMUNITIES AND LOCAL ENTITIES). As customary in decentralized states, the demarcation of the most important competencies occurs between the central and regional governments (autonomous communities).

According to the Spanish Constitution, the basic power to establish taxes rests exclusively in the hands of the State, through a law; although it is also indicated that the Autonomous Communities (hereinafter, CCAA for its acronym in Spanish) and the Local Entities (hereinafter, EELL for its acronym in Spanish) can also establish and demand taxes in accordance with the Constitution and the laws.

The CCAA are public entities with their own power, territory, and population, which appear as phenomena of the political-administrative decentralization, based on a distribution of competencies defined in the Constitution. There are seventeen, fifteen with a financial regime called “common” and two (the Basque Country and Navarra) with a specific financial regime, called “regional” (“foral”), to which we must add the Autonomous Cities of Ceuta and Melilla, which have a special status.

With regard to the CCAA, the Constitution:

- In the first place, it establishes the general principles of the system: financial autonomy, coordination, and solidarity. It also states that the CCAA can act as delegates or collaborators of the State for the collection, management, and payment of tax resources of it, in accordance with the laws and the Autonomy Statutes.

- The CCAA resources are listed below and its regulation is established within an Organic Law[3]. Said resources are:

  - Taxes ceded totally or partially by the State; surcharges on state taxes and other participations in the State's income.
  - Its own taxes, rates, and special contributions.
  - Transfers from an Inter-territorial Compensation Fund and other allotments, charging the State's General Budget.
  - Yields from its patrimony and income from private rights.
  - A result of credit operations.

It also indicates that the CCAA will not, in any case, adopt tax measures on goods located outside their territory or that are an obstacle for the free circulation of merchandise or services.

- It also establishes the instruments to guarantee the principle of solidarity (a guarantee at a minimum level in the rendering of basic public services throughout Spanish territory).

- Finally, it recognizes the special nature of the regional territories (Basque Country and Navarra), Canary Islands and Ceuta and Melilla.

The CCAA's participation in the overall Spanish public spending has amounted to approximately 50% in recent years. This expense decentralization process has been coupled with a parallel income decentralization process, which has become evident, on the one hand, in the transfers from the State to the CCAA and, on the other, in the creation of their own financial resources. However, the income decentralization process has not had the same intensity of the expense decentralization process (it barely surpasses 20% of the CCAA's common regime income budget that results from resources managed by them while the remaining 80% comes from taxes that were ceded by the State but managed by it or transfers from the State itself). This has caused various distortions and tensions in the model, with the CCAA's periodically claiming

[3] *The so-called Financing Organic Law of the CCAA (LOFCA for its acronym in Spanish), is currently being revised within the framework of the new financing system approved recently and which we will analyze immediately.*

greater financial autonomy. Thus, different common regime CCAA's financing systems have been emerging based on agreements on this matter adopted by the Fiscal and Financial Policy Council (Consejo de Política Fiscal y Financiera - CPFF)[4]. Up to this year, the current financing system has been the one approved by CPFF in 2001; in July of this year, the CPFF approved a **new financing system** (hereinafter referred to as the NSF for its acronym in Spanish).

Successive financing systems of the sub-national government levels designed in Spain have sought to attain two basic objectives:

- to enforce the constitutional principles of autonomy and financial self-sufficiency at the autonomous and local levels, and
- to make sure that the sub-national governments assume the responsibility shared with the States in order to enforce these principles.

If, similar to the way we approached the theoretical models of tax decentralization, we look at the three essential aspects of the tax configuration (regulating capacity, collection target, and tax management), we can affirm that in Spain there are the following tax types, based on common regime CCAA's:

<table>
<tr><th>TYPE</th><th>TAX</th><th>REGULATING CAPACITY</th><th>COLLECTION</th><th>MANAGEMENT COMPETENCY</th></tr>
<tr><td rowspan="4">Pure State</td><td>Income from Corporations</td><td rowspan="4">STATE</td><td rowspan="4">STATE</td><td rowspan="4">STATE</td></tr>
<tr><td>Income from Non-residents</td></tr>
<tr><td>Customs income</td></tr>
<tr><td>Insurance premiums</td></tr>
<tr><td rowspan="3">State partially ceded</td><td>VAT</td><td rowspan="2">STATE</td><td rowspan="3">SHARED</td><td rowspan="3">STATE</td></tr>
<tr><td>Manufacture Special Taxes</td></tr>
<tr><td>Income Tax on Individuals</td><td>SHARED</td></tr>
<tr><td rowspan="8">State fully ceded</td><td>Electricity</td><td>STATE</td><td rowspan="8">CCAA</td><td>STATE</td></tr>
<tr><td>Patrimony*</td><td rowspan="7">SHARED</td><td>SHARED</td></tr>
<tr><td>Means of Transportation</td><td rowspan="2">CCAA**</td></tr>
<tr><td>Hydrocarbons retail sales</td></tr>
<tr><td>Successions and Donations</td><td rowspan="3">CCAA</td></tr>
<tr><td>Patrimonial Transfers</td></tr>
<tr><td>Gambling</td></tr>
<tr><td>Inherent of CCAA</td><td>Various***</td><td>CCAA</td><td>CCAA</td><td>CCAA</td></tr>
</table>

* Eliminated in practice since 2008.
** In practice, it is a state duty as it was not assumed by the CCAA.
*** Detailed in paragraph 2.2.1.2.

[4] *A State and CCAA agency that coordinates tax and financial matters and which will be analyzed in paragraph 2.4.1.*

As seen in the table above, state taxes include, “pure” state taxes, in which the State has regulating and management competencies, as well as 100% of the collection duty; the state “partially ceded” taxes are those in which the State maintains the competencies that were already mentioned (except for the Income Tax on Individuals, in which it shares a regulating competency), but shares, to a greater or lesser extent, as we will see later on, the collection; and the “fully ceded”, in which the State shares the regulating competency (except on the tax on electricity, in whose case the competency falls only on the state), the CCAAs have 100% of the collection and, with regard to management, practically all the options exist: state with full right (tax on electricity), the de facto state (because they were not assumed by the CCAAs, which have legal competency over taxes on the means of transportation and on hydrocarbon retail sales), shared (on the patrimony tax levied on individuals which was eliminated) and the CCAAs (taxes on successions and donations, on the transfer on patrimony, and on gambling).

We will proceed to analyze, in the first place, each of the political levels of the Spanish State with tax competencies (state, regional, and local), to elaborate in the coordination and collaboration mechanisms that exist among them.

2.1. COMPETENCIES OF THE NATIONAL TAX ADMINISTRATION

2.1.1. Tax It Manages

As seen in the previous section, the national tax administration manages a big share of the main State taxes; consequently, with regard to direct taxes, it manages taxes on the income of individuals, corporations (profits) and on the income of non-residents with or without permanent residence in Spanish territory.

With regard to indirect taxes, it manages the Value Added Tax, the special taxes on manufacturing (in other words, on specific consumption such as alcohol, tobacco, and hydrocarbons), the taxes imposed on foreign traffic (income from customs) and taxes on electricity and insurance premiums. Likewise, it shared with the CCAA the management of the tax on Sponsorship, however, although this tax has not been formally eliminated, in practice it is no longer in effect (its payment and the obligation to declare it were eliminated) since 2008.

2.1.2. Agency in Charge of the Administration: The National Tax Administration Agency

For the management of the tax system, the State has, since 1992, a specific, autonomous, and separate agency, apart from the General Administration of

the State: State Agency for Tax Administration (hereinafter referred to as AEAT). This same system exists in many other OECD member countries, such as Australia, Canada, the United States, Italy, Japan, Mexico, the United Kingdom, or Sweden.

The AEAT is a public body assigned to the Ministry of Economy and Finance through the State Secretariat for Treasury and Budget. On behalf of the State, it is responsible for the effective application of the state tax and customs system, as well as in charge of resources from other Administrations or public national or community entities whose management is tasked to it whether by Law or Agreement. It has no competency over the design of said systems and the income derived from the resources it manages is part of the Public Treasury.

The AEAT's main objective is to increase the level of taxpayers' voluntary compliance through two basic lines of action:

- assisting citizens in the compliance of their tax obligations, and
- applying actions to control and combat tax frauds.

Although AEAT is part of the Central Public Administration, it has its own legal status and certain autonomy with regard to budgetary matters and the personnel expenses. Its actions are inspired on the following values:

- Respect for the Constitution and the rest of the laws, as well as for the people,
- Professional responsibility, and
- Transparency in the information and actions.

The AEAT is headed by the State Secretary for Treasury and Budget and run by a General Director. Its structure comprises several Departments and Central Services, and territorial offices.

Within the Central sphere, the AEAT structure is made up of:

- 4 Departments of a functional nature: Management, Inspection, Customs and Special Taxes, and Collection.
- 3 Departments of a horizontal nature and support for the above mentioned departments: Information Technology, Human Resources and Organization, and Planning and Institutional Relations.
- 3 internal support services: Legal, Internal Audit, and Economic Management.
- 1 Central Office for large taxpayers.

In the territorial sphere, the AEAT is made up of:

- 17 Special Offices, with a sphere that practically coincides with that of the respective Autonomous Communities.
- 51 offices, with a sphere that practically coincides with that of the provinces that make up each of the Autonomous Communities.
- 203 general administrations and 34 customs administrations, normally located in the main cities that are not province capitals.

2.2. COMPETENCIES OF THE AUTONOMOUS COMMUNITIES

As we have already mentioned, with regard to the CCAA financing, in Spain there are two models: the common regime, applicable to all CCAAs, except for the Basque Country and Navarra, and the regional regime (regimen floral), applicable to these two Communities. In turn, within the common regime, the Canary Islands Autonomous Community and the Autonomous Cities of Ceuta and Melilla have a peculiar economic and tax regime due to historic and geographic reasons. We proceed to analyze the tax regime of each of them.

2.2.1. Common Regime Autonomous Communities

2.2.1.1. Taxes ceded by the State

As we gave already seen, various state taxes can be ceded partially or totally to the common regime CCAAs. Below we list the collection percentage actually ceded and that, which will be imminently ceded, following the NSF agreed upon in the CPFF of July 2009, going into effect on this same year, 2009:

- Income Tax of Individuals (Impuesto sobre la Renta de las Personas Físicas - IRPF): 33%, which will go up to 50%.
- Value Added Tax (VAT): 35%, which will become 50%.
- Special Manufacturing Taxes (Impuestos Especiales - IIEE: alcohol, tobacco, and hydrocarbons): 40%, which will become 58%.
- Tax on Electricity (Impuesto sobre la Electricidad - IE): 100%.
- Tax on Patrimony (Impuesto sobre el Patrimonio - IP): 100%, although, as we mentioned, this Tax has disappeared in practice.
- Special Tax on Certain Means of Transportation (Impuesto Especial sobre Determinados Medios de Transporte - IEDMT): 100%.
- Tax on Retail Sales of Certain Hydrocarbons (Impuesto sobre Ventas Minoristas de Determinados Hidrocarburos - IVMDH): 100% (subject to the financing of sanitary expenses).
- Tax on Successions and Donations (Impuesto sobre Sucesiones y Donaciones -- ISD): 100%.

- Tax on Patrimonial Transfers (Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados -- ITP): 100%.
- Taxes on Gambling (Tributos sobre el Juego -- TJ): 100%.

We now proceed to review, in a summarized way, the regulating competencies that the CCAA's have over taxes that are ceded[5]:

- In the IRPF, the CCAA's can regulate the autonomic rate (33% of the total, which will go up to 50%), that will have to be progressive and with the same number of categories as in the state rate (in the NSF the second requirement is eliminated). They can establish withholdings for personal and family circumstances, for investments that are not of a business nature, and for the application of the income, as long as they do not imply a decrease in the tax in effect on one or several categories of the income. They can establish increases or decreases in withholding percentages for home investment applicable to the autonomic category, with a maximum limit of 50% of the variation (a limit that disappears in the NSF, which also establishes the possibility to regulate withholdings for non-exempt subsidies and public assistance received from the Autonomous Community, with some specific exceptions); and also, in the NSF they are granted the power to increase or decrease the minimum personal and family amount that is not subject to taxes, applicable for the calculation of the autonomic tax, with a limit of 10%.
- In the IP, the CCAA's could regulate the minimum exemption; the type of tax; and establish withholdings and bonuses of the quota, which were, in any case, compatible with those established by the State and that could not entail a modification of the same.
- In the IEDMT, the CCAA's can increase the types of state taxes by 15% max.
- In the IVMDH, state and autonomic taxes are established, with the various CCAA's having the power to set them within the limits of the Law[6].

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[5] *As we have already seen, they do not have them for the VAT, the IIEE, and the IE; but, the NSF urges the Government to seek formulas (compatible with community regulations) so that the CCAA's can assume competencies with regard to taxes for the VAT in the retail phase with final consumers as the exclusive destination.*

[6] *With regard to this tax, it must be borne in mind that the European Commission issued a reasoned opinion in May 2008, concluding that the IVMDH fails to comply with community law. Spain and the European Commission are currently engaged in negotiations so that within certain limits, there can be territorial differences in the harmonized tax on hydrocarbons (IH, one of the IIEE). For this, it is necessary to expressly activate Directive 2003/96/CE, whose modification is being processed in the Commission at the present time. Once the Directive is modified in the sense that was indicated, it is foreseen that the IVMDH will be abolished and the IH will be modified to allow the CCAA's to add a supplement on the type established at the state level for certain products.*

- In the ISD, the CCAA's have the power to establish reductions in the taxable base; regulate the rate; establish the amount and the pre-existing patrimonial coefficients, without any limitation; and establish withholdings and quota bonuses, respecting withholdings for international double taxation. In addition, they have certain regulating competencies in the area of management and liquidation.
- In the ITP, the CCAA's have the power to establish the type of tax (with some exceptions due to the Community's tax harmonization), as well as the withholdings and the bonuses in those matters in which they have regulating capacity on the types of taxes, which would be, in any case, compatible with those established by the State and many not imply a modification of the same. They can also regulate management and liquidation aspects.
- In the TJs, the CCAAs have competencies to regulate exemptions, the taxable base, the types of taxes, the fixed quotas, the bonuses, and the amount due, as well as management, liquidation, collection, and inspection aspects.

In addition, the CCAA's have certain management competencies with regard to the taxes that have been ceded. Therefore, it is their responsibility, delegated by the State, to manage, liquidate, inspect, collect, and review the actions dictated in the processing of said taxes; except in the case of the IRPF, the VAT, and the IIEE, in other words, in the case of taxes partially ceded, whose management fully rests in the hands of the State[7].

Finally, it is advisable to highlight that general limits are established for the CCAA's regulating capacity. In this sense, they cannot adopt measures that discriminate against the location of the goods, the origin of the income, the expense, the rendering of services or the type of business, acts or deeds submitted for taxation. They will also have to maintain an overall effective fiscal pressure equivalent to that applied in the rest of the national territory.

2.2.1.2. The CCAA's own taxes

As mentioned before, the CCAAs can establish and demand their own taxes, as long as they are not applied to taxable actions taxed by the State or by the EELL. In addition, and with regard to any taxes they establish, the LOFCA demands respect for the following principles:

- There can be no taxes imposed on patrimonial elements located outside the territory of the respective Autonomous Community or yields that originated or expenses incurred outside of it.

[7] *As we have already seen, they have not assumed management competencies that they have in the IEDMT and the IVMDH.*

- Business transactions, actions, or deeds celebrated or carried out outside the Autonomous Community or the transfer of goods, rights, and obligations that were not originated or carried out in said territory cannot be taxed, neither can the individual carrying them out if he does not reside in said community.
- They cannot be an obstacle for the free circulation of people, merchandise, and services or capitals, or effectively affect the establishment of residence of individuals or the location of enterprises and capitals inside Spanish territory, or involve cargo that can be transferred to other Communities.

The management, liquidation, collection, and inspection of its own taxes (application of taxes and the NSF's punishing power) are responsibilities of the CCAA's, without detriment to any collaboration that may be established with the National Tax Administration, especially when it is so demanded by the nature of the tax.

Within this legal framework, the CCAA's legal production is basically focused on the following type of taxes:

- Environmental (dangerous installations, dangerous waste, gas emissions, spills, wastewaters, uses of dammed water, fuel, cable transportation, and vast areas),
- Social (infra-utilized land, empty land, buildings in ruins, gambling, civil protection, hunting, bank deposits), and
- Surcharge on local taxes (Tax on Economic Activities).

2.2.1.3. Canary Islands

As we have already mentioned, within the common financing regime of the CCAA's, the Canary Islands Autonomous Community has, because of historic and geographic reasons, a special economic-tax regime, constitutionally recognized, based on commercial freedom to import and export, on the non-application of monopolies, and on a duty-free status on consumption, which has been recognized, respecting its peculiarities, as an ultra peripheral region within the European Union.

In the area of direct taxation, the VAT, the IVMDH and some IIEE (specifically, the Special Tax on Hydrocarbons and the Special Tax on Tobacco Activities) are not applied in the Canary Islands Autonomous Community. In their place, the Canary Island General Indirect Tax is applied, as well as the duty on Imports and Delivery of Merchandise on the Canary Islands.

2.2.1.4. Ceuta and Melilla

The cities of Ceuta and Melilla, without ceasing to be EELL, have their respective Autonomy Statutes approved by Organic Laws, similar to those of the CCAAs. Therefore, they participate in the autonomic financing regime, in line with their Autonomy Statutes, as well as in the EELL financing regime, as established in the law that regulates Local Treasuries.

With regard to direct taxation, the geographic location of Ceuta and Melilla justifies the existence of a special tax regime whose most remarkable aspect is a 50% bonus of quota corresponding to the yields generated in these cities.

As to indirect taxation, the VAT is not applied, demanding, in its place, a Tax on Production, Services and Imports (Impuesto sobre la Producción, los Servicios y la Importación - IPSI); and, with regard to the IIEE, they only demand the IEDMT and the IE, applying, however, a complementary tax to the IPSI, on tobacco activities and on petrol and fuel.

2.2.2. Regional Regimes

The first additional provision of the Spanish Constitution establishes respect for the historical rights of regional territories (CCAA of the Basque Country and Navarra) within the framework of the Constitution itself and the Autonomy Statutes. These Statutes establish that the tax and financial relations between the regional territories and the State will come regulated by the Concerted System (Basque Country) or Agreement (Navarra). The Concerted System with the Basque Country was renewed in 2002 and the Agreement with Navarra in 2003.

In the regional regime, the financing system is characterized because regional territories have the power to maintain, establish, and regulate their own tax regime. This implies that the levying, management, liquidation, collection, and inspection of most state taxes[8] are competencies of the Regional Governments of the Basque Country and the Navarra Regional Community. Thus, the collection of these taxes remains in the hands of such territories, which contribute to the financing of the general responsibilities of the State not assumed through a quantity called “quota” (Basque Country) or "contribution" (Navarra).

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[8] *Except only for taxes on foreign trade (import duties and taxes on import in the IIEE and the VAT), which are under the competencies of the State.*

Notwithstanding, the legal, as well as the management competencies that must be attributed to the regional territories, must adjust to the following general harmonization criteria, which establishes the limits:

- Abide by the State's general tax structure.
- Adjust in terminology and concepts to the State's General Tax Law.
- Establish and maintain an effective global tax pressure that is no less than that which is applied to the rest of the State.
- Respect and guarantee freedom of circulation and establishment of the people, goods, capitals, and services throughout the Spanish territory.
- Use the same classification for economic activities as those used in the common territory to facilitate the exchange of information.

In this system, the rules of point of connection with settlement gain special importance. They establish the limits of competencies between the State and the regional territories for each of the taxes agreed upon. This is a matter that is the reason for frequent conflicts between the two tax authorities. To resolve these conflicts, as a first instance, there are Arbitration Boards in each of the CCAAs. These boards are made up of independent experts whose prestige is well known.

2.3. COMPETENCIES OF THE LOCAL ENTITIES

2.3.1. Taxes of the Local Entities

As we have already indicated, according to the Spanish Constitution, the EELLs (basically, the Municipalities and the Provinces) can establish and demand taxes in accordance with the Constitution and the laws. Likewise, it states that local treasuries must have sufficient means to fulfill the duties that the law establishes for the respective entities and that they will basically draw funds from their own taxes and from their share in those of the State and the CCAA's.

In addition and based on the Law that Regulates Local Treasuries (Ley Reguladora de las Haciendas Locales -- LRHL), any taxes established by the EELLs must respect, in any case, a series of basic principles almost identical to those mentioned in paragraph 2.2.1.2. for the CCAAs.

Having looked at the general framework, we then go on to detail the taxes that correspond to the towns or municipalities in Spain.

[8] *Se exceptúan únicamente los tributos sobre el tráfico exterior (derechos de importación y gravámenes a la importación en los IIEE y en el IVA), que son de competencia estatal.*

2.3.1.1. Taxes

According to the LRHL, the taxes of obligatory exaction by the Municipalities (Towns) are the Property Tax (that taxes its entitlement), the Tax on Economic Activities (that taxes the activity) and the Tax on Vehicles with Mechanical Traction (that taxes its entitlement).

In addition, the Towns may establish and facultatively demand a Tax on Constructions, Installations, and Works (that taxes its execution) and the Tax on Capital Gains in Urban Areas (that taxes the increase in value that becomes evident when such land is transferred).

Finally, the Towns are allowed to continue demanding the Municipal Tax on Luxury Expenses, exclusively in the modality that taxes the use of private hunting and fishing preserves.

For the Provinces (County Councils) the possibility to demand their own taxes is not contemplated, but they can regulate a 40% surcharge, as a maximum, in the Tax on Economic Activities.

2.3.1.2. Fees

Also based on the LRHL, the Municipalities and the Provinces can establish and demand fees to render services or carry out activities that are within their competencies, and for the exclusive or special use of public property.

2.3.1.3. Special Contributions

Finally, the EELLs can establish and demand special contributions to carry out projects or establish or expand municipal services.

In addition, to abide by the constitutional principle of local autonomy, the EELLs are granted specific legal powers in the area of local taxation, giving rise to what is known as “municipal tax co-responsibility,” which means, in general terms, the establishment of tax types (within the margins that the State law allows) and the power to include bonuses in the taxes for various reasons (social, environmental, etc.)

2.3.2. Shared Management of the (IBI) Real Estate Tax and the (IAE) Tax on Economic Activities

The Tax on Real Estate and the Tax on Economic Activities share a series of common characteristics because they are taxes of shared management between the State Administration and the local entities. Thus, the

management of said taxes is carried out based on the corresponding census or registration conducted by the State Administration.

2.4. COLLABORATION AGENCIES AND INSTRUMENTS

Given that, in Spain, tax competencies are distributed among the three Government levels that were already discussed (the State, the CCAAs, and the EELLs), it is essential to establish a series of agencies or instruments for collaboration among them. We proceed to analyze them below.

2.4.1. State-Autonomous Communities.

2.4.1.1. Fiscal and Financial Policy Council

The already mentioned CPFF, originally created as a consultative and deliberating body, is now an agency for coordination between the State and the Autonomous Communities in tax and financial matters. Its duties include, among others: coordination of the Autonomous Communities' budget policy with that of the State, study and assessment of the criteria for the distribution of resources from the Territorial Compensation Fund, coordination of the indebtedness policy, coordination of the public investment policy, and, in general, any aspect of the CCAA's financial activity and State Treasury, which, given its nature, requires of a coordinated action.

2.4.1.2. Superior Management Council of the National Tax Administration Agency (AEAT)

It acts as the advisory agency for the AEAT President and as an agency that includes the participation of the Autonomous Communities.

It is chaired by the AEAT President and made up of the following members: the AEAT General Director, who is the first Vice President; the General Secretary for Territorial and Community Tax Policy, the Treasury Assistant Secretary, the AEAT's Department and Services Directors, one of whom acts as the Secretary, the Tax General Director, and six representatives from the CCAAs and the Cities with Autonomy Statute, one of whom is the second Vice President, appointed each year by the Fiscal and Financial Policy Council.

Its duties, among others, include report on the AEAT's Objectives Plan (especially the Autonomic General Plan), report on the guidelines for the AEAT's Tax Control Plan, remain informed about the results of the previous year's Objectives Plan, propose strategic guidelines to the Joint Coordinating

Tax Management Commission, and serve in an advisory capacity to the President on various issues, etc.

2.4.1.3. Joint Coordinating Tax Management Commission

It is a collegiate body for the participation of Autonomous Communities and the Cities with Autonomy Statute in the AEAT.

The Joint Commission falls directly under the AEAT President, who presides over it and it is made up of the AEAT Director, who is the Vice President, seven AEAT representatives and a representative from each of the CCAAs and the Cities with Autonomy Statute. It has a Permanent Technical Secretariat, run by an AEAT official.

Its duties include establishing coordination criteria for tax management between the CCAAs and the AEAT, drafting general harmonization criteria for policies that regulate the area of ceded taxes, evaluating the results of managing the same and the actions of the Territorial Leadership Councils for Tax Management, designing the general management policy for ceded taxes that are managed by the AEAT, and establishing guidelines for their application, issuing reports requested by the Arbitration Board, coordinating evaluation criteria for tax matters, drafting studies on the regulation and application of ceded taxes, etc.

2.4.1.4. Territorial Leadership Tax Management Councils

These are organizations of Autonomous Communities' participation within the AEAT's territorial structure, thus, there is one in each Autonomous Community. They are made up of four AEAT representatives and three from the respective Autonomous Community or City with Autonomy Statute and are headed by a Special AEAT Delegate in the Autonomous Community or the AEAT Delegate in the Autonomous City.

The roles of the Councils, among others, include the adoption of agreements in the sphere of information exchange between the state and autonomous communities' administrations, the coordination and collaboration in the tax management of taxes ceded but managed by the AEAT, the design and planning of the implementation of coordinated actions in specific control programs, the coordination for the IRPF campaign, etc.

2.4.1.5. Arbitration Boards

The Arbitration Board is a collegiate body for the deliberation and resolution of conflicts that occur between he National Tax Administration and one or several CCAAs or among themselves, as a consequence of the application of

the points of connection of the ceded taxes or the competencies with regard to management, liquidation, collection and inspections procedures of the ceded taxes in accordance with applicable connection points.

The Arbitration Board is presided over by a jurist of known prestige appointed by the Ministry of Economy and Finance, proposed by the CPFF. It is made up of, in addition to the President, four representatives of the National Tax Administration (one of these representatives acts as the secretary) and four representatives of each Autonomous Community in the conflict.

2.4.1.6. Cooperation Agreements

There are a series of cooperation agreements between the AEAT and the Autonomous Communities whose objective is to attain a more effective tax management.

2.4.2. State-Local Entities

The following collaboration procedures are foreseen in order to solve the various conflicts caused by the duality of competencies with regard to local taxes:

- Exchange of information.
- Municipal communications procedures.
- Rectification of passive subjects in the event of a discrepancy with the property owner.
- Municipal report prior to the approval of property values.
- Joint inspection actions.
- Cooperation agreements.

The National Local Administration Commission and the Joint Commission for Coordination and Follow up Procedures established in the cooperation agreement on the exchange of tax information and collaboration in tax management signed between the AEAT and the EELLs must also be highlighted.

2.5. CONCLUSION ON THE SPANISH SYSTEM

Within the theoretical tax decentralization models that we analyzed in section 1, we can consider that in Spain (if we set aside the special nature of the Basque Country and Navarra) there is a mixed model because it contains characteristics of the Centralist as well as of the Decentralized models, in its two modalities (mid-sized and ample).

Thus, the legal competency, for the main taxes, is basically of the state or at the most, a shared competency; collection is mostly (and increasingly so)

decentralized with vertical and non-conditioned compensation mechanisms; and the tax management of the main taxes again returns to the state, although in some tax concepts of lesser collection importance it is decentralized and there even is evidence (the former IP) that it has been shared.

3. THE SPANISH EXPERIENCE: CURRENT SITUATION

The current collaboration system between the AEAT and the CCAA's Tax Administration, operating through the various CCAA participation entities we have already discussed[9], has been, without a doubt, a positive step compared to the situation prior to 2001; but there is room for improvement, which should occur with the configuration of the NSF, a system recently approved, as a logical consequence of the approval to reform the various Autonomy Statutes of the common regime CCAA's[10].

These participation entities have become agile and effective channels to inform the CCAAs about the planning and implementation of the AEAT objectives but without them actively participating in the decision-making process of the national tax administration.

Therefore, it is considered that the correct implementation of the overall tax system demands greater collaboration and presence from the CCAAs in decision-making for tax management, especially in the wake of the NSF, with which the CCAA obtain very important collection percentages in the two main state taxes (50% in the IRPF and VAT, and 58% in the IIEEs), consequently its legitimate interest in said management is quite justified.

Undoubtedly, this demand for improvement in CCAA collaboration and presence must affect all of them, regardless of whether they have reformed their Statute (the 6 that were mentioned), or whether they are planning to do it in the near future (Castilla-La Mancha and Extremadura) or even in those where it is not even been considered.

In this sense, the CCAAs have been adopting a series of measures to reinforce their participation in tax management, which include the creation, in their tax administrations of agencies or autonomous entities similar to the AEAT to manage taxes or include in their Statutes, mechanisms for collaboration with the National Tax Administration like the consortiums or equivalent entities or the single tax window.

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[9] *Superior Management Council, Joint Coordinating Commission, Territorial Leadership Tax Management Councils, analyzed in paragraph 2.4.1.*

[10] *The so-called "Second Generation Statutes", recently approved, so far in the communities of Andalucía, Aragón, Baleares, Castilla y León, Catalonia and Valencia*

In sum, the current situation of the CCAAs with regard to the fundamental aspects of collaboration among the tax administrations is as follows:

AUTONOMOUS COMMUNITY	STATUTE REFORM	CONSORTIUM OR EQUIVALENT	SINGLE WINDOW	TAX AGENCY
ANDALUCIA	YES	YES	NO	YES
ARAGON	YES	YES	NO	YES
I. BALEARES	YES	NO	YES	YES
C. LEON	YES	NO	NO	YES
C. LA MANCHA	(1)	YES	NO	YES
CATALONIA	YES	YES	YES	YES
VALENCIA	YES	NO	NO	(3)
ASTURIAS	NO	NO	NO	(4)
CANARIAS	NO	NO	NO	NO
CANTABRIA	NO	NO	NO	YES
EXTREMADURA	(2)	NO	NO	NO
GALICIA	NO	NO	NO	NO
MADRID	NO	NO	NO	NO
MURCIA	NO	NO	NO	(5)
LA RIOJA	NO	NO	NO	NO

(1) In advanced stage. The scope of the reform project is outlined.
(2) In initial stage. The current situation is described.
(3) Referred to the already existing Valencia Tax Service.
(4) There is a Public Entity of Tax Services, with certain autonomy.
(5) There is a Regional Tax Collection Agency, for the collection of taxes managed by the Autonomous Community.

As can be seen in the table above, the situation is not the same in the CCAAs that have modified (or that are soon to modify) their Statute. Therefore, among them, there is a practical coincidence in the creation of Tax Agencies or similar organizations, with certain autonomy with regard to the Community's General Administration, just as, as we have seen, it occurs with the AEAT and the General Administration of the State[11]. The same does not happen with regard to a preview of Consortiums or equivalent entities for collaboration with the National Tax Administration, because in three of them (Baleares, Castilla and Leon, and Valencia) it is not contemplated. Much less with the planning of a single tax window, which is only covered in the States of Baleares and Catalonia, although it is an issue of a rather operational nature, which can be included, without any problems, in the common administrative legislation. Finally, highlight that a Community (Cantabria) has created its own Tax Agency (which has already started operations) without having modified its Autonomy Statute.

[11] *The Baleares and Catalonia Agencies, as well as the Valencia Tax Service, which had been operating previously, are the only ones currently working in an effective manner.*

In view of this situation, the main challenge for the State is to channel the CCAA's legitimate aspiration with regard to a topic (participation in tax management) that affects their budgets so much, and, consequently, their own survival as public entities that render a service to their citizens, but preserving, at the same time, the effectiveness and efficiency that the National Tax Administration has proven so far in said management, in two aspects:

- the struggle against tax fraud, and
- the assistance to citizens in the compliance of their tax obligations.

We devote the following section of this paper to the way in which this challenge must be faced.

4. THE SPANISH EXPERIENCE: FUTURE OUTLOOK

4.1. NEW MODEL OF COLLABORATION

In the wake of the approval of the so-called "Second Generation Statutes", as well as with regard to the recently approved NSF, and in an effort to improve weak points found in the collaboration that is currently in effect, at the same time reinforcing the unquestionable advantages they have, it is foreseen to enhance the existing instruments of collaboration on the one hand, and, on the other, to develop consortiums or equivalent entities and other formulas of collaboration established in some of the Statutes for that same purpose. This is what the new model of collaboration between the central and autonomic tax administrations will be like.

4.1.1. Empowerment of Collaborative Organizations

In the first place, it is foreseen to enhance the current Superior Management Council through the incorporation of the representation of all CCAAs[12], as well as the roles that currently correspond to the Mixed Coordinating Commission for Tax Management. The new collegiate body (which would be called something like Superior Council for Tax Management and Coordination) is to gather all the duties attributed to the two organizations that it replaces. More clarity and greater effectiveness in its operation would be accomplished with this. At the same time, the CCAA's would have a more intense and effective presence as a result of the concentration of their participation through a single path, instead of the current dispersion into two different organizations.

[12] *Actually, as we already saw in paragraph 2.4.1.2., there are only 6 CCAAs having full rights to be represented, although, in practice, all of them attend.*

In the second place, it is foreseen that the roles attributed to the new resulting organization would deal with state taxes that were ceded but that are managed by the AEAT, as well as those managed by the autonomic tax administrations[13]. The goal is to expand the scope of co-responsibility in the management of these taxes and attain a higher level of coordination in the management of the entire tax system. This objective expansion of the sphere of action of this collegiate body would result in a better reciprocal knowledge of the management activities of both tax administrations and a greater effectiveness in that effort. In the same sense, the current duties of the Territorial Leadership Councils for Tax Management would be modified in the same sense.

Finally, and given that the new organizations would be configured as entities to coordinate all the taxes that were ceded, those managed by the AEAT, as well as those by the CCAA's, it makes no sense to configure them as mere entities of CCAA participation in the AEAT, as is the case right now, because, in any case, they would be agencies of "reciprocal participation" (of the CCAA in the AEAT and vice versa), in other words, of "coordination," which is the new configuration planned for them.

4.1.2. Development of Consortia or Equivalent Entities

Consortiums or equivalent entities must be instruments to increase the CCAA's tax co-responsibility, as well as the collaboration among tax administrations to improve the effectiveness and efficiency of the current tax management system.

In addition to the Consortium, other instruments of collaboration included in some Autonomy Statutes are the following:

- Participation in national tax entities or organizations responsible for the application of state taxes that could be reinforced to make them more effective, just as discussed in the previous paragraph.
- Mechanisms to file and receive tax returns and documentation containing important fiscal information (single tax window).

To correctly understand the development possibilities of that which is included in the Statutes one must first analyze the legal framework of Spain's autonomic financing, to then value, from another perspective, the principles of effectiveness, efficiency, and opportunity of the characteristics that must make up the new management model of the tax system and its adjustment to the Consortium figure.

[13] *At present, the roles of the Superior Management Council, as well as those of the Mixed Commission, are focused on the taxes that are ceded but managed by the AEAT.*

4.1.2.1. The model's legal framework

Generally, the new Autonomy Statutes establish that the management, collection, liquidation, and inspection of national taxes partially ceded to the CCAA's is a responsibility that corresponds to the National Tax Administration Agency (AEAT), without detriment to the delegation that the CCAA's receive from the AEAT and the collaboration that may be established when the nature of the tax so demands it. Additionally the Statutes indicate that to develop this aspect a Consortium or equivalent entity will be created.[14] The AEAT and the tax administration of the Autonomous Community will participate jointly.

The characteristics of these Consortiums or equivalent entities must be drawn from the Constitution, the Autonomy Statutes, and the law that regulates the financing system for the Autonomous Communities (LOFCA and the development laws), because the Spanish legal system does not include a specific regulation for them.

Well then, once the current legal framework and the system that predictably derives from the NSF are carefully analyzed, we can conclude that management competencies cannot be assigned to consortiums or equivalent entities contemplated in the new Autonomy Statutes. The development of this possibility would necessarily required, in this same sense, of several state laws, including the LOFCA, its regulation for development, the General Tax Law, and the law that regulates the AEAT.

In the assumption that, without modifying the current regulation, the consortiums were to assume the competencies that entailed administrative management actions as a third administration different from that of the state and the autonomous communities, said actions would be held invalid, introducing an element of insecurity that the system cannot be assumed by either of the administrations.

4.1.2.2. Technical, economic, and opportunity considerations

Once the Spanish legal framework has been established, including the figures of the consortiums and the equivalent entities, its characteristics must be analyzed introducing the parameters of effectiveness, efficiency, and opportunity.

From the perspective of economic analysis and in light of the international experience that is compared, we consider that any fragmentation of the tax management system must be avoided. An increase in costs for the

[14] *In some cases a specific time period is established for its creation but not in other cases.*

Administration and for taxpayers who meet their tax obligations, advises against it. It would also go against the objective of rendering a better service to citizens and would result in a loss in the competitiveness of the economy because it would discourage investments. Likewise, it would mean that new obstacles to the already complex struggle against fraud would appear, a struggle that is increasingly global in nature and which profits, without a doubt, from a compartmented tax management system, especially in the case of shared taxes. Likewise, the centralized management of shared taxes guarantees the implementation of procedures and models uniformly throughout the country and also an integrated information system, at the national level, that no other cooperation and collaboration mechanism can replace, guaranteeing the integrity of the information system without any risks of breaches caused by the heterogeneity in the date offered by the taxpayers.

For these reasons, it is an increasingly widespread trend in federal models for sub-national administrations to delegate management duties of their own taxes to the central administration.

In addition, one must bear in mind the necessary correlation between the management of various taxes and the nature and characteristics of the different taxable actions. To do this, one must take into account the possibilities to assign specific territories. For example, with regard to the same taxpayer, if the taxable action of a duty can be generated in territories of several Autonomous Communities, the management of such tax cannot be broken down because it is a tax concept that cannot involve the assignment of territories because it would go against the way in which the taxable economic activities are produced, as well as against market unity.

Spain's state taxes, those that are partially ceded as well as those that are not, have a technical structure and design aimed at an overall tax management carried out by an administrative agency with jurisdiction in the entire national territory. Therefore, the fragmentation of the management of said taxes in different administrative agencies at the sub-national level, as the consortiums would be, raises serious technical obstacles whose solution includes skillfully "dividing" the taxes through the establishment of complex connection points systems that determine which territorial tax administration has the jurisdiction in each case. This "division" would generate, as has been mentioned, important drawbacks for tax management and for the economic activity in general terms and would result in enormous burdens for taxpayers to fulfill their tax obligations[15].

[15] *Thus, for example, if a large corporation with offices throughout the national territory, filing 13 wage withholding tax returns on the IRPF account (12 monthly and one annual summary), had to file all the returns to the 17 common regime communities and Autonomous Cities, it would have to file 221 returns for each concept. Something similar would occur with withholdings on interests, dividends, etc., with additional problems for the withholders if they know the tax domicile of their clients.*

In addition, in the case of indirect taxes that are partially ceded (VAT and IIEE); there can be doubts about the possibilities to modify their regulation because their content and law are established by community directorates.

Consequently, a Consortium model is proposed for the directorate that, in addition to allowing for greater collaboration among the various tax administrations, would avert the fragmentation of the tax management system.

If we take into account that the sphere of action of the Consortium is limited to partially ceded state taxes, the Consortium, within the same, claims, for itself, assumptions in which the nature of the tax demands the formula of close collaboration among tax administrations.

We consider that the best tax to integrate the sphere of Consortium actions would be the IRPF, due to the following reasons:

1.) Viability to assign management territories based on applicable connection points (the taxpayer's place of residence)[16].

2.) It is a basic tax of the Spanish tax system, with a very high collection burden, and it is the most perceptible to the citizen.

3.) The legal competencies assigned to the CCAA's in this tax include, as we have seen the possibility to approve its own rate and the establishment and regulation of certain withholdings in the quota, which demands the planning of specific control actions. In addition, it is advisable to analyze jointly and systematically the risk areas in general, as well as the planning of actions to assist taxpayers.

4.1.2.3. Proposed Consortium Model

Based on juridical and technical consideration, it would be feasible to propose two theoretical Consortium models:

I. A Consortium with consultative duties.
II. A Consortium with directive duties, as a formula for participation and intensive collaboration among the tax administrations but without direct management competencies.

[16] *However, in indirect taxation the connection points contemplated in the law produce a gap between the territory, where the taxable actions are generated and thus the quotas, and the territory to which the ceded resources finally belong.*

The second of these models offers a sphere of participation, collaboration, and coordination that is extraordinarily broader, which can improve the co-responsibility of the Autonomous Communities in the IRPF and its visibility to the citizens, thus it seems better to opt for this model.

In this model, the Consortium would become a formula of collaboration between the state and the autonomic tax administrations, as a joint decision-making organization. Thus the National Tax Administration would continue to exercise its competencies within the sphere of the IRPF application under the supervision of a Consortium with leadership roles. One must bear in mind that to collaborate means cooperation among various actors (the tax administrations) and is not meant to be the replacement of these administrations with another entity (the Consortium).
We view this solution as suitable for the following reasons:

- To create a third public Administration, different from the state and autonomic tax administrations, would be a solution that the taxpayers would find hard to understand and would be contrary to simplification objectives.
- From the standpoint of the struggle against fraud, it is difficult to find an advantage that makes up for the greater difficulty to reconcile the actions of so many actors and an increase in the needs for coordination among them. It must not be forgotten that the organization's weaknesses translate into opportunities to commit fraud and allow for impunity.
- The creation of a new bureaucratic structure would result in higher costs, which, in the end would have to be supported by the taxpayers.

Another aspect that must not be ignored is the complexity involved in the management of a modern tax system and the inherent need to make sure that it is applied by a consolidated tax Administration that has experienced personnel in the management of complex and massive taxes and that is equipped with a powerful computer system.

Based on the arguments so stated, the only solution that seems reasonable is the creation of a Consortium with full competencies for the direction, planning and coordination of duties such as tax management, liquidation, inspection, and collection. These competencies would be completely different and broader than those that correspond to existing organs of participation. In addition, we would have to add the rendering of full and shared information and assistance services, with personal and material means jointly granted by the two administrations but with a single image for taxpayers.

The duties currently in AEAT hands and susceptible of being integrated into a new mechanism of collaboration (Consortium) within a short term, could include, for example:

- joint planning of the IRPF campaign (an annual tax return filing campaign, sending drafts, assistance programs, advertising, etc.),
- co-participation in decisions for preferential verification,
- participation in the decisions on control plans.
- promotion of a new corporate image with a view to improving the visualization of a tax co-responsibility,
- Supervision and configuration of a common census in both tax administrations,
- Direct access to information of common interest of the Consortium (common information system).

A collegiate leadership body is a flexible organizational model, favorable for an agile and operational mission, with the additional advantage of having modest costs, thus constituting an effective and efficient model to fulfill its mission. Given the nature of its duties, the AEAT central agencies and the Tax Administration of the corresponding Autonomous Community (Autonomic Tax Agency, in its case) would be represented, without affecting specific collaboration paths that, under the Consortiums' supervision, can be implemented through the AEAT's territorial offices in the CCAAs.

In addition to the purely leadership functions, the Consortium could become a path for the development of that which is prescribed in some of the Autonomy Statutes (the cases of Andalucía and Catalonia), with regard to the participation of the Autonomous Community in the appointment of the AEAT directors, so that it can be heard in the appointment of AEAT territorial delegates, in the territorial sphere of the Community.

4.2. ADVANTAGES OF THE PROPOSED MODEL: TAX CO-RESPONSIBILITY AND VISIBILITY

The proposed Consortium model with directive functions (in which the AEAT would continue to carry out the integrated management of state taxes that are partially ceded and those that are not ceded), presents a series of substantial advantages:

1.) It establishes a qualitative jump in the cooperation among tax administrations, in line with the objective of increasing tax co-responsibility which so inspires the regulation contained in the new Autonomy Status, as well as the new financing system recently approved, because it implies the joint participation with the State in the decision making process with regard to IRPF management.

2.) It is easier for citizens to visualize it. It stems from its advisability for the goals sought with the creation of the Consortium to offer a "joint image"

of both administrations: the Consortium's name, symbol, and logo must be shown in the relations with the citizens.

3.) It meticulously respects the general principles that must rule a tax management system that improves effectiveness and efficiency because it avoids problems that stem from the territorial fragmentation of management by preserving purely managerial functions or functions for the execution of a single tax administration, the AEAT, avoiding putting the AEAT progress at risk, in the management of the tax system, which can be hardly preserved with a fragmented management system.

4.) It does not introduce distortions in the decisions of the economic agents because it does not carry additional burdens for taxpayers.

5.) It fully respects the current legal framework and, consequently, can be implemented without having to modify the same.

6) It is a model that can be easily spread to all Autonomous Communities, allowing for coordination to establish homogenous criteria throughout the country, without affecting the peculiarities of each territory. To resolve the necessary design for multilateral coordination, a multilateral "ad hoc" agency (a sort of "Consortium of consortiums"), or conduct the coordination within the framework of one of the existing organizations for collaboration.

In sum, this model does not represent any legal risks. It can be implemented within a short term because it requires no legislative reform. It represents a substantial improvement over the current situation, increases the co-responsibility of the Autonomous Communities and the perception of the citizens, especially with regard to the implementation of the IRPF, while respecting the essential principles of the organization of tax management duties within the context of the effectiveness and efficiency attained. It does not represent an increase in costs to be supported by the taxpayers or the administrations.

Case study

Topic 1.3

TAX DECENTRALIZATION AND COORDINATION IN BRAZIL'S TAX ADMINISTRATION

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CONTENTS: 1. Introduction.-2. Tax decentralization in Brazil.- 2.1 Origin of the brazilian federation.- 2.2 Political-administrative organization.- 2.3 Legal framework.- 2.4 Inter-government relations.- 2.5 Brazil's revenues.- 3. Management strategies in the RFB environment.- 4. Mechanisms used for coordination among Tax Administrations.- 4.1 Institutional representation – Main fora.- 4.2 Examples of non-tax representation.-4.3 Inter-institutional projects.- 4.4. Cooperation mechanisms to control compliance with tax obligations.- 5. Final considerations

1. INTRODUCTION

Cooperation and integration among all three levels of the Brazilian tax administration have played a key and increasing role in the management policies that have been adopted or implemented at the Secretariat of the Federal Revenue in Brazil (RFB), particularly as they gained greater importance within the organization itself, starting in 2009.

The administration started by former Secretary Lina Maria Vieira on August 1, 2008, was innovative as she introduced the RFB Regulation, a significant change, aimed at seeking and guaranteeing a systematic articulation and permanent coordination between the national and sub-national levels, in this case among the Union, the states, and the municipalities. The Coordination for Cooperation and Tax Integration (Cocif) was created.

The new coordination became indispensable in view of the volume of lawsuits and actions required for the correct application of the national tax system, throughout the country. Historically, there had been a high level of distrust among federal entities, as a result of the tax war and a lack of institutional configuration responsible for the continued incentive of exploiting the administration's resources available in the Federation.

The systemic crisis in the international financial market also imposed a new tax reality the Central Government was not used to. All tax measures, in the face of the crisis in the 1990s, starting with Mexico and following with Asia, Russia, Argentina, and Brazil, clearly reacted with aliquot increases and a reduction in the terms for tax collection.

In the case of the crisis that started with Lehman Brothers Holdings Inc.'s bankruptcy on September 16, 2008, almost a year ago, what was seen in Brazil was just the opposite.

The government responded with exemptions in the extension of deadlines to meet tax obligations. In view of the situation, there was no more space to change the aliquots and the current legislation to gain in tax collection.

Such reality demanded a better response from the tax administration and imposed a new agenda, especially in terms of an improvement in the administration, which was somewhat detached from previous centers of political decision. It is worth mentioning that the agenda for cooperation and integration with other federal entities gained relevance, with an increase in the exchange of information, the triggering of joint operations, the acceptance that the national tax system could no longer be managed in a fragmented and dispersed way, without a strategy aimed at obtaining maximum synergy and efficiency of the resources invested severally.

Consequently, just as cooperation is essential to meet the demands from society, it is also a source that creates new needs and demands that must be satisfied and met.

In this document, the characteristics of the Brazilian tax decentralization and the general guidelines for the management strategy adopted by the RFB in its role to promote cooperation and integration of Tax Administrations will be described.

The institutional maturity reached by Brazilian Tax Administrations must be highlighted as it translates into a series of joint initiatives. Also to be shown are some indicators of results obtained or expected with regard to existing actions of cooperation. Final considerations on the Brazilian experience are presented at the end of this paper.

2. TAX DECENTRALIZATION IN BRAZIL

2.1. Origin of the Brazilian Federation

After the monarchy was abolished, in the first Constitution of the Republic (1891), a federal and presidential government system was created, following the North American model, with three independent branches: the Executive, the Legislative, and the Judiciary.

The coalition was not born from bottom to top (as in the United States), it stemmed from a decision that came from the top, as a result of the division of a unitary state. Its main objective was to respond to the profound social and economic diversity among the regions and the administrative needs, given the extension of the territory. Mostly interested in it were the most developed provinces in southern Brazil.

This structure remained in the six subsequent constitutions, which include the constitution that is in effect, promulgated in 1988.

2.2. Political-Administrative Organization

Brazil's federalism is organized in three levels: a national or central level, formally referred to as the Union, more commonly known as the Federal Government; an intermediary level, made up of 26 states plus the Federal District (constitutionally with the same powers), commonly called State Governments, and a local level that comprises 5,564 installed municipalities, considered members of the federation since the 1988 Constitution, and referred to as Municipal Governments.

2.3. Legal Framework

In the Brazilian federalism, each state has its own constitution and each municipality, its own organic law.

There is a vertical hierarchy of the legislative powers and the Constitution discriminates the powers to legislate: some are unique to each state, others are common to the three levels, and others are concurrent.

Powers are based on the general principle of predominance of interests: the Union legislates on matters of general or national interest; the states on regional matters; and the municipalities on matters of local interest.

2.4. Inter-Government Relations

Any federal entity can maintain institutional relations, including tax relations with another federal entity, regardless of the level of government, whether it is superior or inferior.

For example, the Central Government directly deals with the municipalities, without interference from the States of their jurisdiction, in the following matters:

- Direct and regular transfer of its quotas from the participation fund in the federal income tax;
- Financial transfers and technical cooperation agreements to render (health, education, and social welfare) services.
- The signing of agreements or external credit transfers, for joint management of services or projects, as well as for the local unit to directly finance such actions.

All federal entities have institutional autonomy and their own competences. This presupposes the constitutional distribution of powers and competences to allow the implementation and development of its regulatory activity.

Municipalities enjoy considerable autonomy in the direct generation of tax revenues and in the use of public resources, notwithstanding that, this is not the result of a planned process.

2.5. Brazil's Revenues

a) Tax Distribution

By tradition, the constitution has established the tax competences assigned to the three government levels (exclusive taxation), as well as defined the rules as to their effect, forms of collection, and revenue sharing.

This is the nucleus of Brazilian tax federalism and it is what makes our Constitution be considered as "more or less decentralized."

Although the constitutional chapter on the tax system is called "federal pact," the reality is that it was never formalized.

The high degree of detail that the constitution has is justified as something necessary to define the division of federal revenues and large transfers, as well as the horizontal division of resources among the various units of the same government level.

In fact, in view of the little importance that other revenues have, when tax revenue sharing is decided, the division of powers within the federation is, to a great extent, also decided.

b) Sub-national Taxes

According to the constitution, each sub-national government has the right to establish the taxes that are within its realm of responsibility.

The states can establish the following taxes: Tax on the Circulation of Merchandise and Interstate and Intermunicipal Transportation and Communications Services (ICMS), Tax on Automotive Vehicle Ownership (IPVA), and Tax on Property Transmission Causa Mortis and Donation of Any Goods or Rights (ITCD).

The municipalities are responsible for taxes on: Urban Building and Land Tax (IPTU), Tax on Services of Any Nature (ISS), and Transmission Tax Inter Vivos (ITBI).

As a common competence, they can establish taxes (for police protection and the utilization of public services), contributions for (public works) improvements, and contributions for the financing of social security and assistance systems to its workers.

c) Decentralization after 1988

In the constitutional review of 1988 there was a transfer of competences and of tax revenues from the Central Government to the sub-national governments, especially for municipalities.

The Federal Government increased available resources using the taxes (such as those that finance social security) whose income are not shared with the sub-national entities.

As a result, there was a strong increase in tax revenues (from 22% in 1988 to close to 36% of the GDP in 2008) and vertical (for the municipalities) and horizontal (in favor of the poorest regions) decentralization became consolidated.

After the 1988 Constitution, the municipalities had more autonomy to collect, spend, and get into debt.

The table below shows the federal division of tax revenues in Brazil:

FEDERAL DIVISION OF AVAILABLE TAX REVENUES					
	Burden	Federal Division - % of the Total			
	% of GDP	Union	States	Municipalities	Total
1965	19.71	54.79	35.11	10.11	100.00
1988	22.43	60.09	26.61	13.30	100.00
1991	25.24	54.70	29.60	15.70	100.00
2007	36.42	58.00	24.70	17.30	100.00
Creation based on the STN (National Treasury Secretariat)/SRF (Secretariat of the Federal Revenue)/CONFAZ (Finance Policy Council)/MPAS/CEF (Caixa Econômica Federal).					
Available Income contemplates collections more/less constitutional transfers.					
Methodology of national accounts, which includes contributions, active debt, and royalties.					
Preliminary estimates for 2007.					

3. MANAGEMENT STRATEGIES IN THE RFB ENVIRONMENT

The RFB management strategies are treated more broadly in the Planning and Management Strategy (PGE), which includes four-year periods. The current plan involves the 2008-2011 period. Meanwhile, such planning is being revised, after the change in the RFB administration that occurred in the second half of 2008.

The PGE involves a strategic matrix for the period under consideration, based on the mission, vision, and values, and divides the various dimensions of the RFB action in five big levels: State, Society, Taxpayers, Processes, People, and Resources. A total of 15 pluriannual strategic objectives were associated to these levels. Strategic actions and institutional management indicators are linked to these objectives. At the end of each year, Institutional Guidelines are established for the following year, considering that the institutional planning and evaluation process is dynamic and must receive constant feedback.

The general objectives that were built for the RFB are grouped by the dimensions of the actions of the institution.

State Dimension

1. To subsidize the formulation of the tax and foreign trade policy.
2. To promote the integration of RFB with State entities, as well as national and international organizations.

Society Dimension

3. To intensify the RFB actions in the struggle against organized crime.
4. To strengthen the RFB institutional image and promote the citizens' tax awareness.

Taxpayers' Dimension

5. To promote a service of excellence for taxpayers.

Processes Dimension

6. To optimize control and collection of tax credit.
7. To improve the quality and productivity of the tax work.
8. To increase the effectiveness of surveillance and the repression of customs crimes.
9. To simplify, standardize, and expedite customs control.
10. To increase the efficiency and effectiveness in the preparation, analysis, and judgment of administrative-fiscal processes.
11. To promote the improvement, simplification, and consolidation of federal tax legislation and standardize its interpretation.

People Dimension

12. To improve the RFB's People Management policy.

Resources Dimension

13. To increase the effectiveness and efficiency of budgetary, financial, and patrimonial management, as well as the management of seized merchandise.
14. To improve the management policy for information and technological infrastructure.
15. To implement the RFB's management for excellence.

Once the objectives are determined, the strategic initiatives are defined as a group of actions or projects necessary to reach these strategic objectives, allowing the organization to change the current status and become goal-oriented.

In the case of the Secretariat of the Federal Revenue of Brazil, the strategic initiatives were classified as strategic actions of level 1, 2 or 3 in the 2008/2010 Strategic Planning and Management Program.

These actions must shore up the RFB strategy, permitting compliance with institutional goals until the year 2011 and guaranteeing the fulfillment of strategic objectives. Level one strategic initiatives are those the RFB Cabinet follows directly and broaches national projects and/or actions, which are of a structural nature for the institution (see some of the projects in Table 1). The level one strategic initiatives will be complemented by second-level actions, which have sectorial and regional impact, and by third-level actions of impact on the local units, and the Offices of the Federal Revenue of Brazil (DRJ).

Chart 1 – National Strategic Projects

Public Digital Bookkeeping System (Sped)	To promote the integrated action of federal, state, and municipal Tax Administrations through the standardization and rationalization of information, as well as shared access to the taxpayers' digital bookkeeping by legally authorized persons.
Measuring the "tax gap"	To define and implement an institutional methodology to calculate the gap between collection defined by its legal potential and the real collection.
Harpy Eagle Project	To apply intelligent computer models for risk analysis, whose objective is to reach greater efficiency and effectiveness in customs-related procedures through standardization and optimization of fiscal selection.
Siscomex cargo	To digitalize ship control movements and their cargo in international transportation, allowing a more effective customs control with great savings in logistics, permitting the unloading of merchandise on the water (freight on board).
National Tax Education Program	Educational actions that seek to promote the citizens' participation in the operation and improvement of State social and fiscal control instruments based on the promotion of the people's awareness with regard to the socioeconomic function of taxes, stimulating voluntary compliance. Proposal of a specific project aimed at internal tax education.
Tax Cadastre Project	Systematic overall control of tax obligations, starting with taxpayers with differentiated monitoring, the use of information from third parties, and with own information enabling a preliminary estimate of the taxing power of taxpayers and the due accessory obligations.
National Synchronized Cadastre	To increase the effectiveness in RFB services through a reduction of compliance costs for taxpayers, the strengthening of tax collection through the exchange of information with other tax administrations, and the reduction of the medium term to open companies in the country.
Single Code System	Centralization and automation of code assignment for economic activities developed by each production unit established in the country, which guarantees national uniformity for the CNAE coding system and, consequently, greater precision and better quality of information to help in institutional decision-making processes.

All these projects have an impact on RFB tax collection management, and many of them also affect state and municipal administrations. This point is especially interesting because it shows that there is great concern over the integration of Tax Administrations in the various federal spheres. This integration was reinforced by the new RFB administration with the creation of the General Coordination for Cooperation and Tax Integration, specifically aimed at facilitating integration among Brazilian Tax Administrations.

The strategic projects that were previously cited include certain actions that were chosen for a more in-depth analysis because of the importance of the project, as well as because of the participation of other federal entities. Thus, each of these coordination mechanisms of tax administrations will be discussed in greater detail in the next section.

4. MECHANISMS USED FOR COORDINATION AMONG TAX ADMINISTRATIONS

The progress made in tax management is directly influenced by the capacity that the tax administration has to work in collaboration with the various social segments. The current RFB administration created the Coordination for Cooperation and Tax Integration (Cocif), in order to make more effective the integration of the Tax Administration established in Article 37 of the Federal Constitution and unify the exchange with external entities.

Cocif is responsible for the exchange and interaction with other entities, for planning, for the standardization of concepts together with RFB operational areas, for monitoring execution (execution is the responsibility of the RFB operational area, defined in accordance with the object of the action), and for the evaluation of the performance of actions shared with other entities.

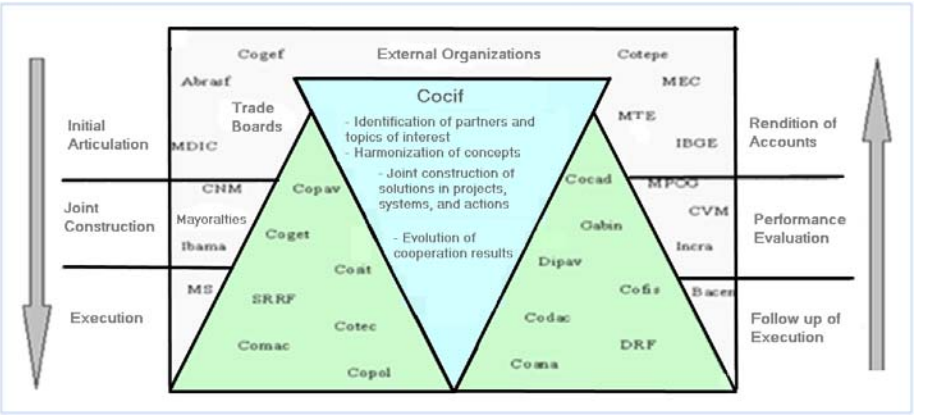
There are three phases in cooperation and integration work:

1. Identification of partners and topics of interest for institutional cooperation;
2. Harmonization of concepts, idealization, and creation of joint solutions and the interactive design of projects / actions to be shared;
3. Follow-up in the execution of agreements, projects, and actions; definition of guidelines for the continuous improvement of solutions; establishment of strategies for critical points and problems identified by the promoters of projects and actions; and periodic evaluation of results obtained.

Its structure is made up of three managements: strategic management for interinstitutional projects; strategic management for institutional representation; and strategic management for shared systems and joint

operations. It also has four assistants who specialize in Training, Evaluation, Technology, and Federal Studies.

The Cocif operational structure can be summed up in the following chart:



The new coordination has ample participation in the initial articulation phase with external entities, a little less, in the joint creation, when the other RFB areas begin to act, and to the extent that the execution process begins, the Cocif further reduces its participation, limiting itself to accompanying the actions to evaluate them later on. In the accountability phase, it again plays a prominent role, together with the external entities, and with reasonable support from the other RFB areas.

The working in Network method, established by Ministerial Decree, was approved. A total of thirteen top management coordinations of the institution participate in weekly meetings. Regional and local nuclei, organized in each unit of the federation, also participate in the Cocif Network.

With the boost given to tax integration and cooperation, the RFB has established a new model capable of continuously strengthening the Brazilian tax administration and, at the same time, give fundamental support to increase risk awareness and guarantee the basis for spontaneous tax collection, in order to guarantee the sustainability of the tax policy.

The raw material for an effective tax management is information. Consistent and timely information is the basis for spontaneous collection and, consequently, for public deficit control.

The exchange of information among Tax Administrations broadens society's perception of the tax administration's risk-taking and effectiveness, favors the struggle against evasion, and improves the synergy among tax

administration agencies. The interaction by Tax Administrations also includes other non-tax collection agencies of public administration.

The Cocif action occurs in cooperation with the administrations of the states and municipalities through institutional representation, and agreements that formalize the definition of shared systems, joint projects and actions with external entities.

4.1. Institutional Representation – Main Fora

CONFAZ: the National Tax Policy Council (CONFAZ) has the mission to draft policies and standardize procedures and norms inherent to the tax competence of the States and the Federal District, such as collaborating with the National Monetary Council (CMN) in establishing the policy for the Internal and External Public Debt of the States and the Federal District and in the orientation of state public financial institutions. This council is made up of representatives from each State and the Federal District, as well as a representative from the Federal Government. The representative from the Federal Government is the Treasury Minister and from the States and the Federal District, their Treasury, Finance, or Tax Collection secretaries. CONFAZ also comprises the RFB, PGFN, and STN. CONFAZ convenes quarterly and is made up of the tax entities of all the states.

COTEPE: CONFAZ is backed by the Permanent Technical Commission (Cotepe), in charge of making proposals on tax matters that are under the competence of the States. This Commission is made up of more than 30 Technical Groups, twelve of them from the Secretariat of the Federal Revenue of Brazil, and they discuss matters of common interest for the States and the Union.

ENCAT: the National Meeting of State Tax Coordinators and Administrators (ENCAT) is in charge of developing and disseminating modern tax management techniques, through the exchange of experiences, solutions, and systems, in the areas of tax collection, control, tax payment, economic-fiscal information, and other areas of interest for Tax Administration, in addition to seeking uniformity in the procedures of the States and the Federal District. Furthermore, its objective is the joint implementation of solutions, agreed upon, for common problems in federal units. Regular meetings are held on a quarterly basis and they are organized by the States.

ENAT: the National Meeting of Tax Administrators, organized by RFB, with actions of interest for the RFB, the States, and the Municipalities, in a forum that is pioneer in institutional understanding among the three government spheres. It is a result of Constitutional Amendment 42 of December 2003.

4.2. Examples of Non-tax Representation

REDESIM: It was created by Law Nº 11.598/07. The National Network for the Simplification of the Registry and Legalization of Companies and Businesses is a project to integrate the organizations that participate in the process to open, close, alter, and legalize companies throughout the country, which includes non-tax administration agencies. Its objective is to simplify procedures and reduce bureaucracy to a necessary minimum. The system that will be built will integrate all stages of the process through a single entry of data and documents, with access via the Internet.

CONCLA: the National Classification Commission administers the classifications used in national statistics and in the country's economic information system and promotes standardization and conceptual harmonization between the public administration and the private sector. It is headed by IBGE (Planning Ministry) and it gathers the organizations that represent the Ministries of the Republic every six months. The RFB represents the Treasury Ministry.

Technical Sub-commission for the CNAE – Subclases is a joint decision technical forum of the three government spheres, with organizations of users of the National Classification of Economic Activities (CNAE), responsible for the creation and maintenance of the economic classification instrument for the country's production units, standardized and implemented throughout the national territory. This classification is the basis for the sectorial organization of the information in the cadastre and the institutional systems. The Sub-commission is coordinated by the RFB (Coget), with semi-annual meetings organized by participating agencies.

4.3. Inter-institutional Projects

4.3.1 National Synchronized Cadastre (CadSinc)

a) What is the National Synchronized Cadastre?

The National Synchronized Cadastre (**CadSinc**) is the integration of cadastral procedures for corporations and other institutions in the sphere of Tax Administrations of the Union, the States, the Federal District, and the Municipalities, as well as other organizations and institutions that are part of the business registry and legalization processes in Brazil.

One of the pillars of **CadSinc** is the use of the registration number in the National Corporations Cadastre (CNPJ) as the identifier in all sectors of the government.

As a shared solution among the very different organizations involved in the registration and formalization of companies and other institutions, the **CadSinc** is not a single cadastre, but a synchronization among the various existing cadastres – they all show the same cadastre information, respecting the demands of the organizations and (advisable) institutions in relation to the need for specific information from each one.

The main objectives of the **CadSinc** is the simplification and streamlining of the processes of registration, modifications, and closure of corporations and other institutions (economic entities), with the resulting cost and terms reduction, in addition to the guarantee of further transparency in all processes and the standardization of the cadastral information of corporations and other institutions, which include those that participate in the agreement, enabling them to act with further efficiency and effectiveness.

For the creation of the Synchronized Cadastre and according to Cooperation Protocol ENAT nº 01/2004, the following premises were observed: a) single data entry; b) independent, albeit synchronized databases; c) reciprocity in the acceptance of the legislation of each signatory institution; and d) adoption of the registration number of the National Corporations Cadastre (CNPJ) as the cadastral identifier of the taxpayers of the ICMS and ISS.

With the Synchronized Cadastre, it is much easier and faster for entrepreneurial citizens to open a company. After registering the charter, the interested party must fill out and forward the registration petition to the CNPJ through one of the available software applications. If the petition was accepted, the inscription will be ready not only at the CNPJ, but also at the pertinent state and/or municipalities.

In the States where there are agreements with Trade Boards, entrepreneurial citizens can submit the registration petition along with the registration petition for their charters. If the documents submitted and the data transmitted are correct, after having presented the petition in a single place, the companies will therefore be registered and the registration at the National Corporations Cadastre (CNPJ) and the state and/or municipal registrations will be generated simultaneously, all at once!

In addition to the aforementioned benefits, it is also possible to use the state receipts or the digital certificates to take action at the cadastre. In a simple, easy, and quick step, this electronic signature eliminates the need to authenticate the signatures and often eliminates the need to appear before the body (Federal Revenues, SEFAZ[1], SEFIN[2], etc.) to demand the carrying out of the cadastral

[1] *Treasury Secretariat of the States*
[2] *Finance Secretariat of the Municipalities*

action (the change is processed automatically. Example, the change to the commercial name, telephone number, electronic mail, and so on).

Thus, when the Synchronized Cadastre is fully implemented, all Government Institutions related to Tax Administration, at all levels, and the registration of corporations will be working in a synchronized fashion; in other words, citizens will submit their petitions in one way only.

b) Background

The search for the simplification in cadastral processes in the three levels of Government began in the 1990s, mainly beginning with the signing of the ICMS Agreement 08/1996. In 1998, through Normative Directive SRF No. 27, the National Corporations Cadastre (CNPJ) is created, replacing the old General Taxpayers Cadastre (CGC). The CNPJ began as a proposal to streamline the resources and procedures of the various existing cadastres and before the incorporation of all state and municipal tax administrations, with a subsequent national integration of the tax cadastre. However, due to legislation problems and operational difficulties attributed to the time, especially in the technological area, the CNPJ failed to achieve the expected objectives.

The simplification process of cadastral procedures takes on a new impetus in late 2003, when Constitutional Amendment No. 42 was approved. It introduced paragraph XXII in Article 37 of the Federal Constitution, establishing that the new tax administrations of the Union, States, the Federal District, and Municipalities are to act in an integrated fashion, even sharing fiscal cadastres and information.

In order to heed this constitutional mandate, in July 2004, the First National Meeting of Tax Administrators (ENAT) was held in Salvador. It gathered the heads of the Federal, States, Federal District, and Municipal Capital Tax Administrations. The objective of the meeting was to search for joint solutions for the three levels of government enabling integrated actions and sharing fiscal and cadastral information among the Tax Administrations. The main document resulting from this meeting was the ENAT Cooperation Protocol No. 01/2004, whose objective was the creation of a cadastre that would heed the interests of the respective Tax Administrations.

Along the same line of simplification of cadastral procedures, rules encompassing the integration of procedures among the bodies responsible for the registration and legalization of businessmen and corporations were established for micro- and small-sized companies through Complementary Law 123 of December 14th, 2006. The goal was to prevent the duplicity of requirements for citizens, while guaranteeing the setting into motion of the

single entry of cadastral data (in order to keep businessmen or corporations from having to make the same petition for cadastral actions – registration, changes, closures – at the various institutions involved). The same Complementary Law also defined that the databases of the institutions that are involved in the process of registration and legalization of corporations will keep independent databases, which reinforces the idea of the construction of a Synchronized Cadastre.

c) Current Management

The implementation of the National Synchronized Cadastre has been done gradually. Currently, various Tax Administrations are already participating in the CadSinc, and in addition to them, other organizations and institutions that are involved in the process of registration and opening of corporations and other entities have the power to join the project, such as Commercial Courts, Notary Offices, Fire Departments, Sanitary Overseeing Offices, and so on.

Thus far, the CadSinc has already been implemented in the States of Alagoas, Bahia, Maranhao, Minas Gerais, Para, Rio Grande do Norte, and Sao Paulo and in the municipalities of Belem/PA, Belo Horizonte/MG, Curitiba/PR, Natal/RN, Salvador/BA, Sao Luis/MA, and Vitoria/ES. There already are signed agreements, with their implementation schedules in draft (Phase III, first half of 2009), with the states of Acre, Amazonas, Ceara, Distrito Federal, Mato Grosso, Mato Grosso do Sul, Paraiba, Pernambuco, Piaui, Parana, Roraima, Santa Catarina, Sergipe, and Tocantins and the municipalities of Aracaju/SE, Barra Mansa/RJ, Boa Vista/RR, Campo Grande/MS, Montes Claros/MG, Petropolis/RJ, Pinhais, Recife/PE, Sao Paulo/SP, Rio de Janeiro/RJ, Santarem/PA, and Sorocaba/SP. There also are signed agreements, but with the schedule still undetermined, with the states of Amapa, Espirito Santo, Rio Grande do Sul, Goias, Rio de Janeiro, and Rondonia and the municipalities of Bragança/PA, Camaçari/BA, Contagem/MG, Maceio/AL, Manaus/AM, Palmas/TO, Piraju/SP, Ribeirao Preto/SP, Santos/SP, and Sete Lagoas/MG.

d) Expected Results

With the implementation of the Synchronized Cadastre, the following results are expected:

1. **From the point of view of citizens:** i) reduction of the terms and procedures to create, modify and close companies; ii) further transparency in the process; iii) simplification and standardization of compliance with obligations; iv) less need to go to the involved institutions; and v) reduction in the expenses for document copies, mail, and filing.

2. From the point of view of Public Administrations: i) more stimulus for the formalization of businesses due to reduced creation costs; ii) reduction of operational costs; iii) further integration, quality, and standardization of information; iv) improvement of the image before society; and v) more effectiveness of fiscal actions.

e) Results Achieved

The use of the Synchronized Cadastre enabled a substantial reduction in the period between the petition and the registration at the Secretariat of the Federal Revenue of Brazil, in state and/or municipal revenues, and in states and municipalities where the system has already been implemented.

As shown in the following chart, in Bahia, for instance, the Cadastre reduced to only 2 or 3 days the period between the petition and the formalization of the registration, which used to be 7 days. This reduction in time was verified, more or less, in the other offices of state and municipal revenues.

Synchronized State/Municipality	Total time for registration at the RFB, State and/or Municipality (in days)	
	Before CadSinc	After CadSinc
BA	7	2 a 3
MG + Belo Horizonte	20	5 (only municipality) to 15 (state + municipality)
PA + Belem	30 or more	10 to 20
RN + Natal	30 or more	10
SP	20	10-15 days capital, 3 additional days
Vitória	7	3

4.3.2 Public Digital Registration System (SPED)

a) What is SPED?

Created by Decree No. 6.022 of January 22, 2009, the Public Digital Registration System (SPED) project, in general terms, consists of the modernization of the current system of compliance with accessory obligations, submitted by taxpayers to tax administrations and the oversight bodies, using the digital certification in order to obtain a signature for electronic documents, thus guaranteeing their legal validity in digital form. The system is one of the projects that make up the 2007-2010 Growth Acceleration Program (PAC) of the Federal Government of Brazil.

SPED is made up of three major subprojects: Digitally Recordable Accounting (ECD), the Digital Tax Registration (EFD), and Electronic Tax Invoice (NF-e). In this section, we focus on the registration issue, while the NF-e will be addressed in a separate section, because it is in a more advanced stage.

The new system represents an integrated initiative by the tax administrations at the three levels of government and is associated with 20 institutions, including public organizations, class councils, civil associations and institutions, in the joint creation of the project.

For the implementation of SPED, the following premises were adopted: i) promote a better business environment for the country's companies; ii) eliminate unfair competition by increasing competitiveness among companies; iii) the official document is the electronic document with legal validity for all purposes; iv) use the Standard ICP Brazil Digital Certification; v) promote information sharing; vi) reduce costs for taxpayers; vii) minimum interference in the taxpayers' environment; and viii) make available the software applications for the issuance and transmission of Digital Registration and NF-e for the optional use by taxpayers.

Among the objectives, there is the promotion of further integration of the Tax Administrations by sharing accounting and fiscal information, simplifying compliance with the taxpayers' accessory obligations since the obligations with various institutions will be complied with in a single transmission, and improving oversight, which will be more expeditious in identifying illegal tax-related actions, given the fast nature of the access to information.

b) Background

Just like in the other cases involving integration among treasuries, the initial reference is Constitutional Amendment No. 42 of December 19th, 2003, which established that the tax administrations of the Union, states, Federal District, and municipalities will act in an integrated fashion, even sharing their cadastres and fiscal information.

In later meetings by tax administrations, joint actions were outlined to comply with the constitutional mandate. Thus, Cooperation Protocols were signed at the ENAT II – National Meeting of Tax Administrators – in order to develop and implement the Public Digital Registration System, and the Electronic Tax Invoice.

The measures announced by the Federal Government on January 22, 2007 for the 2007-2010 Growth Acceleration Program (PAC), include the issue of the Improvement of the Tax System, the implementation of the Public Digital Registration System (SPED) and the Electronic Tax Invoice (NF-e) within a

period of two years, because the two projects are aimed at removing administrative and bureaucratic obstacles to economic growth, promoting a business environment for the country, and reducing the "Brazil Cost."

c) Current Management

Regarding the subprojects dealing with registration, it can be established, in a very simplified way, that in both cases, it is the replacement of the current fiscal and accounting books for their digital equivalents.

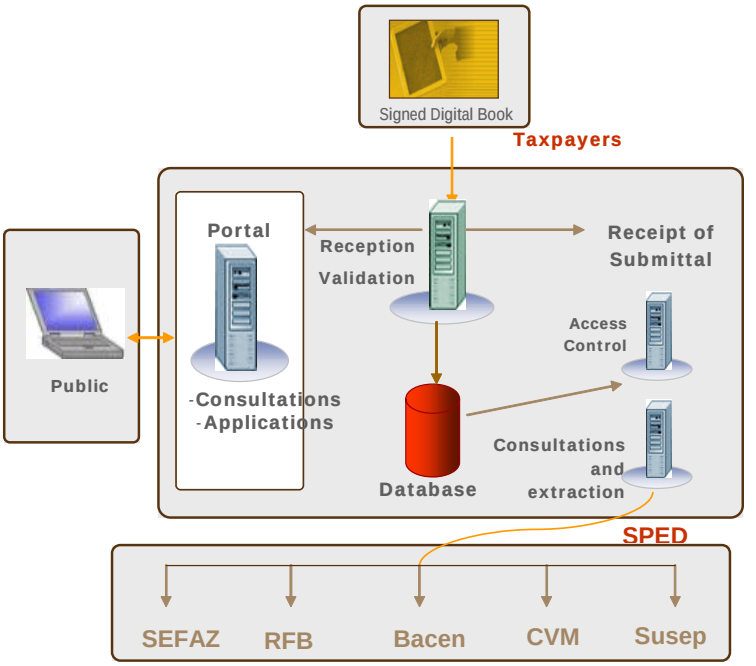
In the terms of Decree No. 6.022/2007, the term for the implementation of the ECD began on 01/01/2008 for companies subjected to the differentiated economic-tax monitoring system and to Real Profits[3]. On 01/01/2009, the system began encompassing all the companies subject to tax on Real Profits.

In a simplified manner, the operation of the accounting SPED is shown in Figure 1 in the following page.

Regarding the EFD, the definition of the companies obligated to submit digital tax registration is scheduled for the first half of 2009.

[3] *Tax System is characteristic of the largest companies because it demands full tax and accounting records.*

Figure 1 – Digital Accounting Record System



d) Expected Results

The benefits are varied and favor both the Tax Administrations and taxpayers. The following stand out among the results:

- Cost reduction with the elimination of issuance and storage of paper documents;
- Elimination of paper;
- Cost reduction with the streamlining and simplification of accessory obligations;
- Standardization of the information taxpayers give to the various federal units;
- Simplification and expedition of procedures subject to control by the tax administration (foreign trade, special systems, and transit among federal units);
- Strengthening of the control and oversight through the exchange of information among the tax administrations;
- Quicker access to information;
- Reduction in administrative costs;
- Improvement in the quality of information;
- Possibility of cross reference between accounting and fiscal data;

- Availability of authentic and valid accounting copies for various uses and concomitants;
- Reduction of the “Brazil Cost;”
- Improvement in the fight against evasion;
- Preservation of the environment through a reduction in paper consumption.

The main difficulties refer to problems of coordination among organizations during the SPED implementation. These problems are being overcome, given the common interest of the organizations involved, the leadership of the RFB, and the acceptance by society, which has been very positive since the system will reduce a large part of the accessory obligations of taxpayers, as well as will eliminate unfair competition in the economy. Even so, there are some sectors that have criticized the project for its allegedly legal weaknesses and an exacerbated increase in the power of oversight.

e) Results Achieved

Regarding the results, the SPED in the area of accounting is still in its initial execution stage, but it should start gaining ground beginning in 2009 with the compulsoriness of submission by all companies subject to Real Profits, which equals approximately 180,000 taxpayers[4]. In the period between 01/01/2008 and 04/11/2008, the Accounting SPED delivered 50 files.

4.3.3 Electronic Tax Invoice (NF-e)

a) What is an Electronic Tax Invoice (NF-e)?

The NF-e is a document issued and stored electronically that exists only in its digital version. The objective is to document an operation of merchandise transfer and service rendering between two parties, whose legal validity is guaranteed by the digital signature of the issuer and the reception, by the Tax Administration, before the occurrence of a Generating Event.

The objective of the NF-e is the implementation of a national electronic fiscal document model that will replace the issuance of a fiscal document in paper, with legal validity

guaranteed by the digital signature of the issuer, simplifying the accessory obligations of taxpayers while enabling the follow-up in real time of the commercial operations by the Tax Administration.

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[4] *Datos de la DIPJ/2004.*

b) Background

As is the case with one of the subprojects of the SPED, the origin of the NF-e is also found in Constitutional Amendment No. 42 and its implementation, with the signing of protocols of the II ENAT, and is part of the 2007-2010 Growth Acceleration Program (PAC) of the Federal Government.

c) Current Management

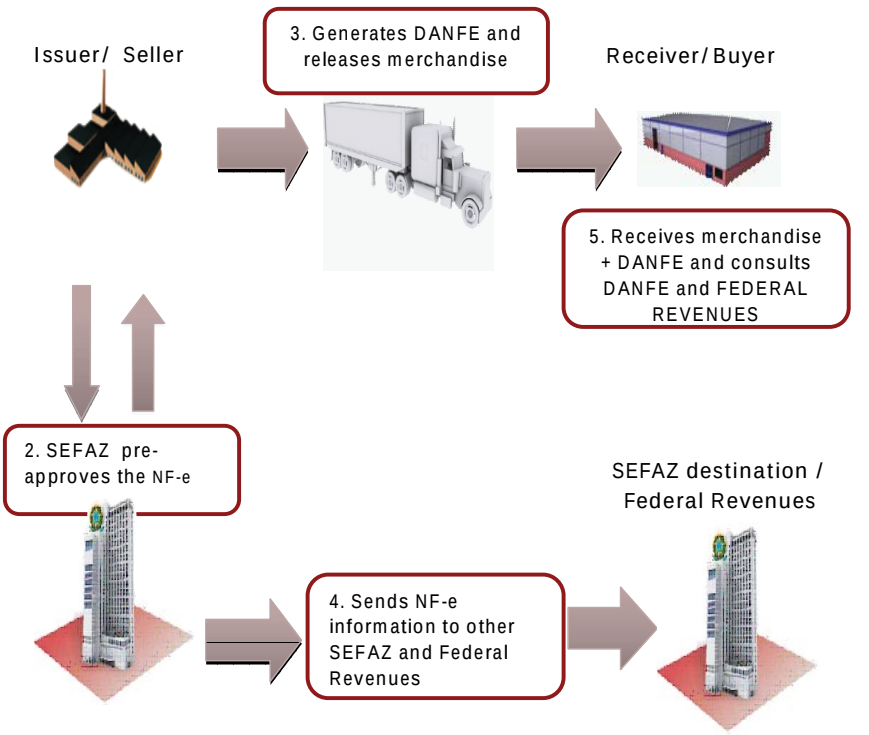
The NF-e has already been implemented in some states and economic sectors, according to the following chart, but its coverage will substantially increased beginning on 01/04/2009.

Table 2 – Sectors already implemented

Date	Sectors
Beginning on 1/4/2008	- cigar makers; - cigar distributors or wholesalers; - liquid fuel manufacturers, producers, and importers; - liquid fuel distributors - retail transporters and resellers
Beginning on 1/12/2008	- manufacturers of automobiles, vans, SUVs, trucks, buses, and motorcycles; - cement manufacturers - manufacturers, distributors, and wholesalers of allopathic medicines for human consumption; - cold containers and wholesalers that promote the sale of fresh, refrigerated, or frozen meat from cows, pork, buffalo, or poultry; - manufacturers of alcoholic beverages, including beer and draft beer; - refreshment manufacturers; - agents that play the role of electric energy providers in the area of the Electric Energy Commercialization Chamber; - manufacturers of semi-finished, plain or long laminates, re-laminates, and wire drawing and sectional steel; - manufacturers of first fusion steel.

The following figure is a summary of how the NF-e Works:

Figure 3 – Electronic Tax Invoice System



When a buyer and seller conduct a business transaction, the later with his digital signature requests authorization via Internet for the issuance of the NF-e to the State Finance Secretariat from his jurisdiction. The SEFAZ in turn returns the pre-validated NF-e receipt. This Use Authorization notice enables the transportation of merchandise. Beginning with this authorization, the Auxiliary Electronic Invoice Document (DANFE) is printed. The NF-e information will be transmitted by the SEFAZ of the taxpayer to the SEFAZ of the destination of the merchandise and Federal Revenues. The SEFAZ will make available for consultation the NF-e information through the Internet.

The DANFE is simply a graphic representation of the NF-e, can be printed in regular paper, and is used to cover the transfer of merchandise and help in the registration of the NF-e accounting when the addressee is not included in

the system. By itself, it has no legal value, and its validity is conditioned upon the existence of the NF-e.

d) Expected Results

It is estimated that the adoption of the NF-e will bring positive results for all the parties involved. The following results stand out: Benefits for the Selling Taxpayer – NF-e Issuer (reduction in the costs of paper, printing, and storage; simplification of accessory obligations; reduction in the time trucks stop at fiscal offices; incentive for the use of electronic relations with clients - B2B); Benefits for the Buying Taxpayer – NF-e Receiver (elimination of the digitalization of invoices in the reception of merchandise and incentive for the use of electronic relations - B2B); Benefits for Tax Administrations (increase in the trustworthiness of the invoice, improvement in the fiscal control process, enabling further exchange and information sharing among Tax Administrations, costs reduction in the process to control invoices of merchandise in transit and support for electronic registration projects in RFB accounting and tax books (Public Digital Registration System – SPED)).

e) Results Achieved

Regarding the results, according to the sites that follow up on the program[5], by 01/15/2009 more than 81 millions NF-e's had been issued for a total value of more than R$ 1.6 trillions.

4.4. Cooperation Mechanisms to Control Compliance with Tax Obligations

a) Agreements with the States and Municipalities for the supply of information

- **Cadastral information:** the Web Access service for CPF and CNPJ bases is in the implementation phase to take care of the Treasury Secretariats of the States of the Federation in order to make information sharing equal among the various levels of Tax Administration.
- **Economic-fiscal Information:** to support the state environment with regard to the Tax on Property Transmission Causa Mortis and Donation Tax (ITCMD), the RFB will transfer the database linked to the donations of goods and/or rights. Some States made launchings based on this information with remarkable results.
- **Foreign trade information:** implementation of a new system to send information to SEFAZ, via messenger software, on customs

[5] *http://www.nfe.fazenda.gov.br/portal/Default.aspx*

import shipments (Siscodi with MQSeries messenger service). This sorftware will allow the information to be available in real time. It was already implemented in Sao Paulo with excellent results in the ICMS struggle against tax evasion.

b) Examples of joint actions:

- Agreement with the States' General Prosecutor's Office (PGE): in the process of creating an agreement for the exchange of RFB information with the PGEs of the states to speed up collection and the contracting of debts.
- Program for joint supervision with the States: use of the Office Gauging System in the cold drinks sector and improvement of the supervision of the fuel sector.
- Agreement with States Accounts Courts (TCE): the RFB is studying the advisability and opportunity to enter into agreements with the States Accounts Courts for the exchange of information to permit greater effectiveness in tax credits: creation, collection, and supervision.
- Study of public revenues flow: with the states and municipalities that understand the precautions of collection/destination, classification of revenues, quotas of the Participation Fund for States/Municipalities - FPE/M (integration with the National Treasury Secretariat - STN) and the blockage/retention of the FPE/M.
- "National Simple": the Special Unified Regime for the Collection of Taxes and Contributions owed by Micro and Small Business, created through Complementary Law Nº 123, of December 14, 2006, involves the participation of all federal entities and is administered by a Managing Committee made up of representatives from the RFB, the states, and the municipalities.
- Tax on Rural Territorial Property (ITR): i) through an agreement, the RFB delegated to the municipalities the responsibility to exercise supervisory powers, including the launching of tax credits and the collection of the ITR. ii) the drafting of an agreement with the National Colonization and Agrarian Reform institute for the exchange of information and joint supervision.
- Support from the RFB to the States and municipalities for the implementation of Tax Intelligence and Local Office Management [Corregiduría].

5. FINAL CONSIDERATIONS

The RFB has given priority to the adoption of management solutions that focus on cost reduction and the simplification of the obligations of the citizen-taxpayer, together with an increase in the efficiency of tax management and

a better dialogue with the states and municipalities. Integration among the different levels of the Tax Administration has become very important in federative countries, especially in those, like Brazil, which has a high degree of tax decentralization.

The actions, protocols, and joint projects among the RFB and the state and municipal Tax Administrations represent an important step forward in the country's institutional maturity, strengthening the actions of the State with more agile and powerful instruments against tax evasion and making the business environment more propitious for the citizens and corporations that try to operate in accordance with national laws.

When the perception of the efficiency and effectiveness of the Tax Administration is expanded, it is the Brazilian citizen who benefits the most.

TOPIC 2

KEY ASPECTS FOR IMPROVING THE TAX ADMINISTRATION'S CONTROL CAPACITY

Lecture

Topic 2

KEY ASPECTS FOR IMPROVING THE TAX ADMINISTRATION'S CONTROL CAPACITY

Luigi Magistro
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CONTENTS: 1. Organization of the Italian Revenue Agency.- 2. The strategic framework.- 3. Large-sized taxpayers.- 4. Small businesses and professionals.- 5. Administrative assistance.- 6. Conclusion

The Italian Revenue Agency mission is "a) to challenge tax evasion and avoidance, not only by means of enforcement measures, but also through initiatives aimed at increasing the voluntary compliance of taxpayers; and b) to assist taxpayers to understand and meet their tax obligations"

Indeed, providing taxpayers with quality service is the ultimate goal of the Agency: on one hand taxpayers' assistance shall be considered as a service supplied to the single taxpayer or to categories of taxpayers; on the other, challenging and preventing tax evasion as a service provided to the entire community.

I would like to illustrate my presentation under this perspective, and will describe the main recent developments put in place by the Revenue Agency in order to enhance, on the one hand, voluntary tax compliance and, on the other hand, to improve efforts against tax evasion, avoidance and fraud.

In the current global economic situation, these two objectives are deemed to be a matter of great consequence and strategic importance for the Tax Administrations, that are presently strengthening their efforts to reduce the tax gap and the relevant damage to Revenue, and to enact the principles of fair taxation and fair competition.

1. ORGANIZATION OF THE ITALIAN REVENUE AGENCY

From the organisational point of view, the Revenue Agency has recently modified (February 2009) its own central and local structure in order to better honour these commitments.

At central level, the Assessment Directorate is presently made up of four Divisions:

- Analysis and Strategy;
- Large-sized Taxpayers;
- Control Management;
- International Division.

While the last two Divisions (Control Management and International) are charged with tasks having a transversal approach and impact, the Analysis and Strategy Division and the Large-sized Taxpayers Division are oriented to the dimensions and features of the taxpayers. In particular, the Large-sized taxpayers Division deals with the control and tutorage of taxpayers having receipts or VAT turnover over 100 million Euro, while the Analysis and Strategy Division is composed of offices dealing respectively with: i) medium-sized businesses, ii) small businesses and professionals, iii) individuals, iv) charities and non-profit entities.

The new structure of the Assessment Directorate also includes the Central Anti-Fraud Office, a staff office charged with risk analysis and the definition of strategies and methodologies, as well as with operational tasks related to the direct control of the most complex and extensive fraud cases.

As formerly said, restructuring has also affected the territorial organisation of the Agency. In this regard, it has involved a significant consolidation of the functions performed, that have been "weighted" in relation to the dimension and importance, for fiscal purposes, of the Italian Regions and consequently, of the Regional Directorates of the Agency.

With reference to each Regional Directorate, Provincial Directorates have been set up corresponding to each of the 106 Italian Province territories. Every Provincial Directorate includes:

- a Control Office;
- Territorial Offices (1 or more, till more than 10, depending on the size of the Province).

Previously, all the activities of the Revenue Agency were assigned to 384 local offices, and each of these local offices dealt with the control and assessment.

Now, there are only 106 Control Offices, embedded in the Provincial Directorates, which deal with control and assessment activities for all the taxpayers resident in the Province.

There are also more than 300 "Territorial Offices" depending on the Provincial Directorates, which perform functions consisting of information and assistance to taxpayers. Moreover, they perform controls on items substantially linked to their territory, such as: i) communications relating to tax returns irregularities; ii) documentary examination of expenses deduced in the tax returns; iii) partial adjustments; iv) assessment of registration tax; v) assessment of inheritance and gift tax; v) minor controls (for example: controls on register receipts) and of the reliability of data relevant to so called "sector studies".

In practice, Territorial Offices are essentially "Front Offices", the main tasks of which are connected with services to taxpayers such as: i) registration of statutory and private deeds; ii) information on tax matters; iii) assistance in the filling in and filing of tax returns; iv) release of tax identification numbers; v) inheritance tax returns; vi) tax refunds.

As for the connection between the central offices of the Assessment Directorate and the local structures I would mention, by way of example, the Anti-fraud Offices.

As I mentioned before, the Central Anti-Fraud Office is embedded in the Central Directorate for Assessment, and is charged with risk analysis and the definition of anti-fraud strategies and methodologies, as well as with operational tasks.

The Central Office interacts with the regional anti-fraud structures in order to ensure an overall coherence. Indeed, specific Anti-Fraud Offices have been set up in nine major Regional Directorates, and have the same tasks as the Central Anti-Fraud Office, to which they give their support in terms of risk analysis and local audits.

As for the Regional Directorates, that have not been endowed with a specific Anti-Fraud Office, the controls on fraud cases are carried out by the Tax Control Offices located in every Regional Directorate.

On the other hand the Provincial Control Offices, even if not directly involved in specific controls, are very important "sensors" for the identification of risk factors (for example, risk factors identified on the occasion of the risk analysis carried out on new VAT registrations as well as in the course of controls performed on request of other countries). Moreover, the Provincial Directorates receive qualified input from the Central Anti-Fraud Office or from the Regional ones.

To sum up, the new territorial organisation, which eliminates the previous fragmentation of tasks and resources throughout the national territory, has two important objectives:

1) strengthening the fight against tax evasion;
2) further enhancing the services to taxpayers.

Under the first objective, and from the operational point of view, I would like to again point out that the restructuring, at the moment in progress, is aimed as follows:

- focusing controls on different segmentations of taxpayers;
- adopting different methodologies for each segment, as far as they are consistent with specific risk analysis and evaluation and with the economic and territorial situation.

This approach is strategic, and involves the optimal allocation of resources (under a quality and quantity consideration) in relation to the trend and concentration of risks as well as the optimal selection of the cases to be subjected to control, by excluding low risk cases.

Moreover, the controls are going to achieve the expected results depending on the thoroughness of the analysis previously carried out, considering that thoroughness is deemed to be the capacity to intercept situations in which considerable evasion has occurred. In these cases, the aim is not only the recovery of taxes and relevant sanctions, but first and foremost the achievement of a substantial decrease in non-compliant behaviour, so as to determine, in perspective, the enlargement of the tax base and the rise in revenue deriving from voluntary compliance.

2. THE STRATEGIC FRAMEWORK

In order to specialize our action, we have identified specific tailor-made control activities for the different segments of taxpayers, namely 5 macro-types of taxpayer:

1. large-sized taxpayers;
2. medium-sized businesses;
3. small businesses and professionals;
4. non-business entities;
5. individuals not carrying on business activities (i.e. employees, retired persons).

In addition, as I mentioned before, there are horizontal activities which do not refer to a specific macro-type of taxpayer (anti-fraud activities, international cooperation, recovery of taxes).

Considering the time available, I will concentrate on those categories of taxpayer, namely the large taxpayers and the small enterprises, in respect of which specific innovative tools are in force, to conclude with some words on the mutual administrative assistance carried out by the Revenue Agency, which has become a crucial instrument for detecting tax evasion and frauds.

Before going into details of the single macro-types and having a look at the specific strategy implemented for each of them, I would point out again that in setting up the tools and organizing the relevant resources the geographical factor has to be taken into consideration. This is particularly important in our country, due to the fact that business activities are not homogeneous throughout the territory. For example, with regard to the macro-type "large taxpayers", we have a high concentration in few regions. Therefore, the territorial distribution has an impact both on the organization of the offices in charge of controls and on the criteria adopted to set up consistent tools for risk analysis and tax investigations.

3. LARGE-SIZED TAXPAYERS

Taxpayers are qualified as "Large-sized taxpayers" if one of the following criteria is met: a total turnover or professional fees not below • 100 million. According to the tax returns for the year 2006, taxpayers equal or over this threshold amount about to 4,000.

In order to manage this cluster of taxpayers, the recent re-organization has introduced:

- at regional level, multi-function special units in each Regional Directorate, which are responsible for the major operational functions (control of tax returns, tax examinations, recovery of taxes, refunds etc.);
- at central level, a Large Taxpayers Division, which carries on the coordination and monitoring of the overall activities and provides strategic and operational support to the regional units.

Within the Large Taxpayers Division, the Risk Analysis Unit is charged with the:

1. segregation and update of the large taxpayers data-base;
2. identification of other complex taxpayers;
3. development of specific risk analysis tools;
4. detection of tax evasion and avoidance risks;
5. evaluation and implementation of strategies and operational methodologies for audit activities.

Since January 2009, a new approach has been adopted so as to enhance Large Taxpayers' compliance. The key features of the new approach are:

- a comprehensive treatment and on-going management, based on the reallocation to the same regional unit of all the administrative functions related with each large taxpayer;
- a new risk-based perspective involving the peculiarities of the business sector and any available information on the specific taxpayer (stakeholders, subsidiaries, transactions, previous audits and other relevant intelligence) potentially affecting the level of compliance;
- a timely risk review process aimed at assessing whether there may be tax risks arising from any operations put in place by a certain taxpayer;
- the achievement of an increasing level of compliance, on the one hand, and of greater certainty for large taxpayers in the application of tax laws, on the other hand.

A major role is played by the "tutoring activity", which, as of 2009, affects large taxpayers with turnover, or operating revenue or professional fees no less than • 300 million (approximately 1,000 entities) and, no later than December 31st 2011, will be carried out with reference to all 4,000 large taxpayers.

The tutoring activity can be defined as a permanent monitoring and analysis of the behaviors and attitudes of a large taxpayer, including its tax results,

through the adoption of different approaches depending on the outcome of the risk analysis and on the peculiarities of the taxpayers.

The tutoring activity can be divided into three logical steps:

1) collection and summary of all relevant information able to provide indications of risks in the behavior of large taxpayers that might jeopardize their tax compliance. Information is included in a specific document, called "risk analysis form". Following the evaluation of this set of information, each large taxpayer will be attributed a certain risk profile that drives the choice of the most appropriate tax examination methodology;
2) execution of the tax audit. The higher the risk profile is, the more intrusive the method of control chosen: high risk customers can expect thorough investigations, while for medium/low risk customers a disclosure-based approach can be adopted;
3) updating of the information form with the outcomes of the audit, in order to confirm the risk profile, or, if necessary, to reconsider the risk classification.

As said above, the main document of the tutoring activity is the risk analysis form. This document is composed of several sections in which information is organized by content:

- general information;
- economic profile of the large taxpayer and of its field of activity;
- fiscal profile of the large taxpayer (rulings, intelligence, previous audits, legal proceedings, tax credits, etc.);
- analysis of the fiscal results and of the accounting data;
- main risks detected and individual risk level assigned;
- assessment/audit activities to be put into execution.

Accordingly, the risk analysis form allows to attribute a level and type of risk to each large taxpayer, a sort of personalized risk level. Consequently, according to this risk level the most suitable control activity is chosen. In other words, the higher is the risk level and the more intensive will be the control tools adopted for the specific case. Furthermore, the personal risk level is up-dated on annual basis taking into consideration new information available on the taxpayer.

In order to implement this approach we developed two IT tools:

- FALCO (acronym standing for the Italian expression equivalent to "taxpayer personal folder on line"), and
- COPERNICO for selection and analysis of taxpayers.

As far as FALCO is concerned, it is made up of personal folders available on line, each one referred to a specific large taxpayer and containing information on: audits in progress, company accounts and financial statements available in spreadsheet format, fiscal data on the taxpayer, historical trends, access to other data bases (chambers of commerce, national insurance contributions, gross wage and salaries).

An interesting feature of FALCO is a software application based on semantic logic which performs automatically the search and screening of news and data from the web regarding the corporate activities of the taxpayer. In this way the folder is enriched with external data from different sources.

The second IT tool formerly mentioned is COPERNICO. This instrument allows to:

- obtain large amounts of data regarding selected taxpayers;
- select taxpayers with specific features (e.g. tax credits exceeding identified thresholds);
- analytically review changes in chosen variables over the years;
- extract information in order to perform specific analysis in the differences between accounting and fiscal data.

Such functions are possible thanks to the wide range of data available, that is:

- data relevant to taxpayers over 25,8 million Euro;
- data concerning the last four years;
- information from: publicly available data bases (general information), tax returns, accountings, banks and insurances (i.e. accounting data and information for regulatory purposes).

4. SMALL BUSINESSES AND PROFESSIONALS

Small sized taxpayers are those with total turnover/operating value/ professional fees below • 5,164,569. According to the tax returns referred to the tax year 2006, on the Italian territory there are about 5,000,000 taxpayers falling in this segment, with a different geographical distribution. This is a quite impressive datum if compared with the figures regarding other European countries.

Due to the great number of small businesses, a specific action has been undertaken. Given the limited resources available - probably, a common problem to all Tax Administrations - it is clear that an efficient control of so

many taxpayers such as small enterprises must be necessarily compliance-oriented, in order to achieve the voluntary fulfilment of the tax obligations by most of the taxpayers implied.

Moreover, a system compliance-oriented should also be based on streamlining and reducing the relevant costs, so that compliance is not perceived like a burden undue.

Pursuant to this approach, an innovative instrument has been developed since 1999: the so called "Sector studies" for small businesses and professionals. Sector studies create new relationships between the Tax Administration and small-sized taxpayers whereby different players are involved: the Ministry of Finance, the Revenue Agency and the taxpayers as well as trade organizations and professional orders.

Indeed, Sector studies are the result of a close collaboration between the Tax Administration and taxpayers. Based on the wording of the law which provided for their implementation, "Sector studies aim at identifying the actual operating conditions of enterprises and at determining proceeds and fees which, with a reasonable probability, may be attributed to taxpayers by detecting the structural characteristic of each specific economic activity through a systematic collection of fiscal information and data which characterize the activity and the economic context in which that activity is carried on."

Accordingly, Sector studies may be used to assess the capability to produce revenue with regard to a certain economic activity. In other words, they allow to determine the revenue which may be attributed to a specific taxpayer with the utmost probability, by identifying not only the potential capacity to produce income, but also the internal and external factors relating to the particular sector which may affect this capacity.

In other words, Sector studies consist of a process of analysis and evaluation of how small companies operate in their economical environment. In particular, they highlight and describe the existing relationship between structural items and the variables referred to companies in respect of:

- economic sector,
- production processes,
- company's organization,
- products and goods,
- location,
- market,
- other significant data for every specific activity.

Behind each study there is a complex preparatory activity performed not only by people from the Tax Administration but also by third parties (trade organizations and professional orders).

I will not enter into the technicalities and the statistics used for the purposes of the comparative analysis which constitutes the basis of the Sector studies. I will rather focus on the work we have done to develop the Sector studies currently in force and on how they are actually implemented.

The first phase in building up a Sector study (which is ultimately a statistical model) is characterized by the identification of the economic activities and of the relevant variables. These are the object of questionnaires to be filled in by the taxpayers: the answers are subsequently processed in order to obtain a sort of "enterprise profile" at macro-economic level. In technical terms, Sector studies consist of clusters (or homogeneous groups of businesses) obtained by applying mathematical and statistical methodologies in order to process data furnished by taxpayers in response to questionnaires. In this way, it is possible to assign to each cluster a profit function which is then used to compare the revenue of a specific enterprise with the average revenue of enterprises of the same type. It is important to underline that the preparation of a Sector study is made and discussed together with the relevant trade organizations. Furthermore, before being published a Sector study needs a specific validation by the Ministry of Finance, the evaluation of an Experts Committee and observations from the trade organizations. Once the Sector study is ready, its methodology and technical specifications are published in the Official Bulletin and the relevant software package is distributed to the taxpayers.

In order to allow that Sector studies really represent with the highest probable degree the profit function of a specific economic activity, they need an on going monitoring and up-dating, having regard to the national economy, the market, and the production processes. In this process, again the contribution of trade organizations, professional orders and the local monitoring offices is fundamental. Not only the update and improvement of the existing Sector studies, but also the realization of new ones is an on going process. For this reason A specific service within the Assessment Directorate was set up with competence for Sector studies.

As far as the activity control is concerned, also in this case the taxpayer is required to fill in a questionnaire by providing both accounting information (for example, amount of raw materials, value inventory, value of capital assets) and extra-accountancy data (for example, number of working hours of the employees). Of course the nature of the data differs according to the specific economic activity. The answers to the questionnaire are subsequently processed in the software I've mentioned before, which is freely provided to

the taxpayers by the Revenue Agency. As a result, the software allows to establish whether the figures declared by the taxpayer are consistent with the Sector study designed for his economic activity.

In order to process information deriving from the Sector studies a data base was implemented, whose purposes are:

- in-depth analysis aimed to support the assessment activity of the Revenue Agency;
- analysis of competitive auditing and territorial benchmarking;
- provision of statistics and analyses in specific fields;
- simulations to be included in preliminary arrangements with the taxpayers, subject to subsequent monitoring.

Sector studies turned out to be a useful tool in order to improve efficiently and effectively the taxpayers' compliance. In this connection, I would consider two aspects:

1) incentives were set up for taxpayers who meet the expected results of their Sector study;
2) the Sector study is an important support both for carrying on risk analysis and for selecting taxpayers showing risky positions, due to lack of consistency with the Sector study applicable to them;

The effectiveness of Sector studies in terms of improved taxpayers' confidence and cooperation and especially in terms of greater compliance has been confirmed by the growing number of taxpayers who have proved to be consistent with the data resulting from Sector Studies.

5. ADMINISTRATIVE ASSISTANCE

Finally, I would spend some words on the mutual administrative assistance. Its importance in terms of transversal activity supporting the mission of the Assessment Directorate is considered as crucial. For this reason, the re-organization - as described before - has implied also the restructuring of the services charged with the administrative assistance. In particular, taking into consideration the steady increase of importance of the international cooperation as instrument for fighting against tax evasion and fraud, a comprehensive approach was adopted in order to enhance the performance of the mutual assistance.

Before last February the exchange of information was carried on by the International Cooperation Office, which was part of the division in charge with analysis and research.

However, it had become clear that the administrative assistance interacts with different statutory tasks of the Revenue Agency, therefore a transversal approach appeared more proper.

As a consequence, within the Directorate for Tax Assessment an International Division was set up. The Division has been structured in three offices:

- Exchange of Information - administrative cooperation on the basis of Directive 77/799/EEC, EC Regulation 1798/2003 and Double Tax Treaties;
- Operative Cooperation - cross-border assistance dealing with requests for recovery under Directive 2008/55/EC, bilateral-multilateral controls under Directive 77/799/EEC and EC Regulation 1798/2003, relations with international bodies and organizations;
- International Tax Ruling - domestic procedures, usually involving transfer pricing issues, for the negotiation of unilateral Advance Pricing Arrangements (so called APAs) involving related parties of multinational enterprises.

Moreover, as timeliness and thoroughness are essential attributes of the mutual assistance in order to achieve satisfactory results, a main point has been the implementation of a comprehensive training program on administrative assistance.

The program is addressed to the officers of the Revenue Agency both from regional and local offices, in view of developing at every geographical level a network of reference points having the juridical knowledge and operational skills necessary to interact quickly and regularly with the offices of the International Division, according to their respective competences.

On the other hand, the regional and local offices of the Agency have been strongly recommended to have resort, whenever useful, to the exchange of information or to the other tools made available by the mutual assistance as provided for by EEC directives and regulations as well as by some bilateral agreements: the collaboration by tax officials, simultaneous examinations and multilateral controls.

Under the "collaboration by tax officials" the tax authorities of two States may agree to authorize the presence in the first State of officials of the Tax Administration of the other State. Thus, if an office of the Agency considers that a direct dialogue with the colleagues of another Tax Administration - in order to obtain information or to compare data, documentation, results - can be useful to the conduct of an audit, it can apply to the International Division for the relevant request for assistance to the other State.

The same way, if an office considers that a simultaneous tax examination is of common or complementary interest to one or more Tax Administrations, it is encouraged to bring to the attention of the International Division the opportunity that a bilateral or multilateral control is conducted jointly with our foreign counterparts.

From my personal point of view all the tools above mentioned represent an important and effective basis to extend at international level the tax audit activities that each State ordinarily performs on its own territory.

On the other hand, the aforesaid activities should be supported by an adequate framework and organizational model of the auditing bodies. This was the main purpose of the recent reorganisation of the Assessment Directorate just described.

6. CONCLUSIONS

In conclusion, I would like to remark that we are deeply interested in the outcomes of this Technical Conference.

Improving the Tax Administration's audit ability is actually a goal that depends on different important factors. Italian Revenue Agency's experience suggests, firstly, that the operating model should meet our mission statement and shaped accordingly; secondly, the structure should be endowed with proper, efficient and effective tools in order to interact in the most appropriate way with the taxpayers. On this regard, it is of vital importance to adopt modern, sophisticated and flexible instruments in order to face the developing economic and social context.

Last but not least, it is essential that the taxpayers have the perception of a modern and efficient Tax Administration, with the ultimate goal to pursue a substantial change in their behaviours, in terms of increased compliance. In this connection, an effective international cooperation would play an important role in terms of showing to possible non-compliant taxpayers that the Tax Administrations can actually make use of a wide international network and is able to seamlessly work together in a cooperative and efficient manner.

Case Study

Topic 2.1

INFORMATION EXCHANGE AND ADMINISTRATIVE ASSISTANCE FOR RECOVERY AS EFFECTIVE MECHANISMS FOR CONTROLLING FRAUD, EVASION AND AVOIDANCE

Stefano Gesuelli
Head International Cooperation Unit
General Directorate, Guardia di Finanza
(Italy)

CONTENTS: 1. Summary.- 2 Presentation

1. SUMMARY

This presentation begins with a brief description of the history, organization and mission of Guardia di Finanza, which given the singularity of the body in the international environment, is crucial to understand the experience gained in the field of information exchange.

Subsequently, information on general aspects is provided regarding how the Italian tax administration has organized the information exchange and what are the resulting responsibilities; as well as the legal instruments used, ending with an account of data on the volume of information exchange.

The presentation concludes with a description of an operation and some brief comments on the different ways of international cooperation used.

2. PRESENTATION

Ladies and gentlemen, dear colleagues, let me introduce myself first.

I am Lieutenant Colonel Stefano Gesuelli, Chief of the Taxation Section of the General Office of the Italian Finance Police.

I would like to kindly welcome all of you and wish you all the best on behalf of the Body's General Commander, General Cosimo D'Arrigo, and to thank the friends at CIAT for giving me this unique opportunity to reveal the point of view of the Finance Police on such an interesting topic.

In today's presentation, after giving a short introduction in which I will talk, among other things, about the institutional mission of the Finance Police, I will explain how the international cooperation and the information exchange have been implemented within the frame of the effective platforms; and I will conclude with some data on the results of our operations.

Guardia di Finanza is an economic and financial Police Force that is under the direct authority of the Ministry of Economy and Finance.

It is militarily organized and is a comprehensive part of the State's Armed Forces, in addition to the Public Force.

The Guardia di Finanza is the oldest Police Force in the Italian State, its creation dating back to 1774, when the "Light Troops Legion" was set up as a Corps established and organized for customs surveillance duties and smuggling repression, in addition to the military defense along the borders.

The name "Guardia di Finanza", most appropriate for institutional tasks extended to all tax sectors, originates in 1881, the year in which the Corps was declared an integral part of the State's terrestrial military forces.

The institutional tasks of the Guardia di Finanza are provided for in the Law of 1959, whereby the Corps is called upon to carry out primary activities of prevention, investigation and report of financial evasions and infractions, safeguard the observance of public-economic interest provisions and carry out sea surveillance tasks in its capacity of financial police.

However, these tasks are only part of our mission, as you may figure as you look at these images of ships, helicopters and patrol cars! We will try, therefore, to delve deeper into the mission of the Finance Police.

In the institutional mandate entrusted to the Finance Police we can distinguish between the fundamental mission of an economic and financial police and the institutional missions that the Corps is called upon to perform in terms of cooperation.

The economic-financial police mission consists of two areas:

- financial, relative to the State's and the European Union's revenues and expenses;
- economic, relative to the guardianship of capital markets and goods and services markets.

The cooperation missions concern:

- the public security;
- and the political-military defense of the borders.

Our structure has been reformed recently to better meet the institutional mission. Currently the structure is composed of:

- a General Directorate, the central body for the senior management of all activities;
- territorial units, special units and air-naval units in charge of operating activities;
- recruiting and training units;
- technical, logistic and administrative units.

Our 852 territorial units are distributed throughout the national territory, allowing the "economic control of the territory", that is, the possibility of gathering information on potential crimes and violations, which serves as the input for operating activities. Over the last three years, our territorial units have undergone an important reform which allowed removing units having a low cost/benefit relationship.

Our special units, thanks to their competency on a national scale, are responsible for safeguarding specific sectors, in close connection with territorial units. Their function is to set up, using project management modern techniques, the operating projects that draw on the best practices observed "in the territory". These experiences are studied by way of risk analysis techniques which are eventually transformed into inspection plans carried out by all territorial units sharing a common method.

Focusing on the issue of this seminar, it is important to begin by analyzing the context. The tax evasion phenomenon has reached very high levels in Italy, rather as a result of the present economic and financial system crisis. According to the last study of the Italian Institute of Statistics, tax evasion accounts for nearly 16-17% of the gross domestic product, that is, nearly 230 thousand million euros. And this is obviously a burden to honest taxpayers. It is for this reason that we are strongly committed to fighting tax evasion, a phenomenon not easy to detect, in view that in Italy there are over 5 million

taxpayers, most of whom have annual sale volumes not in excess of 7.5 million euros.

This phenomenon is widespread and involves all sectors of the economy, causing serious social problems and grave distortions in market competition, to the detriment of companies and taxpayers that observe the laws.

In light of these realities and the financial maneuvers of the last years, several legislative interventions have been passed, with the addition of a unitary operating strategy of the Tax Administration intended to achieve a systematic and decisive action against tax evasion in all its forms.

At the core of this strategy there is the assumption that the acquisition of taxable matter in our tax system should originate mainly in the spontaneous compliance with taxpayers' obligations and, therefore, it depends largely on the people's perception that:

- the authority has, or is able to have, all the elements to effect taxes and enforce controls;
- all taxpayers could be subject, at any time, to a specific, rigorous and effective control activity conducted by the Administration;
- in the case of violations of tax obligations, the penalties and administrative and criminal sanctions provided by the law are applied immediately and effectively: what we could call the "certainty of a penalty".

In other words, the final goal of the strategy against evasion is to increase control deterrence, with a view to increasing the actual probability and the risk perceived that evaders will be subject to serious and effective controls and investigations and that, once identified, will pay the statutory taxes and penalties.

This is why we believe that international cooperation and information exchange play an extraordinary role in this strategy, as we will soon see.

The fight against tax evasion has always played a primary role among the tasks of the Finance Police. However, there is a special aspect that differentiates us from other entities: our operating activity is based on intelligence and investigation, as a result of our characterization as a police corps. This is the reason that our operations are targeted mainly at detecting tax evasion, frauds and economic crime, all them phenomena that require this type of characteristics.

The inspection activity of the Finance Police in the tax sector affects all types of evasion, namely:

- partial or non-compliance evasion, resulting from those who declare lower than real taxable bases;
- the underground or black economy, relating to those who fail to submit annual income tax or added-value tax returns, and also companies which employ irregular labor;
- fiscal fraud, represented by the most serious crimes (such as the issue and utilization of fake invoices);
- tax avoidance, consisting of the getting out of tax obligations by performing acts or operations without valid economic reasons, intended exclusively to obtain tax savings.

The operating tools used in the fight against tax evasion are characterized by a high flexibility, that is, they can be adapted in all cases.

These tools belong to three categories:

- general inspections, which consider the taxpayer's position based on all statutory taxes;
- partial inspections, which refer to one or more taxes;
- specific inspections, which examine aspects of the company's management or are intended to prove specific operations through cross-controls.

Finally, so-called "instrumental controls" are targeted at controlling sellers who, according to the law, are obliged to issue receipts when selling merchandise or services, or issue shipping documents when translating merchandise.

Given that the prevention of violations is one of our core duties, the international cooperation plays a strategic role in our institution activity of safeguarding the Italian and European financial interests. Also crucial are the legal attributes of the administration for requesting or accessing information. This prerogative allows it to collect data that are indispensable to perform the pertinent analyses that will determine risk profiles and the making of a list of cases subject to control, in order to assure their success and the effective use by the organization of its resources, the timely exercise of its control and execution time.

The historical time that elapsed between the twentieth and the twenty-first centuries was characterized, on the one hand, by the globalization of the world markets; and on the other hand, by the European integration, both events which have led, although with diverse levels of integration, to the

creation of a unitary economic space, within which diverse types of fraudulent activities have also found a fertile land on which to grow and develop.

To stop the quality leap detected in the spread of transnational-type economic-financial illegal acts in particular, the info-operating cooperation activity wanted improvement.

From this perspective, we believe that international cooperation is an indispensable tool to detect and fight tax evasion.

Overall, as a police corps, we may use different cooperation channels:

- administrative cooperation, using European Union's Rules, Regulations and Guidelines or bilateral or multilateral agreements;
- police cooperation, basically through Interpol and Europol.

These instruments are the legal basis for information exchange; therefore, the acquired data have the legal value assigned to them by the international law.

In the absence of international legal instruments, we use the so-called "intelligence cooperation". In such case, the acquired data may be used only as input for investigations, but to be used officially they need ratification through the powers provided by the national legislation.

As regards the administrative cooperation in the field of direct taxes, this is based on the E.U.'s rule provisions for the exchange of information between member States, and on the agreements celebrated to avoid double taxation and tax evasion, for the exchange between Italy and the E.U. on the one hand, and non-E.U. countries on the other.

In default of the above cited legal instruments, we act with the cooperation of intelligence, despite its obviously precise legal limits as to evidence.

Preliminary, it is important to point out that in the Italian system the competent authority for information exchange is represented by the Ministry of Economy, and in the absence of it, by the Department of Finance, which may "delegate" some "liaison services" so that the cooperation's management tasks can be developed: among them is the Finance Police.

This slide shows data relating to the information exchange associated with direct taxes over the last three years.

Regarding intra-community exchange subject to the value-added tax, the Finance Police is part of the European cooperation network that provides a

central liaison office - C.L.O., and some liaison services in each member State. The Finance Police is one of the Italian liaison services, together with the Customs Agency and the Tax Agency; whereas the C.L.O. is part of the Ministry of Economy and Finance.

This type of cooperation should be carried out exclusively in line with the so-called "CCN-MAIL"; the operating languages are English, French and German, and all requests must be answered within 90 days.

This slide shows data relative to the information exchange associated with the value-added tax, over the last three years.

A predominant role within the international cooperation network of the Finance Police is played by our attachés in the embassies. Such attachés were established in 2001 by a law that allowed the Finance Police to promote and execute ways of cooperation with foreign law enforcement agencies in order to fight the economic and financial crime and protect the State's and the European Union's financial interests. One of the concrete ways to execute such disposition was the sending of twelve officials on Italian diplomatic missions and to the consular offices abroad.

The foreign sites were chosen after making an analysis based on a "matrix" that considered, for every foreign country, the indexes of criminal flows and information exchange.

To conclude the analysis, some geopolitical-economic metrics were considered.

The matrix is a "dynamic" tool that is updated from time to time and allows States to change their choices.

You can see the sites showed on the slide.

More specifically, in Europe our Attachés have been sent to the Italian embassies in London, Belgrade, Vienna and Moscow, and to our Permanent Representatives in the E.U. in Brussels and the OECD in Paris.

In other continents our officers are working at the Italian embassies in Washington, Brasilia, Buenos Aires, New Delhi, and at the Italian Consulate in Shanghai. So please be free to approach such officials for any request for cooperation with Italy in the area of economic and financial violations.

As to the attachés network, consideration should also be given to the liaison officials that the Corps allocates to several bodies for information exchange purposes outside the frame of national diplomatic representatives. For the

time being, the Corps have liaison officials in Madrid (General Directorate of the Civil Police), in New York (within the frame of the U.N), in Bucharest (SECI), in Sofia and Colonia (OMD-RILO).

The issue of police cooperation is also of absolute relevance. As a police corps we have the opportunity to exchange information on tax crimes or fraud cases within the frame of the effective agreements with Interpol and Europol, which are always more engaged in repressing tax violations acknowledged as crimes by the diverse juridical systems; for there are always identified cases of "contacts" between criminal organizations and the business world, with the purpose of committing tax frauds or evasions. On this regard, it is interesting to look carefully at this slide that describes a scheme widely used for asset laundering/tax whitewashing, which consists in the dispatch of goods to Central-South American countries, and which are introduced in such markets without prior supervision.

This is one of the reasons that the Guardia di Finanzas looks with particular interest at the Ameripol Community, which may represent in the future an important interface of information exchange, provided that it also has the cooperation of the tax administrations of member Countries which, in our opinion, remain being the ultimate "tool" to understand and elaborate on any form of tax evasion or fraud.

To conclude, I would like to present briefly an operating case in which several forms of international cooperation were largely utilized: OPERATION NEMESIS.

I hope that this presentation aroused in you the interest in better knowing the Guardia de Finanzas, and so I invite all of you to visit our web site, where you can find very detailed information on our Corps.

I would like to conclude by insisting that you consider the Finance Police as a body at your disposal for any form of institutional cooperation, for exchanging not only information but also formation, something we already do successfully for many colleagues in foreign institutions.

I really like a phrase pronounced by an Italian attorney general who was assassinated by the Mafia in 1992, Giovanni Falcone, who said: "When it comes to criminal issues, we have to get rid of particularistic or nationalistic approaches. It is not important whether drugs or money are seized in one country or another, or by one Police Corps or another. What matters only is that they be seized and in the most efficient way.
This should be our only concern and everybody should feel compelled by this supranational principle of efficiency". .

So this is what we are like: simple, with a high spirit of humility, and aware of our limitations. We put our experience at the disposal of the international community, convinced that if there is anything good we do, it should be shared with the foreign colleagues for the benefit of an aim that is higher and more important than personal success.

Thank you very much for your attention.

Case study

Topic 2.1

INFORMATION EXCHANGE AND ADMINISTRATIVE ASSISTANCE FOR RECOVERY AS EFFECTIVE MECHANISMS FOR CONTROLLING FRAUD, EVASION AND AVOIDANCE

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CONTENTS: Executive summary.- Introduction.- 1. Authority for exchange of information.- 1.1 Legal basis for exchange of information.- 1.2 Memoranda of understanding (MOU).- 1.3 Administrative structure.- 2. Mechanisms supporting effective exchange of information.- 2.1 Participation in international forums.- 2.2 Types of exchanges of information.- 2.3 Outreach and reference manual.- 2.4 In-house databases.- 2.5 Assistance in collection.- 3. The CRA's exchange of Information experience.- 4. Challenges to the exchange of information environment.- 5. Future Directions for Exchange of Information.- 5.1. Tax Information exchange agreements (TIEAs).- 5.2 Electronic standardized forms (ESF).- 5.3. Recognition.- 5.4. New automatic exchange opportunities.- 5.5 Improved payment option for assistance in collections.- 6. Conclusion

EXECUTIVE SUMMARY

With governments facing soaring budget deficits as they seek to combat the global economic slump, tax authorities from around the world are co-operating at an unprecedented level to encourage tax compliance and counter tax evasion and abusive tax avoidance.

The tax environment has grown in complexity as the world has increased its use of electronic communications, finance and conduct of commerce across

international boundaries. Financial arrangements are more complicated and more trade occurs across international borders. In order to protect their tax revenues, governments must keep abreast of the different types of financial vehicles, corporate structures, and international tax laws that evolve to meet changing business practices. These complexities pose challenges for all tax administrations.

A key element of international co-operation in tax matters is exchange of information. It is an effective way for countries to maintain sovereignty over their own tax bases and to ensure the correct allocation of taxing rights between tax treaty partners.

Canada has an established legal framework enabling exchange of information and, in certain cases, assistance in collection matters. Our bilateral tax conventions form the basis for this framework. In order to adequately administer the conventions and related legislation, policies and procedures, the Canada Revenue Agency (CRA) has assigned dedicated resources to a competent authority services division. Within that division is a group specializing in matters of exchange of information and assistance in collection; Exchange of Information Services (EOI Services).

Effective mechanisms are needed to enable tax administrations to carry out their treaty obligations. In this regard, the CRA works to ensure that procedures, agreements, databases, and reference materials are constantly evolving to meet the needs of treaty partners and the CRA's employees. In addition, presentations, information sessions, and training ensure that the uses and benefits of exchange of information are widely communicated.

The continually changing financial environment means no tax administration can remain still. Identifying emerging issues and schemes and developing strategies to deal with them is a common goal. Communication is the key. Exchange of information is a form of communication at which the CRA aims to excel.

INTRODUCTION

Tax authorities are becoming more and more concerned with aggressive tax planning, tax evasion and the abusive use of tax havens. Modern tax administrations and businesses operate in a complex and rapidly changing environment, increasingly influenced by international issues and business practices, including:

- Globalized trade and financial systems;
- Technological changes that make simple, secure, offshore financial transactions available to taxpayers;

- Intricate and evolving multinational business structures and transactions;
- Governments' use of tax regimes to compete for business;
- Exploitation by promoters of favourable tax laws in various jurisdictions;
- Sophisticated aggressive tax planning marketed to corporations and individual taxpayers at various socio-economic levels;
- Well-known financial institutions that operate in tax havens, adding an air of legitimacy to tax avoidance schemes; and
- Legal and policy barriers to the sharing of information.

The CRA's approach to ensuring compliance recognizes that numerous factors influence taxpayer behaviour. As a result, its efforts to facilitate compliance build on areas where the CRA believes it can have a positive impact.

The CRA's Focus

Detecting and addressing non-compliance: We are working to address high-risk areas and will use all available compliance and enforcement tools to address those who do not comply, or those who encourage others not to comply, with Canada's tax laws. We are also enhancing the administration of the Voluntary Disclosures Program.

Compliance tools and processes: We are building our business intelligence through strengthened compliance research and risk assessment techniques. Our Compliance Systems Redesign is a major transformation initiative to expand our capacity to manage and deliver compliance programs.

To help taxpayers meet their obligations, the CRA focuses on outreach and assistance, innovative and secure services, and simplifying the administration of the tax system. To deter non-compliance, the CRA focuses on conducting reviews and audits, communicating the results of previous enforcement actions, dispute resolution, and administering taxpayer relief provisions. To enforce legislation, the CRA focuses its efforts on underground economic activity, aggressive tax planning, and prosecuting fraud.

Working with international partners to find more efficient and effective ways to combat cross-border non-compliance issues is a fundamental part of these efforts.

The CRA's primary goals related to international compliance are to mitigate the risks of non-compliance arising from the growing number of cross-jurisdictional financial transactions and to strengthen its relationships with foreign tax administrations, both bilaterally and through international organizations.

1. Authority for Exchange of Information

Within the CRA, there is a range of programs meant to facilitate collaborative efforts and the exchange of information with foreign tax administrations. These programs, authorized by law and administrative agreements, facilitate the sharing of taxpayer data and enhance debt collection.

1.1 Legal Basis for Exchange of Information

Canada currently has 87 bilateral tax conventions in force. Twenty-one of these treaties are with CIAT partners and another four agreements with CIAT members[1] are under negotiation or signed but not yet in force. Each agreement contains an article that provides for the sharing of information relevant for carrying out the provisions of the convention or to the administration or enforcement of domestic laws concerning taxes between the "Competent Authorities" of treaty partners. The specific wording of each treaty also defines the scope of such exchanges and details certain limitations.

Every treaty is enacted into law in Canada in the same way as domestic legislation, through an implementing act. This implementing act provides that, in the event of any inconsistency between the tax treaty and the provisions of any other law except the Income Tax Conventions Interpretation Act, the provisions of the tax treaty prevail to the extent of the inconsistency. The Income Tax Conventions Interpretation Act contains definitions of certain terminology contained in, and guidelines to interpret, Canada's tax treaties.

The CRA's legal obligation to safeguard the confidentiality and integrity of taxpayer information permits disclosure of taxpayer or confidential information only to the person to whom the information relates, unless the taxpayer authorizes third party disclosure in writing. However, Canada's domestic tax legislation contains a number of exceptions, including specific wording that allows it to meet its information exchange obligations to treaty partners.[i]

1.2 Memoranda of Understanding (MOU)

An MOU provides greater clarity to the initial treaty negotiated between two tax administrations. At times, it is beneficial to establish guidelines and procedures that relate to exchange of information but are not spelled out in detail in the tax convention. Some of the CRA's MOUs are comprehensive, covering all facets of exchange of information. Others relate to individual aspects of exchange, such as automatic exchanges, simultaneous audits, assistance in collection, or travel by tax officials between treaty countries.

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1 *Bolivia, Columbia, Costa Rica and Cuba*

The CRA currently has MOUs with Australia, the Czech Republic, Denmark, Lithuania, Mexico, the Netherlands, and the United States (U.S.) and several under negotiation, including five CIAT member countries[2].

1.3 Administrative Structure

Within the CRA, the Director, Competent Authority Services Division (CASD), has been authorized to exercise the powers and duties of Canada's Minister of National Revenue, and is the "Competent Authority" for all operational programs related to Canada's network of income tax conventions. Exchange of information is included in these operational programs.

Exchange of Information Services (EOI Services) is a part of the CRA's Competent Authority Services Division. In a nutshell, the mandate of EOI Services is to co-ordinate exchanges of information with Canada's tax treaty partners. This one simple statement encompasses:

- Research, tracking and responses for exchange of information of all types;
- Confirmation of travel authorizations with treaty partners;
- Development and delivery of information sessions, workshops and reference material for the CRA and foreign tax administrations;
- Negotiation of memoranda of understanding (MOU) with treaty partners to support administration of the exchange of information provisions under existing tax treaties;
- Assistance in collection matters; and
- Participation in international forums such as the Organisation for Economic Co-operation and Development (OECD) Tax Information Exchange Subgroup (TIES), Working Party 8, and the sub-group for drafting common forms under the European Commission's Taxation and Customs Union Indirect Taxation and Tax Administration, Working group on administrative cooperation in the field of direct taxation (WG ACDT) (see 5.2 below).

2. MECHANISMS SUPPORTING EFFECTIVE EXCHANGE OF INFORMATION

The issue of tax cooperation is very high on the political agenda. This gives added importance to the vital role that effective and efficient exchange of information arrangements play in the fight against harmful tax practices, tax avoidance, and tax fraud. Without effective exchange of information systems and procedures, countries cannot properly protect their tax revenues.

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[2] *Chile, Ecuador, Italy, Portugal and Spain*

2.1 Participation in International Forums

Developing, fostering and maintaining effective relationships with our partners directly and through international organizations allows the CRA to keep abreast of emerging international tax issues and related compliance concerns.

Collaborating with our global counterparts means playing an active role in international forums. Organizations such as CIAT, OECD, Joint International Tax Shelter Information Centre (JITSIC), the Centre de Rencontres et d'Études des Dirigeants des Administrations Fiscales (CREDAF), the Commonwealth Association of Tax Administrators (CATA), the Seven Country Competent Authority, the Seven Country Working Group on Tax Havens, and the Leeds Castle Group provide the opportunity to expand our common knowledge base and build collective approaches to issues of mutual concern. Included in our support to the OECD is the CRA's participation in outreach training sessions for non-OECD countries such as, for example, our training on exchange of information in China in May 2007.

The CRA's dynamic information-sharing role in the international tax arena includes such activities as sharing best practices with the Seven Country Tax Haven Group and, under the aegis of the OECD Working Party 8 on Tax Avoidance and Evasion:

- Presenting examples of tax schemes discovered in Canada for the Directory of Aggressive Tax Planning;
- Advancing and implementing methods improving the efficiency of exchange of information; and
- Providing input to the Forum on Tax Administration for its study on the role of tax intermediaries.

2.1.1 Joint International Tax Shelter Information Centre (JITSIC)

Canada is a founding member of the Joint International Tax Shelter Information Centre (JITSIC). While tax administrations operate primarily within their own borders, many abusive tax transactions operate without regard for national boundaries.

JITSIC was formed by the tax administrations of Australia, Canada, the United Kingdom, and the United States in April 2004 to address a number of common challenges with respect to abusive tax transactions. Later, Japan also accepted an invitation to join.

The objectives of JITSIC are to deter promotion of and investment in abusive tax schemes, and, through information exchange and knowledge sharing:

- Increase public awareness of the potential civil and criminal risks of promoting and investing in abusive tax schemes;
- Share best practices among participating tax administrations for identifying and addressing abusive tax schemes;
- Enhance compliance and enforcement efforts through coordinated and "real time" exchanges of tax information consistent with the provisions of bilateral tax conventions;
- Develop new internet search and other techniques for early identification of promoters and investors involved in abusive tax schemes;
- Identify emerging trends and patterns to anticipate new abusive tax schemes; and
- Improve knowledge of techniques used to promote abusive cross-border tax schemes.

The CRA benefits from the shared techniques for identifying schemes and from the pooled expertise, experience, and practices to combat abusive tax transactions. The Information Centre is a key component in the CRA's overall strategy to deal with aggressive tax planning and to protect the Canadian tax base.

Exchange of taxpayer information between JITSIC countries is closely controlled, ensuring all taxpayer rights are respected. Canada's participation in JITSIC does not raise confidentiality issues for Canadian tax purposes. All exchanges that result from JITSIC are subject to the same tax treaty provisions, the same confidentiality provisions of Canada's domestic legislation, and the same due diligence to which any exchange of information is subject in Canada.

Partnering in JITSIC enhances the CRA's ability to identify and deal with abusive tax schemes and with those who promote them. It also provides earlier insight into schemes that are developed abroad but marketed in Canada. Some of the aggressive tax practices involve CIAT member countries. To the extent possible under bilateral tax conventions, the CRA alerts its CIAT partners to the operation of schemes which may affect them.

Participation in JITSIC is producing real results. For example, Canada and the U.S. unravelled an abusive cross-border tax scheme involving hundreds of taxpayers and tens of millions of dollars in improper deductions and unreported income from retirement plan withdrawals. This collaborative effort reflects the progress being made by JITSIC in the complex task of tracking international tax schemes and shelters involving individuals and corporations.

"The real time exchange of information, including the identities of promoters and hundreds of investors has been critical to this investigation. JITSIC is emerging as an important part of efforts to combat abusive schemes." - excerpt from IRS

News Release #IR-2006-121 by former Internal Revenue Services (IRS) Commissioner Mark W. Everson.

2.2 Types of Exchanges of Information

2.2.1 Specific Exchange

A specific information request results when one tax administration seeks information on a particular taxpayer or group of taxpayers from another tax administration. These requests cover a wide spectrum of issues (e.g. verification of particular transactions, securing foreign bank information, confirming the existence of contracts, ascertaining taxability of income, etc.).

Before the CRA forwards a request to another competent authority, its competent authority officials review the request to ensure that sufficient information is supplied to enable the receiving country to proceed. Criteria the CRA considers are whether the reason (nexus) for the request is clear, the extent to which the CRA's domestic powers have been used to obtain material directly from the taxpayer(s), any time constraints, and the ramifications of taxpayer(s) notification by a treaty partner. Following consultation with the author of the request, the EOI Services group may include supplementary information to clarify the request.

When requests come in from tax treaty partners, they go through a similar review. CRA officials conduct preliminary searches on internal systems and through various other sources to locate relevant information. In addition, the CRA routinely screens incoming information exchanges for potential domestic tax recovery or emerging trends. The EOI Services group can answer certain simple requests (e.g. transcripts of tax returns, copies of information slips) quickly. However, the majority of requests are forwarded to a CRA field office for response. Information from treaty partners may also be referred to various areas within the CRA for further analysis, risk assessment, and intelligence gathering. The priority, in all cases, however, is to ensure the exchange of information is completed and an answer provided to the treaty partner.

2.2.1.1 Example 1

The CRA reviewed a series of transactions undertaken by two Canadian taxpayers whereby non-resident trusts were created in a treaty partner country and the Canadian taxpayers transferred shares of a Canadian private corporation, which they controlled, to the trusts.

Each trust had a trustee in the treaty country. Related Trust Deeds included a provision specifically excluding Canadian residents from ever being a beneficiary. The named beneficiaries of the trusts were charities and other trusts outside Canada. The named settler (contributor) of the trusts was a person who resided

in a tax haven country. The taxpayers' Canadian legal advisor knew this person. In summary, the trusts appeared to have no connection to Canada other than ownership of the shares of a Canadian corporation.

The trusts subsequently sold the shares of the corporation to an unrelated party for CAN$100 million. Capital gains resulting from the disposition by non-residents of shares in Canadian-controlled private corporations are taxable in Canada. When reporting the gain to the CRA, the non-resident trusts claimed that the realized gains of CAN$50 million were exempt from Canadian tax in accordance with provisions of the tax convention with our treaty partner.

The CRA used every available domestic avenue to obtain information regarding the dispositions from the two Canadian taxpayers and their advisors. However, they refused to co-operate on the basis that the trusts were not resident in Canada and that they were not beneficiaries. It was difficult for the CRA to accept that the Canadian taxpayers were divorcing themselves from the CAN$100 million transaction related to the sale of a company they controlled. Therefore, the CRA requested assistance from our treaty partner.

The treaty partner provided us with substantial information. In addition to the copies of the tax returns filed by the trusts, they provided documents, financial records, and copies of communications between the trustees located in the treaty country and the Canadian legal advisor. The information revealed the existence of a web of offshore trusts and corporations created in a low or no-tax jurisdictions (tax haven) country to shelter the CAN$100 million proceeds of disposition.

We were able to confirm that the two Canadian taxpayers (and former shareholders) had access to the money by directing payments for their personal and investment purposes through their Canadian legal advisor. In fact, using the information provided by the treaty partner, the CRA was able to formulate additional queries to the two Canadian residents in such a way that they could not avoid responding.

Information supplied by the two Canadian residents also led to identification of payments from the corporations incorporated in the tax haven country to other Canadian residents for services performed in Canada. The CRA has since confirmed that the other Canadian residents did not report the payments.

Although the final assessments are not yet complete, the CRA is expecting substantial tax revenue to result. Our success is primarily attributable to the invaluable assistance from our treaty partner.

2.2.1.2 Example 2

Every year, Canadians donate generously to registered Canadian charities. When they file their income tax returns, taxpayers may obtain a tax benefit from such donations. To ensure that taxpayer generosity is not exploited and that certain taxpayers do not obtain benefits to which they are not entitled, the CRA is charged with regulating registered charities.
Recently, the CRA audited several charities suspected of participating in and promoting abusive tax shelter arrangements. As a result, several organizations have had their charitable status revoked.

News Release - The Canada Revenue Agency revokes the charitable status of the Banyan Tree foundation

Ottawa, Ontario, October 20, 2008…The Canada Revenue Agency (CRA) has revoked the registered charity status of The Banyan Tree Foundation effective September 20, 2008.

On August 13, 2008, the Minister of National Revenue issued a notice of intent to revoke the charitable registration of The Banyan Tree Foundation, in accordance with subsection 168(2) of the Income Tax Act. The letter stated, in part, that:

> It is the CRA's position the Charity has operated for the non-charitable purpose of promoting a tax shelter arrangement and for the private benefit of its directors. The Charity has failed to demonstrate that it operated exclusively for charitable purposes and has not demonstrated its purported charitable activities occurred as represented. The Charity improperly issued receipts in excess of $210 million for transactions that do not qualify as gifts and has failed to demonstrate the $10.1 million paid to its directors and corporations controlled by its directors were for bona fide payments…

(Full text available at www.cra-arc.gc.ca/nwsrm/rlss/2008/m10/nr081020-eng)

Several of our treaty partners provided key information as our auditors attempted to follow the trail of funds from country to country in the various audits.

2.2.2 Automatic Exchange

We receive bulk data files that contain information on Canadian residents who receive payments (e.g. income from employment, investment income, pension income, royalties, income from immovable property) reported to foreign tax

authorities. The CRA currently reciprocates by sending bulk data to 25 of its treaty partners.

The CRA (Foreign Source Matching Programs) uses this information to assess taxpayers who have not reported this interest, dividend, pension, and other income as part of their worldwide income. Preliminary analysis is done on other types of income information received and forwarded to the appropriate area within the CRA.

The Competent Authority Services Division maintains the bulk data exchanged with other countries on a web-based database (Foreign Automatic Information Retrieval System or FAIRS, more fully described in 2.5 below).

2.2.2.1 Example 1

In the course of investigating a Canadian taxpayer, a CRA field office made a request to the CRA's competent authority for a search of FAIRS to determine if any income information from a particular treaty partner was available.

Out of approximately 1,000 records received from the treaty partner, the taxpayer's name was associated with 53. Approximately CAN$150 000 in unreported interest income was added to the taxpayer's income as a result.

2.2.2.2 Example 2

A treaty partner routinely sends information to Canada in regard to dispositions and acquisitions of property by Canadian residents. Out of 63 transactions provided in one exchange, further investigation revealed unreported capital gains of more than CAN$1.5 million.

In addition, when the CRA searched the FAIRS database for the name of one of the taxpayers who failed to report capital gains, another CAN$2 million in unreported interest and dividends was uncovered.

2.2.3 Spontaneous exchange

Spontaneous exchanges occur when, in the course of administering one country's tax laws, information is obtained that may be of interest to another country; even though that country's tax administration has not asked for it.

All inbound spontaneous exchanges undergo review and research within the Competent Authority Services Division. Many times, domestic tax issues not readily apparent from the initial information are uncovered and forwarded within the CRA for further exploration. The CRA includes feedback questionnaires in all

files forwarded internally. The goal is to provide feedback to all treaty partners on 100% of their spontaneous exchanges of information.

Limited verification is done on outgoing spontaneous exchanges and it is often forwarded to the treaty partner prior to the completion of the CRA's domestic compliance action. Educating the CRA's personnel on the importance of sharing foreign tax information uncovered in the course of an audit or examination is ongoing.

2.2.3.1 Example 1

A treaty partner, in undertaking an audit of a consortium, provided details of significant stock transactions involving a Canadian taxpayer. The treaty partner found that certain individuals, including the Canadian taxpayer, had transferred ownership of their shares to companies resident in a country where the tax rates were much lower. The intent of the transfer was to realize considerable tax savings by using the more favourable tax regime. The treaty partner determined that the beneficial owners (the persons exercising control over the shares) were, in fact, the individuals.

The treaty partner provided full details concerning the Canadian taxpayer's share of the proceeds. The CRA reviewed the information and found that the taxpayer had voluntarily reported the income from the share transaction following the audit by the treaty partner but prior to forwarding the information under the tax treaty. Although no tax recovery resulted from the exchange, it was our treaty partner's spontaneous exchange of information that prompted the taxpayer to report income that otherwise would have remained hidden.

2.2.3.2 Example 2

A review of the books and records of a corporation by a treaty partner revealed that a Canadian taxpayer had received consulting fees during two of the years under review. The treaty partner provided documentation of the amounts paid (e.g. contract invoices and bank transfers) to Canada as a spontaneous exchange of information.

The information proved very useful. The CRA determined that the taxpayer had not reported the consulting fees. The bank transfer document also aroused suspicion of further non-compliance. Further investigation uncovered that the taxpayer failed to report investment income from a bank located in the treaty country. The CRA assessed tax on approximately CAN$12 000 as a result of the exchange.

2.2.4 Simultaneous Audit or Examination

A simultaneous audit or examination is an arrangement between two or more countries to examine simultaneously, but independently in their own territory, the tax affairs of a particular taxpayer or group of related taxpayers who has carried on activities in those jurisdictions. The tax officials of both countries will exchange any relevant data (e.g. international money-laundering setups, complex multinational transactions, allocation of costs and profits between corporate branches in different jurisdictions, etc). Simultaneous examinations are always accompanied by a request for information and conducted under the exchange of information article of a bilateral tax convention.

Following a proposal by one country and acceptance by the other, there is usually a preliminary meeting between their tax officials before a full-fledged simultaneous examination is undertaken. Even when a decision is made not to proceed, the discussions and information exchanged make these meetings very worthwhile. A representative from the competent authority office of each country attends the meetings and is responsible for the formal exchanges of any documents during the simultaneous examinations.

Once both tax authorities agree there is sufficient interest in a simultaneous examination, the competent authorities name their representatives. Designated representatives from each country work with each other in coordinating the simultaneous examination, openly discussing issues, audit plans, and information needs via meetings and conference calls, as necessary, throughout the process.

Taxpayer information (covered in the simultaneous examination or directly related to the entity being audited) can be disclosed to the other tax administration. Taxpayer documents, returns, etc., can be reviewed and discussed at meetings but, if either team requires a copy of any of the documents, they must be exchanged through the competent authorities in accordance with the bilateral tax treaty.

Although simultaneous audits or examinations are infrequent, Canada has negotiated memoranda of understanding (discussed at 2.6) with a number of jurisdictions establishing parameters. The CRA is open to exploring these types of arrangements with its treaty partners via either an encompassing agreement or on a case-by-case basis.

2.2.5 Outreach and Reference Manual

A key to the growth of our exchange of information programs is building awareness and providing training.

Promotion of exchange of information is done through an ongoing internal outreach program. The Competent Authority Services Division has delivered information sessions or workshops to our field offices, to various divisions within our headquarters organization, and to regional and national conferences. The goals of these sessions are to heighten awareness of the benefits of using tax treaties to obtain information and to encourage employees to keep the possibility of spontaneous exchange in mind when foreign information is uncovered.

Continuing these presentations and discussions on a regular basis ensures that new personnel are given the opportunity to learn how exchange of information works to enhance the quality of their work. The effectiveness of the CRA outreach program is seen almost immediately through an influx of specific requests, spontaneous information, and related questions following each session.

The CRA's Exchange of Information Services Reference Guide provides:
- General information to CRA employees concerning Canada's tax treaties;
- Technical and procedural guidelines for exchanges; and
- A brief summary of issues and restrictions relating to exchange of information.

This electronic reference material assists employees in initiating requests to treaty partners, provides direction in the handling of information supplied by other tax administrations, and offers an overview of the exchange of information process to those unfamiliar with it. The use of this guide results in a greater number of requests that contain all relevant information, reducing delays in processing. In addition, and as emphasized in outreach sessions, the Reference Guide ensures that all areas within the CRA are reminded of the importance of maintaining the secrecy of information shared by our treaty partners.

2.3 In-House Databases

2.3.1 Exchange of Information Tracking System (EITS)

The Exchange of Information Tracking System (EITS) is an intranet inventory control program designed to allow CRA officials to easily input, change, update, and save data relating to the workload and activities of the EOI Services group. Files are tracked from inception to completion. All activities undertaken are captured in a diary-type log available to authorized personnel.

In addition to specific, spontaneous, automatic, and JITSIC exchanges, items such as simultaneous audit initiatives, foreign travel authorizations, collection assistance activities, and other Competent Authority projects are recorded. Along with various standard reports (e.g. inventory, aging), variable search criteria allow for generation of reports for more detailed analysis (e.g. incoming, outgoing, by taxpayer name, by country, by topic).

2.3.2 Foreign Automatic Information Retrieval System (FAIRS)

The bulk data exchanged with other countries (see 2.2.2 above) is maintained on a web-based database called Foreign Automatic Information Retrieval System (FAIRS). CRA employees may contact the Competent Authority Services Division, either by fax or email, to request searches on the database to determine if foreign income has been received by particular taxpayers. Using a single database, the CRA can search information received from all treaty partners who participate in electronic automatic exchange, thereby cutting the search time needed. Since FAIRS permits variable parameters (e.g. recipient, payer, income type), a search can be customized to the needs of the requestor.

2.4 Assistance in Collection

To perform collection assistance for a treaty partner, there must be a specific article in the tax convention. Canada has negotiated Assistance in Collection (AIC) articles in its conventions with Germany, Norway, The Netherlands, and the United States. These articles give Canada the ability to seek assistance in the collection of taxes owing and to collect amounts that would otherwise be beyond our reach.

The internal laws of each country govern the collection activities that may be used. Activities can range from simple collection letters to seizure actions. A tax debt accepted for collection by Canada is treated as an amount payable under Canada's domestic income tax legislation and is not subject to any restrictions, unless otherwise requested by the applicant state. The tax treaties that include goods and services tax/value-added tax (GST/VAT) in their exchange of information articles will also allow for the collection of those taxes where a specific AIC article is present.

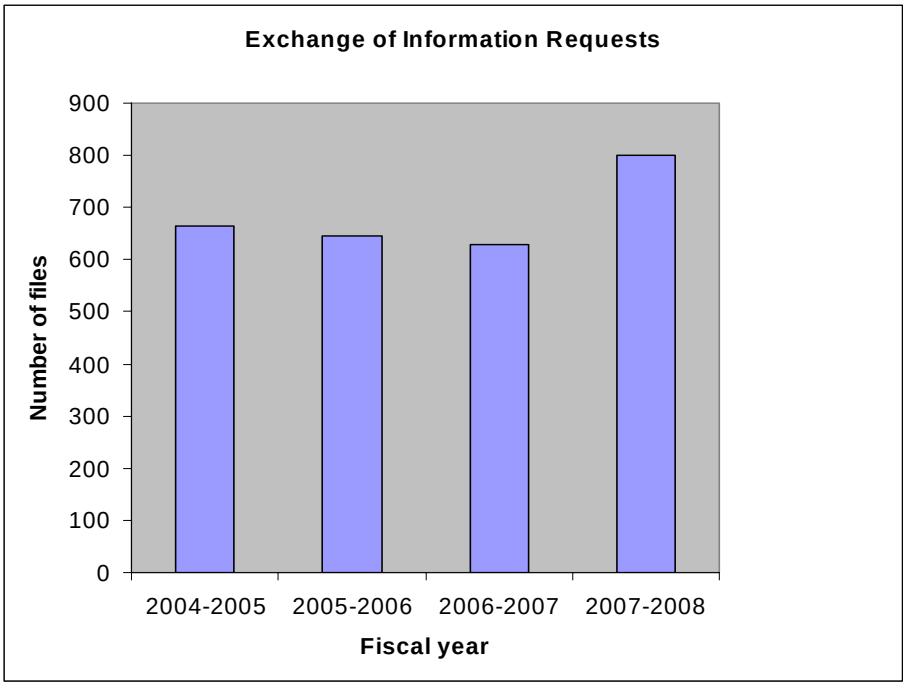
All referrals for treaty collection are routed through the CRA's specialized Treaty Collections Program. These officials review all referrals (inbound and outbound) to determine if criteria specified in the treaties, memoranda of understanding (discussed at 1.2 above) and administrative policy have been met. They also:

- Act as liaison between treaty partners and CRA field offices;
- Provide updates on the progress or status of collection efforts;
- Advise of any changes in the outstanding balance;
- Ensure that collected amounts received from or payable to treaty partners are forwarded.

The majority of our tax conventions do not provide for assistance in tax collection in the sense of empowering the competent authorities to use powers of collection on behalf of a treaty partner. However, the CRA can and does exchange information which can be used to assist in a collection action as part of the administration and enforcement of a respective country's domestic tax legislation.

3. THE CRA'S EXCHANGE OF INFORMATION EXPERIENCE

The following chart indicates the volume of information exchanges (both incoming and outgoing) that the CRA handles. As noted, there has been a substantial increase in workload over the past year; due to both the CRA auditors' and other tax administrations' increasing reliance on this important mechanism to combat aggressive tax planning, tax evasion, and abusive use of tax havens.



4. CHALLENGES TO THE EXCHANGE OF INFORMATION ENVIRONMENT

Methods used to perpetrate non-compliance are changing. In order to continue protecting our revenues, the CRA needs to not only keep up with but, in fact, stay ahead of emerging strategies used by taxpayers. Greater enhancements to exchange of information are needed but there are roadblocks.

Issues the CRA has found that impede the ability to exchange information effectively and efficiently are:

- The length of time it takes to obtain the information requested;
- Lack of resources;
- Translation is difficult at times because there is no common understanding of terminology; and

- Lack of feedback from the requesting country on the value of the information gathered. The feedback could help the requested country to better understand what is required and help in providing the information in an acceptable format to the requesting country.

In order to optimize the use of exchange of information, the CRA and its treaty partners need to overcome these obstacles. The OECD-TIES Committee is presently looking at these issues to come up with ways of improving the exchanges. For example: the development of glossaries to help the requested countries understand the terminology of the requesting countries; and the voluntary adoption of performance measures to reduce the length of time to respond to requests.

5. FUTURE DIRECTIONS FOR EXCHANGE OF INFORMATION

While the general foundation of exchange of information has been established, the ever-evolving global economy requires us to improve existing programs and processes to address taxpayers conducting business throughout the world. Exchange of information is no exception. The CRA is moving forward on many different fronts in this regard.

5.1 Tax Information Exchange Agreements (TIEAs)

The global economic crisis and recent tax evasion scandals have spurred calls for fairness and transparency within the tax system. Removing practices that facilitate tax evasion is part of a broader drive to clean up one of the more controversial sides of a globalized economy. Lack of transparency and a failure to co-operate internationally create conditions that can be exploited by dishonest taxpayers to evade their tax obligations. Working to improve transparency and to establish effective information exchange for tax purposes in support of the goals of the OECD's Global Forum on Taxation is a priority for Canada.

Comprehensive tax treaties include a provision allowing for the exchange of tax information. However, Canada is currently unable to share tax information with non-treaty jurisdictions (except in limited cases involving tax evasion). Many of these jurisdictions impose little or no tax. Therefore a comprehensive tax treaty similar to the OECD model tax convention is generally not warranted. To address this, Canada and other OECD member countries are attempting to strengthen exchange of information through the adoption of TIEAs with non-treaty jurisdictions.

In 2007 Canada's Federal Budget included incentives to encourage countries to conclude a TIEA with Canada. The incentives are in the form of both a carrot and a stick. The carrot consists of extending the exemption for dividends received out of active business income earned by foreign affiliates resident in treaty countries to those residents in TIEA countries. The stick will cause income

earned by foreign affiliates in countries that do not agree to a TIEA within 5 years of being invited to negotiate a TIEA with Canada to be taxed on an accrual basis. The budget bill was passed in late 2007 and the TIEAs measures are now law in Canada.

Canada is currently negotiating TIEAs with more than a dozen jurisdictions.

5.2 Electronic Standardized Forms (ESF)

The European Union (EU) Commission has undertaken development of Electronic Standardized Forms for specific requests, spontaneous exchanges, and feedback. This standardization will benefit exchange of information through the use of terminology agreed to by all participants. Easier preparation and increased comprehension of information exchanged will result from the translation feature built into the electronic adaptation.

The EU Commission has been working on this initiative for over two years. All countries participating in the OECD TIES Committee were asked to provide comments on the first draft.

Although Canada is a non-EU country, it contributed a significant amount of constructive input. As a result, at the December 2008 OECD TIES Committee meeting, the CRA was asked to participate in a pilot project to assess the newly revised hardcopy and electronic versions. When finalized, ESF is to be brought forward to the TIES Committee for adoption. We will continue to provide input and support to the EU Commission on the evolution of this initiative and have agreed, at a minimum, to use the final product when communicating with the countries of the European Union.

5.3 Recognition

Many times, the dedication and hard work of individuals and teams behind an exchange of information response is forgotten. The CRA wants that to change as demonstrated at the January 2009, Leeds Castle Group meeting in Kyoto, Japan. A highlight of the meeting was the presentation by Canada of a Certificate of Appreciation to the United Kingdom for the work of one individual in particular. Over a three year period, a single request from Canada turned into a CRA project involving multiple requests for interviews and documentation, all handled with the utmost patience and co-operation by the U.K. employee. As a result of this individual's untiring efforts, the CRA received all information necessary to pursue significant tax reassessments.

In keeping with the decision by the Leeds Castle Group to seek out such exemplary conduct on an annual basis, the CRA will be watching for opportunities to recognize excellence in exchange assistance.

5.4 New Automatic Exchange Opportunities

In September 2008, the CRA sent over 19,000 records concerning acquisitions and dispositions of assets by non-resident individuals from the CRA's Non-Resident and Emigrant Dispositions Database (NEDD) to 25 of its treaty partners. This was the first time such information had been provided by the CRA and other opportunities to expand the automatic exchange program are being studied (see 2.2.2 above for more on this program). In the near future, for example, the CRA will provide information on dispositions and acquisitions by non-resident corporations, trusts, and partnerships.

5.5 Improved Payment Option for Assistance in Collections

Most tax administrations are moving away from negotiable paper currency and towards more efficient electronic payment transactions (e.g. debit card, credit card, prepaid card, etc.). Canada has not yet adopted direct electronic payments for taxes. However, the CRA already has a structure in place for indirect electronic payments through domestic financial institutions.

To address payment service needs under the Assistance in Collection (AIC) agreements with Norway, the Netherlands, and Germany, the CRA has embarked on the Electronic Payment Transfer Facility initiative. A framework has been developed to allow taxpayers to remit income tax or goods and services tax/ harmonized sales tax (GST/HST) via wire transfer to a designated financial institution. Scheduled for implementation in the latter part of 2009, this initiative will simplify the AIC process for our Norwegian, Dutch, and German colleagues.

CONCLUSION

In this paper, we've shown where exchange of information and assistance in collection fit in the CRA's compliance strategies and how they are used in the pursuit of our goals.

Bilateral conventions provide access to information and funds that are beyond the reach of domestic legislation. Provisions in domestic legislation give certainty to our ability to reciprocate. MOUs iron out the administrative details. The operational duties and responsibilities in relation to our tax treaties are exercised by the Director, Competent Authority Services Division (CASD).

Exchange of information produces success at many different levels despite certain hurdles that exist. Under the auspices of the Director of CASD, EOI Services is the 'hub of activity' for exchange of information and assistance in collection matters. Using a variety of mechanisms, EOI Services works tirelessly to administer the treaty provisions.

Challenges include the lack of a common language to ensure understanding of the requesting country's needs, lack of feedback and recognition concerning the responding country's efforts, and length of time to respond.

However, success stories abound of tax administrations working together and making strides in combating fraud, tax evasion and tax avoidance. Many innovative solutions are underway to remove barriers to exchange and advance the quality, effectiveness, and efficiency of our tax administrations. As new schemes emerge, the need for continued collaboration and sharing of best practices grows exponentially. Our efforts to enhance exchange of information are imperative if we are to keep ahead of the rising tide of global schemes to evade and avoid tax.

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[i] *Income Tax Act subparagraph 241(4)(e)(xii)*

> *"An official may provide taxpayer information, or allow the inspection of or access to taxpayer information, as the case may be, . . . under, and solely for the purposes of, ... a provision contained in a tax treaty with another country or in a comprehensive tax information exchange agreement between Canada and another country or jurisdiction that is in force and has effect."*

Excise Tax Act paragraph 295(5)(n)

> *"An official may provide confidential information, or allow the inspection of or access to confidential information, as the case may be, ... solely for the purposes of a provision contained in a listed international agreement."*

Excise Act 2001 subsection 208(1)

> *"Despite any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of a listed international agreement or of this Act, by notice served personally or by registered or certified mail, require any person to provide the Minister, within any reasonable time that is stipulated in the notice, with*
>
> *(a) any information or additional information, including a return under this Act; or*
> *(b) any record."*

Case study

Topic 2.1

INFORMATION EXCHANGE AND ADMINISTRATIVE ASSISTANCE FOR RECOVERY AS EFFECTIVE MECHANISMS FOR CONTROLLING FRAUD, EVASION AND AVOIDANCE

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CONTENTS: I. Mechanisms developed by the OECD for effective exchange of information and administrative assistance for tax collection .- 1. The international standards of transparency and exchange of information for tax purposes are now accepted by countries around the world.- 2. Next steps.- 3. The legal mechanisms for exchange of information.- 4. Forms of exchange of information .- 5. Setting standards on assistance in tax collection.- II. Improving efficiency and effectiveness of exchange of information and assistance in tax collection.

OECD's ACHIEVEMENTS IN IMPROVING THE LEGAL FRAMEWORK AND IMPLEMENTATION OF EXCHANGE OF INFORMATION AND ASSISTANCE IN TAX COLLECTION

At a time when governments around the world need tax revenues to address the global economic crisis, countering international tax evasion is more important than ever. The OECD has long promoted the increase of transparency and exchange of information in tax matters as key tools for the effective and fair application of each country's tax laws in an increasingly globalised world and in particular to perform efficient tax controls.

Effective exchange of information requires a legal mechanism that permits information sharing between two or more jurisdictions. The OECD has developed several bilateral and multilateral instruments that can be used as a framework for exchange of information for tax purposes. The OECD standards on transparency and information exchange are relevant not just for OECD members, but have also found wide support beyond the organisation's membership. The OECD standards have been endorsed by the G20, by the UN Committee of Experts on International Co-operation in Tax Matters and by countries around the world.

There is also a growing recognition that international cooperation in tax matters should go beyond exchange of information. In an era of increasing globalisation, traditional attitudes towards assistance in the collection of taxes have changed. This change was to some extent influenced by the development of electronic commerce and the concerns about the ability to collect VAT on such activities. As a result of such concerns, a new Article 27 on assistance in tax collection was added to the OECD Model Convention in 2003. Even though this article is optional, it has been included in a growing number of bilateral conventions and was endorsed in 2009 by UN Committee of Experts on International Co-operation in Tax Matters.

The first part of this paper describes the unprecedented progress made over the last few months with regard to the implementation of the standards of tax information exchange and transparency and the information exchange and collection assistance mechanisms that can help tax administrations enforce their national laws. It sets out the relevant international legal framework, the different forms of information exchange and the basic operational rules of international information exchange and cross border collection assistance.

The second part of the paper provides a brief summary of recent OECD work to identify solutions to the practical obstacles to efficient exchange of information and approaches carried out in response to the concerns of a number of countries about the growing incidence of unpaid taxes.

I. MECHANISMS DEVELOPED BY THE OECD FOR EFFECTIVE EXCHANGE OF INFORMATION AND ADMINISTRATIVE ASSISTANCE FOR TAX COLLECTION

1. The international standards of transparency and exchange of information for tax purposes are now accepted by countries around the world

The international standards require:

- Exchange of information on request where it is "foreseeably relevant" to the administration and enforcement of the domestic laws of the treaty partner.
- No restrictions on exchange caused by bank secrecy or domestic tax interest requirements.
- Availability of reliable information and powers to obtain it.
- Respect for taxpayers' rights.
- Strict confidentiality of information exchanged.

These standards are set out in the 2002 Model Agreement on Information Exchange on Tax Matters developed by OECD and non-OECD countries working together, in Article 26 of the OECD Model Tax Convention and the recently revised Article 26 of the UN Model Tax Convention. They have been endorsed by the EU, the G7/8, and the G20.

Since the beginning of 2009, international tax evasion and the implementation of the above standards have been very high on the political agenda, reflecting recent scandals that have affected countries around the world, the spotlight that the global financial crisis has put on financial centres generally, and the April 2009 G20 London Summit.

At its London Summit, the G20 declared "the era of banking secrecy is over" and agreed to take action against non-cooperative jurisidictions. This heightened political attention has led to a number of significant and positive developments among financial centres since the April meeting:

- All OECD countries have now endorsed the standard and are in the process of up-grading their existing treaties or negotiating new treaties to meet the standards. Over 70 Tax Information Exchange Agreements (TIEAs) have been signed, 20 in the last month and over 60 tax treaties have been negotiated or renegotiated to meet the standard.
- Hong Kong, China and Singapore have endorsed the standard and have tabled legislation.
- Macao, China has already passed legislation that will enable it to engage in effective exchange of information.
- Chile, Costa Rica, Guatemala, Malaysia, Philippines and Uruguay are taking steps to meet the standards.

2. NEXT STEPS

Tackling tax evasion is not, however, simply a matter of endorsing a standard. The standards will only allow countries to effectively enforce their tax laws when implemented in practice. The G8 Finance Ministers, at their recent meeting on 13 June 2009, urged further progress in the implementation of the OECD standards, encouraged the involvement of the widest number of jurisdictions, including developing countries and suggested the development of an effective peer review mechanism to assess compliance with the standards. The Global Forum on Transparency and Exchange of Information (GFTEI) at its meeting in Mexico on 1-2 September 2009 agreed on ways to speed up the implementation process, broaden participation in its work and ensure effective compliance with the standards. It agreed to:

- Restructure the Global Forum to expand its membership and ensure its members participate on an equal footing;
- Launch an in-depth peer review and quickly implement it; and
- Identify mechanisms to speed-up the negotiation and conclusion of agreements to exchange information and to enable developing countries to benefit from the new more cooperative tax environment.

3. THE LEGAL MECHANISMS FOR EXCHANGE OF INFORMATION

Article 26 of the OECD Model Tax Convention

The most commonly used legal mechanism is Article 26 of the OECD Model Tax Convention on Income and on Capital, which provides for exchange of information in the context of a comprehensive bilateral income tax treaty. Over 3000 bilateral tax treaties are based on the OECD Model Tax Convention. Article 26 sets forth the rules under which information may be exchanged between tax authorities. It does not limit the form of such exchanges, although the main forms used are on request, automatic and spontaneous exchange. Article 26 first establishes the obligation to provide information to a treaty partner and the circumstances under which this obligation exists. It then sets out rules that ensure that any information provided to a treaty partner is subject to strict confidentiality that protect the legitimate privacy rights of any person to whom the information relates. Finally, it provides certain exceptions from the obligation to provide information, but notes specifically that grounds for declining a request can not be based on bank secrecy or the absence of a domestic tax interest in the information. Following the recent withdrawal of reservations by Austria, Belgium, Luxembourg and Switzerland in March 2009, Article 26 has the support of all OECD members.

The Convention on Mutual Administrative Assistance in Tax Matters

This multilateral instrument was developed jointly by the OECD and the Council of Europe. It provides for exchange of information for a wide range of taxes as well as other forms of mutual assistance such as assistance in the collection of taxes and the service of documents. The Convention is currently in force with respect to the following 14 countries: Azerbaijan, Belgium, Denmark, Finland, France, Iceland, Italy, the Netherlands, Norway, Poland, Sweden, the Ukraine, the United Kingdom and the United States. There is a growing interest in the Convention particularly as it allows for exchange of information for consumption tax purposes, assistance in tax collection, but also for multilateral exchange and in particular multilateral simultaneous tax examinations. Canada and Germany are still in the process of ratifying the Convention. A revision of the Convention is being undertaken to bring it up to the international standard and opening the Convention up to more countries is also under consideration.

2002 Model Agreement on Information Exchange on Tax Matters

This model was developed in partnership with non-OECD jurisdictions committed to the principles of effective exchange of information and transparency in the context of the harmful tax practices project described above. It is designed as a model for TIEAs outside the context of comprehensive income tax treaties, and has been used extensively. Unlike Article 26 and the Convention on Mutual Administrative Assistance in Tax Matters, it is limited to exchange of information on request. CIAT has a similar model.

Other instruments

Within the European Community Directive 77/799/EEC as updated, for exchange of information for VAT purposes, Regulation No 1798/2003 and for excise duties, Regulation No 2073/2004. A new proposed Directive C/2009/29 on administrative cooperation in the field of taxation is presently being discussed which specifically states that grounds for declining a request cannot be based on bank secrecy or the absence of a domestic tax interest in the information.

International judicial assistance agreements, such as the Inter-American Convention on Mutual Assistance in Criminal Matters (as extended by the Optional Protocol of May 23, 1992) in cases of tax crimes.

Procedures for providing assistance to foreign jurisdictions may also be established in domestic law. For instance, some countries permit the provision of information to another jurisdiction, subject to certain conditions and

safeguards (e.g. reciprocity and confidentiality of information), even in the absence of an international agreement and solely based on their domestic law provisions.

The provisions on exchange of information do not allow for assistance in tax collection in the sense of empowering the competent authorities to use their powers of collection on behalf of the other contracting party. However, they include information exchange for "collection of taxes" and thus information assisting in the collection of domestic taxes can be exchanged between contracting parties. Such information could be useful in cases where a taxpayer is seeking a reduction of the tax assessed on the basis that he has insufficient funds to pay the full amount of tax owed. An exchange of information agreement would enable the tax authority to verify whether the taxpayer had assets abroad.

4. FORMS OF EXCHANGE OF INFORMATION

All forms of exchange are relevant for controlling tax fraud, avoidance and evasion. The main ones are described below.

Exchange of information on request. Exchange of information on request refers to a situation where the competent authority of one country asks for particular information from the competent authority of another contracting party.

Example : Import and export transaction using conduit companies

Resident company T purchases electronic components for use in its manufacturing operations from company C, resident in B. A tax inspector auditing company T becomes suspicious because the price charged by C to T far exceeds comparable prices in the industry. The tax inspector suspects that the amount invoiced is significantly higher than the amount C pays to the producer of the components. The tax inspector further suspects that in reality company C acts as an agent and that its likely paper profits are paid to a third party related to company T.

Via his competent authority the tax auditor may request:

- Information about direct imports/exports or the imports/exports via C (invoices of the forwarding agents, customs documents);
- Information about size and operation of C's premises and warehouses (e.g. copy of the lease showing size of premises and any rental payments due);
- Information about number of employees of C;
- Information about the persons acting for C, their remuneration, actual salary and social security payments;
- Accounting records/financial statements for C;

- If C claims to be an independent agent: information about the persons acting as agent, names and addresses, their remuneration, proof of the actual salary and social security payments made.

Based on the information provided by the competent authorities of country B the tax inspector is able to prove that company C deposited the difference between the purchase and the sales price (minus a small fee) into an account which A, the sole shareholder of T, has with a bank resident in B. A had not disclosed these payments in his income tax return.

Spontaneous exchange of information. Information is exchanged spontaneously when one of the contracting parties, having obtained information in the course of administering its own tax laws which it believes will be of interest to one of its treaty partners for tax purposes passes on this information without the latter having asked for it. A spontaneous exchange of information is usually effective since it concerns particulars detected and selected by tax officials of the sending country during or after an audit or other type of tax investigation.

Example: An audit of company X in country A reveals a payment of •40,000 for management fees paid to an unrelated company Y in country B. An examination of the invoices indicates this amount was paid to company Y but an examination of the company X bank account shows two deposits made on the same day, one for an amount of •25,000, the other for •15,000. The auditor observes an entry made in the managing director's diary that states, "Bill Z (the individual who provided the management services) requests payment of •25,000 into the company Y bank account and •15,000 into the Bill Z bank account". Suspecting the second amount may not be disclosed in the accounts of company Y and believing the information could therefore be of use to the tax administration in country B, the auditor initiates a spontaneous exchange of information with country B via the competent authority.

Automatic exchange of information. Automatic exchange of information involves the systematic and periodic transmission of large volumes of taxpayer information by the source country to the residence country concerning various categories of income (e.g. dividends, interest, royalties, salaries, pensions, etc). This information is obtained on a routine basis in the source country (generally through reporting of the payments by the payer (financial institution, employer etc). Automatic exchange can also be used to transmit other types of useful information such as changes of residence, immovable property transactions, VAT credit refunds[1], etc. To improve the efficiency and

[1] *These other types are not at present supported by the standard transmission formats (SMF/STF) developed by the OECD.*

effectiveness of automatic exchanges of information the OECD designed in 1981 a standard paper format and later Standard Magnetic Formats or "SMF". The most recent standard is the Standard Transmission Standard which is based on XML. The OECD has also developed a Model Memorandum of Understanding for automatic exchange of information available for use by any country. Automatic exchange is increasingly used in a strategic manner to identify non filers and taxpayers for audit.

Other forms of exchange of information can be particularly useful to improve tax controls:

- **Simultaneous tax examinations.** A simultaneous tax examination is an arrangement by two or more countries to examine simultaneously and independently, each on its territory, the tax affairs of (a) taxpayer(s) in which they have a common or related interest with a view to exchanging any relevant information which they so obtain. Such examinations are particularly useful in the area of transfer pricing, VAT and in identifying tax evasion schemes involving low tax jurisdictions. The OECD has designed a model agreement for the undertaking of simultaneous tax examinations. There is a growing interest in particular in multilateral simultaneous tax examinations given the increasing multilateral dimension of tax evasion schemes and the need for international co-operation between tax administrations.

- **Visit abroad of authorised representatives of the competent authorities.** Travel to a foreign jurisdiction for purposes of gathering information for a particular case may be useful in certain circumstances. However, this visit has to be authorised by the foreign jurisdiction (and be permitted by the laws of the sending country), otherwise it would represent a breach of sovereignty. This presence abroad may occur in different instances. It may be at the request of the country seeking information if it is felt it will facilitate the understanding of the request and the gathering of information. It may be at the initiative of the requested competent authority to reduce the cost and burden of gathering information. In a number of countries, authorised representatives of the competent authorities of the other country may participate in a tax examination and this is often of great value to ascertain a clear picture of business and other relations a resident of a country may have with his foreign associates.

- **Industry wide exchange of information:** An industry wide exchange of information does not concern a specific taxpayer but an economic sector as a whole, for instance, the pharmaceutical industry or the oil industry. An industry-wide exchange involves representatives of contracting parties meeting to discuss the way in which a particular economic sector operates, the financing schemes, the way prices are determined, the tax evasion

trends identified, etc. It can be useful to select taxpayers for audit within a given economic sector.

The OECD has designed a Manual on the implementation of exchange of information programmes with the input of OECD Members and non members. It is available in English, French and Spanish. It includes modules on the various forms of exchange of information. A tool kit on automatic exchange is available at www.oecd.org/ctp/eoi.

5. SETTING STANDARDS ON ASSISTANCE IN TAX COLLECTION

In 2003, the OECD Council approved the inclusion of a new **Article 27 on assistance in tax collection** in the OECD Model Tax Convention. This Article is optional and may be included in a bilateral convention where each state concludes that, based on a number of factors, they can agree to provide assistance in the collection of taxes levied by the other state. The factors considered include the importance of their cross-border investment, reciprocity, the ability of their respective administrations to provide such assistance and the similarity of the level of their legal standards, particularly with respect to the protection of the legal rights of taxpayers and more broadly human rights.

Article 27 of the OECD Model Tax Convention provides that a Contracting State is obliged to assist the other State in the collection of taxes of every kind and description, provided that the conditions of the Article are met. At present however, provisions on assistance in tax collection included in bilateral tax conventions generally concern only taxes covered by the tax conventions.

The assistance concerns tax claims i.e. any amount owed in respect of taxes covered by the assistance but only insofar as the imposition of such taxes is not contrary to the Convention or other instrument in force between the Contracting States as well as the interest, administrative penalties and costs of collection or conservancy that are related to such an amount.

The conditions under which a request for assistance in collection can be made are that the revenue claim has to be enforceable under the law of the requesting State and be owed by a person who, at that time, cannot, under the law of that State, prevent its collection. This will be the case where the requesting State has the right, under its internal law, to collect the revenue claim and the person owing the amount has no administrative or judicial rights to prevent such collection. Except with respect to time limits and priority, the requested State is obliged to collect the revenue claim of the requesting State as though it were the requested State's own revenue claim. The requesting State can ask the other State to take measures of conservancy if the revenue claim is not yet enforceable or when the taxpayer has a right to

prevent its collection. The legal obligation to supply assistance is lifted in a limited number of situations contained in paragraphs 5 of Article 27.

There are also a number of other instruments that can be used for assistance in tax collection:

- The OECD-Council of Europe Convention on Mutual Administrative Assistance in Tax Matters provides for assistance in recovery but Parties may make a reservation on this form of assistance.

- The Nordic Assistance Convention on Mutual Assistance in Tax Matters and the Joint Council of Europe/OECD Convention includes provisions on assistance in tax collection.

- Within the EU the Directive on assistance in the recovery of tax claims 2008/55/EC of 26 May 2008 compiles all the previous Directive on assistance in recovery. A proposal for a new Directive that would strengthen assistance in the recovery of tax claims C/2009/28 is presently being discussed.

The OECD has designed a Manual on the implementation of assistance in tax collection. It is available in English, French and Spanish at: www.oecd.org/ctp/eoi.

II IMPROVING EFFICIENCY AND EFFECTIVENESS OF EXCHANGE OF INFORMATION AND ASSISTANCE IN TAX COLLECTION

Given the increased importance of exchange of information and assistance in tax collection globally, the OECD has been examining how this work can be made more efficient and effective. The key resources already available are the manual on implementing exchange of information and on assistance in tax collection mentioned above. Tax administrations can benefit from that material when setting up or reviewing their arrangements for exchange of information and assistance in tax collection work. Some guidance notes have also been issued such as a Guidance Note on Encouraging and Promoting Spontaneous Exchange of Information and on on Effective Exchange of Information Training and Awareness Strategies.

1. Improving Exchange of Information

In seeking an inclusive and prioritised approach to improving the exchange of information, OECD surveyed member countries to identify what were regarded as the most common impediments to efficient exchange of information. The focus was on impediments to timely, secure, accurate and comprehensive exchange of information. The impediments identified cover the full range of

issues facing administrations: policy, legal, organisational, systems, process, and people.

2. Policy

Policy issues included the need for some countries to improve the legal instruments for exchange of information by including the 2005 version of Article 26 in new and revised double taxation conventions and by negotiating tax information exchange agreements with offshore jurisdictions. In addition, some countries have advocated the introduction of specific time targets for responses to requests for information.

3. Legal

Several legal constraints have been reported. The first of these is the constraint of time limits on raising tax assessments which may be more difficult for the tax administration to meet when it is reliant on an exchange of information from a treaty partner. The second is the constraint of legal procedure that some countries impose on access to bank information e.g. the need to seek approval from a judge, a tribunal or similar before the bank can be required to hand over the information. It is possible that such requirements (aiming to protect the taxpayer's rights) are specified or managed in an overly restrictive manner.

4. Organisation

Organisational issues are centred on how exchange of information work is managed. At a practical level some tax administrations have established coordination roles to manage the interface between the exchange of information unit and the local tax staff. A growing number of countries is delegating competent authority to cross border regions). They have been able to report on the benefits achieved in terms of improved turn-round times.

5. IT Systems

IT systems to support exchange of information work can have a major positive impact. The issues here are not primarily technological but are concerned with providing good basic access to information systems and being able to effectively process and make use of data received from other countries. Efficiency can be impeded by the lack of access for the exchange of information team to the relevant IT systems that support the administration's tax databases. The absence of an IT system for effective and efficient distribution and use of bulk, automatic information received has also been reported as a perceived impediment. Up-to-date systems are of particular

importance in the context of ensuring the confidential handling of taxpayer data during transmission and receipt.

6. Processes

It is recognised that differing and non standard procedures used within a tax administration can reduce the quality and add delay to the processing of requests. Failure to use Tax Identification Numbers has also been cited as an omission on requests received or information provided automatically . Several countries have identified the lack of feedback as a quality issue.

7. Human Resources

There is a need to match staff resources to the increasing work levels. While there is not a direct relationship between the volumes of exchanges and the number of staff required (i.e. a doubling in the number of cases dealt with may not require a doubling of the staff allocated), some response is needed to ensure that exchange of information objectives including quality and effectiveness are met. Most exchange of information teams are quite small in relation to the size of their tax administration and so even a relatively small addition has the potential for a significant impact on results. More and more countries are including staff with tax audit experience in exchange of information teams.

8. Current Work

OECD is carrying out further work looking in particular at some process issues. A working group is researching and developing a set of performance measures for exchange of information work which can be used for managing this work and improving the effectiveness of it. This work will also evaluate the proposal to introduce standard time limits for responses to requests. A further group is concerned with translation issues which are a common reason for delay and misunderstanding in processing requests for information. They are examining best practices which can be shared. The OECD is working with the European Union to build on the EU-led project on multilingual standardised electronic forms for exchange of information in order to have consistent standards OECD wide and even beyond.

9. Improving Assistance in Tax Collection

The work on improving exchange of information is also largely relevant ot assistance in tax collection but in addition specific work has just been undertaken on the practical aspects of collection assistance given that many countries are new to this form of co-operation. The aim is to share experiences and to address difficulties due to differences in domestic tax legislation.

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Topic 2.1

TRANSPARENCY IN FOREIGN TRADE TRANSACTIONS. USE OF COUNTRIES WHICH LACK FISCAL TRANSPARENCY

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CONTENTS: 1. Exports transactions through tax havens. do they represent transparent transactions?.-I1. Introduction.- I.2 Exports triangulation.- I.3. Measures adopted.- II. Current situation of the combat of tax havens by international organizations.- II.1 OECD - global transparency and information exchange forum.- II.2. CIAT.-III. Argentine anti- tax havens legislation and information systems.- III.1. Introduction.- iii.4. Sanction System.- III. 5. Information exchange.- iii.6. Information systems.- Annex

I. EXPORTS TRANSACTIONS THROUGH TAX HAVENS. DO THEY REPRESENT TRANSPARENT TRANSACTIONS?

I.1. Introduction

Along with the globalization of the economy, the exchange of goods, services and capital among countries as well as transactions in international markets increased significantly.

However, globalization has also brought about the behavior of certain private actors that perform transactions, which can be referred to as tax engineering, with the only purpose of getting tax benefits illegally. The most common practices aimed at reaching said goal are based on the artificial reduction of the tax base on which domestic taxes and export duties are levied, performing such transactions, through legal entities, domiciled or residing in countries

with low or no taxation, as referred to in our laws, and known as tax havens, among other jurisdictions.

It is important to remember that tax havens are jurisdictions with low or no taxation as to the income of individuals or legal entities or with respect to certain economic activities. Also, the following requirements need to be met:

1. There exists bank, financial and/ or stock-market secrecy that can be claimed against tax authorities or other controlling entities or bodies.
2. There exist accounting and regulatory regimes for the establishment and operation of trading companies based on the imposition of minimum formal and material requirements.
3. There exist special systems that set forth benefits or fiscal advantages that are not granted to residents or tax privileges, or non- residents are granted advantages by the Fiscal Administration, at its own discretion.
4. There exists no effective fiscal information exchange.
5. There is no registered share recording regime.
6. There exists no compulsory filing of corporations in the pertinent registrars.
7. There are no corporate and/ or banking and financial comptrollership authorities.
8. There exists no tax withholding at source over dividends or interests paid to non- residents.
9. Residents are not required to be physically located in their territory and/ or are not required to have business facilities where their businesses are managed, and/or their assets, risks and tasks are required to be according to the operations and businesses applied to them.

According to the experience of the Argentine Public Revenue Federal Administration [AFIP, in its Spanish acronym] in the control of international exports transactions, it was found that domestic companies have significantly reduced the income tax base and export duties in many cases when it was possible to identify the intended involvement of persons located in said jurisdictions that did not add economic value neither to the transacted goods nor to the business chain because of their lack of economic significance and real activity. This allowed for Argentine products to be exported at prices significantly lower than the prices at which they entered their destination countries, having been proved that in some cases the difference in US dollars is between 40% and 60%.

These differences in price caused a decrease in export duties and that the income subject to taxes in Argentina remained outside the country, specifically in tax havens where, in many cases, there is no taxation and which clearly has a negative effect on the Argentine tax collection and on the national productive effort.

I. 2. Exports Triangulation

The triangulation we refer to is the one that occurs whenever in the export business transaction one or more international intermediaries appear between the domestic exporter and the final receiver located, most of the times, in tax havens.

On the one hand, in this way, the transfer of title from one intermediary to another takes place through one or more international sales, the first one being the one from the domestic individual who will later report the export to customs. In spite of the subsequent international sales, goods do not leave the national territory.

Finally, the last individual to get an invoice -the final purchaser- is the one who takes on the capacity of final receiver and the one who will receive the goods that were subject to a real rebilling chain.

Whenever individuals who act between the local exporter and the effective receiver have not added any value neither to the product or to the marketing activity, there is no doubt that the purpose of the inclusion of these individuals within the transaction has the intention of undermining or avoiding the national tax base.

If we add the inner characteristics of the above mentioned tax havens to this situation, the immediate consequence is the lack of transparency that covers this type of exports making it impossible for the National Tax Agency to know whether the intermediaries have performed an activity that should be compensated so that it is posible to assign some profitability to the intermediary in the tax haven. That is why given these conditions, we can answer the question we posed in the title: These exports triangulation cases can in no way be regarded as transparent transactions.

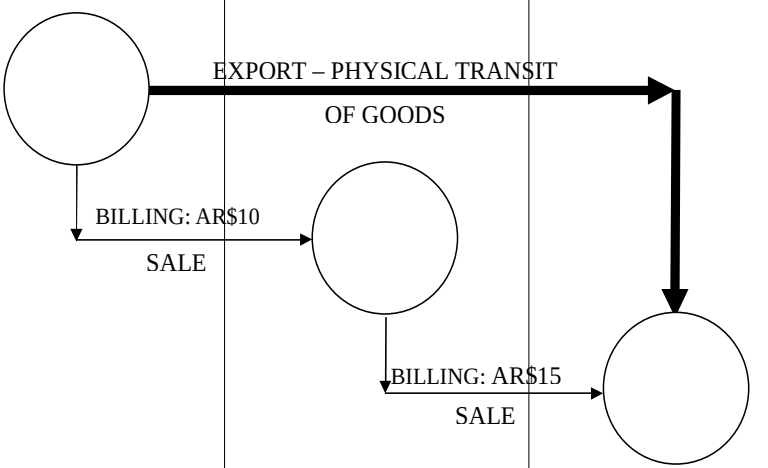
Moreover, that lack of transparency and the differences found by means of international information exchange between the export price and the import price -which are really significant in some cases- make clear that the aforementioned differences in price are not due to a compensation solely for the intermediation.

Collection of said exports through tax havens is as important as that and is also a cause for the lack of transparency, making evident the chance that some revenue generated by those export transactions remains hidden in those territories that do not support healthy fiscal competence.

We can now have a look at these graphic examples of the exports triangulations:

EXAMPLE GRAPHS OF EXPORTS TRIANGULATION

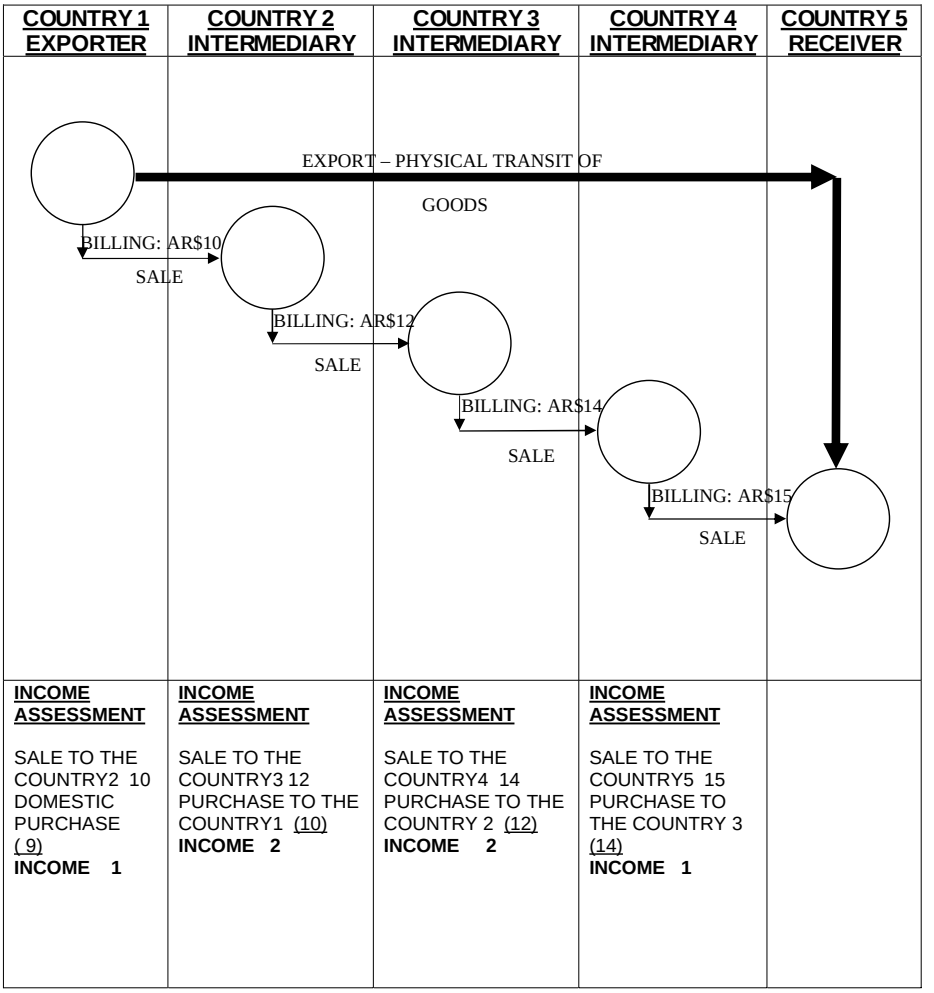
1. SIMPLE TRIANGULATION – ONLY ONE (1) INTERMEDIARY INVOLVED

COUNTRY 1 (EXPORTER)	COUNTRY 2 (INTERMEDIARY)	COUNTRY 3 (RECEIVER)
		
INCOME ASSESSMENT SALES TO THE COUNTRY 2 10 DOMESTIC PURCHASE (9) **PROFIT 1**	**INCOME ASSESSMENT** SALES TO THE COUNTRY 3 15 PURCHASE TO THE COUNTRY 1 (10) **PROFIT 5**	

BILLING ——

PHYSICAL TRANSIT OF GOODS ▬

2. MORE COMPLEX TRIANGULATION – REBILLING CHAIN – SEVERAL INTERNATIONAL INTERMEDIARIES INVOLVED IN DIFFERENT COUNTRIES



BILLING ——
PHYSICAL TRANSIT OF GOODS ▬

I. 3. Measures Adopted

The measures adopted as to tax havens are of diverse nature:

1. Legislative: Several amendments to the laws have made possible the introduction of a series of important measures aimed at discouraging the use of tax havens. Said measures will be mentioned later.

   Among said measures, it is important to highlight the ones -regarding income tax- aimed at combating maneuvers to triangulate goods exports with known international prices through intermediaries with no economic substance, so that income is taxed based on the price of the good at the market on the shipping date. This price has been widely verified and is the price paid by the final receiver of the goods.

2. Tax and customs supervision: Important differences in favor of the Argentine tax administration were found by means of transfer prices and customs valuation procedures, as the performance of the international intermediary in the export triangulation was ignored because of its lack of economic substance and because it did not add value neither to the product nor to the business chain and, thus, it did not represent any income gained from its involvement in the business.

3. Controls: Both in terms of taxes and customs, the Argentine Public Revenue Federal Administration is devoted to the control and identification of taxpayers whose behavior is aimed at avoiding the national tax base by means of procedures such as the ones already mentioned.

   To this purpose, a special control procedure is carried out to determine whether the export meets the necessary transparency requirements.

   To this effect, the following will be regarded as irregular situations:

   - The entrance of funds from a "Tax Haven" or a country that, because of its internal regulations, can claim bank, stock- exchange or any other type of secret at the request of information by the Federal Administration.
   - The country of the final receiver of the goods and the country of the person billed do not match.
   - The destination of the goods, the address that appears on the invoice, is a "tax haven" or a country that, because of its internal regulations, can claim bank, stock- exchange or any other type of secret at the request of information by the Federal Administration.
   - The intervention of incorporated, domiciled or resident entities in "tax havens" is verified.

Given these situations, before the refund of exports VAT and drawback or refunds occur, companies will go through a valuation pre-approval process (taking into account the current times as to this issue). Once this has been pre-approved, the request is submitted and, should this not be possible, taxpayers will go through an examination process in order to determine whether tax damages have been caused in the triangulated transaction and, thus, procedural measures and those to determine the tax income that has not been collected will be adopted, if applicable.

By means of this procedure the Argentine Tax Administration is in line with the new and strong worldwide trends outlined by the G-20 as to the combat of the consequences that cause the damaging maneuvering of pernicious tax planning, when they involve persons located at these non-transparent jurisdictions, something being tried to be deactivated by most of the countries and different international organizations.

II. CURRENT SITUATION OF THE COMBAT OF TAX HAVENS BY INTERNATIONAL ORGANIZATIONS

As from the last G- 20 summit meeting, during which the country leaders stated that they would combat tax evasion in international operations, bilateral agreements for the exchange of information increased in number. International organizations are already working on the development of procedures that allow for the "effective" exchange of information, as well as the exchange of knowledge and experiences among the Tax Administrations that are part of it, aimed at early detection and efficient containment of tax evasion and avoidance.

II. 1. OECD[1] - Global Transparency and Information Exchange Forum

In October 2008 the Experts' Committee of the United Nations for International Cooperation in Tax Affairs adopted the principles developed by OECD as to Transparency and Information Exchange in its own Taxes Agreement Model, thus setting forth the standards developed by OECD.

In April 2009, OECD issued a report on the progress of the implementation of the standards agreed internationally for the 84 jurisdictions[2] that are part of the Global Transparency and Information Exchange Forum of the OECD. According to said report, countries are divided into three different categories:

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[1] *Organisation for Economic Co-operation and Development.*

[2] *Those 84 jurisdictions are OECD member countries, tax havens identified in the year 2000 by OECD, countries that are part of the Tax Affairs Committee as observers (Argentina is one of them) and financial centers identified in the conclusions of the Global Forum which took place in Berlin in 2004.*

- Jurisdictions that have adopted the agreed standards: Argentina, Mexico, The Netherlands, Spain, USA, US Virgin Islands, Jersey and Isle of Man, among others.
- Jurisdictions that agreed to adopt said standards but have not yet implemented them: 33 jurisdictions are included in the list of tax havens of the OECD, as well as other financial centers, such as Austria, Chile, Luxemburg and Switzerland.
- Jurisdictions that have not agreed to adopt the standards: Uruguay, among them.

Later some of the countries mentioned in the last two categories have signed agreements for the exchange of information with the intention of being removed from the OECD lists.

As far as Uruguay is concerned, this country submitted a note to the OECD informing that it would formally adopt the transparency and tax information exchange standards, as set forth in section 26 of the OECD Taxes Agreement Model (2005 version) and that it is in the process to expand its set of international agreements, within which these standards would be incorporated. Moreover, it specifies that even though its regulations set forth bank secret restrictions, these agreements, once approved by the Congress, would outline a legal basis to reply to information requests, including information kept by the banks. In other words, these international agreements would be above the domestic legal restriction on access to information. Furthermore, it makes clear that some aspects in its current legislation, after the fiscal amendments established by Law 18,083 passed on December 26, 2006, are in accordance with the OECD international standards. The elimination of Financial Corporations (SAFI, in its Spanish acronym) as from the year 2011 was highlighted.

According to the OECD website as to the date of this presentation, after submitting said note, Uruguay would be excluded from the list of jurisdictions that have not agreed to adopt the internationally agreed standards, being one of the jurisdictions that have agreed to do so but have not yet adopted them.

Some of the results of the work being carried out by the Global Forum are the following:

- All OECD countries have accepted section 26 of the OECD Taxes Agreement Model regarding information exchange. Moreover, Austria, Belgium, Luxemburg and Switzerland have withdrawn their reserves on said section.
- More than 40 information exchange agreements have been executed as of November 2008.
- Andorra, Liechtenstein and Monaco, identified by the OECD as non-cooperative tax havens, have approved the OECD standards and showed

willingness to modify their domestic legislations and execute information exchange agreements. Moreover, Cayman Islands have passed laws that allow for information exchange and have identified 12 countries with which there exists willingness to execute said agreements.

- **All 84 countries revised by the Global Forum have accepted the implementation of the OECD standards.**

It is important to note that during the next meeting of the Global Forum in September, 2009, the report on results obtained during revisions carried out in the countries will be dealt with. As from 2006, the Global Forum has published annual assessments within an administrative and legal framework for the transparency and information exchange in the 84 countries mentioned above.

In the next two months, the CFA (Committee on Fiscal Affairs) and the Global Forum will address the following issues, among others:

- Strengthening the Transparency and Information Exchange Global Forum, by means of setting forth a peer revision procedure, monitoring the implementation of the agreed standards.
- Developing more measures against jurisdictions that do not cooperate and assess their efficiency.

II. 2. CIAT[3]

With regard to this, the AFIP undertook a significant international compromise during the Meeting of the Executive Council of the Inter-American Center of Tax Administrations (CIAT, in its Spanish acronym) held in Cancun, Mexico on March 30, 2003 by making a proposal as to the creation of a new workgroup aimed at dealing with issues related to damaging tax planning and its implications for the Tax Administrations.

This has remained like this since the AFIP became convinced of the importance international cooperation acquires in the control of international transactions and its implications, so as to develop cooperation areas that favor the control of tax liability due compliance involved in international tax issues and, thus, develop cooperation tools that allow for the protection of tax interests derived from it by each one of the competent Tax Administrations.

During the first stage of said workgroup, known as "International Tax Planning Control", whose leadership and promotion were carried out by AFIP and CIAT,

[3] *Inter American Center of Tax Administrations.*

a Manual was developed and submitted to all CIAT member Administrations during the General Assembly held in Barbados in May 2007.

Nowadays, said workgroup is still working, but its task during this new stage is aimed at better and more deeply addressing certain high impact issues as to damaging tax planning, by working hard on aspects such as the control of transactions agreed with persons located in tax havens, identification of new planning schemes and abuse of agreements to avoid double taxation (treaty shopping), among others.

Given the current significance of the issue, a database with cases from different countries is being developed by said workgroup, in which Argentina is in charge of its technical design together with CIAT and with the purpose of turning it into a receiver of said schemes and tools of abusive International Tax Planning so that it can be used by CIAT member Tax Administrations, not only as a guideline favoring analysis for their own investigations, but also as a tool that makes it easier to share experiences and foresee tax damaging contingencies.

This type of abusive tax strategies, involving more than one tax jurisdiction, exceeds the limits to the national jurisdiction of each Tax Administration. This makes it clear that cooperation among national tax administrations is highly important in order to pursue control and punishment of damaging tax strategies used by taxpayers at the international level.

III. ARGENTINE ANTI- TAX HAVENS LEGISLATION AND INFORMATION SYSTEMS

III.1. Introduction

For tax fraud, evasion and avoidance control purposes, our country has legal and regulatory provisions that allow for the efficient support of the tax administration testing capacity.

In that sense, it is important to mention that in order to identify countries with low or no taxation -tax havens- a list of countries that meet those criteria has been established in our legislation (Annex 1).

Furthermore, specific anti- tax haven provisions and a sanction system are foreseen, aimed at discouraging transactions of taxpayers with tax havens.

On the other hand, cross-border information exchange plays an important role for the Argentine tax administration, specially because of its strong decision of effectively controlling all aspects related to international transactions in order to protect all tax interests involved.

Another channel used by our tax administration in order to get international information for tax purposes from countries with which there are no agreements aimed at avoiding double taxation is the Argentine diplomatic service abroad.

Moreover, in order to strengthen control policies, the Argentine Federal Administration has established information regimes regarding all economic transactions, of whatever nature, even if they are at no expense, carried out by residents in the country and those who act as representatives of individuals or entities abroad and regarding all transactions involving the entrance of revenue from abroad by residents in the country, whenever they are originated from economic transactions.

III.2. Tax Havens

The Argentine legislation refers to tax havens as "countries with low or no taxation."

This includes, according to the income tax legislation, not only countries, but also domains, jurisdictions, territories, associated States or special tax systems.

During a first stage, our legislation referred to countries with low or no taxation -tax havens- using a definition set forth in a resolution issued by the Argentine tax administration in 1999 in order to identify them. Said resolution was later rendered ineffective.

This caused uncertainty among taxpayers who had to determine which were the territories that complied with the guidelines outlined in the referred definition in order to apply the provisions regarding these countries.

This is why during a second stage in November 2000, our legislation adopted the criteria followed by other countries and, therefore, listed all countries considered as countries with low or no taxation -tax havens-.

Thus, section 7 with no added number and following section 21 of the executive decree that put income tax in force now includes a list of 87 jurisdictions with low or no taxation -tax- havens- detailed in Annex 1 attached hereto.

It is important to mention that there exists the possibility to exclude those countries, domains, jurisdictions, territories or associated States that set forth that an effective information exchange agreement executed with the Argentine Republic is in force or that stipulate amendments to income tax in their domestic legislation in order to adapt it to international standards that make them lose their status as jurisdictions with low or no taxation.

III.3. Summary of Anti- Tax Havens Regulations

Our legislation has adopted regulations whose purpose was to discourage the use of tax havens by taxpayers as part of certain damaging international tax planning schemes.

All these regulations are legal responses that are included in the income tax law, the executive order that put it effectively in force and other related regulations as well as in the tax proceedings law of our country. We can find the following regulations, among others:

1. Income Tax

Application of regulations and obligations as to transfer prices. These are not considered to be in accordance with regular market practices or prices among independent parties in transactions with tax havens[4] . This implies that, whatever the type of transaction is and whether there exists a business relationship between the local operator and the tax haven person or not, the Argentine taxpayer shall apply the transfer prices regulations in order to justify that those transactions have been agreed at market value between independent parties.

In the case **of payment of interests to persons who are not residents of tax havens as listed, there applies an assumption of 100%** (instead of 43%) of revenue in order to assess the final withholding tax to foreign recipients (35%)[5]. It is important to take into account that this provision does not apply whenever the creditor is an Argentine financial institution.

Payment requirement for expenses and expenditures deductible with respect to tax havens. In general, our legislation establishes that in order to determine the taxable net income, companies' income and expenses shall be charged on an accrual basis. However, whenever it comes, for example, to payments that give origin to income of Argentine source for the person in a tax haven, these shall be charged on a cash basis[6].

This implies that expenses shall only be deducted whenever income has been paid to the foreign recipient and, thus, withholding was made as a single and final payment over said profit.

This law is intended to avoid the charge of unpaid balances as expenses. That is why deduction is only allowed once income of Argentine source for

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[4] *Article 15, second paragraph of the Income Tax law.*
[5] *Article 93, paragraph c) of the Income Tax law.*
[6] *Article 18, last paragraph of the Income Tax law N° 20,628*

the recipient of the country with low or no taxation -tax- haven- has been subject to taxation.

Application of the CFC rule (international tax transparency) for shareholders of companies located in tax havens[7]. This refers particularly to the allocation of income to stock companies located in tax havens.

With regards to this, it is outlined that income of the fiscal year for the permanent establishment is the income accrued during it and the establishment can charge it whenever it is due, if applicable.

Provisions as to income charge shall be applied correlatively for the charge of expenses, unless otherwise provided by law. As with regards to expenses that are not chargeable to a certain income source, these shall be deducted during the fiscal year when payment occurred.

These procedures apply to stock companies incorporated or located in tax havens with respect to income originated from interests, dividends, royalties, rent or any other similar non- operating income, as indicated by law.

Other Related Regulations:

Restrictions on the exemption on the purchase of shares of unlisted stock companies, for foreign offshore companies[8], in which case it will be necessary to apply the final withholding to said companies as foreign recipients[9]. There is no reference made to the list of tax havens previously mentioned, but this definition is used in this case.

Exports of goods with quotation known in transparent markets (commodities), through an international intermediary: new method "International Price as of loading date".

In 2003, changes were made to our tax law, to the executive order that makes it effective and other related provisions, in order to **discourage export transactions carried out by means of sham intermediaries, with no economic substance.**

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[7] *Article 133 paragraphs a) and b) of the Income Tax law.*

[8] *These are those whose core of business, according to their legal nature or their bylaws, is to make investments outside the jurisdiction of the country where they were incorporated and/ or can do certain transactions and/or make investments there that are expressly set in the applicable legal system or bylaws. There is no reference to the black list previously mentioned, but this definition is used in this case.*

[9] *Article 20 paragraph w) second part of the Income Tax Law.*

This is why a new method for transfer price justification that reaches only export triangulations through sham intermediaries was introduced in order to correct improper acts that affect the income tax taxable base.

As it is clear, being said method aimed at reducing negative effects of a planning practice that is internationally regarded as damaging, its application does not affect the regular performance of regular or healthy business transactions. It does not discourage business transactions through "real" intermediaries.

It does not affect business practices or business contractual terms either. In sum, it does not distort international trade among related individuals and does not reduce the competitiveness of the Argentine foreign trade, as the foreign purchaser pays the real price (which is higher than the one declared in the Argentine Republic).

Finally, it is important to note that, according to the law, these situations can be proved otherwise.

2. Tax Procedure

Unjustified Net Worth Increase Assumption, unless otherwise proved by taxpayers in the case of entrance of income from tax havens[10].

Said unjustified net worth increases of 10% in terms of income in cash or spent in non deductible expenses represent net income for the year during which they accrue at the time of determining income tax and the base to assess taxable activities omitted for said fiscal year in the value added and excise taxes.

This law is highly significant because in the event taxpayers do not fulfill the requirements set forth therein, income from countries with low or no taxation -tax havens- will not only be levied for income tax, but also for consumption taxes, which creates the assumption that they derive from omitted sales.
In order to see the effect of these changes in our country more clearly, statistics are included as Annex 2.

III.4. Sanction System

As from 2003, sanctions were incorporated to the Argentine tax procedure law and are applicable to the breach of regulations related to international transactions.

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[10] *Article 18.1 of the Tax Procedure Law N° 11,683.*

The most important aspect of this reform was the increase in the penalties for the breach of formal and material obligations and, specially, breach related to international transactions. Thus, failure to promptly submit tax returns, failure to submit them whenever they are required, failure to give data at the request of the Argentine tax administration and failure to keep proof of transfer prices are particularly sanctioned. Moreover, degrees of penalties for omission of taxes originated from international transactions have been increased. The detail of the penalties for each type of breach are shown below:

Automatic Fines

- Failure to submit Tax Return for Import and Export Transactions among independent parties: Fines shall be of AR$ 1,500 (about US$400), which will be increased up to AR$9,000 (about US$2,360) in the case of companies incorporated in this country which are owned by foreign individuals or legal persons.
- Failure to submit Tax Returns in which transactions are specified, except for Import and Export transactions among independent parties: Fines total AR$10,000 (around US$2,630), which will be increased up to AR$20,000 (around US$5,260) in the case of companies incorporated in this country which are owned by foreign individuals or legal persons.

Fines for the failure to comply with Formal Obligations

The reform established the application of Fines that can reach AR$45,000 (around US$11,800) in the following cases:

- Failure to present data required by the Argentine tax administration for the control of international transactions.
- Failure to keep receipts and proof of prices agreed in the transactions.

Fines for Continuous Breach

- Fines for Continuous Formal Breaches: Fines can be up to AR$45,000 (around US$11,800). These are fines that can be added to the previously mentioned ones and can be adjusted according to the taxpayers' conditions and the seriousness of the breach.
- Fines assessed based on the Sales Revenue base: In the case of taxpayers whose annual income is AR$10,000,000 or higher (around US$2,625,000), in the event of failure to comply with the third requirement, applicable fines are two to ten times the established maximum amount of AR$45,000 (equal to US$11,800) and shall be added to the other fines.

Fines for Failure to Pay the Tax

Finally, the sanction system sets forth fines in the event of failure to pay this tax. As for international transactions, fines are equal to once up to four times the amount of the tax that was not paid or withheld.

III. 5. Information Exchange

The Argentine Republic has signed 17 International Agreements to avoid double taxation in respect of those taxes levied on income and capital. Said agreements establish the information exchange mechanism, which has had good results in most of the cases.

During the last few years, this international cooperation mechanism has allowed countries to get information that is being used to check worldwide income, transfer prices and levying of international transactions, by means of the spontaneous or requested information exchange.

Moreover, our tax administration has a strong interest in promoting information exchange and it is important to note that our country has been a member of the CIAT working group that developed the Information Exchange Model.

In the Argentine Republic, legal sources upon which international information exchange is based are the following:

- The network of Agreements to avoid international double taxation and
- The tax procedure law that granted to the Argentine Public Revenue Federal Administration the power to lift the fiscal secret in order to execute international cooperation agreements.

Until the end of the year 1998 when changes, which regulate the worldwide income concept and incorporated the transfer prices system, were made to the income tax law, information exchange was not really significant and was limited to spontaneous and automatic information exchange by those countries that executed the Agreements and some sporadic cases of requested information exchange.

As from that moment, cross-border information exchange has played an important role in the Argentine tax administration, specially because of its strong decision of performing an effective control of all aspects related to international transactions in order to protect the fiscal interests involved.

In this context and after the Argentine tax administration was given these rights, Specific Information Exchange Agreements have been executed with the Tax Administrations of Spain, Brazil, Chile and Peru. The first three of

them are ancillary to the Agreement to avoid double taxation and the last one refers to the rights of the Public Revenue Federal Administration and the lifting of the fiscal secret already mentioned.

All these specific Agreements were negotiated based on the CIAT Information Exchange Model, which includes the procedures to carry out simultaneous examinations. Currently, some other Agreements are being negotiated, even with the countries with which there is no agreement executed in order to avoid double taxation, also based on the CIAT Model.

The Argentine diplomatic service abroad is another mechanism used by the Argentine tax administration in order to obtain international information for tax purposes whenever there is no Agreement executed with the countries so as to avoid double taxation.

Cooperation has been very useful in many cases. Among those that can be highlighted, there is one in which the diplomatic service was able to validate the content of a website in which important evidence to ground the fiscal claim in the examination process of a taxpayer.

III.6. Information Systems

It can be now mentioned that in order to solve the lack of information exchange in the control of transactions carried out with foreign persons and, specially, with tax havens, our Tax Administration has implemented different information systems, which are the following:

- **Information system for representatives of foreign persons and service suppliers.**

  In 2002, the Argentine Tax Administration established an information system[11] in respect of all economic transactions of whatever nature, even if they are free of charge, carried out among residents in the country and those who act as agents of foreign individuals or entities. Informers are the agent as well as those who take part in said transactions as service suppliers, such as public notaries, banks, insurance companies, securities markets and currency exchange offices, among others.

[11] *General Resolution (AFIP) N° 1375 (Official Gazette: 19/11/02)*

- **Information system for the entrance of foreign income by residents in the country:**

  During mid 2005, the Argentine Tax Administration considered it was necessary to pass a regulation[12] in order to establish an information system in respect of all transactions involving the entrance of foreign income by residents in the country and originated from certain business transactions whenever they are higher than US$50,000 (or its equivalent in other currencies), per calendar month and per individual or legal person ordering such entrance, in all entities authorized to perform exchange transactions.

  Information agents that, partly or fully, fail to submit information to this system, shall be subject to the sanctions under the Argentine procedure law with fines up to AR$5,000 (US$1,315), which shall be increased up to AR$10,000 (US$2,630) in the case of companies incorporated in the country which are owned by foreign individuals or legal entities.

- **Specific agreement for information exchange with the Central Bank of Argentina (BCRA, in its Spanish acronym).** The Tax Administration has signed this Agreement in order to strengthen the use of the public sector resources available.[13]

  By means of this Agreement, the Central Bank of Argentina provides the Tax Administration with information about currency inflow and outflow overseas, identifying not only the local taxpayer but also their counterpart and the foreign country of residence.

  This information helped to identify a significant amount of transactions performed with persons residing in tax havens and this allowed unpaid taxes examination and assessment actions.

- **Other policies:** In addition, it is important to note that, with the intention of implementing actions in order to strengthen supervision of securities transactions within the public offer, the Argentine National Securities and Exchange Commission placed some restrictions on said transactions whenever they are performed or ordered by individuals or entities incorporated, domiciled or residing in countries listed as tax havens pursuant to the income tax law.[14]

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[12] *General Resolution (AFIP) N° 1926 (Official Gazette: 17/08/05)*
[13] *Agreement executed on September 26, 2008.*
[14] *General Resolution N° 554/09 - Argentine National Securities and Exchange Commission (Official Gazette:14/05/09).*

ANNEX I

LIST OF TAX HAVENS PURSUANT TO WHAT IS PROVIDED BY ARTICLE 7, WITH NO ADDED NUMBER FOLLOWING ARTICLE 21 OF THE EXECUTIVE ORDER MAKING REGULATING INCOME TAX LAW IN THE ARGENTINE REPUBLIC:

1. ANGUILLA (United Kingdom non autonomous overseas territory)
2. ANTIGUA AND BARBUDA (Independent state)
3. NETHERLANDS ANTILLES (Dutch territory)
4. ARUBA (Dutch territory)
5. ASCENCION
6. THE COMMONWEALTH OF THE BAHAMAS (independent state)
7. BARBADOS (independent state)
8. BELIZE (independent state)
9. BERMUDAS (United Kingdom non autonomous overseas territory)
10. BRUNEI DARUSSALAM (independent state)
11. CAMPIONE D"ITALIA
12. GIBRALTAR
13. THE COMMONWEALTH OF DOMINICA (Associated state)
14. UNITED ARAB EMIRATES (independent state)
15. STATE OF BAHREIN (independent state)
16. ASSOCIATED STATE OF GRANADA (independent state)
17. THE COMMONWEALTH OF PUERTO RICO (associated state of the US)
18. STATE OF KUWAIT (independent state)
19. STATE OF QATAR (independent state)
20. FEDERATION OF SAINT CHRISTOPHER AND NEVIS (Saint Kitts and Nevis Islands: Independent)
21. Regulation applicable to Holding companies (Law passed on July 31, 1929) of the Grand Duchy of Luxembourg.
22. GREENLAND
23. GUAM (United States non autonomous territory)
24. HONK KONG (Chinese territory)
25. THE AZORES ISLAND
26. CHANNEL ISLANDS (Guernesey, Jersey, Alderney, Great Stark Island, Herm, Little Sark, Brechou, Jethou Lihou)
27. CAYMAN ISLANDS (United Kingdom non autonomous territory)
28. CHRISTMAS ISLAND
29. COCOS OR KEELING ISLAND
30. COOK ISLANDS (New Zealand associated autonomous territory)
31. ISLE OF MAN (United Kingdom territory)
32. NORFOLK ISLAND
33. TURKS AND CAICOS ISLANDS (United Kingdom non autonomous territory)

34. PACIFIC ISLANDS
35. SOLOMON ISLANDS
36. SAINT PIERRE AND MIQUELON ISLAND
37. QESHM ISLAND
38. BRITISH VIRGIN ISLANDS (United Kingdom non autonomous territory)
39. UNITED STATES VIRGIN ISLANDS
40. KIRIBATI
41. LABUAN
42. MACAO
43. MADEIRA (Portuguese territory)
44. MONTSERRAT (United Kingdom non autonomous territory)
45. Item removed pursuant to Executive Order N° 115/02
46. NIUE
47. PATAU
48. PITCAIRN
49. FRENCH POLYNESIA (French overseas territory)
50. PRINCIPALITY OF ANDORRA
51. PRINCIPALITY OF LIECHTENSTEIN (independent state)
52. PRINCIPALITY OF MONACO
53. REGULATIONS APPLICABLE TO FINANCIAL CORPORATIONS (governed by Law No 11.073 passed on June 24, 1948 of the Oriental Republic of Uruguay)
54. KINGDOM OF TONGA (independent state)
55. HASHEMITE KINGDOM OF JORDAN
56. KINGDOM OF SWAZILAND (independent state)
57. REPUBLIC OF ALBANIA
58. REPUBLIC OF ANGOLA
59. REPUBLIC OF CAPE VERDE (independent state)
60. REPUBLIC OD CYPRUS (independent state)
61. REPUBLI OF DJIBUTI (independent state)
62. CO- OPERATIVE REPUBLIC OF GUYANA (independent state)
63. REPUBLIC OF PANAMA (independent state)
64. REPUBLIC OF TRINIDAD AND TOBAGO
65. REPUBLIC OF LIBERIA (independent state)
66. REPUBLIC OF SEYCHELLES (independent state)
67. REPUBLIC OF MAURITIUS
68. TUNISIAN REPUBLIC
69. REPUBLIC OF MALDIVES (independent state)
70. REPUBLIC OF MARSHALL ISLANDS (independent state)
71. REPUBLIC OF DE NAURU (independent state)
72. DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA (independent state)
73. REPUBLIC OF VANUATU
74. REPUBLIC OF YEMEN
75. REPUBLIC OF MALTA (independent state)

76. SAINT HELEN
77. SANTA LUCIA
78. SAINT VICENT AND THE GRENADINES (independent state)
79. AMERICAN SAMOA (United States non autonomous territory)
80. INDEPENDENT STATE OF SAMOA (WESTERN SAMOA)
81. THE MOST SERENE REPUBLIC OF SAN MARINO (independent state)
82. SULTANATE OF OMAN
83. SVALBARD ARCHIPELAGO
84. TUVALU
85. TRISTAN DA CUNHA
86. TRIESTE (Italy)
87. TOKELAU
88. FREE ZONE OF OSTRAVA (a city in the Czech Republic)

ANNEX II

STATISTICS OF INTERNATIONAL TRANSACTIONS ACCORDING TO THE INTERNATIONAL TRANSACTIONS TAX RETURNS

Year	Total Exports reported in International Transactions Tax Returns US$	Exports to countries with low or no taxation (PBNT, in its Spanish acronym) reported in International Transactions Tax Returns US$	Relation Reported Exports to PBNT / Reported Total Exports PERCENTAGE
2003	17,154,602,554.52	2,719,090,078.98	15.85%
2004	19,343,438,707.88	1,372,827,326.36	7.10%
2005	20,892,232,943.80	1,332,530,117.71	6.38%
2006	23,153,745,388.01	1,586,694,902.25	6.85%
2007	27,520,415,603.01	1,810,718,176.81	6.58%
	108,064,435,197.22	**8,821,860,602.11**	8.16%

TOTAL EXPORTS OF THE COUNTRY (REPORTED BY THE GENERAL CUSTOMS DIRECTORATE) IN RELATION TO EXPORTS TO COUNTRIES WITH LOW OR NO TAXATION –PBNT- (REPORTED IN INTERNATIONAL TRANSACTIONS TAX RETURNS)

Year	Total Exports of the Country reported by the General Customs Directorate US$	Exports to PBNT Reported in International Transactions Tax Returns US$	Relation Reported Exports to PBNT / Reported in International Transactions Statements/ Total Country Exports PERCENTAGE
2003	28,913,956,603.23	2,719,090,078.98	9.40%
2004	34,236,044,325.20	1,372,827,326.36	4.01%
2005	39,474,385,014.91	1,332,530,117.71	3.38%
2006	46,188,536,195.25	1,586,694,902.25	3.44%
2007	55,256,993,127.88	1,810,718,176.81	3.28%
	204,069,915,266.47	**8,821,860,602.11**	4.32%

Case study

Topic 2.2

NEW TECHNOLOGIES TO IMPROVE CONTROL CAPACITY

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(The Netherlands)

CONTENTS: 1. Introduction.- 2. Compliance strategy: A short introduction.- 3. Influencing taxpayer behaviour.- 4. Making balanced choices: An introduction.- 5. Steps towards a well balanced choice.- 6. Developments.- 7. Objectives.- 8. Final remarks

1. INTRODUCTION

New Technologies in a Broad Perspective

This paper describes new technologies used in the Netherlands as tools for improving the tax administration's control capacity. These technologies do not stand alone but are part of a supervision policy. In this paper the new technologies are placed within the context of the Netherlands Tax and Customs Administration's compliance strategy and supervision policy plan 2010-2014.

Contents

The focus of the compliance or supervision strategy is on influencing taxpayer behaviour. A description of this strategy is given in the second paragraph. The critical success factors in this strategy are described in paragraph 3. The fourth paragraph contains an introduction to the method used to make effective use of the tax administration's control capacity by making well-considered choices on the deployment of supervision tools. The fifth paragraph explains the steps taken to make these choices. As a tax administration operates within society, external

factors influence the compliance strategy. Four major factors are described in paragraph 6. All these factors are taken into account in the supervision policy which is currently being developed within the NTCA. A number of objectives for the period 2010-2014 are highlighted in the seventh paragraph, combining all elements described in the previous paragraphs. Final remarks and conclusions are included in the final paragraph. Throughout the presentation good practices, including new technologies, are highlighted.

Private Individuals and Small Businesses

Topic 2.3 on the agenda of the CIAT Technical Conference is about large taxpayers. For topic 2.2 therefore the choice has been made to focus on large scale processes: technologies and tools dealing with private individuals and small businesses.

2. COMPLIANCE STRATEGY: A SHORT INTRODUCTION

Compliance

The guiding principle for supervision activities is that the Netherlands Tax and Customs Administration (NTCA) aims to maintain and reinforce compliance of private individuals and businesses and to limit non-compliance. Compliance is the willingness of private individuals and businesses to meet their legal obligations with regard to the Tax and Customs Administration. Compliance is defined - in accordance with international standards[1]- in four basic obligations based on tax laws:

- to register for tax purposes;
- to file tax returns (on time);
- to correctly report tax liabilities;
- to pay taxes (on time)

Compliance Strategy: A Parallel Approach

Supervision, whereby the NTCA checks to see whether taxpayers are complying with fiscal legislation and regulations, is traditionally one of the key tasks of a tax administration. Over recent years, supervision has altered. The NTCA pursues a number of different parallel strategies, tailor-made to the tax risk or tax issues involved. Keywords in the strategy are:

- from repression to prevention
- mutual trust, understanding and transparency

[1] *OESO, Monitoring Taxpayers' Compliance (2008) and EU, Risk Management Guide (2006)*

- shared responsibility
- working real time
- certainty in advance
- preventing double work
- themed approach
- cooperation with other authorities
- visibility
- focus on outcome instead of just output

Compliance Strategy

The goal of the NTCA is to minimize the tax gap; this is the tax loss that derives from non-compliance with the four basic obligations. In addition the NTCA aims to get as much assurance as possible with regard to the correctness and completeness of tax revenues; this is called the compliance map. Promoting compliance by private individuals and businesses amounts to influencing taxpayer behaviour with regard to the four basic obligations.

To achieve these goals the NTCA has added new tools to the more traditional, vertical ways of supervision. These include horizontal monitoring and communication. The aim of these new tools is to influence taxpayer behaviour: pro-active instead of re-active actions. Compliance management is about determining which instruments and activities have to be used, and how, when and directed at whom, to positively influence tax compliance.

The principal challenge for the years ahead is to make supervision more selective and to see where the NTCA shares responsibility with taxpayers. The basis of the NTCA's actions is trust so taxpayer's dealings are made as straightforward as possible. In cases where trust turns out to be misplaced, a more repressive approach may be chosen; the NTCA will take effective measures. By deploying a more diversified approach, the NTCA is able to keep its increasing - and highly dynamic - client volume at an acceptable compliance level

This strategy demands focus and well-considered choices. The policy plan focuses the attention of the NTCA on specific areas and developments. In this context the NTCA has phrased four crucial or critical success factors which contribute to the NTCA's supervision goals. These crucial success factors also form the backbone for the development of new technologies and tools.

3. INFLUENCING TAXPAYER BEHAVIOUR

Introduction

The NTCA is part of a society in which citizens, businesses, organizations and public bodies react to each other's actions. Certain actions on the part of the

NTCA lead to a reaction from the taxpayer and vice versa. In order to influence taxpayer behaviour the NTCA needs to aware of its own behaviour but also of behaviour within society. It is important too to know what causes non-compliant behaviour by citizens and businesses. Making mistakes because of ignorance differs from aggressive tax planning and from tax fraud. Behavioural science has shown that criminal sanctions are not the appropriate response (and may have an adverse effect) when non-compliance is caused by complex legislation or a lack of knowledge on the part of the taxpayer. The NTCA matches its supervision and compliance strategy to the taxpayer's attitude and motives (responsive strategy). For large businesses, where the supervision strategy is individually designed, this means that the intensity of supervision is matched to the level of control of the large business itself.

Critical Success Factors

Based on the goal of influencing taxpayer behaviour the NTCA will apply the following critical success factors with regard to supervision. These factors all contribute to influencing taxpayer behaviour.

a. Real Time Supervision

NTCA supervises in real time because this is the most appropriate time to effectively influence taxpayer behavior. Real time supervision means speed, effective use of capacity, made to measure service and supervision which is tailored to the taxpayer's real time circumstances. The basic principle is to focus the attention on the quality of future tax returns. Keywords in real time supervision are "working in advance", response and support.

Good practice: Prevention

As regards yacht manufacturing it has emerged out VAT-constructions are established to avoid paying VAT. In addition the origins of the money are often concealed using vague legal entities that hide the true owner. A number of these constructions used to be tackled by making corrections on returns or VAT-refunds; the NTCA succeeded in part but not in all cases; this approach was very labour-intensive and therefore costly. Applying the principle of real time supervision means visiting the shipyards during the building works; thus real time information on the identity of the buyer is gathered and VAT constructions can be (and are) prevented.

b. Visible supervision

The NTCA is visible both as a provider of services and as a supervision organization. Visibility influences taxpayer behaviour considerably. An example of this is that visibility has a preventive effect without having to actively correct or punish. The

taxpayer notices and experiences the presence of the NTCA. Visibility literally means being out on the streets or having a communication strategy in place. Keywords in visible supervision are prevention and the experienced "chance of discovery".

Good practice: International Information Exchange

The NTCA has very actively adapted its strategy to developments related to the financial crisis, especially the fact that a large number of countries has ceased to use banking secrecy rules as an impediment to the exchange of information. In a very short period of time a large number of agreements have been concluded with these countries. These developments have been communicated to the media. The taxpayer has been given to understand that to funnel off money abroad will shortly become impossible. This communication strategy has induced hundreds of taxpayers to come forward voluntarily to pay their taxes and avoid sanctions.

c. Horizontal monitoring

NTCA actively states obligations, both those of taxpayers and those of the tax administration and aims to act accordingly. This impacts both parties' behaviour: in horizontal monitoring mutual trust, understanding and transparency are keywords. This concept is applied for all segments of taxpayers and their representatives. It is implemented in agreements with large businesses, tax intermediaries and other parties such as branch organizations. With regard to large businesses this means that the business' own responsibility is the key, materiality is the starting point and the tax administration builds on control activities which have been done as part of the business' tax control framework. The agreements with tax intermediaries are aimed at strengthening and trusting the internal quality control systems of the intermediary and aligning work processes. Keywords in horizontal monitoring are responsibility, certainty and partnership.

Good Practice: Cooperation with Intermediary Association

A pilot project has started with an association of tax intermediary and accountants. In total 370 tax intermediaries' and accountants' offices are members of this association. A group of 20 of these offices participate in a pilot project in which agreements on wage withholding tax-returns have been concluded with the NTCA. The tax intermediaries/accountants decide whether their clients' returns are designated as "agreement-proof returns". An "agreement-proof return" is completed in accordance with the control program that has been agreed upon between the association and the NTCA; using this program ensures the quality-level of the tax return. No thorough checking of these returns is necessary; in fact this creates a green lane for these tax returns. This means the NTCA does not have to check these tax returns thoroughly ("green lane"); in principle limited

random checks are carried out with regard to these returns. Also the association carries out intermittent checks on its members' performance with regard to the agreements. In due course membership includes a mark of quality regarding tax returns. In case one of the members does not adhere to the terms of the agreement then they are not only corrected by the NTCA but also by their association. Should a NTCA check show that not only the NTCA but also the intermediary has not been properly informed by the taxpayer than this not only has tax consequences but also effects on the relationship between the tax intermediary and his client. This creates a learning circle and shows that all partners in the chain are jointly responsible for a correct tax return.

Currently this is a pilot project; should all members of this association decide to participate in a permanent agreement, then 30% of all wage withholding tax-returns are covered by horizontal monitoring. An extension to other tax returns is anticipated in due course. Except for the design and execution of random checks on the observance of the terms of the agreements, the costs involved in this type of supervision are in principle exceptionally small. Developing and maintaining the contacts with the association and the process agreement process are the responsibility of a team of 5 or 6 officials, taking up one man year in capacity.

d. Cooperation with other supervision agencies

The NTCA is seeking collaboration with supervision agencies outside NTCA. Other supervision agencies are involved in the NTCA's supervision activities and the NTCA participates in other agencies' activities. Keywords in collaboration are operating integrally, socially and government wide.

Good Practice: Intelligence Centres

The NTCA participates in recently established regional intelligence centres and the national intelligence centre. Primarily aimed at tackling organized crime, the aim of these centres is to combine data from a wide range of supervision agencies (such as NTCA, district attorney's offices, municipalities). By joining both information and supervision powers fraud can be tackled more effectively. Fraud often consists of different kinds of fraud such as money laundering, human trafficking, tax fraud etc. This approach ensures these fraud types can be tackled jointly and speedily. Criminal organizations operate both in the underworld and the straight world; these organizations need accommodation, personnel, financial services etcetera and thus affect various government agencies. By cooperating not only specific fraud types are dealt with but also the organization as a whole is tackled. An example: in the Netherlands municipalities are authorized to grant licenses (e.g. for business accommodation). If it emerges an accommodation is used for criminal purposes by a criminal organization, local government can withdraw the license, in combination with instigated criminal prosecution and the confiscation of unlawful gains by the justice department. To prevent the

criminal organization from "popping up" elsewhere, a nationwide intelligence centre needs to be in place, in combination with links to neighbouring countries. A nationwide covenant makes the exchange of information more simple and univocal. The total operation costs of these programme are 2,7 million euro for the year 2009, increasing up to 5 million in 2011.

4. MAKING BALANCED CHOICES: AN INTRODUCTION

Introduction

The NTCA has renewed its compliance strategy and aims at a diversified approach making well balanced choices that weigh the compliance effect to be achieved and the supervision instruments required. This approach enables the NTCA to structurally tackle tax risks and toe adequately and effectively make us of control capacity. The steps taken towards making a balanced choice are described in paragraph 5 of this written presentation. Before starting supervision activities, the NTCA identifies and analyses the issues involved and chooses, based on the desired effect and the available capacity, the tools or mix of tools which best fits the aimed for influence on taxpayer behaviour. In order to be able to identify and analyze, the NTCA invests in monitoring taxpayers, their circumstances and in analyzing risks and behaviour.

Tools

A mix of supervision tools is deployed to influence taxpayer behaviour (to achieve and maintain compliance. This mix consists of tools that have been in place for a number of years and of more recently developed tools. Examples of the former category are: the mass process of selection of tax returns, audit and fraud investigation as well as the provision of services such as information and advice.

More recent tools are the use of horizontal monitoring (agreements with taxpayers and (bodies of) tax intermediaries), visible supervision (communication strategy, surveillance and targeted actions). Newly implemented tools are the improvement of services such as extended hours on the Telephone Service and returning calls, also with regard to the policy to contact every taxpayer who has lodged an objection.

Segmentation

By structuring the approach the NTCA is able to keep its increasing and highly dynamic client-volume at an acceptable compliance level: a proportional and diversified approach. The NTCA anticipates demographic, economic and international developments which affect the size and diversity of its client volume. This volume is of such magnitude that principles of control and effectiveness demand segmentation. Segmentation involves breaking down the total pool of

taxpayers into groups with shared features such as financial interest, complexity of the tax issues, scale etcetera. The NTCA distinguishes four segments: private taxpayers, small businesses, medium-size businesses and large businesses. These segments are analyzed in their entirety and provided with a strategic plan for supervision. The features of the segment determine, among other things, the tools that are deployed.

Good Practice: Gaining Knowledge on Large Groups of Taxpayers

The large scale of the private taxpayers and small businesses-segments determines the approach. Choices for these segments are mainly based on the results of Random Surveys on private individuals and businesses. These are an indispensable element in designing a compliance strategy with regard to these groups. The information gleaned from these Surveys is very valuable for the learning circle which is in place in the design of the compliance strategy. The surveys, which are held structurally and annually, are intended to gain knowledge on:

- the behaviour or risks related to groups of taxpayers
- the effects of supervision activities (based on certain assumptions)
- unpredictability in supervision.

5. STEPS TOWARDS A WELL BALANCED CHOICE

Introduction

The NTCA aims to make well considered and balanced choices regarding which tool or combination of tools is deployed, and with which depth, to achieve an improvement in compliance in a certain situation or to support proper taxpayer behaviour. Considering choices well is important as a wrong choice may have adverse effects. In making these well-considered choices it is important to weigh the balance between means and effects. Tax risks, financial concerns and the political and social impact all play a part in making these well-balanced choices. The NTCA has developed a step-by-step plan which is explained in this paragraph. This step-by-step plan applies to issues dealt with at a national level and to issues which are researched in the regional offices of the NTCA.

Steps

1. First Orientation

The NTCA (both on a national level and tax regions) receives signals on risks from different sources. A signal points to possible non-compliance or insufficient compliance regarding taxpayer's obligations (registration, filing, payment and

reporting). Once a risk has been indicated it is important to determine a number of aspects:

- Which tax rules are concerned?
- Is a specific group of taxpayers (segment) involved?
- Are certain objects or tax events concerned?

This step aims at describing the risk of non compliance, including legal aspects and the segment of taxpayers concerned.

2. Analysis

The second step is a more in depth analysis. This means the size and intensity of non-compliance and its seriousness are analysed. Also priority is determined. This step leads to a go/no go decision for developing a compliance strategy.

3. Outcome

The general aimed for outcome is compliance and in the third step it is important to determine precisely the desired outcome of the supervision strategy. The result of this step is to describe the intended improvement with regard to the following areas of taxpayer behaviour:

a. Registration
b. Filing
c. Payment
d. Reporting

At this stage it is important to realise that measuring outcome (the effect on taxpayer behaviour) is not always easy or straightforward. Measuring output is more concrete: it is about figures: the numbers of audits or the amount of taxes collected. Measuring outcome is about measuring changes in behaviour which is not easy and which cannot be easily attributed to single causes or tools (see also step 9).

4. Analysis Causes of Non-Compliant Behaviour

This step involves research into the possible causes for non-compliance. Why do taxpayers not comply? At this stage the three contributing factors (motivation, capability and opportunity) are researched in depth and in relationship with each other. Determining factors are knowledge and motivation on the part of the taxpayer but also the perception of the tax administration's supervision strategy. This step results in a list of causes.

5. Group of Taxpayers

This step focuses on the subject; the taxpayer or group of taxpayers who are not complying. In the case of a group of taxpayers, the analysis is aimed at determining the causes of this segment's behaviour and whether differences exist in this group. This step results in a list of the main segments of taxpayers, their (non) compliance behaviour and the causes for this behaviour.

6. Supervision Tools

The NTCA has a broad range of supervision tools at its disposal. Besides preventive instruments such as assessing legislation, communication, services and visits to companies, there are repressive tools such as audits, fraud investigations, administrative fines, etc. Relatively new tools in the mix are measures such as horizontal monitoring, supervision communication and working with other supervision agencies. These tools intend to prevent non-compliance and influence taxpayer behaviour beforehand. Repressive instruments are not always the most suitable means for bringing about long-term shifts in behaviour. When taxpayers continue to default out of ignorance, communication and services provide by visiting start-up businesses, may prove more effective instruments.

7. Planning
8. Execution of the strategy
9. Evaluation

In this phase one of the most difficult aspects of the supervision strategy is addressed. It is about measuring the outcome of the supervision strategy. This step provides invaluable information in the learning circle which is part of the compliance strategy.

Measuring Outcome

Measuring outcome is the final stage in the NTCA's compliance strategy. The NTCA measures whether the intended effects regarding taxpayer behaviour have been realized. Measuring outcome of supervision activities is done regarding segments, projects, specific supervision activities and large businesses.

Regarding the segments private individuals and small businesses the following instruments are in place:

- the tax monitor (private taxpayers) and the compliance monitor (small businesses): these are surveys which provide insight in the opinion and attitudes of taxpayers regarding the NTCA and paying taxes in general.
- random checks which provide an insight in a part of the tax loss (tax gap)

- the compliance map which provides an insight in the assurance regarding tax revenues.

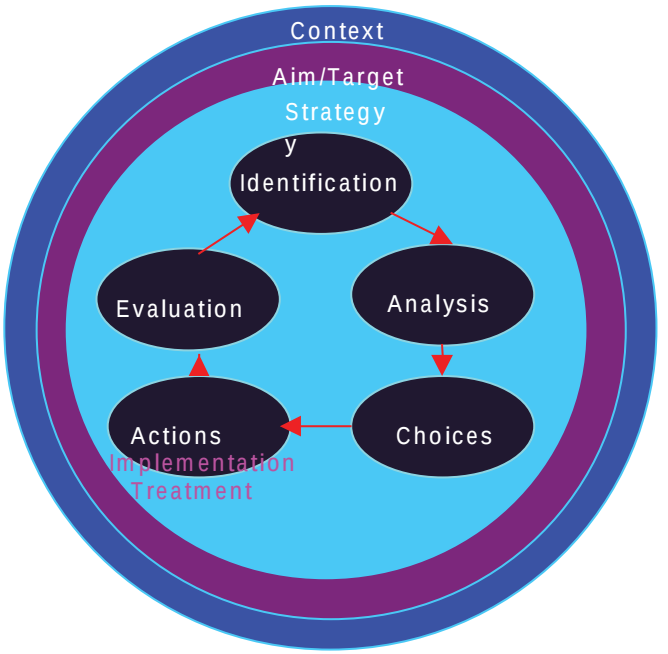
These instruments provide relatively objective criteria to weigh "competing" supervision activities on a strategic/tactical level. Regarding medium-size and large businesses outcome is measured using supervision on meta-level and a specific compliance monitor regarding these segments.

Measuring effects at the level of supervision activities or projects helps to determine the effectiveness of these activities. The results are used for further improving and refining the compliance strategy, thus contributing to more well-balanced and well-considered choices for the deployment of supervision measures (a learning circle).

In a nutshell….

The compliance strategy means making well balanced choices. This process starts with knowing: identification and analysis. This knowledge is the basis for determining the intended effect and choosing the strategy. This is followed by the execution of the chosen strategy, evaluating and measuring the outcome. This creates a learning circle which is made visible below.

…and a picture:



6. DEVELOPMENTS

External factors and developments influence the NTCA's compliance strategy; these vary widely: demographical, economical and international developments all influence supervision strategies. Each issue provides a tax administration with a potentially heavy burden on capacity and resources. This paragraph lists a number of these factors and shows a couple of tools dealing with these factors.

Growth in Economic Activity from Abroad

Due to the EU policy on free flow of labour, the number of labourers, noticeably Eastern European countries, has risen considerably. These labourers may be employed or operate their own business. Often, foreign temporary employment agencies act as intermediaries. Due to the temporary nature of these employees'/ entrepreneurs' labour, it is difficult to get a grip on the observance of their legal obligations.

Good practice: Engaging the tax intermediary

The NTCA has developed a local project developing a relationship with a tax intermediary whose clientele consists entirely of taxpayers from abroad. Due to language barriers and a culture of distrust towards government this group of taxpayers is not easily approached. Cooperation with their tax intermediary increases the possibilities of fruitful contacts and makes optimum use of the strong social bonds in this group of taxpayers. Establishing and maintaining this relationship takes relatively little effort considering the results.

Growth in number of small businesses

The number of small businesses has risen during the last years by an annual 10% to approximately 1,2 million businesses. This growth is primarily caused by an increase in the number of self-employed entrepreneurs without personnel. One third of small businesses is relatively small. This growth in small businesses poses a considerable challenge for the NTCA. The quality of their tax returns is often insufficient due to a lack of knowledge on the part of the entrepreneur and the lack of proper fiscal guidance. This group of taxpayers fairly often makes mistakes in applying the rules regarding specific facilities for businesses.

Good practice: Supporting start-up businesses

Information in advance helps new businesses in making correct tax returns and saves the tax administration time and effort in dealing with these returns. The NTCA undertakes a large number of visits to companies, particularly to start-up companies. This is founded on the conviction that, regarding compliance, the greatest impact on companies' tax return behaviour is achieved when companies

are in the start-up phase. Visits to companies perform two key aspects of supervision - service provision and prevention. During the visits, a clear picture of the company is gained and potential risks in the company's administrative system can be assessed. Start-up businesses are informed of their obligations and the criteria their administration must meet. Where possible, these visits are carried out in collaboration with other parties - Chambers of Commerce, fiscal intermediaries and branch organizations.

Financial Crisis

As a result of the financial crisis, the survival of a number of businesses is threatened and over 80% of all businesses expect, for the first time in years, not to see an increase in jobs while turnover and profits decrease in 2009. Increasingly, businesses hire short term labour and self employed personnel to guard themselves against a setback. In 2009 the number of jobs sharply decreases. In comparison: in 2008 employment in the small business sector rose with 65.000 full time jobs and this number was 65.000 in 2007. In manufacturing, trade and and the catering industry the number of jobs will decline. In addition businesses are concerned about the rising costs: almost 70% of businesses consider this a risk for the survival of their company. The expectation is that recovery of this sector will take a number of years.

Good practice: Insolvency prediction tool

The intelligence-department of the NTCA is developing a so called `insolvency prediction tool`. This tool is aimed at discovering taxpayers with substantial tax liabilities in time. The prediction tool is mainly based on the taxpayer´s behavior regarding their tax return and payment of taxes. This tool is developed using existing packages. The NTCA bought the licenses for these packages, such as ACL, Excel, Access and Visual basic. This approach means that the development of the tool is relatively inexpensive. A small group of experts (8 people) are skilled in high level linking and combining of data.

Decreasing the administrative burdens on taxpayers

Consecutive governments in the Netherlands have formulated the goal to substantially decrease the administrative burdens on taxpayers. Small businesses are disproportionately affected by legal requirements. In addition laws can be very complex and this in itself may lead to non-compliance, whether due to ignorance or intent. Less and better laws intend to decrease these burdens. Working real time, agreeing on processes and giving certainty beforehand limits time consuming controls by the tax administration afterwards, decreasing costs

for businesses. In this respect, the NTCA is also simplifying the corporate income tax return and promoting XBRL[2].

Good practice: Engaging NTCA and associations

The NTCA has the standard practice to check proposed regulations beforehand on a number of issues. Checking the effects on the administrative burdens on taxpayers is a definite point in the checklist. In addition, major legislative changes are discussed beforehand with taxpayers', tax intermediaries and business associations.

7. OBJECTIVES

The previous paragraphs contain a description of the compliance strategy, aiming at influencing taxpayer behaviour. The presentation has shown how the NTCA aims to optimize choices to achieve the intended effect on taxpayer behaviour. Also the external influences on the compliance strategy have been described. The supervision policy as regards the period 2010-2014 brings these items together in describing the tax administration's objectives using the four critical success factors as described in paragraph 3. On what issues is the NTCA focusing during the next four years? This paragraph gives a number of examples, illustrated by good practices.

Private taxpayers

This is the largest segment: 9 million taxpayers, using highly automated processes and providing a high level of service. For this segment the renewed compliance strategy means a shift in focus from checking tax returns (bulk selection processes) to securing quality in tax returns, beforehand as much as possible. The aim is to improve this quality by provision of service and making use of third party information. Improving this quality is the aim of the activities listed below:
1. Improving the quality of tax returns by moving towards a pre-completed tax return and improved services
2. Focused attention on private taxpayers with undeclared (foreign) income and capital and on private individuals who wrongly have not registered as taxpayers or do not file their return/pay their taxes.

[2] *XBRL is a standard for compiling and exchanging corporate financial reports and data, for instance via the Internet.*

Ad 1. Improving the quality of tax returns

The established process of levying income tax starts with a tax return that has to be completed and filed by the taxpayer. In this return NTCA asks for data regarding the taxpayer´s income. Third parties would be able to supply these data to the NTCA, thus reducing the burden on taxpayers and the risk of incorrect data (fewer errors. Therefore the NTCA is developing a process of obtaining these data from third parties and putting these data before taxpayers in order to check them. Third party data are no longer used as contra-information but are presented to the taxpayer as a service. The NTCA is developing the pre-completed tax return (see good practice) and intends to increase the level of quality regarding third party data.

Good practice: Pre-completed tax return

In 2009 the income tax return 2008 has been made available to private taxpayers, for the first time, in a pilot project encompassing all taxpayers concerned, using pre-completed data. Only a limited amount of data was deemed to be of sufficiently high quality to be pre-filled. These are data on wages and the value of private homes. In future years this will be extended to other data, such as data from banks, insurance companies etc. The pilot project has yielded excellent results. As the pre-completed tax return is still under construction no definite data exist yet regarding capacity-issues. The expectation is however that capacity currently used to correct calculating errors and other mistakes in tax returns can and will be put to more effective use in supervising taxpayers who need supervision. It should be kept in mind though that capacity also has to be employed towards gathering high quality data from third parties.

Ad 2. Undeclared income/capital and non-registration, non-declaration and non-payment

A number of taxpayers are systematically non-compliant regarding their tax obligations: either by not declaring (part of their) income and/or capital (or incorrect deductions) or by not registering as taxpayers and not submitting tax returns. Regarding the first category a well known example are taxpayers who do not declare bank accounts held abroad. The NTCA intends to focus its attention on these taxpayers, aiming for the taxpayer. Tools used are strategic communication and the smart and innovative use of combined data which are available both from the tax administration´s systems and from other sources. Three good practices are listed below. The NTCA aims to strengthen its intelligence on these taxpayers and to cooperate with other supervision agencies and other tax administrations, thus reducing the tax gap.

Good practice: Mismatches between income and expenses

In 2008 and 2009 an application has been designed regarding persons `living on air`. In Dutch these are called Windhappers. These are persons in respect of whom there seems to be no reasonable explanation for the relationship between their visible income and expenses. They claim to have no or scarcely any income. The application makes 43 combinations from databases and these data are presented to the regional tax offices. Examples of data are contra information on payments by ex-spouses, ownership of cars, trailers, boats and mobile homes. In cases of mismatches between income and expenditure there may be undeclared income from (business) activities.

In developing this concept, which was done in cooperation with an external software company, NTCA provided most of the knowledge on taxation and the information gathered from the data and their links. This should be taken into account when developing such a tool. On the other hand the software company provided fast service.

Good practice: Automatic number plate recognition

The NTCA has acquired a number of cars fitted out with scanning equipment. These cars are used for different supervision activities, both in cooperation with other supervision agencies and for tax operations, two examples of the latter are listed below:

- Non-payment: match number plate data to taxpayer data and to recovery systems. Driving through neighbourhoods with a large number of tax debts, the onboard computer shows whether the car owner has any outstanding tax debts. If this is the case the -car is halted and the taxpayer is given the opportunity to pay his taxes. In case of non-payment the car is seized and will only be returned after the tax debts have been paid. An example of the results: 6 hours of supervision bring in 30 tax debtors with 1,2 million Euro in tax debt. 1/3rd of debtors pay immediately, 1/3rd of cars are seized and in 1/3rd of cases alternative security is raised. This method is much more effective than the more traditional way of recovering (which involves considerable man hours). This tool is also widely published, including the amounts of tax recovered, and this is considered to have a preventive effect.

- Private use of company cars: an employee has to pay income tax when exceeding 500 kilometres per annum on his company cars. If an employee produces a declaration stating no more than 500 private kilometres will be driven with the company car, the employer does not have to withhold wage tax. Random checks during a nationwide examination in 2007 showed that a number of employees declared less than 500 kilometres of private use, but in fact drove more. This called for visible supervision. The NTCA published

its intent to examine this issue beforehand so employees could change or withdraw their statement. Supervision is carried out using recognizable "NTCA-cars" taking pictures of cars using automatic number plate recognition to read vehicles' number plates (this is done for instance at the borders, during the summer holidays targeting cars leaving the Netherlands). The taxpayers concerned are contacted regarding their "less than 500 kilometres" statement.

Good practice: Recovery and direct transfer of money

Due to new legislation in cases of outstanding tax debts, the NTCA can directly recover these debts from the taxpayer´s bank account up to his credit limit if the taxpayer does not pay debts upon request to the NTCA.

Small businesses

This segment consists of about 1,2 million businesses. About 75% of these businesses employ no other personnel apart from the entrepreneur. The renewed compliance strategy means that the focus shifts from checking individual tax returns (after they have been submitted) to arrangements where this segment can be dealt with in advance, and `in batches´. Also the focus is on assurance on quality tax returns in advance, on dealing with socially relevant issues and executing the Random Business Survey.

This makes for a number of objectives, including the following, as regards the segment of small businesses:

1. Shifting the focus from checking tax returns afterwards to ensuring quality before the tax returns are submitted by supporting start-up businesses, to improve the entire payroll tax chain and to guard timely tax payments
2. Strengthening the tax chain (including tax intermediaries) using horizontal monitoring agreements
3. Putting efforts towards a compliance strategy as regards socially relevant issues
4. Putting efforts towards tracking and supervising unknown businesses, activities and fighting tax fraud

Ad 1. Shifting focus to working in advance and real-time supervision

As described in previous paragraphs in this written presentation the NTCA intends to influence taxpayer behaviour. Research and experience have shown that timing is very important: prevention of non-compliance at the appropriate moment, before the tax returns are submitted, is the key. This principle also applies to monitoring and influencing payment behaviour. Three good practices in this respect are listed below.

Good practice: Supporting start-up businesses

Information in advance helps new businesses in making correct tax returns and saves the tax administration time and effort in dealing with these returns. The NTCA undertakes a large number of visits to companies, particularly to start-up companies. This is founded on the conviction that, regarding compliance, the greatest impact on companies' tax return behaviour is achieved when companies are in the start-up phase. Visits to companies perform two key aspects of supervision - service provision and prevention. During the visits, a clear picture of the company is gained and potential risks in the company's administrative system can be assessed. Start-up businesses are informed of their obligations and the criteria their administration must meet. Where possible, these visits are carried out in collaboration with other parties - Chambers of Commerce, fiscal intermediaries and branch organizations.

Good practice: Supporting businesses during the crisis

The financial crisis underlines the need for the NTCA to actively support taxpayers affected by the financial crisis. The NTCA has instituted a policy to support businesses. Regarding tax collection the rules for postponement and execution due to tax debts are temporarily mitigated for business taxpayers. Formal rules for applying for carry back have been temporarily repealed meaning that carrying back losses to the previous tax year has become easier and faster. In effect this means the process of advances on losses is sped up by at least six months.

Good practice: Cooperation with other government agencies

Organizers of pop-concerts or musical events are not always aware of the tax consequences of their event. This means that every tax matter will have to be discussed after the event has taken place. Also, the A licence from the local council or municipality is needed for organizing the event. When an organizer applies for a licence, he will also receive a letter from the NTCA. This is sent through the municipality. The NTCA joins organizing meetings between the municipality and the organizers and makes arrangements on tax matters; this provides certainty in advance to the organizers. After (and sometimes during the event) the event NTCA checks compliance with the agreements. About 100 events are being supervised in this manner.

Ad 2 Strengthening the tax chain: horizontal monitoring

Horizontal monitoring is also described in other paragraphs in this written presentation. This instrument yields promising results. Regarding small businesses the approach focuses on the tax chain in particular by improving relations with (bodies of) tax intermediaries and agreements with branch organizations and software developers. Attitude, behaviour and influencing taxpayer

compliance behaviour form the basis for horizontal monitoring. Keywords are mutual trust, understanding and transparency. This approach demands a change in culture and behaviour, also within the tax administration. Educating staff and involving experts and managers in this process are critical success factors as regards the effectiveness of horizontal monitoring-initiatives. The ultimate goal is to cover 35% of tax returns to be (partially or totally) covered by horizontal monitoring agreements by 2014. A few good practices and initiatives to reach this goal are listed below.

Good practice: Agreements with branch organizations

The NTCA and the trade organization for paper and leaflet distributors made a specific agreement on the fact that 100.000 'newspaper boys' are at work in this branch, working for 80 distribution companies. A history of problems existed with regard to wages tax, specifically about the fiscal position of distributor and employee (distributor's obligation to withhold wages tax). The agreement settled the fiscal position in determining the criteria which apply for determination of a "newspaper boy" as employee. The agreement creates a level playing field and gives the branch an improved public image. The agreement also entails audits by public auditors.

Good practice: administrative software

Another way in which the NTCA try and avoid discussion on the tax return afterwards is by promoting the use of "trusted" administrative software. This is done by assessing software, for example on bookkeeping or a cash register, thus providing certainty in advance on the tax aspects which are part of the software.

Ad 3. Financial and social interest

Political priorities are also a deciding factor in making well-balanced choices. As socially relevant issues often cover more than just tax risks, cooperation between government bodies is indispensible, both nationwide and internationally.

Good practice: National and international cooperation

This has resulted in the development of long-ranged themes regarding supervision of the labour market, focusing on supply and demand of labour through intermediary agencies. Not only tax risks are concerned in this themed approach but also issues involving illegal labour, human trafficking etcetera. The NTCA not only cooperates with other Dutch government agencies butt also intends to intensify cooperation with other EU-member states. Fast exchange of information on movement of labour and agencies is crucial in tracking down fraudsters and getting background information on the European labour market. In supervision,

NTCA deploys all tools and measures in these long term themed supervision activities: for example strategic communication, information, tax surveillance, criminal investigations etcetera. A similar approach regarding real estate is in place.

Ad 4. Missing traders

One of the goals of the NTCA is to deploy capacity where it is most useful and needed. Capacity saved because of developments like strategic communication and horizontal monitoring can be used to track down unknown taxpayers and/or unknown activities. Taxpayers who intentionally do not comply with their tax obligations or who commit fraud can count on a firm NTCA-approach; this is also part of the long range themed approach regarding the labour market and real estate.

Good practice: International cooperation in tackling VAT carrousel fraud

Fighting international VAT fraud will continue to be a key item in the NTCA's supervision policy. One of the main issues is the speed with which traders appear and disappear. As this is an international phenomenon, an international approach is needed. Within the EU the system Eurofisc has been approved by the ministerial council; the Netherlands has, with France, put (and pushed) this item on the agenda Eurofisc supports cooperation and enables speedy cooperation and action.

Good practice: Themed approach regarding real estate

In 2007, the NTCA decided to take a broad thematic approach to the real estate sector. As a theme, the property sector is of great financial and social interest. Due to its scale and limited transparency, the real estate market is open to abuse; not only different types of fiscal fraud and the creation of obscure constructions, but laundering the proceeds from illegal earnings. In a variety of interconnected operations, staff of the NTCA is looking at property development, construction, financing, operational activities, buying and selling property and the people involved (estate agents and civil-law notaries). One of the added advantages of taking a thematic approach is that existing knowledge and experience in the area of real estate within the organisation, is clustered. In the long term, the resulting insights also lead to a more structural approach in supervising the real estate sector.

Part of this approach includes the most largescale cooperation possible with other government bodies involved. The NTCA elaborated thirteen real estate sub-themes which led to concrete results. One such example is a standardised programme for real estate agents and real estate brokers which enables the

NTCA to check the correct processing of private and commercial property transactions.

In 2007, an investigation into the completeness of profit statements on discontinuation of business resulted in a large number of corrections; more are expected to follow. Another sub-theme concentrates on the construction branch. Staff of the NTCA visited over eighty construction sites and recently completed housing developments. Among the aspects they examined were: who was and who had been employed on-site, how they were paid and the origin of the construction materials used. The operations that are directed at the property theme will continue for some years to come.

8. FINAL REMARKS

The previous paragraphs have shown that a number of factors affect compliance strategies aimed at influencing taxpayer behaviour. In choosing items and the appropriate tools a system has been designed to make well balanced choices making the most effective use of control capacity in relation to the intended effect of supervision activities. In this respect, new technologies are being researched and developed as these new technologies provide a tax administration with the opportunity to effectively deploy control capacity. This can take different forms: new technologies can

- change the approach as regards bulk processes (pre completed tax return)
- support effective use of information from a large number of sources thus saving on research capacity and enabling pro-active supervision activities by the NTCA (nationwide/regional intelligence centres, insolvency prediction tool) -speed up the exchange of information, both nationally and internationally (Eurofisc)
- support visible supervision activities (automatic number plate recognition).

This can lead to no other conclusion than to underline the importance of developing these technologies as part of a compliance strategy.

Case study

Topic 2.2

NEW TECHNOLOGIES TO IMPROVE CONTROL CAPACITY

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EXECUTIVE SUMMARY

In the last five years, the DGII has worked by executing projects on the use of technology in order to support the accomplishment of its Strategic Directive entitled "Increasing Collection in a Sustained Fashion" and its Strategic Objectives:

a) Fighting evasion by improving compliance control processes and increasing the perception of risk;
b) Creating efficient mechanisms to offer information to taxpayers and society at large;
c) Offering quality service that would favor voluntary compliance and would reduce compliance costs;
d) Strengthening internal processes to support tax duties and the administration of the budget, human resources, and internal communications.

In this regard, the DGII has become an organization that intensively uses technology for tax control.

Within the framework of the Anti-Evasion Plan of the ITBIS[1] that the DGII formulated in late 2004 with the general objective of improving sales control,

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[1] *In the DR, the VAT is called Tax on Transfer of Industrialized Goods and Services (ITBIS).*

there are several projects whereby the TICs have been essential to achieve the objective of control.

Thus, for instance, in order to consult sales to end consumers in the commercial sector, when they pay electronically, the DGII established mechanisms for intermediary companies (Merchant Acquisition Companies[2]) among the banks that issue cards and the businesses where consumers pay through this form of payment to withhold part of the ITBIS and then forward it to the DGII at the time they pay affiliates for credit and debit card sales.

Once part of this tax is withheld, these companies electronically send the details of these sales in formats established by the DGII. This withholding updates the current accounts of taxpayers as a credit. This translates into an adequate control of the sales made with these forms of payment.

Likewise, the control of document issuance on the part of taxpayers[3] was decided upon. It allows the verification of the credits used for the ITBIS and the costs and expenses deducted from income taxes (ISR).

Taxpayers must use numbers electronically supplied by the DGII Virtual Office, and all ITBIS taxpayers must send the receipts that support their sales electronically. In addition, this implies having the revenues data of the taxpayers who issued the fiscal vouchers.

Beginning with these two regulations, an Information System has been created. It receives and consolidates a taxpayer identification number[4], the details of the purchases reported by taxpayers electronically, and the sales done with electronic forms of payment, among other pieces of information on assets. This system is the foundation of the mass oversight plans the DGII implements every year.

On this occasion, we want to present the fiscal printer implementation process in DR businesses. Even though some countries already use fiscal printers, in our case, some variants have been introduced with technological help, which we understand have resulted in important improvements in the taxpayer sales control process as it makes them less dependent on the work of fiscal inspectors or auditors.

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2 *They are card processors and own the "veriphones" that operate in businesses.*

3 *In the DR, the invoices authorized by the DGII are dubbed fiscal vouchers.*

4 *In the DR, the single taxpayer identification number is called RNC for businesses and individuals, although it is the electoral identity number for individuals.*

The general objective of the Fiscal Printer Implementation Process is to control the sales made by wholesale businesses.

This sector represents approximately 9 percent of the collection of Income Taxes and ITBIS in the DR, and 80 percent of these sales are made to final consumers; in other words, to taxpayers who will not report the vouchers issued by businesses[5], as part of their sales, and who therefore will not be under the scope of the project to control fiscal invoices or vouchers.

From the universe of taxpayers managed by the Large Taxpayers Office, approximately 9.5 percent are from the commercial sector, and this is why the initial phase of the project that ends in March 2010 includes the installation of approximately 2,300 fiscal printers in all points of sales in hypermarkets, fast food restaurants, hardware stores, and department stores that have been identified as large taxpayers. These taxpayers, as a group, are expected to increase the amount of their paid taxes by 25 percent[6].

The implementation process began in September 2008 with the issuance of a Presidential Decree based upon regulations of the Tax Code that was enacted on September 2, 2008 and that regulates the use of printers. In February and April of this year, we certified[7] IBM and Epson fiscal printers manufactured with a microcode that outlines the fiscal regulations to operate in the DR.

The DGII acquired the 2,300 printers necessary to be installed in the first group of large taxpayers in order for the acquisition cost of this equipment not to be an excuse for businesses to delay the quick implementation of the printers. The acquisition of these printers, from an economic point of view, is a good business for the DGII, according to the estimate of additional taxes that would be collected.

The main feature of the printers is the ability to make some sales estimates, such as tax rates and sums, and to record the operations of each point of sales. At the end of the day, the printers generate a report.

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5 *In the DR, they are called final consumer vouchers.*

6 *This estimate is based upon the individual analysis of reported sales, supposing an almost zero evasion in credit and debit card sales for effects of the General Regulation on ITBIS Withholding and 25 percent of evasion.*

7 *The certification process is the guarantee that the printers operate according to tax regulations. Tests are conducted and records containing their results are generated.*

The basic innovation of this project is the fact a fiscal routine has been created beginning with the report generated by the printer, which also generates a sales book that must be submitted by taxpayers, along with their monthly ITBIS tax returns. This eliminates the need to send fiscal inspectors or auditors to obtain the data from the fiscal printers.

In the case of small businesses, the fiscal printer will feature cellular communication devices (GPRS), so that the DGII can obtain the data remotely - Phase II of the project (May 2010 - May 2011).

Another new feature is the incorporation of a system that enables an automated control of inventories and the status of fiscal printers and points of sales called Log. Taxpayers must record data on the providers of printers and also on those who offer technical support. This enables the attainment of information from three sources and guarantees further credibility on it.

To date, the DGII is working on 40 businesses that are in the process of implementing fiscal printers, and at the time of drafting this report, the first supermarket with fiscal printers has started operating. This group of businesses represents the country's largest businesses.

Case study

Topic 2.3

CREATION OF LARGE TAXPAYER UNITS AND THE INCLUSION OF LARGE INDIVIDUAL TAXPAYERS

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CONTENTS: Summary.- 2. How things are different.-3. The inclusion of large individual taxpayers.-4. The human resource profile: power, jurisdiction, structure and profile.-5. Taxpayer assistance

SUMMARY

The creation of IRS' Large and Mid-Sized Business (LMSB) Operating Division in 2000 brought with it many groundbreaking approaches and changes to how IRS did business with the largest of its taxpayers. Organizations naturally change and evolve and so has LMSB which looks different today from the way it looked in 2000.

In addition to an evolving organizational structure, many other things are different from the way they were in the past. Today the emphasis is on "certainty sooner" and transparency brought about through four priorities: issue management, globalization, strengthening expertise and leveraging technology. LMSB has several issue management techniques and a multi-pronged approaches to dealing with the challenges of globalization, strengthening expertise and leveraging technology.

While large individual taxpayers were not part of the original plan, today there is increasing emphasis on finding ways to address compliance risks associated with this sector. Representatives at a recent meeting with stakeholders told LMSB executives that high wealth/high income individuals behave more like multi-national organizations than they do like the majority of individuals who comprise the largest component of the taxpaying public.

Taxpayer assistance is a topic not normally associated with large taxpayers - unless a tax administration frames this as working with the taxpayers before filing to agree on how to handle certain issues with an eye towards reducing cycle time, relieving taxpayer burden, and providing certainty sooner.

LMSB taxpayers pose significant challenges due to their complex and sophisticated operations. An organization cannot effectively manage these significant challenges without its people and LMSB has a talented workforce focused on specialized areas to allow the development of deep levels of expertise.

DISCUSSION

1. Criteria Used for the Creation of IRS' Large and Mid-Size Business (LMSB) Operating Division and How It Has Evolved

The IRS structure in place prior to 2000 did not adequately support taxpayer demands because it was built around districts and service centers - the basic organizational units established many years ago and evolved over decades. There were 33 districts and ten service centers. Each of these 43 units was charged with administering the entire tax law for every kind of taxpayer, large and small, in a defined geographical area. Within each of these units, work was actually carried out by functional disciplines, principally Examination, Appeals, Collection, Criminal Investigation, Submissions Processing, and Customer Service. Large, complex taxpayers with multiple locations and subsidiaries might find themselves working with more than one district office and more than one service center.

Overseeing these operational units were four regions and a national office, which also operated three large computing centers. There were eight intermediate levels of staff and line management between a front-line employee and the Deputy Commissioner who sometimes was the only manager, besides the Commissioner, who had responsibility over all aspects of service to any particular taxpayer.[1]

The IRS' modernized structure is similar to one widely used in the private sector, i.e., organized around customers' needs -- in this case taxpayers'

needs. When he testified before the Senate Committee on Finance, Charles Rossotti, IRS Commissioner at the time, said:

Just as many financial institutions have different divisions that serve retail customers, small to medium businesses and large multinational businesses, the taxpayer base falls naturally into similar groups. Therefore it is logical to organize the IRS into units … serving a particular group of taxpayers with similar needs. [2]

The present day IRS' taxpayer-focused operating divisions are each charged with end-to-end responsibility for serving a set of taxpayers with similar needs and the Large and Mid-Sized Business (LMSB) division is one of them.

When LMSB first formed, its focus was on about 210,000 corporations, sub-chapter S corporations and partnerships with assets over $5 million. At least 20% of them interacted with IRS compliance functions each year, and the largest dealt with the IRS continuously.[3] There were no individuals specifically named as part of the taxpayer base.

These businesses generally have large employee bases and "in house" tax organizations. They also have access to large legal and accounting organizations for the most complex issues. While collection issues are rare, many other complicated issues such as tax law interpretation, accounting principles and regulatory issues arise frequently, particularly those with international dimensions. [4]

One goal in the redesign of the IRS was to structure each operating division in a way to most effectively meet the needs of the taxpayers they serve. Consequently, LMSB, which regularly deals with taxpayers on complex issues, is predominantly a field organization structured into five industry groups.[5]

Aligning the LMSB structure by industry, versus the previous geographic alignment, allows industry staffs to focus on taxpayer needs, have deep technical/industry expertise and respond proactively to industry trends.

Since the year 2000, we have evolved significantly and have created an organizational structure that is better aligned with our taxpayers' primary business activities. Back then, as today, LMSB operates within five distinct industry segments. We've made some fine-tuning adjustments along the way, but generally our structure has worked well as it allows us to develop specialized expertise and to stay focused on industry-specific issues and trends.

One fine-tuning of the organizational structure involved a slight change to the alignment of the industry groupings.

2000 Standup[6]	**Today**
Financial Services and Healthcare	Financial Services
Retailers, Food and Pharmaceuticals	Retailers, Food, Pharmaceuticals and Healthcare
Natural Resources	Natural Resources and Construction
Communication, Technology and Media	Communication, Technology and Media
Heavy Manufacturing, Construction and Transportation	Heavy Manufacturing and Transportation

Another significant change was to increase from $5 million to $10 million the value of assets necessary for a business to be included in LMSB's taxpayer base.

Today, LMSB focuses on approximately 215, 000 corporate and partnership entities, with assets of $10 million or more. In 2008, they paid approximately $350 billion in taxes. Additionally, of the approximately 49,000 corporations, approximately 8,000 of them had assets of $250M or more.

Some of the characteristics of today's LMSB businesses include:

- The largest corporate returns;
- Substantial international operations which continue to increase dramatically;
- Complex issues, businesses and organizational structures;
- Aggressive/abusive tax positions and transactions;
- Representation by the most sophisticated and highly paid professionals in the business.

2. HOW THINGS ARE DIFFERENT

LMSB's overall strategy depends on two things: currency (certainty sooner) and transparency, i.e., completing examinations in an efficient and timely manner, while reconciling the book-tax differences and risks. Today, IRS has an established foundation that will result in better service to large taxpayers

and a greater ability to conduct its compliance responsibilities more effectively and in a timely manner. LMSB has identified challenges and has initiated several programs that foster transparency, currency, pre-filing compliance opportunities and improved efficiencies in issue and risk identification.

Based on an evolving external environment, changing business dynamics, and a need for greater accountability, LMSB identified four strategic challenges:

- Globalization;
- Business environment, structures and tax compliance;
- Aggressive tax planning;
- Transparency and tax return disclosure.

To overcome these challenges, LMSB focused on four major priorities in FY09:

- Achieve compliance plan objectives by using **issue management** processes and tools;
- Leverage international expertise to focus on **globalization**;
- **Strengthen** leadership and technical **expertise**;
- **Leverage technology** to improve productivity and communications.

What follows are detailed discussions of each of these priorities.

First Priority: Issue Management
A top LMSB priority is its issue management strategy - finding ways to identify and resolve tax-related issues more efficiently and consistently across industries to ensure fair treatment of all taxpayers. LMSB has instituted a number of significant new processes in its issue management strategy, including:

- Issue Focused Examinations;
- Compliance Assurance Process (CAP);
- Pre-Filing Agreements (PFA).

Issue Focused Examinations
Industry Issue Focus is a system of issue prioritization referred to as "Tiers". LMSB adopted the Issue Tiering strategy in 2006 to ensure that high-risk compliance issues are properly addressed and treated consistently across the division for all LMSB taxpayers that are involved in the issue.
There are several advantages to this approach, because Issue Tiering:

- Provides LMSB a consistent framework for identifying, prioritizing and addressing significant compliance risks in a nationally coordinated manner;

- Helps LMSB focus compliance resources where they will be most effective;
- Promotes greater consistency and accountability in the resolution of high-risk compliance issues that cross industry lines;
- Provides LMSB examiners and teams clear and timely guidance on how to address significant compliance issues; and
- Complements other LMSB issue management activities, allowing LMSB to target its compliance and specialist resources where most needed.

Issue Tiering is a key element of LMSB's issue management strategy. It promotes taxpayer compliance by strengthening LMSB's ability to identify, prioritize, analyze and address significant tax compliance issues in a coordinated, consistent manner. Issues that are high profile or are found to present high levels of risk may be assigned to one of three risk tiers for coordinated oversight and management.

- **Tier I - High Strategic Importance** -- Tier I issues are of high strategic importance to LMSB and have significant impact on one or more Industries. Tier I issues could include areas involving a large number of taxpayers, significant dollar risk, substantial compliance risk or high visibility, where there are established legal positions and/or LMSB direction. Tier I includes recognized abusive and listed transactions as well as other "high-risk" transactions and issues that represent LMSB's highest compliance priorities.
- **Tier II - Significant Compliance Risk.** -- Tier II issues reflect areas of potential high non-compliance and/or significant compliance risk to LMSB or an Industry. Tier II includes emerging issues, where the law is fairly well established, but there is a need for further development, clarification, direction and guidance on LMSB's position.
- **Tier III - Industry Risk.** -- Tier III issues are those issues that represent the highest compliance risk for a particular industry, and which require unique treatment for an industry.

Issue Management Teams are essential to the Issue Tiering process. Upon designation of an issue as a Tier I or Tier II issue, the Issue Owner Executive generally establishes an Issue Management Team (IMT). Issue Management Teams research and develop fact patterns associated with specific tiered issues as well as resolution strategies and tools. The IMT typically consists of LMSB specialists, technical advisors, representatives from LMSB Division Counsel and Chief Counsel, and others as needed. Technical advisors and specialists bring knowledge and expertise critical to addressing the issues.

Appeals may participate in IMT discussions to stay informed on the technical position of exam and Counsel, but no specific cases are discussed with Appeals within the IMT.

When an exam team identifies a Tier I or II issue, Division counsel assigns an attorney who works with the team on the case. The exam team and local Counsel generally manage all taxpayer interactions. In some cases, however, taxpayers may also have contact with the technical advisor and/or industry counsel for the particular issue, or with the Issue Owner Executive or area counsel.

Compliance Assurance Process (CAP)

Because one LMSB goal is to improve compliance in the pre-filing environment, LMSB began the CAP. In 2003, as the CAP was being designed, audit resolution for LMSB's largest taxpayers took 60 months on average from the filing date. 27% of these taxpayers then went to Appeals, requiring another 26 months on average before the case was fully resolved. The long process inhibits early identification of emerging issues, including the significant volume of abusive tax shelter transactions. Lack of resolution of open issues over an extended period

In 2005, LMSB introduced CAP, a pre-filing compliance assurance process, focusing on issue identification and resolution through real-time taxpayer interaction. Under CAP, a taxpayer works cooperatively with LMSB Revenue Agents in a pre-filing environment to resolve issues of tax controversy and to determine the proper tax treatment of completed transactions. The CAP's objective is improved service to taxpayers and compliance with tax laws through real time monitoring, review and issues resolution. The goals include:

- Significantly reduce post-filing examination time;
- Provide quicker guidance for tax issues;
- Reduce prolonged litigation;
- Be consistent with the financial statement model;
- Complement current corporate governance and accountability responsibilities;
- Improve tax administration;
- Achieve currency for the year in question

CAP involves some of the largest U.S. corporations. Seventeen corporations volunteered to participate in the 2005 CAP pilot. The number of participating taxpayers has grown each year:

2005 - 17
2006 - 34
2007 - 73
2008 - 95, with 67 of the 2007 taxpayers participating.
2009 - 102, with 88 of the 2008 taxpayers participating.

CAP directly supports the overall LMSB strategy of certainty sooner and transparency by resolving issues prior to filing in an environment of transparency and co-operation.

While the traditional post-filing examination takes 52 months on average from file date to closure, the CAP cycle time from filing to closure has averaged about 26 weeks. Even when including the up front pre-filing time, the average total time to work a CAP case is less than half the total time expended on a post-filing examination.

This substantial reduction in cycle time is one of the factors contributing to high levels of customer satisfaction with CAP. Independent research shows that participating taxpayers value the mutual cooperation, open communications, trust and focus on significant issues as keys to CAP success. CAP participants reported the opportunity to achieve tax certainty sooner and the concentration on current issues as primary factors driving their interest in the program. Employee satisfaction scores have also increased since the introduction of the CAP.

Through the emphasis on transparency and cooperation, the CAP has helped us identify emerging issues such as foreign tax credit generators much more quickly.

Obviously CAP is not for every taxpayer, but it is a very good example of how LMSB can interact with more large corporate taxpayers to focus on the issues of greatest compliance risk, and bring tax return certainty to taxpayers more quickly. CAP is a viable option for taxpayers who are willing to engage with us by showing a willingness to meet transparency and disclosure requirements and participate in open dialogue with us.

Pre-Filing Agreements (PFA)

When LMSB "stood up in October 2000, the Pre-Filing Agreement program was a groundbreaking feature of IRS' new ways of doing business. Briefly, the program encourages taxpayers to request consideration of an issue before the tax return is filed and thus, resolve potential disputes and controversy earlier in the examination process. The program reduces the cost and burden associated with the post-filing examination, provides a desired level of certainty regarding a transaction and makes better use of taxpayer and IRS resources.

Taxpayers estimate they save 48% by using this process instead of the traditional audit; the Service estimates savings of 30%. On a scale of 1 to 5, taxpayers report an overall level of satisfaction with the program of 4.7 and 4.6 on the likelihood of recommending the process to others.

There is a user fee of $50,000 for participation in the program. The U.S. Office of Management and Budget requires a user fee on special benefits beyond those received by the general public. Any taxpayer under LMSB's jurisdiction may apply for a PFA.

Eligible issues are factual and governed by well settled law. PFAs can cover the current and up to four future tax years, but the transaction must be complete. They may also be used to determine the appropriate methodology for determining tax consequences affecting future tax years.

The most common issues are worthless stock/bad debts, research credit, cost segregation studies, and disposition or acquisition of a subsidiary. Recently we have received several on deduction of settlement costs, fines, and penalties.

In calendar year 2008, LMSB received 32 applications, accepted 20, and completed closing agreements on 19. Since the program's inception in 2001, LMSB has received 329 applications, accepted 212, and closed 154 with an agreement. The taxpayer pays the $50,000 fee only if their issue is accepted for a PFA. The total time to complete a PFA was 406 days in calendar year 2008.

Participating in this program takes the issue off the table in the event of an audit and sometimes eliminates the need for an audit altogether. This is yet one more way of achieving certainty sooner through increased transparency.

Fast Track Settlement

The Fast Track Settlement program (FTS) offers a customer-driven approach to resolving tax disputes at the earliest possible stage in the examination process. LMSB made this process permanent in 2003.
FTS gives LMSB and taxpayers an opportunity to mediate their disputes with an Appeals Official acting as a neutral party. It is a collaborative effort involving the taxpayer, LMSB and Appeals in which all three parties must agree before implementing a proposed resolution. The entire process takes significantly less time than the traditional Appeals process and may reduce the overall burden to the taxpayer by as much as two years.
This program is designed to:

- Provide an independent Appeals review of the dispute in an environment where all parties to the dispute have a "voice" in the dispute resolution process;
- Use the mediation skills and delegated settlement authority of Appeals; and
- Reduce the length of a taxpayer's overall IRS experience.

Fast Track Settlement provides a number of benefits to the taxpayer:

- A one-page application;
- Consideration of the hazards of litigation;
- An answer within 120 days for Large and Midsize Business (LMSB) cases;
- No 'hot' interest under IRC 6621;
- An option to withdraw from the process at any time;
- Retention of all traditional appeal rights;
- Significantly shorter IRS experience;
- Only one tax computation

Applying for Fast Track Settlement is quick and easy with a one-page application. Once the case is accepted into the FTS program, an Appeals official serves as a facilitator to arrive at and execute a resolution or settlement mutually agreeable to all parties.

Second Priority: Globalization

One of the objectives in the 2009-2013 IRS Strategic Plan is to meet the challenges of international tax administration. To accomplish this objective, LMSB identified four strategies:

- Expand employee knowledge and awareness of international tax issues;
- Develop deep expertise and capabilities in key international issue areas;
- Enhance coordination with treaty partners and international organizations;
- Aggressively target areas of significant risk.

Expand Employee Knowledge and Awareness -- Leveraging International Expertise

Leveraging international expertise and awareness is a key part of the IRS strategy to effectively meet the tax administration challenges presented by rapid globalization. The major steps envisioned to improve international expertise and awareness include:

- Increasing international awareness of LMSB managers and domestic agents;
- Realigning international examiners to more directly match the industry and geography they serve, to better address high risk issues;
- Strengthening processes to identify emerging and high risk international issues.
- Collectively, these steps are positioning LMSB to meet the compliance impact of globalization by placing expertise where it is needed, increasing expertise and awareness across the workforce, and improving processes to identify and resolve international compliance issues.

Develop Deep Expertise and Capabilities in Key International Issue Areas

One key international area is transfer pricing. Two Senior Advisors currently lead an effort to improve the way LMSB handles transfer pricing. There is now a Transfer Pricing Council - a group of executives from across LMSB and Counsel who provide strategic oversight and guidance on how to handle transfer pricing. The Joint International Tax Shelter Information Centre recently expanded its focus to include transfer pricing. In 2009 LMSB began an extensive hiring initiative for Tax Treaty and the Field and has been successful in hiring people with substantial private sector experience in transfer pricing.

Enhance Coordination with Treaty Partners and International Organizations

A major focus this past year has been to improve the processes and quality of data given and received under Exchange of Information provisions. There has been much in the press about negotiations with Luxembourg, Liechtenstein, Switzerland, Turks and Caicos and Gibraltar, LMSB is an active participant in the OECD's Working Party 8 Tax Avoidance and Evasion which has been focusing primarily on exchange of information.

LMSB entered into agreements with Germany and Belgium (entered into force December 2007) on the implementation of the Mandatory Arbitration process and the Board Operating Guidelines. Negotiations with Canada are underway.

Counsel and LSMB executives and senior managers attended meetings on High Net Wealth Individuals (HNWI), Exchange of Information (Working Party 8), Aggressive Tax Planning, Collective Investment Vehicles (CIV), and the Joint COE/OECD Convention on Mutual Administrative Assistance in Tax Matters.

LMSB is realigning the Competent Authority Analysts by LMSB's four large industry groups. Relationship management with individual treaty partners will be the responsibility of the Senior Managers.

LMSB hosted the Seven Country Tax Haven Initiative Meeting held March 3 - 5, 2009 in Washington, DC and participates in quarterly conference calls to ensure tasks are moving toward completion in agreed time frames.

Our work with Treaty Partners and International Organizations is leading to earlier detection of emerging risks and helps us devise strategies to manage and reduce those risks to compliance with our laws and regulations.

Aggressively Target Areas of Significant Risk

Earlier in the paper is a detailed discussion about Tiering as an approach to Issue Management. Several of the Tier 1 issues have a clear international theme reflecting LMSB's organizational efforts to identify significant compliance risks and implement strategies to manage and reduce risks associated with cross-border activity. The issues follow:

- §936 Exit Strategies
- Foreign Earnings Repatriation
- Foreign Tax Credit Generators
- Transfer of Intangibles/Offshore Cost Sharing
- US Withholding Agents - §1441: Reporting and Withholding on US Source FDAP Income
- International Hybrid Instrument Transactions

Third Priority: Strengthen Expertise

Leadership

Approximately half of LMSB's current leaders (the baby boom generation) will be eligible to retire in 2010. Even though most of them have indicated they do not plan to retire immediately, LMSB could face serious challenges if there are no plans for the next generation of leaders. To move forward as a world class organization, LMSB needs leaders with the experience and knowledge to meet the challenges it faces. and has begun to Identify, develop, deploy, and retain current and future managers.

LMSB has initiated a Leadership Succession Review (LSR) process. The LSR process is a tool that supports all aspects of leadership succession planning. Outcomes of the LSR process include:

- Identification of leadership talent and critical positions;
- Development of potential successors;
- Concentration of resources.

Succession Planning is an effort to ensure the continued effective performance of the Service by making provision for the development of leaders and replacement of key personnel as they retire. It is a deliberate and systematic effort to ensure leadership continuity, retain key personnel, and preserve knowledge capital in the organization.

The LMSB Leadership Development Process was created in conjunction with the Succession Planning Program. The process starts with the Aspiring Team

Manager Program and extends to the Senior Manager and Executive Readiness Programs.

LMSB Leadership Development is an on-going structured process that develops leaders and supports the Service-wide leadership strategy. It helps individuals build competencies needed to accomplish the LMSB mission and to socialize the vision. The process involves the selection of innovative leaders and their development through training, application, assessment and feedback.

The purpose of the LMSB Leadership Development Process is to provide a comprehensive strategy and approach administered by a central oversight unit to prevent the duplication of effort in the various Industry segments and to make better use of resources. That central unit is the LMSB Performance Review Board has oversight for the LMSB Leadership Development Process. LMSB leaders receive all of the basic training provided to all managers in the IRS with some of them customized for the special situations in LMSB. Specific curricula exist for frontline, department and senior managers as well as executives. Additionally, LMSB participates in a number of programs aimed at developing the leadership skills of aspiring managers, such as the Aspiring Team manager and the Senior Manager and Executive readiness programs.

Technical

Every year, LMSB offers a range of technical training and opportunities to earn Continuing Professional Education (CPE) credits required for Certified Public Accountants and attorneys. Employees choose from a wide variety of technical courses delivered through various media including web-based streaming video, self-study DVD, interactive on-line and classroom training.

LMSB also develops specialized training to meet the needs of particular groups of employees. For example, in FY09 there was a hiring initiative that brought hundreds of new people into the Service. To meet this challenge, the Learning and Education department developed a New Hire Orientation program delivered through streaming video and DVD. To meet the challenges of globalization, there is an initiative called "Leveraging International Expertise" which provides awareness training on a variety of international tax administration issues.

Fourth Priority: Leverage Technology

LMSB is moving to increase its ability to effectively capture, share and link data with other internal and external IRS data sources. This increased technology effort will allow data to be distributed in a dynamic and collaborative fashion. Ultimately, a data-driven focus will enable the IRS to drive down the

tax gap and improve taxpayer service. IRS and LMSB have recently made some advances in the area of leveraging technology.

Bluetooth Headsets for Official Business -- Employees are allowed to use both government-issued and personally-owned Bluetooth headsets to conduct the Service's business.

Modernized e-File (MeF) -- Data is being used as part of the risk assessment process and provides early risk and issue identification and therefore should improve return selection. As more taxpayers are required to file their returns electronically, LMSB has an increased ability to use data analysis methods to identify the returns with the highest potential for non-compliance.

Data Capture System (DCS) -- Some LMSB taxpayers are required to electronically file their tax returns. For those returns, DCS provides an alternative data extraction method that allows data manipulation.

Selection and Workload Classification (SWC) -- LMSB has consistently worked at enhancing its electronic classification methodology for return selection. SWC is a two part program that will enable LMSB to use the data that has been collected through MeF and DCS to enhance the classification methodology by proving higher risk returns for examination.

LMSB Electronic Classification System (LECS) -- LECS is a database system which houses all returns available for classification. The concept is to effectively allow classifiers to perform remote classification of corporate and partnership returns. LECS will provide a pro-active, quality classification process to integrate with existing workload delivery platforms.

Paper Image Network (PIN) -- PIN is a project LMSB has partnered with Cincinnati Wage & Investment (W&I) Division and Statistics of Income (SOI). It involves scanning large volume tax shelter cases to support investor examinations nationwide. Originally focused on a particular tax shelter, it has expanded to include other shelters and provide a data repository for shelter and promoter examinations.

Employee User Portal (EUP) -- The EUP provides field agents with access to electronically filed returns prior to their being available on the LMSB Image Network (LIN). The EUP is immediately populated with the return data, including attachments, upon acceptance of the MeF filing.

Taxpayer Information Gateway (TIG) -- The TIG is a case building tool developed for LMSB field examiners to assist in issue identification. It provides analytical case building reports. TIG reports are requested through the team manager and can include many options of reporting availability.

yK1 Link Analysis Tool -- yK1 is an interactive prototype software tool and database developed and maintained by IRS Headquarters Research. yK1 data from corporations, flow-through returns and high income individual returns to visually depict relationships and income/loss flow between payers and payees.

CAS Modernized E-File Data Converter (formerly XML Viewer) -- In March 2007, the Computer Audit Specialist (CAS) Program released an application that enabled Revenue Agents to convert the Tax Year 2005 MeF corporate tax return data into Excel spreadsheets. The application (formerly referred to as the LMSB MeF Viewer) has been updated to handle corporate MeF data filed for Tax Years 2005 and 2006, to allow data for both periods to be imported and converted to comparative Excel spreadsheets. The MeF XML Converter is a temporary fix to accessing e-filed returns until a more permanent viewer for MeF data is functional in the future.

Correspondence Imaging System (CIS) -- In 2008, we began scanning LMSB tax claims filed on paper with 170 pages or less will be scanned into the CIS. The original claim documents and supporting information will then be shredded. Exam teams in the field will still receive hard copies of the claims. However, these copies will not carry an original stamped received date or signature but will be displayed as part of image.

LMSB Image Networking (LIN) -- The LMSB Image Network (LIN) is the primary method of LMSB workload delivery. LIN provides just-in-time return delivery to the field. This process is the next generation of document scanning and represents a grass roots change to the way we do business.

3. THE INCLUSION OF LARGE INDIVIDUAL TAXPAYERS

The original design for LMSB did not specifically include individual taxpayers, even though the Office of the Deputy Commissioner International did work with individuals who had tax treaty issues. Since the beginning of FY07, LMSB has also included individual taxpayers covered by the office of Foreign Resident Compliance. These international taxpayers, with varying levels of wealth and income, include:

- US citizens and lawful permanent residents who reside in foreign countries or in US territories (Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, Northern Mariana Islands);
- Non-resident and resident aliens in the U.S.;
- U.S. citizens who have given up their citizenship.

Corporate Executive Compliance Strategy

Several years ago, LMSB initiated the Corporate Executive Compliance Strategy. Inspection of corporate officers' returns as part of corporation tax examinations is a longstanding compliance practice that IRS is refocusing on to address current trends of non-compliance. When the IRS examines a large or midsize corporation, it also inspects the tax returns filed by top officers and key executives of the corporation to determine if there is executive compensation or other issues (such as tax shelters) warranting examination. In support of the IRS compliance priority involving high wealth individuals, IRS continues to emphasize the importance of inspecting corporate officer returns. Issues inspected on the return focus, but are not limited to:

- Stock Options/Phantom Stock
- Non-Qualified Deferred Compensation
- Family Limited Partnerships
- Fringe Benefits
- Limitations on Deductible Compensation
- Golden Parachutes
- Split Dollar Life Insurance

This approach is a key component of the IRS strategy to ensure tax compliance by high income taxpayers. LMSB recently held a meeting with external stakeholders and learned that high income individuals behave more like multi-national organizations than the typical individual taxpayer.

IRS' High Wealth/High Income Strategy

LMSB participates in a team formed to develop strategies to address compliance issues in the high income/high wealth population. The team is analyzing characteristics of this population to identify tax gap issues and develop techniques to assist examiners in addressing the issues common to high income taxpayers. Additionally, the Joint International Tax Shelter Information Centre recently added this group of taxpayers as a focus area for their work.

Interest in this taxpayer segment is growing around the world. Many countries already include the high wealth/high income individual as part of their large taxpayer organizations. The OECD Forum on Tax Administration recently released a study, Engaging with High Net Worth Individuals on Tax Compliance. OECD members' interest in this area can be traced to the January 2008 meeting in Cape Town, South Africa when the Capetown Communiqué detailed a focus upon this sector.

4. THE HUMAN RESOURCE PROFILE: POWER, JURISDICTION, STRUCTURE AND PROFILE

LMSB has a strong top level executive leadership team - the LMSB Commissioner, Deputy Commissioner (International) and Deputy Commissioner (Operations). Directly supporting them are thirteen additional executives. The taxpayer-facing employees of LMSB are organized around specific industries and supported by teams of specialists.

Communications, Technology and Media is responsible for federal tax administration for over 15,000 corporations in telecommunications, software/ hardware development, broadcasting, publishing, sports franchises, hotels, gaming and other entertainment and recreational businesses. These industries are experiencing extremely high growth and significant industry convergence.

Financial Services_serves taxpayers involved in commercial banking, savings and loans, life insurance, property and casualty insurance, securities and private pools of capital including hedge funds and private equity. This industry has more than 59,000 taxpayers. There is widespread consolidation across the financial services industry and large growth from international expansion. This group also leaders LMSB's Tax Shelter Promoter Program as well as the Qualified Intermediary and U.S. Withholding Agent Program.

Heavy Manufacturing and Transportation's taxpayers are involved in air transportation, railroads, aerospace, motor vehicles, trucking, shipping and real estate. There are 41,500 taxpayers. These taxpayers are engaged in varied production processes such as the manufacture of industrial equipment and transportation vehicles as well as the secondary products and service related to their use or maintenance. Included also are the wholesale and retail sellers of these finished goods.

Natural Resources and Construction provides end-to-end tax administration services to over 17,000 companies engaged in the oil and gas, mining, utilities, forestry, chemical, waste management and construction industries.

Retailers, Food, Pharmaceuticals and Healthcare consists of taxpayers related to food and beverage, retailing, pharmaceuticals, agricultural commodities, farms and healthcare. There are approximately 18,300 taxpayers in this group.

Field Specialists has five specialty programs which include: computer Audit Specialists, Economists, Employment Tax, Engineering and Financial Products. These specialists conduct issue-specific examinations and provide technical support and tax law expertise to the five industry groups and to the

other IRS operating divisions. This organization customizes the support it provides based on current division program plans, initiatives and products or services requested.

LMSB has more than 6,000 employees in 331 posts of duty:

- 670 managers
- 4,065 Revenue Agents and other professionals
- 1,265 employees in other series

The professional staff includes: Economists, Engineers, Financial Products Specialists, Revenue Agents International Examiners and Competent Authority Analysts. Many of them have advanced degrees in law, accounting and economics as well as substantive private sector experience. Generally, their compensation is at the higher end of the pay scale.

In 2009 LMSB, along with all of the IRS, began a large hiring initiative that will continue into 2010.

5. TAXPAYER ASSISTANCE

LMSB's taxpayers are quite sophisticated and generally work with the IRS through accounting or law firms or their own internal legal and accounting staffs and, as a result, do not need the kind of one-on-one kind of service generally referred to as taxpayer assistance. But that does not mean LMSB does not offer assistance to its taxpayers - only that it takes a very different form.

LMSB has a robust presence on irs.gov . Here, taxpayers can find discussions of technical topics, links to full copies of tax treaties, discussions of the various Tiered Issues, copies of the Internal Revenue Manual and other items that might be of interest to them.

LMSB's Pre-Filing and Technical Guidance Division provides top quality service to both internal and external customers in the areas of Pre-Filing Activities and Technical Guidance. These include the issue management programs discussed above: Tiered Issue Focus Strategy, Compliance Assurance Process and Pre-Filing Agreements.

Additionally, LMSB recently established a Stakeholder Liaison who focuses on managing LMSB's relationship with several key external stakeholder groups: Treasury Executive Institute, American Bar Association, American Institute of Certified Public Accountants and the Machinery and Applied Products Institute.

Summary/Closing

When LMSB stood up in 2000 as part of the restructured IRS, its business processes were firmly rooted in tradition. Compliance activities were, essentially, a function of performing in-depth, time-consuming and labor-intensive examinations that typically started a few years after filing and took about five years to complete, sometimes in a very adversarial environment. Our processes did not adequately engage our stakeholders in the compliance resolution process. Additionally, our processes to identify tax compliance trends and high risk issues were dated and lacked alignment to financial statement accounting requirements.

This approach may have worked in the past, but the corporate tax environment started changing much faster than our internal capabilities. Tax law complexity, rapid globalization of business, and increased competitiveness led to creative and aggressive tax structures and transactions that forced us, other regulatory agencies and the tax community to reassess our approaches to tax compliance and administration.

Through the various programs and approaches described in this paper, LMSB has made excellent gains in its efforts to increase customer satisfaction and improve productivity through the pursuit of certainty sooner and increased transparency.

- FY 2008 Customer Satisfaction for IC taxpayers is 79% and 78% for CIC taxpayers;
- In FY 2008, LMSB examiners recommended $30.7 billion additional tax for all LMSB examinations and LMSB enforcement revenue was $15.9 billion;
- Cycle time continues to decrease from 40.4 months in FY05 to 32.1 months in FY08;
- LMSB will continue to develop a strong leadership team and strengthen its technical expertise with focused recruitment, training and succession planning - a core strategy for LMSB;
- LMSB expects to continue to achieve its compliance plan objectives by using issue management strategies and processes as it expands and leverages the use of technology;
- Finally, LMSB will continue to improve its focus on globalization through a variety of approaches. All of this is laying the foundation for the future.

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TOPIC 3

MANAGEMENT TOOL AND RELEVANT CONTEXTUAL ASPECTS FOR STRENGTHENING THE TAX ADMINISTRATION

Lecture

Topic 3

MANAGEMENT TOOL AND RELEVANT CONTEXTUAL ASPECTS FOR STRENGTHENING THE TAX ADMINISTRATION

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CONTENTS: 1. Introduction.- 2. Our strategic statement.- 3. Organisational structure.-4. Planning and reporting.- 5. Governance.- 6. Measuring our effectiveness.- 7. How we use our intranet.- 8. International cooperation

1. INTRODUCTION

I have been asked to talk to you today about how Australia uses management tools and techniques as a basis for strengthening its tax administration. Our journey has been a long one - we are approaching our Centenary - and we recognise that it is a journey that will never end. We must continue to anticipate, and be responsive to, the challenges and opportunities that face tax administrations. And we will never stop seeking to learn from other tax administrations, including through forums such as this.

My presentation focuses on what we see as some of the building blocks for good management - our strategic plan, how we organise ourselves, our planning and reporting framework and our governance arrangements.

2. OUR STRATEGIC STATEMENT

At the heart of any tax administration is its strategic statement. Our strategic statement covers the years 2006 to 2010 and is, in some sense, becoming dated. Nevertheless, it has served us well. We will launch our strategic statement for 2010 to 2015 early next year.

Firstly, let me quickly cover the key elements of our strategic statement.

Our mission - why we exist

Our mission is to effectively manage and shape the administrative systems that support and fund services for Australians. We refer to this as our commitment to government.

The quality of life enjoyed by Australians is underpinned by a myriad government funded goods and services. Health, education, social security and so many other vital aspects of our society are supported by revenue raised through taxation. The tax system is also used to give effect to social and economic policy.

Our vision - what we want to be

Our vision is to work with the community in the fair administration and effective management of the tax system to add to value to our nation. We call this our aspiration.

Our vision is of a tax system that is owned by the community - and we will continue to work with the community in the care and management of its tax system.

Our strategic approach

Our strategic approach is to optimise voluntary compliance and make payments under the law in a way that builds community confidence. This is our business intent.

'Optimise' is not about chasing every last dollar of revenue, but making intelligent choices about where to apply our resources to create an environment that promotes compliance with the tax laws.

Making payments is about the benefits and refunds we administer. This includes income tax and GST refunds, excise grants and superannuation guarantee transfers.

Working 'under the law' recognises that the laws we administer determine what taxpayers owe the community and what the community owes them.

We need to build community confidence to have a fair, efficient and sustainable tax system. This guides the way we go about our work, the administrative choices we make, the user-friendliness of the systems, the fairness of our approaches, and the professionalism of our dealings with taxpayers and their agents.

What about collecting the revenue?

I want to pause here to make an important point. If you look at our strategic statement you will not find a reference to collecting the revenue. Rather you see an emphasis on creating an environment that promotes high levels of voluntary compliance.

The point is that the amount of tax is really a concern for Treasury and Government. This is because it is the policy settings in the law that are the main determinants of the amount of tax collected.

Yes, we have a responsibility to support honest taxpayers by having effective compliance strategies in place, but this is more from the perspectives of promoting a level playing field and nurturing high levels of voluntary compliance than the direct collection of tax. Our mandate is only in relation to the liabilities (and benefits) provided under the law.

We are well placed to deliver on that mandate. We have a close relationship with Treasury which often enables us to have a good understanding of the policy intent of legislative provisions (particularly new measures). There is an inherent need to apply the tax law in the course of our activities and responsibilities, and we have long standing tax technical and interpretative skills.

Our values

Strong values build trust and community confidence in our management of the tax system. They are a final, but critical, component of our strategic statement.

We are fortunate to have a tax and compliance culture where the great bulk of Australians, many supported by their agents, voluntarily comply with their tax obligations - but this is no accident.

By building core values into our administration, service delivery and treatment of taxpayers, we have helped to foster high levels of community confidence in us.

Our values are:
- Being fair and professional
- Applying the rule of law
- Supporting taxpayers who want to do the right thing and being fair but firm with those that do not
- Being consultative, collaborative and willing to co-design
- Being open and accountable
- Being responsive to challenges and opportunities

In many respects these values are the day to day representation of our strategic intent. They have become part of the fabric of the organisation. The leadership in this area has come very clearly from the top. Our current Commissioner, Michael D'Ascenzo, has taken personal leadership in the articulation of these core values and their promotion both within, and outside, the organisation. Indeed, it would be rare for me to have a conversation with the Commissioner or to read something he has written without seeing many direct and indirect references back to our values. And we have certainly seen that they have also served us well in administering our tax system in the economic downturn.

3. ORGANISATIONAL STRUCTURE

How the tax administration organises itself to deliver its strategy is another key component of our management arrangements. If there is one observation that we can make from almost one hundred years of experience it is that organisational structures will forever change as we adapt to challenges and opportunities.

At the highest level the Tax Office is organised into five organisation sub units that we call 'sub-plans':
- Operations
- Compliance
- Law
- People & Place
- Enterprise solutions & technology

This high level structure highlights that there has been a general shift in structural arrangements away from 'tax type' to 'function' or 'taxpayer segment' criteria. However, it is worth noting that you will find many elements of all three criteria as you probe the lower level organisational units of the Tax Office.

Non-functional structures are likely to lead to duplication and inefficiencies and failure to have integrated strategies significantly reduces the effectiveness of the organisation. The ideal would be to garner potential efficiencies while retaining the external focus on taxpayers and on the effectiveness of holistic and flexible strategies. For example, in the Tax Office we are making progress with enterprise-wide approaches (where that makes sense) and retaining the differentiation implicit in our Compliance Model. Eliminating 'silo' mentality wherever possible is critical to being responsive to challenges and opportunities. Structure should respond to strategy, not the other way around.

There is also an emerging trend towards creating specialist or dedicated operational units, such as national call centres and data processing centres, rationalising the size of office networks to deliver frontline tax administration operations. Nevertheless, the balance between back office and front line functions is difficult to set, particularly as new technology expands the remit of what is in essence front line work. For example, the Tax Office's expanded use of data matching and pre-filling fits the descriptor of front line work. Moreover any tax administration that does not have an appropriate focus on enablers such as plan and manage, people and place and information technology and change is not only unlikely to be sustainable but will also limit its effectiveness and efficiency.

The role of our leadership group is the critical element in making sure that our structure works. As leaders in the organisation it is our job to ensure that the complexities of structure do not obstruct our delivery of the strategic intent.

4. PLANNING AND REPORTING

Another component of our management arrangements is a planning and reporting structure that brings our strategic statement to life. We have developed an integrated planning and reporting framework. It deals with the complexity of our administration yet at the same time it is something that can reach out to everyone in the organisation. More recently we have placed considerable attention on the need to keep the process efficient and streamlined.

There are a number of elements to our current planning and reporting framework.

The Corporate Plan 2009-10

The Corporate Plan 2009-10 is a statement of our corporate priorities for the current year. The priorities are informed by our comprehensive scan of the environment and our processes to identify and assess risks to the tax system and its administration.

It is presented in a one page A3 document and is delivered to all staff just before the beginning of the 2009-10 year.

The ATO Plan 2009-10

The ATO (Australian Taxation Office) Plan 2009-10 outlines in more detail, but still at a high level, all the work we intend to do as an agency this financial year.

It identifies how we intend to deliver our corporate priorities and outlines the other work we will do to meet our commitments to government.

It is shaped in terms of our program framework. We have five departmental programs:

- Shape, design and build administrative systems
- Management of revenue collections and transfers
- Compliance assurance and support for revenue collections
- Compliance assurance and support for transfers and regulation of superannuation funds
- Services to government and agencies

We also have four enabling programs.

- Governance and stewardship
- People
- Workplace
- Information technology services

The ATO Plan aligns directly to our annual report. The annual report is our main report to Parliament. As an open and accountable administration we publish this document to assure the government and community that the tax and superannuation systems are being effectively and efficiently managed. We report against the priorities we have outlined in the ATO Plan.

Translating the plan into action

Each sub-plan has an overview which outlines their key areas of focus, key priorities and key messages.

Each sub-plan contains a number of organisational units that we call 'business lines' or 'service lines'. Each line has a plan setting out the tactics for delivering the strategies outlined in the ATO plan. In turn, the teams that work in each line have more detailed plans that set out activities to deliver the tactics outlined in the line delivery plan.

Performance and development agreements complete the framework. These are individual agreements between staff and managers that outline tasks to deliver team activities, and measures of performance against the appropriate team, branch or line plans. These performance and development agreements and the conversations that they engender in both at the time of their preparation and at the time of regular reviews are what makes the whole system work.

5. GOVERNANCE

Another important element of good tax administration is effective governance.

The governance arrangements that apply to the Tax Office are extensive. They include:

- formal accountability to Ministers and Parliament. For example, while statutorily independent in the applications of the laws we administer, we remain accountable to the Treasurer, the Assistant Treasurer and the Minister for Superannuation on our activities and performance. We must also report annually to Parliament
- oversight by parliamentary bodies (e.g. Senate Estimates and Joint Committee on Public Accounts and Audit)
- performance and financial statement audits by the Australian National Audit Office
- examination of systemic issues by the Inspector-General of Taxation, and
- Ombudsman Office investigates specific taxpayer disputes.

The Joint Committee of Public Accounts and Audit in its Report 410 observed the following about its biannual public meetings with the Tax Office: 'Although the meetings give the Committee an opportunity to hold the ATO to account, they also give the ATO the opportunity to demonstrate that it performs at a high standard, to both the community and the Parliament.'

We support and facilitate this and other forms of external scrutiny through the publication of both our plans (strategic statement and corporate plan) and our results measured against these plans (in the annual report).

In the interests of transparency we publish a number of other key documents including our annual compliance program and our monthly performance against the service standards. We also publish our annual flagship statistical publication, Taxation statistics. This publication provides a summary of the tax returns and other reported tax information that we receive each financial year.

Formal accountability and governance requirements include a range of certifications which apply only to public sector agencies, for example, the

Financial Management and Accountability Act and the Public Service Act as well as a range of Commonwealth guidelines.

Add to these, informal sources of governance and accountability, such as the Tax Office's wide range of consultative forums, independent surveys and media scrutiny, and one might argue that this is significantly more than that faced by other organisations, including public and private companies.

Nevertheless we add to this a robust internal governance framework which includes internal audit and fraud prevention and control functions, as well as a substantial system of integrity indicators. The Tax Office has private sector representatives on its Audit Committee and a range of tax technical panels. Our values and integrity are further supported and reinforced by an independent Integrity Adviser.

6. MEASURING OUR EFFECTIVENESS

In case anyone should think that we are sitting back smugly with the view that we are doing as well as we can, let me assure you that this is far from the case. Good management demands that we understand our effectiveness. While we are generally able to have a good understanding of our operational efficiency, measuring our effectiveness is proving to be much more difficult.

There are some areas where we have longstanding mechanisms in place that provide useful information about our overall effectiveness. For example, we have been able to measure community confidence over a long period of time through surveys conducted independently. Our community perceptions survey, business perceptions survey, professionalism survey and tax agents research program provide valuable insights on community perceptions of our professionalism and service.

However, it has been much more difficult to gauge our effectiveness in optimising compliance. Finding good measures of effectiveness is not easy and all performance indicators have their weaknesses and limitations. Nevertheless this is an important journey best illustrated by an example.

Registration is one of our 'four pillars' of ensuring compliance with the taxation and superannuation laws. The others are lodgment, correct reporting and correct payment.

We can readily gather information on our performance against service standards and the number of registrations processed.

This is important but does it fully answer the key question of whether we have all the right people and businesses registered in the system? The answer is no.

When we start to look for indicators of our effectiveness, our starting point is to try and benchmark our performance against an external data set.

In the case of registration for individuals, we can look to the Australian Bureau of Statistic (ABS) which has data sets on population. In 2008 there were 21.3 million Australian residents. At the same time the Tax Office had 17.7 million registered resident individuals.

The simple comparison with the number of taxpayers registered in the tax system and the total number of Australian citizens suggests that 83% of the resident population have a tax file number. However, this simple comparison is not the most useful given the differences in purposes of two data sets. Firstly, the ABS population estimates include those persons who have no need or obligation to register such as some children, students and pensioners. Secondly, the ABS estimate does not include non-residents while our tax file number data includes non-residents in receipt of Australian sourced income.

To account for these factors we make a comparison using the ABS population estimates for residents aged between 15 and 74 - focusing on the segment of the population that is more likely to have a need for a tax file number. We similarly align our registration counts by taking out those taxpayers who are under 15 or over 74 years of age. We also take out from our registration data set those taxpayers who are non-residents.

This leads to the following result. The ABS population reduces to 15.9 million residents aged between 15 and 74. Our adjusted registration data is 16.3 million registrations. The resultant 103% comparison has decreased from 113% two years ago, reflecting some resource intensive work in removing non-active registrations. The result seemingly suggests high levels of compliance albeit that there may still be some taxpayers currently registered in the tax system who should not have an active registration.
However, a significant reason for the difference is that the tax file number data includes temporary residents while the ABS data does not. So a 103% comparison is an extremely good outcome.

Turning to businesses, there are difficulties in benchmarking against data from the Australian Bureau of Statistics because they use a different definition of business. There are further complications because the ABS data relies to some extent on our registration information. So we have turned to some other benchmarks. The ratio of Tax Office company tax file number registrations to the Australian Security and Investment Commission (ASIC) companies

registrations currently is 105%. When the ATO series is adjusted to account for those entities that do not need to register with ASIC, such as strata title companies and limited partnerships this ratio falls to 87%.

Again, like all indicators this indicator is far from perfect. For example there are some ASIC registered entities such as 'shelf companies' that do not have a current tax obligation. Nevertheless the results from these two measurement approaches provide a reasonable level of confidence in relation to our registration activities.

Registrations are perhaps one of the more straightforward areas for measuring our effectiveness and these two examples illustrate the challenges in developing better measures of effectiveness. Nevertheless, this work is fundamental to best practice tax administration.

Our efforts in this area are a work in progress. And so is our work looking at the measurement of tax gaps. Tax gap measurement has its supporters. However we note concerns about the accuracy of the estimates and the fact they may shed little light on the sources of and reasons for non compliance. If they involve "random audits" they are administratively expensive both in resource and opportunity costs, impose unnecessary compliance costs and can reduce community confidence. The Joint Committee of Public Accounts and Audit recently supported the Tax Office's risk-based approach to compliance which minimises the burden on compliant taxpayers.

As a new development we are undertaking some gap analysis for indirect taxes, relying on macro approaches such as those used in certain other jurisdictions, notably the UK. Here we are using ABS data together with GST (Goods and Services Tax - our value added tax) expenditure information to support comparison of theoretical GST liability and actual GST outcomes. Our assumption is that the difference emerging could be viewed as the lost revenue or 'gap'.

In relation to income tax, rather than impose an additional burden arising from random audits on the generally compliant Australian taxpayer, we are looking at methods to extrapolate our active compliance (risk driven non-random based interventions) results across the broader community to obtain experimental estimates of potential reporting gaps. We also have ongoing work with Treasury and the Australian Bureau of Statistics to understand the relationship between independent measures of the economy with forecast and actual tax liabilities and collection, providing a platform for understanding apparent tax gaps.

We will then be better placed to evaluate whether tax gap measurement of this type adds value to our current approaches to risk identification and assessment.

7. HOW WE USE OUR INTRANET

I want to move on now to say a little bit about two other topics that have been identified as areas of particular interest for this technical conference. The first is the use of the intranet.

In brief, our current intranet website is a mix of information, communication, human resource systems, and transactional components. But it is primarily an information site with limited communication, human resources and other transactional elements.

The current intranet site structure and content is a mix of corporate topic, business line, role, work process based authoritative sites and information with links to other content in other sites and repositories.

Content on the site is deemed to be for the whole-of-Tax Office, and business line use. It currently does not include team and personal websites. These were removed from the intranet many years ago. Nor does it include content stored on personal and other shared drives.

Our intranet is designed to support office outcomes by providing a channel that delivers corporate wide work related information. It provides all staff with easy access to authoritative and endorsed corporate information.

Our goal is an intranet that meets user needs and we achieve this by ensuring that the published content:

- Adheres to intranet standards and the principles of writing for the web.
- Is fit for audience and is easy to understand.
- Fits with the overall communication intent for that topic and audience.
- Is easy to find and use through appropriate user-designed interface and navigation.
- Is appropriately classified and captures the right metadata to make it searchable and easily discovered.
- Is owned and maintained to assure currency, relevance and continued appropriateness for channel
- Provides a consistent user experience through the use of a standardised structure and endorsed intranet navigational templates

Our intranet provides open access for all staff but content is limited to below 'in confidence' level. It does not have any secure or restricted sites. It is available for an Australia-wide audience, including mobile computing.

As an officer based in London I could not be more remote from the rest of my organisation. The intranet provides ready and easy access to the most up to date and authoritative statements of office policy. For me it is an important communication link and, like many others, I draw heavily upon some of the communication aspects such as the weekly on line news magazine. This magazine includes a mixture of work related and more personal topics, letters to the editor and, importantly, always starts with a column from the Commissioner.

Let me conclude my remarks on this topic with the recognition that we are limited by the intranet technology we currently have available to us. Our technology platform is dated and we are exploring more current technology that will allow us to tailor information services to meet the individual needs of our people more precisely.

8. INTERNATIONAL COOPERATION

Finally, let me touch upon harmonisation of tax administrations. This is not something that we focus on in Australia. However, in an increasingly interconnected world we recognise the value of having close working relationships between tax administrations around the world.

Australia takes part in a number of assistance programs aimed at improving the capacity and institutional governance of overseas revenue authorities, particularly in the local region. As well as these formal assistance programs, the Tax Office receives a number of visits each year from representatives of other revenue authorities. The visits may be in the form of bilateral meetings between the Tax Office and another authority or may be multilateral meetings attended by a number of countries. Information and expertise are exchanged at these visits with the aim of increased cooperation and coordination between the jurisdictions.

Australia works closely with many tax administrations in a variety of other ways. It is also a member of a range of international tax associations and, of course, welcomes the opportunity to participate in forums such as this one organised by the Inter-American Centre of Tax Administrations.

I would like to finish with an important example of how we work co-operatively with other tax administrations and it involves my work with the Joint International Tax Shelter Information Centre.

International dealings, once exclusively a large business issue, have become common as business and people have become engaged in trading, working and investing internationally. This means we are dealing with a range of compliance risks, everything from legitimate but highly complex cross-border tax planning where the issue often is - was the appropriate share of tax paid in each jurisdiction - through to, at the other extreme, deliberate concealment of income and assets by channelling arrangements through tax havens.

International collaboration among tax administrations has been much publicised in the context of combating abusive arrangements. As part of this effort the Joint International Tax Shelter Information Centre ('JITSIC') was established in 2004 by Australia, Canada, the United Kingdom and the United States.

JITSIC's aim is to share information to curb abusive tax avoidance transactions, arrangements and schemes. What is unique is that each country participates through full-time members from each administration working together in one office to share information and experience, as quickly as they can, on abusive arrangements, their investors and promoters. With international structures and transactions, often the challenge is to put the puzzle together and understand the whole picture.

The original JITSIC office was established in Washington and a second office has been established in London, which is where I am based. The membership has also expanded to include Japan.

Over its short life JITSIC's work has led to improvements in international compliance and much improved coordination to combat abusive arrangements. Recently the global financial crisis has led countries to consider how JITSIC can be best utilised in this dramatically changed environment.

Exchanging information in real-time is making a big difference to the complex task of tracking tax avoidance and abusive cross-border transactions. Delegates have identified and challenged highly artificial arrangements including:

- a scheme marketed cross-border, involving hundreds of taxpayers and tens of millions of dollars in improper deductions and unreported income from retirement account withdrawals
- financial institutions creating financing structures selling the benefit of foreign tax credits separate from the economic benefit of the underlying income, and
- brokers providing made-to-order losses on futures and options transactions for individuals in other jurisdictions, leading to a tax loss of over one hundred million dollars.

Plans have been made for the future development of JITSIC, along with a measured expansion beyond North America and Europe. This has broadened the focus of its activities, further sharing best practice on risk assessment and other key areas of interest, particularly increasing the transparency of cross-border transactions in order to create a level playing field for taxpayers who voluntarily comply with their tax obligations.

Case Study

Topic 3.1

THE USE OF INTRANETS BY TAX ADMINISTRATIONS

Ricardo Escobar
Director
Internal Revenue Service
(Chile)

CONTENTS: Overview.- 1. General context.- 2. The intranet in the SII.-2.1 Historic background.- 2.2 Intranet applications of the SII.- 2.2.1- Scope.- 2.2.2- Role of the intranet.- 2.2.3- Organization.- 2.2.4- Character.- 2.3. General design and construction guidelines.- 2.3.1- Description.- 2.3.2- Security and reliability.- 2.3.3- A reliable means.- 2.4 Access to Content of information.- 2.4.1- Responsibility for the administration.- 2.4.2- Conditions for information access.- 2.4.3- Determination of limits or restrictions.- 2.5 Concrete results.- 2.5.1- Impacts and benefits from their use.- 2.5.2- Contribution to the business.- 2.5.3- Means of communication par excellence inside the SII.- 2.5.4- Basic tool to support change processes.- 3. Conclusions

OVERVIEW

The use of Intranets by tax administrations has become a powerful tool, enabling better information and knowledge administration and higher and better levels of communication, as well as an effective organization of their own information and processes.

In the specific case of the Internal Revenue Service of Chile, the development of the Intranet began in the 1990s as a response to the challenges the institution had to face. The growing technological process of the external work aimed at taxpayers required swift and timely responses at the internal

level, prompting the major challenge of having a better information management aimed at employees.

As a result of a better institutional strategic definition, the decision was made to have a sole means of communications inside the SII, aiming at meeting three objectives: being the SII's official means of information for its employees; becoming a work tool to support their duties, particularly their oversight duties; and being a tool useful to perform the employees' personal transactions online.

Ten years after its implementation, it could be said that currently, the use of the Intranet has absolutely been broadly disseminated and consolidated within the institution, becoming the means of communication par excellence. Even though this tool has many potential uses, one of its innovative factors is the Employees' Portal, where the people who work for the institution can, from their own computers, take all the administrative steps that have to do with the quality of the SII as an employer.

The use of such Information Technologies as the Intranet has brought forth many benefits for the SII in terms of expedition of processes, security, and time and resource savings. There are many and varied advantages from their use. Even though its conception was aimed at very specific objectives, the Intranet continues to be a tool of potential development in the present and the future, incorporating applications or functions that are different from those for which it was originally conceived and that contribute to meeting the goals of an institution that is undergoing permanent change and modernization processes.

1. GENERAL CONTEXT

Because the Internal Revenue Service of Chile (SII) is one of the parties responsible for the country's tax administration, it needs to be in charge of a major flow of information, which must be available to both its external users and those responsible for offering services and oversight: the almost 4,000 employees of the institution. This is why the organization has had to forge, feed, and maintain a large communications platform and internal work and services as a basic administration tool geared toward its employees, a tool that enables them to have more and better levels of communication and constitutes a way to ease their daily work.

As a strategic option and in order to respond to the high demand for efficiency, effectiveness, and quality of the services it renders to taxpayers, in the early 1990s, the institution decided to strongly promote technological development regarding support (technological infrastructure) as well as platforms to help and render services to taxpayers through the Internet. This is how the available

information progress, which offers potential technological tools on the one side and boosts the SII's historic tradition of being at the forefront on the other, made the SII decide to expeditiously and explosively implement tools for the benefit of its tax administration role, which would enable it to obtain fiscal collection benefits.

This is how an Internet platform with information and services geared toward external clients and taxpayers was created. The granting of access keys and later the possibility of seeing Affidavits, Tax Returns, VAT Returns, Appraisal Certificates, Payment of Contributions, the issuance of Electronic Summons and Invoices and other applications through the Internet consolidated this means as a traditional way of relations between users and the Service, with all the benefits it implies.

This significant institutional change did not take place only from an external point of view; at the same time, it also required a high degree of development of internal technological platforms -- the institutional Intranet - to develop and ease the flow of information and services toward internal users, which consisted in making this progress geared toward taxpayers available to employees too.

In the last 10 years, the development of the two platforms, strongly linked, has enabled the SII to move toward an information administration and highly technological services, nationally and internationally recognized by their level of efficiency and innovation, to offer services and solve complex tax problems.

The emergence of the institutional Intranet began as a response to the challenges an institution such as the SII has ahead of it. The growing technological progress of external work geared toward taxpayers required swift and timely responses internally, prompting the major challenge of having a better information management.

The Intranet made it possible to standardize the existing information, so that employees could have a means that would enable them to have applications that contributed to their work and complied with the premise of serving others for institutional and personal work.

Meanwhile, the offer of new information technologies that deliver quality and safe solutions with notable time and cost savings made it necessary to choose the options available regarding these matters.

Along with it, one has to consider that the SII has a national presence and coverage. Given the geographic dispersion of our country and the nature of the duties of the institution, it was indispensable to have an efficient and timely mechanism for discussion, dissemination, and information on technical issues, both regulatory and institutional, that need to be relayed to SII

employees nationwide, as well as to deliver egalitarian services and access to all internal users, regardless of their distance from large urban areas.

All these factors made the SII think about the development of the Internet and Intranet as a means to supporting its institutional work. In this context, beginning in the year 1999, the use of the Intranet has become a powerful administration tool, since it makes all the information necessary for the development of its work, as well as institutional information, available to its employees by promoting the dissemination of organizational principles and values and enabling the unity and standardization of tax administration criteria, for tax administration as a whole, which makes it a timely, credible, effective, and reliable means of communication.

In the specific case of the SII, the Intranet constitutes an ally to disseminate, internalize, and arouse the support for the various change processes the institution is promoting in its continuous modernization effort.

Furthermore, the use of the Intranet is a factor that contributes to the reduction of costs by having a means of updated information and knowledge available in the employees' computer screen, which reduces the use of traditional physical resources such as paper.

In addition, it provides employees, especially those who carry out specific work related to the nature of the business, such as overseers, a harmonized source of knowledge of technical issues, easing access to decisions and guidelines, as well as programs to support key issues, such as Frequently Asked Questions or the conclusions of special work groups.

Next we will explain the Intranet of the SII, including a brief historic background on its implementation, the objectives linked to its use, the benefits achieved, and the results stemming from its use, factors that have turned it into the tool of communications par excellence inside the organization.

2. THE INTRANET IN THE SII

2.1 Historic Background

Prognosis that Triggered its Implementation

The development of the Service's Intranet began in the late 1990s with the institutional strategic definition of having a single tool of communication inside the SII that would aim at fulfilling three objectives:

- Being the SII's official means of communication with its employees.
- Becoming a work tool, supporting employees' work.
- Being a tool to conduct employees' personal business online.

Beginning at that time, all the strategic decisions that have been made on the use of the Intranet have been consistent with these objectives.

Its implementation is parallel to the development of the Internet, as well as its design and structure policies; everything that is done in Internet is also done on the Intranet.

By definition, the Intranet went beyond being the single work platform, through which all applications would be done via the web by a friendly and easy to navigate means, making its use as a work tool for its employees mandatory.

Main Phases

The development of the Service's Intranet began in the year 1999, almost simultaneously with the Internet, and the objective was for both means to be mutually complementary and convergent.

The broad dissemination of the Intranet resulted from an institutional decision that sought to provide all employees with access to the Intranet, the SII website, and a personal electronic mailbox, as well as a Remote Access Service to oversee the field, a Helpdesk for internal and external users working 24 hours a day, and the Technical Service Contract.

The objective required having one computer per official, and this is why the institution embarked on the urgent task of acquiring the respective pieces of computer equipment, reaching the objective of one computer per official by mid-2000. Currently, there are 1.3 computers per employee.

The broad dissemination or penetration phase was very swift. As a token of the significance that was given to the SII Intranet since the beginning, we quote the news bulletin that was published on January 10, 2000, informing employees of the beginning of the course called "Use of the Webpage and Intranet in the SII."

"The Training Department, aware of the need to train and educate SII employees in the use of new Information Technologies, which we are quickly incorporating to our duties, announces the beginning of the course entitled 'Use of the Webpage and Intranet in the SII.'"

"The objective of the course is to have employees efficiently incorporate the use of Information Technologies for the development of the oversight potential,

institutional communications, and relations with taxpayers. This is why the course aims at, in three modules, new Information Technologies, the strategy in the use of the Internet for tax purposes, and the services the SII renders through its web site and the knowledge and use of the Intranet through the software known as Internet Explorer."

It could be said that currently, the use of the Intranet has absolutely been broadly disseminated and consolidated within the institution, constituting the means of communication par excellence.

The Intranet Today

From its conception, it was decided that the SII's Intranet was going to be a tool that needed to be a means compatible with the institution's needs. This is why its operations have been flexible, and it has been adapted to the organization's requirements or demands.

Nowadays, without a doubt it constitutes the official means through which SII employees remain informed, work, and conduct their personal transactions, fully reaching the objectives outlined since its creation.

Notwithstanding the above, the institutional Intranet continues to be a tool of current and future potential for development, incorporating new applications or functions different from those originally conceived which contribute to achieving institutional goals.

2.2 Intranet Applications of the SII

2.2.1 Scope

The Intranet was conceived as a single tool for internal communications for employees, and this is why all communications are done through this instrument. This means makes all communications formal, and whatever is published in it is considered official. This factor has turned it into a very powerful tool with a high degree of trust and credibility on the part of users.

The Intranet is currently being used en masse within the SII, and the entire institutional workforce - in other words, the 3,976 employees (by June 30) distributed in 18 Regional Directorates, 9 Offices of Assistant Directors, and the Large Taxpayers Directorate - can access it.

It is worth mentioning that all the documents related to the institution's work are published in the Intranet. As an example, it could be said that all the documents signed by the SII Director have a two-hour deadline to be published and thus known by the employees. It is a standardized procedure. All the

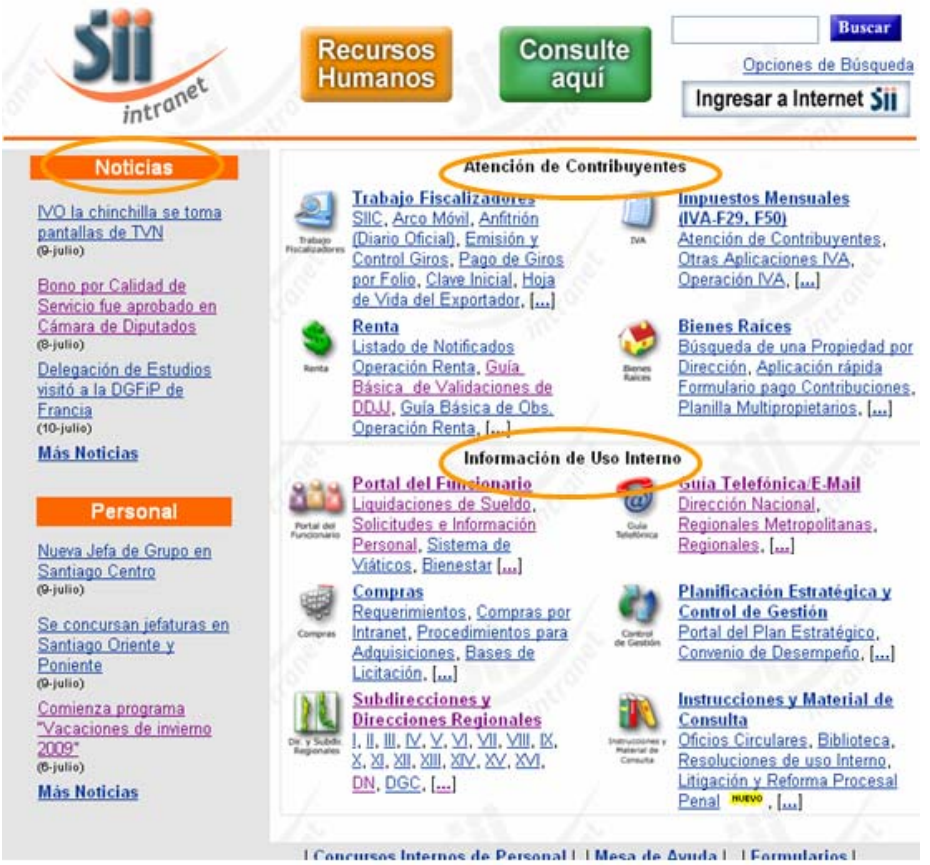
official publications must be published within two hours so the people who work in the institution are duly informed.

2.2.2 Role of the Intranet

The institutional Intranet has a triple role. On the one side, it is the means of internal information and communication par excellence, but it also a powerful tool to manage the personnel's internal processes through which employees sitting in front of their computers can conduct all the necessary transactions. In addition, it constitutes a means of support to the work done along with taxpayers.

2.2.3 Organization

The Intranet is structured in three major themes: Communications, Taxpayer Services, and Information for Internal Use. (See the homepage)



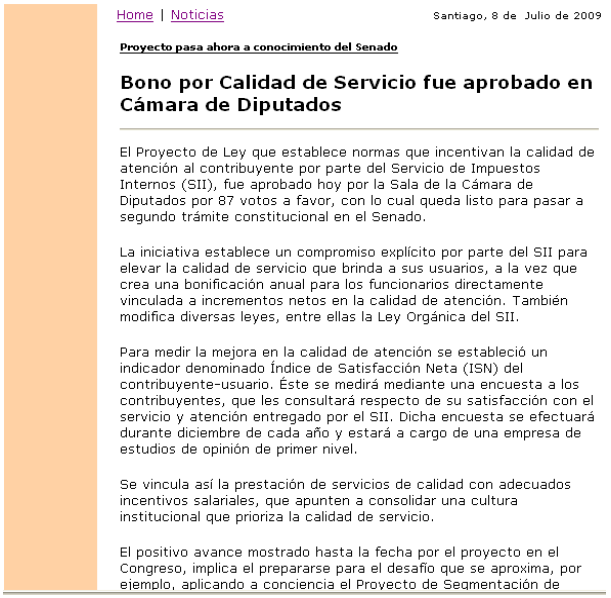
I- Communications:

Two sections can be seen in this area. One of them is the News Section, which includes information of general interest such as projects, notices, institutional achievements, and so on. The other area is the Personal Section, which includes specific information geared toward delivering information related to the professional development of employees, such as contests, promotions, scholarships, different types of announcements, etc.

The SII's Intranet currently has 10 years worth of online news (1999-2009) and 37 years worth of archived documents and contents, which makes it a powerful consultation tool for all its employees.

Samples of News

News in the "News" Section



Home | Noticias

Santiago, 8 de Julio de 2009

Proyecto pasa ahora a conocimiento del Senado

Bono por Calidad de Servicio fue aprobado en Cámara de Diputados

El Proyecto de Ley que establece normas que incentivan la calidad de atención al contribuyente por parte del Servicio de Impuestos Internos (SII), fue aprobado hoy por la Sala de la Cámara de Diputados por 87 votos a favor, con lo cual queda listo para pasar a segundo trámite constitucional en el Senado.

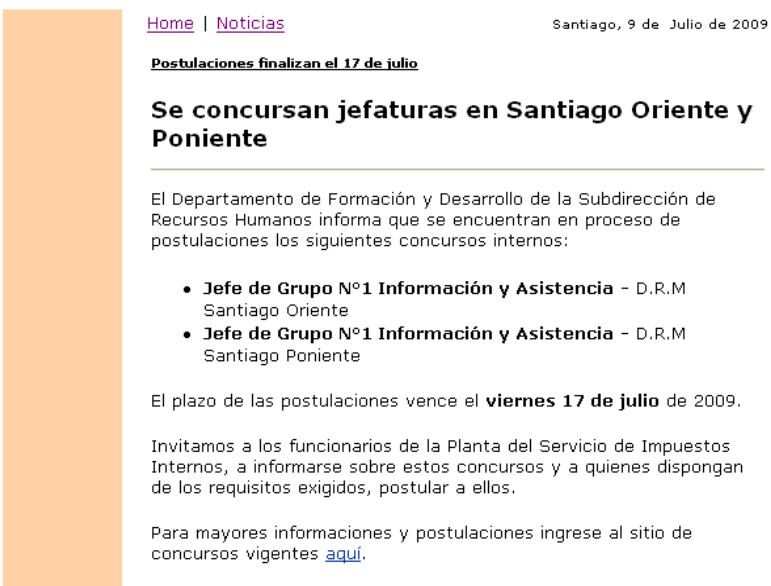
La iniciativa establece un compromiso explícito por parte del SII para elevar la calidad de servicio que brinda a sus usuarios, a la vez que crea una bonificación anual para los funcionarios directamente vinculada a incrementos netos en la calidad de atención. También modifica diversas leyes, entre ellas la Ley Orgánica del SII.

Para medir la mejora en la calidad de atención se estableció un indicador denominado Índice de Satisfacción Neta (ISN) del contribuyente-usuario. Éste se medirá mediante una encuesta a los contribuyentes, que les consultará respecto de su satisfacción con el servicio y atención entregado por el SII. Dicha encuesta se efectuará durante diciembre de cada año y estará a cargo de una empresa de estudios de opinión de primer nivel.

Se vincula así la prestación de servicios de calidad con adecuados incentivos salariales, que apunten a consolidar una cultura institucional que prioriza la calidad de servicio.

El positivo avance mostrado hasta la fecha por el proyecto en el Congreso, implica el prepararse para el desafío que se aproxima, por ejemplo, aplicando a conciencia el Proyecto de Segmentación de

News in the "Personal" Section



Home | Noticias

Santiago, 9 de Julio de 2009

Postulaciones finalizan el 17 de julio

Se concursan jefaturas en Santiago Oriente y Poniente

El Departamento de Formación y Desarrollo de la Subdirección de Recursos Humanos informa que se encuentran en proceso de postulaciones los siguientes concursos internos:

- **Jefe de Grupo N°1 Información y Asistencia** - D.R.M Santiago Oriente
- **Jefe de Grupo N°1 Información y Asistencia** - D.R.M Santiago Poniente

El plazo de las postulaciones vence el **viernes 17 de julio** de 2009.

Invitamos a los funcionarios de la Planta del Servicio de Impuestos Internos, a informarse sobre estos concursos y a quienes dispongan de los requisitos exigidos, postular a ellos.

Para mayores informaciones y postulaciones ingrese al sitio de concursos vigentes aquí.

II- Attention to Taxpayers:

Oversight Work: This section presents the most important applications for oversight procedures and taxpayer attention or information, in addition to the sources of complementary information associated to this work.

Here, one can find such Oversight Applications as the SIIC (Integrated Taxpayer Information System), Taxpayer Information Administration, Terms of Payment, Reports of Evasion, Certificates to submit at Foreign Tax Administrations, Exporters' Resume, System of Finished Actions, and so on. In addition, one finds sections in the Frequently Used Information link such as Current Notes, Oversight Procedures and Manuals, Economic Indicators, and so on. There is also a specific section for Tax Documents where one can make consultations about Electronic Invoice and Tax Document Verification.

In addition, there is an area for International Operations, which includes the Taxpayer Roster, Certificates, Registrar of Investors Abroad, Exporting Franchises, Transfer Prices, and Legal Texts and Regulations.

In this section, there are various themes that can be consulted by authorized employees; if not authorized, the browser will display a message saying that it cannot show the page.

Revenues: This page displays relevant information that SII employees use in their oversight work dealing with Revenues, such as Applications, Statistics, and Documents.

In the case of applications, Rentanet stands out. It features sections dealing with Taxpayers' Consultations, Management, and Taxpayer Services, including Rectifying Returns, Release, Concurrent Release, Partial Release, Taxpayer Transactions, SII Transactions, and Additional Documentation for SII Transactions.

Monthly Taxes (IVA-F29, F50): This page features the applications and associated information that SII employees use in their oversight work dealing with ATTENTION TO TAXPAYERS who declare TAXES using FORM 29 and FORM 50.

The information is divided into Applications and Procedures and Instructions. In the former, the following are available SIMnet (Attention to Taxpayers F29 and F50), Sworn VAT Statements, and Other VAT Applications. Meanwhile, Procedures and Instructions include information related to VAT Operations, Change of Subject, Exporting VAT, 27 bis, and other processes.

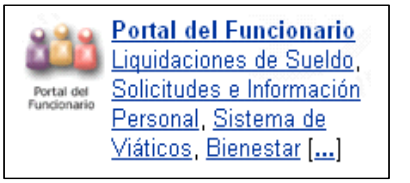
Real Estate: This page displays the applications and related information that SII employees use in their oversight work dealing with Real Estate.

The information is divided into Internal Use Applications and General Consultation Options. The former includes Search for a Property by Address, Quick Application of the Tax Payment Form, Multiple Owners Roster, and an Oracle Consultation System. The General Consultation Options features General Information, Territorial Tax, Maximum Amounts by Commune, Internet Real Estate Menu, Information on Non-Agricultural Real Estate Reappraisals, and Worksheet for Non-Agricultural Real Estate Estimates, among others.

III- Information for Internal Use

This section of the Intranet was designed so that the people who work for the Service have available all the information necessary to make their work easier as SII employees.

Employees' Portal: Features information of interest for employees and a large part of the Self-Service Applications, so that they can perform their administrative transactions.



The portal has a section called Employees Up to Date, where one can find news related to both institutional life and administrative vacancies and competition for jobs.

The main innovation or largest potential is found in the section called Employees' Virtual Office, where people can conduct all administrative transactions that have to do with the quality of SII as an employer.

From his own computer, an employee can consult everything related to his Remuneration, such as Wage Payments, Per Diem System, Accounting System, and Discount Window. In fact, this is one of the most consulted sections by the people who work for the SII, who two to three days in advance, for instance, can know the amount of their salary payment.

There is also Personnel Section, in which all employees can have access to Personal Requests and Information. This section contains information on Personal Background and inquiries dealing with Contractual Relations, Interim Positions, Holidays, and Administrative Leaves, among others. There is also a Self-Service Window, which incorporates the requests for Holiday Leave, Administrative Leave, and Updating of both Identification Data and Resumes (see attached image).

A very relevant area is the one assigned to Training, since it is very closely linked to the training and development of employees, which are strategically important matters for the institution. Among other issues, here we find the following: Operation Guide to Course Nomination, the Annual Operational Training Plan, a Listing and Registration System, the Use of Classrooms, the Assessment of Training, and the Online Training School, where the person can take several courses in this modality form, an aspect that is becoming ever relevant within the SII.

Regarding this matter, next we present a statistical chart listing the courses taught by the Online Training School from 2005 to date.

CHART 1: E-learning Courses taught by the SII for the 2005-2009 Period

Year	Course	Seats	Versions
2005	INTRODUCTION TO DUAL TAXATION AGREEMENTS	47	1
	Total 2005	**47**	**1**
2006	ADVANCED COURSE ON MONEY LAUNDERING PREVENTION	1	1
	INTERNATIONAL DEGREE ON TAXATION	5	1
	VAT OPERATIONS	60	1
	REVENUES OPERATIONS	304	4
	CVC PROCEDURES	79	1
	OECD INTERNATIONAL TAXATION	80	1
	Total 2006	**529**	**9**
2007	UPDATE OF LIFE CYCLE PROCEDURES	689	4
	EXCEL – BASIC LEVEL	7	1
	VAT OPERATIONS	52	2
	REVENUES OPERATIONS	42	1
	OECD INTERNATIONAL TAXATION	60	1
	Total 2007	**850**	**9**
2008	CONTROL OF FINANCIAL INSTITUTIONS AND OPERATIONS, SECOND EDITION	10	1
	TRAIN THE TRAINERS COURSE (SUMMONS FOR CIAT TUTORS)	1	1
	EXCEL – BASIC LEVEL	114	1
	VAT OPERATIONS	86	1
	OECD INTERNATIONAL TAXATION	102	1
	Total 2008	**313**	**5**
2009	EXCEL – BASIC LEVEL	219	3
	VAT OPERATIONS	60	1
	ORGANIZATIONAL KNOWLEDGE MANAGEMENT (THEORY)	2	1
	HUMAN RESOURCES MANAGEMENT IN PUBLIC ADMINISTRATION	2	1
	BETTER PRACTICES AT AT	2	1
	GENERAL PROCEDURES OF THE TAXPAYER LIFE CYCLE	66	1
	Total 2009	**351**	**8**
		2.090	**32**

Source: SII Training and Development Department

In addition, the Employees' Portal features all matters related to the Institutional Welfare System, where there is a section for Consultation of Agreements; Discount Sheet; Medical and Dental Benefits Sheet; Requests for Affiliation and Non-affiliation, Social Subsidies, Scholarships and Awards, Loans; Status of Requests, etc.

It also features a section aimed at Assisting Employees, where employees are given guidance on Estimation of Two-Year Salary Increases, Automated Remuneration Payment, Medical Leaves, Air Tickets, Per Diems, and Reimbursements.

Along with them, employees have sections dealing with Frequently Asked Questions, Ethics and Probity within the SII, and Data of Interest, such as Payment Calendar, Description of Salaries, and Benefits and Obligations of Employees, among others.

In short, the Employees' Portal is a true Virtual Office that was designed in such a way that all people who work for the SII can find information on each one of the aspects linked to their role as employees.

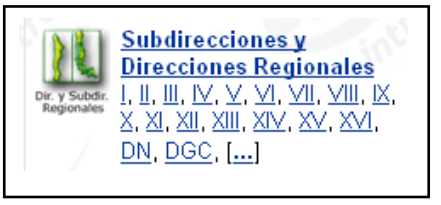
Telephone / E-Mail Directory: It features access to the SII Personnel Guide. In this section, there is a directory listing all SII employees divided by location, with basic data of each one of them (name, area, telephone number, and electronic mail), to which one can access by clicking on the name.

Purchases: There is an established procedure for the acquisitions that must be made within the SII. In this page, one can learn the procedures to follow for direct purchases and bidding processes. In addition, one can make requests for the acquisition of basic raw materials, computer materials, and forms.

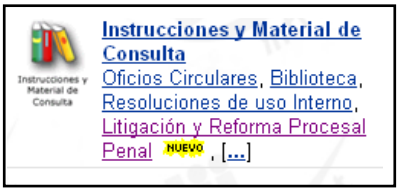
Strategic Planning and Management Control: The current strategic emphasis established for the development of the institution has brought about the need to have mechanisms to provide support to the organization's management, and in turn verify that the institutional actions are being carried out effectively under the guidance of its major strategic guiding principles. Likewise, there is awareness of the need to boost management control mechanisms that lead to, among others, the work dealing with follow-up, evaluation, feedback, and support for the actions being carried out inside the SII regarding both operational activities, as well as the major corporate projects permanently under execution, both in the context of its business and support areas.

This institutional portal provides information on this important matter both in the areas of Strategic Planning and Management Control.

Regional Offices of Assistant Director and Directorates: This menu features the links to the pages created by the Regional Offices of Assistant Directors, Directorates, Large Taxpayers Directorate, and the National Internal Revenue Directorate. The application also enables users to post these pages on the Intranet. Local interest information on activities, projects, etc. is found in these pages.



Instructions and Materials for Consultations: It features information of interest to all employees of the Internal Revenue Service such as studies conducted, statistics, and the Library, and also everything dealing with the objectives and issues associated to the SII.



2.2.4 Character

The Intranet is fully standardized at the national level, and the content it features is within the reach of all the employees who have access to this means.

For information of a more local character, either Regional Directorates or Offices of Assistant Directors, a special section was created. It could be assimilated into the so-called Daily Logs, which have a more autonomous format useful to increase the sense of belonging through the publication of activities, pictures, birthdays, news, and the like. However, parallel sites are not created since there is only one SII Intranet and it has a national character.

The formal element of national interest is in the Intranet, and the local or recreational interests are found in a specific area inside the Intranet.

2.3 General Design and Construction Guidelines

2.3.1 Description

Throughout its development, the institutional Intranet has gone through several changes. In the latest redesign, the following principles were agreed upon:

a) Definition of a new classification of content

A total of three independent classification criteria were used to efficiently regroup the current content of the Intranet:

Broad Dissemination

The content could be:
- Broad: of interest to all employees or a segment of employees, but with a high level of hits.
- Selective: of interest to a segment of employees and with a low level of hits.

Clients

For the Intranet user, the options presented to him or her can be classified as follows:

- **Work:** deal with applications or information to work.
- **Institutional:** deal with institutional information on the SII.
- **Personal:** of purely personal interest.

Thematic Area
Restructuring content, 12 new basic options for Intranet classification are presented.

b) Creation of a proposal with new menus and submenus

For the new proposal, the aforementioned criteria were used in various dimensions; in other words, the 12 new options are presented by thematic area; the order on the homepage depends on whether it pertains to work, institutional, or personal Information, and within each option, the order of broad dissemination prevails.

c) How to determine if certain content must be posted on the Intranet homepage?

The order of the homepage depends on whether it pertains to work, institutional, or personal Information, and within each option, the order of broad dissemination prevails.

Types of HTML Pages for the SII

The pages designed and built for the Intranet are categorized as follows:

- Menu
- Submenu
- Interior Page Menu
- Interior Page

2.3.2 Security and Reliability

Given the nature of the duties of Chile's Internal Revenue Service, the information contained on the Intranet, particularly the one pertaining to Taxpayer Service, is strategic.

In this regard, all safeguards are being taken at the institutional level to make good use of it.

As a result of an institutional policy, the Intranet is accessible only inside the Service, making it impossible to log on from the outside, which constitutes a safeguard for the available information. For instance, there is no way to establish a connection to the Intranet from the Internet.

Along with it, Circular Note No. 55 of December 11, 2003 remains valid and is mandatory for all employees. It outlines the Policy on Use of Computer Resources at the Internal Revenue Service, which regulates its use only for matters dealing with the responsibilities of the SII. Such note also outlines Internet access guidelines, the use of the institutional electronic mail, access to taxpayers' information and the use of computer equipment or workstations available to employees.

Regarding the delivery of information abroad, it is established that "the employees of the Internal Revenue Service are forbidden, in general terms, to publish unauthorized information that is deemed confidential, secret, or private, whether legally or in the exclusive opinion the SII. The employees by no means should forward information to third parties alien to the Service without being previously authorized by the corresponding Regional Director or Assistant Director."

"Likewise, it is strictly forbidden to publish background information and documents on administrative actions that, in accordance with Law No. 18.575; Article 35, paragraph 2 of the Tax Code; the Administrative Bylaws, and other legal documents, are deemed secret or private."
It is also worth adding that access to the computer services of the SII is customized, and each official is responsible for the administration and use of information services which he or she accesses. This is why each person has a unique password that must not be shared, transferred, or reassigned.

Corporate Authenticity System

From a technical point of view, the security mechanism used in SII applications is linked to the authentication system existing in the Service.

Given the architecture and technologies defined for the creation of software of the Office of the Assistant Director for Information Technology, which is responsible for the issue within the SII, there are considerations that a developer must take into account when programming the components of the presentation layer of its applications, because all the information from the navigation session of users is kept in the browser. This is why extreme care must be taken when the information is being handled, so that it cannot be modified by a computer hacker

Another existing security mechanism is a security filter or interceptor, which is in charge of intercepting all http calls to resources of the web server. In order for this mechanism to become operational, each application must have a "properties" file configured and associated to each web module, where the security configurations of the services defined in the Servlets (Methods) must be defined.

2.3.3 A Reliable Means

The use of Information Technologies clearly presents countless advantages, especially for tax administration, where quality, security, and expeditiousness are the foremost factors.

The Intranet minimizes errors and improves the quality of information, because it prevents such procedures as filling in, transportation, data entering, and data verification, which are sources of information errors.

Internal information remains at the disposal of employees from their own computers, avoiding the need to have papers, copies, transcriptions, and so on, which are also sources of errors.

To this we add the safety of its use as it has a secret username to access it. This makes the system reliable and safe and keeps the safeguard and privacy of the information. The information is clearly safer on the Intranet and on paper.

Another very relevant factor is time reduction. For instance, at the time of simultaneous publication of circular letters and resolutions for both taxpayers and overseers, which are posted only two hours after they were signed.

In addition, the way to enter, consult, and change the information is considerably faster, enabling flexibility in the opportunity to present and process information, making it available to those who need it.

The results of management are anticipated and enable those who are involved to carry out timely actions.

In economic terms, there are savings in entering the information and handling documents.

Another relevant aspect is that it reduces the amount of human resources devoted to low value-added issues regarding information treatment. In addition, it reduces costs of communications with employees, avoiding printing, letters, circular notes, official papers, and so on.

Regarding disadvantages, there are no infallible systems. Regarding information issues, there is always the possibility that a site may be hacked; however, this option is reduced to a minimum with good security systems.

2.4 Access to Content of Information

2.4.1 Responsibility for the Administration

The Office of the Assistant Director for Information Technology is in charge of managing the information platform of the Internal Revenue Service, and it must verify its adequate use, maintenance, and operation, which includes both the computer infrastructure and the existing information. This is why it permanently monitors the good use of the equipment and systems that support the work of the institution.

In the specific case of the Intranet, three players participate in every development: the area that requires it, the Office of the Assistant Director for Information Technology, and the Communications and Marketing Department, which reports to the Office of the Assistant Director for Administration.

Regarding those responsible for the management of the Intranet, everything that has to do with development - in other words, creation and publication - is the responsibility of the Office of the Assistant Director for Information Technology, and the areas of business or those responsible for the information are in charge of information. Finally, the Communications and Marketing Department is responsible for design and format.

As a way to guarantee the Editorial Quality of what is published on the Intranet, specific procedures dealing with information updates, the delivery of new information to be published, and the creation of HTML pages have been created.

The procedures identify who is responsible for delivering the information to be published and who is the person in charge of the Editorial Quality in the Communications and Marketing Department.

In each SII Office of the Assistant Director and Department, there is a person responsible and authorized to deliver the pages to be published. This must be done according to the established procedure.

As a way to guarantee the safety of the process, the Communications and Marketing Department sends the authorized person the URL address of the application, in addition to the username and password. The files are published without previous certification, and the person who sent the information is ultimately responsible for the design, format, correct spelling, and link

addresses. Finally, the certification of the files is responsibility of the person responsible for the Editorial Quality of the website.

2.4.2 Conditions for Information Access

Use of an Authentication and Access Identifier
Access to the computer services of the SII is customized, and each official is responsible for the administration and use of the information services he or she accesses. These accesses must not be shared, transferred, or reassigned, because each user has a unique registration in the systems and in applications he or she operates. The person in charge of requesting the username for an employee to access the system is his direct supervisor.

The aforementioned is valid for personnel who work inside and outside SII facilities or remotely through the institution's Wide Area Network (WAN), without detriment to information privacy guidelines outlined in the Tax Code, the Administrative Bylaws, and other legal documents. All of those who require access to SII systems are assigned an Access Identifier with the necessary privileges to carry out his work. Every time a person no longer works for the Institution, his direct supervisor must request the revocation of all his access permits.

Use of and Change to Access Usernames. Each user must keep a personal username, which he must not disclose or share with third parties, internally or externally. Such username must be kept strictly safe, and it must be changed or modified periodically or immediately if it is particularly suspected that a third party has found it or decoded it, which must be minimized through the use of usernames that are at least seven (7) characters long and feature a combination of numbers and letters, both in lower and upper cases.

2.4.3 Determination of Limits or Restrictions

As has been mentioned before, all the employees of the Internal Revenue Service have access to the Intranet and e-mail. However, in the case of the Intranet, there are some limitations or restrictions that have been defined. There are applications based upon certain profiles or specific functions carried out by certain people, which prompt certain restrictions for each one of the applications.

Among these cases, we can mention the work of overseers with restricted access to taxpayer data; the chiefs' offices for applications linked to the Office of the Assistant Director for Human Resources or personnel of the Office of the Assistant Director for Information Technology.

2.5 Concrete Results

2.5.1 Impacts and Benefits from their Use

The Intranet is not only the SII's means of communications par excellence, but it also a way to work.

The information published through this tool is official, quick, and homogeneous, instantaneously reaching the almost 4,000 employees who make up the institution nationwide, contributing to the speed of communications, and changing the dissemination of information inside the SII in a mass, quick, and expedite process.

In addition, it generates spontaneous and direct transmission among people; in other words, whoever reads an information posted on the Intranet comments on it and triggers the interest of others to consult it and be informed, thus triggering a very expedite flow of communications.

It also implies that all people learn through a primary source and not through third parties, thus preventing rumors or unofficial or distorted information, which notoriously favors the organizational environment.

The people can become aware through the SII's official means, which is very reliable and credible among the employees.

It is worth stressing that the development, maintenance, and control of the Intranet in the Service contribute to projecting among its employees a unique, coherent, truthful, updated, and efficient image of the SII among its internal users.

The fact that the design of the Intranet is very welcoming and friendly and was thought out for people who have no computer skills, so that employees can find an easily navigable means, favored the consolidation of this means.

Thanks to the standardization of the design, it enabled its broad dissemination, even among older employees who are less skillful in the use of this information technology.

The emergence of the Intranet beginning in the year 1999 has implied major benefits for the institution in terms of efficiency and costs. The fact that everything is published on the Intranet in practice has meant the elimination of printing materials.

The official information is also published on the Intranet; it is not sent by e-mail, except in very specific cases, and this is why the Intranet has

undoubtedly consolidated itself as the official means par excellence.

In the Intranet, employees have access to several applications that allow them to conduct all personal transactions related to their employer online, which in turn implies considerable time saving, enabling the people not to be distracted from their professional responsibilities and to be able to expeditiously and comfortably access information on remunerations, vacation, permissions, commitments, etc.

2.5.2 Contribution to the Business

As we have said, one of the objectives of the Intranet was to become a work tool linked to the routine of employees concerning taxpayers.

In this sense, the Intranet incorporates all tools and applications employees need to do their work well, and all these elements are incorporated into their PC's and do not require additional applications.

Through the PC, employees obtain updated information on the aspects that are more essential to the business and the role of the SII, which is their oversight work, basically related to the work of overseers, revenues operation, taxes, and real estate.

Undoubtedly this factor constitutes a major advantage in terms of efficiency as they are able to have the tools and information resources employees have, becoming a powerful instrument that makes their work easier.

In their own computers, employees have a true Virtual Work and Help Office focused on taxpayers.

2.5.3 Means of Communication Par Excellence inside the SII

Since its creation, the Intranet has become the means of communication par excellence of the institution, reaching a quick and explosive penetration.

Due to the various possibilities it features, it is essential for each official to resort to the Intranet several times a day. Whether to read a piece of news, consult the telephone directory, see his salary payment, or request vacation time or administrative leave, the Intranet has become a necessity.

In order to confirm the significance of the Intranet as a source of information for SII employees, it is very useful to see the conclusions derived from the Studies on Organizational Environment that have been conducted in the Internal Revenue Service every two years, since the year 1999.

Since the broad use of the Intranet was incorporated and its use was included in the sample of the year 2001, one can see how its percentage as a source of information has increased.

From the chart below, one can conclude that the Intranet has been consolidated as the means par excellence employees have to be informed about the institutional environment.

CHART 2: Employees' Perception of the Intranet as a Primary Source of Information within the SII.

Year Environment Survey Taken	Intranet
2007	37.80%
2005	36.46%
2003	38.06%
2001	26.61%
1999	Does not apply

Source: SII Quality of Labor Life Office.

As a way to show the penetration the Intranet pages have among the almost 4,000 employees, we present a chart outlining data from May and June 2009.

In May, taking into account SII equipment, the daily average number of visits was 28,417.16 throughout the institution, and the average number of visits per official was 6.8 a day. Regarding the number of visitors, the average was 1.1 employees a day.

The duration of the visits was 2 minutes and 23 seconds.

Meanwhile in June, looking into the figures of the month, the average number of visits a day was 28,245.5, reaching an average number of 7 visits by employee. As for the number of visitors, the average was 1.05 employees a day.

Regarding the duration of visits, it was approximately 2 minutes and 15 seconds.

These figures confirm the high level of use and visits recorded in the institutional Intranet, reaffirming its condition as the means of communication par excellence.

CHART 3: Visits to the SII Intranet Pages in the May-June 2009 Period

Period	May-09
Page view total	2,712,968
Average number of visits a day	28,417.16
Number of visitors	4,334
Time per visit	2 min 23 sec

Period	Jun-09
Page view total	2,530,393
Average number of visits a day	28,245.5
Number of visitors	4,348
Time per visit	2 min 14 sec

	May-09	Jun-09
Certified pages	91	77
Published pages	562	757

Source: Communications and Marketing Department.

2.5.4 Basic Tool to Support Change Processes

Throughout its 107 years of life, the Internal Revenue Service has characterized itself for being an institution under permanent change and modernization, which has helped it be at the forefront of public administration in Chile.

Due to the demands stemming from both the national and international environments, which are extremely demanding in the realm of public administration, this factor has been exacerbated lately, prompting the SII to implement swift transformations and substantial changes to the way it does things.

Since 2007, the SII is carrying out a series of improvements and changes aiming at preparing the organization for the demands and challenges ever imposed by the changing domestic and foreign arenas.

In this context and as a way to respond to this new scenario, there comes a series of strategic projects, which were conceived to modernize the institution.

The success of these projects largely depends on whether each one of its employees knows them, are motivated, get involved, and actively participate in their implementation.

In order to fulfill this objective, it is necessary to have the adequate dissemination mechanisms, which enable people who work in the institution become change management agents. This implies being informed about the projects themselves, their scope, and their benefits.

This Intranet environment becomes a powerful tool of dissemination, which contributes to generate the adequate conditions for a successful implementation of the various change processes that are taking place in the organization, finding in the internal communications a major ally.

3. CONCLUSIONS

The use of the Intranet began developing within the SII at the same time as the Internet. Due to an institutional decision and given both external and eternal challenges, it was necessary to have the means to enable a better information management and more knowledge and to provide tools to the employees to carry out the various processes having to do with their work.

The process was very quick, letting a short time elapse between the implementation and consolidation phases. This is why it was vital to reach the goal of having one computer equipment per official.

Ten years after the process that intended to transform the Intranet into the sole tool of communications inside the Internal Revenue Service, the objective has fully been achieved. This tool has without a doubt become the institution's means of communications par excellence, and the employees regard it as credible and reliable, which enables them to have official, quick, and homogeneous information.

Since the beginning, the Intranet was conceived as a means that would reach three basic objectives: being a source of information and support for the work done with taxpayers and be useful for everything related to personal transactions.

The goals have fully been achieved. However, this original conception does not imply that in the future, there will not be a redefinition since taxpayers' demands change constantly, forcing the SII to be flexible and adapt to the needs of the institution and its employees.

The use of such information technologies as the Intranet has brought forth many benefits for SII in terms of expeditious processes, security, time saving,

and reduction of resources. The advantages offered by these tools are multiple, but it should not make us forget that the most important thing continues to be the people who work at the institution and who, throughout the life of the SII, have contributed to its positioning at the forefront in the national and international arenas. The use of technologies is only a means to serving the people, whether they are taxpayers or employees.

Case study

Topic 3.2

ECONOMIC INTEGRATION AND HARMONIZATION OF THE TAX SYSTEMS AND ADMINISTRATIONS

Clara Urteaga
Legal National Intendant
National Superintendence of Tax Administration
(Peru)

CONTENTS: Summary.- 1. Economic integration and tax harmonization .-2. Regional efforts for integration and tax harmonization.- 2.1 The free-trade zone and the customs union in the Andean Community of nations (CAN, in spanish).- 2.1.1 The free-trade zone.- 2.1.2. The Customs Union.- harmonization of direct taxes in Peru. income taxes.- 2.2.1. Decision 40.-2.2.2- Decision 578.- 2.3. Harmonization of indirect taxes in Peru. general sales tax (IGV, in spanish) and excise tax (ISC, in spanish).- 2.3.1 Decision 599.- 2.3.2 Decision 600.- 3. The problem of the validity of decisions on direct and indirect taxes.- 4. Actions targeted at the implementation of decisions and current status.

SUMMARY

Tax harmonization is of vital importance in the process of economic integration. Aware of this, Peru as a member-country of the Andean Community has developed diverse processes and mechanisms targeted at achieving the economic integration with the members of the region.

In this sense, this paper describes the efforts made in customs and direct and indirect taxation matters, with a view to achieving the integration so yearned for.

Firstly, an overview is given of harmonization mechanisms, to then expose the Andean integration process with regard to the Free-trade Zone and the Customs Union, making special reference to the project called GRANADUA - Fortalecimiento de la Unión Aduanera en los países del grupo andino (Strengthening of the Customs Union among countries of the Andean group), which constitutes a significant aid for outlining the rules governing customs matters. A result of this tool is the implementation of the Decisions of the Andean Community regarding the Origin of Goods, the Andean Common Nomenclature, the Andean Integrated Tariff, the valuation of goods at customs, the Harmonization of customs systems, the Single Customs Document, Customs Transit, Customs Control, the fight against fraud, the foreign trade statistics, customs formation and IT help for Customs Management.

Secondly, the progress made in the harmonization of direct taxes is discussed, emphasizing the Peruvian Income Tax and the Decisions 40 and 578, which apart from regulating the Agreements intended to avoid double taxation among member-countries of the Andean Community, are of vital importance in the integration process, in that they may contribute to avoiding distortions in the application of the above cited tax on income-generating activities in the member-countries of the Andean Community.

Furthermore, the harmonization efforts in indirect tax matters are described, pointing at the relevance and the main provisions of Decisions 599 and 600 in referring to Value-Added Taxes (VAT) and Excise Tax (ISC), respectively, both rules positively characterized by addressing both the substantive and the procedural regulation of VAT and ISC. Hence, the great majority of the provisions contained in the Decisions are required to keep a large similarity with the regulation adopted on such regard by the Peruvian legislation. Nevertheless, where such similarity is missing, some of the challenges likely to be posed by the implementation of such Decisions are described.

Last, but not least, it should be noted that this paper addresses the current problem of the validity of the Decisions of the Andean Community, insofar as they regulate aspects related to taxes, because, as it has been explained, there is a mechanism established by the Peruvian Political Constitution that such rules should follow for their approval and incorporation into the national laws.

1. ECONOMIC INTEGRATION AND TAX HARMONIZATION

Taxation is an essential factor for consideration in the development of current relationships where the trend is to foster free trade among countries through the celebration of Free Trade Agreements (FTAs) and thus achieve the reduction of tariffs and restrictions so that trade may flow smoothly.

Therefore, it is of pivotal importance to adopt measures that enable the harmonization of the diverse criteria considered in the taxation of countries, whether at the level of tariffs, direct taxes[1] and indirect taxes[2], in view that this harmonization plays a vital role in the implementation and development of economic integration.

Having in mind, as it has been stated here before, that Tax Harmonization is necessary to achieve consistency with the objectives of an integration process, there are several mechanisms that are applicable as per the circumstances, among which are: Standardization, Compatibility and Instrumentation.

- Standardization implies matching, under similar conditions, the burdens levied on the same taxable matter. This mechanism is difficult to apply as it involves assimilating the legislations ruling the way the base and rate level are determined, and even the way the Tax Administration operates.

- Compatibility is a less rigid mechanism than the previous one, and pursues the adequacy of the formal structure of taxes in order to facilitate the implementation of compensatory mechanisms apt to neutralize the distortions originating in the diverse taxation forms in the integration process.

- Instrumentation is a mechanism intended to introduce inequities deliberately; that is, "it is about carrying out a certain integration strategy using taxation as a tool to differentiate treatments among member-countries"[3].

2. REGIONAL EFFORTS FOR INTEGRATION AND TAX HARMONIZATION

The processes of integration in Latin America were started in 1960 with the creation of the Latin American Free Trade Association (LAFTA) and the Central American Common Market. Peru was one of the 7 signatory countries of the 1960 Treaty of Montevideo, which created the LAFTA with the objective of setting up a free trade zone within a term of 12 months. However, LAFTA's

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[1] *Generally, for the Income Tax (main direct tax) the legislation is varied and dispersed among the different countries, with differences as to the taxable matter, the basis for calculation, the tax rates, the active taxable persons, including exempted or not affected income.*

[2] *The harmonization of indirect taxes allows correcting trade distortions in intra-community trade, deriving from each tax system's regulations for the VAT and the Excise Tax, thus assuring no accumulative and pyramidal effects on prices and therefore no asymmetries under conditions of free competition.*

[3] *Gonzáles Cano, Hugo, La Armonización Tributaria y la Integración Económica, Ediciones Interoceánicas S.A., Buenos Aires, 1994, p. 10.*

short mandate showed that the countries benefiting most by the integration were the region's most developed countries (Argentina, Brazil and Mexico), and this was one of the reasons for the creation of the Andean Group through the signature of the Andean Subregional Integration Agreement[4] by Bolivia, Colombia, Chile, Ecuador and Peru, also known as the Cartagena Agreement[5]. In 1973 Venezuela joined in, but left in 2006; and Chile left in 1976, so the community is presently composed of Bolivia, Colombia, Chile, Ecuador and Peru.

Now, well, according to section 1° of the Treaty Creating the Court of Justice of the Andean Community[6], the legal system of the Andean Community comprises, among others, the Cartagena Agreement, its Protocols and additional instruments; the Decisions of the Andean Council of Foreign Affair Ministers and the Andean Community Commissions and the Resolutions of the Andean Community's General Secretariat.

In this sense, the Guidelines for the Andean Integration Process are generally issued by way of Decisions, which are supra-national rules intended to assure the stability of the legal system. This is one of the most important factors for attracting investment, because once in force, the Decisions apply to all taxpayers and countries in the region and cannot be easily modified unilaterally by any country.

We will now move on to describe how these integration efforts are developed in practice, both with regard to customs as well as direct and indirect tax matters.

2.1. The Free-trade Zone and the Customs Union in the Andean Community of Nations (CAN)

The Andean integration process has undergone ups and downs; however, the integration has been dealt with in depth, so much so that a customs union has, albeit imperfectly, been achieved.

This process has a multidimensional nature, for it touches diverse areas in order to accomplish one of the CAN's objectives, which is the creation of a Common Market, requiring the harmonization of economic, customs, trade, social, immigration, foreign, third-party, energy and environmental policies, etc.

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4 *On 05/26/1969 in the city of Cartagena, Colombia.*

5 *Called Andean Community of Nations (CAN, in Spanish) since 1997.*

6 *Approved by Decision 472, which puts into a code the Treaty Creating the Court of Justice of the Andean Community, ratified by the Congress of the Peruvian Republic through the Legislative Resolution No 26674, published on 10/23/1996.*

Because of the complexity and vastness of this integration process, we will limit ourselves to discussing the aspects that have influenced the customs environment, for which we will make reference to the Free-trade Zone and the Customs Union of the CAN.

2.1.1 The Free-trade Zone

To achieve the objectives of the Cartagena Agreement several mechanisms were established, among which stand out the joint programming, the escalation of the sub-regional industrialization process and the execution of Industrial Development Sector Programs, a more accelerated Exchange Release Program than that adopted by LAFTA, a Common External Tariff, and the Physical Integration and Preferential Treatment in favor of Bolivia and Ecuador.

In this point we will discuss the Release Program intended to eliminate burdens and restrictions imposed on the import of goods originating from the other member-countries of the Andean Community.

- The Release Program

The Release Program initially established the total elimination of all intra-community tariffs and restrictions that was to be completed by December 31 of 1980. However, even though tariffs on most goods were eliminated by then, some remained applicable and most existing restrictions were kept.

At the beginning of the 90s, new terms were set forth for the complete tax relief of goods, which resulted in the consolidation of the Andean free-trade zone of CAN's member-countries in 1993, with the exception of Peru, which in 1992 temporarily suspended its participation in the Release Program by way of the Decision 321[7].

Subsequently, the Decision 414[8] set up the Release Program between Peru and the other member-countries of CAN. On this regard, it should be noted that the imports of the other Andean countries from August 25 of 1992 until the beginning of 1993 were subject to the full payment of tariffs, and only at the beginning of 1993 did bilateral agreements with each of the remaining

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[7] *Dated 08/25/1992, which provided that Peru would suspend its obligations under the Release Program and the Common External Tariff until 12/31/1993, which term was extended successively by other decisions.*

[8] *Dated 07/31/1997.*

Andean countries come into force, which released tariffs for a list of sub-items, except in the case of the Bilateral Trade Agreement with Bolivia, which comprised the whole tariff universe.

The Decision 414 provided the full release of tariffs for traded goods, with the exception of those included in some annexes, which would remain subject to a schedule of progressive tax relieves. Additionally, goals were fixed such as the harmonization of special import-export customs systems, no later than by the end of 1997, which was not achieved until the beginning of 2006, when Peru was fully reincorporated into the Andean free-trade zone.

- Implementation of the Release Program at Customs

During 1992's second semester a significant change occurred in the customs dispatch processes of the Peruvian customs as a result of the systematization of processes and the creation of diverse IT tools designed to help considerably in the process of validation and numeration of import customs declarations, as is the case of the tele-dispatch for the transmission by customs officers of the data contained in the declarations, as well as the Customs Management System (SIGAD, in Spanish), which allowed the customs administration to register tariff rates and tariff preferences granted by Peru to other countries based on international trade agreements.

The National Superintendency of Customs Techniques and the National Superintendency of Information Systems of the National Superintendency of Tax Administration - Sunat - were responsible for coordinating and defining the design of the table structures of International Preferential Treaties (TPI, in Spanish)[9] applicable to the SIGAD. This work was required to further the trade agreements negotiated at CAN level by the Ministry of Foreign Trade and Tourism[10].

This table contains mainly the TPI proprietary code, the national sub-item, the percentage margin (which is the tariff's releasable percentage), the starting and completion date of application of the percentage margin, the country of origin entitled to preferences and an observations field to register any other information relevant to the goods negotiated under the Agreement.

The creation of the TPIs facilitates import operations with preferential tariffs performed under the Andean regulation, which allows the importer, the customs agent and the customs personnel to make on-line consultations at SUNAT's portal.

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[9] *Number code that identifies each of the trade agreements signed by Peru.*

[10] *Competent body at the national level in charge of defining Peru's trade integration policy.*

The use of the TPIs has allowed a more efficient management of tariff preferences and its structure has served as the basis for the application of other agreements in addition to the Cartagena Agreement.

2.1.2. The Customs Union

The Customs Union is the next integration stage to take place in countries that have constituted a free-trade zone.

In the case of CAN, different measures have been applied to achieve such integration stages, as is the case of the common external tariff defined after the implementation of a minimum common external tariff. However, through the Decision 321, Peru gave up the negotiations of the Common External Tariff and, therefore, is not applying it, whereas the other member countries apply it inconsistently due to the existence of exceptions, extensions or non-fulfillments.

In addition to the Common External Tariff, other customs policy instruments have been developed within the Andean Community, which are worth commenting on in view that Peru and Sunat have actively participated therein.

- An important contribution: The GRANADUA Project

Before describing the progress made in the harmonization of customs policies in the CAN, we should make some reference to the GRANADUA Project - "Fortalecimiento de la Unión Aduanera en los Países del Grupo Andino", which has been of great help to draft the texts of the rules governing diverse customs matters at community level.

The GRANADUA project was the result of the Frame Cooperation Agreement between the European Community and the Cartagena Agreement and its member countries[11], of which three aspects have been present in the design and execution of such project's actions:

- Providing technical assistance targeted at the implementation of good customs management practices recommended by the World Customs Organization (WCO) and incorporated into the European Union's legislation.
- Training the officers responsible for the application of the new customs management techniques.
- Fighting fraud.

[11] *Signed on 04/23/1993.*

On the other hand, the action areas identified in the GRANADUA Project which required harmonization were:

- Origin of goods.
- Andean Common Nomenclature (NANDINA).
- Andean Integrated Tariff (ARIAN).
- Goods valuation at customs.
- Harmonization of customs systems.
- Single Customs Document (DUA).
- Customs transit.
- Customs control.
- Fight against fraud.
- Foreign trade statistics.
- Customs training.
- IT support to customs management (AIGA).

So, the rules approved through the Decisions and Resolutions issued in the above cited areas at community level are:

- Origin of goods

The Decision 416[12] regulates the preferential origin among CAN's Member Countries. The non-preferential origin is not harmonized at community level.

- Andean Common Nomenclature (NANDINA)

The Decision 507 on the Update of the NANDINA Nomenclature approves the Single Text of the Common Tariff Nomenclature of Member Countries of the Andean Community (NANDINA) and the Physical Units by sub-item of NANDINA, in order to facilitate collection, comparison and analysis of goods-related foreign trade statistics as adapted to the Third Recommendation for Amendment to the Harmonized System. This Decision was incorporated into our national legislation.

NANDINA was later updated through the Decisions 570 and 653[13], the latter having been incorporated into our national legislation, including tariff rates[14].

- Andean Integrated Tariff (ARIAN)

The Decision 572 approved the Andean Integrated Tariff (ARIAN) as the system that allows collecting, validating and incorporating into a database all the information and regulations generated by the decision-making bodies of the

[12] *Approved on 07/30/1997.*
[13] *Approved on 11/15/2006.*
[14] *Through the Supreme Decree No 017-2007-EF published on 02/18/2007.*

Andean Community through the opening - where necessary - of NANDINA's Subdivisions to designate the goods that are subject to specific regulations.

The ARIAN System comprises two subsystems:

- The ARIAN's Central Subsystem responsible for collecting and distributing ARIAN's information, the operation of which will be entrusted to the Andean Community's General Secretariat; and
- The ARIAN's National Subsystems responsible for consistency and updating of the common external tariff and received measures, the operation of which will be entrusted to the national customs administrations of Member Countries.

• Valuation of goods at Customs

The Decision 571[15] approved the rule that governs the Customs Valuation of Imported Goods, providing that the determination of the value at customs will be ruled by the Agreement relative to the Application of Section VII of the General Agreement on Customs Tariffs and Trade of 1994, called Valuation Agreement of the World Trade Organization, WTO, and by the Regulations of the Decision 571 approved through the Resolution 846[16]. These are very important rules in that they allow countries to have the same taxable base to determine the rights and taxes on the import of goods, in line with the correct application of the WTO's Valuation Agreement.

Subsequently, the Resolution 1112[17] was approved which adopts the Value Andean Declaration, which has been enforced by Andean countries since August 1 of 2008.

• Harmonization of Customs Systems

Harmonization of customs systems at the level of Andean countries has been very complex, for although these countries have generally similar rules, there are many differences that have prevented the adoption of a wholly uniformed system, leaving some aspects to the regulation of national legislation.

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[15] *Approved on 12/12/2003.*

[16] *The Resolution 846, Regulations of the Decision 571, establishes uniform rules for the application of the Decision 571 to avoid indiscriminate treatment of imports of goods made in the community territory. Among the most important aspects of this Resolution is the statement that the declaration may be presented before the customs authorities in paper or electronic format.*

[17] *Approved on 07/05/2007.*

The Decision 618[18] was the first step towards the harmonization of customs systems. Such rule provided for the progressive incorporation of the principles, rules and recommendations of the General Annex to the Protocol of Amendment of the International Agreement for the Simplification and Harmonization of Customs Systems (revised Kyoto Agreement) in community regulation. It further provides that the specific annexes to the mentioned Agreement should be used as reference for the preparation of the Decision on Customs Systems Harmonization.

Finally, the Decision 671[19] approved the Harmonization of Customs Systems, which in the case of Peru means adapting its customs systems considering the maquila system, the date of arrival of the means of transportation, the temporary storage, etc.

- Single Customs Document (DUA)

The DUA was approved through the Decision 670[20], which provided the DUA as the single document to be used by Member Countries in their operations of intra-community entry, exist and transit, and with third-party countries[21].

" Customs Transit

The Decision 617[22] approved the Community Customs Transit instrument that regulates the circulation of goods between Member Countries and introduces new community-nature definitions and mechanisms. This Decision has been applied partially, with the regulation still pending relating to notices of border crossing, routes and terms and other control aspects.

The Decision 636[23] modified Decision 617 with regard to aspects such as economic guaranties, the remittance by offices in charge of transit control and the relation of routes and terms, as well as the customs registration of transportation vehicles and cargo units.

" Customs Control

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[18] *Approved on 07/15/2005.*
[19] *Approved on 07/13/2007.*
[20] *Idem.*
[21] *The DUA formats for the electronic information exchange among customs administrations and foreign trade operators will become mandatory from December 15 of 2009.*
[22] *Approved on 07/15/2005. Effective from 01/01/2006.*
[23] *Approved on 07/19/2006.*

The Decision 574[24] approved the Andean System on Customs Control, which establishes the rules that the Customs Administrations of Member Countries must apply to control foreign trade operations.

In this way, Customs Control is performed through the following phases:

- Previous control, exercised by the customs administration prior to the admission of the customs declaration of goods.
- Control during dispatch, exercised from the time the declaration is admitted by the customs until the time the goods are released or shipped.
- Subsequent control, exercised from the release or shipping of dispatched goods for a certain customs system.

It further establishes the customs administrations' commitment to creating subsequent control units, composed of officers knowledgeable of and experienced in customs, fiscal, foreign trade and audit matters.

- Fight against customs fraud

The Proposal 110/Rev.4 referred to in the Andean System on Customs Fraud is intended to set up the legal frame for the performance of customs fraud preventive, tracking down and suppression activities in CAN's member countries.

Such document defines the actions to fight customs fraud and elaborates on the issue of mutual assistance, cooperation and information exchange among customs administrations.

This proposal has been considered in the Decision 574 regarding the Andean System of Customs Control.

- Implementation of customs-related Decisions at Customs

One of the best examples of economic integration regarding customs matters is reflected in the integration and harmonization of customs systems.

In this sense, Peru has promulgated the new General Customs Act[26] whereby it homologated almost all the provisions contained in the Decision 671 of the CAN relative to the Harmonization of Customs Systems, and unified several customs-related aspects with the provisions in the Kyoto Agreement[27].

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[24] *Approved on 12/12/2003.*
[25] *Approved on 12/12/2003.*
[26] *Approved through the Legislative Decree No 1053, published on 06/27/2008.*
[27] *The difficulties that prevented the full incorporation of Decision 671 originate from the same problem brought about by the purpose of establishing a common external tariff to consolidate CAN's Customs Union.*

As to the procedures for the dispatch of goods, the provisions on trade facilitation of the WCO were followed, which has proven largely useful in procedures such as the immediate release of shipments, the measures for the application of faster risk systems with the reception of advanced information and documentation through electronic means.

On the other hand, it is worth indicating that the implementation of community rules on ARIAN, DUA and the harmonization of customs systems exhibits the greatest complexity to the customs tax administration, for it entails changes in the national legislation, IT development, preparation of new procedures applicable both to internal and external users, in addition to the resources required for the execution thereof. At present they are in the process of implementation within the frame of the new customs dispatch project that will come into force from 2010.

It should also be pointed out that a greater technical assistance from more developed countries is required to materialize at each customs administration the homologation and regulation of IT systems that may allow in the future the proper implementation of the "CUSTOMS-CUSTOMS" pillar of the World Customs Organization (WCO).

With regard to the procedures for taxation, Peru has been applying wholly automated liquidations for the numbering of declarations, and supplementary autoliquidations of foreign trade users and electronic payment. Supplemental rules have been issued intended to allow fast payment, including the use of credit cards and differed payment of advanced dispatches, which in turn will allow payment of customs tax obligations after removing the goods and based on both specific dispatch guaranties and global guaranties for several dispatches.

In this sense, increased communication, information exchange and cooperation will exist among the customs of Member Countries, thus facilitating customs operations, control, examination and the fight against smuggling and customs-related crimes.

Further, the process of customs modernization will be strengthened as a result of having clear, harmonized rules, facilitating and simplifying customs processes in line with international standards in matters such as 40-hour dispatch, global guaranty, certified customs user, simplified dispatch for fast shipment, etc.

2.2. Harmonization of Direct Taxes in Peru. Income tax

Given the nature of the Income Tax itself, and the impossibility to apply simple compensation mechanisms, the harmonization of rules should be pursued through the standardization of the legislations of the countries involved, mainly on a regional level, within the Andean Community countries.

Taxation is an integral part of this harmonization process. As to the Income Tax on the Andean Community level, Decisions 40[28] and 578[29] relative to international double taxation are in place, intended to avoid any serious distortion on this regard.

2.2.1. Decision 40

Firstly, we should point out that Decision 40, which approved the Agreement to avoid double taxation among Member Countries, and the Standard Agreement for the Celebration of double-taxation agreements between Member Countries and other States alien to the sub-region, establishes the Taxation at Source Principle, which provides as a general rule that independently of the nationality or domicile of the persons, the earned income of any nature shall only be taxable at the member country of the Andean Community where such income originated.

More specifically:

- The income originating in real property is taxed in the country where such property is situated.
- The proceeds earned from the lease or sublease, or the assignment or granting of the right to exploit or use in any manner the natural resources shall be taxed by the country where such resources are located.
- Company profits are taxed in the country where the operations were conducted. This includes the cases where a company performs activities in two or more member countries, in which case each country may tax the income generated in its territory.
- Royalties deriving from the use of trademarks, patents or other intangibles of a similar nature may only be taxed in the country where they were used.

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[28] *Approved in the Commission's Seventh Period of Regular Sessions, held in Lima, Peru, between November 8 and 16 of 1971. It was approved by Peru through the Executive Order No 19535 of 09/20/1972. It came into force on 06/18/1980 upon deposit by Peru of the last national approval instrument at the Board of the Cartagena Agreement.*

[29] *Approved in the Period of Eighty eight sessions ending on 05/04/2004. Published in the Official Bulletin of the Cartagena Agreement on 05/05/2004.*

- Interest shall be taxed in the country where credit was used. Unless proof to the contrary, the credit is assumed to be used in the country where interest is paid.
- Dividends and shares shall only be taxable by the member country in which the distributing company is domiciled.
- Remunerations, fees, salaries, etc., in consideration for services provided by professionals, technicians, employees, etc., shall be taxed in the territory where such services were provided.

For all the above said, Decision 40 undoubtedly constitutes a step forward in international taxation in the Andean Community; however, it does not contemplate quite modern and important concepts such as the relationship between subsidiaries and headquarters or the treatment of transfer prices.

Finally, the so-called Standard Agreement has not been applied by the member countries of the Andean Community, because in entering into agreements with third-party countries they opted for the model proposed by the Organization for Economic Cooperation and Development (OECD) or the United Nations Organization (UNO).

2.2.2. Decision 578

Like the Decision 40, the Decision 578 approving the System to avoid Double Taxation and Prevent Tax Evasion establishes the Taxation at Source Principle. However, there are some differences between them:

- It has no provision relative to the Standard Agreement for the celebration of Agreements with third-party countries.
- Royalties are taxable in the member country where the intangible property is used or the right of use thereof is held.
- A definition of the term "interest" is included, which rules out late payment penalties. In addition, it provides that interest and other financial yields are only taxable in the member country where the intangible property is used or the right of use thereof is held.
- It contains tax information exchange mechanisms and assistance in tax collection.
- It provides that the interpretation and application of the provisions contained in the Decision shall be such that their main purpose should be to avoid the double taxation of the same income or property at community level, invalidating any interpretations or applications that result in the tax evasion of taxable income or property in accordance with the legislation of Member Countries.

On the other hand, the Decision 578 imposes a challenge on its application in the case of Peru, because it contains certain differences from the provisions in the Peruvian Income Tax Act (LIRP, in Spanish)[30].

For instance, even though section 9° of the LIRP and the Decision 578 coincide as to the taxable criteria of income generated from real property as well as the income originating in individual work, this is not the case with royalties, because while the LIRP provides that "income shall originate in Peru where the property or the rights generating the royalties are used profitably in the country or where the royalties are paid by a taxable person domiciled in the country"[31], the Decision 578 - like the Decision 40 - states that "the royalties on intangible property shall only be taxable in the Member Country where such intangible property is used or the right of use thereof is held"[32]; that is, the latter only considers a taxability criteria, excluding the domicile of the taxable person making payment.

Another example of the differences between the provisions in the LIRP and the Decision 578 is observed with regard to pensions, for while the LIRP provides that these are sourced in Peru: "Life annuities and pensions originating in individual work, where they are paid by a taxable person or entity domiciled or constituted in the country"[33], the Decision 578 provides that: "Pensions, annuities and other similar periodical income shall only be taxable by the Member Country in which territory the generating source is situated", further establishing when such source is rendered situated in the territory of the Republic[34] and ruling out - for the purposes of determining the country responsible for taxing such income - the domicile criterion of the person responsible for paying any such income or pensions.

2.3. Harmonization of Indirect Taxes in Peru. The General Sales Tax (IGV) and the Excise Tax (ISC)[35]

The General Secretariat of CAN, with the support of the Inter American Development Bank (IDB)[36], worked on the issue of indirect tax harmonization,

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[30] *Single Organized Text (TUO, in Spanish) approved by the Supreme Decree No 179-2004-EF, published on 12/08/2004 and modifying regulations.*

[31] *Subsection b) of section 9° of the LIRP.*

[32] *Section 9° of the Decision 578.*

[33] *Subsection g) of section 9° of the LIRP.*

[34] *Section 15° of the Decision 578.*

[35] *The regulation in the Peruvian laws for these two taxes is found mainly in the TUO of the Value-Added Tax and Excise Tax Act approved through the Supreme Decree No 055-99-EF, published on April 15 of 1999 and modifying regulations.*

[36] *Within the frame of the "Program to support the drafting of regulations on the harmonization of indirect taxes in the Andean Community", financed through a Non-Reimbursable Cooperation Agreement with the Inter American Development Bank (IDB).*

which resulted in a final study containing specific proposals[37], delivered in June 2002 to the competent authorities with the objective that CAN's member countries begin the relevant negotiations in such year's second semester.

After a long process of debates and discussions among government experts representing member countries over the scope of the above cited study, consensus was achieved as to the texts of Decision bills on the harmonization of substantive and procedural aspects of the value-added tax and the excise tax, which were later approved through the Decisions 599 and 600[38], respectively, in an extended meeting with the Ministers of Economy and Finance.

2.3.1. Decision 599

The Decision 599 relative to the VAT comprises, among others, the following aspects:

- A frame of definitions allowing the interpretation and the alignment of the rules of each country with the intent of the Decision. Among these terms are: taxability, right to tax debates or fiscal credit, tax shifting, etc. (Art. 2°).

- As to the material aspect of the taxable activity, the Decision establishes that value-added type taxes are generated in the sale or transfer of property[39], the provision or use of services in the national territory (pursuant to the territoriality rules provided by such rule), and the import of personal tangible property[40] (Section 5°).

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[37] *Basically relating to: the analysis of the fiscal situation of each country in the sub-region, the preparation of a situational diagnosis of technical and administrative aspects of indirect taxes of each country in the sub-region, the revision of documents relative to other integration experiences regarding tax matters, the tours for discussion with the fiscal authorities and the technicians of the central banks of each country, the drafting of the recommendations which collectively comprised a model proposal for the VAT in the sub-region, with quantification of the cost of the proposal and the drafting of the bills for the VAT and ET Decisions. See Luis Arias, Alberto Barreix, Alexis Valencia, Luis Vilela, op. cit., p.9.*

[38] *On 07/12/2004.*

[39] *According to Plazas Vega, the VAT generation would not be limited to the sale of personal tangible property, as it has been traditionally the case, but would extend to all property at large, and thus the sale of intangible property would become taxable. See Mauricio Plazas Vega, Derecho de la Hacienda Pública y Derecho Tributario, Tomo II Derecho Tributario. Bogota, Temis, 1998; p. 618.*

[40] *However, a temporary provision is in place that provides that countries applying a different rule for the taxation of services as of the date of the coming into force of the Decision may continue to do so for 10 (ten) years after the coming into force of the Decision.*

- Further, the VAT is not generated in the merger, takeover, split-off or transformation of corporations and other corporate reorganization types (Section 6°).

- Rules are provided for the territoriality of services (Section 12°):
  - For the services of loading, unloading, switch of transportation means, coastal shipping and storage of goods, as well as for artistic, sport and culture services, they shall be understood provided or used at the place where they are physically performed.
  - For licenses and authorizations for the use and exploitation of intangible property, the services of consulting, advisory and audit, the lease of personal tangible property (used in the country), the services of translation, correction or editing of texts, services relative to property insurance (property located in the country), services performed on tangible personal property (which remain or operate in the country), the services of satellite connection or access, satellite or cable TV (received in the country) and telecommunication services shall be rendered provided in the jurisdiction of the country where the same are used or exploited in the case of services provided from abroad.
  - For the services performed over real property, these shall be considered provided at the place of location of such property.

- As to the export of services (Section 13°), the VAT shall be subject to a zero rate[41] and for an operation to be considered export of services - in addition to the provisions laid down by each country - the following shall be met:
  - The exporter must be domiciled or reside in the exporting country.
  - The user or beneficiary of the service should not be domiciled or reside in the exporting country.
  - The use or exploitation of the service must take place fully abroad, even when the provision of the service is performed in the exporting country.
  - The payment made as consideration shall not be accounted for as cost or expense in the exporting country.

- The Decision provides rules on passenger and cargo transportation services, regulating, on the one hand, the taxation on national air transportation of cargo and passengers; and on the other hand the zero-rate exemption for international cargo transportation (Section 14°).

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[41] *However, a temporary provision is in place that provides that countries that tax the export of services or apply thereon a system other than the zero rate as of the date of the coming into force of the Decision, may continue to do so for up to 6 (six) years after the coming into force of the Decision.*

- The cases of taxation or realization of the VAT-generating activity are contemplated (Section 15°):
  - For the sale of property and the provision of services, the tax shall be generated upon delivery of the property or the completion of service[42].
  - For contracts to be performed over a given period of time, on the due date of each payment or fee and proportionally thereto.
  - For the import of property, taxation shall be imposed upon nationalization of the goods.
  - For the use of services provided by non-domiciled persons, the VAT shall arise at the time the service is provided, on the date of registration of the receipt or the date of payment of the consideration, whichever is first.

- The Decision provides for the concepts that constitute the taxable base, specifying, among other things, that such base includes both the primary and the accessory or supplementary disbursements, even in the case that the latter may be agreed separately (Section 17°).

- The VAT is expected to be generated for both parties in a barter agreement, and the taxable base shall be composed of the value assigned to each of the bartered property, which shall not be less than its commercial value (Section 18°).

- As to the VAT rate, this may be in excess of 19% but the possibility remains open to fix a single preferential rate that shall not be less than 30% of the overall rate in the case of the property and services that were excluded[43] at the time of the coming into force of the Decision (Section 19°).

- From the coming into force of the Decision, the countries may not create or extend the exclusions of property existing in their legislation; however, there are some exceptions to this rule basically with relation to the import of property under diplomatic, consular missions, by international bodies and the import of donated property with destination to the public sector and private health care, education, common use and non-profit organizations (Section 23°).

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[42] *Nevertheless, the possibility remains open for member countries to establish that the tax be generated at the time of the issuance of the relevant receipt for the total amount or at the time of full payment. In the cases of partial payments, each country shall rule the generation of the tax obligation.*

[43] *A term of 10 (years) is given to adapt the legislation of each country to the provisions in the rule governing the VAT rate.*

A similar treatment is given to services, where the exception is granted to education, health and national passenger transportation services, except for air transportation (as per each country's provisions) and financial brokerage services (Section 25°).

- The right to fiscal credit is regulated, which is made contingent upon the acquisition of goods and services required to conduct the taxable person's business activity and which are allocated to the operations subject to the VAT or zero-rate operations (Section 27°).
- A discount is provided for the shifted tax resulting from the acquisition or import of goods which constitute fixed assets (Section 28°).
- In the case of acquisitions indistinctly intended for operations taxed with the overall rate and operations subject to rate zero or tax-exempted, the fiscal credit shall be determined as per each country's legislation (Section 29°).
- In the event the local legislation does not provide a term to return value-added type taxes to exporters, upon the lapse of 2 (two) months from the determination of the returnable amount, the taxable person shall earn interest (Section 33°).

Most of the above described rules provide for a similar treatment as that regulated by the Peruvian legislation regarding VAT matters; however, some cases in Decision 599 differ from the provisions in the TUO of the Value-Added Tax and Excise Tax Act, thus imposing a challenge for its implementation, given that the new regulation should not bring about undesired effects to the harmonization process. Among the differences in regulation, we could cite:

- The definition of services contained in the Decision (section 5°) expands the concept of services contained in the TUO of the Value-Added Tax and Excise Tax Act. Accordingly, once the Decision becomes enforceable, the activity, deliverable or work provided by a natural person having no labor relationship with the person contracting the execution thereof shall be considered a service. Therefore, the income obtained from the services provided by a person insofar as they qualify as first[44], second[45] or fourth[46] category services, shall from then on be considered assessed by the Excise Tax.

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[44] *Income generated from the lease, sublease and assignment of property (subsection a) of section 22° of the TUO of the Income Tax Act).*

[45] *Income from capital (subsection b) of section 22° of the TUO of the Income Tax Act).*

[46] *Income earned from the individual practice of any profession, art, science, craft or any activities not expressly included in the third category; and from the performance of the position of company director, comptroller, representative, business manager, executor and similar activities.*

As a result, despite the aim of greater tax neutrality pursued by the implementation of this Decision, the changes in the Excise Tax system in Peru may also trigger changes in the consumption or investment decisions of economic agents. For example, in the case of independent professionals, the cost of such services for natural persons could increase as from the coming into force of the Decision.[47]

- In the case of international passenger transportation services contemplated in number 2 of Section 14° of Decision 599, the application of such rule would imply that the international passenger transportation service started abroad and terminating in Peru is no longer taxed, even though the ticket would have been sold in our country. So the effects of the implementation of this measure should be taken into account, in light that Peru is a country that attracts an increasing tourist flow[48].
- The most decisive issue, not only for Peru but also for the other member countries of CAN, is that tax exclusions shall only be in respect of the goods and services established in sections 23° and 25° of the Decision 599, respectively[49].

On this regard, Mauricio Plazas believes that when the Decision 599 enforces the elimination of exemption systems for property and services, despite these being of a first need nature and the invalidation of the "zero rate" application (complete exemption, with the right of the producer of goods or the service provider to recover the taxes shifted by their suppliers and services providers), the measure will have a regressive effect, because it will cause a greater impact on the disbursement to be made by low-income persons to acquire property and use basic services. However, the author also points out that member countries may counteract the regressive nature of the new system at least partially through the establishment of a preferential rate not less than 30% of the overall rate referred to in section 19° of the Decision in question[50].

Alternatively, the elimination of exemptions in Peru additionally implies invalidating zones of VAT immunity, such as the Amazon region. Despite the

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[47] *However, it should be pointed out that the temporary provision in section 5° of the Decision establishes that the countries applying a different rule for the taxation of services as of the date of the coming into force of such Decision, as is the case of Peru, may continue to do so for 10 (ten) years after the enforcement of the Decision.*

[48] *Pursuant to the temporary provision of section 14° of Decision 599, countries having a different regulation may continue to apply it for up to ten years after the enforcement of the Decision.*

[49] *In the case of the exclusion of both goods and services, the Decision 599 provides that from the beginning of the eleventh (11th) year of the coming into force of the Decision, only the exclusions contemplated by such rule shall be maintained.*

intention of the Peruvian State to eliminate it progressively through the Legislative Decree No 978[51], this could not be accomplished because the process of gradual substitution of exemptions contemplated by the cited rule was suspended by the Congress of the Republic until January 1 of 2011[52].

In addition to the immunity zone mentioned in the preceding paragraph, there are in Peru the so-called Export, Transformation, Industry, Trade and Service Centers (CETICOS, in Spanish)[53], which are zones where VAT is not generated and in respect of which the sales of goods or the provision of services from the rest of the territory are not considered exports.

2.3.2. Decision 600

The Decision 600 contains the regulation of the excise tax, providing overall a similar treatment as that of the Peruvian legislation. Some of its provisions are:

- Given the nature of the Andean harmonization system regarding indirect taxation on consumption, all the general rules governing value-added type taxes compatible in nature are applicable to the excise tax, especially those relating to the time of taxability, the territoriality principles, the general aspects regulating the taxable matter in the sale of goods assessed with the tax and the definitions of taxable persons (Section 3°).
- The withdrawal of goods by the person taxed with the excise tax for a purpose other than the taxed activity shall generate a tax over a base constituted by the commercial value of the good (Section 5°).
- As to the determination of the tax, the excise tax shall be determined by directly applying the fixed rate or amount provided for the relevant taxed good or service, over the taxable base or the benchmark magnitude or physical unit, in accordance with the local legislations of the Member Countries (Section 9°).

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[50] *In the opinion of Plazas Vega, the ideal system of exemptions is the "zero rate" system, although seldom applied worldwide, except for the export of goods. See Mauricio Plazas Vega, op. cit., p. 620.*

[51] *Act establishing the delivery to the Regional or Local Governments in the Jungle Region and the Amazon Region, for investment and social spending, of all tax resources the exemption of which has not benefited the population.*

[52] *Pursuant to Act No 29310, published on 12/31/2008 and clarification rule.*

[53] *Located in Ilo (Moquegua), Matarani (Arequipa) and Paita (Piura).*

3. THE PROBLEM OF THE VALIDITY OF THE DECISIONS ON DIRECT AND INDIRECT TAXES

Section 3° of the Decision 472 of the CAN[54] states that "the Decisions of the Andean Council of the Ministers of Foreign Affairs or the Commission and the Resolutions of the General Secretariat shall be directly applicable in the Member Countries from the date of their publication in the Official Bulletin of the Agreement, unless a later date is stated", thus abiding by the "direct application" principle according to which the community regulation "should be directly applicable in the territory of all the States participating in the process of Andean integration, without the need to follow a special procedure or diligence for approval, admission or incorporation [...] into the national legal systems.[55] Nevertheless, the above cited section adds that "where the text so provides it, the Decision must be incorporated into the local legislation by means of an express act indicting the date of its coming into force in each Member Country".

Thus, the original text of the Decision 578, 599 and 600 provides as a requirement for its validity, the incorporation into the local laws of each member country where it is so established in their constitutional regulations[56].

On this regard, it should be noted that we are in the process of the approval by CAN of supranational rules issued in furtherance of a treaty signed by the Peruvian State, and not of actual treaties.

It should be underlined that the Political Constitution of Peru does not provide for the existence of this type of rules in the Peruvian legal system, or the transfer of legislative prerogatives to supranational bodies. This situation has already been addressed in doctrine, such as in Brewer Carias[57], who states that: "With the exception of the Constitutions of Colombia and Venezuela, the Constitutions of Bolivia, Ecuador and Peru, members of the Andean Group, do not authorize the legislative bodies of such States to transfer, delegate or assign their constitutional legislative prerogatives to the bodies of the Andean Community; and these States, therefore, do not waive their power to legislate on transferred, assigned or delegated matters or prerogatives".

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[54] *Treaty Creating the Court of Justice of the Andean Community, approved by the Congress through the Legislative Resolution No 26674, published on 10/23/1996.*

[55] *Novak Talavera, Fabián: "La Comunidad Andina y su Ordenamiento Jurídico". In Derecho Comunitario Andino. Lima: Fondo Editorial de la Pontificia Universidad Católica del Perú, 2003, p. 68*

[56] *However, the Decision 635 - approved on 07/19/2006 - invalidated the provisions of Decisions 599 and 600 and provided that they would become enforceable on 01/01/2008.*

[57] *Brewer Carias, Allan R. "Implicancias Constitucionales del Proceso de Integración en la Comunidad Andina". In: Derecho Comunitario Andino. Lima: Instituto de Estudios Internacionales de la Pontificia Universidad Católica del Perú, 2003, p. 113.*

In this sense, in Peru, and specifically in respect of the Decisions 578, 599 and 600, the direct application of such community rules does not proceed; because given the matter they regulate, they should be previously incorporated into the national laws pursuant to the principle of legality contained in section 56° of the Political Constitution of Peru[58].

In effect, given that the enforcement of the cited Decisions implies the adoption of substantive aspects of the Income Tax, the Value-Added Tax and the Excise Tax, respectively, their incorporation into the Peruvian legal system by the Congress of the Republic of Peru is required, and no omission thereof is admitted by reason of the application of an Andean derived community right.

4. ACTIONS TARGETED AT THE IMPLEMENTATION OF THE DECISIONS AND CURRENT STATUS

The General Secretariat of CAN has commissioned the performance of technical reports to analyze the legal, fiscal and economic implications of the implementation of the Decisions. Notwithstanding that, the Secretariat currently considers that the financial and technical support of the IDB should be sought for the performance of studies intended to delve deeply into the economic impact, and incorporate the effects of Decision implementation on the social environment as well as on sensitive productive sectors of each economy.

Further, the General Secretariat and the Member Countries are analyzing the possibility of modifying the enforcement date of the Decisions, as well as technical aspects of most sensitive sections, scheduled for a future meeting of the Council of Economic or Finance Ministers, Central Banks and the responsible for Economic Planning of the Andean Community.

[58] *This section provides that all treaties creating, modifying or eliminating taxes; or requiring the modification or derogation of any law or requiring legislative measures for its execution, should be approved by Congress.*

Case study

Topic 3.2

ECONOMIC INTEGRATION AND HARMONIZATION OF THE TAX SYSTEMS AND ADMINISTRATIONS

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CONTENTS: Introduction.- 1. Toward a scale of harmonization .- 1.1 Reviewing the literature.- 1.2 Building a tax harmonization scale.- 1.3 The scale.- 2.Latin American experiences and the tax harmonization scale.- 2.1 Standardization.-2.2 Compatibility .- 2.3 Coordination.- 2.4 Cooperation.- 3. Conclusions.

INTRODUCTION[2]

It is a broadly acknowledged that a country's form of international insertion determines trade in goods and services, as well as investment flows. Hence it has a significant impact on a country's technological level and production structure, and it conditions its tax structure. Additionally, if (as Musgrave holds) economic integration is "the process through which economic relations and interdependence among areas are broadened and deepened"[3] it is evident that, in order for integration to be attained, the barriers interfering with the process have to be removed. Since taxes may be barriers to the free movement of goods, services or production factors, their adjustment to integration should be examined.

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[1] *This text is a summary version of a previous paper issued as a chapter of the book: "Taxation and Latin American Integration", Vito Tanzi, A. Barreix and L. Villela (eds.); Harvard University Press and Inter-American Development Bank, 2008.*

[2] *The authors are grateful to Vito Tanzi, José Manuel Calderón, Adolfo Martín Jiménez y Jerónimo Roca for their useful comments. They also thank Patricia Abad and Maricela Cruz for assistance.*

[3] *Musgrave, 1967: 208*

This paper does not seek to review market integration theories or the effects of taxation on the market.[4] Rather, it takes the premise above as a given-that taxes may comprise a barrier-and therefore analyzes and describes Latin American efforts to address the issue of fiscal barriers.

The formulas that have been suggested to remove fiscal barriers to integration are diverse, both as regards the degree of harmonization they have sought and attained, and the legal instruments used. The first part of this paper classifies different degrees of harmonization.[5] Its purpose is to build a conceptual framework that might allow for a more coherent presentation of harmonization experiences, particularly in Latin America. The second part reviews concrete harmonization experiences in the region, arranged in line with that classification.

1. TOWARD A SCALE OF HARMONIZATION

1.1. Reviewing the Literature

A brief review of the literature on tax harmonization reveals several interesting things:

(i) There is no consensus on the technical definition of tax harmonization.

- To begin with, the dictionary is of little help, since the general dictionary definition does not address a technical issue such as this. It refers to "bringing into harmony [that is, "establishing a proper proportion and correspondence between some things and others"], or bringing into consonance two or more parts of a whole, two or more things that must concur to the same end." Etymologically, the word derives from armos in ancient Greek, which means "a fitting or joining." Perhaps the lesson to be learned from the linguistic analysis is that harmony, contrary to what some authors have held and in contrast to popular belief[6], cannot be compared with uniformity. As in music, there are ways of combining and adjusting certain sounds with others so that the whole "sounds pleasing."

- Technically speaking, the analysis could consider whether there is any explicit legal concept. In the European context, Article 94 of the Treaty of Amsterdam includes the term "harmonization," though the

[4] *For a summary of these issues and for relevant references, see Martín Jiménez (1999: 7-17).*
[5] *The term "harmonization" is difficult to define. This paper pays some attention to the different conceptual approaches to the subject.*
[6] *David Fairlamb, "Tax Harmony, EU fracas" Businessweek, May 2004*

term is defined neither there nor in any other part of the treaty and is frequently used only in relation to indirect taxes. As to direct taxes, Article 95 refers only to "an approximation of laws," without expressly mentioning the word.[7] Hence nothing definitive emerges from this approach either.

- Turning to the literature, the International Tax Glossary of the International Bureau of Fiscal Documentation (IBFD)[8] defines tax harmonization as the elimination of differences or inconsistencies between the tax systems of different jurisdictions, or making such differences or inconsistencies compatible with each other.

- Peggy Musgrave defines tax harmonization as "the process of adjusting national fiscal systems to conform with a set of common economic aims"[9].

In conclusion, the term "harmonization" has been defined in different ways, but the underlying notion is that there are several possible degrees of harmonization and that these are related to the economic background-that is, the level of integration pursued. Tax harmonization, therefore, is instrumental to economic integration.

(ii) The range of instruments (and hence of options) currently available to remove fiscal barriers to integration (that is, to accomplish tax harmonization) is wider.

- Pinder, taking and reformulating an idea first advanced by Tinbergen, spoke in 1968 about "negative integration" (obligations not to do certain things, with a view to eliminating discrimination among economic actors) and "positive integration" (involving the design and application of common and coordinated policies).[10]

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[7] *Art. 94: "The Council shall, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market."*
Art. 95: "The Council shall … adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.
2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons."
(Article numbers used correspond to the 1997 consolidated version of the Treaty Establishing the European Community).

[8] *IBFD International Tax Glossary, fifth edition, Ed. Barry Larkin. IBFD 2005*

[9] *Musgrave, P.B. "Harmonisation of direct business taxes: A case study".*

[10] *For a detailed analysis, see Martín Jiménez (1999).*

- González Cano argues that there are two tax harmonization mechanisms: uniformity and compatibility[11]. The second, in his opinion, is the one to be applied at the early stages of economic integration, when tax harmonization is also incipient.

- Martín Jiménez analyzes the relationship between aims and instruments when he examines the role of "soft law" in the European Union's (EU)[12] scheme of tax harmonization instruments, but he does not do so in order to establish a classification of tax harmonization or levels of action. Nor does he seek to analyze the relationship between phases of integration, degrees of harmonization and the instruments most commonly used to attain each level.

- J. M. Calderón and M. A. Caamaño, like Martín Jiménez, note that developments in the international context foster greater sophistication in the instruments available to the authorities in their efforts to bring tax policies closer, thereby avoiding distortions-or simply in response to an aggressive environment.[13] Though they provide an interesting description of examples of what they call "tax coordination," they neither define the term nor establish its distinctive features relative to other mechanisms for approximating or harmonizing taxes (although this matter is not crucial for their analysis).

To conclude this brief review, there is a growing perception that the trend is towards a far richer, more complex and multifaceted dimension of harmonization objectives or degrees, with their attendant instruments. All this tends to bring tax systems closer, perhaps imperfectly, and may lead to an "international tax system"[14] (Caamaño and Calderón, 2002). But the tax-related literature has not yet clearly established a true scale of harmonization actions, with their corresponding regulatory instruments (in formal and non-formal law).

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[11] *González Cano, H.: "armonización tributaria del Mercosur", p. 28 & ss*

[12] *Martín Jiménez, A. Op. cit. pp 299 & ss*

[13] *Caamaño, M.A. y Calderón, J.M. Globalización Económica y Poder Tributario: ¿Hacia un nuevo Derecho Tributario? These authors do seem to draw a distinction between planned harmonization and spontaneous approximation. (vid. p. 28)*

[14] *Vid Caamaño, M.A. & Calderón, J.M. Op. Cit*

(iii) Moreover, although the economic evolution of the different degrees of integration has been well defined, particularly using the typology of Balassa (1961: 2),[15] studies have not yet focused on whether there is any parallelism or inherent logical relationship between the levels of integration pursued,[16] the degrees of tax harmonization required and the regulatory instruments used. This paper does not seek to establish a dogmatic classification but to help clarify the different degrees of harmonization and to apply them to the Latin American experience.

1.2. Building a Tax Harmonization Scale

The theoretical and practical background is sufficiently robust for an attempt to develop, on the basis of one criterion or more, a true scale (that is, a logical order) of the degree of tax harmonization. The third part of this paper, following the review of specific Latin American harmonization experiences, examines whether harmonization aims and instruments may be correlated and, if so, the rationale behind that correlation.

1.3 The Scale

The first methodological matter to be considered in building the scale is the choice of the guiding criterion. There are several possible criteria: the status of the legal rule used, the political commitment assumed, the economic implications at stake, and so forth. This paper classifies harmonization actions according to the political commitment assumed. This is because certain actions (giving harmonization its broadest sense) may involve the use of different legal instruments, or may not be reflected in any legal instrument, at least not in a single one that meets the classical criterion of the normative pyramid.[17]

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[15] *Free trade area: countries undertake to eliminate tariffs and quantitative restrictions on traded goods, but maintain a separate external tariff. Customs union: a common external tariff is adopted. Common market: the free movement of labor and capital is added to the free movement of goods and services. Economic union: in addition to the above features, national economic policies are coordinated to eliminate distortions caused by different policies. Economic integration: monetary, fiscal, social and counter-cyclical policies are unified.*

[16] *See section 4.*

[17] *For an analysis of the soft law paradox, see Martín Jimenez (1999) Chapter 7, which shows that it is hard to place modern harmonization instruments into a hierarchical order, particularly if a court (in the case analyzed by the author, the European Court of Justice) relying on the thesis contained therein, may inadvertently raise the status of any of the instruments.*

Thus, tax harmonization processes involve the following steps, arranged in descending order of political commitment:

Standardization. This consists of having the same tax or, as González Cano puts it, "in equalizing the tax burdens imposed on the same item, under equal circumstances"[18]. It is the highest degree of harmonization. An example is the adoption of a common external tariff (CET).

Compatibility. Quoting González Cano again, compatibility involves "adjusting the tax structure in order to … counteract or compensate for the distortionary effects caused by tax burden disparities upon the integration process"[19]. Although not directly stated by González Cano, adjusting those elements in the tax structure does not mean that they should be necessarily identical. In fact, compatibility does not affect the tax rate or tax benefits, at least not to their full extent. The reason is that if this were the case, there would be almost no difference between this form of harmonization and the previous one, thus eliminating its distinctive features-that is, the non-exhaustion of its capacity for harmonization, particularly with respect to an extremely sensitive element such as the tax rate, and that it leaves more room for policymakers to make tax policy decisions.

In the classical, particularly European, literature, there is a tendency to confuse this with "harmonization" in the strict sense of the word-that is, standardizing tax bases, connection points, and taxable items, but leaving some maneuvering room for tax rates, or even for exemptions. Compatibility, then, is somehow associated with more advanced integration objectives-that is, when internal tax distortions are detected.

But making tax regulations compatible may begin much earlier, with free trade areas. Mutual tariff benefits do not need to be granted uniformly (some countries can grant benefits on some products, while other countries do so for others), as long as all parties respect the "global reciprocity" principle in the concession of fiscal benefits and the gradual trend towards increasing the benefits granted.

Ideally, any compatibility scheme should involve an institutionalized follow-up mechanism to ensure its effective enforcement. Unlike equalization, under which the harmonization scheme is less complex, with compatibility (since there are no strict definitions to determine what has and has not been made compatible; that is, some state decisions comply with harmonization

[18] *González Cano, H.; Op. cit.*
[19] *Idem*

objectives but others do not) it is highly advisable to establish a follow-up mechanism to keep track of what each country does in this respect, so as to ensure that the goal of harmonization is not adversely affected. A emblematic example of this kind of harmonization is the Sixth Directive of the EU on VAT harmonization.

Coordination. The concept of tax coordination is far from being accurately defined in the literature. For some authors, coordination appears to be any action transcending typical harmonization mechanisms, which might be confined to the two categories above[20]. But this would bring the typology to an end when, in fact, the various tax-approximation methods tested so far allow harmonization to be broken down into more categories.

Perhaps the best way to define this "in-between" category (in the typology herein, it is the third of five) is as follows: "coordination" is everything that does not fit into any of the other four categories. Hence this paper implicitly acknowledges, as do other authors, how difficult it is to find define it accurately. As to the degree of the political commitment involved, it is a step forward relative to the two following categories, as can be easily inferred. There are various examples of coordination: codes of conduct are a case in point.

Cooperation. This is the provision of mutual assistance, either for reasons of reciprocity (for instance, one country supplies tax information in the expectation that it will receive information from its counterpart at some other time) or out of mutual interest (such as when double taxation is detected and two countries undertake to cooperate). A distinction can also be drawn between practical cooperation (as in the previous example) and theoretical cooperation (for example, providing assistance or sharing best practices in taxation). In any case, cooperation does not a priori entail sharing a common tax policy (except for the fact that cooperation is a policy in itself). It might be argued that, since there is no sharing of policies, there is no approximation and no reason to include this mechanism in this category. A closer examination, however, reveals that existing bilateral and multilateral cooperation mechanisms, by creating more homogeneous tax administrations, are contributing to a more consistent application of tax systems, thus ensuring greater horizontal equity and leveling the playing field for economic actors. In addition, the creation of cooperation mechanisms makes countries aware of and adopt the best solutions, both in terms of tax administration and of policy-for instance, to adopt, after relevant consultations, the same interpretation criteria in a complex case when laws are similar or there is a double taxation agreement.[21]

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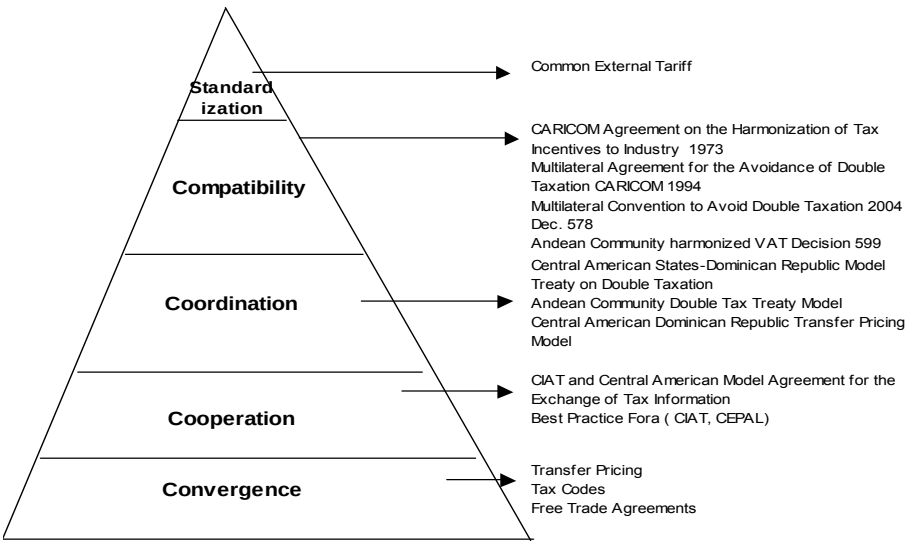
[20] *See note 12*

[21] *Caamaño and Calderón (2002: 18-21) implicitly endorse this idea but classify these actions as coordination because in their view they derive from "backdoor rules"-pseudo-regulatory instruments devised by international organizations.*

Convergence. Curiously enough, this end of the harmonization scale has not passed unnoticed by many of the authors mentioned.[22] This is a spontaneous movement (sometimes inevitable, though unwanted) towards the same type of solution, as a result of globalization and competition. Convergence is classified in the fifth and last step from the standpoint of voluntary political commitments because no particular harmonization action has been taken for reasons of political will,[23] but because the country cannot escape from the trend or admits (probably unconsciously or against its own wishes) that this is the best approach to take. Hence, in spontaneous convergence, there is always an element of discomfort or, at least, passivity.

Harmonization Degrees Pyramid



[22] *See Kopits (1992), and Caamaño and Calderón (2002).*

[23] *When there is political will, unilateral or not, it can always be seen to be based on the usually explicit conviction that adjusting to third parties is an appropriate way to respond to a concrete problem.*

2. LATIN AMERICAN EXPERIENCES AND THE TAX HARMONIZATION SCALE

It should be kept in mind that this review has a twofold purpose. On the one hand it seeks to examine a considerable number of experiences in order to show that Latin American economic history is also a history of tax harmonization. The interest in these experiences lies in noting and classifying them, although the latter endeavor may sometimes appear arbitrary. Hence, apart from more recent phenomena that may interest readers because of their novelty, this paper offers a brief account rather than a thorough description.

Moreover, this classification could be useful for the purposes of examining, in the third part, the ratio armonitatis that might underlie integration-in other words, to examine whether, in Latin America's turbulent integration movement, there is an intrinsic logic whereby identical or similar degrees of tax harmonization are attained when integration objectives are comparable.

2.1. Standardization

2.1.a Common external tariff and customs union

As mentioned earlier[24], this is the paradigmatic example of a tax law standardization.

A customs union can be defined as "the merging of several customs territories into a single customs territory in order to consolidate the free movement of goods, regardless of their origin, provided the goods originating in third countries are cleared in any of the member states"[25]. Hence it is an economic integration objective. The key element-though not the only one-in any true customs union is the adoption of a CET. This must be the same across the customs union's whole external border, because otherwise trade diversion and other perverse phenomena would occur.

There are four customs unions in Latin America, all of them of different scope: the Andean Community (CAN), the Caribbean Community (CARICOM), the Southern Common Market (MERCOSUR) and the Central American Customs Union.

Although the degree of harmonization pursued has been the same, the instrument used has not, since this largely depends on how much sovereign

[24] *Vid. This article part 1.*
[25] *SIECA, 2006*

authority has been ceded to common institution-in other words, the degree of "supranationality." When supranationality is weak or still being introduced, as in Central America, the solution lies with intergovernmental approaches, wherein classical international agreements or treaties, duly ratified, impose commitments on the member states. When substantial authority has been ceded to relevant institutions,[26] they are responsible for completing the process.

2.2. Compatibility

As the first part of this paper described, the next step is known as compatibility, whereby the political commitment (in other words, the cession of sovereignty) involved is weaker. This degree of harmonization, however, may be appropriate when a strong common discipline is required to avoid distortions but when there is no need or desire to standardize every structural component of a tax. Examples in Latin America include the following.

2.2.a Latin American Integration Association (LAIA)

The Treaty of Montevideo established the LAIA -- a successor to the Latin American Free Trade Association (LAFTA), which was founded in 1960 -- in 1980. Notwithstanding its name, it is a typical free trade area, wherein countries grant regional trade preferences on a reciprocal basis (Article 5). The regional agreements resulting from the Treaty of Montevideo, particularly the agreement establishing the RTP, provide for a series of reciprocal tariff concessions combining detail (an average 20 percent tariff reduction) with flexibility (national lists), and which may be categorized as "tariff compatibility."

2.2.b CAN Decisions 40 and 578 (Multilateral Convention to Avoid Double Taxation 1970 and 2004)

In 1970, the Andean Community (Bolivia, Colombia, Ecuador, Peru and, at that time, Chile but not Venezuela) adopted Decision 40, which already contained the key elements that were to be included in Decision 578. De facto, however, the decision was never fully enforced and it made no provision for correlative adjustments in the event that there were profits from transactions between related companies. It was therefore judged necessary to draft a new Decision addressing this matter, together with other technical modifications, and to enforce a new regulation that should be beyond dispute. In 2004, Decision 578 was approved.

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[26] *Without purporting to exhaust the subject, since it is beyond the scope of this paper, it is worth noting that the only subregion currently seeking-at least on paper-a supranational structure is the Andean Community.*

It is a multilateral agreement intended to avert double taxation. The tax is levied almost exclusively at source (except for goods transported by sea or air, or imported by diplomatic or consular employees).Although it roughly follows the structure of the Organization for Economic Cooperation and Development (OECD) and United Nations models as regards income-related matters, it has certain peculiarities, such as the definition of key concepts that are subsequently used throughout the text of the Decision: royalties, interest, capital gains and others. It is surprising, however, that there is no definition of a resident or non-resident individual. There are also some peculiarities concerning the determination of connection points, especially as regards technical assistance services.[27] And none of its articles make reference to the elimination of double taxation (a natural consequence of the fact that all the rights to tax are exclusive).

However, this model agreement presents some problems. The Decision does not automatically solve source/source disputes (that is, when two countries believe that the income originated in their own territory). Consider that country B has a branch of a bank belonging to a financial institution domiciled in country A, and that the branch is earning interests on a loan, the debtor of which resides in country C. Under the Decision, both B and C may argue that the income originated in their territory.

In short, the theoretical degree of integration resulting from this Decision is significant. Moreover, according to data collected directly in Peru and Colombia,[28] this regulation is fully enforced at present in these two countries, regardless of the difficulties arising from the fact that this double taxation agreement scheme (with exclusive taxation at the source) has to coexist with other agreements, whereby the country of residence retains a great deal of sovereignty. Peru, Bolivia and Ecuador have signed double taxation agreements of this sort, and Colombia is currently negotiating one. Hence, as far as harmonization is concerned, Decision 578 can be seen as an advance in the field of direct taxation in the CAN.

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[27] *Article 14. "Corporate income from services, technical services, technical assistance and consultancy services rendered. Income earned by businesses providing professional, technical, technical assistance and consultancy services shall only be taxable in the member country where the income from such services originates or is generated. Unless proof to the contrary is provided, the place where the income originates is presumed to be the place where the pertinent charge is made and recorded."*

[28] *The IDB is conducting a diagnostic survey of the international activities of tax administrations in some countries of the region, including Peru and Colombia (Project ATN/FG-9141-RS). The analysis has established that the tax administration and multinational companies are complying with this rule.*

2.2.c CARICOM agreement on the harmonization of tax incentives to industry (1973)

This international treaty establishes a policy of tax incentives to industries. As regards its substance, the high level of detail is surprising because of the many issues it covers as well as the types of incentives it is designed to regulate or limit.

As to the degree of harmonization, a legally binding text with such a high level of detail should fit within this category (compatibility), since there is a real attempt to harmonize tax incentive policies, without regulating incentives completely and in minute detail-that is, countries still have significant maneuvering room.

Three other matters should be noted. First, this treaty imposes obligations on the member states under a typical CARICOM intergovernmental scheme.[29] As far as results are concerned, its high level of detail, coupled with the fact that it does not establish any legal consequence (in the form of penalties or otherwise) in the event of non-compliance, led the countries whose tax incentive policies were different from this scheme to expend little effort on making the necessary adjustments. That, in turn, discouraged the other members that did strive for compliance. The result is that the text is ineffective today[30].

Finally, a logical consideration is as follows: if the scheme may be deemed a failure, as it seems to have been, what failed: the objective or the instrument?[31] suggest that both failed: (i) on the one hand, the objective was overly ambitious, while the definition of a true investment policy for the region-and probably the actual economic integration of the Caribbean-was not framed within a consistent context; and (ii) on the other hand, there were enormous practical problems in implementing the agreement because of the absence of coercive enforcement mechanisms. According to us, the biggest failure was probably the objective as it related to the instrument.

CARICOM probably should not have embarked on such an ambitious policy[32] without the institutional instruments required to ensure the success-inherently

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[29] *Art. 17: "Member states shall be responsible for implementing this tax scheme through their own domestic legislation, in accordance with this agreement."*

[30] *Vid. Lecraw, D. "Investment Incentives in CARICOM Member States: Improving Effectiveness and Harmonization" Inter-American Development Bank, 2003.*

[31] *Lecraw, D. Op. cit. pp. 34 & ss*

[32] *If this agreement is akin to anything, it is the "Commission notice on the application of the state aid rules to measures relating to direct business taxation," OJEC C. 384 of 10.12.1998, C 384/03.*

difficult-of such an enormous undertaking at such an incipient stage of economic integration as that prevailing in 1973 in the Caribbean. Hence it was the rationale, the internal logic of integration that actually failed.

2.2.d CARICOM multilateral agreement for the avoidance of double taxation and the prevention of tax evasion and fraud (1994)

To a significant extent this agreement resembles Decision 578 above; it also draws on another similar accord of 1973. Decision 40 (1970) was adopted first; then came the first CARICOM Agreement (1973), then a second CARICOM agreement was approved in 1994; and finally Decision 578 was adopted in 2004. Since the Andean Community instrument preceded the Caribbean one, the former has been analyzed in greater detail. The CARICOM multilateral agreement has many features in common with Decisions 40 and 578 (taxation is exclusively at source, technical assistance services are broadly defined and subject to taxation solely at source as well), but it has a distinctive feature of particular importance for the analysis here: it sets maximum withholding rates at the source for dividends, interest, royalties and technical assistance services.[33] This is significant because it involves a higher degree of harmonization and, as mentioned above, this is one of the main problems with the CAN's Decisions.

Given the level of intrasubregional FDI in the Caribbean in 1973,[34] the question arises again as to whether this level of harmonization was a necessity in the context of Caribbean market integration. It may reasonably be asked whether "the cart was put before the horse."

2.2.e The Andean Community harmonized VAT

In 2004, after lengthy negotiations, the CAN approved Decisions 599 and 600, providing for the harmonization of VAT and excise taxes, respectively. The harmonization of indirect taxes is necessary to reinforce the CAN's customs union and minimize the asymmetries caused by competition under very dissimilar indirect tax regimes.

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[33] *See Articles 11-14 of the agreement among the governments of the member states of the Caribbean Community for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income, profits or gains and capital gains and for the encouragement of regional trade and investment (1994).*

[34] *If intra-regional trade is considered as the determinant of the level of FDI, in the EU (6) the level of intra-community exports reached 70 percent of total exports in 1973 while in CARICOM it is now slightly more than 26 percent nowadays-even though tourism services are much more significant than exports in the CARICOM countries.*

The Andean VAT scheme may be summarized as follows:

(1) The VAT is designed with the tax credit method, based on consumption, and the destination-country principle is applied at each production stage. This approach averts the cumulative effect, which is a normal feature of sales or income taxes that discriminate against specialized firms and favor vertically integrated ones.

(2) A common list of exempted goods and services, especially sensitive services-such as education, health and domestic transportation of passengers, except air transport-and financial intermediation services will be adopted in the long run. Exemptions or exclusions will be subject to domestic legislative decisions.

(3) Should there be multiple tax rates, they are to be reduced to no more than two-a general tax rate shall be equal to or lower than 19 percent, while the minimum preferential rate may not be lower than 30 percent of the general tax rate, in order to facilitate VAT administration. The limit imposed on the general tax rate derives from an political economy argument: if it were higher, pressure would follow as a result of differential rates and exceptions. Zero-rate VAT will be applied exclusively on exports of goods and services.

(4) Specific regulations are adopted to protect taxpayers' rights, without limiting the tax administration's powers.

(5) Coordination mechanisms for international transactions are implemented on the basis of the "non-discrimination" principle between domestic and foreign production.

The period within which member countries must comply with this regulation varies according to the measure in question, the maximum being 10 years. Member countries have undertaken to establish follow-up mechanisms to verify the progress made every two years.

The VAT model adopted rests on three pillars. The first of these is the member countries' willingness to integrate, as reflected in the facilitation of intraregional trade and the harmonization of the main tax at the base. The second is to bring the quality of the VAT (whose productivity is currently very low: see Table 1) up to the best international policy and management practices. This task will be undertaken with regional support. Finally, it has been observed that the general application of the VAT has very little impact from a distributional standpoint (Table 1).

The VAT has been designed in such a way as to favor neutrality and simplicity, tax-rate competition and preference for tax determined solely at the national level. First, priority was given to sectoral neutrality and to a simplicity that should facilitate administration, establishing administrative mechanisms to combat tax evasion. Since almost all transactions are subject to taxation, tax control and audit activities are facilitated by keeping track of invoicing throughout the value added chain. Table 1 illustrates the incidence of VAT relative to the total tax burden (the average for the region is about 50 percent) and its relatively low productivity in each country, notwithstanding the significant improvement in the quality of the region's tax administrations over the last decade.

Table 1
VAT Collection, Productivity, Progression and Redistribution at CAT

	Bolivia	Colombia	Ecuador	Peru	Venezuela
Collection [a]					
Tax Incomes	13.7	14.3	12.0	12.9	8.7
VAT (% tax incomes)	46.0	43.4	54.2	41.9	55.2
VAT Productivity [b] (Coll VAT % GDP/Nom. Rate)	42.4	38.9	54.6	29.7	30.0
Progression					
Gini Income before VAT	0.556	0.537	0.408	0.535	0.423
Cuasi- Gini of VAT	0.547	0.469	0.445	0.358	0.473
Kakwani (if < 0 ≥ regressive; if >0≥ progressive)	-0.009	-0.068	0.038	-0.177	0.050
Redistribution [c]					
Gini Income after VAT	0.557	0.541	0.406	0.547	0.427
Transfer from 50%- to 50%+ (or from 50%+ to 50%-)	-0.05%	-0.20%	0.09%	-0.60%	-0.22%
Losers	2 y 3	1 al 6 y 9	9 y 10	1 al 8	10
VAT – Who pays the tax [c]					
20%+ (richer) / 40%- (poorer)	8.9	4.0	3.7	2.3	6.2

Source: Arias, Barreix, Valencia y Villela (2004) and Barreix, Roca y Villela (2006).
Notes: a & b Data for 2003. c Data for Bolivia and Peru correspond to 2000. Data for Colombia, Ecuador and Venezuela correspond to 2003.

Second, on average, tax in the subregion is slightly regressive on income but progressive on spending, in line with several studies in Latin America. Hence, if VAT revenue were collected mainly from higher-income sectors, its targeted use (through public spending) on behalf of the most vulnerable social sectors may make the VAT both progressive on income and an effective tool for well-targeted social spending. Studies on the Andean countries[35] show that the VAT paid by the wealthiest quintile is several times greater than the VAT paid by the two lowest-income quintiles, as Table 1 shows.

[35] *Arias, L., Barreix, A., Valencia, A. & Villela, L. (2004). "La armonización de los impuestos indirectos en la Comunidad Andina". BID, INTAL & A. Barreix, J. Roca & L. Villela (2006). "Política Fiscal y Equidad en los países de la Comunidad Andina de Naciones". Comunidad Andina de Naciones. Lima.*

Third, the member states retain enough fiscal autonomy to set the fiscal mix: setting their own rates for VAT collection purposes and establishing the level of public spending best suited for the country from the economic, social and political perspectives.

Finally, the countries agreed that VAT would be defined at the national level and centrally administered.

2.3. Coordination

Previous note: Attempts to identify coordination experiences are on slippery ground. As mentioned in the categorization of harmonization, "coordination" may only be defined in contrast to all the other established categories, whose boundaries are more clear-cut when placed in a hierarchy.

Rather than developing a more accurate doctrinal definition of coordination, therefore, there follows an enumeration of all that has been deemed, reasonably, not to fit in the other four categories:

2.3.a Central America-Dominican Republic model double taxation agreement[36]

This model agreement was recently presented to the economy and finance ministers of Central America and the Dominican Republic. The document is not legally binding on the signatories-the countries do not even expressly undertake to use it as a model in the event of negotiations-but it provides an interesting level of coordination on international tax policy for non-residents, and even among the signatory countries.

This instrument has great potential and represents a major advance because: (i) it indicates that the countries have decided to embark on a negotiating policy for double taxation agreements that will pose enormous challenges (negotiation, interpretation, effective application); (ii) the countries have come to acknowledge the advantages of working together, or at least the huge complications involved in undertaking this policy unilaterally; and (iii) establishing technical teams to devise this instrument creates a sense of community that persists over the long term, thereby fostering a shared vision

[36] *Including Panama.*

and enhanced coordination, particularly as regards three matters: tax policy for non-residents[37] (articles 6 to 21 of the model); the commitment (and to a large extent the technical formulation) to avoid or correct international double taxation (article 22); and mechanisms for cooperation between tax administrations (articles 24 and 25).

To be clear, the tax regime for non-residents earning income in these countries is not uniform in all of them. For example, the concept of permanent establishment is defined in the domestic legislation of some of them but not others; and there are different definitions of things such as royalties, interest, and so on.

Unlike many other instruments analyzed herein, this agreement is very recent. Thus it is difficult to appraise its scope and effectiveness. The Central American Free Trade Agreement (CAFTA) was the triggering factor, but it would be simplistic to think that this decision to coordinate taxes sprang from CAFTA alone: before[38] and after[39] CAFTA, progress was made on integration.

2.4. Cooperation

If we start this section with a "boutarde", we would probably have to say that cooperation is the most civilized form of harmonization, since no policy rapprochement is involved. Sovereignty is respected, and cooperation only happens if there is a previously identified interest, be it reciprocal or mutual. The most typical example of this kind of harmonization is the exchange of information between tax administrations.

2.4.a Information exchange

The exchange of information in Latin America, including data on information exchange clauses or agreements currently in force, is discussed comprehensively by Claudino Pita[40].

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[37] *Although CAN Decision 578 formally goes further than this model (since it is binding on and directly applicable to Andean countries), by providing for the source-country taxation of almost all income earned by non-residents, it does not "harmonize" a common non-resident taxation policy. Additionally, it confirms the policies already being applied by each state in this respect. Moreover, and above all, Decision 578 operates ad-intra-that is, it has little real economic impact because the Andean countries themselves are far from being the leading investors in the subregion.*

[38] *A quick review of the website of the Secretariat for Central American Economic Integration (www.sieca.org.gt) gives an idea of the activities undertaken in this field.*

[39] *In particular, the Central American countries are negotiating a treaty with the EU that resembles the Dominican Republic-CAFTA.*

[40] *El Intercambio de Informaciones Tributarias como Instrumento de Contención de la Competencia Desleal a Nivel Internacional C. Pita en Tanzi, V., A. Barreix y L. Villela, Taxation and Integration in Latin America. IDB*

For the purposes of this paper, the following general comments should be added:

- Information exchange is a clear cooperation mechanism that has been used in the region, in different forms, for more than 30 years.[41]

- Recent years have seen the emergence of legal instruments that are more powerful as regards the type of information that can be requested and the purposes for which it can be used. They are also more flexible in terms of the requirements for their approval and entry into force, since they are simple agreements between tax administrations and not classical international treaties.[42]

- The actual number of information exchanges among countries in the region and with extraregional countries is unknown. Nor is information available on the concrete outcomes of anti-fraud efforts as a direct result of such information exchange, or whether countries have undertaken any follow-up in this regard.

Furthermore, in the exceptional cases where there is effective information exchange, it is usually asymmetrical-that is, the information goes to more developed tax administrations, which are usually in extraregional countries. Consequently, fraud and fraud networks are not discovered in domestic markets. An opportunity for harmonization and for closer subregional and regional economic integration is thus missed.

2.4.b Best practice fora

Fora (institutionalized or otherwise) for sharing experiences and debating future strategies comprise an interesting example of Latin American cooperation.

The most renowned tax cooperation forum in the region is CIAT. There are other, equally prestigious fora, such as the Economic Commission for Latin America and the Caribbean (ECLAC), but their mission is broader (not only taxation) and their approaches are usually less operational, since they are devoted to studying the matter from a more doctrinal or academic perspective.

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[41] *Only CAN Decision 40 dates from 1970, but many double taxation agreements, especially those between Brazil and Argentina, also entered into force in the 1970s.*

[42] *The information exchange agreements between Spain and Argentina, Peru and Argentina, Brazil and Argentina were drafted after the CIAT model.*

CIAT's influence is enormous, to the extent that it has six European and two African countries among its members.[43]

Apart from the model for information exchange analyzed above, other examples of cooperation are the Model Tax Code (1997 and updated in 2006), its work on tax and customs indicators (2002), the Audit Manual (2003) and the Model Code of Conduct (2005).

Some of these documents, mirroring the regulatory and institutional changes the region is undergoing, go beyond cooperation and approach coordination. CIAT is making a significant contribution to the standardization of the region's tax administrations. To some extent this is a form of harmonization, since it ensures that more similar efforts are made to combat tax fraud and evasion, thereby increasing horizontal equity.

This kind of cooperation, indirectly moving towards coordination by means of "backdoor rules," also includes the work undertaken for decades by other international organizations to support the region in the fields of capacity building for tax administrations and technical assistance for tax reform processes.[44]

2.5 Convergence

Assuming that the definition of "convergence" provided earlier in this paper is correct, a general review here prompts the conclusion that in Latin America, in this field, there is as much light as shadow. Sometimes there is an overall centripetal trend, suggesting that what is not done through conscious effort and explicit action is done simply because of the demands of circumstance. On other occasions, observation prompts the consideration that there is a centrifugal force, one that tends towards "disintegration."

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[43] *There are other fora with similar characteristics elsewhere: the International Organization of Tax Administrations (IOTA), whose membership, despite the organization's international scope, is essentially European; the Centre de Rencontres et d'Etudes des Dirigeants des Administrations Fiscales (CREDAF), for French-speaking countries; the Commonwealth Association for Tax Administrators (CATA), for British Commonwealth members. Probably, however, none of them has CIAT's significance relevance and influence.*

[44] *The Fiscal Affairs Department of the International Monetary Fund and the Inter-American Development Bank are the main actors in such activities in the region.*

2.5.a Transfer Pricing

Despite greater degrees of harmonization in some cases, such as the Central America-Dominican Republic transfer pricing model described above, this is probably one of the few fields in which there has been a trend-at least nominally speaking-towards convergence: a review of what has happened in this area[45] reveals a relatively uniform tendency towards the regulation of transfer pricing. Except in Brazil[46] and the occasional means of calculating the market value of raw materials exports (Argentina's "sixth method"[47]), throughout the region the trend has been towards respect for the arm's-length principle and, in general, for the principles set out in the OECD's transfer pricing guidelines.

As mentioned earlier, this convergence is more nominal than real and stems from the fact that legal texts, particularly in the absence of experience in the field, tend to look alike because of mimicry and prudence. But the extent of the respect for the arm's-length principle will depend on the tax control policy applied to a multinational enterprise and its transactions. On the one hand, it is widely known that different tax administrations have different capacities; on the other, whenever a tax administration has concrete experience in the field (such as Brazil, Mexico or Argentina), it is likely to depart from the OECD model and move towards a more protective and practicable formula for the tax base.

2.5.b Free Trade Agreements

In the last 15 years, Latin America has pursued open regionalism through unilateral trade and financial liberalization, as well as economic integration, mainly at the subregional level. Hence a growing number of bilateral and multilateral free trade agreements have been signed (others are still at the negotiating stage) among Latin American countries or between countries in the region and third countries in North America, Europe and Asia. These accords do not contain tax harmonization clauses, except for some very general concepts, and have made little contribution to furthering progress towards harmonization.

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[45] *See Mercader, A. (2008) Transfer Prices in Latin America, in "Taxation and Latin American Integration"op.cit.*

[46] *The Brazilian model (Law 9,430/96 and Regulatory Instruction 38/97) is based on the premise that transactions between related parties are invoiced at manipulated prices (higher or lower than the market price, depending on each case). Hence it seeks to define objective transfer pricing criteria by establishing presumptive profit margins.*

[47] *Law 25784 introduces this pricing method for exports of raw materials (Chicago price).*

As explained later, for example, in the more than 15 years since it was signed, the Treaty of Asunción (MERCOSUR) has led only to agreements providing for non-discrimination in trade in goods and services; distortions persist in all the member countries, affecting competitiveness and the location of savings and investment (Barreix, Roca and Villela, 2005[48]). Other agreements, such as the Dominican Republic-CAFTA, include a framework on indirect expropriation through taxes and introduce the concepts of investment, the obligation not to expropriate and alternative dispute settlement mechanisms (Rodriguez[49], 2005). Despite this, in some cases, such as the North American Free Trade Agreement (NAFTA), the trade accord was negotiated in parallel to the double taxation agreement between the United States and Mexico. Note also that the Dominican Republic-CAFTA agreement is reviving positive integration in Central America by including the Dominican Republic and Panama.

In sum, except for the examples cited above, trade agreements have limited tax harmonization to a minimum and the results have been in line with that circumstance.

2.5.c Tax Codes

As pointed out earlier, as regards tax administrations' structures and operations there is a path of coordination, followed especially in Central America, and on the other there is the path of cooperation, based on the CIAT model and international organizations' studies. As regards taxpayers' rights and the authority vested in tax administrations to enable them to fulfill their tax collection and control tasks, these paths have led the administrations to adopt the best practices or highest standards known at the regional level. This is reflected in (i) a widespread tax reform movement in the region;[50] and (ii) current or imminent tax codes that are similar to each other or are being made so in many Latin American and Caribbean countries.

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[48] *The little progress made, such as the establishment of a procedure and of a general arbitration tribunal in Paraguay, has been geared to compliance with Article 7 of the Treaty of Asunción, which provides for equal tax treatment of goods and services traded between the member states (Barreix, Roca and Villela, 2005).*

[49] *A. Rodriguez, 2005. International Arbitration Claims Against Domestic Tax Measures Deemed Expropriatory or Unfair and Inequitable. IDB/INTAL.*

[50] *In short, it can be said that, irrespective of the theoretical studies sponsored by the Organization of American States (excellent but outdated, since they were produced in 1967) and CIAT (1997, updated in 2006), the trend starts with successive amendments to the Dominican Republic tax code (2001, 2004 and 2005), followed by the issuing of a new Bolivian tax code (August 2, 2003), and continues with a series of tax code reforms in the region. The reform of the tax codes of Paraguay, Nicaragua and Haiti are currently under way, at various stages.*

2.5.d Income Tax Model and Rates

In Latin America, a large number of income tax schemes (and rates) are applied to the three income tax components: personal, corporate and international income. These schemes range from Mexico's Haig Simons income tax model (which includes worldwide income and features a sophisticated system for taxing capital gains adjusted for inflation and the full integration of personal and corporate incomes) to Paraguay's semi-flat income tax regime, which establishes a 10 percent personal income tax rate (equal to the general VAT rate) and a 20 percent corporate income tax rate, with ample margin for unlimited expense deductions (see Table 2).

International taxation is also diverse, though it is easier to group the different schemes used. The larger economies cover worldwide income, are subject to specific international legislation (such as on transfer prices), and have bilateral agreements to avoid double taxation; the number of the latter depends on the country. Argentina, Brazil, Mexico, Venezuela, Peru and Chile have such agreements. Smaller economies tend to tax income at source, use a dual-rate system to tax capital income and, since they use a final withholding tax system, usually they do not integrate corporate with personal income. In addition, they make use of few international tax laws and, with some exceptions, have signed very few tax agreements. This is true of the Central American countries, Panama, the Dominican Republic, Paraguay and Uruguay.

Moreover, the reduction and standardization of tariffs attendant on "open regionalism" have significantly lowered the protection of domestic production. This has been accompanied by the governments' decision to progressively abandon sectoral and regional policies. In response, strong pressure has been exerted for the creation of new tax incentives and benefits aimed at protecting certain sectors or regions, which have resulted in significant tax concessions. This accounts for the proliferation of free trade zones and of fiscal benefits for the tourism, mining, and forestry industries in the region[51].

In the pre-2004 15-member EU there is also some diversity, but the differences are not so stark. The EU's institutional arrangements make a substantial difference, since the Union is equipped with instruments such as a supranational court (the European Court of Justice, ECJ) and agreements such as the Code of Conduct for Business Taxation and the Taxation of Savings Income Directive; these have contributed to harmonization, particularly of the tax base.

[51] *Barreix, Roca y Villela (2005), Op. Cit*

Table 2
Comparison of Some Structural Elements of Income Tax in Ten Latin American Countries

	Overall income	IIT & CIT* integration	Capital Gains	IIT rates	CIT rate	Interest rate[1] Financial savings
Argentina	Yes	No	No	9-35%	35%	No[2]
Brazil	Yes	No	25%	15-27.5%	34%[3]	15%
Mexico	Yes	Yes	No	32%	29%	No
Colombia	Yes	No	Yes	20-38.5%[4]	38.5%[4]	No
Costa Rica	No	No	No	10-25%	30%	8%
Peru	Yes	No	Yes[5]	15-30%	30%	10%[6]
Chile	Yes	Yes	17% (or 40%)	0-40%	17%	4% o 35% (w/o DTC)
Paraguay	No	No	10%	10%	30 / 10%	No
Uruguay	No	No	Yes	10-25%	25%	12%
Honduras	Yes	No	10%	10-25%	25%	10%

Notes:
[1] a percentage is indicated when it is a final withholding tax (dual income tax).
[2] there is exemption for the most common forms of savings income.
[3] 25% (+ 9% social security).
[4] (35% + additional 10%).
[5] most capital gains are exempted.
[5] the most common savings incomes are exempted.
IIT = individual income tax; CIT = corporate income tax.

With the accession of ten new members, income tax diversity has widened in the EU. Some of the new members (Estonia, for instance) still have corporate income tax regimes that are heterodox in the European context. Worth mentioning, however, is that some of the EU's founding members are reacting to this so as to remain competitive in tax terms, by making the necessary adjustments. Examples of this are proposals in Germany to lower corporate income tax rates, Spain's introduction of a dual-rate system for income tax and a lowering of the corporate tax rate, and the reduction in Sweden of all direct taxes, among other tax-reduction and modification policies announced.

Another possible explanation for this difference is that income tax is more prone to harmonization in the face of intra-industry trade, as in the EU, where what really counts is to specialize through economies of scale or agglomeration. In the EU, therefore, income tax has a greater impact on competitiveness than in Latin America. In Latin American integration processes, the level of intra-bloc trade is relatively low and most commerce is inter-industry (Ricardian).[52] Europe's intra-bloc trade accounts for almost 70 percent of total trade, whereas in Latin America subregional trade is below 15 percent of the total.[53]

[52] *In most Latin American integration processes, intra-bloc trade is encouraged by the diversion of trade resulting from tariff advantages granted to member countries.*

[53] *Exports from free zones are included for the CACM. Intra-NAFTA trade accounts for nearly 60 percent of total trade.*

2.5.e The Frustrated Harmonization of Taxes in MERCOSUR

At first glance, the tax systems of the MERCOSUR member countries (Argentina, Brazil, Paraguay and Uruguay) appear to be very similar. In all of them, general taxes on goods and services account for the major share of tax revenue, social security contributions account for a high proportion, and revenue from direct taxes are traditionally low[54].

Table 3
MERCOSUR - Tax Burden
Year 2003
Jurisdictional classification disaggregated by tax
In GDP %

Jurisdiction and tax	Argentina	Brazil	Paraguay	Uruguay
Central Government	20.6%	16.3%	9.8%	19.4%
Goods and Services	7.6%	7.6%	6.0%	12.5%
VAT or Semi VAT (BR)	5.3%	4.8%	4.2%	9.3%
Excise	2.2%	2.5%	1.8%	2.5%
Others	0.1%	0.3%	0.0%	0.7%
Income	4.4%	6.3%	1.7%	3.9%
Individuals	1.3%	0.0%	0.0%	2.1%
Corporate	2.6%	0.0%	1.7%	1.8%
Others	0.5%	0.0%	0.0%	0.0%
Property	2.0%	0.0%	0.0%	1.6%
Others	0.8%	1.9%	0.3%	0.2%
Foreign trade	3.0%	0.5%	1.8%	1.2%
Social Security	2.8%	8.4%	2.5%	8.5%
Subnational Governments	3.8%	10.5%	0.2%	3.2%
Goods and services	2.4%	8.1%	n/d	0.3%
Income	0.0%	0.0%	n/d	0.0%
Property	1.0%	1.2%	n/d	2.4%
Others	0.4%	1.2%	n/d	0.5%%
Total	24.4%	35.2%	12.5%	31.1%

Source: Own elaboration based on information from the BNDES- Brazilian Fiscal Affairs Secretariat- and Federal Revenues, Brazil; Ministry of Finance and Central Bank of Paraguay; Social Precaution Bank, Central Bank, Municipal Administration of Montevideo, Uruguay; Ministry of Economy and Production, AFIP and National Institute for Census and Statistics, Argentina.

[54] *Barreix, A., J. Roca y L. Villela (2005), op. cit.*

As Table 4 shows, however, the similarities are more apparent than real (Barreix and Villela, 2003).

Table 4
MERCOSUR Taxation: Main Asymmetries

Instruments	Point	Counterpoint
VAT and ICMS (Brazil's VAT)	• VAT, national application, broad base, few tax rates, full credit leveraging: Argentina, Paraguay and Uruguay.	• ICMS-Brazilian VAT at state level-limited to goods and very few services, many different tax rates, limitations on the leveraging of certain credits originating from previous stages, complemented with PIS (1.65%) and COFINS (7.6%), which are federal-level, VAT-type levies.
Inefficient taxes as a result of cumulative effects	• Uruguay (excepting Cofis, which taxes industrial goods) and Paraguay do not have such taxes.	• Brazil: PASEP (Civil Servants Saving Program), and ISS (municipal tax on services) Argentina: Turnover Tax, represents more than 50% of the revenue income of provinces (2.2% of GDP) and Tax on Bank Debits and Credits (1.2%).
Excise Taxes	• Single-phase, applied to the producer or importer of the taxed goods: Argentina (Internal Taxes), Paraguay (Excise Taxes) and Uruguay (IMESI, Specific Internal Tax)	• Multiple-phase, non-cumulative, VAT-type: Brazil (IPI - Tax on Industrialized Products).
	"Traditional" tax base: fuels, tobacco, alcoholic beverages and motor vehicles (Argentina, Paraguay and Uruguay).	• In Brazil, the IPI is not applied to fuels. Hence, in the ICMS, which levies fuels, high rates-more typical of excise taxes than a VAT-are applied.
Income Tax	• Brazil and Argentina: individuals are taxed. Paraguay: also adopted a 10% flat income tax rate in 2005, wide range of tax-deductible personal expenses.	• Uruguay applies a dual income tax.
		• Uruguay and Paraguay apply the "taxation at source country" criterion, taxing residents and non-residents solely with respect to their income from national sources.
	• Brazil and Argentina apply the global income criterion, and dividends are not included in the income tax base to avoid double taxation.	• Uruguay withholds taxes on interests of non-residents.
Asset Taxes	• Brazil and Paraguay levy no such taxes.	• Argentina and Uruguay apply overall taxes on the net worth or assets of individuals and companies. Argentina also levies taxes on assets abroad

Treaties	• Argentina and Brazil have a bilateral treaty in place; in addition, they have more than 30 treaties signed with developed countries.	• Uruguay and Paraguay do not have treaties with Latin American countries. They only have exchange information agreements in place with very few developed countries.
Tax Administrations	• Argentina and Brazil: Customs and internal revenue administration are centralized in one single agency.	• Uruguay and Paraguay: Customs and tax administrations are two separate entities.
Transfer Prices	• Paraguay: no legislation in this matter.	• Argentina and Uruguay: Yes, adopting OECD guidelines, with some specific adjustments, such as the procedure known as the "sixth method", applied to commodities. • Brazil: Yes, according to (a) independent comparable prices, (b) resale price minus discounts and commissions, or (c) production cost plus margin.

Additionally, the MERCOSUR agreements provide for only a limited transfer of sovereignty. Given the absence of a joint trade policy and community institutions, the subregional group is simply an incomplete customs union. It features two different policies of international insertion: the "large country" policy adopted by Argentina and Brazil, and the "small country" policy adopted by Paraguay and Uruguay, which has significant fiscal implications.

Argentina and Brazil tax the worldwide income of their residents, both individuals and corporations. Their legislation does not provide for non-registered share corporations (only corporations with registered shares are allowed). In Brazil, capital (especially interest) gains are withheld at source. Tax and bank secrecy laws are less strict, enabling the two countries to sign double taxation and information exchange agreements (although in practice there is no effective automatic information exchange with any other jurisdiction). Additionally, these countries grant significant investment incentives, making use of the competitive advantage created by their large potential markets. This situation has triggered subnational competition, resulting in "tax wars" and causing tax-related expenses to rise, especially in Brazil. Incentives granted at the subnational level-with a strong indirect tax component-have offset the progressive abandonment of regional policies by the central governments of Argentina and Brazil.

Paraguay and, especially, Uruguay have pursued a "small country" strategy that consists of capturing foreign savings in the form of offshore bank deposits and related services, or asset management-through non-registered share corporations having their assets abroad-protected by strong bank and tax secrecy laws. In Uruguay, since the financial liberalization of the 1970s and with the aim of making the country a financial leader in the region, the tax system was adjusted to follow the pace of offshore banking development and its related activities in free zones. In these special regimes, foreign savings or income earned abroad by residents is not subject to taxation and tax secrecy is linked to bank secrecy, which can only be lifted by a court order. For this reason it is highly complicated to exchange information with other jurisdictions.

3. CONCLUSIONS

This paper began by distinguishing various levels of economic integration, degrees of tax harmonization and legal or pseudo-legal instruments at the service of such harmonization. In particular, an effort has been made to classify harmonization experiences and arrange them into five large and predefined levels of harmonization consistent with the political commitment made by the countries-because the concept of harmonization herein goes beyond the classical dual scheme and is, rather, a complex and multifaceted arrangement.

In Latin America there are experiences of harmonization at all levels of the scale. Hence, although the economic integration of Latin American markets is relatively modest even in the four integration areas (MERCOSUR, CARICOM, CACM and CAN), and tax harmonization is therefore also very far from complete, the trend towards greater sophistication in forms and levels of harmonization is not exclusive to any one region in the world (the EU). Thus it can be said that there is a kind of "harmonization inflation" in Latin America. The region has harmonized what it could (what did not involve true sacrifice or effort) rather than what it should, and certainly less than what it had promised.

Overall, integration processes in Latin America feature less intra-bloc trade than in the EU and greater inter-industry (Ricardian comparative advantage) than intra-industry trade (specialization by scale and agglomeration). Countries therefore tend to compete with each other to attract foreign investment rather than cooperate for mutual benefit.

Moreover, the region has relatively weak institutional arrangements. As the political scheme for cooperation among deeply rooted sovereign states becomes more sophisticated, so there is an increase in the forms of harmonization and the instruments used to bring tax regulations into closer

harmony with each other. The more refined and subtle the adjustment required, the more technically and politically complex is harmonization, not the reverse.

Another noteworthy matter is that the conflict lies not in whether to harmonize or not, but in whether to standardize or retain sovereignty. This tension spurs a wide range of intermediate solutions, which foster harmonization but not standardization. Hence this paper has defined the harmonization pyramid and its corollary, which prompts the proposal that a new and desirable feature of a tax system is its "coordinability" with other jurisdictions. Coordinability is a tax system's capacity to adapt to those of its main economic partners.

Finally, the lesson learned from Latin American experiences-which the "harmonization pyramid" sought to classify-is that, as regards integration and tax harmonization, it is difficult to determine whether the cart or the horse should go first. This is because there are cases in which tax harmonization efforts, though pioneering (such as Decision 40 of the CAN or CARICOM's tax incentive harmonization treaty), did not bring about closer integration; in other cases, Latin America still faces basic and unresolved problems of harmonization, such as the incomplete implementation of customs unions.

For all the above reasons, more effective harmonization outcomes will probably arise from focusing on less ambitious objectives and more limited instruments. Examples are to protect tax revenue and avoid harmful incentive practices by enforcing codes of conduct, and to foster cooperation among tax administrations (through efficient information exchange, for example) in order to control the rising number of transactions by multinational and regional companies. Such efforts might give a new impetus to harmonization for the region.

Case Study

Topic 3.3

STRATEGIC PLANNING AS FACTOR CONTRIBUTING TO THE IMPROVEMENT OF THE INSTITUTIONAL CAPACITY

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CONTENTS: 1. Preface.- 2. The financial and strategic planning process of the italian state administrations.- 3. Tax Administration's strategic planning cycle.

1. PREFACE

This address describes the strategic planning process of the Italian Tax Administration involving the strategic planning of the "Ministero dell'Economia e delle Finanze" (Ministry of Economy and Finance) and that specific to the "Dipartimento delle Finanze-Agenzie Fiscali" (Department of Finance-Tax Agencies) system, laid down by the reform of Legislative Decree No 300/99.

In fact, the Department of Finance is the recipient of the strategic planning by the Ministry of Economy and Finance, which sets strategic objectives in relation to the mission of institutional governance of the taxation system, and at the same time is the actor called to transform the Tax Administration's strategic objectives into operational objectives to be assigned to Tax Agencies through an Agreement ("Convention") between the Minister and Agencies.

In order to describe the development of the operational plans and their alignment with the strategic plans, it has been considered appropriate to focus attention on the process of preparation of the Minister-Tax Agencies

Agreements, with particular reference to the instruments to attain compliance and combat tax evasion being deployed by the Italian Revenue Agency.

2. THE FINANCIAL AND STRATEGIC PLANNING PROCESS OF THE ITALIAN STATE ADMINISTRATIONS

The planning process in the State Administrations has the objective to organize effectively and efficiently all activities and resources aimed at defining the policy and implementing it through administrative acts and actions.

The principles underlying the activity of planning are the following:
- improvement of the quality of services supplied to citizens;
- interaction between Minister, management and internal control service ("SE.C.IN.");
- consistency between strategic and governance planning;
- consistency between financial planning and strategic planning;
- conformity of financial planning and strategic planning with the constraints arising from Italy's membership of the European Union;
- agreement between strategic planning and the framework of institutional missions entrusted to the administration by law;
- appropriateness of strategic planning for the organizational and managerial. structure.

The process of financial and strategic planning is governed by a set of rules, given below:
- Article 3 of Law No 468/78, introducing the economic and financial planning document (DPEF), which defines the movements of public finances for the period in the multi-annual budget;
- Articles 4 and 2 of Law No 468/78, governing respectively the State multi-annual and annual budgets;
- Article 8 of Legislative Decree No 286 of 30 July 1999, according to which the Minister's annual Directive, issued in accordance with any guidance by the President of the Council of Ministers, "constitutes the basic document for the planning and targeting of objectives for first level management", identifying the main results to be achieved and determining, "in relation to the resources allocated, the targets for improvement ";
- Articles 4 and 14 of Legislative Decree No 165 of 30 March 2001 which provide that the Minister periodically, but not later than ten days after publication of the budget law, on the basis also of proposals by managers:
  a) defines the objectives, priorities, plans and programmes to be implemented and issues the relevant General Directives for Administrative Action and Management;
  b) conducts, in order to fulfil the tasks set out under letter a), the allocation to the managers in charge of Responsibility Centres in their respective administrations of human, material and economic-

financial resources to be assigned to the various purposes and their allotment to the offices of general manager level;

- Article 3 of Legislative Decree 7 No 279 of August 1997, for which "the Ministers within ten days after publication of the budget law, allocate (...) the resources to general managers in charge of responsibility centres in their respective administrations, after defining the objectives that the administration intends to pursue."

Guidelines

The Guidelines for the strategic-financial planning process are defined in the guidance Directives by the Presidency of the Council of 12 March 2007 and 25 February 2009 which reiterate the need to emphasize the links between strategic planning and financial planning cycles, in order to ensure that the Government's entire administrative activity develops in an environment consistent with the Executive's programme.

These Guidelines are subdivided in a general section that identifies the main objectives that the Government is called to attain, and a further section dealing with methodological issues, intended to specify the guidelines for the strategic planning process with particular reference to the role of the Internal Control Services in each Administration.

The Cycle of Strategic Financial Planning

The cycle of strategic and financial planning of the State administrations of the State envisages as "cornerstone" documents the **Policy Measure for the Definition of Political Priorities** of each Minister and the **Directive for Administrative Action and Management** issued by each Minister within 10 days the publication of the budget law.
The integrated cycle of strategic planning and budget drawing is divided into the following **phases**:

Definition of Political Priorities

The Minister sets out the political priorities of the administration for the coming year with his own Policy measure, by March of each year, specifying and complementing the Government's policy priorities indicated in the Prime Minister's Directive, within the scope of the mission of the Administration.
Below is an example of the description of the Department of Finance's targets relating to the tax enforcement action set out in the Policy measure for the definition of political priorities for the year 2009.

Example: objective taken from the Policy measure for the Definition of Political Priorities for the year 2009

Fight against tax evasion

The Administration will favour the recovery of evaded taxable base through a profitable and systematic fight against tax evasion and avoidance to be achieved by means of:

- an accurate and specific selection of taxable persons to be audited at national and territorial level, by type of tax fraud and economic sector;
- the strengthening of anti-fraud strategies;
- an increase in the number and quality of actions to ensure the safety of passenger and goods traffic.

The countering of tax fraud, moreover, will be guaranteed by a specific and accurate analysis of socio-economic reality of the territory in order to proper understand the complexity of tax evasion and avoidance phenomena at both local and national level.

All synergies will be ensured between the various institutional actors, also international ones, in the fight against fraudulent activities, by developing an all-round and shared perspective of tax evasion and the ways to counter it. To this end, the development and utilization of international co-operation is to become more and more widespread in control activities, thus going beyond the consolidated though now inadequate scope of a mere exchange of information between collaborating Countries and Organizations.

Elaboration of Draft Strategic Objectives and Preliminary Note

Persons in charge of Responsibility Centres formulate a proposal including the strategic objectives aimed at achieving the political priorities identified by the Minister's Policy measure.

Draft strategic objectives must be incorporated into the Preliminary Note to estimates by which each Ministry transfers into the budget process the objectives set and indicators to measure them by linking them to the political priorities established by the Minister, as well as to the strategic choices of the Government's economic and social policy.

The Preliminary Note is submitted to the "Ministero dell'Economia e delle Finanze, Dipartimento della Ragioneria Generale dello Stato" (Ministry of Economy and Finance, State Accounts Department) through an automated acquisition system directly from the Responsibility Centres.

In conjunction with the drafting of the Preliminary Note, the transmission of the file-cards/items of expenditure takes place, by means of which the

Administration formulates the budget proposals at unchanged legislation, making reference to the individual items making up the estimates of expenditure of the State Budget.

By the first decade of September, the Internal Control Services proceed to verify the data fed by Responsibility Centres, and submit the first version of the Preliminary Note to the State Accounts Department.

Within 10 days after publication of the Budget Law, the Responsibility Centres provide any possible updating of Preliminary Note and the Internal Control Services, with a feedback of information entered, transmit the final version of the document.

During preparation of the State's General Financial Statement, Internal Control Services draw up the final Preliminary Notes for the Administrations on the basis of information coming from the Responsibility Centres which fill in the cards for the objectives pursued, comparing them with the information provided when planning the Preliminary Notes in estimate acts.

Issuance of the General Directive for Administrative Action and Management

The Minister issues the General Directive for Administrative Action and Management, pursuant to paragraph 1 of Article 14 of Legislative Decree No 165 of 2001, within ten days after publication of the Budget Law.
By consolidating the proposals submitted by managers in charge of Responsibility Centres, the Directive sets the strategic goals to be achieved in order to attain the policy priorities established at the beginning of the process, taking into account the resources allocated in the Budget approved by Parliament.

It also indicates the strategic objectives assigned to first-level management units to be achieved through specific action plans, which include operational goals as well as targets for the improvement of routine institutional action to be pursued during the year.
Lastly, the Directive specifies the mechanisms and instruments for monitoring and evaluating its implementation in order to detect the degree of achievement of targets and relevant action plans, and any necessary changes by means of corrective actions.
The following table taken from the General Directive for Administrative Action and Management for 2009 explicitly states the objectives for the Department of Finance.

Summary overview of strategic objectives assigned to the Department of Finance with the 2009 Directive

DEPARTMENT OF FINANCE			
MISSION	**PROGRAMME**	**POLICY PRIORITIES (Policy Measure of 11 JULY 2008)**	**STRATEGIC OBECTIVES**
ECONOMIC-FINANCIAL AND BUDGET POLICIES	REGULATION OF JURISDICTION AND CO-ORDINATION OF THE TAXATION SYSTEM	MEASURES INTENDED TO REVIEW TAXATION POLICIES FOR BUSINESSES, HOUSEHOLDS AND YOUNG PEOPLE	MEASURES INTENDED TO REVIEW TAXATION POLICIES FOR BUSINESSES, HOUSEHOLDS AND YOUNG PEOPLE
		GOVERNANCE, REGULATION AND FUNCTIONING OF TAX COURTS	TO ENSURE SUPPORT TO TAXATION JUSTICE
		IMPLEMENTATION OF FISCAL FEDERALISM – RE-BALANCING OF RESOURCES TO REGIONS AND LOCAL GOVERNMENTS	IMPLEMENTATION OF FISCAL FEDERALISM – RE-BALANCING OF RESOURCES TO REGIONS AND LOCAL GOVERNMENTS
		FIGHT AGAINST TAX EVASION	CO-ORDINATION AND CONTROL OF AN EFFICIENT AND EFFECTIVE EXERCISE OF FISCAL FUNCTIONS BY TAX AGENCIES AND ENTITIES, WITH SPECIAL REFERENCE TO THE FIGHT AGAINST TAX EVASION

Monitoring and verifying the Directive's implementation

The Internal Control Services, on the basis of data provided by the Responsibility Centres, carry out the annual monitoring of the Directive and prepare periodic and annual reports which are transmitted to their Minister for the necessary steps. The periodic mid-annual verifications aim at detecting the progress of action plans and any deviations from the levels expected, and if necessary to signal the amendments to be made to planning owing to objective factors during the course of time or the occurrence of unexpected difficulties.

The end-of-year final report provides an assessment of the implementation of the Minister's Directive and indicates, for each target, the degree of achievement through the execution of the action plans. The document must indicate the objectives not achieved that will be abandoned as outdated or not obtainable, and those that, though not achieved, are going to be re-proposed. On the basis of this paper, a performance report is drawn up, to be circulated outside, which is leaner than internal reports and, therefore, understandable also to the layman.

Information on the monitoring of actions by individual Ministries is sent to the Technical Scientific Committee for strategic control in State Administrations and the Minister's offices for the programme implementation, which are entrusted with the overall monitoring of policy action.

The new structure of national budget

During 2007, pursuant to the mandate entrusted to the Ministry of Economy and Finance by Finance Law for 2007, a process of revision of the national budget classification was started together with an analysis and evaluation plan concerning the main spending programmes of the Administrations (spending review) to be performed in co-operation with the Ministries in order to examine the effectiveness and efficiency of current spending programmes and to identify the appropriate objectives and to match them with result indicators for the future.

The provisional budget is based on a new classification which deeply innovates the previous structure pivoting on administrative Responsibility Centres: the budget plan is organised in 34 public missions and 168 programmes.

The budget re-classification marks the shift from the traditional concept encapsulated in the formula "the one who manages" to the new one summarised by the rule "what is managed and what is done". Its primary goal is to make the link between resources allotted and actions pursued clearer and more direct in the planning of Government actions and allocation of available public funds. In such a way it will be possible to carry out periodical spending review, i.e. analysis and revision of public spending so that this can be orientated towards overriding public policies and its quality can be improved. Such rigorous and accurate review of budget allocations will guide - in the future - the single Administrations in submitting spending proposals according to the new philosophy focussed on spending programmes.

Therefore, giving up the incremental historical expenditure criterion and replacing it with a policy one as to functional needs and concretely pursuable objectives also considering the burdens of programmes and projects of each Administration can favour the re-consideration of all expenditures in terms of costs and benefits in order to recover manoeuvring room for a different resource allocation and to identify result targets to meet with assigned funds.

Here follows a classification example concerning national budget missions and programmes for 2009 for the institutional mission economic-financial and budget policies of the Ministry of Economy and Finance.

Example of classification into missions and programmes of the State Budget for 2009

MISSION	PROGRAMME	ADMINISTRATION	ACTIVITIES
ECONOMIC-FINANCIAL AND BUDGET POLICIES	REGULATION OF JURISDICTION AND CO-ORDINATION OF THE TAXATION SYSTEM	MINISTRY OF ECONOMY AND FINANCE	Elaboration of guidelines of fiscal policy and production of relevant legislation; Co-ordination and monitoring of fiscal system; Co-ordination and control of Tax Agencies; Tax assistance and advice to citizens and businesses; Tax collection; Service contract with the State Property Agency and Agreements with the Revenue, Land, and Customs Agencies; State Monopolies, transfers to the taxpayers' watchdog; Assistance to Tax Courts and tax law bodies; Fees to Concessionaires
	ECONOMIC-FINANCIAL PLANNING AND BUDGET POLICIES	MINISTRY OF ECONOMY AND FINANCE	Elaboration of economic and financial planning documents; Analysis of economic, monetary and financial domestic and international issues; Monitoring of Italian economy and check of macroeconomic estimates; Analysis of public accounts; Estimates and verification of State requirements and borrowing; Statistical elaboration, development and management of econometric model; Issuance and management of national debt; Strategic monitoring of cash accounts; Management and divestment of entities and companies; Coining; Analysis of stock markets; Management of state holdings; Payment of contributions, funds and compensations; Management of financial operations; State budget; State General financial statement; Management of treasury accounts; Analysis of cash flow; Economic accounting; Surveillance of local government bodies; Inspection of public finances; Economic and financial legislation; Monitoring of public finances, expenditure acts, internal stability pact, social expenditure, cost of personnel in Public administration
	PREVENTION AND PROSECUTION OF FRAUD AND VIOLATION OF TAX OBLIGATIONS	MINISTRY OF ECONOMY AND FINANCE	Prevention and fight against forgery of means of payment; Money laundering; Prevention and prosecution of fraud against national and EU financial interests; Fight against recycling, usury and financial illegal practices; Fight against terrorist financing; Corporate offences and bankruptcy crimes; Fight against counterfeiting and cost of living; Safeguard of competition and the market; Recruitment and training of personnel for the "*Guardia di Finanza*"

3. TAX ADMINISTRATION'S STRATEGIC PLANNING CYCLE

The Reference Model of Tax Agencies

The Italian Tax Administration is organised in a governance administrative structure (Department of Finance) and four Tax Agencies (State Property, Customs, Revenue and Land Agencies) endowed with regulatory, administrative, patrimonial, organisational, accounting and financial autonomy. The creation of Tax Agencies is due to the unavoidable need to recover effectiveness and efficiency of the Italian tax Administration through the use of a new organisational reference model.

The need for innovation has been determined by both the specific history of the Italian Tax Administration and the particularly stratified and complex legislative and regulatory reference context

The most important points in the restructuring process can be identified as follows:

- to design independent and separate structures as to the management of production factors also to improve resource organisation
- to maximise management autonomy of new organisational bodies guaranteeing the management of human resources and to ensure flexibility to management to attain the objectives assigned
- to reunify the political-administrative responsibility as regards the competences of the Economy and Finance sector by creating a single

Ministry, once the technical-managerial activity of taxation has been separated.

The performance of the governance function by the Department of Finance implies the close co-operation of all subject involved in keeping with the various levels of autonomy envisaged by rules and regulations in all typical stages of governance itself (guidance, coordination, monitoring and control).

The Planning Cycle

In view of the typical character of the Italian Tax Administration, the Ministry of Economy and Finance, besides being involved in the strategic planning cycle as all state administrations, carries out a parallel planning cycle which is specific for Tax Agencies and is composed of the following documents: the **three-year Policy measure for the attainment of tax policy objectives and the three-year Agreements between the Minister and Tax Agencies.**

After Parliament's approval of the Economic and Financial Planning Document and in line with the constraints and targets contained therein, the Minister issues the policy measure for the attainment of tax policy objectives. This determines - yearly, by the end of September, and for a period of three years - tax policy developments, general guidelines and objectives of tax management, financial indicators and the other conditions in which Tax Agencies' activity takes place.

On the basis of such policy measure the Minister concludes with Tax Agencies four different three-year agreements for each financial year (Agreements with Revenue, State Property and Customs Agencies and Service Contract with the Land Agency). The Agreements are essential instruments in regulating the relationship with Tax Agencies.

Agreements

The Agreements define the targets to reach in keeping with the multiyear political-administrative guidelines (Minister's policy measure). Such objectives are monitored and controlled by the Department of Finance and are linked to economic incentive systems for Tax Agencies' staff.

Tax Agencies perform the central function of legal regulation of the relationships between Ministry and Agency and they are a powerful instrument to convert strategic into operational objectives and, at the same time, to govern system performance.

The 2009-2011 Agreement is the result of a long negotiation process started by the Department with all tax Agencies and this led to a shared revision of

the agreement structure, mainly aimed at streamlining the Ministry/Tax Agencies relationship in all sectors concerned.

Therefore, the Agreement is made up of the following documents:

- **Articles** (Rule document) governing the duration and subject of the Agreement and providing for an immediate and concise description of the basic objectives of the Agency's action and the commitments undertaken by the Ministry including the financial ones needed for structures' operation;
- **Ministry/Tax Agencies Relation System** (Annex 1) regulating the performance of the surveillance function, the initiatives of institutional communication, the methods of customer satisfaction detection, the coordination to define common strategies concerning taxation information system and the contents of administrative and operational cooperation;
- **Tax Agency's Plan** (Annex 2) including strategic areas, three-year objectives, critical success factors and indicators with their expected results;
- **Incentive System** (Annex 3) defining the terms of payment of the incentive share connected to the attainment of management objectives. In particular there is the indication of the objectives connected to Tax Agency's incentive for the activities carried out in the year, the rules to measure results obtained as to objectives and calculation methods of result synthetic score to which the incentive quantity is linked;
- **Management Monitoring and Result Control** (Annex 4) containing the rules on the execution of manage monitoring and the result control;

With regard to the topic of this paper here follows an analysis focussed on the description of the Tax Agencies' Plans, - with particular reference to the Revenue Agency's Plan as to tax compliance - as well as monitoring and result control stages.

The Activity Plan

The Plan of each Agency is developed according to the analysis of external (macroeconomic scenario, public finance constraints), institutional (Government programme, policy measure, measures in relation to public finance) and internal (development stage of Tax Agency's organisation and criticalities) variables.

Tax Agencies' Plans are aimed at attaining:

a) the spontaneous compliance of tax obligations through the simplification of the relationship with taxpayers and the quality of services supplied;
b) the effectiveness of the fight against tax evasion improving tax assessment quality;
c) the simplification of the tax system also with the participation of all tax intermediaries and trade associations;
d) the improvement of telematic services in order to guarantee their widespread availability also to less computerised users
e) the cooperation with other public structures and other taxation subjects also at international level;
f) the cost-effectiveness of administrative action also through the streamlining of local organisational structures;
g) a constant policy of professional training and retraining;
h) the correct, efficient and effective management as well as competence development of the Taxation Information System in compliance with regulations and standards in force according to the guidelines of competent bodies, as well guaranteeing the unity, interoperability and security of the Taxation Information System;
i) the quality of processed data.

In the Activity Plans the following is identified:

- **"strategic areas of intervention"** to improve the overall performance of the taxation system as to the competence sector of each Tax Agency;
- **significant objectives of the administrative action** related with the priorities identified in the policy measure and in the measures in relation to public finance;
- **critical success factors** (considered as factors needed to reach the objectives set) and related **indicators** and **expected outcome** to assess the Tax Agency's ability to realise what needed to meet the targets.

The following slides illustrate the elements characterising the three Tax Agencies' Plans for 2009.

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The Customs Agency's Plan: features

The Customs Agency's Plan shows the following goals:

Prevention and fight against tax and extra-tax evasion

1. To continue the fight against evasion, illegal acts and fraud by transposing the strategies adopted at both Community and international level as well as the indications contained in the Policy Measure by the Minister and taking into account the economic scenario resulting from the current business climate;
2. To focus on new scopes of activity in order to prevent extra-tax illegal acts (controls on postal consignments and to protect public safety);
3. To streamline administrative co-operation activities with national entities and bodies, in particular the Guardia di Finanza and Revenue Agency, as well as with EU and international bodies in order to enhance the effectiveness of action against illegal activities.

Simplification

1. To further strengthen the digitalisation and automated data communication for customs and excise duty services;
2. To strengthen activities aimed at granting special conditions to economic operators with high reliability profiles in compliance with EU Directives (AEO, Authorized Economic Operator: a certification programme which applies to economic operators and their trade partners involved in the international supply chain);
3. To arrange all necessary measures to implement the "Single Window Customs".

Governance and support

1. To ensure the functioning of organization according to the Agency's restructuring programme to be completed by 2010;
2. To enhance professional skills through training activities, also with the aid of innovative teaching in major strategic sectors;
3. To increase internal efficiency also by enhancing the digital wealth of information.

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The Revenue Agency's Plan: features

The Revenue Agency's Plan shows the following goals:

Prevention and prosecution of tax evasion

- Definition of objectives in terms of actual controls;
- Setting of an objective of achievement of revenue estimates from U.P.B. 2 (Forecast Unit Base 2 of statement of estimates of revenue called "Revenue from assessment and control activities") equal to Euro 7.2 billion;
- Increase to 41% of use of resources for tax evasion prevention and countering actions;
- Strengthening of the fight against tax evasion through:
  - 140,000 assessments on initiative of taxable persons carrying on an activity, trade or profession, including those deriving from sectors studies;
  - 7,500 assessments helped by financial investigations;
  - 12,500 assessments carried out according to synthetic definitions of income for natural persons on the basis of elements revealing their taxable capacity.

Services rendered to taxpayers and society at large

1. Increase in the use of on-line instruments;
2. Improvement of services supplied through the enhancement of a Multi-Channel Approach;
3. Reduction of the backlog of refunds;
4. Definition of Customer Satisfaction targets in specific areas of assistance to users.

Governance and support

- Initiatives aimed at evaluating the impact of training on key processes;
- Estimated targets of implementation capacity and expenditure capacity for the investment plan.

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The Land Agency's Plan: features

The Land Agency's Plan shows the following goals:

Improvement of quality of services to taxpayers

1. To continue the Agency's commitment to make quality objectives already achieved more challenging and to attain grater uniformity of the service levels on the national territory;
2. To increase the supply of services through a greater use of the IT channel to update and complement databases.

Improvement of fiscal action effectiveness

5. To strengthen recovery actions for tax evasion and avoidance also in co-operation with the Revenue Agency, Municipalities and AGEA (Italian Agency for Agricultural Supply), by improving automation control processes (this is the activity that the Land Agency carries out in the tax field through automated, manual or spot control actions cadastral rents and the detection of real estate not appearing in cadastral registers);
6. To improve the quality and equity of real-estate estimates, in order to support the reform of the Cadastre's appraisal system.

Improvement of production process efficiency

1. To develop services and ITC;
2. To enhance professional competence with special reference to managerial and technical skills, also through the adoption of more advanced reward systems.

As regards the Revenue Agency's Plan, the strategies to be adopted are defined according to all main points of reference which are conducive to the development of a plan that allows, on the one hand, to consolidate the results obtained, and, on the other, to give further impetus to the administrative action, to comply ever more effectively with the demands of politics.

These strategies are essentially based on two fundamental pillars: strengthening the assessment action, and simplifying compliance for taxpayers, thus facilitating their dialogue with the Revenue. To support this effort, the baseline scenario has been analyzed in relation to the market and Public Administration as well as to the evolution of the regulatory framework and technological and organizational developments.

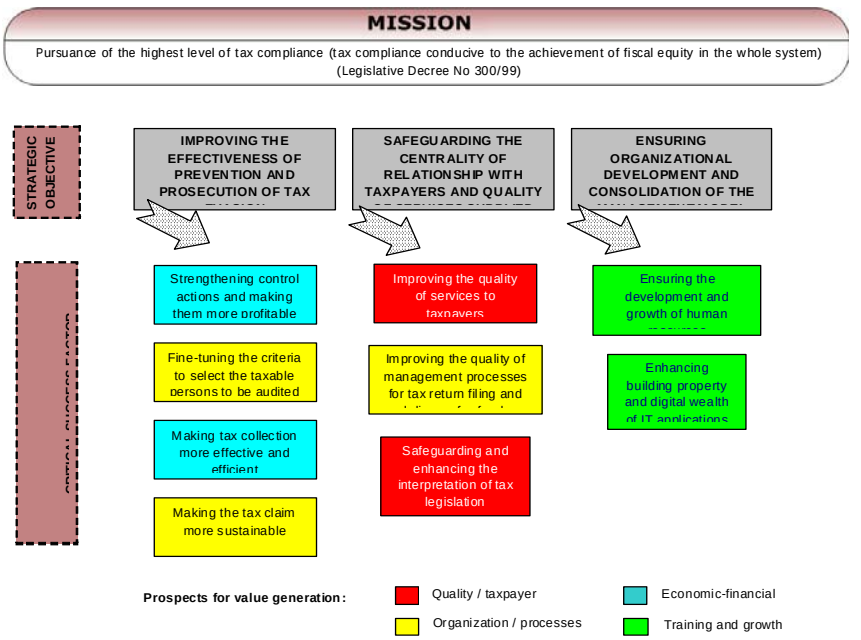
The Revenue Agency's strategy will develop around these themes over the next three years and, accordingly, the Convention is structured to reflect a logical model for which the activities to be carried out are included in three strategic areas:

- Strategic Area 1 - Prevention and countering of tax evasion
- Strategic Area 2 - Services rendered to taxpayers and society at large
- Strategic Area 3 - Governance and support action

Also for the Revenue Agency, within each of the above areas, the strategic objectives regarded as significant are made clear and explicit and, for each of these, the critical success factors are identified. These represent the key elements for achieving the strategic objectives and constitute, arranged by priority level, the components to be monitored to verify the actual achievement of the Agency's institutional mission. The attainment of critical success factors is ensured by the underlying individual actions and projects, and is measured by appropriate performance indicators.

As can be inferred from the strategic map and by examples of the plan's articulation below, the latter was formulated on the basis of the Balanced Scorecard methodology, highlighting the convergence between interests and expectations of all stakeholders in the tax system with the objectives and activities that the Revenue Agency undertakes to put in place in the institutional areas of competence.

In fact, the charts below illustrate how - for each strategic area - objectives and relevant indicators of impact to one or more categories of stakeholders, critical success factors and underlying indicators along with the prospects for value generation have been identified.



STRATEGIC AREA 2 - SERVICES RENDERED TO TAXPAYERS AND SOCIETY AT LARGE

Dimension BSC	Stakeholder impact	Objectives and related FCSs	Indicators	Expected outcome		
				2009	2010	2011
	Taxpayer	***Objective: Safeguarding the centrality of relationship with taxpayers and quality of services supplied***	***Number of phone answers provided*** ***INCENTIVE OBJECTIVE***	**90% of requests received up to a maximum of 1.710.000**	**increase**	**increase**
			Number of answers provided in writing (sms, web-mail)	**55.000**	**increase**	**increase**
			Rate of utilization of on-line instruments [1]	**+ 10% against final result 2008**	**increase**	**increase**
			Percentage of communication of irregularities cancelled	**24%**	**decrease**	**decrease**
Q		**FCS 1** Improvement of quality of services and simplification of compliance on taxpayers	Percentage of answers provided in writing within the second working day after reception	80%	constant	constant
			Percentage of answers requests to CAMs solved at the first contact	85%	constant	constant
			Findings of customer satisfaction survey on assistance services supplied by CAMs relating to communication of irregularities	3,5 - 4 (on a 1 to 7 scale)	-	-

[1] Weighted average of following on-line instruments: 35% "*Cassetto Fiscale*", 35% "*UnicoPF Fiscoonline*", 20% "*Prenotazione Telematica*", 10% "*Contratti Locazione Fisconline*".

STRATEGIC AREA 2 - SERVICES RENDERED TO TAXPAYERS AND SOCIETY AT LARGE

Dimension BSC	Stakeholder impact	Objectives and related FCSs	Indicators	Expected outcome		
				2009	2010	2011
Q		**FCS 1** Improvement of quality of services and simplification of compliance on taxpayers	Findings of customer satisfaction survey on assistance services supplied by offices relating to communication of irregularities	3,5 - 4 (on a 1 to 7 scale)	-	-
			Findings of customer satisfaction survey on assistance services supplied by CAMs as for the filing of tax returns	3,5 - 4 (on a 1 to 7 scale)	-	-
			Findings of customer satisfaction survey on the tax return filing system through "*Fisconline*"	3,5 - 4 (on a 1 to 7 scale)	-	-
			Findings of customer satisfaction survey on the tax return filing system through "*Entratel*"	3,5 - 4 (on a 1 to 7 scale)	-	-
			Percentage of taxpayers that booked an appointment and were assisted within 10 minutes from the time fixed **INCENTIVE OBJECTIVE**	95%	constant	constant
			Preparation of precompiled "*Unico*" tax return forms	evolving	at full potential	at full potential

STRATEGIC AREA 2 - SERVICES RENDERED TO TAXPAYERS AND SOCIETY AT LARGE

Dimension BSC	Stakeholder impact	Objectives and related FCSs	Indicators	Expected outcome		
				2009	2010	2011
Q		**FCS 1** Improvement of quality of services and simplification of compliance on taxpayers	Percentage of private acts (including lease contracts) registered and submitted on the same day **INCENTIVE OBJECTIVE**	90%	constant	constant
			Number of initiatives with educational establishments at all levels aimed at spreading the culture of fiscal legality among young generations, also through the use of information material	1.200	constant	constant
...	...	...	...	...	...	...

The Main Elements of the Revenue Agency's Planning

Below are the main management aspects planned for the Revenue Agency:

Strategic Area 1: Prevention and countering of tax evasion

A strategic objective "Improving the effectiveness of actions to prevent and counter tax evasion" and four related critical success factors (strengthening and profitability of control, criteria for selection of taxable persons to be assessed, effectiveness and efficiency of tax collection, sustainability of tax claims) have been identified.

The plan shows significant elements of discontinuity from the previous year reflecting the Revenue Agency's commitment to pursue the objectives of effectiveness and efficiency envisaged by the recent tax legislation on prevention and countering of tax evasion.

In particular, the Agency will prepare an extraordinary plan of inspections for the summary determination of income of natural persons, in controls of companies with a high fiscal interest and of individuals with fictitious residences abroad, in strengthening investigations carried out by anti-fraud offices and assessments assisted by financial investigations. Sector studies-related assessments will require a more demanding activity of investigation due to the greater detail required in the hearing phase and in evaluating the findings of the study.

The new strategy aims to focus the action of control by macro types of taxpayers and to adopt control methodologies based on analyses and evaluations of the risk of tax evasion and/or avoidance specific for taxpayers and territorial realities.

Therefore, this new methodological approach to counter tax evasion involves a new optimal allocation of resources (both in quantitative and qualitative terms) depending on the evolution and concentration of that risk, and a likewise optimal selection of positions, avoiding to pursue situations of little relevance or mere violations of a formal nature.

To ensure the achievement of the objectives outlined above, the Revenue Agency will continue in the priority allocation of resources on actions countering tax evasion, by increasing from 39.6 (final statement for 2008) to 41 the percentage of hours earmarked for control activities.

Also as regards tax collection from assessment and audit activities (assessment taxrolls, institutions reducing litigation, sanctions and interest),

the Agency has formally committed to the achievement of the estimated revenue defined in the State Budget for 2009.

Strategic Area 2: Services rendered to taxpayers and society at large

The scheme of the 2009-11 Convention contains the strategic objective "Safeguarding the centrality of relationship with taxpayers and the quality of services supplied" subdivided into three critical success factors (quality of services and simplification of compliance for taxpayers, quality of tax return processing and delivery of refunds, enhancement of interpretation of tax rules) that focus the Agency's complex sphere of action within the context of assistance to taxpayers and tax management.

A major innovation consists in the use within the critical success factor "Improvement of quality of services and simplification of taxpayers' compliance" of five indicators related to the findings from customer satisfaction surveys conducted by the Revenue Agency on assistance services supplied by CAMs (Multi-channel Assistance Centres) and offices on communication of irregularities, on services provided by CAMs for tax return filing and lastly on on-line tax return filing.

In this regard, it should be noted that the Department, on the basis of general and governance rules, coordinates within the Tax Administration, the systematic detection, measurement and enhancement of customer satisfaction with respect to the quality of fiscal services and of the Revenue-taxpayers relationship.

The Department of Finance, together with the structures supplying services and via a constant benchmarking, both at national and international level, ensures - in a Total Quality Management perspective - effective governance and regulation of the related operational activities.

A system of shared roles, responsibilities and duties has been therefore defined, which includes:

- as for **Tax Agencies,** in their managerial autonomy:
- conduction of independent customer satisfaction surveys on services supplied in line with crucial, universally recognized methodological and operational principles (statistical representativeness of surveys, their systematic / periodic frequency, multi-channel extension of key services to various categories of users)
- accountability for survey outcomes and their communication
- transmission of the above outcomes, according to a specific common information notice, to the Department of Finance - Institutional Communication Directorate for Taxation

- enhancement of customer satisfaction outcomes in continuous improvement planning, by identifying priority actions from the taxpayer's perspective

- as for the **Department of Finance,** through the Institutional Communication Directorate for Taxation, in its governance function:
  - ascertaining compliance with the above methodological principles
  - collection, analysis and processing of survey outcomes (not data) and coordination of public communication initiatives
  - completion of the information framework with specific monitoring and/or surveys on the taxpayers' perceptions / expectations not strictly connected with delivery / utilization of services
  - running and implementation of a High-Quality Database ("Banca dati della qualità") to systematically and historically organize all relevant information supporting conventional and strategic functions of the Italian Ministry of Economy and Finance, as regards the improvement of service quality and satisfaction of users / taxpayers.

With a medium-term perspective, corresponding to three-year periods, each Agency - on the basis of its Strategic Plan - negotiates its annual commitment on all strategic Areas of intervention with the Department of Finance.

A specific Strategic Area of the Agreements between the Ministry of Economy and Finance and Tax Agencies, concerning services rendered to the citizens / taxpayers, identifies inter alia, as regards customer satisfaction activities, a number of punctual objectives, projects and related performance indicators on which the Department conducts periodic monitoring actions.

Strategic Area 3 - Governance and Support Activities

With respect to the initiatives aimed at improving training and staff selection processes, the Agency evaluates the effectiveness of training on key processes in the service area and the area relating to the countering of tax evasion, and the launch of a study / test to evaluate the managers' potentiality.

In order to contain the resources allocated to support activities, in line with the most recent sectoral legislation, a 10% ceiling of employed staff is allowed.

As regards investment monitoring and the percentage of work in progress to be achieved, the Agency will adopt a spending capacity indicator intended to be the ratio of investment spending to the value of investments planned.

The System of Results Monitoring and Verification

The Convention defines also the procedures to exercise the function of regular monitoring aimed at increasing awareness and insight into the Agency's

governance issues conducted by the Department through the analysis of information set out in the Convention and systematically transmitted to the Agency several times a year and the implementation of in-depth thematic studies according to schedules and procedures agreed with the Agency on a case-by-case basis.

The good functioning of the Agency's management systems according to sound business management practices is the prerequisite for the monitoring activity. Purpose of monitoring will therefore be the analysis of the evolution of these systems to ensure the quality and timeliness of information to all stakeholders in the control.

The findings on the progress achieved on the management side are submitted to the political authority.

To conduct the monitoring, the Agency provides:

- the results achieved against objectives set in the Convention's Plan;
- information on the use of key resources: financial, human and information technology resources;
- additional management information, not included in the Agency's Plan and needed to enhance the administrative action;
- documents relating to other significant managerial and organizational aspects.

During the year, changes can also be made to the Convention text if the monitoring reveals a non-standard progress in the level of targets achieved against planned results, with the agreement between the Department and Agency.

The possibility of signing supplementary or additional acts is envisaged if there are major changes in the national economic scenario, regulatory amendments, modifications relating to significant organizational features, or changes in financial resources available that significantly affect the attainment of individual objectives contained in Plans.

Of special relevance is the verification of results as at 31 December each year relating in respect to all the items included in the current Plan. The Agency submits before 15 March the necessary data and information, together with an explanatory report containing all commitments made in the Convention's Plan of activities and investments.

The Department of Finance examines the results supplied by checking the level of achievement of objectives and evaluating the reasons given in case of discrepancies or non-standard patterns. The Department prepares the draft

audit report and submits it to the Agency. Its discussion and sharing may also take place during special meetings with the Agency's technical contacts.

By 31 May, the audit report shared with the Agency's technical contacts is submitted to the Director General of Finance and the Agency's Director for summary conclusions and signing.

The audit report highlights the results achieved against expected results and includes the following:

- a summary of management results;
- individual results with respect to critical success factors and individual projects identified in the plan in force;
- a calculation of the result synthetic score for the incentive share.

The audit report signed, including the result synthetic score according to which the incentive share due to the Agency is determined, is transmitted to the Italian Minister of Finance by 10 June of each year following that of reference, and published on the Tax Administration's websites for dissemination to stakeholders.

In case of disputes on the interpretation and application of the Convention, in particular during the performance review phase, the Agreement lays down the rules for settlement of litigation entailing the communication in writing of the subject and reasons for the dispute, and commitment to a joint discussion within the maximum period of 5 days after notification, in order to settle the dispute amicably.

In the event of failure of an attempt of settlement, the matter shall be referred to a specially-appointed committee, whose determinations form the basis of a Minister's directive to which the Department and Agency shall conform their decisions.

Case study

Topic 3.3

STRATEGIC PLANNING AS FACTOR CONTRIBUTING TO THE IMPROVEMENT OF INSTITUTIONAL CAPACITY

Néstor Díaz
Director General
Directorate of Taxes and National Customs
(Colombia)

CONTENTS: Executive summary.- 1. Presentation.- 2. Legal competency .- 3. Quality and internal control management system.- 4. Strategic map.- 5. Strategic review.- 6. National development plan.- 7. Mission and vision .- 8. Institutional policies and good governance code.- 9. Strategic direction.- 10. Strategic initiatives per process.- 11. Annual operational plan.- 12. Operational plan of the section or execution level.- 13. Operational plan of the section or execution level.- 14. Internal audit plan.- 15. Institutional development and improvement plan.- 16. Communication of the strategy.- 17. Evaluation of the strategy and management.- 18. Areas that intervene.- 19. Challenges.-

EXECUTIVE SUMMARY

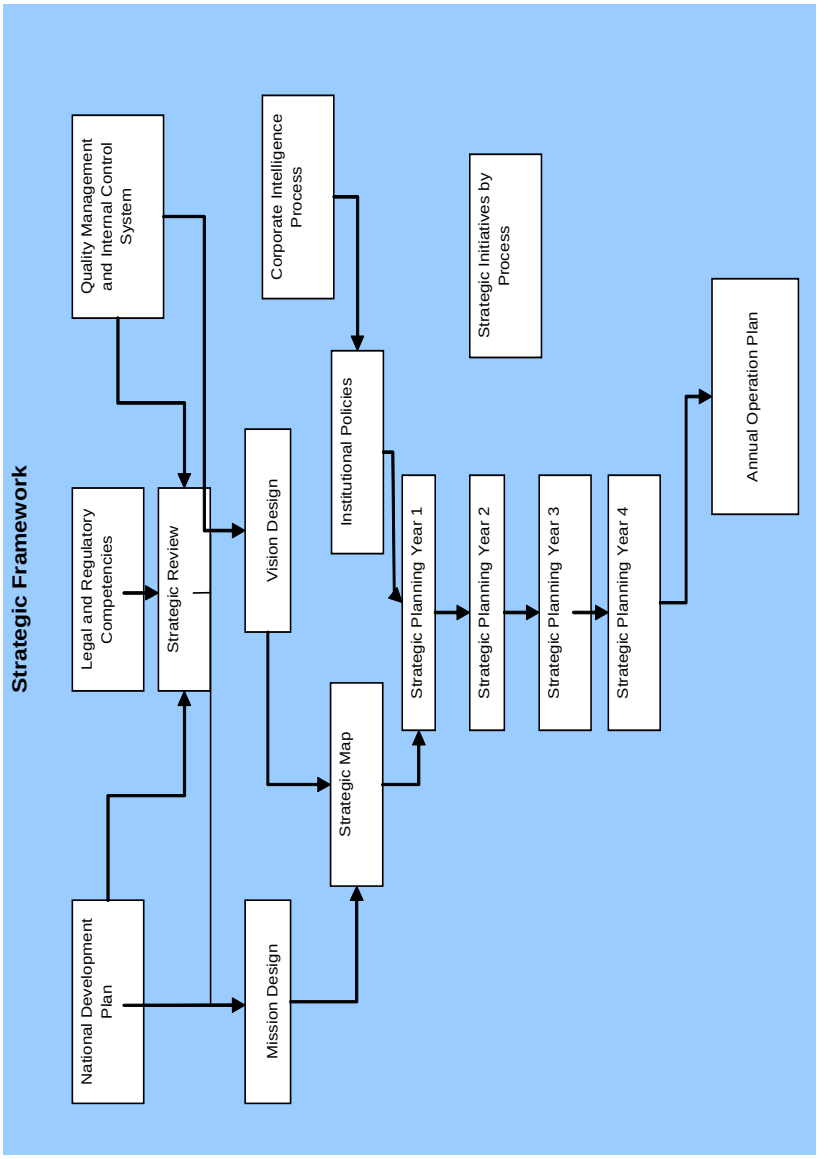
In developing the principles defined in the Political Constitution of Colombia in 1991 and as a consequence of the adaptation of the Colombian State to the organizational and managerial trends arising from the economy's globalization and internalization processes, the DIAN began consolidating Strategic Management model, which purpose is to adapt the tax, customs and exchange administrations to the demand of modern society, involving substantial, procedural and administrative elements in agreement with international standards, from a long-term vision with strategic reviews, which purpose was to anticipate the real risks that threaten organizational effectiveness, as well as the recurring stress symptoms caused by the world economic crisis, high social demands and the stiffness of public administration.

With the firm purpose of attaining the purposes laid out in the National Plan for Development "Community based State, Development for all" 2006 - 2010 and in the vision of the institution, DIAN is working hard, to protect the collection that supports the State's fiscal sustainability, the adaptation of customs to the principles of the World Customs Organization and is inclined to generate value as from the improvement of civil service, by bringing the administration closer to citizens through the best use of the technology available, by using international quality standards, internal control, accountability and transparency through the harmonization of technology processes and people, as a result of the systemic consolidation process of the tax and customs authority, while at the same time it endeavors the simplification of the tax system and the reduction of procedural times to respond to the State's fiscal needs.

1. PRESENTATION

I would like to thank CIAT for the opportunity of presenting to you the strategic Management experience adopted for some years now by DIAN, which is centered in the alignment of the strategy with institutional development with the purpose of reaching optimum collection levels and enable foreign trade, while at the same time it fights evasion and contraband, in agreement with item 3.3: **Strategic Planning as Factor Contributing to the Improvement of Institutional Capacity** - of the agenda.

This presentation covers some of the elements that form part of the strategic Management model adapted by the entity and its alignment with the institution's development, as seen herein:



Hereinafter are all the elements of the strategic Framework and their systemic interaction.

2. LEGAL COMPETENCY

DIAN is in charge of:

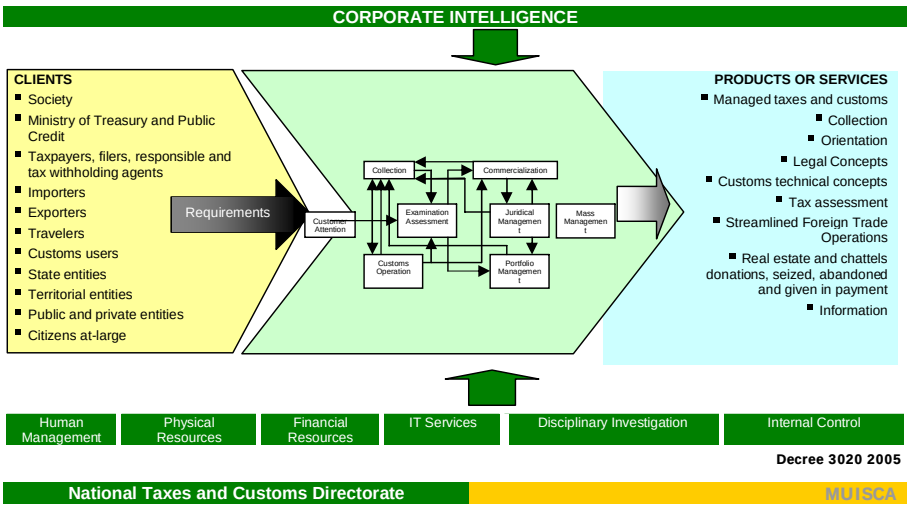
- The management of income and complimentary taxes, national stamp taxes and sales taxes; customs' fees and other national excise taxes which competency is not assigned to other State entities, whether these are excise taxes or foreign trade taxes; as well as the management and administration of customs, including seizures, confiscation or abandonment statement in favor of the Nation of goods and their management and disposition.
- Controlling and overseeing compliance with the exchange regime for the importing and exporting of goods and services, expenses associated thereto, the financing of imports and exports in foreign currency, and the under-invoicing and over-invoicing of these operations.
- Tax Management involves their withholding, examination, settlement, discussion, collection, refund, sanction and all other aspects relating to the compliance with the tax obligations.
- The administration of customs fees and other taxes to foreign trade, involves their collection, examination, assessment, discussion, withholding, sanction and all other aspects relating to compliance with customs obligations.
- The Management and administration of customs involves service and support for foreign trade operations, the apprehension, confiscation or statement of abandonment of the goods in favor of the Nation, their Management, control and disposal, as well as the administration and control of the Special Import-Export Systems, Free Zones, Special Economic Export Zones and International Marketing Corporations, pursuant to the policies designed by the Ministry of Commerce, Industry and Tourism on the issue, for the latter, excepting contracts relating to Free Zones.
- Acting legal and statistical authority on tax, customs issues, and exchange control in regards to the issues of its competency, as well as those pertaining to Special Import-Export Systems, Free Zones, Special Economic Export Zones and International Marketing Corporations.

3. QUALITY AND INTERNAL CONTROL MANAGEMENT SYSTEM

In developing the government policy of standardizing a Management model for the Public Administration, DIAN has been consolidating a Quality and Internal Control Management System that is adequate for the intention of building the Single Income and Automated Control Service (MUISCA, in Spanish), which harmonizes the Public Management Quality Technical Standard, the Internal Control Standard Model, the Risk Management System, environmental management standards and DIAN's specific administrative

career path system, with the other governmental guidelines, in the development of the competencies mandated by the law and its regulations to the organization, in agreement with the annual strategic reviews. The system sits on an operations by processes model, which defines and formalizes actions and interactions, whereby the entity achieves to transform inputs into the products and services in order to generate value, harmonize the institution's mission and vision towards management by process, which in their interaction, interdependence and the cause-effect relation, tend towards the efficient execution and compliance with the objectives of the entity in function of all parties interested to give the best possible products and services. In the development of the Quality and Internal Control Management System, DIAN structure in the Processes Map as the concentric axis thereof.

Processes Map



Master List of Processes
Version 2
Resolution 01718 December 2008

	Processes 15	Sub-processes 38	Procedures 199
MISSION PROCESSES	**Portfolio Management**		Payment facilities
			Judicial Deposit Securities Administration
			Enforced collection
			Non-coercive recovery
			Portfolio streamlining
			Portfolio management support and control and special processes
			Requests management and non-assigned debt certifications
			Distribution and Inventory Obligation Applications Management
			Inventory, Filing and Distribution of Files and Portfolio Obligations Management
	Examination and Payment	**Seizure, recognition and goods' appraisal**	Seizure of Goods or Direct Seizure
		Definition of the legal status of the goods	Trail proceedings and Decision on the Substance
			Automotive procedural steps
		Official Tax and Lien Assessments and Payments	Examination procedural steps for Tax Assessment
			Examination Decision on the Substance for Tax Assessment
			Assessment Decision on the Substance for Tax Assessment
			Customs information exchange
			Review of examination and payment actions
			Procedural steps to propose official customs payments
			Decision on the Substance for official customs payments
		Determination and imposition of sanctions	Decision on the Substance to levy tax sanctions
			Decision on the Substance to assess tax sanctions
			Procedural steps to assess tax sanctions
			Default of obligations and Effectiveness of Customs Guarantees
			Procedural steps to propose levying of Customs sanctions
			Decision on the Substance to levy Customs sanctions
			Exchange operations controls
			Controls for professionals who buy and sell foreign currency
			Decision on the Substance to levy exchange sanctions
			Investigation of International Economic Operations and foreign investment
		Money Laundering Operations	Prevention and control of money laundering
			Supply of information to state entities on the subject of money laundering
		Operational support and back-up	Criminal investigation
			Support and back-up to Tax Examination, Customs and Exchange Actions
			Police Intelligence

Processes 15	Sub-processes 38	Procedures 199
Customer Assistance		Client attention and follow-up
		Service channel management
		Management of the Complaints, Claims and Suggestion System
		Complaints, Claims, Suggestion and Requests Management - QRSP
		Legal counseling
Mass Management	**Control of Formal Obligations**	Correction of inconsistencies
		In person receipt of External Information
		Issue and renewal of the digital mechanism
		Annulment of the digital mechanism
		Update of the Master Taxpayer File
		Special Requests and Internal Situations Decision
		Billing authorization
		Accounting books registry
		Administration of electronic IT services
		Management of the Master Taxpayer File
Collection	**Revenue accounting**	Management of the Refund Revolving Fund (DTN, in Spanish)
		Disclosure of Statements, Reports and Accounting Reports Recognition of transactions or Accounting Operations and Later Value Updates
		Analysis, review and consolidation of accounting information
		Management of the Integrated Financial Information System – SIIF
		Streamlining of accounting information
		Streamlining of accounting information Management
		Management of collection and charge actions
		Inconsistencies correction management
		Self-withholding control
	Control of entities authorized to make collections	Imposition of sanctions on authorized collection entities
		Administration of the Lien on Financial Movements
		Verification of Document transmission
		Receipt of documents for authorized collection entities
		Section directorates for the control of authorized collection entities
		Control visits to authorized collection entities
	Returns and/or compensations	Refunds and/or compensations management
		Refunds Payment

Master List of Processes
Version 2
Resolution 01718 December 2008

	Processes	Sub-processes	Procedures
MISSIONS PROCESSES	**Marketing**	Goods and Assets Custody Control	Revenue and inventory of Goods and Assets to market
			Goods and Assets Inventory System Control
			Execution of third party controls
		Disposal of Goods, Assets and Services	Recognition and Accounting
			Sale of Goods and Services of the Entity
			Disposal of Goods Execution
			Disposal of Goods Supervision
	Legal Management	Administrative Channels	Analysis and Sentencing of Central Level Resources
			Analysis and Sentencing of Resources and other Section Requests
			Legal Remedies Secretariat
		Regulatory Framework and Doctrine	Regulatory Framework, Case Law, Doctrine and International Treaties Issues Compilation
			Response to Inquiries pursuant to the Existing Regulatory Framework, Case Law and Doctrine
			Support and Control of Legal Management
			Response to Inquiries and Comments to Draft Bills and/or Treaties and the negotiation thereof.
		External Representation	Intervention in legal and administrative processes
			Punishable Behaviors in Tax, Customs and Exchange Affairs and other Punishable Behaviors.
			Intervention of the Administration in Special Collection Processes
	Customs Operations	Entry of Goods into the National Customs Territory	Entry and Recognition of Cargo
			Entry and Recognition of Goods of postal traffic and urgent deliveries
			Control of Abandoned Goods
			Goods Inspection
			Travelers' Luggage Entry and Exit Controls and Foreign Exchange Control
			Acceptance, Cancellation, Custody and Control of Guarantees
			Authorization of Manual Proceedings (Logs)
			Inquiries and Acceptances prior to the return
			Goods Control in the Free Zone
			Support and Control of the application of customs regimes
			Administration of the Customs IT System
		Departure of Goods from the National Customs Territory	Authorization, shipment and termination of the exit of goods
		Customs Transit	Acceptance, Recognition, Authorization and Conclusion of the Customs Transit Operation
		Physical/Chemical Laboratory and Analysis of Goods	Assistance in the Physical – Chemical Analysis of Goods
			Physical/Chemical Analysis of the Goods

	Processes	Sub-processes	Procedures
		Auxiliary Authorization and Control of the Customs Public Service and Customs Users	Decision on the Substance for requests to obtain, renew, homologate or amend the customs registry
			Customs Registry Inquiry
			Control Customs Management and registry
			Preliminary analysis of custom registry requests
			Customs Registry Document Management
		Goods Valuation and Origin	Management of control tools on the customs valuation issues
			Orientation in the application of Goods Rules of Origin
			Management of Customs Valuation Information Administration
			Information Administration on the origin of goods
		Customs Tariffs	Goods Tariff Classification
			Technical Studies and Solution of Inquiries on Tariff Issues
			Tariff Update
CONTROL PROCESSES	Disciplinary Investigation		Disciplinary Action
			Disciplinary Technical Secretariat
	Internal Control		Evaluation and Auditing
			Internal Quality Audit Self-Assessment and Supervision
			Complains Management, Taxpayer Advocate and Customs User

Master List of Processes
Version 2
Resolution 01718 December 2008

	Processes	Sub-processes	Procedures
SUPPORT PROCESSES	**Financial Resources**	General Accounting	Recognition of accounting transactions or operations, value and adjustments updates
			Disclosure of financial statements, reports and accounting reports
			Accounting Orientation and follow-up
		Budget	Budgetary Execution
			Budgetary Programming
			Budgetary Control and Follow-up Petty Cash
		Treasury	Revenue Management
			Investment Management
			Liabilities Payment
			Treasury Payment
			Payment Recognition and/or Monetary Liabilities Compensation
	Physical Resources	Infrastructure Management	Real Estate Management
			Inventory Management
			Security Coordination
			General Services
			Transport
			DIAN Headquarters Administration
			Inventories Accounting
			Execution of Security Plans
			Installation of IT Networks
		Acquisition of Goods and Services	Preparation of the Purchases Plan
			Contracting of Goods and Services
			Administration of Goods given as Payment in Kind
		Document Management	Registries Control
			Notices systems management
	IT Services	Foreign Exchange Management	Solutions building
			Identification and Definition of Requirements
			Execution of Functional and Performance Tests
		Architecture Management	Dimensioning and assessment of technological resources
			Modeling of technical architecture
		Service Availability	Technical Support
			Solutions Maintenance and Update
	Human Resources Management	Personnel Management	Work certificates and evidences
			Payroll Payment
			Social Security Management
			Analysis and coordination of the occupational health program
			Implementation of Individual Performance Evaluation and management administration agreements
			Personnel Registry and Information Generation
			Dismissal due to Unsatisfactory Performance Evaluation
			Coordination of social security services
			Implementation of the occupational health program
			Analysis and planning of labor welfare and incentive programs
			Execution of labor welfare and incentive programs
			Personnel entry management

Processes	Sub-processes	Procedures
		Administrative situations management
		Labor history management
		Payroll management support
	Knowledge Management	Training
		Library Management
Corporate Intelligence	Communication	Liaison with Foreign Agents
		Institutional means
		Events Coordination and Execution
		Communication with Local State Agents
		Press and media
		Internal Communication
		Correspondence
		Notices
		Advertising
	Operations Analysis	Risk profile
		Tax Studies
		Strategic Planning and Evaluation Operational Planning and Evaluation
	Relations Management and other interested parties	Requirements Attention
		Promotion of information exchange, knowledge and experience
	Processes Dynamics	Organizational Analysis
		Control of Product not In agreement and Application of Corrective and Preventive Actions
		Procedures Characterization Documents Design
		Coordination and Evaluation of the Quality Management System and Internal Control
	Labor Competencies Dynamics	Occupational Analysis
		Analysis of the Individual Performance Evaluation System
		Design of Career Path Management Proposals
		Values Management and Labor Competencies

Cross Cutting Procedures

	Secretarial Management
	Administrative support
	Processes Advisory
	Administrative Assistance
	Technical Assistance to Processes
	Security Services Rendering
	Leadership

4. STRATEGIC MAP

DIAN's strategic map is framed in the Corporate Intelligence process and responds to the need of articulating requirements on planning established in the technical norm defined in the Quality Management and Internal Control System, as from the functional competencies granted to the tax and customs administration by Colombian law, the same provides strategic, planning and institutional evaluation reference points, the improvement of the anticipation capacity regarding potential risks and the adequate materialization of systemic organizational actions in order to reach organizational effectiveness.

The strategic planning becomes the essential tool for decision making, the follow-up of fiscal targets, facilitation of foreign trade and solidifies the Corporate Intelligence process, with the purpose of substantially reducing tax evasion levels, contraband and violations to the exchange regime in general and endeavor the necessary institutional synergies.

The strategic map is the managerial tool that orients the performance of the entity to satisfy the legal and institutional competencies assigned, which are materialized in the mission and vision, with the purpose of attaining the State's fiscal sustainability in the medium term, for the benefit of society-at-large.

The strategic map involves holistically and systemically the challenges of the tax, customs and exchange administration and incorporates spaces for strategic review, specially those generated by the speed of technological changes and the adaptation and competitiveness needs generated by economic globalization.

Strategic Objectives which guides its actions

A- Attain operational excellence
B- Redirect the entity towards a service orientation
C- Consolidate autonomy and legitimacy
D- Contribute towards the country's competitiveness

DIAN develops objectives as from the strategies defined in the graph.

A. Attain excellence in operations
B. Re-direct the entity towards service
C. Consolidate autonomy and identity
D. Contribute towards the Country's competitiveness
Maximize tax revenue pursuant to the regulatory framework
Optimize the Cost/Benefit ratio
Optimize tax collection
Optimize comprehensive entry by clients
Maximize the value of the DIAN brand
Maximize access income to national and international
Reduce costs Relating to compliance with obligations
Reduce client costs relating to
Promotion actions to counter evasion, avoidance, contraband and exchange violations
Build trust, credibility and image improvement
Offer customers permanent assistance
Improve reaction times in regards to clients
Increase customer satisfaction
Mobilize the communication of the results on the use of state resources
Promote transparency and interact with the
Mobilize TAC Legislation simplification and harmonization
Provide juridical stability and certainty with a united criteria
Strengthen intelligence and comprehensive control
Asegurar la confiabilidad de los
Orient, speed-up, make more flexible the entity's process towards knowledge on the client and deliver of value
Modify, align and shield process against subjectivity, corruption and the violation of values
Develop enabling strategic alliances
Strengthen the prevalence of the tax authority
Lead the development of national mass
Actively contribute in speeding-up the strategy and planning of the regulatory framework
Speed-up, simplify and make processes more flexible
Facilitate and optimize customs operations
Prioritize service vocation in the official's career path plan
Make the administrative regulatory framework more flexible
Generate organizational capacity to use the information
Transform internal culture towards customer service
Prioritize service vocation in the official's career path plan
Generate a culture of transparency, commitment and value generation
Innovate with effective control tools
Improve the capacity of the Corporate Intelligence process
Strengthen the entity's strategic skills
Investigate and innovate in service
Consolidate organizational capacity to accomplish the mission and achieve the
Strengthen and implement a system to attract, train, develop, assess, retain and continuously and adequately compensate
Assure the generation, management and dissemination of the required knowledge throughout the organization as well as its value chain
Have available reliable information and qualified and sustainable technological
Finance
Client
Process
Learning and innovation

5. STRATEGIC REVIEW

The strategic review is the analysis, evaluation and interpretation of set of internal and external variables which allow as a diagnosis, to know the political, economic, social context and the state of the art of organizational context, as fundamental pillars to solidify the institution's mission and formulate a challenging vision in agreement with the demands of modern society.

Involves the systematic analysis of the external trends and individually weighs each input that forms part of the tax customs and exchange system, in agreement with the operational capacity of the tax administration, similarly it involves the studies carried out by the entity and by other public or private, national or international organizations.

Each year the strategic coordination committee is in charge of reviewing the scope of the advances of the strategic map and makes the corrective measures and initiatives in next year's strategic direction.

6. NATIONAL DEVELOPMENT PLAN

The National Development Plan defines the general guidelines of the National Government for the constitutional period and it harmonizes the set of public policies that are established for public administration in general and the tax and customs administration in particular, especially those referring to the simplification of proceedings, the moralization of public administration and the State's modernization in function o the principles of the administrative function defined in our country's Political Constitution.

"Community Development for all" 2006 - 2010

Objectives

- Community based State: Development for all
- Political Defense and Democratic Security
- Reduce Poverty and Promote Employment and Equality
- High and Sustained Growth: The Condition for Development with Equality
- Environmental and Risk Management which promotes Sustainable Development
- Better State at the Citizen's Service

7. MISSION AND VISION

MISSION

"At the National Directorate of Taxes and Customs of Colombia, we are responsible of rendering a facilitation and control service to economic agents, for compliance with the standards that form part of the Tax, Customs and

Exchange System, obeying to the constitutional principles of the administrative function, in order to collect the correct amount of taxes, speed-up foreign trade operations, promote the conditions for fair competition, provide reliable and timely information, and contribute towards the social and economic wellbeing of Colombians."

VISION

"In 2010 the National Directorate of Taxes and Customs of Colombia has consolidated: the State's fiscal authority, the institutional autonomy, high degrees of voluntary compliance with the obligations that it controls and facilitates, full use and comprehensiveness of information, processes and regulatory framework, the contribution of technical elements for the adaptation of the fiscal burden and the streamlining of the tax system.

With the aid of committed and trained officials to safeguard the interests of the State with a sense of service, with comprehensive and permanently updated technological support, and the special administrative regime of a modern entity that responds to the needs of society, officials, taxpayers and users."

8. INSTITUTIONAL POLICIES AND GOOD GOVERNANCE CODE

DIAN established a code of good governance as the voluntary and participatory expression of self-regulation and commitment of all civil servants, who endeavor to carryout a comprehensive, efficient and transparent Management, to strengthen citizen credibility and trust in the Entity.

It is formed by the set of ethical guidelines and values - Respect, Honesty, Responsibility, Commitment, - and for the set of policies or guidelines that must characterize the entity's Management style.

Good governance policies correspond to the set of guidelines formally expressed by top management, through which the action framework which orients public activity in a specific field, to comply with the constitution and the mission purposes of the entity, so as to guarantee coherence between purposes and practices.

Administrative Development Policies - Human and Quality Management
Control Policies - Internal Control, Control Organizations and Audits.
Operational Risks Policies
Information and Communications Policies - Information management and control, information security, organizational and informational Communications.
Social Responsibility Policies - accountability, environment.
Policy regarding stakeholders - service, suppliers and contractors.

9. STRATEGIC DIRECTION

Strategic Direction is the planning instrument defined by the entity, which establishes the specific elements, where institutional management will focus on during a fiscal year. Not all the objectives of the Strategic Plan are necessarily developed simultaneously, therefore it is necessary to determine every year the aspects in which the entity's management is focused on.

Strategic Direction must include, for all institutional processes expected achievements, instruments and tools to be used to attain the same, as well as their incidence in the strategic map and the result indicators to assess their obtainment, as indicated hereinafter:

2009 STRATEGIC DIRECTION

Achievements	Instruments/Tools	Strategic Map Incidence	Indicators
Focus 1. Compliance with the Institution's Mission			
Compliance with collection targets Evasion Decline	Service, control and facilitation actions; regulatory framework in force; survey	Maximize tax revenue pursuant to the regulatory framework in force	Target Compliance Portfolio recovery and streamlining Evasion indicator Proposed management
Risk Generation		Strengthen Intelligence and comprehensive control	Tax Control technical systems by concepts and sectors, identifying evasion and contraband sources as well as customer risk profiles
		Develop Qualifying Strategic Alliances	Effectiveness in the inspection of imports Review of manual proceedings Treaties held
Information Protection		Increase customer satisfaction levels	Institutional presence Educational cultural campaigns on contributions Reduction of primary and secondary information inconsistencies
Facilitate and assist compliance with obligations		Optimize the cost/benefit ratio	Creation of new contact points Payment service through electronic channels Receipt of images Time reduction in refunds and compensations Reduction of the average time per customs operation carried out Streamlining of the disposal of goods for legal definition
Strengthening of collection and paying accounts		Build trust, credibility and improve the image	Accounting Manual
Tax System Simplification		Mobilize TAC Laws simplification and harmonization	Harmonized customs code Substantive proposals and simplification procedures
Legal criteria unification		Provide legal certainty and stability with a single criteria	Socialization of instruction for the decision of remedies Duly supported files
Focus 2. Consolidation of the Management Model and the Quality and Internal Control Systems			
Processes modernization, technology and human talent	Review plan, adjustment and procedures formalization Review plan, adjustment and measurement of operational indicators	Assure processes reliability	Administrative orders for procedures Measured relevant indicators
	Management of the organization risks system Electronic services sustainability and maintenance plan and other applications Development and operation plan of new IT services	Have reliable information and sustainable technological support	Organizational *ridxbox* administration plan Compliance with IT services requirements for processes
Strengthening of the career path system	Technical and Management Competencies strengthening Administrative Career Path System application plan	Strengthen and implement a system to attract, train, develop, evaluate, withhold, and compensate personnel continuously and adequately	Individual, institutional, managerial and training development plans. Individual and managerial performance evaluation Job opening examination call
Strengthening of the self-control principle in the organization	Awareness and quality experience program and internal control Occupational Health and Life Quality Program Program to improve contracting and programming and expenses and investments execution Planning appropriation program and follow-up and evaluation Prevention and control program	Built trust, credibility and image improvement	Public employees covered by the program Public employees covered by the program Public employees covered by the program Public employees covered by the program Public employees covered by the program

10. STRATEGIC INITIATIVES PER PROCESS

The Director of each process is in charge of setting the specific guidelines that must accompany the process, in regards to the new procedures that are to be carried out, during the term; management goals and the strategies corresponding to processes are implemented in the annual plan.

11. ANNUAL OPERATIONAL PLAN

Every year the annual plan is consolidated, and the same has defined requirements, while it implements the production and development goals that must be attained by those responsible and the compliance dates for central levels and the Section Directorates.

It must also involve self-assessment and supervision, which must be developed by each person responsible of the process.

Finally, the commitments of each official in the development of the individual performance evaluation process, which are directly related to the annual operation plan and its goals, are broken down into a cascade.

12. OPERATIONAL PLAN OF THE SECTION OR EXECUTION LEVEL

The development of the Annual Plan is the responsibility of offices, divisions and groups of the Section Directorates and the delegate administrations. This plan has the description of the main actions that must be carried out during one year to achieve the goals proposed; it materializes the commitments established by the central level at a Section Directorate.

The Annual Plan of the execution level is formed by three components: production, development and evaluation. The component described herein, group the different activities set forth, pursuant to the nature thereof:

- Production Component: these are the set of activities that will allow attaining the achievement of the goals established by the Central Level.
- Development Component: these are the set of project support activities established by the central level.
- Evaluation and Improvement Component: comprises all activities that an administration must execute to permanently and specifically review its commitments, for correct compliance with its management.
- The Managerial plan, management plans defined in the evaluation guidelines, improvement actions and quarterly self-assessment reports must be inputs for the formulation of the execution level annual plan.

13. INDIVIDUAL LEVEL PLANNING

In charge with the establishment of labor commitments that public employees must reach in a determinate term, in the development of the mission, the institutional purposes, strategic planning, managerial and execution level. It is carried out pursuant to the guidelines defined by the Deputy Director of Process Management and Human Talent for the individual performance evaluation process.

14. INTERNAL AUDIT PLAN

The Internal Control Office is in charge of advancing the audit plan, which is presented and approved at the Internal Control Office, which is presented and approved at the Internal Control Committee of which all Management Directors are a part of and it has National Coverage.

15. INSTITUTIONAL DEVELOPMENT AND IMPROVEMENT PLAN

This refers to the group of innovative projects referring to the institutional improvement that must be developed subject to the terms defined by the National Planning Department, once these are financed by the resources of the investment, credit and technical assistance budget.

16. COMMUNICATION OF THE STRATEGY

The organizational strategy must be understood by all and every official of the DIAN therefore, the training of officials must inevitably include the understanding and management of the tools involved in institutional development and specifically must identify the contribution of its work to the guidelines defined.

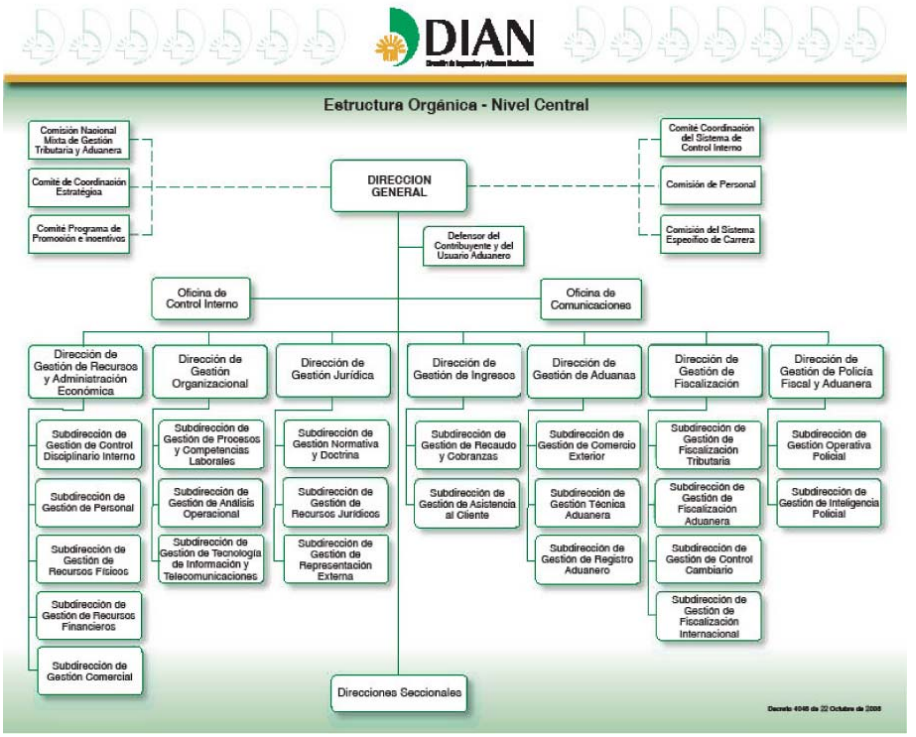
The strategic plan must be disseminated to all officials, through different internal institutional means, and an essential part of the training, development and improvement of the competencies of the official of the tax and customs administration, similarly, it is published in electronic media for the knowledge of the citizens.

17. EVALUATION OF THE STRATEGY AND MANAGEMENT

As a result of the institutional planning exercise, the entity carries out quarterly follow-up of compliance with the annual plan and a monthly follow-up of the Management goals.

18. AREAS THAT INTERVENE

In agreement with DIAN's organic structure (see flow chart)



This is the responsibility of the General Director

- Direct and manage the exercise of the competencies and functions assigned to the entity.

This is the responsibility of the Strategic Coordination Committee

- Propose to the General Director for his approval, the Institutional Strategic Plan.
- Carryout follow-up with compliance with Strategic Plan and issue the relevant observations and recommendations.

This is the responsibility of the Organization Management Directorate

- Direct and coordinate the formulation of the Institutional Strategic Plan incorporating the annual plan to fight evasion and contraband and the

operational plans, their evaluation and adjustments and present it to the corresponding instances for their approval.
- Provide scenarios that allow the formulation, evaluation and adjustments to the strategic plan and the annual budget draft-bill and the annual income and expenses budget.
- Establish the methods, procedures and indicators which allow measuring compliance with the strategic plan and their impact in the organization.

This is the responsibility of the Management Directors and Deputy Directors

- Participate in the formulation of the Institutional Strategic Plan, respond for their execution, evaluation and the accountability of the results.
- Direct, coordinate and supervise the elaboration and execution of operational plans of the dependencies under its responsibility.
- Propose in agreement with the Institutional Strategic Plan, the annual budget income and expenses draft-bill at its dependencies and guarantee its execution.

This is the responsibility of the Section Directors

- Respond for the execution of the Institutional Strategic Plan and propose the necessary adjustments.
- Direct, coordinate and supervise the preparation and execution of operational plans at the dependencies under its responsibility.

This is the responsibility of the Internal Control Office

- Evaluate the state of the design, implementation of the operation and improvement of the Internal Control System of the entity and propose the recommendations for their optimization.

19. CHALLENGES

DIAN is carrying out the harmonization process of the elements that form part of the strategic Framework, where the guidelines of the National Development Plan are considered and the strategic framework and institutional competencies are defined by the National Government, and these are consolidated in annual plans, and this is the manner in which DIAN seeks to strategically direct a useful tool to achieve the institutional objectives, therefore, it promotes the harmonization of the plan, and the sources of financing, the realization of an agile evaluation of the organizational effectiveness, the monthly follow-up of management results and the advances of the plan, strengthen the communication and information process as from the adoption of a management accounting system, supported on real time indicators.

Similarly, and in consideration of size and complexity of the tax, customs and exchange administration, DIAN works in function of aligning the work force in function of the strategy for the benefit of the Entity, the State and society-at-large.

DAILY SCHEDULE OF ACTIVITIES

CIAT TECHNICAL CONFERENCE
Naples, Italy
19 - 22 October 2009

DAILY SCHEDULE OF ACTIVITIES

MAIN THEME: "STRENGTHENING OF THE TAX ADMINISTRATION'S CAPACITY"

Monday 19 October

Mañana

09:00 - 09:30 Inaugural ceremony (30')

09:30 - 10:10 Official photograph and Coffee Break

TOPIC 1: THE DESIGN AND IMPLEMENTATION OF TAX POLICY: THE ROLE OF THE TAX ADMINISTRATION.

Moderator: Juan Hernández, Director General of Internal Revenues, Dominican Republic

Inaugural Conference : Impact of the crisis in the Tax Administrations.

10:10 - 10:40 **Speaker:** Teresa Ter-Minassian, Former Director Fiscal Affairs Department, International Monetary Fund (30')

Topic 1: The design and implementation of Tax Policy: The role of the Tax Administration.

10:40 - 11:10 **Speaker:** Andréa Lemgruber-Viol, Senior Economist, IMF (30´)

11:10 - 11:20 **Commentator:** Claudino Pita, Executive Secretary, CIAT (10´)

11:20 - 11:40 Debate (20´)

Topic 1.1: Social acceptance of the tax: the simplification of the tax systems.

Moderator: Viralee Latibeaudiere, Director General, Tax Administration Directorate, Jamaica

11:40 - 12:00 **Speaker:** Henri Osmont d'Amilly, Head of the Department of Simplification, General Directorate of Public Finances, France (20´)

12:00 - 12:20 **Speaker:** Nelson Hernández, Director General of Revenue, General Directorate of Taxation, Uruguay (20´)

12:20 - 12:50 Debate (30´)
12:50 - 14:00 Lunch

Afternoon

Topic 1.2: Factors contributing to the equity of the tax systems: expansion of bases

Moderator: Rudy Villeda, Tax Administration Superintendent, Superintendence of Tax Administration, Guatemala

14:00 - 14:20 **Speaker:** Juan Pablo Jimenez, Official Economic Affairs, Economic Commission for the Caribbean and Latin-America ECLA (20´)

14:20 - 14:40 **Speaker:** Carlos M. Carrasco Vicuña, Director General, Internal Revenue Service, Ecuador (20´)

14:40 - 15:10 Debate (30´)
15:10 - 15:25 Recess

Topic 1.3: Tax decentralization and coordination in the administration of taxes.

Moderator: Carlos Sánchez, Deputy Director General of Operations, Federal Administration of Public Revenues, Argentina

15:25 - 15:45 **Speaker:** Fernando Díaz Yubero, Director Organizational Programming and International Relationships Dept., State Agency of Tax Administration, Spain (20´)

15:45 - 16:05 **Speaker:** Valmar Menezes, General Coordinator, Federal Revenue Secretariat, Brazil (20´)

16:05 - 16:35 Debate (30´)

Tuesday 20 October

Integration activity among the delegations of the member-countries, international agencies and special guests

Wednesday 21 October

TOPIC 2: KEY ASPECTS FOR IMPROVING THE TAX ADMINISTRATION'S CONTROL CAPACITY

Topic 2.1: Information exchange and administrative assistance for recovery as effective mechanisms for controlling fraud, evasion and avoidance

Moderator: Donato Raponi, Head Tax Administration, European Union

09:00 - 09:20 **Speaker:** Stefano Gesuelli, Head International Cooperation Unit, General Directorate, Guardia di Finanza, Italy (20')

09:20 - 09:40 **Speaker:** Patricia Spice, Director, Competent Authority Services, Compliance Programs Branch, Canada Revenue Agency (20')

09:40 - 10:00 **Speaker:** Grace Perez-Navarro, Deputy Director, Centre for Tax Policy and Administration, OECD (20´)

10:00-10:20 **Speaker:** Carlos Sánchez, Deputy Director General of Operations, Federal Administration of Public Revenues, Argentina (20')

10:20 -11:00 Debate (40´)
11:00 - 11:30 Receso

Topic 2.2: New technologies to improve control capacity

Moderator: Yolanda Alvarez de la Torre, Head of the National Tax Administration Office, ONAT, Cuba

11:30 - 11:50 **Speaker:** Han Wijers, Manager, National Supervision Organization, Tax and Customs Administration, The Netherlands (20')

11:50 - 12:10 **Speaker:** Germania Montás, Deputy Director General, General Directorate of Internal Taxes, Dominican Republic (20')

12:10 - 12:40 Debate (30´)
12:40 - 14:10 Lunch

Afternoon

Topic 2.3: The creation of large taxpayer units and the inclusion of individual large taxpayers

Moderator: Jorge Gaona, Diretor National, Large Taxpayers, State Undersecretariat of Taxation, Paraguay

14:10 - 14:30 **Speaker:** Douglas O'Donnell, Director, Treaty Administration and International Coordination, Internal Revenue Service, United States (20')

14:30-15:00 Debate (30´)

TOPIC 2: KEY ASPECTS FOR IMPROVING THE TAX ADMINISTRATION'S CONTROL CAPACITY

Moderator: Michael Crichlow, Tax Commissioner, Ministry of Finance, Bermuda

15:00-15:30 **Speaker:** Luigi Magistro, Central Director, Italian Revenue Agency-Central Directorate, Italy (30')

15:30-15:40 **Commentator:** Jan Knížek, General Director, Ministry of Finance-Central Financial and Tax Directorate, Czech Republic (10')

15:40-16:00 Debate
16:00-16:10 Recess

16:10 - 18:00 TECHNICAL SESSION (ONLY FOR REPRESENTATIVES OF MEMBER COUNTRIES)

Jueves 22 de octubre

Morning

TOPIC 3: MANAGEMENT TOOL AND RELEVANT CONTEXTUAL ASPECTS FOR STRENGTHENING THE TAX ADMINISTRATION

Moderator: William Layne, Permanent Secretary of Finance, Government of Barbados, Ministry of Finance & Economic Affairs, Barbados

09:00 - 09:30 **Speaker:** Andrew Reed,Assistant Commissioner, Australian Taxation Office, Australia (30´)

09:30 - 09:40 **Comentarista:** Matthias Witt, Head Public Policy, German Agency for Technical Cooperation, GTZ (10´)

09:40 - 10:00 Debate (20´)
10:00 - 10:20 Recess

Topic 3.1: The use of Intranets by the Tax Administrations

Moderator: Jean-Frantz Richard, Director General, General Directorate of Taxes, Haiti

10:20 - 10:40 **Speaker:** Ricardo Escobar, Director, Internal Revenue Service, Chile (20')

10:40 - 11:00 Debate (20´)

Topic 3.2: Economic integration and harmonization of the tax systems and administrations

Moderator: Jamila Isenia, Director, Inspectorate of Taxes, Netherlands Antilles (20')

11:00 - 11:20 **Speaker:** Clara Urteaga, Legal National Intendant, National Superintendence of Tax Administration, Peru (20')

11:20 - 11:40 **Speaker:** Luiz Villela,Fiscal Economist, Inter-American Development Bank, IDB (20')

11:40 - 12:10 Debate (30´)
12:10 - 13:30 Lunch

Afternoon

Topic 3.3: **Strategic planning as factor contributing to the improvement of institutional capacity**

Moderator: Sandro de Vargas Serpa, Deputy Secretary for Taxation and Litigation, Federal Revenue Secretariat, Brazil

13:30 -13:50 **Speaker:** Mario Visco, Head of Unit, International Relations Office, Ministry of Economy and Finance, Italy (20')

13:50 -14:10 **Speaker:** Néstor Díaz, Director General, Directorate of Taxes and National Customs, Colombia (20')

14:10 - 14:40 Debate (30´)

14:40 - 14:50 Evaluation of the event

14:50 - 15:20 **Final considerations:**
José António Pereira, Director General of Revenue, General Directorate of Taxes, Portugal

15:20 - 15:50 **Closing ceremony**

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CIAT TECHNICAL CONFERENCE

NAPLES, ITALY
19 to 22 October, 2009

LIST OF PARTICIPANTS

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