



THE ROLE OF TAX ADMINISTRATIONS IN THE FIGHT AGAINST EXTERNAL CORRUPTION

Author: Juan Francisco Redondo | Head of the Spanish
Mission before the CIAT



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Developed by **Juan Francisco Redondo**, Head of the Spanish Mission before CIAT for the CIAT Permanent Committee on Ethics.

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Content

INTRODUCTION	2
I.- ANTECEDENTS.....	3
I.1.- Corruption perception	3
I.2.- Economic impact of corruption: impact on tax revenues.	4
II.- THE ROLE OF THE TA AGAINST EXTERNAL CORRUPTION: CURRENT SITUATION.	6
II.1.- Bodies responsible for investigating and prosecuting corruption crimes.....	7
II.2.- The forms of TA's cooperation with the institutions in charge of fighting corruption.	9
II.2.1.- Transfer of information.....	10
II.2.2.- Participation of officials from TAs in institutions responsible for combating corruption and related offenses.....	11
II.2.3.- Joint and coordinated actions.....	13
II.2.4.- Legal Aid and appointment of experts.	13
II.2.5.- Communication of external corruption cases and the non-deductibility of expenditures related to corruption.....	14
III.- FINAL THOUGHTS ON HOW THE TA CAN FIGHT EXTERNAL CORRUPTION.	16
ANNEX I.....	20

Introduction

Under the CIAT Ethics Committee and during the 52nd General Assembly of CIAT in May 2018, the "*Frame of Reference for ensuring integrity and values in the Tax Administrations*"¹ was presented. It advocates a comprehensive analysis of key aspects for strengthening the ethical performance and the fight against corruption in tax administrations, hereafter TAs-.

At the same time, another document of the same CIAT Committee was announced, concerning "*Transparency and Accountability*"² in which a number of instruments at the service of transparency in the TA's management were exposed. This document was recently complemented with another on the "*status of Transparency and Accountability*" which discloses the status of this matter in some CIAT countries based on best practice.

It is appropriate to supplement these works with an aspect that, although it has been treated in the past in a tangential way, requires more attention today because of the growing public concern about the phenomenon of corruption and increasing rates of corruption perception. Undoubtedly, this perception affect very negatively the voluntary compliance with tax obligations.

We refer to the role of tax administration- -hereinafter TA- in the fight against external corruption, in which the choice to adopt a role that can be more or less protagonist depending on the direct involvement of the TA in fighting the corruption offenses in their various forms. It may exceed the pure tax matters or, on the contrary, consider that the TA's performance should be restricted to cases involving tax offenses.

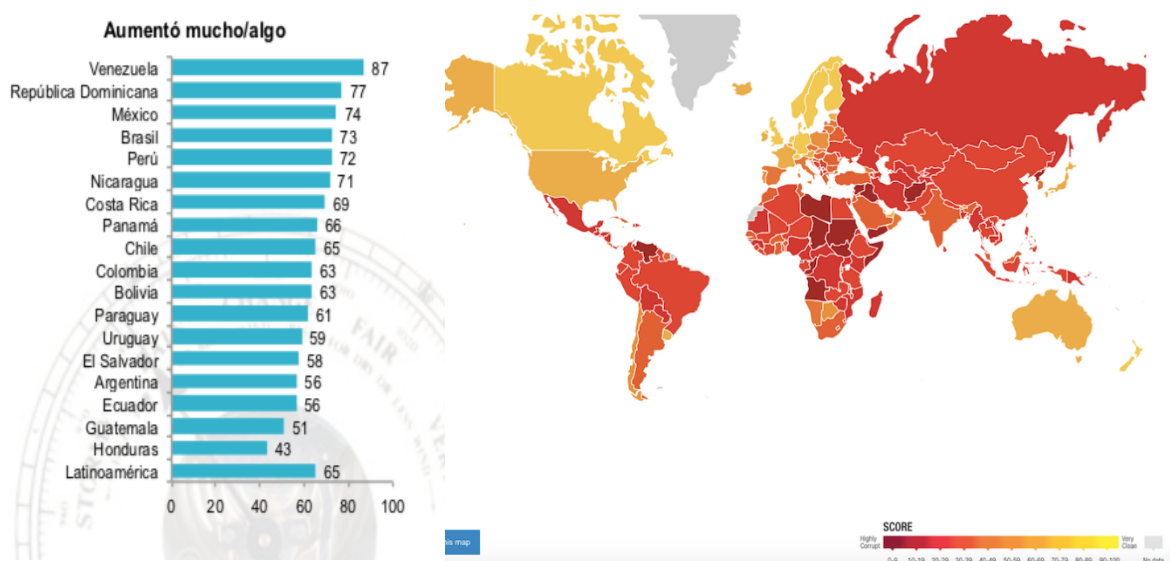
¹https://ciat.org.sharepoint.com/sites/cds/Conocimientos/Redes/ComiteEtica/2018_integridad_valores_AT.pdf?slrid=e75c7b9e-b05b-6000-c37d-5f487be92c8f

² *Transparency and Accountability*. Retrieved from Inter-American Center of Tax Administrations CIAT: <https://www.ciat.org/transparencia-y-rendicion-de-cuentas/>

I.- Antecedents.

I.1.- Corruption perception.

The media³ are periodically relaying various surveys that place corruption as one of the main problems in Latin America. These analyses⁴ are not limited to credit the rising rates of perceived corruption as evidenced by the 2018 *Latinobarometro* or global *International Transparency index*.

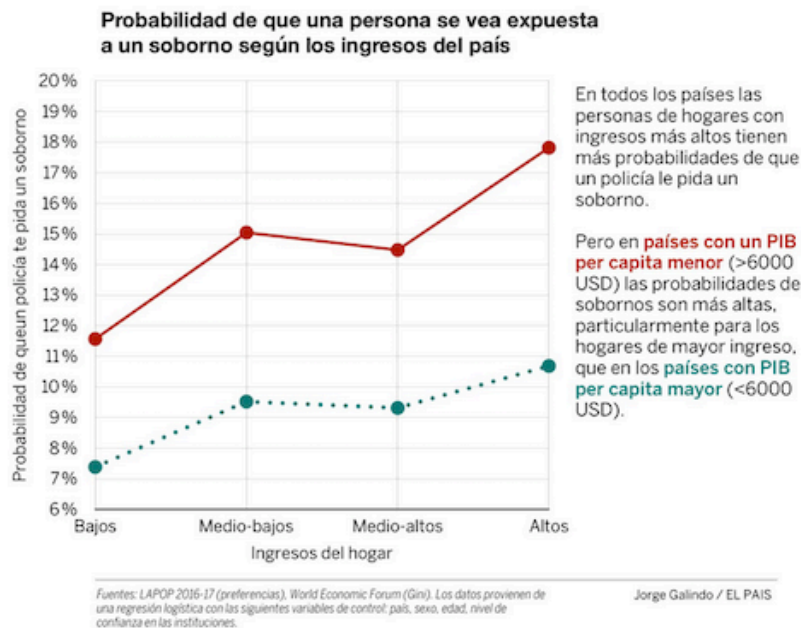


Currently, the media influence the economic impact of corruption and the relationship between corruption and wealth or the likelihood that a person is exposed to a bribe, according to the country's income, as shown in the following graph.

³ Serve as a reference:

https://elpais.com/internacional/2019/04/27/america/1556318446_695112.html

⁴ <http://www.latinobarometro.org/lat.jsp>



I.2.- Economic impact of corruption: impact on tax revenues.

The negative impact of corruption on the economies and the potential for global economic growth has been calculated by the IMF, which notes that a significant increase in corruption reduces the annual GDP per capita growth rate by half a percentage point and decreases investment by 1.5 or 2 GDP percentage points⁵.

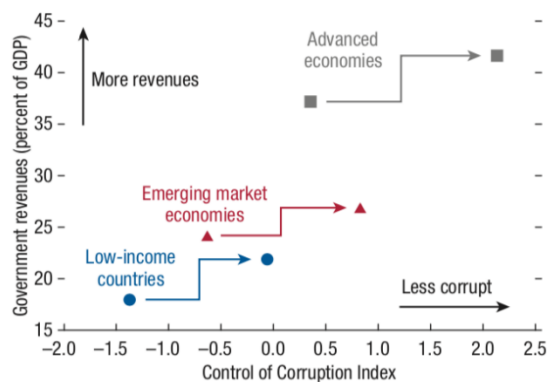
More recently⁶, the IMF said: "**Corruption helps evading taxes** and if we analyze more than 180 countries and we determine that the most corrupt collect less taxes because people pay bribes to avoid them, for example through tax loopholes designed in return for illegal kickbacks-commissions. In addition, when taxpayers believe that the state is corrupt, tax evasion becomes more likely. We prove that, overall, the least corrupt governments collect 4% additional of GDP in tax revenues than countries at the same level of development that have higher levels of corruption⁷".

⁵ <https://blogs.imf.org/2018/04/22/shining-a-bright-light-into-the-dark-corners-of-weak-governance-and-corruption/> Blog Entry written by Christine Lagarde.

⁶ IM F. Fiscal Monitor. April 2019. "Curbing Corruption".

⁷ <https://blog-dialogoafondo.imf.org/?p=10957>. Blog entry April 4, 2019. Vitor Gaspar, Paulo Mauro and Paulo Medas.

Figure 2.4. Government Revenues and Corruption



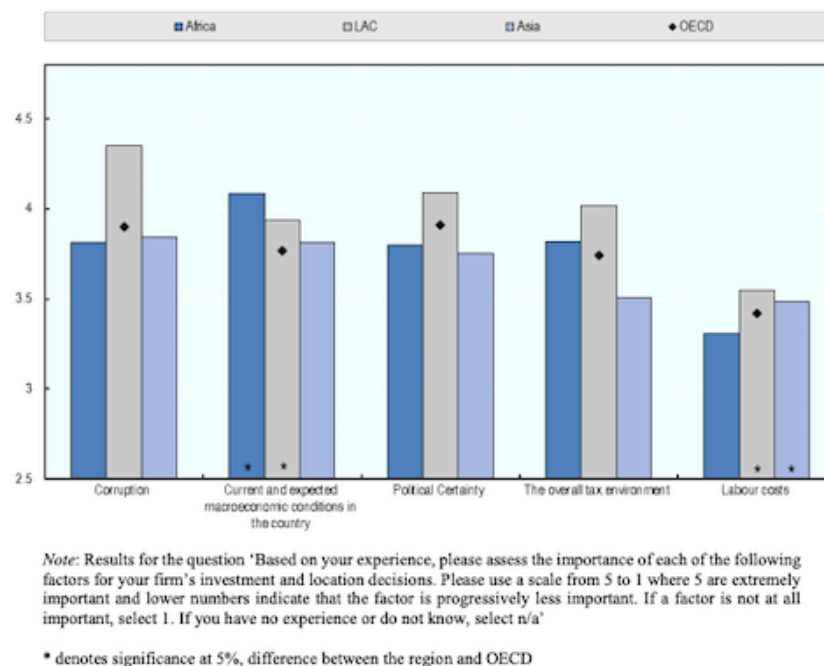
Sources: IMF, World Economic Outlook database; and Worldwide Governance Indicators.
 Note: The figure shows the average government revenues as a share of GDP (excluding grants) for countries with the lowest levels of corruption (top 25 percent of control of corruption) and highest levels of corruption (bottom 25 percent) for each of these groups: low-income countries, emerging market economies, and advanced economies. It excludes oil exporters, for which oil revenues are a key driver of total revenues. The Control of Corruption Index provides a relative measure of perceived corruption that ranges from -2.5 (high corruption) to 2.5 (low corruption).



In addition to the direct economic impact of corruption in terms of revenue loss, one of its most pernicious effects is the loss of trust in the institutions that weakens the strategy of encouraging voluntary compliance with tax obligations. This affects very negatively the “tax certainty” as a determinant of investments, as shown in the following table⁸, in which corruption stands out as the main problem that negatively affect corporate investment decisions, along with the present and future conditions of the country, the political stability, the tax environment and the working conditions. The perception of corruption as a negative factor for investment or investment location decisions is stronger in Latin America than in other regions of the world.

⁸ <http://www.oecd.org/ctp/tax-policy/tax-certainty-update-oecd-imf-report-g20-finance-ministers-july-2018.pdf>

Figure 3. Top 5 business factors affecting investment or location decisions



II.- The role of the TA against external corruption: Current situation.

The TA's level of participation in the fight against corruption will depend on the legal and institutional framework of each country and the relationships with relevant institutions in this area. In this institutional framework, it is important to know a number of elements for a better understanding of this situation.

It would be important to know first, which are the bodies responsible for investigating and prosecuting corruption crimes. Secondly, it is necessary to examine the ways in which the TA cooperates with these bodies, the issue of the communication of corruption indications and if the laws of the region provide for the non-deductibility of expenses that constitute bribes.

We approach the analysis of these matters in the light of the results of a survey, incorporated as Annex to this document, in which 15 CIAT member countries- from all geographic areas have answered the questions that in some cases will be illustrated with reference to a number of practices that are considered of interest. Finally, we will reflect on some proposals about how the tax administration can fight external corruption.

II.1.- Bodies responsible for investigating and prosecuting corruption crimes.

In general, the power to investigate and to call for the relevant procedures for corruption offenses is outside the TA's competence, corresponding to specific authorities, the security police or, in general, the Public Prosecutor⁹.

In the case of the CIAT countries that have answered the survey annexed to this document, in **more than 90 percent of the countries**, in fact, usually the body responsible for investigating and prosecuting corruption offenses is the **Public Ministry or Public Attorney**, with the support of the Judicial Police or specialized units. In addition to the Public Ministry, in some countries, Specialized Anticorruption units, the Court of Auditors or the Comptroller General have jurisdiction for these investigations. In other cases, the State Defense Council is in charge and normally these institutions have the support of the Judicial Police.

Therefore, if we ask how far the TA could play a role in this area, according to the results of the survey and with very few exceptions, the tax authorities cannot, by themselves and without a relationship with offenses tax or internal corruption cases, investigate or prosecute cases of external corruption.

One issue that has particular relevance is the limit or existing restrictions on access to tax information by the tax authorities themselves, for the purpose of combating corruption present mainly in countries attended the survey.

Thus, for example, Canada reject the so-called "*phishing expedition*" of information that is not related to fiscal matters or with cases of internal corruption within the tax administration itself, i.e., with the development of the competence of the tax administrations itself.

In the case of Portugal, as consequence of the entry into force of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, the TA has

⁹See *Improving Co-operation Between Tax Authorities and Anti-Corruption Authorities in Combating Crime and Corruption Tax*. Paris: Organization for Economic Co-operation and Development and World Bank; 2018.

substantially limited access to personal and tax information disconnected from specific tax or criminal proceedings under way, being legally prevented from doing so.

From this institutional point of view, the experience of strengthening cooperation in **Bolivia** becomes relevant, with the Law No. 4 of 31 Marcelo Quiroga Santa Cruz of March 2010 to combat corruption, illicit enrichment and wealth investigation. This law has created the National Council for fighting Corruption, illicit enrichment and laundering of illicit proceeds, composed as follows:

- a) Ministry of Institutional Transparency and Fight against Corruption.
- b) Government ministry.
- c) Public ministry.
- d) Comptroller General of the State
- e) Financial Investigation Unit
- f) State Attorney General
- g) Representatives of organized civil society.

The National Council is chaired by the head of the Ministry of Institutional Transparency and Fight against Corruption and responsible for:

- Proposing, supervising and overseeing public policies aimed at preventing and punishing acts of corruption, to protect and recover the assets of the state.
- Approve the National Plan to Combat Corruption prepared by the relevant ministry, responsible for those functions.
- Evaluating the implementation of the National Plan to Combat Corruption.
- Interacting with the autonomous governments in relation to their powers

In this Quiroga Santa Cruz Act, the Courts Anti-Corruption are created, which shall have jurisdiction to hear and decide criminal cases on corruption and related offenses. It is expected that the Attorney General, according to the Organic Law of Public Prosecutions, will appoint in each department the specialized prosecutors dedicated exclusively to the investigation and prosecution of crimes of corruption and related offenses.

The Act also provides that the Bolivian police have specialized anticorruption officers within a Division to Combat Corruption in each department. They carry out their activities under the functional management of the prosecutors and, above all, provides that the highest executive authority of the affected entity or the legal authorities must

legally become plaintiff in cases of corruption and related offenses, once these are known, and must promote the corresponding legal action before the competent authorities.

In this context, the Transparency and Fight against Corruption Units have been created, as bodies responsible for managing complaints for corruption in all public institutions in which the State has interests -including the Tax Administration, or the SIN, Service National Taxes-.

Also interesting is the experience in **Mexico**, where a High Level Group for Monitoring International Anti-Corruption Conventions (GAN) in which institutions of the three branches of government participate, including the Tax Administration Service. These are the Ministry of Foreign Affairs, Ministry of Economy, Ministry of Energy, Attorney General of the Republic, Mexican Agency for International Cooperation for Development Management Service and Property Disposal, Prosecutor Office of the Federation, National Foreign Trade Bank, National Banking and Securities Commission, PROMEXICO, Financial Intelligence Unit, HH. Chamber of Deputies and Senate, Supreme Court of Justice of the Nation, the Federal Judiciary Council, and the National Institute of Transparency, Access to Information and Protection of Personal Data.

II.2.- The forms of TA's cooperation with the institutions in charge of fighting corruption.

Beyond the institutional arrangements and the creation of interagency coordination bodies or specialized agencies in the fight against corruption that integrate agencies or bodies with powers in this area, it is interesting to note how international organizations, in particular OECD, advocate encouraging collaboration between the different bodies involved in this fight¹⁰. They specifically consider that the tax authorities should share information with specialized agencies in the fight against corruption and transfer the proofs and evidence of corruption detected in their performances.

¹⁰ *Improving Co-operation Between Tax Authorities and Anti-Corruption Authorities in Combating Crime and Corruption Tax*. Paris: Organization for Economic Co-operation and Development and World Bank ; 2018

In this section, we address the different forms of interagency collaboration that manifest themselves in:

- The transfer of information.
- The appointment of staff in institutions responsible for investigating and prosecuting corruption offenses.
- The joint and coordinated activities between the TAs and these bodies.
- Judicial assistance functions and appointment of experts by the TA.
- Communication of external corruption cases and the non-deductibility of expenses related to corruption.

II.2.1.- Transfer of information.

In all of the countries surveyed the tax administration share the tax information in their databases with other institutions involved in the fight against corruption.

The legal rule that enables this possibility depends on the laws of each country; a model is included in Article 107 of the CIAT Tax Code Model¹¹, which provides for the transfer of information to the judicial authorities, to the public administrations for the prevention of money laundering, currency infractions and financing of terrorism.

In Spain, according to the data contained in the Tax Agency report, within the framework stipulated in the Cooperation Agreement with the General Council of the Judiciary (CGPJ) and the Ministry of Justice, more than 9 million exchanges have been made by the Agency in a **direct and automatic way, in 2017**. The Judicial Neutral Point managed by the CGPJ was used for the transfers. In addition, **11,476 non-standards information requests** have been processed.

The experience of Canada for this purpose is also interesting: It distinguishes the cases in which “charges” have been filed, where the person requesting information should contact and discuss the matter with the CRA Liaison Officer – Criminal investigation-to ensure that the CRA is in a position to process a request. Next, they must immediately prepare an application letter addressed to the Deputy Director of the Criminal Investigation Division office of tax services in their area. They must provide a synopsis of the case; indicate what charges have been presented; list the tax information and the

¹¹ <https://www.ciat.org/nueva-version-del-modelo-de-codigo-tributario-del-ciat/>

requested period, and explain why they believe that the information is relevant to the charges established.

In case charges have not been filed, the applicant should contact and discuss the matter with the CRA Liaison Officer - Criminal Investigation to ensure that the CRA is in a position to deal with an application. Next, the applicant prepares an application letter addressed to the deputy Director of the tax services Criminal Investigation Division office in his or her area and provide a synopsis of the case, indicate the offenses under investigation, list the desired tax information and the period, and explain why they think that the information will provide evidence of the crime.

If the Liaison Officer of Criminal Investigation has reasonable grounds to believe that the tax information will allow proving the crime, he or she shall request the Assistant Commissioner of the Large Companies and Investigation International Division, which will approve the disclosure of information to an appropriate police organization.

In this context, we should remember the importance of international tax cooperation as reflected in the Declaration of Punta del Este of 19 November 2018¹² with the support of various international organizations (OECD, IDB, CIAT, World Bank) signed by different countries in the region, advocating to strengthen the measures against tax evasion and corruption.

II.2.2.- Participation of officials from TAs in institutions responsible for combating corruption and related offenses.

The **appointment of TA Officials** to provide services in institutions responsible for fighting corruption offer less unanimity among the countries who attended the survey **because this possibility is contemplated in only 40 percent of these countries.**

In Spain, there is the Support Unit to the Special Prosecutor's Office against Corruption and Organized Crime (Anti-Corruption Prosecutor), whose function is to make reports, audits and actions requested by the Chief Prosecutor of the Special Prosecutor or the Attorney General. This unit depends in organization and functionally from the Directorate General of the Tax Agency and is equipped and financed by the Agency. Meanwhile, in Portugal, at the request of the Public Attorney, prominent officials may integrate research teams as TAs experts, supporting the Public Ministry and the Judicial

¹² <https://www.oecd.org/tax/transparency/Latin-American-Ministerial-Declaration.pdf>

Police. In this area, it can facilitate relevant to the investigation, in particular collection in the field of internal audits or disciplinary investigations.

The **transfer of information to the anti-money-laundering units¹³** also **has the majority** in countries attending the survey. However, identical to the above percentages, **only 40 percent of countries have a strengthened collaboration with such anti money-laundering units.**

Stresses, in this sense, experience in Argentina in which the Federal Public Revenue Administration recently created the Committee for the Prevention of Money Laundering and Terrorist Financing (ML / TF) consisting of:

- Administrator Federal of the Federal Public Revenue Administration,
- General Directors of the Directorates of Taxation, Customs and Social Security Resources,
- Subdirectors-General of the General Control and Legal Affairs sub directorates,
- Subdirector General of the General Department of Institutional Technical Coordination, who will act as liaison officer to the Financial Intelligence Unit and
- Director of the Directorate for Prevention of Money Laundering and Terrorist Financing, who will act as Compliance Officer.

The "Committee for the Prevention of ML/TF" will be chaired by the Federal Administrator and coordinated by the Director of the Prevention of Money Laundering and Terrorist Financing Directorate.

This committee will meet at least 4 times per calendar year and will have a secretariat entrusted with invitations to meetings, carrying out the agenda, drawing up the minutes, conclusions and treatment of cases.

On the other hand, the following responsibilities were attributed to the same:

- a) Approving the strategic guidelines of the Directorate for Prevention of Money Laundering and Terrorism Financing in accordance with the policies established by the Financial Intelligence Unit (FIU).

¹³One example in Chile, the Convention between the Internal Revenue Service and Financial Analysis Unit. See https://www.uaf.cl/descargas/cooperacion/publicas/Convenio_SII.pdf

- b) Monitor compliance with the AFIP in the terms of Law No. 25,246, its legal amendments and supplements and regulated by the FIU in the role of liable party.
- c) To approve the Compliance Plan for the Prevention of ML/TF and oversee its implementation.
- d) Approve performance models, work instructions and protocols on prevention of ML/TF that should be incorporated into control tasks to develop the operational areas involved.
- e) Approve suspicious transaction reports (STRs) for subsequent submission to the FIU.
- f) Approve the management reports of the Directorate for Prevention of Money Laundering and Terrorism Financing.
- g) Authorize the assistance to justice, when so expressly required in areas related to ML/TF causes, whenever they are relevant to the crimes of smuggling, tax or social security evasion.

It may also require information, collaboration and / or participation of officials and areas of the Agency that are necessary for the fulfillment of its objectives.

II.2.3.- Joint and coordinated actions

This **possibility is present in the majority of** the countries surveyed. Interestingly, in this context, to note that the Criminal Investigations Program of the Canada Revenue Agency -CRA- investigates major cases of tax evasion, fraud and related crimes and in the most serious cases and those involve several investigation agencies. The CRA refers cases to the *Public prosecution Service of Canada* for criminal prosecution, working very closely with the *Royal Canadian Mounted police* (RCMP) and the local or provincial police, to maintain the integrity of the Canadian tax system.

II.2.4.- Legal Aid and appointment of experts.

In most countries that answered the survey, intervention of the tax authorities in relation to crimes of corruption occurs at the request of the courts (Public Attorney or Public Prosecutor) or in cases where there is connection with a tax crime or tax breach. **This collaboration, in addition to the previously mentioned, is also evident in the issuance of reports and expert opinions on more than 75 percent of cases.**

Thus, according to the rules in force in Spain ¹⁴ judicial assistance “is a collaboration of the Tax Agency as a public institution, so their request should always be treated as long as, having sufficient human resources available, this aid relates to specific materials or functions of the tax administration and the training of integrated officers”.

Faced with this conception, it is understood that the court expert is “a person who, without being part of the process, issues statements about facts that are procedural in nature at the time of their acquisition, whose knowledge or opinion or scientific or artistic knowledge are necessary or appropriate. Therefore, this requires the intervention of specially qualified persons on certain knowledge that is not mastered by the judge”.

There is, therefore, an important difference between the functions of judicial assistance and expertise, manifested in areas such as access to the judicial file, how to address the requests of information to the administrative authority, the functional dependence of the judicial organization, etc.

The Report of the Tax Agency of Spain 2018 reflected how, in 2017, 814 officials participated in functions of judicial assistance and expertise.

II.2.5.- Communication of external corruption cases and the non-deductibility of expenditures related to corruption.

It is important that tax auditors detect and notify the competent authorities of corruption cases. In the course of audits bribes, kickbacks, payments, etc. can be detected. In that sense, in **most of the countries who attended the survey there is a legal obligation of auditors to report the relevant information to the competent authority.**

But at **the same time, auditors should take steps to identify these payments or kickbacks and ensure compliance with the tax legislation, which in more than 75 percent of the countries, provides specific and clearly its non - deductibility beyond the generic definitions of no- deduction of illegal expenses.**

¹⁴ "Collaboration of the State Tax Administration Agency with the courts". Rocío Gamo Yagüe in <https://www.fiscal.es>

As an example, the Mexican legislation, based on the second paragraph of the Tax Code of the Federation (CFF), Mexico publishes every year, through the Official Journal of the Federation (DOF), the internal criteria for due compliance with tax provisions, which are compiled in Annex 7 of the Omnibus Tax Resolution. From the Omnibus Tax Resolution for 2012 and until 2018 was disseminated the contents of the normative approach called 24 / ISR / N “Gifts to public servants are not deductible for income tax purposes.” It is stated that the expenses consisting in the transfer, personally or by proxy, of any kind of gift, money or any benefits to public officials or foreign public officials, for doing or refrain from doing an act of their duties inherent in their employment, office or commission, are not deductible and constitute an offense under criminal law. Article 28, Section III of the Income Tax Law states that gifts, hospitality and other expenses of a similar nature will not be deductible, except those referred to in the provision itself.

Articles 222 and 222 bis of the Federal Penal Code state that crimes of bribery and bribery of foreign public officials consist of giving, personally or by proxy, any kind of gift as money, goods or services, to national or foreign public servants or third parties for doing or avoid doing something right or wrong related to their duties.

Such conduct implies that any expenditure made by the taxpayer related to the criminal types mentioned, will be in contravention of the public laws. This, in accordance with Articles 1830 and 1831 of the Federal Civil Code, in relation to the 8 of said Code, which states that if an act is contrary to the laws of public order, it is legally null. In that sense, to consider the expenditures as deductible, they must not be contrary to public order laws, even when conducted abroad.

Consequently, according to the legislation in Mexico’s, expenditures consisting in giving, in person or through an intermediary, money, goods or services, to public servants, including foreigners or third parties are not authorized as deduction for the purposes of income tax. They are under Article 28, section III of the Income Tax Law and are in contravention of the laws of public order, regardless of whether such expenses are related or not with the investigation or punishment for criminal offenses under investigation.

In the case of Costa Rica, the approval of Law No. 9635. Strengthening Public Finance, was published in issue No. 202 to No. 225 of the Gazette on December 4, 2018 with effect from July 2019, specifically states that these expenses are non-deductible:

l) *Payment of gifts, presents, offerings, whether direct or indirect, in cash or in any way, that the taxpayer or related companies, to civil servants or private employees, in order to expedite or facilitate a transaction at transnational or national level.*

In this context, the OECD¹⁵ has been working for years on this topic and has published a Handbook for Auditors “*Bribery and corruption awareness, Handbook for Tax Examiners*”. It identifies signs and actions that can serve these purposes, indicators of internal and external risk, and internal control, parties involved and the terms and characteristics of operations, contractual terms, payments and financial flows, accounting analysis, etc. in which the operating modes of auditors are useful to normalize by means of the corresponding protocols.

To improve the efficiency of such tasks, it is essential to establish training programs for the auditors, an aspect that can the responses to the survey show that we need to improve **because training activities are present in only 50 percent of countries who attended the survey.**

It should be noted that an essential pillar of the Oslo Dialogue¹⁶ is to strengthen capacities for criminal investigations in tax crimes and against illicit financial flows. The *OECD International Academy for Tax Crime Investigation* is a critical part of this initiative with the support of the *Guardia di Finanza Economic and Financial Police School* in Ostia, Italy, so that more than 650 investigators from more than 80 countries have received training in these matters.

More recently, this aspect has been strengthened in the region with the creation, in 2018, of the OECD Latin America Academy for Tax and Financial Crime Investigation¹⁷ based in Argentina.

III.- Final thoughts on how the TA can fight external corruption.

Facing a situation as described in the previous pages, what should tax administrations do? We are not referring now to the measures of transparency and accountability,

¹⁵ https://read.oecd-ilibrary.org/taxation/bribery-and-corruption-awareness-handbook-for-tax-examiners-and-tax-auditors_9789264205376-en#page1

¹⁶ <https://www.oecd.org/tax/crime/about-tax-and-crime.htm>

¹⁷ <https://www.oecd.org/tax/crime/latin-america-academy-for-tax-and-financial-crime-investigation.htm>

which must be integrated into a wider view or global view to be effective¹⁸. Nor are we referring to measures to ensure effectiveness in the fight against internal corruption through instruments such as the strengthening the disciplinary system or the observance of codes of ethics or general recommendations made by international bodies¹⁹ regarding corruption. We will focus on combating external corruption, and the role that TAs can play in this area.

There is a very important fact that call for our reflection²⁰: Only 2 percent of cases of bribes between 1999 and 2017 had been detected by the tax administrations. Clearly, there are legal limitations, treatment of confidential data, availability of human and material resources, and it is clear that the level of participation of TAs in the fight against corruption depends on the legal and institutional framework of each country and relationships with relevant institutions in this area.

If we review the mission statement of the different TAs, the common denominator is to achieve voluntary tax compliance by improving support services and assistance to taxpayers and fight against tax fraud or tax evasion.

In this context, we think that a greater involvement of TAs in this matter would be justified because, in general, TAs manage huge volumes of information from many different sources (from the taxpayer, his economic or financial partners, from public records, financial institutions, other administrations, etc.). They have also the possibility of treating and exploiting these vast amounts of information, technologically as well as using the capacities of public servants specialized in analyzing this information and researching economic operations and, in many cases, specialists in the investigation of tax fraud and tax crimes.

In addition, the strong connection between the tax crimes and corruption offenses supports this possibility to the extent that corruption and public perception of corruption erodes and negatively affect the voluntary tax compliance.

¹⁸

<http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/CorruptioninTaxAdministration.pdf>

¹⁹ See the OECD <https://www.oecd.org/gov/ethics/recomendacion-sobre-integridad-es.pdf>. The IMF Fiscal Monitor. April 2019. "Curbing Corruption".

²⁰ <https://www.oecd.org/corruption/anti-bribery/The-Detection-of-Foreign-Bribery-ENG.pdf>

As arguments against this greater proactivity, there is a natural tendency of organizations to act in an autonomous or independent way and the limited human and material resources that determines the actions of the TAs on many occasions. We may also mention that they may have difficulty achieving their own objectives, since there are enormous pressure of the political bodies to increase tax revenues every year. There is a constant need to adapt to the continuous technological changes, therefore officials or agents may be reluctant to assume functions that can go beyond the ordinary performance of their profession or traditional tasks. In addition, corrupt practices are not reflected or explicit in tax, accounting or banking documents, which adds many difficulties to their investigation and prosecution.

Between these two extremes, an area of cooperation is seen with relevant institutions in the fight against corruption. It will be more effective when related to the main mission of the TA and therefore with the tax issues related to corruption. In the words of Jesus Gascon: "*The greater is the common denominator, tax noncompliance and corruption, the easier it will be to create mechanisms for collaboration*"²¹ that can and should be strengthened to achieve a more effective response to overcome the current insufficient response.

In this context and assuming the strong political support that this area requires, the basic requirements that should be considered for a more effective cooperation model²² would be:

- The existence of agencies specialized in investigating corruption.
- Promoting the work by highly specialized multidisciplinary teams.
- The development of strong protocols, guidelines and manuals of intervention procedure that favor communication between the various agencies in charge.
- Promoting international cooperation and exchange of information and mutual assistance agreements.
- The availability of adequate technical tools and infrastructure.
- Reinforcing the systems of formulation and monitoring of complaints.

²¹ Course material *online* on "The tax authorities against internal and external corruption" of the CEDDET Foundation.

²² See detail included in "Reflections: Corruption and tax administrations". Experiences Collection # 2. CEDDET Foundation, teaching materials, developed and coordinated by Jesus Gascon Catalan Course Network of Experts on Public Finance conclusions.

It is true that there is no single, homogeneous solutions. The above lines are designed not only to expose the existing lines of work in the TAs at this time. Above all, we wish to offer a reflection-more necessary than ever - about their role in the fight against this scourge.

Panama, May 2019.

ANNEX I

SURVEY

1. Detail which institution or body is charged with **investigating** crimes of corruption in all their forms (e.g., the Public Ministry, the security police, a specific agency, etc.)

2. Detail which institution or entity in charge of **prosecuting** crimes of corruption in all their forms (e.g. the Public Ministry exclusively a specific organ, the comptroller, judges and magistrates ...)

3. The non-deductibility of expenses that constitute bribes is included in the regulations: YES / NO

Briefly indicate the current regulation where appropriate.

4. Indicate the forms through which the tax administration –TA – of your country cooperates with other institutions in the fight against corruption – *multiple answers are possible*–

- Sharing the tax information in databases. YES/ NO
- Officials designated bodies or institutions responsible for fighting corruption (e.g. for the Public Ministry) YES/NO
- Reports with additional documentation are provided to the data contained in the databases. YES/NO
- Officials are appointed in anti-money laundering office or units. YES/NO
- Joint and coordinated actions are conducted with the institutions or agencies in charge of fighting corruption. YES/NO
- The TA has the power to investigate itself the corruption offenses.

Specify any additional information related to the above

5. The transfer of tax information to other institutions involved in the fight against corruption is carried out at the request of:

- Public ministry
- Security police
- Judges and Courts
- Financial Analysis Unit or similar

- Comptroller
-

6. Indicate the rule that provides for or permits the transfer of tax information to any of the above bodies.

7. There is an internal procedure governing the transfer of information YES / NO
If so, indicate the reference.

8. The TA, through its agencies, can participate in the fight against corruption in your country:

- In the cases requested by the MP or the judges.
- In cases of corruption offenses that are associated with possible tax offenses.
- In no case.

9. Where this participation is possible, briefly explain how it takes place (by aiding justice with issuing reports, performing functions of judicial expertise, etc...)

10. Are coordinated joint actions between the competent institutions to the fight against corruption and tax administration possible in your country?

11. Does your country's tax administration have the powers to investigate corruption cases?

12. If the previous answer is yes, indicate the relevant bodies within the TA for this.

13. When the agencies and officials of audits detect cases of corruption:

- It is mandatory to communicate the case to the Public Ministry
- It is not mandatory, it depends on the circumstances.

14. If the communication of cases is compulsory, in case of indications of corruption:

- The procedure for this is regulated.
- There are no rules on the matter and depends on each case.

15. - TA's officers are trained in the detection of corruption cases in the course of audits
YES / NO

16. There is a legal impediment by the tax authorities to the treatment of the information in its databases in order to detect signs of corruption, when the case is not related or justified by a tax procedure.

If so, indicate the nature of this impediment.