Inter American Center of Tax Administrations (CIAT)

CIAT Model Code of Conduct

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Developed by members of the CIAT Working Group on the Promotion of Ethics in Tax Administration and presented in Buenos Aires, Argentina, at the 39th CIAT General Assembly, (April 18-21, 2005)

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BACKGROUND

The importance of values and ethics in tax administrations is a topic that has been addressed over the years, particularly since the adoption, in 1996, of the CIAT Charter-document “Minimum Necessary Attributes for a Sound and Effective Tax Administration”. The Charter addresses three obligations: to earn the trust of taxpayers; to establish the integrity and impartiality of tax administrations; and to ensure its continued stability through sound internal human resource and administrative policy. The foundation for the advancement of these obligations is a clear, consistent set of values and ethics.

At the 37^{th} CIAT General Assembly, in Cancun, Mexico, in March 2003 and at the 38^{th} CIAT General Assembly, in Cochabamba, Bolivia, in March 2004, delegates acknowledged that it is in the national interest for governments and tax administrations to vigorously promote public ethics. Delegates endorsed the need for CIAT to support its members to strengthen their individual integrity programs.

On a proposal from Canada, a Working Group was established consisting of Argentina, Brazil, Canada (sponsor), Peru, Spain, Trinidad and Tobago and the CIAT Secretariat. The Working Group was two-tiered, the Steering Committee made up of heads of administrations, and a working-level group. The Working Group was mandated with the development of a Declaration on the Promotion of Ethics in Tax Administration, a CIAT Model Code of Conduct, and the development of an inventory of best practices.

The model Code of Conduct, provided below, was developed by members of the working group.

PREAMBLE

The public demands and expects from tax officials that they perform their functions with honesty, impartiality and professionalism. To maintain the public's confidence, it is important that tax officials demonstrate the highest standards of integrity in their dealings with members of the public, the business community, and other government officials.

To meet such demands, it is essential that tax administrations develop a comprehensive and sustainable integrity program. A key element in such a program is the development, publication and acceptance of a comprehensive Code of Conduct which sets out in practical and clear terms the behaviour expected of all tax officials and the consequences for non-compliance.

PURPOSE

The present model constitutes a tool to assist in the development and implementation of a Code of Conduct. It is provided as a general guide for tax administrations of CIAT member-countries and should be modified to particular circumstances and country-specific legislative requirements.

GENERAL CONSIDERATIONS

A Code of Conduct can be presented as a unique, comprehensive legal text of expected standards of behaviour, or as a non-prescriptive document that includes desirable standards of conduct for which non-compliance could be sanctioned through other measures.

Each tax administration should establish a strategy for the development of its own Code of Conduct and ensure its dissemination, implementation, and promotion through a comprehensive and sustainable integrity program.

The development and implementation of a Code of Conduct should consider:

- The organization's mission and values;
- The participation and commitment of management in the process;
- The involvement of staff, key focus groups, and unions in the process;
- The adoption and promotion of preventive measures that provide incentives for professionalism and high standards of conduct;
- The importance of establishing an office of internal investigation;
- The need to establish an internal communication strategy for the dissemination of the Code of Conduct;
- The need to develop training programs on the Code of Conduct;
- The establishment of mechanisms for employees to raise and resolve ethical dilemmas and questions relating to the expected standards of behaviour;
- The development and adoption of policies that deal with specific ethical issues such as discipline, conflict of interest, harassment, hospitality and other benefits, the use of the electronic network, etc.

STRUCTURE

In drafting their Code of Conduct, tax administrations should follow a structure adapted to their individual needs.

It is recommended that the Code of Conduct contain at a minimum, the following parts:

1. Objectives
2. Scope of application
3. Principles regulating the conduct of tax officials
4. Non-compliance
5. Glossary (optional)

Part I Objectives

The primary objective of the Code of Conduct is to provide a framework for tax officials of expected standards of behaviour, and to promote the importance of integrity in a sound and effective tax administration.

To achieve this, tax administrations should consider focusing on the following objectives in their respective Codes of Conduct:

- Promote the organization's mission and values;
- Define expected standards of conduct;
- Provide a communication tool for institutional strengthening and the promotion of ethics;
- Promote the delivery of quality service;
- Demonstrate to the public the tax administration's commitment to safeguard integrity.

Part II Scope of application

Codes of Conduct should be applicable to all tax officials who work within the tax administration.

It should be clear that the application of the Code of Conduct with respect to the conduct and possible disciplinary action against tax officials, supplements the legislations regulating the public service. Its application does not exclude the application of any other laws (criminal, civil, administrative or fiscal).

Part III Principles regulating the conduct of tax officials

The following are key principles that should be considered to regulate the conduct of tax officials:

1. Compliance with the law

Tax officials should accept that the key to ethical decision-making and good conduct lies in complying strictly with the laws of the country. The provisions governing the activities of tax officials give them exclusive administrative authority and delimited discretionary powers. To adequately carry out their responsibilities and avoid suspicion of favouritism/corruption in their acts and decisions, tax officials must perform their duties with the highest standards of integrity.

In accordance with this principle:

A. Tax officials will exercise their functions exclusively within the limits of the law. The special authority and the discretionary powers conferred upon tax officials in the performance of their duties will be used strictly within the confines of the laws governing the tax administration. Therefore, professional performance will be carried out within the sphere of respect, courtesy, consideration and abidance by the rules in force.

B. Tax officials should inform their superiors as soon as they become the subject of a criminal investigation or prospective criminal proceedings. On receipt of such information, their superiors will have the responsibility for deciding whether such official should continue to work at their normal duties, be assigned to other functions or be suspended from their post.

   Tax officials, who are charged with an offence, should cooperate with the necessary investigation processes to clarify the situation.

Examples of misconduct:

- Issue judgments, resolutions and/or interventions lacking legal and documentary support;
- Failure to inform that he/she is under criminal investigation;
- To use for the collection of taxes, means not authorized by law;
- Facilitate contraband;
- Failure to undertake a disciplinary administrative action against a subordinate who has committed an offence.

2. Personal commitment

Tax officials should take personal responsibility to read, understand, and promote compliance with the principles of the Code of Conduct. Specifically, tax officials must:

- Be committed to the principles of law;
- Observe the resolutions, regulations, legal provisions that relate to the performance of their duties;

- Strive for the highest ethical standards, in support of the tax administration's mission and values;
- Perform their duties with care, diligence, and professionalism;
- Be guided by the principles of integrity, neutrality, impartiality, transparency, and accountability;
- Behave in a manner that upholds or enhances the reputation and professional standing of the tax administration.

Examples of misconduct:

- Failure to comply with the procedures for notifying absences;
- Falsely reporting attendance and information on working hours, including overtime;
- Failure to comply with the orders of higher-level authorities, except when they are evidently illegal;

3. Relations with internal stakeholders

Tax officials are expected to treat government officials, superiors, subordinates, and colleagues with courtesy and respect, and to carry out their duties with the highest standards of professionalism and cooperation.

Examples of misconduct:

- Carry out financial transactions (loans, guarantees, etc.) between staff members that could affect relationships in the work environment and could compromise an official's independence and integrity;
- Failing to cooperate; interfering with and/or obstructing the work of others;
- Making excessive noise, and/or engaging in any other unjustified action that has a negative impact on the health and well-being of co-workers;
- Display favouritism or rejection towards colleagues or subordinates, based on friendship, enmity, race, religion, gender, or political prejudices;
- Deliberately harm the reputation of other workers, subordinates or superiors.

4. Relations with the public

The public expects that its dealings with the tax administration will be fair, professional and confidential. Taxpayers have the right to be presumed honest, the right to impartial application of the law, and the right to appeal decisions.

For their part, tax officials must be and be seen as impartial and honest. They should use all reasonable means to assist the public in fulfilling its obligations and exercising its rights under the law.

To respect this principle, tax officials should ensure:

- The rights and obligations of taxpayers are fully understood and respected;
- Fair, reliable and transparent application of tax laws and policies;
- Accessible and dependable service;
- That all taxpayers are treated equitably;
- Expeditious processing of taxpayer requests, resolution of appeals and precise and timely answers to enquiries.

Examples of misconduct:

- Disrespectful, abusive, threatening, insulting, offensive or provocative statements or gestures to, or about, another person;
- To delay unjustifiably the application of any official procedure;
- Provide incomplete and/or untruthful information, thus making the taxpayer incur unnecessary and/or excessive compliance costs;
- Participation in promotional activities in any organization that could create a perception of a lack of impartiality.

5. Bribery

Tax officials should be free from any form of bribery or corruption at all times. Officials who offer, solicit, or accept bribes will be subject to punishable action.

Any attempts by taxpayers and/or members of the business community to offer inducements or other benefits in exchange for favours or special treatment, should be reported immediately to the superior.

Examples of misconduct:

- Soliciting or accepting a bribe in order not to charge or collect tax or social contribution, or collect them partially;
- Failure to report the offer of a bribe.

6. Gifts and hospitality

It is the responsibility of tax officials to decline any gifts, services, hospitality or other benefits that could influence, or be seen as an attempt to influence their judgment, affect their impartiality, or call into question their integrity or that of the tax administration, except in cases sanctioned by the administration, such as:

- The gift is of an inexpensive nature that could be considered a souvenir or special attention, given in the spirit of harmonious relations (the maximum acceptable amount should be fixed by each country);

- The hospitality is associated with the demands of work, for example, working meals or legitimate functions of representation to meet and discuss with taxpayers.

- When the gift is more expensive but should be accepted for cultural or protocol reasons, the item will not be regarded as the personal property of the tax official but will remain the property of the government. In these cases, the tax official must make the circumstances of acceptance known, and submit such goods to be disposed of by the administration.

Under no circumstances should gifts of cash or cash equivalent be accepted.

Examples of misconduct:

- Accept gifts with a value exceeding the amounts established by each administration in their internal gifts and hospitality policy;
- Accepting trips offered in the context of a contract negotiation.

7. Conflict of interest

It is the responsibility of the tax official to avoid situations that may lead to a real, potential, or perceived conflict of interest. This is a condition of employment.

There could be a conflict of interest when the tax official intervenes in a tax process involving the interests of the tax administration, and his/her own private interests or that of relatives or related third parties.

The superiors should be able to remove the tax officials involved in such situations of conflicts of interest.

Tax officials will be governed by the following principles:

a) Arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising;
b) Declare that they do not carry out any other activity incompatible with their public functions, or cease these activities before assuming their position;
c) Not carry out professional activities incompatible with their responsibilities as tax officials;
d) Not knowingly take advantage of, or benefit from information that is obtained in the course of their official duties and responsibilities and that is not generally available to the public;
e) Refrain from any activity, public or private, that may prevent or impair strict compliance with their duties or compromise their impartiality or independence;

Examples of conflict of interest situations:

- Exercise personally, or through substitution, private activities (consulting, advising, etc.) that are directly related to those functions carried out by the tax administration;
- Intervene in a procedure where there may be a family relationship, close friendship or manifest animosity with any of the interested parties;
- Investing in a company based on inside knowledge obtained during an audit;
- Act for the benefit of, or in the name of an individual or corporation, in a process or business in which he may have participated by reason of his position.

Tax officials must safeguard official information. Therefore, information may only be used, processed, stored, or handled for purposes specified by the tax administration.

Examples of misconduct:

- Providing information to unauthorized persons;
- Lending the personal system-access password;
- Enter false data or exclude correct data in the computerized systems;
- Provide information on internal tax techniques and procedures that could result in facilitating non-compliance.

10. Use of organizational resources

The tax officials must take responsibility for the adequate and prudent use of human resources and property made available for the exercise of their functions.

Under no circumstances may resources paid for with public money be used for personal purposes or gain. Such resources include:

- Office supplies and equipment (telephones, photocopiers, etc.);
- Personnel under his/her control;
- Facilities;
- Vehicles and machinery;
- Computers, computer software, email, and internet;
- Security passes and official stationery;
- Stamps and postal services.

Tax officials are required to make adequate security arrangements for assets at their disposal.

Examples of misconduct:

- Use of official vehicles for personal purposes;
- To re-distribute emails of a non-official nature or not related to his or her functions;
- Use human or material resources from the office for personal services or activities;
- Damage equipment through misuse.

8. Public statements

While the tax administration respects the constitutional rights of tax officials, amongst which is the freedom of expression, tax officials are expected to express themselves at all times in a manner that does not discredit the tax administration.

In this regard, tax officials, in an official capacity, should not make inappropriate public comments on matters relating to government policy and programs. Inappropriate public comments include among others:

- Negative or unfavourable opinions on governmental policy and programs related to tax issues;
- Statements or opinions of a personal nature on tax issues, without there being an official position in this respect.
- Personal statements or opinions that could be interpreted as official comments;
- Statements that could harm, bring disrepute, or even affect the reputation of the tax administration.

Examples of misconduct:

- Publicly misstating facts;
- Give an unauthorized interview to discredit a program administered by the tax administration.
- Make public declarations on confidential issues without due authorization.

9. Confidentiality and use of official information

Protecting the privacy of taxpayers, tax officials and the general public is central to the integrity of the tax administration and to the functioning of all operations that require the gathering of personal information.

Tax officials must keep in strictest confidence all information obtained by the tax administration and may only disclose it to the taxpayer or a designated representative, or other individuals or entities as established by law.

Tax officials must not access information that the tax administration collects, unless their work specifically requires it. Such official information may not, under any circumstances, be used for personal gain or advantage of tax officials, their families or anyone else or to the detriment of third parties.

11. Purchases of government property by staff

Tax officials are free to purchase articles of government property that are on sale to the general public unless:

- They have obtained, because of their official position, privileged information about the condition of the goods being sold; and
- They have been officially associated with the seizure and/or disposal arrangements.

Examples of misconduct:

- To purchase goods through a third party to circumvent the regulations.

12. Work environment

Occupational health and safety

Tax officials have a right to a healthy and safe working environment free of discrimination or harassment, in which individual and organizational objectives can be met. A good working environment ought to be:

- Fair and equitable
- Safe and healthy
- Seeking staff cooperation

Tax officials should take responsibility regarding safety measures and promptly report to their supervisor any breaches to rules or regulations that can compromise the health or safety of others.

The tax administration does not permit the consumption of prohibited substances in the workplace. However, smoking and alcohol consumption may be allowed in premises or under circumstances authorized by the tax administration.

Examples of misconduct:

- Reporting to work under the influence of alcohol;
- Using an official vehicle while under the influence of intoxicating substances;
- Smoking where it is not permitted.

13. Off-duty conduct

Off-duty conduct is a private matter. However, tax officials are expected to lead by example, act correctly, and respect the laws.

Example of misconduct:

- Participate in or support any organization that promotes illegal activities.
- Create a public scandal

Parte IV Non-compliance

The principles of the Code of Conduct must be respected. Therefore, the tax administration must adopt preventive measures to promote compliance. However, in the event of non-compliance, sanctions must be applied.

Although Codes of Conduct prescribe standards of conduct for all tax officials, they are not all-inclusive. The absence of a specific standard of behaviour does not mean that an action is condoned. It may still be subject to disciplinary action in accordance with other provisions.

Internal human resources policies should address issues of discipline. The discipline provisions may either be part of the Code of Conduct or stand-alone.

In drafting this section, tax administrations should also consider the following general aspects:

1. Definition of non-compliance

Each tax administration must identify and define which acts constitute non-compliance and represent a violation to the principles of the Code of Conduct.

2. Classification of non-compliance

Non-compliance can be classified in various categories according to the conditions of the tax administration. It is recommended that each administration develop its own scale and define each level.

By way of example, this model contemplates two levels of non-compliance: minor or major

Minor non-compliance: When the misconduct does not pose a serious risk to the public, tax officials, the reputation or image of the tax administration and does not constitute criminal misconduct, according to the law.

Examples of minor non-compliance:

- Unjustified non-compliance with the working schedule;
- Lack of courtesy to taxpayers;
- Inappropriate use of informatics equipment for personal advantage;
- Inappropriate use of his or her title to obtain benefits

Major non-compliance: When the misconduct causes injury to a member of the public, tax officials, damages its reputation and image, affects the economic interest of the tax administration or the State, and/or may qualify as criminal misconduct.

Examples of major non-compliance:

- Unlawful enrichment;
- Acceptance of bribes;
- Facilitate contraband;
- Exercise activities that are in conflict with the functions;

3. Determination and application of sanctions

As part of the determination and application of sanctions phase, the tax administration should consider the following aspects:

- Define the steps of the process and the timeframes in investigating and resolving a case of misconduct;
- Identify who determines whether non-compliance is occurring and when to initiate the process (for example the supervisor, a committee);
- Consider the context, circumstances, frequency, and impact of the misconduct.
- Determine if the consequences and sanctions vary according to the level of responsibility of the tax officials;
- That the tax official is entitled to appeal and defence mechanisms;

4. Possible sanctions applicable

The tax administration should set out what sanctions may be applied based on the seriousness of the non-compliance.

Examples can include:

- Written warning;
- Temporary suspension of promotion;
- Temporary suspension (without compensation);
- Demotion;
- Fine;
- Dismissal.

5. Obligation to report

Each tax administration should consider whether to include in their Code of Conduct, the obligation to report offences or acts of misconduct that contravene the principles of the Code of Conduct. In such a case, they should determine which acts should be reported.

The tax officials should cooperate with the pertinent authorities in the investigation that may arise.

Managers, who receive well-founded information or complaints on contraventions to the Code of Conduct, should take the adequate measures to correct it.

Parte V Glossary (optional)

Each tax administration may wish to include a glossary of terms used in its Code of Conduct to clarify its meaning or scope.