




# COMPILATION OF COMMENTS SUBMITTED



# TAX INCENTIVES PRINCIPLES (TIPS)

This document compiles the comments submitted by tax policymakers, practitioners, and experts during the public consultation on the draft Tax Incentives Principles conducted between December 2024 and February 2025. The Platform for Collaboration on Tax (PCT) launched this consultation to gather feedback and suggestions aimed at strengthening the final version of the Principles. The PCT Partners are grateful for the wide range of thoughtful and constructive submissions received. This feedback has played an important role in shaping the final document, helping ensure that the Principles are more robust, relevant, and reflective of diverse perspectives. Some personal contact information of respondents has been removed.



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# TABLE OF CONTENTS

● — BUSINESS AT OECD (BIAC)	5
● — BMR LEGAL ADVOCATES	17
● — CESPEDSRAU & ASOCIADOS SRL	29
● — COUNCIL ON ECONOMIC POLICIES (CEP)	32
● — CROSSLINE MANAGEMENT SOLUTIONS LIMITED	35
● — DELOITTE	45
● — FERDI	49
● — INTERGOVERNMENTAL GROUP OF TWENTY FOUR (G24)	52
● — HMRC AGENTS	54
● — IISD-ICTD-ODI GLOBAL	56
● — INSTITUTE FOR FISCAL STUDIES	60
● — INSTITUTE OF PUBLIC FINANCE (IPF)	68
● — INTERNATIONAL CENTRE FOR TAX AND DEVELOPMENT (ICTD)	71
● — INTERNATIONAL CHAMBER OF COMMERCE (ICC)	75
● — INTERNATIONAL INSTITUTE FOR SUSTAINABLE DEVELOPMENT (IISD)	81
● — INTERNATIONAL TAX AND INVESTMENT CENTER (ITIC)	87
● — IRANIAN NATIONAL TAX ADMINISTRATION	90
● — JIM CARTER - NAVIGATORS GLOBAL LLC	95



# TABLE OF CONTENTS

● — KPMG MALAYSIA	97
● — KPMG UK	98
● — LATIN AMERICAN TAX POLICY FORUM (LATPF)	101
● — LOUIS T. WELLS	108
● — LUCAS POUBEL	110
● — MINISTRY OF FINANCE OF THE DOMINICAN REPUBLIC	123
● — PWC INTERNATIONAL LTD (PWC)	127
● — REVENUE DEPARTMENT OF THAILAND	130
● — SHROFF CAPITAL AND FINANCE PVT LTD	131
● — SMART INCENTIVES	132
● — SOUTH CENTRE	134
● — UNIVERSITY OF CHIETI-PESCARA	139



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Re: *Business at OECD* (BIAC) comments to the PCT's Public Consultation Document "Tax Incentives Principles"

Dear Secretariat Team,

Thank you for the opportunity to comment on the public consultation document "Tax Incentives Principles" released by the Platform for Collaboration on Tax (PCT) on 10 December 2024.

The Tax Incentives Principles document serves an important purpose of helping policy makers navigate complex decisions in light of ongoing and fundamental changes in the international tax landscape, including the introduction of the global minimum tax under the Global Anti-Base Erosion Rules (GloBE) as well as exploring the role of tax incentives in addressing climate targets and green transition with a particular emphasis on the needs of developing countries. We understand that the principles are aspirational and not meant to have binding or regulatory effect.

We believe that tax incentives play a key role in promoting innovation and industry growth for all countries (not only developing countries but also developed countries) with varying priorities, economic circumstances, and developmental needs. We believe it is unduly restrictive to state that tax incentives are only warranted if they provide a net "social" benefit, as there may be other benefits that may not be directly linked to "social" benefits or immediately quantifiable, such as job creation, workforce development, increase in capital investment, etc. We also believe that jurisdictions should maintain their autonomy to design tax incentives because each sovereign jurisdiction is the best judge of how to weigh fiscal costs against fiscal benefits in the context of its national priorities. While we do not believe an exhaustive list of permissible reasons for tax incentives is any more appropriate than the limited criterion of providing a net "social" benefit, if a list of potential reasons why tax incentives could be considered is to be included, it should be broad enough to capture the objectives of a diverse range of countries and economic scenarios, and capture the objective of seeking favorable positive economic effects on growth and investment.

We also note that international businesses contribute significantly to the global economy and pay a substantial amount of tax comprising not only corporation tax (which – for large multinational businesses – is subject to the global minimum tax under Pillar 2), but also labour taxes, social contributions and other taxes such as environmental levies, excise taxes and VAT. Tax is a business expense which needs to be managed, and therefore businesses should be able to respond to tax incentives that are not deemed harmful (by other countries or international organisations) and statutory alternatives offered by governments. Thus, continued engagement with business is crucial to better understand the opportunities and challenges associated with an activity a government is trying to promote and ensure that incentives considered are appropriate and effective in their aims.

We also believe that the principles are a missed opportunity to provide information and guidance to countries on the impacts of Pillar 2 (and other international standards, such as BEPS Action 5) on tax incentives they may seek to offer. Both are relatively new international standards with significant complexity. We believe that it would be beneficial to provide high-level guidance of the factors that

countries should consider when designing incentives that would be likely to result in a top-up tax under Pillar 2 in multinationals subject to the rules.

Please see our responses below to the specific questions raised as part of this public consultation:

- 1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

The document introduces six principles for designing effective tax incentive policies, namely: Justification, Design, International Considerations, Legislation, Implementation, and Assessment. Overall, these principles comprehensively cover the process of developing tax incentive policies - from establishing foundational principles to policy implementation and evaluation. *Business at OECD* members would like to raise some concerns as well as request for clarification, as detailed below.

The **preamble** states: "While these principles are intended to be applicable to all countries, they are framed with a particular focus on the circumstances of developing countries". Values underpinning these principles are unlikely to be universally shared across all jurisdictions and it may be worth noting and accounting for how structural differences in each jurisdiction's legal and fiscal landscape could lead to varying perspectives. Each jurisdiction has its own set of desired social outcomes and political interests which are not shared by other jurisdictions (particularly those at a different stage of economic development).

Moreover, the reality is that tax incentives are used by countries both developed and developing, large and small, with varying economic circumstances and developmental needs. For instance, an advanced economy's developmental needs may be better served with tax incentives on research and development such as the CHIPS Act whereas incentives to attract labor intensive manufacturing such as tax holidays in Special Economic Zones may suit an emerging economy better. If the principles are to apply to all countries, they should cater to the developmental needs of countries of varying circumstances and not just focus on the circumstances of developing countries.

### **Principle 1: Justification**

Principle 1 is arguably the most critical step in this document as it establishes the foundational basis for formulating tax incentive policies. This principle considers that incentives may only be warranted if "net social benefit" can reasonably be expected.

We have significant concerns about the way these criteria are worded. In our view, this distinction is unclear and subject to interpretation. While it emphasizes net social benefits as a criterion for tax incentives, guidance is needed for scenarios where a country's tax incentive goals are not directly linked to social benefits or where such benefits cannot be clearly identified or quantified. Each jurisdiction has its own set of desired social outcomes and political interests which are not shared by other jurisdictions (particularly those at a different stage of economic development). In particular, the social benefits and outcome of a developing or emerging jurisdiction are vastly different from social benefits and outcome of a developed or advanced jurisdiction. Therefore, we suggest that this principle be reworded in a way that acknowledges and respects that there may be varying objectives and different matrices for which jurisdictions can justifiably choose to pursue through the use of incentives, rather than limit the formulation to matters that produce a "net social benefit".

The social costs of tax incentives (e.g., decrease in tax revenues) may be effectively offset through a mix of social benefits derived from tax incentives (e.g., creation of employment opportunities especially

for high-skilled jobs, attracting significant foreign capital and investment, increasing the sophistication of domestic products and services, expansion of domestic supply, and reduction of import dependence) and from separate legislative and policy measures (e.g. targeted tax collection and enforcement efforts in specified sectors; expanding tax collection measures for certain less regulated industries or activities, such as novel tobacco products, single-use plastics, and online sellers / social media influencers). Such benefits include job creation, development of new skills not yet present in a jurisdiction, unique creation of intellectual property, collaboration with higher education institutions, technology transfers and substantial investments in infrastructure. However, the net effect is difficult to quantify, and would rarely be determined and articulated ex ante due to varying stages of legislative and policy development and prioritization. Hence, jurisdictions should be given a wide latitude to design tax incentives in the context of a menu of other fiscal policies, precisely because each sovereign jurisdiction is the best judge of how to weigh fiscal costs against fiscal benefits.

Even where a specific and quantifiable ‘social benefit’ is the sole reason for the introduction of an incentive, social benefits that are significant to developing or emerging jurisdictions are not necessarily aligned to social benefits in developed jurisdictions, and the breadth of externalities involved will be quite case-specific. Wages funded by tax incentives to a worker surviving on the poverty line in a developing country are not easily comparable from a “social benefit” perspective to those that are made to a worker in a developed country with a developed social infrastructure. Further, the principle introduces concepts which are abstract and broad such as "social benefits," "social costs," "benefits to society," and "private benefits," which require detailed explanations and examples for accurate interpretation.

Moreover, market intervention in the form of tax incentives is clearly set out to be generally undesirable in the document except for reasons such as to address environmental harm. For nascent and emerging businesses - at the cutting edge of fundamental transitions (such as greener energy, etc) market conditions need to be created that allow them to compete with often cheaper, well established but undesirable previous solutions. This is broadly recognized in the principles but what is missing is that there may be a time-sensitive or urgent need to speed up the transition (for example to meet Paris Agreement), and in such cases market intervention/creation may need to be more ambitious. Including a reference here appropriate to the scale and pace of change to align with shared global goals would be helpful.

It should also be noted that incentivising investment in R&D by businesses ranks high on the innovation policy agenda of many jurisdictions as such investments drive employment and global economic growth. Innovation provides the foundation for new businesses and new jobs and helps address pressing social and global challenges. Whatever the stage of a country’s development, a key principle for the design of effective tax incentives is therefore to ensure that they are closely linked to what drives innovation and growth. This may vary across different industries. For example, innovation is fundamental characteristic of the Life Sciences industry as it is required to discover and develop medicines which save and improve lives and meet unmet medical needs. To drive innovation, Life Sciences companies make significant high-risk investments over many years. On average it costs approximately \$2.3bn over 10-15 years to develop one medicine. There is often only a short exclusivity window to recover this investment and earn profits which can then be invested in the development of new medicines. Tax incentives therefore play a role in fostering innovation and industry growth as they encourage companies to continue to invest in a particular industry despite, in this case, the timing difference between significant expenses being incurred and income (if any) being generated for a medicine.

**Sub-principle 1.2** it is important to assess the impact of incentives on tax revenue on the basis of the total lifecycle of the given project considering required investment profile. For example, tax incentives

in a form of accelerated depreciation for capital intensive industries may have significant impact on tax revenues in early stages of the project but the impact will balance off throughout project lifecycle resulting in a net revenue benefit (compared to a scenario of no investment).

**Sub-principle 1.3** On quantification, we agree with the points on transparency and the accountability. Use of economic impact assessments should be considered and creation and design should be evidence-based. However, some benefits are difficult to quantify and policymakers face competing objectives. For example, society must transition to a low-carbon energy system to manage the risks of climate change, while still providing a secure and affordable supply of energy - society faces a dual and competing challenge. To provide policymakers with much needed guidance on this, incentives should form part of a wider coordinated framework or pathway for change that is responsive to changing market conditions. Currently, incentives are often short term in nature, underpowered and at risk of being immediately overturned by another party. This makes them ineffective in their original policy objectives.

**Sub-principle 1.4** – Tax incentives are some of the instruments that policymakers have at their disposal to achieve the desired economic objective. Where other tax or non-tax instruments may be available to support the same objective, it is important that the use of tax incentives is aligned with and complementary to any such other instruments as part of the broader holistic policy design. For example, R&D incentives to support development of clean technologies may work with non-incentive instruments such as carbon price and emission standards all contributing to a reduction of CO<sub>2</sub> emissions. This requires well-coordinated policies and various government departments working together to achieve desired policy objectives.

We do not support the principle that "Tax incentives should not be used if more appropriate policy instruments serving the same policy objectives are available". If this wording is to be maintained, it should follow and be stated that tax incentives should always be used if they are deemed more appropriate than other available alternatives. In our view, however, countries are and should remain free to choose the form of incentive that they use in order to support the development of an activity. We do not consider that tax incentives would be considered as less efficient or desirable than grants or other forms of support. Indeed, with the limited financial resources often available to developing countries, the provision of direct grants, for example, can be challenging, potentially widening the economic gap with developed countries that have greater capacity in this respect. In fact, tax incentives may often be more transparent than other forms of support, as they are most of the time reviewed and controlled by the Parliaments.

It may make more sense to focus on the policy considerations in determining whether to choose tax incentives or other options. This discussion may be reframed to identify some factors. If the goal is to incentivize an entire industry, rather than targeted companies (which has its own risks of corruption or misunderstanding by government evaluators of industry-specific value drivers), tax incentives for certain activities may be more effective than specific grants. Non-refundable tax incentives may be chosen because they incentivize certain activities, but with less risk taking than grants or refundable credits, since they only are applicable with some level of financial success. On the other hand, certain subsidies may be more susceptible to fraud than non-refundable tax credits. Policy makers may want market conditions to act as a filter, rather than directing all the incentives toward government selected activities, in circumstances where private companies have more expertise in how to effectively invest resources than non-expert government administrators.

## **Principle 2: Design**

Principle 2 provides for the design of the incentive, in which the incentive should be designed to promote the favored activity while avoiding unnecessary distortions to other activities and limiting the revenue cost. This principle is largely already adopted by most governments in their offering of substance-based incentives, where incentives are granted based on genuine business activities and tied to investments in property, plant, equipment, local payroll costs, physical presence, or other tangible economic contributions, in the targeted economic activity.

**Sub-principle 2.1** We do not agree with the principle that "Incentives should be targeted as closely as possible on the expected source of social benefit—which, in the investment context, commonly rules out profit-based incentives". A country should be free to use all kinds of tools in terms of design, as long as it fosters the desired investment and growth, and profit-based incentives can also be helpful for that purpose. Profit-based incentives can also be highly attractive in terms of investment based on our experience; different industries, investors, investments and projects may each be best incentivized in different ways, and in order to maximize efficiency and effectiveness, incentives should be tailored accordingly.

We also have trouble understanding the comment that profit-based incentives, for instance, may create opportunities for shifting profits through domestic transfer pricing or other methods, which can be addressed only if appropriate legislation is in place. This point should be clarified.

Companies reinvest profit and they return a share of profit to those risking capital to fund the business. Both of these have broader socio-economic impacts. There may be some imperfections in the design but the overall assessment may decide to accept this to avoid a worse outcome. There are examples where the design has tried to be so targeted as to become uneconomical even by those whose intent is fully aligned with the policy objective. This creates a problem of scale, where the full impact of the incentive is undermined by the complexity of the design.

In our view, it is also important to encourage both income- and expenditure-based tax incentives for R&D and we suggest that you amend the conclusion to rule out profit-based incentives, as proposed in Principle 2. The BEPS project has been successful in limiting the possibilities for income shifting and in ensuring that taxpayers benefiting from R&D incentives, including income-based incentives, have engaged in the R&D activities, for example through the nexus approach in BEPS Action 5. It is thus possible to design well-functioning non-harmful IP regimes to promote innovation.

**Sub-principle 2.3** We agree that carefully considering incentive timelines and designing appropriate sunset provisions is important. Such provisions should take into account the lifecycle profile of a given project and industry specifics to ensure that they provide required investment certainty and therefore overall effective. It is critical that once designed, the incentive regime timelines are stable and honored through appropriate legislation and not subject to change, for example, with each new government.

## **Principle 3: International Considerations**

Principle 3 rightly emphasizes consideration of international commitments and circumstances in incentive design, which we believe is consistent with most governments' support for a multilateral consensus-based approach that promotes global cooperation. Common international consensus is particularly important to reduce the scope for disputes and mitigating challenges to the incentive regime in question. The conversation on this topic would however be better balanced by acknowledging the concept of tax sovereignty and that each jurisdiction should have autonomy to balance their economic development objectives and fiscal sustainability needs.



There should also be more regard for national sovereignty over taxation and tax policy. It is axiomatic in international law that taxation is a sovereign right. However, this fundamental principle is not articulated in statements such as "P3.3 Incentive design should pay due regard to the impact on other countries" and "P3.4 Through international cooperation, opportunities should be sought to limit the risks and mutual damage that incentives can create".

To be more balanced, the framing of such principles should be prefaced with a priori due regard for the sovereign right of each jurisdiction to determine their national taxation policies according to their developmental needs. Further, if international cooperation is to form part of the principles, the commitments should be mutual and double standards should be called out as inconsistent with such principles.

Moreover, we do not feel comfortable with many of the criteria listed in principle 3: in particular we believe that, if fair, competition between countries is perfectly acceptable and can actually foster innovation and growth. In reality, the OECD Forum on Harmful Tax Practices ("FHTP") and Pillar 2 rules have placed clear and internationally recognized boundaries around the forms that incentives can take and the impact that they can have on cross-border activity and investment, with those deemed harmful and those that result in low or no tax for a taxpayer in any country, becoming ineffective. We believe that this section of the Principles would be a good place to articulate these internationally agreed standards, for example by reiterating what incentives are likely to be deemed "harmful" by the FHTP and which might be more sensitive to the mechanics of Pillar 2 top up calculations.

**Sub-principle 3.3** states that incentive design should take into account the impact on other countries. We consider this requirement to be much too broad as it requires that countries do more than merely consider the effects of their tax incentives on other nations and make decisions that recognise the corresponding impacts. Compliance with express international commitments should be the primary, if not sole, directive under this Principle; beyond this, the policy decision to grant incentives in order to strengthen priority industries and activities, and even to create/sustain comparative advantage, should not be curbed by unintended negative effects to other countries.

**Sub-principle 3.4** This and sub-principle 3.3 focus only on potential detriments. Discussion could be more balanced by reflecting that some incentives also have positive externalities, for example if they lead to technological breakthroughs, more productive agricultural methods, managing negative impacts of climate change or other advances that will have positive spillover effects. So countries or regions may coordinate not simply to curb incentives, but encourage certain types of incentive policies that have these positive effects.

#### **Principle 4: Legislation / Principle 5: Implementation**

Principles 4 and 5 correctly prescribe clear incentive legislation, integration of incentives into the national tax law, and effective oversight and administration of the incentives.

**Sub-principles 4.1 and 5.1**, which prescribes that tax incentives should be under the sole authority and control of the ministry of finance / revenue administration, may for some jurisdictions be considered to be too restrictive and may unnecessarily overlook or undermine functioning structures in other jurisdictions, e.g. where an inter-agency body or localized investment promotion agencies have been designated to grant and administer tax incentives. As correctly acknowledged in Principle 5.4, the design of incentives would also require the expertise and active participation of other agencies (e.g., Trade and Industry).

Moreover, in our view there are some points that are underemphasized in the document with respect to implementation. First, any tax incentive needs to be able to be monitored effectively in order to be successful. Second, there needs to be consideration around the costs of compliance for taxpayers associated with tax incentives.

### **Principle 6: Assessment**

Countries should retain flexibility to determine the timing and manner of policy evaluation based on their unique economic development trajectories. For example, a jurisdiction could evaluate its tax incentives after 10 years of implementation but adjust the frequency of such evaluations—either shortening or extending the interval—depending on its economic context, such as periods of stable growth or rapid economic expansion. Mandatory assessments may increase administrative burdens, costs, and procedural complexities that may not be aligned with a jurisdiction's priorities.

Incentives for supply-side may also need demand-side incentives to reduce the investment risk that can otherwise stall progress. 'Assessment' principles should deal with how to ween off thriving business once market conditions have normalized. Co-ordinated incentives that consider all aspects of the economic impact from supply to demand and through the relevant business cycle would improve the efficiency and targeted nature of the incentives. The principles may benefit from considering whether supply or demand or a phased combination of both may be most effective for nascent business areas. This is often hampered by limitations in cross-party agreement and changes in policy from one government to another. A national policy framework that has cross-party support may aid the ability of policies to have their intended full impact, whilst retaining the ability of different governments to adjust and fine tune depending on the economic realities of their tenure.

**Sub-principle 6.1** Apart from respecting the norm of taxpayer privacy where all nations have strong statutory protection of taxpayer information confidentiality or national security interests (see feedback to question 4 below), publication of the largest beneficiaries of tax incentives or statistics on total incentive spends or tax foregone could have unintended consequences.

Such disclosures can lead to erroneous comparison, judgment and critique of the policies of countries with different economic circumstances and developmental needs. For instance, in casting natural resources exploitation subsidies as generally wasteful, it ignores the fact such incentives may be economically more efficacious for a developing country rich in energy resources than say tax incentives for adopting wind power.

**Sub-principle 6.2.** Certain large capital investment projects (for example, construction of a gas processing plant or a large infrastructure project) may be unique for the country. If such project is subject to an incentive regime, it may mean that only the investor or consortium of investors in the project benefit from these incentives. In such circumstances, the fact that there is only one or few beneficiaries should not in itself be seen a red flag, provided the incentive regime has been appropriately considered and designed for the given project.

It is important that countries consider these challenges, and how they can best articulate the costs and benefits of the tax incentives that they introduce clearly so that they can garner support from a wide range of stakeholders and be held to account on their delivery.

**2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**

The additional materials provide a good range of resources for jurisdictions to further their understanding of the principles. Nevertheless, guidance and examples on the application of the principles would be helpful.

- The principles provided are naturally theoretical and the document refers to many documents that might assist countries applying the principles. A synopsis of these materials with those most helpful for design would be welcome. Countries will need to measure the potential economic and social impact of the tax incentive proposals in their country such as the potential future economic benefit and the impact on the mobile workforce. Practical guidance as to how to measure the impact would be helpful.
- Given the complexities of designing an appropriate incentives system, it would be helpful to point to some real-world examples where the principles have been applied successfully as this would help countries design an effective tax incentive regime. This could also include analysis of specific industry characteristics.
- As a practical guide, it may be useful to reference case studies of tax incentives implemented in jurisdictions that are considered to be well-designed and consistent with these principles. The reference of well-designed tax incentives can serve as a benchmark and practical guidance for jurisdictions in their adoption of incentives. We believe that as countries implement Pillar 2, providing detailed guidance on impact of Pillar 2 on tax incentives would be very useful along with suggestions of alternative policy instruments countries could consider to achieve their desired policy objective, where certain tax incentives may no longer be effective in the Pillar 2 contexts.
- Principle 4 highlights the importance of anti-abuse provisions. In the remarks under Sub-principle 4.2, the document references the 2024 World Bank Tax Expenditure Manual. However, the examples and guidance provided on anti-abuse provisions in this manual are limited. It would be beneficial to supplement the document with additional materials offering detailed examples of anti-abuse provisions that countries can reference.
- Guidance that considers applying scale and ambition to areas of greatest need, designing incentives through the economic cycle and balancing urgent and long-lasting considerations.
- Further safeguards in case of abuse of law/adverse effects are recommendable. For this purpose, international guidelines for good cooperation may be a welcoming first step.
- Any additional guidance or materials should address the issues that have not been adequately dealt with, as set out in our responses to Questions 1, 3 and 4.

**3. What kind of support might countries require to effectively apply the principles?**

Countries may benefit from institutional support to apply these principles when designing tax incentives, through capacity building at the tax administration-level and technical assistance through consultative feedback programs. In particular, understanding how to perform cost-benefit analyses that apply across a large number of factors and stakeholders and potentially long investment cycles, is



particularly important to ensure that the desired objective and impacts of incentives are well understood and communicated before decisions are made.

In addition to the remarks that provide guidance and analysis for the principles, the document could include an appendix with examples illustrating the application of each sub-principle. Many principles introduce broad and complex concepts that would benefit from practical examples to facilitate understanding and implementation. More guidance at international level would also be helpful including examples for best practices.

Support from countries that have already successfully implemented a tax incentives regime would be helpful including providing training on value creation and specific industry characteristics so that a country can assess the economic benefit of incentives across different industry sectors.

Further guidance or materials ought to be solicited from experts in industry, academia, and other neutral stakeholders, particularly given the revenue collection imperative of governments.

Business is open to engage with governments seeking to understand how incentives impact business decision making, the commercial principles and effects, including where relevant economic impact assessments.

**4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

**Principles 1, 2 and 3** should be significantly reviewed and modified as they are too restrictive and many of these principles go against the ability of a sovereign state to establish a broad range of measures to attract growth and investment, which in turn will have a positive effect for all stakeholders involved.

**Principle 1** on Justification, the term “net social benefits” should be clearer. The principle may be strengthened by including sector-specific guidelines for justifying tax incentives. This is to help provide more uniform and tailored guidelines. For example, social benefits for the tourism sector may focus more on job creation and foreign exchange earnings, while the technology sector may emphasize innovation and productivity. In addition, there should be a periodic review of these justifications and an adjustment to ensure that the criteria and requirements remain relevant and effective. Temporal elements should also be considered in the determination of “social benefit” since the benefits from the grant of incentives are expected to be realized over a medium to long-term period, whereas the social costs of tax incentives (e.g., foregone revenues) would be more pronounced in the short-term.

**Principle 2** on Design may include a recommendation for a periodic review of the incentivized activities in the context of a broader development plan. Additional case studies and evidence-based examples of the unintended impacts of incentivizing certain industries, as prescribed in Principle 2.2, would also be beneficial in the identification of priority projects and activities.

It is further important to emphasize that, in line with BEPS Action 5, the design principles should be focused on promoting substance-based tax incentives/regimes to drive R&D activities and economic growth and that harmful tax practices should be discouraged.

We recommend adding a section on mechanisms, safeguards, or safe harbors to limit tax leakage in instances of abuse of tax policy. Consideration may be given to including such a section, recognizing the need to balance this against the compliance burden for taxpayers from an administrative perspective.

We also recommend including public consultation in the design process. Public consultation in the tax policy design and draft legislation has been useful in tax policy setting from a local perspective in minimizing the risk of abuse and optimizing design.

**Principle 3.** More guidance regarding international considerations would be useful, particularly: relationship between international and EU hard tax law; more detailed information regarding the role of the soft law; finding more balanced mechanisms between small and large economies; international measures to mitigate the risk of abuse of law and mobility of tax incentives; balance between direct and indirect tax incentives; the role of AI on tax incentives, as well as possible application of tax disincentives. Principle 3 would also be a valuable place to discuss the international standards that directly or indirectly govern the limitations on tax incentives, specifically where the OECD FHTP may deem incentives to be harmful, and what features of incentives may lead to ineffective outcomes due to other countries' adoption of Pillar 2 rules.

**Sub-principle 3.3.** As discussed above, this sub-principle should be reconsidered, as taxation is a sovereign matter for each country. Different countries have varying development needs at different stages. For instance, developing countries may have a far greater need to attract investment than developed nations. Standardizing policies across all countries could disadvantage certain groups. International considerations should primarily focus on respecting legal international commitments and treaties, as these are binding agreements between nations.

**Principle 4** on Legislation correctly states that incentive legislation should be clear, integrated into tax law, and subject to effective oversight.

**Sub-principle 4.2** could emphasize that tax incentives should be designed to be clear and self-executable without requiring prior approvals (avoiding a "grant-approval" mechanism). Instead, the framework should promote a "self-apply and self-accountable" mechanism, underpinned by transparent and well-defined laws.

The standards under **Principles 4 and 5**, with respect to the grant and administration of incentives, should also acknowledge working practices in some jurisdictions where centralization of responsibilities would be practically impossible (i.e., due to the oversaturation of statutory responsibilities of the Finance department). Thus, the Principles should include additional guidelines for such alternative structures where the grant and administration of incentives has been decentralized and localized.

**Principle 6** on Assessment emphasizes transparency and public accountability in tax incentive design and evaluation. While these may be important aspects of good governance, public disclosure of these benefits may invite excessive scrutiny and criticism as not all incentive decisions may be justified through an economic or quantifiable measure (e.g., strategic importance of certain sectors to the economy, etc.) or attract political pressure from the public (e.g., to revoke tax incentives from companies involved in international conflict, etc.) without balancing the relevant considerations at a holistic level.

We believe that any public disclosure should not go beyond globally accepted standards of transparency. The current state of transparency as articulated by the Forum on Tax Administration and by the G20-OECD BEPS Action 13 - each country needs to explicitly consent to the exchange of information either via a bilateral agreement or multilateral instrument (as in the case of Country-by-Country Reports) - with the confidentiality of information so exchanged safe-guarded.

The public disclosure of information espoused in "P6.1 Tax expenditures associated with all incentives should be estimated and published regularly", "P6.2 Tax expenditure reports should indicate the largest beneficiaries from each provision" and "P6.3 Incentive legislation should include a program for periodic,

credible and public evaluation" goes beyond current global standards for transparency unnecessarily and should be realigned to conform to these global standards.

Moreover, there may be geo-strategic or geo-political reasons why countries may legitimately prefer not to disclose amount of tax incentives deployed, the beneficiaries of the incentives or subject sensitive programs for public scrutiny. In such instances, the principles should articulate that public interest for greater transparency should be weighed against legitimate national security concerns and disclosure calibrated appropriately.

In relation to **sub-principle 6.1**, quantitatively assessing the causal relationship between tax incentive expenditures and societal benefits is challenging. For example, corporate income tax incentives for a key industry may attract new investors, but the societal benefits (e.g., increased employment, higher tax revenues post-incentive, workforce development) are not immediately quantifiable. As such, assessments should acknowledge the difficulties in precise quantitative evaluation, while seeking to provide guidance on how these difficulties may be overcome.

Further, **sub-principle 6.2**, which states the need to publicly disclose beneficiaries of tax incentives, is unnecessary. When policies are designed transparently and fairly, taxpayers benefiting from these incentives are merely exercising their rights. Public disclosure could lead to misinterpretation by the media, hostile entities, or uninformed individuals, potentially fueling societal discontent or discrimination.

Lastly, **sub-principle 6.3** requires consideration of both qualitative and quantitative factors. In practice, direct causal relationships between benefits and costs are difficult to establish. For instance, while corporate income tax reductions may result in revenue losses (e.g., \$1 trillion), the broader impacts could include:

- Increased employment (e.g., what percentage of job growth is directly attributable to the incentive?).
- Future tax revenue growth and reducing strain on government assistance schemes through increasing number of taxpayers (which may not be immediately apparent). For example, tax incentives targeting substantive business activities generally create employment, which may enlarge the pool of individual taxpayers. Similarly, in jurisdictions which provide government assistance to individuals in poverty (e.g., cash grants), reducing unemployment and underemployment of such individuals would reduce government expenditure on such assistance schemes. Therefore, through increasing the number of taxpayers and reducing government expenditure, tax incentives may result in long-term revenue growth, rather than merely short-term revenue loss.
- Economic development in specific regions (which is easier to measure), by anchoring key industry players and building a robust ecosystem that will encourage more foreign investment (e.g., in local infrastructure). There are also other downstream economic benefits through technology transfer from foreign investors to local businesses, and R&D investments in local industries leading to development of IP.

Finally, it would be helpful to have periodic evaluation of the tax incentives' application due to the dynamic landscape of business models.

**5. Do you have any other comments or suggestions?**

Rapid technological innovation should be embraced, and energy supply must be secure and affordable for consumers and businesses. In general, policies should remain technologically neutral, not artificially promoting a specific technological choice above others without articulated reasons based on broader national development strategies and clear economic analyses on anticipated costs and benefits.

We believe the jurisdictions should have the right to retain their own sovereignty and autonomy in the design of their incentives taking into account national priorities and investment policies which may be unique to them. So long as there is rationale behind incentives, then such rationale should be respected and acknowledged.

Finally, as noted in our opening comments, we believe that the principles should provide information and guidance to countries on the impacts of Pillar 2 (and other international standards, such as BEPS Action 5) on tax incentives they may seek to offer. We believe that it would be beneficial to provide high-level guidance of the factors that countries should consider when designing incentives that would be likely to result in a top-up tax under Pillar 2 in multinationals subject to the rules.

\* \* \*

We thank you for the opportunity to comment. We would be pleased to respond to any questions arising from both our general and specific comments, and to offer further support as revised document is developed.

Sincerely,



Alan McLean  
Chair, *Business at OECD* (BIAC) Tax Committee

Cc: Hanni Rosenbaum, Executive Director, *Business at OECD* (BIAC)

**BMR Legal Advocates' Responses: Tax Incentives Principles Public Consultation Draft**  
**(The Platform for Collaboration on Tax)**

**Main Report - [World Bank Document](#)**

**I. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document**

The principles and remarks presented in the document are indeed appropriate and well-balanced in terms of content and coverage. The document meticulously addresses the multifaceted nature of tax incentives, offering a comprehensive framework that encompasses justification, design, international considerations, legislation, implementation, and evaluation. Each principle is accompanied by detailed remarks that elucidate the underlying rationale and provide practical guidance, ensuring that policymakers can navigate the complexities of tax incentives effectively.

The emphasis on transparency, accountability, and evidence-based assessment is particularly commendable, as these elements are crucial for maintaining the integrity and efficacy of tax incentive programs. The document outlines the challenges and opportunities associated with the use of tax incentives in low-income countries (LICs), emphasizing the need for carefully designed tax incentives that are cost-effective and targeted towards sectors that can yield the most significant economic benefits.

The document also highlights the importance of good governance, transparency, and accountability in the administration of tax incentives, which are crucial for minimising corruption and ensuring that the incentives achieve their intended goals. The balance in the document is evident in its comprehensive approach, which includes perspectives from various stakeholders such as international organizations, developing countries, civil society organisations, and businesses. This inclusive approach ensures that the recommendations are practical and considerate of the diverse contexts in which LICs operate.

Additionally, the document provides a nuanced discussion of the potential downsides of tax incentives, such as redundancy and fiscal costs, and offers practical solutions to mitigate these issues. This balanced perspective enhances the credibility and relevance of the document's recommendations. The document accurately highlights that in numerous LICs, assessing the

effectiveness and efficiency of tax incentives remains hampered by a dearth of data coupled with a lack of analytical tools and requisite skills. The background document accompanying this report provides valuable guidance on developing the necessary data and tools for comprehensive analysis.

The document rightly points out that advancement in this area necessitates coordinated efforts from diverse stakeholders to foster evidence-based and transparent decision-making. A pressing need exists for more systematic evaluations to enhance informed decision-making processes. Ideally, an effective and efficient tax incentive will generate social benefits greater than the associated social costs of the incentive. The resulting social benefits should improve living conditions for the people and contribute to the country's economic growth and development.

Assessing the social cost and the resulting social benefit is crucial and challenging, as numerous factors must be considered. To link the analysis of tax incentives to sustainable development goals, it is argued that tax incentives in developing countries should be evaluated based on their effectiveness in achieving their aims (social and economic growth) and their efficiency in terms of revenue loss, fair taxation, and equal opportunities for all citizens. This proposed framework should be designed by each country, considering the practices of other countries in the region to facilitate the exchange of best practices.

For the assessment of tax incentives, the following criteria can be used:

- Systematic review of tax incentives, focusing on whether the tax incentive has achieved specific goals in terms of effectiveness and efficiency.
- Clear target and eligibility criteria for granting the incentive, measured in light of the social and economic development of the region/sector/country.
- Transparency in tax incentives, with non-discretionary granting processes. Periodic analysis of general tax expenditure and implementation of tax budgets are essential for accountability.
- Fiscal budget and ceiling for tax incentives to ensure termination once the revenue loss ceiling is reached.
- Institutional conditions, such as appointing a single authority (typically the Ministry of Finance) to administer and monitor tax incentives, preventing the use of multiple laws to regulate tax incentives, and encouraging the use of one-stop-shop agencies for investor convenience.

In conclusion, the document's principles and remarks are well-balanced, providing a comprehensive and practical framework for the effective design, implementation, and evaluation of tax incentives in LICs.



**II. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**

The document highlights various principles crucial for guiding effective policy implementations. However, it also clearly indicates that further elucidation could be advantageous in several key areas. The areas where additional guidance could enhance the application of these principles provided under the report include:

**1. Cost-Benefit Analysis (CBA):**

- The document outlines a basic model for CBA but lacks detailed guidance on dynamic modelling. This includes incorporating the timing of costs and benefits, which is crucial for understanding the long-term impacts of tax incentives. While the document mentions both direct and indirect effects, it does not provide comprehensive methodologies for quantifying indirect effects. More guidance on capturing these effects, such as spillover benefits to other sectors, would be beneficial.
- The document does not delve deeply into how to account for behavioural responses to tax incentives. Guidance on modelling these responses, including changes in investment behaviour and compliance, would enhance the accuracy of CBAs.
- There is a need for more detailed instructions on conducting uncertainty and sensitivity analyses. These analyses are essential for assessing the robustness of CBA results under different scenarios and assumptions.
- The document could provide more specific guidance on the data requirements for conducting CBAs and best practices for data collection. This includes identifying key data sources and addressing potential data limitations. Additionally, incorporating case studies and practical examples of successful CBAs from other countries would help illustrate the application of these principles. This would provide valuable insights and best practices that can be adapted to different contexts.



## 2. Tax Expenditure Assessment:

- The document discusses the importance of measuring tax expenditures and provides examples from various countries. However, more detailed methodologies for estimating the revenue foregone, especially in the context of behavioural responses and compliance gaps, would be useful. This could include advanced techniques for capturing the interaction effects between different tax incentives.
- The document mentions the revenue gain method, which accounts for behavioural changes by taxpayers when tax expenditures are removed. However, it lacks detailed methodologies for accurately modelling these behavioural responses. More guidance on how to predict and quantify these changes would be beneficial.
- The specification of the benchmark tax system is often contentious. The document provides some guidance but does not offer a comprehensive framework for defining this benchmark, especially for taxes like personal income tax where there is no international consensus. More detailed criteria and examples would help standardise this process.
- The document highlights the potential for estimation errors when adding separate tax expenditures due to interaction effects. However, it does not provide detailed methodologies for accounting for these interactions. More guidance on how to model and adjust for these cross-effects would improve the accuracy of tax expenditure assessments.
- The document briefly mentions the issue of tax non-compliance but does not provide detailed methods for incorporating compliance gaps into tax expenditure estimates. More guidance on estimating and adjusting for these gaps would enhance the reliability of the assessments.
- While the document emphasises the importance of data, it does not provide detailed best practices for data collection and validation, especially in low-income countries with limited resources. More guidance on building robust datasets and ensuring data quality would be valuable.
- Incorporating practical examples would provide policymakers with concrete examples of successful tax expenditure assessments and the challenges encountered.

### **3. Corporate Micro Simulation Models (MSMs):**

- The document provides a framework for developing MSMs and emphasises the importance of creating datasets based on corporate tax returns. However, more detailed guidance on best practices for data collection, especially in low-income countries with limited resources, would be beneficial. This includes strategies for ensuring data accuracy and representativeness.
- While the document acknowledges the challenges of data limitations, it does not provide comprehensive solutions for overcoming these issues. More guidance on how to handle incomplete or inconsistent data and how to supplement it with survey data or other sources would be valuable.
- The document mentions the need to validate the MSM by comparing simulated aggregate CIT revenue with actual data. Additional guidance on specific validation techniques and metrics to ensure the model's accuracy and reliability would be helpful.
- The document briefly touches on the need to trace dynamic variables, such as depreciable capital costs, over time. More detailed methodologies for modelling these dynamic aspects, including the treatment of tax depreciation and business losses, would enhance the robustness of MSMs.
- The document does not provide detailed methods for incorporating behavioural responses of firms to tax policy changes. Guidance on how to model these responses, including investment behaviour and tax planning strategies, would improve the predictive power of MSMs.

### **4. Effective Tax Rate (ETR) Models:**

- The document explains the use of METRs and AETRs in policy analysis but does not provide detailed guidance on incorporating cross-border tax planning strategies. More information on how multinational corporations exploit differences in tax regimes across countries would benefit. This would help in understanding the global competitiveness of tax systems more comprehensively.
- Further guidance on the impact of international tax agreements, such as double taxation treaties, on ETR calculations would be useful. This would help

policymakers assess how these agreements influence the effective investment tax burden.

- The document provides a general framework for ETR calculations but lacks detailed methodologies for sector-specific ETR calculations. More guidance on how to adjust ETR models for different sectors, considering their unique tax treatments and economic characteristics, would enhance the applicability of these models.
- While the document focuses on tax incentives, it does not address the inclusion of non-tax incentives, such as grants or subsidies, in ETR models. Guidance on incorporating these incentives into ETR calculations would provide a more comprehensive view of the overall investment climate.
- The document primarily discusses static ETR models. More guidance on dynamic aspects, such as changes in tax policy over time and their impact on ETRs, would be valuable. This would help in understanding the long-term effects of tax incentives on investment decisions.

#### **5. Diagnostic assessment of governance:**

- The principles for promoting transparency and governance are very useful. The document outlines ten principles to promote better management and administration of tax incentives. However, more detailed guidance on implementing these principles, including step-by-step procedures and best practices from other countries, would be beneficial.
- While the document emphasises the importance of consolidating tax incentives under a single government body and ensuring coordination among various authorities, it lacks specific examples of successful coordination mechanisms. More guidance on establishing and maintaining effective inter-agency coordination would be valuable.
- The document advocates for regular reviews of tax incentives to assess their effectiveness. Additional guidance on designing and conducting these reviews, including methodologies for cost-benefit analysis and criteria for evaluating the performance of tax incentives, would enhance the robustness of these assessments.

- The document highlights the need for public reporting of tax expenditures and the largest beneficiaries of tax incentives. More detailed instructions on the format, frequency, and content of these reports and strategies for ensuring accountability and public engagement would be useful.

Some of the general suggestions include incorporating best practices gleaned from international examples, which can significantly bolster the capacity of LICs to analyse tax incentives comprehensively. Accessible case studies detailing successful methodologies will undoubtedly enhance the understanding of how tax incentives can be assessed and refined. These case studies can provide practical insights into implementing various tools and models, showcasing real-world applications and outcomes. Another integral area that deserves further attention is the coordination of tax policies at the regional level. The document notes the potential advantages of regional coordination as a means to combat harmful tax competition. Yet, it lacks concrete guidance and examples of successful regional collaborations. By elucidating these critical steps, LICs will gain essential insights into the complexities of navigating regional agreements, thereby facilitating the effective implementation of coordinated tax policies. Such efforts are vital in ensuring economies can thrive without compromising fiscal integrity.

Equally important is the need for clear strategies to engage various stakeholders, including civil society and the private sector. Transparency and accountability are paramount in the realm of tax incentive policies. Offering practical advice on fostering collaboration and building trust among these stakeholders will be instrumental in enhancing the effectiveness of tax incentive regimes in LICs. Engaging diverse voices in the policymaking process ensures that tax incentive policies are equitable and reflect the needs and aspirations of all community members, ultimately contributing to sustainable development goals.

International organisations are responsible for leveraging their collective expertise to assist LIC members in achieving more efficient and effective tax systems. This endeavour encompasses supporting capacity-building initiatives enabling these countries to deploy analytical tools such as micro-simulation and effective tax rate models. In addition, promoting evaluations that inform national debates—such as tax expenditure reviews and governance assessments—will better equip LICs to undertake comprehensive cost-benefit analyses, thereby fostering improved economic outcomes.

Furthermore, the role of corporations, especially foreign-owned multinationals that benefit from tax incentives, must be underscored in discussions of corporate social responsibility. Corporations

should not only adhere to the letter of the law but also embody its spirit. To this end, the business sector could consider establishing and endorsing a robust code of conduct that commits them to transparency standards. Such a framework would discourage the acceptance or pursuit of incentive packages that do not meet essential transparency criteria, thus cultivating an atmosphere of accountability and stewardship in economic dealings.

In summary, while the document provides a solid foundation for assessing tax incentives, more detailed guidance in these areas could further enhance its applicability and effectiveness. This would help policymakers in low-income countries make more informed decisions and optimise the use of tax incentives for investment.

### **III. What kind of support might countries require to effectively apply the principles?**

To effectively apply the principles outlined in the document, countries require multifaceted support that encompasses several key areas:

#### **1. Capacity Building**

Capacity building is paramount for countries to implement and manage tax incentives effectively. This involves comprehensive training programs for tax officials to enhance their understanding of tax incentive mechanisms and their economic impacts. These programs should cover the principles of cost-benefit analysis, tax expenditure assessment, and the use of effective tax rate models. Additionally, providing technical assistance to develop and utilise sophisticated analytical tools such as micro-simulation and effective tax rate models will enable countries to conduct thorough cost-benefit analyses and make informed policy decisions. Strengthening institutions responsible for tax administration is also crucial to ensure they have the resources and capabilities to effectively manage and monitor tax incentives. This includes establishing clear guidelines and procedures for implementing and overseeing tax incentives.

#### **2. Financing through Multinational Corporations**

Multinational corporations (MNCs) can play a crucial role in financing initiatives that support the practical application of tax principles. Establishing public-private partnerships where MNCs contribute to developing infrastructure and capacity-building programs can be highly beneficial. This can include funding for training programs, technology upgrades, and data collection systems. Encouraging MNCs to adopt robust corporate social responsibility (CSR) policies that align with the principles of transparency and accountability is also essential. This includes adhering to a code of conduct that promotes ethical business practices and discourages the pursuit of non-transparent tax incentives.

#### **3. Sensitization of Officers in Collaboration with Developed Nations**

Collaboration with developed nations can provide valuable insights and resources for the sensitisation of tax officers. Implementing exchange programs where tax officials from developing countries can learn from their counterparts in developed nations can help them understand best practices and innovative approaches to tax incentive management. Organising international workshops and seminars that bring together tax officials from various countries to share experiences and discuss challenges can facilitate knowledge transfer and foster a collaborative approach to addressing common issues.

#### **4. Regular Review of Activities**

Regular reviews ensure tax incentives remain effective and aligned with national development goals. It is crucial to conduct annual or biannual reviews of tax incentive policies to assess their impact and effectiveness. These reviews should involve comprehensive data analysis and stakeholder consultations to identify areas for improvement. Developing clear performance metrics to evaluate the success of tax incentives, such as measuring the economic benefits against the costs, is also essential. Ensuring transparency in the review process by publicly reporting the findings and recommendations promotes accountability and allows for informed public debate on using tax incentives.

### **5. Addressing Corruption and Rent-Seeking**

Tax incentives can induce more significant corruption and rent-seeking, primarily when they are awarded in discretionary or non-transparent ways and significantly affect the rate of return. Tax incentives should be embodied in the tax law, and their implementation should be supervised by the Ministry of Finance and Tax and Customs administrations to mitigate these risks. Countries should be clear and transparent in laying out eligibility and application, and discretion should be kept to a minimum. Publishing the beneficiaries of tax incentives promotes transparency and accountability, ensuring that tax incentives are awarded fairly and based on merit. Emphasising regional cooperation to avoid competitive pressures and harmful tax competition is also essential, as it helps countries coordinate their tax policies and prevent a race to the bottom in offering tax incentives.

### **6. Targeting Economic Objectives**

Certain types of tax incentives are better suited to meeting economic objectives. For income tax, those based on cost recovery rather than income exemption are better at targeting desired investments. This approach ensures that tax incentives are directed towards investments with a clear economic rationale. For indirect taxes, zero rating should principally apply only to exports, and exemptions should be minimised and used principally for administrative reasons or consumer necessities. This helps to reduce the potential for abuse and ensures that tax incentives are used effectively. Countries should also ensure they have implemented a streamlined and tightly controlled approach to managing and eligibility for the benefits of export processing zones and related special zones, which are overly prone to abuse.

## **7. Regular Accounting of Taxes Forgone**

The annual (or medium-term) budget should provide a regular accounting of taxes forgone from tax incentives, constructed using a sound methodology. This helps to ensure that the costs of tax incentives are transparent and that their benefits are regularly assessed against these costs.

In summary, countries require a combination of capacity building, financial support from multinational corporations, sensitisation of tax officers through international collaboration, and regular reviews to apply the principles outlined in the document effectively. These efforts will help optimise tax incentives, ensuring they contribute to sustainable economic development while minimising the risks of corruption and inefficiency.

With regards,

**Seema Kejriwal Jariwala**

**Partner- International Tax & Transfer Pricing**

**BMR Legal Advocates**



Dear PCT friends,

Here I am pleased to present my answers to the questions asked after having read the working document of the principles of tax incentives.

1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.

I consider that the proposed document of the principles of tax incentives provides an interesting summary of a generalized vision of what many countries understand as tax incentives carried out by governments, a concept based on providing social benefits either to the entire population or to a certain group of taxpayers.

From a government perspective, since it is an obligation of citizens to pay taxes, which is established by law, it is also an obligation of governments to collect these taxes in an amount that is as large as possible, which allows them to spend on education, health, social security, infrastructure, border security, etc. In this situation, tax collection, in developing or lower-income countries, is generally insufficient and what the collection agencies do is force the payment of taxes by hook or by crook, even adopting attitudes of abuse of power, as occurs in several Latin American countries. In the event of possible non-payment, fines are created up to one hundred percent or more of the unpaid tax, which increases collection, but hits the taxpayer without measuring their condition, size and activity. Regarding this practice of fining everything, it became customary in many countries to offer a tax incentive to reduce fines, but without touching the main tax, which is contrary to the logic of the tax incentive that benefits society or a group of taxpayers. That is to say, there is a distortion of the concept of incentive since the intention is rather to collect and collect at all costs, regardless of the economic condition of the taxpayer or whether their activity is stable or not in the face of the constant ups and downs of the markets or the economic crises that all developing countries suffer. In this context, taxpayers, rather than feeling incentivized, feel threatened that at any moment an exaction will occur, that is, an illegal collection of taxes by the government. This is a reality that happens to several developing countries.

Now, from the perspective of the taxpayer or society, although one is aware that taxes must be paid because the law requires it, the first thing that comes to mind is knowing what the destination of the taxes paid is. That is, the question arises of knowing or verifying whether taxes are spent on the social purposes of governments or if they are diverted for other purposes. There is no better proof than the evidence that enters our mind through the eyes. In general, taxes are not used for the purposes that political speeches always advocate, or at least not in the desired amount. It is evident that developing countries lack hospitals adequate to the needs of the sick, they lack education centers that provide quality education, especially to children, there are no shelters for the elderly or for poor people who are surviving every day, among other shortcomings. But it is evident, ostentatious buildings or government palaces, state-of-the-art vehicles or airplanes, or

salaries of government officials that compete in some cases with salaries of similar ones in developed countries. Why is this happening?

The answer is simple. This occurs because the managers of economic policy and those who implement it generally do not need public health or public education or even public security and probably do not know the reality of doing business and battling every day with the ups and downs of the markets for goods and services, the most comfortable thing being to charge under threat of sanction instead of promoting greater production and economic growth. Given this scenario, it is not possible to understand the reason for a tax incentive like the one that the governments of developing countries are accustomed to doing, based on investment benefits. Perhaps it can be incorporated into the analysis that a tax incentive is a mechanism that allows taxpayers to pay a tax to receive a good benefit rather than receiving a “benefit” from not paying taxes. Of course this idea is contrary to the logic of developed countries, but it is probably more true for developing countries.

Today, taxpayers in developing countries face a range of national and subnational taxes, as well as a series of road tax rates, certification fees, fees for various procedures that in sum affect expense flows, eroding the business economy. Why not think that a tax incentive could be to offset a tax, with a contribution made by the taxpayer that improves a hospital, a school or a more efficient means of public transportation. Of course, we must also think about the administration of monetary resources, seeking, above all, transparency.

Therefore, I consider that there are two perspectives on tax incentives, one of the governments and the other of the taxpayers, and perhaps it is necessary to incorporate into the analysis of tax incentives for developing countries, the current realities that allow other variables to be incorporated into the methodology of tax incentive principles, such as the destination of the funds, which can better balance the content and coverage of the proposed document.

I also consider that the document is very well prepared and includes the criteria analyzed in the report of Options for Low Income Countries' Effective and Efficient Use of Tax Incentives for Investment. However, it is proposed to complement the analysis by incorporating other variables that constitute values such as equality, justice, solidarity, transparency, responsibility, and common well-being. These values, although they are principles that govern an ideal society, can underpin the work of generating economic and tax policies in developing countries and therefore be considered when designing tax incentives that are equal for all, fair, supportive of those most in need, that imply responsibility for those who benefit from the incentives and that are oriented towards a common well-being. Of course, the analysis involves conducting further research into the impact of these values on current tax policies, with precise data to evaluate their incorporation into the scheme of tax incentive principles as an action guide for designers.

2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?

I consider that the document is based on the experiences of tax incentives oriented towards investment, analyzing some cases and considering the visions of some financing organizations. However, I believe that more guidance is needed on the expenditure of taxes in the experiences of developing countries that could support a new concept of tax incentives, which of course complements those referring to investment.

In my experience, the collection rate is very high even for large companies, which makes it difficult to obtain a tax incentive for investment, because other taxes or fees are incurred that would distort the purpose sought with the investment, therefore affecting the market and worse in a situation of economic crisis.

Another area that I consider requires more attention or research is the legislation of developing countries because if the laws do not offer legal security to business economic activity, there is no tax incentive for investment. Therefore, it is important to evaluate whether the legal framework of developing countries is adequate to implement tax incentives or establish requirements or conditions, even more so for those laws that affect border or trade relations between countries.

3. What kind of support might countries require to effectively apply the principles?

I believe that it would be very effective to have funding support for research programs to evaluate experiences of tax incentives in developing countries, as well as the realities of tax systems, analyzing data and building indicators. With this material, it is probably more effective to adapt the principles and complement them for implementation.

4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?

As a suggestion, it is probably necessary to incorporate into the analysis national, subnational or local tax policies that in developing countries are different in their scope and amount of tax. With this basis, perhaps the principles of tax incentives can be better adapted for their implementation, differentiating the possibilities of taxpayers to have an incentive according to the place of residence, economic activity and characteristics of their markets.

5. Do you have any other comments or suggestions?

There remains much to comment or suggest on this topic, however, for now, I would like to thank you for the opportunity to present some points of view that I hope will contribute to a positive analysis. Thank you so much.

Kindly yours.

Marcelo Paredes Iturri

Economist

Associate tax analyst

CESPEDESRAU & ASOCIADOS SRL

La Paz - Bolivia

## Tax Expenditures Lab's response to the PCT's Tax Incentives Principles Public Consultation Draft

**The Tax Expenditures Lab is a hub for expertise, exchange and peer learning on the topic of tax expenditures co-led by the Council on Economic Policies (CEP) and the German Institute of Development and Sustainability (IDOS).** It provides worldwide information on preferential tax treatments such as exemptions, deductions, credits, deferrals and reduced tax rates. The lab currently hosts two key projects: The Global Tax Expenditures Database (GTED) and The Global Tax Expenditures Transparency Index (GTETI). We want to express our gratitude for the opportunity to provide comments on the Tax Incentives Principles – Public Consultation Draft authored by The Platform for Collaboration on Tax (PCT). This is an important initiative to streamline efforts in the area of tax incentives, provide concrete guidance on the use and governance of such preferential tax treatments, and in the end, enhance transparency throughout the entire policy cycle.

### Scope and Framing

**Compared to the 2015 toolkit, the document approaches the issue of tax incentives from a rather normative perspective.** In doing so, however, it falls short of providing practical guidance to policy makers. The principles can be an important reference point for governments and other stakeholders. Yet, the major gap to be filled (particularly, but not only in low-income countries) regards the practical guidance that governments need to implement those principles taking their specific contexts and realities into account. This is particularly relevant in some of the stages of the life cycle, e.g. definition of the benchmark tax system, estimation of revenue forgone, evaluation and impact assessment.

The normative framing of the document comes as a surprise, since the PCT announced at a Technical Seminar organized in March 2024 that the goal of the document would be to update the 2015 toolkit based on i) the current changes in the international tax landscape triggered by the GloBE rules, and ii) the inclusion of the sustainability dimension, particularly the use of green tax incentives. Both aspects are missing in the document.

**A clearer definition of the scope of the document, including examples of what is and what is not covered, is needed.** Whereas the scope of the 2015 toolkit was clearly defined (the focus was only on corporate income tax-related incentives for investment in low-income countries), the scope of this document has been broadened, as discussed in the preamble on page 9. Yet, the document focuses almost entirely on the same corporate income tax-related incentives for investment, with only a few references to other types of incentives.

### Completeness and Lifecycle Perspective

**The document provides a relevant, though incomplete overview of core governance aspects for the design, operation, and evaluation of tax incentives.** The structure follows the lifespan of a tax incentive, defined as: justification, design, international considerations, legislation, implementation, and evaluation. We would consider these to be stages of a life cycle, rather than principles.

Also, we are not convinced that the six “principles” truthfully cover the actual life cycle of tax incentives. We find important aspects missing (see the following comment), while some aspects, such as “international considerations” should better be considered part of the design or operation of tax incentives.

**The structure focuses on setting up tax incentives while overlooking provisions already in place.** Four of the six principles are centered around introducing incentives, while only two address monitoring and evaluation. A crucial gap is the lack of guidance on reforming or abolishing incentives that have reached their end date or been negatively evaluated. There should be a clear mechanism for phasing out or modifying ineffective incentives based on evaluation findings. The emphasis remains on introducing new provisions, albeit more sustainably, rather than integrating evaluation results into tax incentive reforms.

**The document could benefit from better identifying a set-up phase, combining the first four principles and clarifying how these interact with each other.** International considerations should inform both the justification and design of tax incentives. The procedural aspects of justification, including stakeholder consultations, should be taken into account to ensure that all parties affected by a tax incentive are informed and have a voice. Ex-ante assessments should be emphasized as a tool to consolidate these principles, providing policymakers with a structured analysis of expected benefits, costs, and externalities before deciding whether to introduce a tax incentive. In addition, a highly relevant aspect of setting up tax incentives is defining the benchmark system upon which the preferential tax treatment is applied. This aspect is almost completely missing from the document.

## Governance and the Role of the Ministry of Finance

**The document covers important governance topics but would benefit from greater clarity and depth in certain areas.** Best practices for coordination, consultation processes, and institutional roles should be outlined more explicitly to clarify who is responsible for what. Governance is discussed across multiple principles rather than in a unified manner, making it difficult to see how responsibilities are allocated.

**While the Ministry of Finance should have a central technical and supervisory role, the term “sole authority” needs clarification,** particularly regarding the role of other line ministries, the parliament and investment promotion agencies in initiating tax incentives. It should be clear that no tax incentive should be granted without the technical approval of the Ministry of Finance to ensure proper coordination and consideration of broader economic and public finance objectives.

**Data-sharing procedures should also be discussed in more detail.** The institutions responsible for monitoring and evaluating tax incentives (typically the Revenue Authority and the Ministry of Finance, specifically the Tax Policy Unit) must have access to relevant data to conduct thorough assessments. In addition to ensuring internal access within the executive branch of the government, the framework could also consider data-sharing mechanisms that allow for evaluations by external actors, such as research institutions, audit bodies, or international organizations. This could also help dealing with capacity and resource constraints.

## Evaluation Framework

**A more structured discussion on evaluation frameworks is needed.** While the document highlights ex-ante assessments and ex-post evaluations, it does not address how these fit into a cohesive framework. A joint framework for ex-ante and ex-post evaluations would help ensure relevant data is collected from the outset, allowing for meaningful impact analysis later on. Furthermore, it would ensure that clear performance indicators are defined at the design stage.

**A discussion about the timeliness of evaluations could also be included.** Timing is key to feed policymaking and evaluations should be performed so their recommendations can lead to reform. The case of South Korea can be taken as an example ([Redonda et al., 2023](#)).

## Structure and Clarity

**Some sections, particularly the remarks, are difficult to follow.** They do not always clearly indicate which principles or sub-principles they refer to. Readers must constantly track which part of the framework a section relates to, making navigation cumbersome. Clearly labeling references within the remarks would improve readability.

Overall, **drafting lacks clarity and should be done in a more digestible way.** Often, the drafting and wording in important parts of the text is not clear. This adds noise to the potential messages that the reader should take out. For example, page 11 discusses the difference between the two types of effects on tax revenue triggered by incentives without mentioning “revenue forgone” once.

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*We submit these comments to contribute to the clarity and effectiveness of the proposed framework. Addressing the points raised will strengthen the overall approach and enhance transparency. We look forward to the final version of the document and its implementation.*

### **Christian von Haldenwang**

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### **Agustin Redonda**

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### **Flurim Aliu**

Fellow, Council on Economic Policies (CEP)

### **Sofia Berg**

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**REVIEW OF THE TAX INCENTIVE PRINCIPLES**

**BY**

**SSEKANJAKO ANTHONY**

**DIRECTOR TAX AND FINANCE**

**CROSSLINE MANAGEMENT SOLUTIONS LIMITED**

**UGANDA**

## Responses to the review questions

### **1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

Some principles are not well balanced in terms of content and coverage; some key considerations have been left out. I have presented my observations basing on the criteria used in presenting the proposed principles; following the design process, governance and reform processes.

My observations and suggestions are drawn from my experience as a tax consultant in Uganda with over 13 years' experience in taxation in general, as well as from my 10 years' experience working in Uganda Revenue Authority as a Tax Officer, where I interacted with investors, as well as had to process tax exemption applications. I have also relied on feedback from clients who I have helped with application for tax exemptions (Tax incentives), and how tax incentives are generally administered here in Uganda by the Uganda Revenue Authority.

#### **I. DESIGN**

<b>Issues Observed</b>	<b>Suggestion(s)</b>
According to the proposal, the design of Tax Incentives has been based on three core design issues; Choice of tax instrument to incentivize investment, eligibility criteria used in the selection of qualified investments, and reporting and monitoring requirements during different stages of the tax incentive's life cycle, as well as sunset and recapture provisions, but does not consider the importance of a sector based approach to designing tax incentives, yet in LICs like Uganda, most of the incentives are meant to improve or boost certain sectors in the economy.	The proposal could consider a fourth core issue when designing tax incentives, the tax incentive should be sector based, which sector(s) is the incentive(s) targeting to improve or give a boost? How do these incentives improve a certain sector(s)? LICs face limitations in availability of funds for public development, hence not all sectors in the economy can be sufficiently funded, therefore it becomes efficient and effective offer tax incentives to attract investors in those sectors where the government cannot a lot enough resources, or has limited resources to



	<p>offer a significant boost. For example, after the covid-19 pandemic investors both local and foreign in sectors like manufacturing, tourism and construction, were given tax incentives including tax waivers to enable them recover from the losses incurred during the lock down.</p> <p>There is need to adopt a data based approach to proposing tax incentives, the tax incentives should be based data, for example, previous and forecasted revenue performance, GDP ratios, Sector wise performance during the financial year, etc this would enable the governments to make sound cost-benefit analysis, authorizing tax incentives that would reduce the tax revenue to be collected.</p>
Under choice of instrument its proposed that tax incentives that lower the cost of investment are often to be preferred over profit based tax incentives, however in most LICs, the cost of capital is not very high, given that the currency in such countries is always weaker compared to the currency from the investors' country of origin in case of foreign investors. For example in Uganda \$1=3650 Ugx, meaning that you need less dollars to do a viable investment in here, and in principle with all the money invested, it will take a number of years before the business begins to return a profit, therefore taxation of profits doesn't provide an immediate concern for investors, however they	<p>I suggest that preference be given to incentives that lower the cost of working capital. Incentives that will reduce operational costs of the business, for example; salaries and wages, utilities, professional fees, purchases of raw materials and assets, etc are more attractive for both local and foreign investors, but more so the local investors. Focus could be put on tax waivers or exemptions focusing on tax types that impact the cost of expenses and assets, like PAYE, Stamp Duty, VAT, WHT, LED as these directly impact the availability of cash flows in the business, and they are also responsible for increasing the cost of doing business. For example a company has to</p>

<p>would be more concerned with the cash flows that the business would be able to generate to support operations, financing and investment activities.</p>	<p>continuously pay stamp duty for every asset purchased here in Uganda, withholding Tax is charged on professional fees, in most cases the professionals demand that the company pays the WHT without necessarily deducting it from their total payments, PAYE is deducted and paid every month for all employees, where the deduction is made directly from employee salaries this affects their productivity, where its paid by the company it increases the cost of salaries and wages which affects cash flows.</p>
<p>Its proposed that tax incentives could be given basing on specific tax head, like VAT, Income Tax, etc. This would cause distortion during tax reviews, and audits, since most of the tax heads are linked together, for example: there is a direct link between VAT, PAYE, LED, WHT and Income Tax, therefore it's not logical to exempt one, or two and then leave the others.</p>	<p>Exemptions could be based on a time frame but should be applied across the whole tax heads to reduce on tax distortions and discrepancies, I have seen Diplomatic Institutions, NGOs, and other exempt organizations here in Uganda exempted from specific tax heads say income tax, but then they are always bothered with PAYE audits, VAT audits, as a result of the differences in the records received by URA.</p>
<p>The proposal assumes that tax incentives are made to promote Foreign Direct Investment (FDI), this is not particularly true especially in African countries where most incentives are made to protect and promote local industrialization and also boost specific sectors of the economy, but also political leaders also selfishly propose incentives that will favour their businesses and also reduce tax burdens for businesses where they have interest.</p>	<p>The proposal should focus more on the measures that will encourage accountability from the political leaders and the tax administration body. In Uganda for example Tax incentives are proposed by parliament and not necessarily people who are technical, therefore the proposal should include measures to the taken to hold leaders accountable for any suggested tax incentives.</p>

<p>The proposal suggests that after approval, tax administrations should continue monitoring firms, it suggests that tax authorities should also periodically carry out audits, this is very good, though the limitations faced by tax administrations in LICs especially limitations in the number of staff available to do monitoring, as well as the lack of enough skilled staff with the required skills to do quality audits and reviews would make it a very difficult to accomplish these tasks.</p> <p>Besides, constant audits, reviews and checks by tax authorities on businesses of investors also creates a situation of tension and unrest which would make it untenable to continue investing in such countries, many investors have left Uganda citing constant interruption of their operations by URA officials, with constant audits, tax reviews and compliance visits.</p>	<p>The proposal should emphasize the development of a KYC (Know Your Customer) robust framework that could be able to detect and deter first time investors without the requisite requirements. The focus should be on detection and deterring, instead of focusing on correction and elimination after the application process has been completed and approved which is very hectic, less efficient and ineffective. There is need to develop a Toolkit that would give provisions and guidance on how to conduct professional and robust checks on tax incentive applications, the proposal should suggest requirements needed to develop systems and processes that are robust and agile enough to detect and deter unscrupulous applicants.</p>
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## II. GOOD GOVERNANCE

Issues Observed	Proposal
<p>The proposal suggests that the authority to grant national-level tax incentives rests solely with the ministry of Finance, however this will result in bureaucracy and delays which can frustrate the investors, as ministry of finance would be involved in many activities hence</p>	<p>The proposal could suggest setting up a technical committee that is responsible for suggesting and reviewing tax incentives, this committee could have members of the public represented, members from ministry of finance, members from the revenue authority, representation from cabinet and line ministries</p>

<p>affecting efficiency in application and operation of tax incentives.</p> <p>Secondly the inefficiencies in ministries especially in LICs could render the operation of tax incentives ineffective, this is because ministries tend to focus more on policy and oversight rather than on technical work. The delays in review and approval, could frustrate the investors, thus many could opt to go and invest in other countries that expedite their application processes.</p> <p>Even where the ministry of finance is the sole authority governing tax incentives we have seen for example here in Uganda where personal interests dominate the public interests.</p>	<p>for each sector that would be affected by the tax incentive. This will make it easier to capture the voices of all those affected by the tax incentives, it will also propagate the enacting of tax incentives that are inclusive for everyone; including the general public instead of only focusing on foreign investors.</p> <p>The tax administration should remain as the lead technical implementer and administrator of the tax incentives. With roles of receiving applications for tax incentives, carrying out the KYC and also approving and ensuring that Tax Incentives are not abused.</p> <p>The ministry of finance could assume an oversight role over the whole tax incentives processes, monitoring and evaluation roles, as well as providing legal guidance to the technical committee and the Tax Administration. The MOF should coordinate the activities of the technical committee and the Tax Administration (TA), as well as being in charge of listening to addressing all appeals from investors whose applications have been rejected by the TA. This will create fairness, as well reduce opportunities of corruption and promoting of personal interests in the whole process of administering tax incentives, since no one body has total control over the Tax incentives.</p>
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### III. INTERNATIONAL COORDINATION

Issues Observed	Proposal
The proposal emphasizes that incentives are key in attracting Foreign Direct Investment (FDI), which is not necessarily true, as there are other key factors that foreign investors consider like the political environment; like security and safety, economic factors like availability of factors of production, the cost attributable to the factors of production, social factors like cultural differences, etc. these are as important as tax incentives in attracting and maintain foreign investors in a country.	<p>The proposal should also incorporate these factors as variables to be evaluated that would attract FDI, not only tax incentives, most LICs have incentivized their tax systems, but still face challenges in attracting FDI, because the other factors that make investments profitable are non-existent.</p> <p>Countries should not focus on tax incentives at the expense of creating a conducive environment that would make businesses thrive.</p>

**1. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**

Yes, more guidance is needed to develop a frame work that can be used to review tax exemptions/ incentives applications. Countries of course have different factors they consider to award these incentives, but for the case of LICs there is need to develop a robust frame work, toolkit or working paper that can guide Tax administrations in reviewing applications, especially in areas of conducting interviews, how to identify anomalies in the presented documentation, how to access and verify foreign investors' financial information etc.

More guidance is also required in developing a Tax Incentive Information system, a system where all approved incentives can be accessed, an integrated system that enables the technical committee, Ministry of Finance and the Tax administration to monitor all approved tax incentives, as well as generate data to inform the reform process and also guide the concerned parties in designing and governing tax incentives. This would later feed into a global system where Tax authorities can access information about a given foreign investor, to make it easier and quicker to process the tax incentive applications.

More guidance is needed in the area of international coordination, which is very important to avoid spillover effects which could result from competition between countries as each tries to provide more tax incentives than the other to attract foreign investment. Global tax mechanisms need to be more emphasized especially the BEPS Project that aims at regulating income tax rates used by individual countries. Countries should remain cognizant of the duty to maintain a balanced global tax system and not only focus on what would help each individual country at the expense of other countries.

### **3. What kind of support might countries require to effectively apply the principles?**

Countries especially the Low Income Countries, need more technical training geared towards making them understand how to apply these principles. Guide books, toolkits, working papers, as well as videos could be developed to help individual countries understand these principles and how best to apply them.

There is need to support the research initiatives, especially research in the field of tax administration, as well as management of tax incentives. Funding is needed especially in developing countries to enable professionals in taxation to carry out research in this area of tax incentives.

Staff and stakeholder training, and exposure to well-functioning and properly administered tax incentive systems in developed countries, especially through staff exchange programs, fellowships, seminars, conferences and work group retreats.

### **4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

There is need to emphasize the mechanisms through which the public can hold accountable their leaders and those who implement tax incentives, so that they don't only benefit a few people, but rather meet the public good.

Tax incentives should be accessible to all members of the public, but they should not be only made to benefit foreign investors, since they repatriate most of the profits and they leave the citizens languishing in abject poverty.

The principles need to be updated periodically, since a lot of things change globally all the time, therefore the rate of change needs to be accounted for in the principles.

The OECD, IMF and WBG need to take lead in reviewing and advising countries as they are suggesting, proposing and enacting tax incentives, this is because they have access to global data, and they can use this data to make suggestions for countries which areas they need to focus when proposing tax incentives in their tax laws. They need to be the bodies that control global distribution of tax incentives to avoid competition between countries, and spillover effects due to this unnecessary competition.

Comprehensive data analysis needs to be done to identify which sectors should be given much more emphasize during the proposing of tax incentives. It should not be a matter of guess work.

Where there is a time frame for expiration of specific tax incentives they should be clearly mentioned, the principles need to make it very clear for how long will the tax incentive be in effect, and what happens once its revoked, these need to be clearly communicated to the general public.

**5. Do you have any other comments or suggestions?**

The PCT partners need to have coordinating resident partners in various countries to help them understand how Tax Incentives are working in those specific countries, regions and continents.

There is need for the PCT partners to make periodic missions to the LICs to come and observe the weaknesses as well as the strengths in the tax incentives in particular countries.

Consultations with tax administrations, tax consultants, government officials and other stakeholders need to be done, to capture their views and voices, as these principles are being formed and proposed.



11 February 2025

By email to: [taxcollaborationplatform@worldbank.org](mailto:taxcollaborationplatform@worldbank.org) and [arajca@worldbank.org](mailto:arajca@worldbank.org)

Dear Team

### **Tax Incentives Principles – Public Consultation**

Thank you for the opportunity to comment on the public consultation document [Tax Incentives Principles Public Consultation](#) published on 10 December 2024. The comments in this letter have been written from the perspective of the UK.

A clear and predictable tax environment, supported by well-designed incentives, is essential for businesses to make informed investment decisions, foster innovation, and contribute to sustainable economic growth. Conversely, poorly designed incentives can create uncertainty, distort markets, and ultimately hinder investment.

The PCT's efforts to establish a framework for effective tax incentive policy making are welcome. The emphasis on rigorous justification, targeted design, transparency, and robust evaluation is particularly important for businesses seeking certainty and a level playing field. While the principles are drafted from the perspective of policy makers, the impact of an incentive on taxpayer behaviour is central to whether it is successful in meeting the policy objectives. This includes understanding how incentives influence business decisions, investment patterns, and overall economic activity. The principles could encourage policymakers to consider behavioural impacts, designing simple, clear incentives and engaging with businesses throughout the process.

The current broad definition of "tax incentives" encompassing a wide range of provisions – from reduced rates to special regimes – may prove overly burdensome to implement in practice, particularly in countries with limited resources or relevant experience. Prioritising incentives with the highest potential for market distortion would make the framework more practical and impactful. A phased approach, focusing initially on corporate income and other business taxes before extending to the full range of taxes, could also be considered.

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To further enhance the document's practical value, we suggest including illustrative or real-life examples demonstrating how governments, businesses and their advisers can work together to create a tax environment that supports sustainable economic growth. Rather than showcasing "gold-standard" compliance with all principles, which may be unrealistic in many contexts, the examples could highlight:

- **Specific tax incentives:** Demonstrate how different incentive types (e.g., tax holidays, reduced rates, tax credits) can be tailored to effectively target specific activities or sectors.
- **Country experiences:** Share examples of successful and unsuccessful incentive implementations, drawing practical lessons learned and best practices from different countries.
- **Sector-specific applications:** Provide guidance on applying the principles in sectors with unique characteristics, such as renewable energy, infrastructure, or small and medium-sized enterprises.

The appendix sets out more detailed comments on the individual principles in response to questions 4 and 5 in the consultation document.

Yours faithfully



**Artem Vasyutin**  
Deloitte LLP

## Appendix

Response to question 4: Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?

### Principle 2: Design

Principle 2.1 states that profit-based incentives would be commonly ruled out on the grounds that 'Profit is source of purely private benefit, and taxing it at a preferentially low rate forgoes revenue without necessarily promoting any activity'. However, stricter rules and requirements now govern income-based tax incentives, like intellectual property or patent box regimes, often limiting their use to specific and targeted research and development activity. Moreover, many, if not all, corporate tax incentives (such as allowances, tax credits, deductions, exemptions, or reduced rates) aim to generate higher returns and, consequently, higher profits for businesses. This raises the question of whether a substantial difference exists between taxation at lower rates and other incentive forms, as both ultimately result in increased profits for businesses.

### Principle 3: International considerations

Providing insight into how these principles intersect with the work of the OECD Inclusive Framework on Harmful Tax Practices would be both useful and beneficial.

Principle 3.3 includes the statement that 'Incentive design should pay due regard to the impact on other countries'. Given that the jurisdiction to tax and define all tax parameters (including tax incentives) is a sovereign right, applying this principle in practice could prove challenging. However, it remains paramount to respect all international commitments outlined in treaties or other agreements when designing tax incentives.

### Principle 4: Legislation

Principle 4.1 states that 'Tax incentives should be under the sole authority of the ministry of finance'. 'The role of the ministry of finance as the guardian of public revenues and the tax system is fundamentally compromised if line ministers or others are able to grant incentives'. Careful consideration should be given to the phrase "to grant incentives." While the ministry of finance should undoubtedly lead and guide the design of tax incentives, we agree with the statement in the remarks that other official bodies could be responsible for confirming taxpayer eligibility without compromising the tax system. From a business perspective, this can provide greater certainty and reduced compliance costs where another official body has a better understanding of the eligibility criteria.

Principle 4.4 states that 'Providing tax incentives as part of legislation with a wider purpose and / or through secondary instruments (such as decrees or contractual agreements) can obscure their existence and extent, compromising oversight, and lead to incoherence and inconsistency

in the wider tax system'. As before, "providing tax incentives" requires a clear definition. If all primary parameters of tax incentives are stipulated in tax law, final confirmation of taxpayer eligibility could be handled through secondary statutory instruments without negatively impacting the tax system. Furthermore, taxpayers may prefer contractual arrangements in addition to tax law provisions. These arrangements can safeguard their position and solidify agreed-upon terms aligned with tax law, ensuring consistency and protection against future government changes or unforeseen events.

## Principle 5: Implementation

Principle 5.1 states that 'The administration of incentives should be under the control of the revenue administration, appropriately empowered.' While the revenue authority should undoubtedly lead in administering incentives, its role should be focused. If the authority to grant tax incentives (i.e., verifying eligibility and other requirements stipulated in tax law) is delegated to another official body, the revenue authority's role should primarily involve ensuring taxpayer compliance with tax law provisions and relevant by-laws related to those incentives, rather than directly granting them.

## Principle 6: Assessment

Data protection, confidentiality and commercial secrecy must be carefully evaluated and respected when implementing principle 6.2. Different data privacy requirements apply in different jurisdictions. While some countries may be able to provide information on the largest beneficiaries of a tax incentives, for others, it may be more appropriate for public reporting to include numbers of beneficiaries and sectoral spread.

Principle 6.3 states that 'Incentive legislation should include a program for periodic, credible and public evaluation.' Considering the assertion in principle 4.1 that 'Tax incentives should be under the sole authority of the ministry of finance', it logically follows that such evaluations should be conducted by or overseen by the ministry of finance.

## Response to question 5: Do you have any other comments or suggestions?

The principles set out in the document provide a comprehensive and generally well-considered framework for tax incentive policymaking. However, some potential challenges and considerations arise:

- **Political Economy Considerations:** Tax incentives can be politically appealing, even when not economically justified. The document could strengthen the discussion on navigating political pressures and building consensus for reforms based on sound economic principles.
- **One-Size-Fits-All Approach:** While the principles offer a valuable general framework, their application might need context-specific adjustments. The document could highlight

the importance of considering country- and region-specific circumstances, such as economic structure, development level, state aid and subsidy regulations, and institutional capacity.

- **Balancing Competing Objectives:** Policymakers often face trade-offs between different objectives, such as attracting investment, promoting equity, and protecting revenue. The document could provide more guidance on navigating these trade-offs and making informed decisions.
- **Dynamic Nature of Tax Incentives:** The effectiveness of tax incentives can change over time due to factors like economic shifts, technological advancements, and international tax rule changes. The document could emphasise the need for ongoing monitoring, evaluation, and adaptation of existing tax incentive policies as well as the application of the principles to future policies.
- **Benefits of Advance Consultation:** Engaging stakeholders, including businesses and civil society, in the design and evaluation of tax incentives can enhance transparency, build consensus, and improve policy effectiveness. The document could highlight the importance of consulting with businesses and their advisors throughout the design and implementation process to ensure incentives are practical, effective, and meet the needs of both taxpayers and the government.



FONDATION POUR LES ÉTUDES ET RECHERCHES SUR LE DÉVELOPPEMENT INTERNATIONAL

## Comments on Tax Incentives Principles

Alou Adessé Dama<sup>1, 2</sup> and Grégoire Rota-Graziosi<sup>1, 2</sup>

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1. **Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

The definition of 'tax incentives' is restricted to the promotion of specific activities. However, tax incentives can also be designed to support particular groups of workers—such as young individuals, senior employees, or women—as well as specific geographical areas.

The six principles provide valuable guidelines for authorities in designing tax incentives. This initiative is particularly relevant for certain developing countries, where these incentives and their structuring may be inadequate or misaligned with policy objectives.

However, several issues warrant further attention. First and foremost, **transparency** should be emphasized either as the primary principle or as a prerequisite for the implementation of all other principles. Without a strong transparency requirement, there remains a significant risk of discrepancies between the officially reported incentive policies and actual practices, particularly through special agreements or discretionary arrangements.

The notion—or even the principle—of **progressivity** could also be integrated into the design of tax incentive regimes. Incorporating progressivity enhances the targeting efficiency of tax incentives by supporting firms that would not enter the market without such measures (extensive incentives) and by encouraging increased investment from existing firms (intensive incentives). For instance, Dama et al. (2024) demonstrate that Corporate Income Tax (CIT) holidays tend to be regressive, as they disproportionately benefit the most profitable firms. Since these tax holidays are uncapped, they automatically provide greater tax advantages to firms with higher profits, thereby exacerbating disparities rather than fostering equitable economic growth.

Certain **nudge-based approaches** could serve as complements to tax incentive mechanisms. One such example is the sunset clause, as proposed in sub-principle (P2.3), which mandates periodic reassessment of incentives. Additional measures could also be explored, such as mandatory incorporation for beneficiaries and the requirement for firms to bear the burden of proof regarding the actual realization or commitment of the intended investments. These

measures would enhance accountability and ensure that tax incentives effectively fulfill their intended economic objectives.

The inclusion of a **sunset clause** is highly pertinent, as it introduces a mechanism for periodic reassessment of tax incentives. This clause could be further reinforced by an explicit condition stipulating that the renewal of an incentive must be contingent upon the most comprehensive possible evaluation of its benefits—particularly in terms of employment generation and other relevant economic impacts—as well as its revenue cost.

Furthermore, tax incentives should be strictly limited to **corporations** and explicitly exclude individual taxpayers (physical persons or not incorporated businesses). The incorporation of economic activities enhances formalization, as corporations tend to be more transparent and easier to monitor for tax administrations. Extending tax incentives to individuals, by contrast, may encourage informality, potentially undermining tax compliance and reducing the effectiveness of tax policy.

Dama et al. (2024) highlight that shifting from tax holidays to tax credits effectively transfers the **burden of proof** regarding the realization of investments from the **tax** administration to beneficiary firms. Under a tax holiday regime, incentives are typically granted by the Investment Promotion Agency (IPA) based on an investment plan proposed by the investor. Consequently, the Tax Administration or Revenue Agency must coordinate with the IPA to verify whether the investment commitments have been fulfilled. In contrast, a corporate income tax (CIT) credit requires the investor to actively provide the necessary documentation to qualify for the benefit, thereby ensuring greater accountability and reducing the administrative burden on tax authorities.

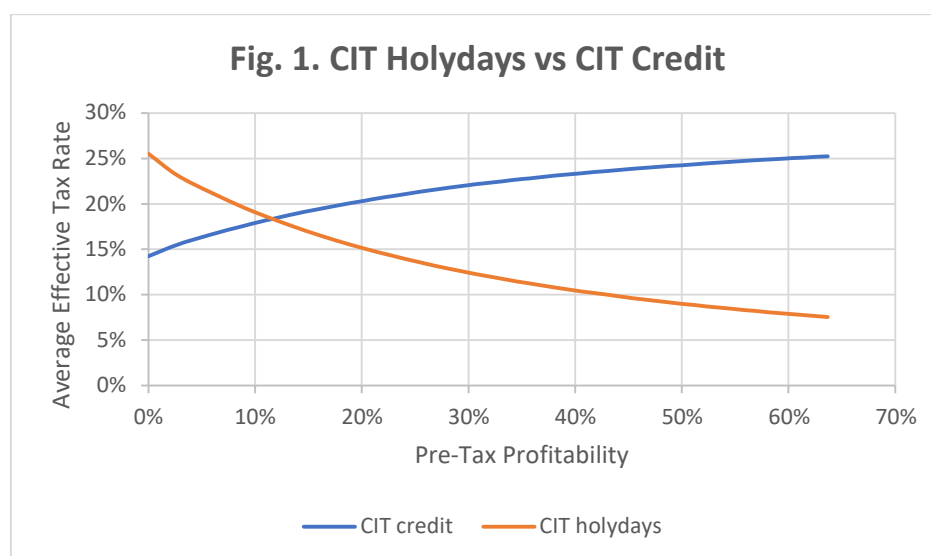
## **2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**

The first principle (**Justifications**) poses considerable challenges in both implementation and assessment. Tax incentives simultaneously impact tax revenues and investor behavior, making their overall effect complex to quantify. While these effects can be summarized through tax and **tax-cut incidence** analysis, the standard framework of partial and general equilibrium analysis, following the seminal work of Harberger (1962), is increasingly challenged by empirical findings. Recent studies highlight anomalies that undermine traditional theoretical predictions (see Benzarti, 2024, for a review of these inconsistencies). These issues should be explicitly acknowledged in the document to ensure a more rigorous and empirically grounded approach.

## **3. What kind of support might countries require to effectively apply the principles?**

Beyond standard technical assistance and training, it would be helpful to establish a matrix presenting the different types of direct and indirect tax incentives: Holidays, rate reduction, credit, deductible costs (e.g. allowance for corporate equity or accelerated depreciation) in each dimension of the retained principles. Such a matrix would help the authorities in designing their incentive regimes and provide also a tool to assess the “quality” of the tax incentive regime with respect to these principles.

An evaluation of the **average or marginal effective tax rate** for representative firms across the main economic sectors, both with and without tax incentive regimes, would provide valuable estimates of the effectiveness of these incentives in reducing the tax burden. Furthermore, such an analysis would allow for a more precise assessment of whether tax incentives contribute to a progressive or regressive fiscal structure. Examining data from 44 African countries, Dama et al. (2024) emphasizes the regressive nature—and, consequently, the redundancy—of Corporate Income Tax (CIT) holidays by analyzing the effective tax burden of a representative firm under both the standard tax regime and the primary tax incentive framework, typically formalized through the Investment Code or Act (see Figure 1 for a comparison of the average effective tax rate under CIT holidays and credit according to the pre-tax profitability).



See: <https://shiny.mesocentre.uca.fr/public/app/citregressivity>

**4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

None

**5. Do you have any other comments or suggestions?**

Minor comment: the correct reference is:

**Geourjon, Anne-Marie**, Laporte, Bertrand, Emilie Caldeira, Céline de Quatrebarbes and Yannick Bouterige (2018), Tax Expenditure Assessment: From Principles to Practice Methodological guide (FERDI: Clermont Ferrand).

**References:**

Benzarti, Youssef (2024), "Tax Incidence Anomalies," National Bureau of Economic Research WP 32819.

Dama, Alou Adessé, Rota-Graziosi, Grégoire and Fayçal Sawadogo, (2024). "The regressivity of CIT exemptions in Africa," *International Tax and Public Finance*, vol. 31(3), pp. 909-934, June.

Harberger, Arnold C., (1962). "The incidence of the corporation income tax," *Journal of Political Economy*, 70(3), pp. 215-240.

FEBRUARY 10, 2025

**COMMENTS ON DRAFT TAX INCENTIVES PRINCIPLES**  
**BY**  
**PLATFORM FOR COLLABORATION ON TAX**

We appreciate the opportunity to provide feedback to the *Platform for Collaboration on Tax* on the document on ***Tax Incentives Principles***. Tax incentives, also known as tax expenditures, play a critical role in domestic resource mobilization and fiscal sustainability. Developing countries, especially those striving to achieve Sustainable Development Goals (SDGs) and manage climate transitions have substantial financing needs. The G20 estimates that an additional \$3 trillion per year will be required from 2025 to 2030, to meet development and climate goals, with two-thirds of this amount expected to come from domestic resources. However, many low-income countries have tax-to-GDP ratios below the 15% threshold needed for sustainable development financing. Therefore, codified principles to guide tax incentives are crucial. Beyond fiscal impacts, transparency and accountability in the application of these incentives are essential for achieving efficient outcomes.

*Our concerns regarding the principles outlined in the document on tax incentives are as follows.*

**COVERAGE**

The document attempts to address a vast range of tax incentives, including corporate income tax (CIT), personal income tax (PIT), and indirect taxes. Given the distinct nature of these incentives, it would be beneficial to specify principles for non-CIT incentives separately.

[Justifying Tax Incentives](#)

The principle of ensuring "net social benefits" as a justification for tax incentives is problematic in practice. The concept is highly subjective and difficult to quantify. Without clear methodologies or examples, calculations can be misleading or unreliable. Governments, particularly in developing countries and investment hubs often lack the expertise and resources to accurately estimate the costs and benefits of incentives in advance.

[Employment Generation as a Key Justification](#)

Principle 1.1 does not explicitly refer to employment generation as a reason for granting tax incentives. Given that job creation is a fundamental objective of many incentives, it should be explicitly included.

**DESIGN OF INCENTIVES**

[Targeted Incentives vs. Subsidies](#)

While direct subsidies or cash grants could potentially be more effective than tax incentives in certain scenarios, they are often too costly for developing countries to implement widely, making them impractical. Direct subsidies require immediate public financing, which can strain the limited budgets of these nations. The principles should acknowledge that subsidies such as refundable tax credits distort the



investment playing field and privilege countries who have more finances at their disposal to offer these credits and thus attract more investment.

### Income-Based vs. Expenditure-Based Incentives

The principles indicate a preference for expenditure-based incentives over income-based ones (e.g., profit-based tax breaks) because expenditure-based incentives tend to encourage immediate investment and economic activity. It should be recognized that many developing countries rely on income-based incentives because they are less costly upfront.

### Subsidies vs. Tax Incentives

Tax expenditures (incentives) are essentially a form of subsidy. The long-term impact of these policies on debt sustainability is significant, as demonstrated in the IMF's 2023 Fiscal Monitor. Policies like the U.S. Inflation Reduction Act, heavily reliant on subsidies, have shown adverse impacts on debt sustainability compared to taxation measures. Research also indicates that tax incentives can sometimes lead to a "race to the bottom," where countries continuously lower tax rates to attract investment, ultimately reducing their tax base and fiscal capacity.

### Governance and Transparency

Transparency and good governance are critical in the administration of tax incentives. Without proper oversight, there is a risk of corruption and misallocation of resources, which can undermine the intended economic benefits. The document suggests that the Ministry of Finance should oversee tax incentives, but in many countries, the Ministry of Trade or Investment plays a leading role, largely because they administer incentives such as Special Economic Zones, trade related waivers and concessions. Therefore, we call for strong coordination between all relevant agencies, with the Ministry of Finance retaining overall oversight to ensure macroeconomic stability. Without oversight, tax incentives could lead to fiscal mismanagement and loss of macroeconomic control. Moreover, requiring parliamentary approval for tax incentives may slow down implementation significantly and it may not be feasible for governments that need to act quickly on emerging opportunities. It should be enough that incentives are incorporated in annual appropriations that go through the legislative process.

### Areas of Further Guidance

There is insufficient clarity on the use of incentives to support net-zero transitions. Principle 1.4 is particularly ambiguous on whether businesses should be incentivized or penalized to achieve environmental goals. Taxing pollution can drive change but often hurts lower-income households who cannot afford renewable energy. A balance between taxes and incentives is needed. Simply taxing polluters raises costs without reducing pollution. Tax incentives, rather than subsidies, could encourage businesses to achieve net-zero emissions.

### Capacity development

Overall, there is a need for more practical guidance, clearer definitions, and capacity support to make the principles effective in real-world policy implementation. Effective tax incentive impact assessment requires skilled personnel within tax policy teams and ministries of finance. However, many governments struggle with staffing and technical expertise, making high-level principles challenging to implement.

Dear Sirs/Madam

Thank you for the opportunity to provide feedback on this important consultation. Tax incentives play a pivotal role in shaping economic growth, attracting investment, and influencing business decisions. However, as the document rightly highlights, they also present challenges—balancing the benefits of targeted incentives with the risks of revenue loss, economic distortions, and governance issues is no easy task.

**Overall Thoughts:** The principles laid out in the document are clear, well-structured, and thoughtful. They do a great job of providing policymakers with a solid foundation to assess tax incentives in a way that is both strategic and responsible. I particularly appreciate the emphasis on developing countries, where the trade-offs involved in offering incentives can be even more pronounced.

**Where More Guidance Might Help:** While the references to additional materials are helpful, I think some areas could use a bit more practical guidance, particularly:

- **Measuring Impact:** Many governments introduce incentives without a clear framework to evaluate their effectiveness. Providing more detail on practical, scalable ways to conduct cost-benefit analyses—especially for countries with limited resources—would be extremely valuable.
- **Global Tax Changes:** Given the shifting international tax landscape, more clarity on how tax incentives can coexist with new global frameworks (like BEPS Pillar Two) would help countries make informed policy choices.
- **Real-World Examples:** Case studies—both successes and lessons learned—would bring the principles to life and make them more actionable for policymakers.

**What Support Would Make a Difference?** For these principles to have a real impact, many countries—especially developing economies—will need support in turning them into practice. Some key areas where assistance could be transformative include:

1. **Capacity Building:** Training policymakers and tax authorities to design and evaluate incentives effectively.
2. **Technical Expertise:** Guidance on legislative drafting and structuring incentives to align with long-term economic goals.
3. **International Collaboration:** Platforms where countries can share experiences, and best practices would be invaluable.

**Refinements & Recommendations** - From experience, a few additional points could strengthen the guidance:

- **Encouraging Sunset Clauses:** Too often, incentives linger well past their intended purpose. Encouraging built-in review mechanisms and expiration dates would help keep them effective and relevant.
- **Greater Transparency:** Tax incentives work best when they're part of a clear, accountable system. Stronger recommendations on public reporting of tax expenditure data would improve oversight and trust.
- **Sector-Specific Advice:** Since many incentives are aimed at particular industries (e.g., technology, infrastructure, sustainability), offering tailored guidance on designing incentives for different sectors would add a lot of value.

## **Final Thoughts**

Overall, this is a strong and well-thought-out document that will be a useful tool for policymakers worldwide. By refining the practical guidance and ensuring that countries have the right support, these principles can help shape smarter, more effective tax policies that drive sustainable growth.

I appreciate the opportunity to contribute and look forward to seeing how these insights help shape the final principles.

**Warm Regards**

**Monty Jivraj**

**Pioneering**

W: <https://hmrcagents.co.uk/>



11<sup>TH</sup> February 2025

To the Platform for Collaboration on Tax

**SUBJECT: PUBLIC CONSULTATION ON TAX INCENTIVES PRINCIPLES**

The International Institute for Sustainable Development (IISD), ODI Global, and the International Centre for Tax and Development (ICTD) welcome the opportunity to contribute to the PCT Consultation on Tax Incentives Principles. Together, we represent an integral part of the tax policy ecosystem, providing independent, highly technical, hands-on support to developed and developing countries on the design, use, and reform of tax incentives, as one of several tax policy matters.

**In this letter we highlight common issues on which we all agree should be considered in the PCT's *Tax Incentive Principles* public consultation draft.** More detail and additional responses are provided in our individual submissions.

**Recommendations on the content and coverage of principles and remarks**

**We see significant value in the PCT proposing a set of normative principles to guide policy makers on the design and use of incentives.** Principles form an important reference point for governments – to strive for better legal, administrative, and institutional settings – and for external actors to shine a spotlight where this is not happening or could be done better. They can be a useful tool for governments to push back on investors seeking overly generous benefits, which is critically important considering the power imbalance that has often underpinned the granting of incentives, particularly in developing countries. We find the checklist approach concise and accessible for policy makers. We also appreciate the way the draft tracks the life cycle of incentive policy making, although the reform stage is notably absent, and despite the huge need amongst policymakers for guidance on how to unwind, update, and modernise incentives.

**However, at times, the structure of the document is difficult to follow, the principles do not always reflect the realities of developing countries, and the drafting lacks clarity.**

- **Structure and scope:** the second part (Remarks) contains useful insights and clarification of the principles; however, while going through this section it is difficult for



the reader to keep in mind each principle and subprinciple that the text is referring to. The scope of the toolkit should also be clarified. The 2015 toolkit was focused on CIT-related incentives; however, this draft seems broader, which is appropriate, but needs to be stated upfront and non-CIT incentives given greater prominence in the discussion.

- Relevance and appropriateness of draft principles:** The document acknowledges the aspirational nature of the principles, but a guiding framework of 'second best' principles, particularly in strengthening institutional settings, may help mitigate risks where the ideal is not (yet) feasible. In particular, the emphasis on the exclusive authority of ministries of finance over tax incentives, whilst a goal we can all agree on, may not reflect the realities and complexities of policy making in many developing countries and does not recognise that there may be a legitimate role for other ministries and agencies in the process, which also need to be managed with guiding principles. An interim (or 'second best') approach that emphasises robust frameworks to guide the roles and responsibilities of other ministries, mechanisms and good practice for improving inter-agency coordination, may merit inclusion in the document. The prominence of alternatives to tax incentives to attract investment should also be increased, moving it from a secondary to a first order concern. While still framing in the context of appropriate cost-benefit analysis, the importance of assessing net social benefit against *non-tax* alternative policy instruments should be prominent, ideally with some examples.
- Drafting:** In some cases, the drafting lacks clarity or specificity. For example, page 11 discusses the difference between the two types of effects on tax revenue triggered by incentives without mentioning "revenue foregone" once.

Recognising that the consultation document focuses on principles and that there is an expectation of further guidance to come, we set out suggestions for additional materials and guidance below.

### **Recommendations for additional material and support for their practical implementation**



- **Practical guidance on cost benefit analysis, *ex ante* and *ex post*.** There are several aspects of the document that would benefit from further practical guidance; however, cost benefit is the arguably the area of greatest need. Cost benefit analysis simply is not happening in a systematic way. This is not only an issue for developing countries, but also in developed ones. Unlike tax expenditure reporting (which has been improving, although there is still a way to go to harmonise reporting standards, and build the necessary technical capacity), cost benefit analysis (or other types of impact assessments) is almost entirely absent in most of the countries, in large part due to lack of data. Policy makers need simple, accessible tools to help them make informed decisions about whether incentives are worth it before and after the decision to grant them. These tools, accompanied by a clear guiding framework for a cost-benefit analysis approach, should be designed to be rolled out quickly in low-quality data environments, while supporting the gradual improvement in data quality and availability, as well as the complexity and comprehensiveness of the cost-benefit analysis techniques.
- **Specific guidance on the design and use of green tax incentives.** While many of the principles of good tax design hold true for this sector, the pressure on developing countries to offer incentives to compete on clean energy (spurred on by developed countries seeking to further industrialise) poses a risk to the tax base. Policy makers often assume that the benefits outweigh the costs not considering the different cost profile of clean energy technologies and that some are less likely to need incentivising to be profitable. Both IISD and ICTD are happy to contribute ongoing research on green incentives and aligning fiscal frameworks with climate goals to this aspect of the toolkit.

### **Next steps to develop and embed the approach**

**Finally, we invite the PCT to form a coalition with our organisations, and relevant others, to operationalise the principles, and embark on a decade of focussed action on tax incentives.** Despite the political headwinds, there is still appetite to implement the Global Minimum Tax in many developing countries. At the same time, there is growing pressure amongst countries to compete for investment to achieve their industrial policy goals.



Navigating these tensions presents a unique opportunity to support policy makers to critically review and update their tax incentives regimes, think deeply about alternative approaches to attract investment, and strengthen the administrative and institutional set up for effective implementation and monitoring of incentives. Our organisations are already doing this work in several countries, and with different constituencies – tax authorities, finance ministries, line ministries, and investment promotion agencies, and parliaments – making us well placed to help the PCT rollout the principles. In the short term, we will continue to support stakeholders to provide constructive input to the development of the principles and practice guidance we hope will follow, including leveraging our different constituencies to ensure their perspectives are fully captured in the document, and contributing to regional consultations. We welcome the opportunity to organise a workshop with the PCT to discuss our proposals for short- and longer-term collaboration, as well as our technical feedback on the draft.

Thank you for considering our comments.

Sincerely,

*Alexandra Readhead*

Alexandra Readhead

Director, Tax and Sovereign Debt, IISD

*Guila Mascagni*

Guila Mascagni

Executive Director, ICTD

*Hans Peter Lankes*

Hans Peter Lankes

Deputy Chief Executive and Managing Director,  
ODI Global

## TaxDev Submission to the Platform for Collaboration on Tax (PCT) Public Consultation Draft on “Tax Incentives Principles”

*The Centre for Tax Analysis in Developing Countries (TaxDev), a partnership between ODI Global and IFS<sup>1</sup>, aims to contribute to more effective tax policymaking in low- and middle-income countries through partnerships with governments and researchers. We build new data resources and tools, and conduct skills training, applied policy analysis, and high-quality research. In collaboration with our government partners, we provide support for strengthening the governance of tax incentives and expenditures; tax expenditure reporting; evaluating the impacts of tax incentives and expenditures; and more broadly supporting the process of tax policy formulation and reform. We welcome the opportunity to provide feedback to the Platform for Collaboration on Tax (PCT) on the Public Consultation Draft of the “Tax Incentives Principles” document (henceforth the “Principles Draft”), which is important to the framing and design of effective tax policy and public financial management.*

### Submitter Details

**Organisation(s):** ODI Global & The Institute for Fiscal Studies (IFS) (through our collaboration on TaxDev).

**Department:** Development and Public Finance Department – ODI Global

**Name of contact person:** Hazel Granger – Senior Research Fellow and TaxDev Lead (ODI Global)

### Summary and High-Level Suggestions

Overall, the principles and remarks presented in the *Principles Draft* are well balanced in terms of content and coverage: they address the issue of tax incentives relative to the normative standards of what a good tax system should look like through a wide range of relevant sub-topics.

The *Principles Draft* highlights the need for tax incentives to have sunset clauses, safeguards from avoidance and abuse, limitation of discretionary powers, well-defined institutional arrangements, and clear rules.

To uphold the rule of law, the *Principles Draft* emphasises the importance of proper assessments, and ensuring that the relevant legal provisions are scrutinised and ratified by parliament, and are aligned with, or consolidated into, the main body of tax law.

**The ability to achieve the policy intention and objective(s) of a specific tax incentive is heavily reliant on its implementation.** The document addresses the crucial elements of registration; self-assessment filing and reporting by incentive beneficiaries to ensure compliance; effective revenue administration through enhanced facilitation, service delivery, and compliance risk management processes; and effective information sharing.

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<sup>1</sup> TaxDev is funded by the UK Government Public Finance Centre of Expertise as part of [UK International Development](#).



**We believe that countries might require support in the following areas:**

- i. Reviewing and reforming their tax incentives regimes to ensure standardisation, and to ensure that regimes strike an appropriate balance between, and make appropriate use of, both primary and secondary legislation.
- ii. Capacity building to develop and implement strategies for the effective monitoring and evaluation of tax incentives.
- iii. Strengthening inter-agency cooperation in a way that provides clear institutional responsibilities for tax incentive design, implementation, and monitoring and evaluation.
- iv. Tax expenditure analysis and reporting.

**We note a number of high-level suggestions below, and subsequently provide more detailed commentary on each principle.**

- 1. Clarify what is conceptual.** As a principles paper, it is understood that the *Principles Draft* is not expected to outline how each issue can and should be managed and implemented in practice. The main sections could, however, be clearer about when the sub-principles are intended to be aspirational and largely understood on a conceptual level. For example, when comparing social benefits and costs, tax incentive design in practice would not necessarily need to be a purely mathematical/accounting exercise where each social cost and benefit is measured and directly compared in monetary units; instead it can be open to normative comparisons that incorporate various forms of evidence.
- 2. Consider the risk of over-simplification of key design considerations.** While the *Principles Draft* is a high-level document aimed at a non-technical audience, there is a risk that the discussion of some design considerations is potentially over-simplified, and as a result could be misleading. The economic case for tax incentives is:
  - Weak for investment projects that exploit location-specific factors such as (i) natural resources or (ii) agglomeration benefits; and
  - Stronger for investment projects or activities that are (i) most mobile; (ii) have social returns.

Some mobile investment projects are profitable primarily due to firm-specific advantages, which mean that a firm may choose to locate in one country over another based on where it expects to earn the highest after-tax rate of return. This may be the case with export-oriented multinationals, for example. In such instances, countries may compete over profits and engage in international tax competition to attract investment. Countries which receive investment may then have the opportunity to tax part of the firm's profits and benefit from the potential positive spillover effects associated with the firm's presence (for example the use of local supply chains). The rate of tax a country charges will also affect how much tax the firm reports in that country, or tries to shift to other jurisdictions with lower tax rates. As a result, profit-based incentives (for example in the form of lower tax rates or tax holidays) can sometimes make sense when attracting such investment. These profit-based incentives can be easier to administer, but more difficult to monitor.

Cost-based incentives (for example in the form of accelerated depreciation or subsidies for Research and Development) are often more suitable for investments that are on the margin of being privately profitable and have additional social benefits.

This distinction is highlighted in the Remarks section of the *Principles Draft*, but some recognition in the main section would be appropriate given that high-level policymakers are likely to focus on the main principles.

3. **Provide further detail on inter-agency cooperation.** The *Principles Draft* raises this important theme, and where it is covered, it is covered sensibly. There is, however, scope to include further information about what good practice might look like; how a tax incentive design consultation process could be designed and framed; and what the roles of the various institutions would typically be.
4. **Simplify some sentences.** Some sentences in the *Principles Draft* could be written in a more accessible way given that it is targeted at an international audience, and many readers may not speak English as a first language.
5. **Provide clearer presentation of summary points.** The sentences in bold, which summarise the sub-principles, are sometimes complex. We suggest either: i) shortening and simplifying them; or ii) adding a signposting title at the beginning which could be a combination of several words naming the sub-principle.

For example: “*P1.2 The likely social costs of any incentive, including—but not only—its implications for tax revenue, should be identified*” could become either:

- i. “The social costs of incentives should be identified”; or
- ii. “P1.2 IDENTIFY SOCIAL COSTS  
The likely social costs of any incentive, including—but not only—its implications for tax revenue, should be identified.”

## Suggestions and Comments on the Principles and Remarks

The next section provides more specific suggestions and comments on each of the principles.

### Principle 1: Justification

**P1.1 An incentive can be warranted only if the activities it is intended to promote generate benefits to society beyond the private benefit the incentive will convey on recipients.**

“Only if some activity generates benefits to society beyond the private benefits to those undertaking it is private decision making likely to lead to too little of some activity being undertaken.”

This sentence could be simplified or broken down. In addition, the term “macro-critical activities” - used later in this paragraph - has a broad and potentially subjective interpretation which opens up the potential for a tax incentive to be justified ex post. Elaborating on a more specific meaning would be helpful for the reader.

**P1.2 The likely social costs of any incentive, including — but not only — its implications for tax revenue, should be identified.**

“Account must be taken” could alternatively say “Ideally, the full range of costs associated with any tax incentive should be taken into account.” This would reflect the challenges of measuring some social costs.

**P1.3 An incentive may be justified if there is good reason to expect its social benefits to exceed its social costs—with an ex-ante assessment, ideally quantified, made public.**

This sentence could be qualified in the following way: “An incentive can be justified if it is expected to generate a net social benefit, meaning that its social benefits exceed its social costs. An ex ante assessment of the net social benefits should ideally be quantified and made public.” This makes more explicit reference to the role of cost-benefit analysis in relation to the net social benefit justification, which is key to ex ante assessment.

Further practical guidance on cost-benefit approaches and techniques would be important to reference, and ideally to include, in the Toolkit. In particular, quantification of costs and benefits should balance the level of effort required to undertake such an exercise with the level of revenue foregone or revenue risk involved. For some countries (for example those with a lack of data and/or limited capacity to undertake detailed analysis), the cost of generating data and undertaking a cost-benefit analysis for every tax expenditure would not be justified.

**P1.4 Tax incentives should not be used if more appropriate policy instruments serving the same policy objectives are available.**

This is an important, clearly written and well-nuanced point. If the remit of the *Principles Draft* is intended to cover tax expenditures more generally - including VAT reduced rates and exemptions - it may be useful to discuss the rationale and design for these further. For example, while reduced rates for basic food items may benefit lower income households more as a percentage of their spending, the biggest absolute cash gains go to richer households, and alternative policies – for example in the form of direct transfers - could better target resources at lower income households.

## Principle 2: Design

**P2.1 Incentives should be targeted as closely as possible on the expected source of social benefit—which, in the investment context, commonly rules out profit-based incentives.**

We agree with the broad principle and there is room to elevate to the Principles section the comment in the Remarks that better targeting can come with an implementation and monitoring cost, meaning that some countries could decide that the additional administrative requirement is not worthwhile. This principle provides a good link between the understanding from the Justification and Design Sections.

**P2.3 Exposure to revenue loss should be limited, including by using sunset provisions.**

This could be a useful place to disentangle two concepts: a time limitation on how long one beneficiary can claim an incentive for; and a sunset clause on how long an incentive will be available for. Reviews of policy effectiveness could be linked to the latter (for example extensions of an incentive become conditional on evidence of impact and of the need for continuation).

## Principle 3: International Considerations

### P3.3 Incentive design should pay due regard to the impact on other countries.

Very few high-income countries (HICs) take account of the social costs and benefits to other countries in their impact assessments of fiscal incentive, or other industrial, policies. Possible alternative language could be that countries should “... take some account of” or “identify” impacts on other countries. In addition, there may be scope to include the point that HICs should take particular note of impacts on low- and middle-income countries (L&MICs).

## Principle 4: Legislation

### P4.1 Tax incentives should be under the sole authority of the ministry of finance.

The current phrasing suggests that incentives only “... require approval by the finance ministry”. We propose alternative phrasing to suggest that incentives “... are endorsed and approved by the finance ministry”. In some instances, approval could mean a late-stage ‘tick-box’ exercise, while endorsement would imply more substantive support for a policy idea.

When proposing that tax incentives should be under the sole authority of the ministry of finance, there should be a clearer indication that there can still be a legitimate role for other ministries and agencies in a well-governed process. For example, the ministry of finance may be responsible for the formulation and abolition of tax incentives (or at least the presentation of such changes to the legislature/Parliament). Other agencies or ministries (such as the revenue administration or a special incentives board) may have responsibility for approval of individual applications for tax incentives, in line with the eligibility criteria set out in legislation and formulation endorsed by the ministry of finance.

We would not recommend placing sole responsibility for formulation and administration of tax incentives on the ministry of finance since, in our experience, many tax policy unit functions do not have adequate capacity to approve every tax relief application and the resource needed to do this often crowds out more important policy formulation and analytical work. Unless it can be guaranteed that resources would not be diverted in this way, delegating the operational responsibilities and processes would help to ensure that ministry of finance resources remain focused on policy. Ministries of finance could be given power to review/oversee operations, with the courts being the final arbiter of whether rules have been properly applied.

The Implementation section does highlight that revenue administrations should be the primary authority for operationalising and implementing tax incentives, but clarifying that the Legislation section is about design and not operation would be helpful.

### P4.2 Incentive legislation should be clear, minimize discretion and adopt robust governance safeguards.

“To limit the risks of abuse and corruption (and foster tax certainty), incentive legislation should [...] provide for self-assessment of eligibility so far as possible and, where it is not possible, include a statement of where approval authority lies and provide for a robust appeal process.”

In this section, the possibility of the automatic application of tax incentives – without any action by taxpayers – should also be highlighted. Take-up of tax incentives is generally higher, and the

compliance costs for taxpayers lower, if incentives are applied automatically by the tax authority, without the taxpayers applying for them or declaring them in their tax returns. This is especially true for private individuals. In summary, automatic application is preferable to self-assessment, which is preferable to requiring pre-approval.

#### **P4.3 Incentives should be ratified by the law making body or parliament.**

The text on parliamentary ratification could be clearer about whether the *Principles Draft* is calling for major provisions to be set out in primary or secondary legislation (for example in schedules, instruments, and regulations). While secondary legislation still requires ratification, it is subject to much less scrutiny. Some appropriate balance between the two is probably necessary given limited parliamentary time, and further information here would be helpful.

Sometimes administrative regulations are necessary to give effect to the legislative rules when it is not appropriate to do this in primary legislation - especially for certain sectors and activities. These regulations are easier to amend and help to address the legislative ambiguities, inconsistencies, and loopholes which are inevitable as situations evolve.

### **Principle 5: Implementation**

#### **P5.1 The administration of incentives should be under the control of the revenue administration, appropriately empowered.**

This point could include reference to the fact that for the revenue administration to be confident in implementing tax incentives, it needs to be a key stakeholder during the policy design stage. Failure to consult with the revenue administration can lead to the design of policies which are not practical or possible to implement in practice.

#### **P5.2 Basic compliance obligations should not be waived.**

Depending on the nature of the tax incentive, there can be little immediate revenue motivation for a tax administration to ensure the compliance of beneficiaries. It is well known that this affects the availability and quality of data about beneficiaries, and undermines accountability. Administrations treating beneficiaries of incentives in the same way as other taxpayers - including as part of the same audit risk framework - is important for ensuring that incentives are used properly, and to promote accountability.

To complement and enhance the process of ensuring that basic compliance obligations are met before awarding incentives, inter-agency cooperation could enable a deliberate and transparent process of conducting revenue and economic evaluations of business plans of prospective incentive beneficiaries before tax incentives are granted.

The Remarks could also reference the compliance risk from under- and over-valuation. For example, there is an incentive to overvalue tax-exempt imports for corporate income tax (CIT) expensing purposes.

#### **P5.3 Drawing on a close understanding of potential recipients, voluntary compliance should be supported by tailored service, assurance, and enforcement strategies.**

This point could incorporate the value of considering the taxpayer journey when designing policy, which is broader than having a ‘one-stop shop’. The more convenient it is for a taxpayer to understand an incentive, access it, and comply with its requirements, the more likely it is to be adopted. Even an economically well-designed incentive policy may have a limited impact if the policy is poorly understood, and compliance is complex.

**P5.4. Rules and institutional arrangements should be in place to assure the inter-agency cooperation, and provide the data, needed for implementation, monitoring and assessment.**

Institutions need clarity on who is required to monitor and evaluate an incentive, and have access to the relevant data to allow them to do so. This point could be relevant to different levels of government, as well as to the institutional responsibilities across central government.

## Principle 6: Assessment

**P6.1 Tax expenditures associated with all incentives should be estimated and published regularly.**

The tax expenditure (TE) report is a good opportunity to document the objective of a TE when it is introduced, and this can promote both institutional memory and accountability.

TE reporting on the basis that the incentive has not changed behaviour only indicates the revenue risk if it has not changed behaviour. For example, if a tax exemption has led to activity that would not otherwise have taken place, the revenue loss is zero (the revenue in the counterfactual), whereas the tax expenditure amount would be positive (reflecting the activity has taken place).

**P6.2 Tax expenditure reports should indicate the largest beneficiaries from each provision.**

This is not always straightforward for every type of tax incentive. For example, for a VAT exemption on basic foods, it may be difficult to determine which firms have benefitted from it, and then to apportion how much each firm has benefitted from it relative to other VAT incentives. This principle suits certain tax incentives better, for example those related to CIT, where a TE report can highlight how many firms represent a specified percent of the revenue foregone from that provision.

**P6.3 Incentive legislation should include a program for periodic, credible and public evaluation.**

Costing and evaluating tax incentives and TEs is difficult because it is not possible to observe the counterfactual world in which they did not exist. This is recognised in the *Principles Draft* to some extent, but it could be helpful to more explicitly state that quantitative evaluation is not always possible and will always come with some margin(s) of uncertainty.

The Remarks suggest that the ministry of finance should publish its views related to external evaluations which are undertaken. While preferable in theory, the publication of evaluations can be sensitive depending on the data sources used, the recommendations made, and the state of relationships between the relevant institutions. This is a positive goal to work towards, but there may be a need for flexibility for non-trivial reasons, such as when aiming to strengthen working

relationships between the ministry of finance, investment agency, ministry of trade, and revenue administration.

IPF/CEO/SBM/02/-02-2025

11th February 2025

To:  
The Platform for Collaboration on Tax (PCT)

Dear Sir/ Madam,

**RE: INSTITUTE OF PUBLIC FINANCE SUBMISSION ON PLATFORM FOR COLLABORATION ON TAX (PCT)'S "TAX INCENTIVES PRINCIPLES"**

Greetings from the Institute of Public Finance (IPF).

IPF is an independent, nonprofit think tank based in Nairobi, Kenya. We stand at the forefront of revolutionizing public finance management systems by generating credible evidence and providing technical support to state and non-state actors at both the national and county levels. With over a decade of experience, IPF remains committed to promoting efficient and effective public finance management underpinned by Transparency, Accountability, and Participation (TAP) for enhanced service delivery across Kenya and beyond its borders.

The publication of the "Tax Incentives Principles" is timely, given the widespread use of tax incentives, particularly in developing countries, where their introduction and review often are haphazard. These principles offer a valuable framework to guide the effective use of tax expenditures. At the Institute of Public Finance, our analysis of tax expenditures in Kenya highlighted the need for a structured framework for their introduction and review.

We hope these principles will be disseminated among key policymakers in Kenya and inspire the development of such a framework.

Our response to the questions shared is presented herein:

- 1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

The principles are appropriate and well-balanced and are adequate in terms of coverage, they sufficiently cover design, administration and evaluation aspects of tax expenditures. Nonetheless, there are overlaps in the sub-principles and their discussion. For example, the justification principles in our opinion overlaps with the design principle, while the design principle overlaps with the international considerations.

It is our considered view that the first four principles relate to the design of tax incentives and their presentation as separate principles may inadvertently cause countries to overlook some design aspects if their main concern is in design of tax incentives.



The principles as presented fall under three main categories that is; design (covering justification, design, international considerations, and legislation principles), administration and assessment of tax expenditures; our proposal is to reorganize the principles under these broad categories.

**2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**

The materials and guiding notes are adequate and help clarify the thinking behind each of the principles.

**3. What kind of support might countries require to effectively apply the principles?**

A key consideration in the design of tax incentives is that their social benefits should exceed their social costs. AN implicit assumption here is the countries have the capacity and resources to conduct cost-benefit analysis or ex-ante analysis of proposed tax incentives. However, the reality is that most developing countries (who use tax incentives to attract foreign investment) lack capacity for such analysis. In addition, due to competing funding needs they may not prioritize funding for such assessments. Therefore, PCT should offer technical assistance to countries with capacity gaps focusing on tax policy units within Ministries of Finance, research/statistics departments within revenue authorities, and for legislators to build their oversighting use of tax incentives in their countries.

**4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

In addition to addressing the overlaps in P1 and P2, we recommend:

- i. Provide more guidance on principle 3: International considerations especially on how international tax frameworks (such as OECD Inclusive Framework's Two-pillar solution should be incorporated in the design of tax incentives.
- ii. Provide more guidance on oversight over the Ministry of Finance to avoid abuse of power. This could come as a sub-principle
- iii. On principle 6, it would be of value to provide ideal subset periods and ideal timelines for periodic reviews of tax incentives. In addition, it would important to give an ideal periodicity for report on tax expenditure i.e. annually, biennially etc.

**5. Do you have any other comments or suggestions?**

As mentioned in question 3, it would be important to popularize these principles and extend technical assistance to developing countries which may face capacity constraints in their implementation. PCT partners can also extend funding to these countries to permit assessments before introduction/ review of tax incentives.

The technical assistance would also serve as a safeguard against political interference that often characterize introduction of tax incentives by creating a shared understanding on effective use of tax incentives by the legislature and the executive. Further, technical and financial support to

developing countries' tax administrations can go a long way towards ensuring that their tax systems are configured to capture quality data on TEs to support assessments.

Lastly, the principles form a good basis for developing country policies on tax incentives. Such a policy can be a very good output for technical assistance programs.

Submitted for your consideration.

Sincerely,



**James Muraguri**

Chief Executive Officer  
Institute of Public Finance

Brighton, 10<sup>th</sup> February 2025

**Subject:** ICTD Submission to the PCT Consultation on Tax Incentives Principles

The International Centre for Tax and Development (ICTD) is an independent research centre focused on improving tax policy and administration in lower-income countries. We support our partners in raising more revenue to fund public services in ways that are equitable, efficient, and strengthen accountability. Our efforts contribute to advancing sustainable development by ensuring that tax systems contribute to reducing inequality, fostering inclusive growth, and enhancing governance. The rationalization of tax expenditures could importantly contribute to these objectives across many low- and lower-middle income countries through an increase in governments budget envelope. Hence, we welcome the opportunity to provide feedback on the updated Tax Incentives Principles developed by the Platform for Collaboration on Tax (PCT).

These principles represent an important step towards rationalising tax expenditures globally, especially in low- and lower-middle income countries. The emphasis on transparency, accountability, and alignment with broader policy objectives is commendable and reflects good practice. However, we observe that the principles are presented at a high level of abstraction, which may limit their practical applicability for policymakers. Certain recommendations, such as the exclusive authority of ministries of finance over tax incentives, may not fully reflect the realities and complexities of policymaking in most contexts. Additionally, the principles stress the importance of comparing social benefits and costs, including spillover effects on other countries. While ideal in theory, this requires further guidance with regard to data collection needs and methodological approaches before it can be practically implemented in most resource-constrained settings. These issues could be addressed through more actionable, accessible, and context-specific guidance.

Below, we provide detailed inputs aligned with the PCT's consultation questions and offer targeted feedback on specific principles where relevant.

## **1. Appropriateness and Balance of Principles**

The principles are generally well-considered and balanced, providing an aspirational framework for rationalising tax expenditures. However, several areas require further refinement to enhance their applicability to developing countries.

First, the high-level language may hinder uptake among policymakers in low-income countries. To increase relevance, the principles should be complemented with concise and practical recommendations tailored to the realities of these countries. For instance, Principle 1—comparing social benefits and costs—is universally applicable but remains theoretical in its current form. Policymakers need guidance on how to measure costs and benefits, including tools and methodologies that account for limited data availability and technical expertise. This

is particularly critical for estimating spillover effects—as mentioned in P3.3—which are complex and resource-intensive.

Second, the governance of tax incentives requires greater balance between institutions. Principle 4.1's assertion that tax incentives should fall under the sole authority of ministries of finance aligns with evidence showing that excessive incentives are often granted when managed by specialised bureaus or line ministries. However, this approach overlooks the critical role of line ministries and sectoral agencies, which often propose incentives based on an understanding of sectoral priorities which very likely cannot be assumed to exist in ministries of finance. To ensure coherence, ministries of finance should collaborate closely with these agencies in the development of the incentive framework, while ensuring that they align with other general government goals and maintaining oversight on their award.

Moreover, while P4.3 recognises the role of parliaments in approving tax incentives to ensure transparency and accountability, it stops short of acknowledging that sufficient capacity needs to be present in parliaments to assess the impact of incentives for their approval to be meaningful. Hence, tax administrators, ministries of finance and other committees responsible for estimating tax expenditure costs should play a central role in first evaluating these proposals, and then jointly or independently report their estimation to parliaments.

Finally, the statement that “Commitments that are of a softer nature also need to be respected”, in combination with the remarks connecting them to the BEPS Actions and Pillars One and Two should be amended. The principle rightly draws attention to some of the drawbacks of deviating from “soft” commitments, to which the “remarks” add the risk of inclusion on the EU list of noncooperative jurisdictions. Yet, policymakers will need to consider such drawbacks alongside their own priorities, especially given the changing expectations connected to some political commitments, and the origins of some international standards in processes that lower-income countries were not able to influence. The principles should not state that such commitments “need to be respected” but rather that they “should be considered carefully.”

## **2. Areas Requiring Additional Guidance**

The principles are aspirational and offer broad guidance, but their practical implementation requires much more detailed and actionable recommendations than what is currently included in the document, which does not seem to be well targeted to policymakers. While we recognise that additional information is provided in the remarks section, this is not always structured in an optimal way to quickly guide the interested reader to the most useful material. Ideally, one would imagine that some guidance to relevant references might be provided in each of the remarks. We think that this would be especially important for:

Measurement of Costs and Benefits: Principle 1 emphasises the importance of comparing social benefits and costs but offers little practical guidance on how this should be achieved. Policymakers need tools and methodologies to measure both costs and benefits, including spillover effects, in contexts where data and technical expertise are limited. For example, how should countries assess the social benefits of tax incentives targeting environmental protection or job creation? Should these evaluations be conducted ex-ante, ex-post, or both? In many low- and lower-middle income countries, this analysis is often at most theoretical, conducted (or not) during parliamentary deliberations on tax incentives, with little follow-up evaluation. We recognise that there are references on actual assessment in the remark for the 6th principle, but there might be case to bring some of them forward in the first part.

Institutional Roles and Collaboration: Greater clarity is needed on the division of responsibilities between ministries of finance, line ministries, tax administrations, and parliaments in designing, implementing, and monitoring tax incentives. The remarks could provide better guidance on how institutions can work together to ensure consistent application of the principles, including mechanisms for resolving conflicts between sectoral priorities and fiscal objectives. It is also important to note that parliament decision should be ideally based on objective estimation of the costs (and benefits) of proposed policies and provide further guidance on how this exercise should be carried out and by whom. These points are touched in various parts of the document – especially in principles 4.1, 5.1 and 5.4 – but even the combination of the remarks currently included about these points does not particularly help to clarify the division of roles across these institutions.

Improving Data Collection and Reporting: Principle 5.4 touches on data collection but should go further to address the lack of transparency in reporting tax incentives. For instance, some tax administrations struggle to monitor incentives due to the absence of dedicated fields in tax returns. While it is important to ensure that inter-agency collaboration is as easy as possible, it seems logical to start focusing on improving data collection in the institutions focusing on revenue mobilisation, i.e. revenue authorities.

Harmonisation of Tax Expenditure Estimation: Principle 6 advocates for tax expenditure evaluations, but discrepancies in methodologies across countries hinder comparability. For example, defining a reference tax system varies significantly between countries, making it difficult to compare tax expenditures across jurisdictions. Guidance on standardising methodologies would improve reliability and support international cooperation.

In general, the document provides a good starting point for a global consensus on tax incentives amongst organisations funding work on the topic. However, the abstract language and high-level recommendations may limit the paper's utility for governments, particularly in low-income countries. Policymakers in these contexts often require more practical, targeted, and accessible guidance to effectively engage with such principles. A shorter, more precise version of the document, tailored to the realities and capacities of these governments, would likely have a greater impact.

### **3. Support Required for Effective Implementation**

To implement these principles effectively, low- and lower-middle income countries will require support in several areas:

Capacity Building: Policymakers and tax administrators need tailored training programmes focusing on the practical application of tax incentives. These should include designing incentives, evaluating their social and economic impact, and understanding the trade-offs involved. Capacity building efforts should also incorporate tools for cost-benefit analysis and methods for assessing spillover effects on other countries. Some useful guidance is included in the Remarks section of the document but practical capacity building would be needed to expect an effective application of these principles.

Improved Data Infrastructure: Robust data systems are crucial for monitoring and evaluating tax incentives. Developing countries often lack the infrastructure to track tax expenditures comprehensively and apply an effective control. Support should focus on modernising revenue authorities' data systems, including incorporating dedicated fields in tax returns for declaring

tax incentives. This would enable more accurate tracking and facilitate inter-agency data sharing.

Establishing Collaborative Frameworks: Effective coordination between line ministries, ministries of finance, parliaments, and revenue authorities is vital for aligning tax incentives with national priorities. Mechanisms such as inter-agency committees or task forces can help ensure that proposals are consistent with broader fiscal and policy goals. These frameworks should include clear protocols for decision-making and conflict resolution and most importantly evidence-based decisions.

Inclusive International Engagement: Principle 3.4 rightly highlights the importance of international cooperation to address cross-border spillovers. However, low- and lower-middle income countries must have a fair and meaningful voice in such negotiations. International organisations should support these countries by providing technical assistance, capacity building, and advocacy to ensure their perspectives are adequately represented in global forums.

Technical Guidance on Methodologies: Countries need detailed technical guidance on harmonising tax expenditure estimation methodologies. This is critical for improving cross-country comparability and ensuring that evaluations reflect accurate and consistent data.

#### **4. Recommendations for Refinement**

The principles would benefit from the following refinements:

Clarify Institutional Roles: The document should provide more detailed guidance on the roles of different institutions in proposing, implementing, and monitoring tax incentives. Clearer articulation of these roles would reduce ambiguity and improve inter-agency collaboration.

Acknowledge Local Contexts: The principles should explicitly recognise the diverse contexts of low-income countries, including their limited capacity to align with international standards. This would enhance the relevance and applicability of the recommendations.

Improve Practical Guidance: The inclusion of more case studies and examples, particularly from developing countries, would make the principles more actionable and relatable for policymakers.

Account for Policy Competition: The principles should acknowledge that tax incentives may not always be the most effective tool to achieve certain objectives. Developing countries often face challenges in determining the most efficient policy to achieve their development goals. For instance, infrastructure investments may have a greater impact on attracting investors compared to tax incentives. Similarly, direct subsidies might be more effective in supporting low-income populations than VAT exemptions, which sometimes disproportionately benefit wealthier groups. The principles should emphasise the need for an objective comparison of policy options to ensure rationalised and effective tax expenditure strategies.



ICC Response Public Consultation  
“Tax Incentives Principles”  
(Platform for Collaboration on Tax)

The International Chamber of Commerce (ICC), as the world business organization representing enterprises from all sectors in every part of the world, welcomes the opportunity to comment on the Platform for Collaboration on Tax’s (PCT) [Tax Incentives Principles](#). We understand this paper aims to provide a concise set of six high-level principles related to tax incentives that are easily accessible to policymakers and other stakeholders. These principles and sub-principles are designed to assist in navigating the policy, legislative, and administrative issues related to tax incentives, particularly for developing countries.

ICC appreciates the work of the PCT in developing these principles. We have provided our collective comments and suggestions below based on the questions provided in the public consultation draft.

**1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

**ICC members generally find the principles outlined in the document drafted by the Platform for Collaboration on Tax to be reasonable and well-balanced in terms of content and coverage.** They provide a comprehensive overview of tax incentives, encompassing both their benefits and drawbacks. ICC particularly appreciates the emphasis on transparency, accountability, and regular evaluation for effective implementation. However, we do have some comments which we think could better refine the document.

With regards to **Principle 1**, generally, businesses only make use of tax incentives where they align with business and operational objectives. While we agree that foreign investors primarily use other (non-tax) factors to determine where to do business, as discussed under P1.4 – for example, the skills, availability, and cost of labor; number of customers or demand of products/services; raw materials (e.g. oil and gas deposits; agricultural products), shipping time, regulatory environment, stability of political environment, and ability to service customers locally including, for example, a steady supply of electricity, amongst others – ICC member businesses sometimes choose to claim tax incentives that are aligned to the policy objective of the incentive – e.g., perhaps by increasing research and development (R&D) activity, increasing capital (e.g., more property, plant, and equipment), or reducing carbon emissions, in the local jurisdiction in question.

It appears that the PCT concludes in their draft document that market intervention in the form of tax incentives is generally less desirable as compared to other policy instruments without providing quantitative evidence. We would appreciate more empirical evidence is provided, and on a wider range of societal benefits. More broadly, principles should be open-ended by definition and we

would suggest language acknowledging the need to consider a range of non-tax options alongside tax incentives, assessing the relative social and economic merits of each approach.

ICC members generally see governments from **both developed and developing countries** utilize tax incentives that support investment, employment, and economic development. **We believe incentivizing research and development (R&D) is crucial for driving employment, competitiveness, and global economic growth.** We often see governments use tax incentives to encourage businesses to do something that they otherwise may not have done, for example, to invest in a certain way and/or at a certain time to promote a particular economic goal. Tax incentives are also used to encourage businesses to accelerate investment that is perhaps already in the future pipeline – for example, due to impact of Covid19.

We believe innovation provides the foundation for new businesses and new jobs and helps address pressing social and global challenges. The benefits obtained by an undertaking almost always generate benefits to other stakeholders, through investment, job creation and revenue generation. Independently from the stage of a country's development, a key principle for the design of effective tax incentives is therefore to ensure that they are closely linked to what drives innovation, job creation and growth more generally and this may vary across different industries and countries' economic and geographical context.

Lastly, we do have some questions in regards to the suggestion under P1.4 that direct spending may be preferable to tax incentives, and think the efficiencies to this argument should be better articulated. We believe that direct spending may not be feasible for many developing countries with limited financial resources, potentially placing them at a disadvantage compared to other countries.

Under **Principle 2**, we believe that while tax incentives may reduce business taxation in the short term, the hope is it will generate more taxes in the long term. As discussed above in regards to our concerns with Principle 1, we believe those incentives increase economic activity in the local jurisdiction, improving employment levels, and creating future streams of taxation (e.g., through increased employment taxes, increased profits on which corporation tax is paid, VAT etc.).

**Principle 3** rightly emphasizes the importance of considering international commitments and circumstances in incentive design, as this is crucial for achieving multilateral consensus, reducing disputes, and minimizing challenges to incentive regimes. However, while recognizing the importance of international cooperation, it is crucial to acknowledge the fundamental principle of national sovereignty in tax matters. Each jurisdiction has the autonomy to balance its economic development objectives and fiscal sustainability needs. This autonomy encompasses the ability to select and design tax incentives that best suit its unique geographical, political, social, economic, and developmental context.

In line with **Principle 4**, at ICC, we also believe tax exemptions and reliefs should be specified in the law and generally available to all market participants. Furthermore, ICC members often seek to ensure that tax incentives are transparent and consistent with statutory and regulatory frameworks before deciding whether to make use of them.



However, we note that **Principles 4 and 5** appear to suggest a specific administrative structure for granting tax incentives specifically stating that "[...] implementation of tax incentives, including the decision to grant them under the law, should be under the sole authority of the revenue administration. In relation to this paragraph, ICC members would like to put emphasis on the rule of law which does not leave room for subjective interpretation and binds the tax administration to the uniformly administering the law. Moreover, while the ministry of finance may be the guardian of public revenues, and should be aware of all tax incentives, we do not believe they have the same knowledge and expertise that other ministries may have in certain sectors, industries, or in topics like employment, emissions, trade and investment. Therefore, we think much more flexibility is needed to accommodate different national contexts.

## 2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?

The frameworks provided, like cost-benefit analysis and transparency benchmarks, are well done. However, more detailed guidance could help countries in areas like:

- Implementing the principles in environments with limited administrative capacity, as this is a common challenge for low-income countries.
- Sector-specific applications, particularly for complex sectors, where incentives often face misuse or inefficiencies.

The principles provided in the document seem theoretical by nature and the consultation draft refers to numerous supporting documents that might assist countries applying the principles. We think a concise summary of these resources, highlighting those most relevant for design, would be valuable.

Under **Principles 1 (and 6)**, the PCT recommends that countries will also need to measure the potential economic and social impact of the tax incentive proposals in their country such as the potential future economic benefit and the impact on the mobile workforce. We believe practical guidance as to how to measure the impact would be helpful for both governments and businesses alike.

In regards to **Principle 2 (design)**, given the complexities of designing an appropriate incentives system, it would be helpful to point to some real-world examples where the principles have been applied successfully, as this would help countries design an effective tax incentive regime. ICC members also suggest applying scale and ambition in designing tax incentives to areas of greatest need, designing incentives that are both responsive to urgent needs and sustainable over the long term. Additionally, we think it is important to consult stakeholders in the design of tax incentives, including the international considerations, and evaluation of tax incentives. This would ensure that proposed incentives are well-informed, balanced, and effective, taking into account diverse perspectives and potential cross-border impacts.

We believe the document could benefit from additional information on specific sectors when discussing the design of tax incentives. For example:

- In the context of the green transition, there may be also a time-sensitive need for more ambitious market intervention to accelerate the transition and achieve shared global goals

and the fulfilment of the Paris Agreement by some countries. The principles should acknowledge the importance of considering the scale and pace of change when designing tax incentives.

- In relation to energy transition, rapid technological innovation should be embraced and energy supply must be secure and affordable for consumers and businesses. In this regard, tax incentive policies should remain technologically neutral and should consider both security of supply and a transitioning national pathway to cleaner energy.

### 3. What kind of support might countries require to effectively apply the principles?

While this question is more targeted towards governments' responses, we would like to emphasize that as the business community we remain open to engage with governments seeking to understand the commercial principles and effects, including where relevant economic impact assessments.

In addition to the above suggestions, we believe that countries that have already successfully implemented a tax incentives regime could provide peer-to-peer training to other countries on topics such as value creation and specific industry characteristics, so that a country can assess the economic benefit of incentives across different industry sectors. We believe that some countries may also benefit from support with economic impact assessments of tax incentives including using cost-benefit analysis. Lastly, we think training in tax incentive design and administration might be helpful to get the most out of the principles.

### 4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?

It is important to emphasize that, in line with BEPS Action 5, the design principles should focus on promoting **substance-based tax incentives/regimes** to drive R&D activities and economic growth, while discouraging harmful tax practices.

Based on ICC members' experience, the following additional recommendations are provided:

- Clarifying the role/ usefulness of different types of tax incentives (e.g., some discussion on situations affecting the usefulness of tax holidays, tax loss carry forward and investment incentives such as 100% first year allowances could be useful. For example, FDI with a period of initial losses, or rapidly implemented FDI e.g. procurement centers)
- As countries implement Pillar 2, these principles could be an opportunity to provide detailed guidance on the impact of Pillar 2 on tax incentives along with suggestions of alternative policy instruments countries could consider to achieve their desired policy objective, where certain tax incentives may no longer be effective in the Pillar 2 contexts.

### 5. Do you have any other comments or suggestions?

Incentives for supply-side may also need demand-side incentives to reduce the investment risk that can otherwise stall progress. The 'Assessment' part of the principles should deal with how to ween off thriving business once market conditions have normalised. Coordinated incentives that consider all aspects of the economic impact from supply to demand and through the relevant business cycle

would improve the efficiency and targeted nature of the incentives. The principles may benefit from considering whether supply or demand or a phased combination of both may be most effective for nascent business areas. This is often hampered by limitations in cross-party agreement and changes in policy from one government to another. A national policy framework that has cross-party support may aide the ability of policies to have their intended full impact, whilst retaining the ability of different governments to adjust and fine tune depending on the economic realities of their tenure.

On quantification – ICC members support the points relating to transparency and accountability. However, while the use of economic impact assessments should be considered and creation and design should be evidence-based, benefits are sometimes difficult to quantify and policymakers face competing objectives. For example, countries may transition to a low-carbon energy system to manage the risks of climate change, while still providing a secure and affordable supply of energy - society faces a dual and competing challenge. To provide policymakers with much needed guidance on this, incentives should form part of a wider coordinated framework or pathway for change that is responsive to changing market conditions. Currently, incentives are often short term in nature, underpowered and at risk of being immediately overturned by another party. This makes them ineffective in their original policy objectives.

Regarding language, the reference to cosmetic surgery may be interpreted differently depending on whether that surgery is necessary for recovery from illness, disease, or physical trauma. While the statement aims to demonstrate that some cosmetic surgery is purely for personal gain, this example illustrates the broader complexity of defining what constitutes 'worthy' of an incentive or conversely, determining when 'profit is purely for personal benefit.'

Companies reinvest profits and distribute a share of profits to those who risk capital to fund the business. Both these activities have significant socio-economic impacts. From concrete experiences, there have been instances where the design of an incentive, in an attempt to be overly targeted, has become so complex that it becomes uneconomical even for those whose intentions fully align with the policy objective. This creates a problem of scale, where the overall impact of the incentive is undermined by its intricate design. Therefore, there is a need to strike a balance between maintaining a targeted incentive and ensuring its simplicity of administration

Finally, more focus on post-implementation evaluations might be helpful. This would help ensure that tax incentives are delivering long-term benefits and align with developmental goals. The role of digital tools for monitoring and compliance can be also greater and especially helpful for countries with limited resources.

### **About the International Chamber of Commerce**

The International Chamber of Commerce (ICC) is the institutional representative of more than 45 million companies in over 170 countries. ICC's core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world's leading companies, SMEs, business associations and local chambers of commerce. This submission has been prepared by the ICC Global Tax Commission with the support of the ICC National Committees.

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## IISD Comments on the Platform for Collaboration on Tax (PCT) Tax Incentives Principles Public Consultation Draft

We thank you for the opportunity to comment on the Tax Incentives Principles – Public Consultation Draft. We see significant value in having a set of normative principles to guide policy makers on the design and use of incentives. Our comments are based on (1) experience providing independent, highly technical, hands-on support to developing countries on the design, use, and reform of tax incentives; and (2) feedback from investment policy makers at an IISD closed-door roundtable on 5<sup>th</sup> of February.

We refer to you our joint letter with the International Centre on Tax and Development (ICTD), and ODI Global setting out several high-level reflections on the draft principles. In addition, we would emphasize the following key messages:

- **For the principles to be effective, investment policy makers must be involved in the design and drafting of them.** IISD finds that [80 percent of investment laws in developing countries contain incentives](#). This is also true for OECD countries where [Investment Promotion Agencies \(IPAs\) play a leading or secondary role in the granting of incentives in 70 percent of cases](#). However, the principles fail to recognize the *de facto* role that IPAs play, and instead reinforce the exclusive authority of finance ministries. Finance ministries should lead the coordination of incentives, and we would not be in favour of any process that encouraged IPAs or line ministries to grant incentives without the involvement of finance ministries. But the practical application of these principles will be limited if they do not speak to the role of IPAs and include proposals for strong frameworks to guide the granting of incentives, mechanisms for inter-agency coordination, and opportunities for capacity building. We urge the PCT to include investment policy makers in this process and stand ready to leverage IISD's Investment Policy Forum.
- **For the principles to be balanced, the concept of 'revenue certainty' should be added in return for greater *predictability* of tax treatment.** 'Tax certainty', which we take to mean giving assurances of what taxes will apply and how, is not a realistic goal in the current international tax environment. The focus should be achieving greater predictability through a [transparent process](#), [clear parameters](#) and [meaningful consultation](#). In return for greater predictability, governments should also have the flexibility to act when taxpayers exploit or abuse incentives, and to align tax policy with global tax norms. This is the necessary *quid pro quo* for tax predictability and should reflect in the principles.

## Principle 1: Justification

*Start by acknowledging that incentives are not the only tool to attract FDI*

Tax incentives are but one of several tools available to governments to promote investment. However, they continue to be used extensively particularly by developing countries, often to the exclusion of other investment promotion tools. At the same time there is limited practical guidance on concrete alternatives to tax incentives. P1.4 mentions the need to consider alternatives but presents this as a final consideration. We propose to move P1.4 up to the start of the section to emphasize the importance of ensuring in the first instance that a tax incentive is the most appropriate tool and that no alternative approach is available before delving into an assessment of tax incentives. The risk with the current ordering of sub-principles is that the PCT reinforces the use of incentives, rather than encourage policy makers to critically evaluate their appropriateness as an investment promotion tool.

*Emphasize commercial necessity as a key component of justification*

Cost-benefit analysis is critical to determine when incentives are justified. Participants at the roundtable suggested that the principles should include clearer guidance on how to evaluate positive externalities, especially in countries with limited capacity to conduct detailed cost-benefit analyses. The need for ex-post cost-benefit analysis was also discussed. Equally important is establishing whether incentives are commercially needed to attract investment. By that we mean is the incentive necessary for an investor to meet its target rate of return. P1.3 articulates that “an incentive may be justified if there is good reason to expect its social benefits to exceed its social costs”. While commercial necessity may be implied, we think this aspect of cost-benefit analysis should be made explicit. Too often, incentives are given automatically, without due consideration of whether they are necessary to induce investment. The result: profitable projects become even more profitable, and governments leave revenue on the table. Box 1 illustrates the importance of assessing commercial necessity even in the context of incentivizing renewable energy which ranks highly in terms of social benefits.

### **Box 1. Considering commercial necessity when incentivizing renewables**

This consideration is essential within the context of the energy transition as more and more renewable energy technologies are reaching commercial viability. For example, solar photovoltaic (PV) and wind energy plants are now more profitable than fossil and nuclear plants in a fast-growing number of regions around the world. Governments should exercise caution in deciding which renewable projects to grant incentives notwithstanding their potentially high social benefits and lower social costs in comparison to fossil fuels.

## Principle 2: Design

*Highlight sectoral differences as an important consideration for better targeting incentives*

Various arguments are presented in P2.1 and P2.2 on the risks of not targeting incentives. Missing from this discussion is an explanation that different sectors and activities will respond to incentives differently. One African policy maker participating in the roundtable also added the need to look at incentives according to the stage of investment – for example, incentives targeting extraction of natural resources may not be relevant during the exploration phase. The 2015 handbook presented some examples illustrating this point: “tax incentives targeted at sectors producing for domestic markets or extractive industries generally have little impact, while those geared toward export-oriented sectors and mobile capital appear to be relatively effective.” We suggest that similar examples highlighting the need to understand the drivers of investment in key sectors and the relevance of incentives be included as important considerations for better targeting incentives.

*Clarify that taxpayers may also abuse cost-based incentives*

P2.1 and 2.2 highlight some of the profit shifting risks associated with profit-based incentives. Whilst this is an accurate observation, it may create the perception that cost-based incentives do not pose these risks. Cost-based incentives can also be abused, for example, through inflating the costing of capital equipment, or where assets benefiting from accelerated depreciation are exported and transferred to another country to be offset against income tax there. P2.2 should clarify that all incentives are vulnerable to abuse, further underscoring the need for good, simple design, and regular monitoring. As has been mentioned above, closer collaboration with sectoral ministries in the design of incentives can assist in anticipating, evaluating, and addressing potential abuse by industry players.

## Principle 3: International Considerations

*Present a more balanced view of tax certainty that aligns with international standards*

Predictability is crucial for both taxpayers and governments. However, discussions on tax certainty and the need to adhere to international obligations tend to focus exclusively on stability of rules for taxpayers to the detriment of revenue certainty for governments. Seeing tax and revenue certainty as two sides of the same coin is essential to achieve a fair balance between the rights and obligations of both taxpayers and governments. The most recent standard on fiscal stabilization (OECD Guiding Principles on Durable Extractive Industry Contracts) reflects this more balanced approach.

Governments must be allowed the flexibility to act against base erosion and profit shifting, including when taxpayers exploit or abuse incentives, and align tax policy with international norms. This is especially important considering the Global Minimum Tax as the fear of legal

disputes may dissuade some jurisdictions from unwinding harmful incentives resulting in a transfer of revenue elsewhere under the rules.

We propose to (1) soften P3.1 by changing the goal from *tax certainty* to *predictability* which is more realistic in the current international tax landscape; and (2) add a new sub-principle which would release governments from their legal obligations to uphold tax incentives that have been subject to abuse or are inconsistent with international tax norms.

#### **NEW SUB-PRINCIPLE P3.X**

*“The removal or amendment of tax incentives, or adoption of bona fide anti-avoidance measures or interpretation of existing laws by host governments to protect the tax base against tax base erosion and profit shifting and consistent with internationally recognised tax practices should not be considered a change in law constrained by stabilization clauses.”*

*Revisit or remove the principle requiring countries to consider cross-border spillover effects*

Whilst we recognize the rationale behind P3.3, it may be challenging for resource-constrained governments to determine which cross-border spillover effects to consider and how to measure them. This sub-principle may add a significant administrative burden; and the objective could instead be met through P3.4, which requires countries to co-operate to limit the risks that incentives could create.

## **Principle 4: Legislation**

This section addresses issues that go beyond legislation and instead focus on governance. The governance of incentives, particularly topics such as inter-agency coordination, are extremely important and deserve greater attention by policy makers. The PCT could consider re-labelling this principle ‘governance’ and moving any unrelated legislative issues into Principle 3.

*Adopt a pragmatic approach that prioritises strong frameworks, coordination, and inclusive capacity building*

The power to grant incentives should rest with ministries of finance. This is necessary to ease administration, limit discretion, and protect revenue expectations set out in national budgets. However, this is not reality. [IISD](#) has found that out of 70 investment laws researched, 80% contained incentives. This is also true for OECD countries. According to the [OECD](#), while IPAs primarily serve as promoters and information providers, they still play either a leading or a secondary role in the granting of incentives in 70% of cases. One policymaker from Latin America participating in the roundtable also said that, although the Ministry of Finance intervenes in the evaluation and granting of incentives, this process is not always led by this institution. The same participant stressed the need for alignment between different public policies that grant incentives to prevent overlaps and allow for better coordination.



Finance ministries should lead the coordination of incentives, and we would not be in favour of any process that encouraged IPAs or line ministries to grant incentives without the involvement of finance ministries. But the practical application of these principles will be limited if they do not speak to the role of IPAs and include proposals for strong frameworks to guide the granting of incentives, mechanisms for inter-agency coordination, and opportunities for capacity building:

- Developing strong frameworks to guide decision making on granting incentives. This would include clear criteria and processes to govern granting incentives, to be applied by other government agencies e.g., Investment Promotion Agencies, SEZ authorities, and line ministries. It could also be accompanied by practical tools such as model investment contracts to limit discretion to modify fiscal terms, including incentives.
- Strengthening coordination between government agencies that have a mandate to grant incentives. This might include establishing an inter-agency taskforce particularly in sectors prone to offering incentives such as mining, for example. IISD's research suggests that close collaboration between finance ministries and IPAs is especially key. We note that inter-agency coordination is mentioned in P5.4. However given its overall importance and role in good governance, we recommend it is flagged more clearly and grouped together with other governance issues.
- Building capacity of key government agencies to critically assess the design and use of incentives. Through our work with investment policy makers, we have identified a major gap in their knowledge of the empirical evidence on incentives which is deeply concerned given the prominent role they play in granting incentives. A pragmatic approach would include capacitating IPAs and other government agencies to critically assess the need for incentives and determine an appropriate response.

To summarise, the toolkit would better serve the interests of developing countries if it explored the tensions and trade-offs in tax policy making, as opposed to taking a purist approach. This means proposing strategies to improve the governance of incentives based on current realities that are inclusive of IPAs, SEZ authorities, and line ministries.

## Principle 5: Implementation

*Propose a stronger role for tax administrations through the policy making cycle for incentives*

Tax administrations have important practical insights to contribute to the design and use of incentives, however they are often sidelined from tax policy discussions. Ministries of finance fail to consult tax administrators when designing incentives, leading to blind spots with respect to potential loopholes later abused by taxpayers. IISD is aware of several cases where tax administrators do not even have access to the investment contracts containing project-specific incentives they are expected to apply to certain taxpayers.

The principles should clearly advocate for a strong role for tax administrations, not only in the administration and monitoring of incentives, but during the design phase too. The opening preamble to Principle 5 unfairly, in our view, focuses responsibility for failure to spot revenue risks on tax administrations. In our experience, it is precisely because tax administrators are not properly consulted in incentive policy making that risks to revenue go unidentified. This statement should be revised and replaced by a positive agenda towards tax administrations playing a much stronger role throughout the policy cycle. A more minor point: P5.1 creates confusion stating that tax administrations should be responsible for granting incentives when the principle on legislation gives this mandate to finance ministries. This should be clarified.

## Principle 6: Assessment

*Identify pathways for reforming incentives and remove perceived legal barriers*

Missing from the final principle is clear guidance on what governments can do to unwind incentives found to be redundant or ineffective. Robust, transparent tax expenditure reporting is a critical step towards quantifying the cost of incentives, as is *ex ante* and *ex post* cost-benefit analysis. But what then? What can or should governments do with this information to ensure that ineffective or inefficient incentives are removed, or refinements made? The answer to this question often comes back to what governments can legally do considering existing obligations in contracts and treaties, or investor expectations more generally. They may perceive that they are prevented from repealing or reforming incentives due to onerous stabilization provisions in law or contract, or provisions in investment treaties that can have a similar interpretation. One Latin American policymaker participating in the roundtable emphasized that developing countries need capacity building from international institutions to assess effects of incentives.

Principle 6 should clearly highlight the pathways or options for reforming incentives. It should make the link to the discussion on tax certainty in Principle 3, clearly stating that legal guarantees of fiscal stabilization should not be a barrier to reforming incentives particularly where they are found to have been subject to abuse or are inconsistent with international norms. P6.3 helpfully articulates a clear, predictable approach to reviewing and evaluating incentives. However, for such evaluations to be meaningful, the outcomes need to apply to existing investors. To the extent that countries continue to offer stabilization in law or contracts, the process for periodically reviewing incentives (and other fiscal terms) should clearly reflect so investors can plan accordingly. We propose a further sub-principle outlining a process for updating incentives in line with the goal of tax predictability in Principle 3.

### NEW SUB-PRINCIPLE 6.X

*“The host government and affected taxpayers should collaboratively review the incentives regime at least every five years, to engage in good faith discussions to consider any proposed amendment as may be necessary or desirable in the light of any substantial changes in circumstances that may have occurred during the previous five years, or experience gained in that period. “*



4 February 2025

**To:** The Platform for Collaboration on Tax

**From:** Ron Long, Senior Advisor, International Tax and Investment Center  
Jim Robertson, Senior Advisor, International Tax and Investment Center

**Subject:** Public Consultation on Draft “Tax Incentives Principles”

The **International Tax and Investment Center (ITIC)** is an independent, nonprofit research and education organization founded in 1993 to promote tax reform and public-private initiatives to improve the investment climate in transition and developing economies. ITIC serves as a clearinghouse for information on best practices in taxation and investment policy, bringing business, government and academia together in a “neutral table” approach.

ITIC appreciates the opportunity to review and provide comments with respect to the **Public Consultation on Tax Incentives Principles**.

We support this document as a general plan forward. We do, however, offer the following comments and suggested revisions to the Remarks pertaining to each of the Principles.

**Remarks on Principle 1 – Justification**

- P1.2 – The argument supporting valuation of a local currency unit (LCU) of tax revenue at more than 1 LCU may appear reasonable based on the argument presented. However, the determination of the actual weighting (i.e., value in excess of 1 LCU) would require a very subjective assessment of the “distortionary and other costs” in recovering the foregone revenue resulting from the incentive.
- P1.3 – It is unclear why the objective of attracting foreign direct investment (FDI) is not an adequate basis for implementing a tax incentive. A contemplated incentive would generally be designed to encourage FDI from a particular sector(s). Thus, the economic impact from successful pursuit of such investment should be readily apparent – either from the impact of similar investments into the particular jurisdiction or a review of the benefits realized by such investment into comparable economies.

- P1.4 – It should be noted that while investors surveyed attributed “less importance to tax than to nontax considerations,” such a finding should not be construed as supporting a conclusion that the prospective tax burden on investment should ever be disregarded. The further comment that “favorable tax treatment can attract investment” warrants inclusion of the corollary that an excessive or disproportionate tax burden can deter investment – all else being equal. Essentially, the contemplated tax take on a project is a cost which, if too great, can render the investment uneconomical.

### **Remarks on Principle 2 – Design**

- P2.1 – While matching the incentive to the desired behavioral change is a legitimate objective, ancillary (not only direct) benefits to be obtained should be weighed in determining the merit of a particular strategy. To use an example provided in the Remarks, the promotion of pharmaceutical development may well lead to benefits beyond the intended promotion of a particular vaccine. We disagree with the contention that profit-based incentives should be ruled out. Free trade or enterprise zones benefit from this, especially if there is a region with high unemployment.
- P2.3 – Inclusion of a sunset period in the incentive parameters is reasonable and to be expected. However, the need for fiscal stability in a particular regime dictates that any such sunset provisions or prospective changes to an incentive be clearly identified at the outset. A history of fiscal enactments followed by unanticipated alteration or repeal can be a real deterrent to the prospective investment.

### **Remarks on P3 – International Considerations**

- P3.1 – The assertion that “[t]he precise implications of all such commitments [e.g., trade agreements, etc.] will likely change over time...” confounds the need for tax certainty, which is paramount in this context. The discussion of “international commitments” should also include those between governments and the private sector.
- P3.2 – This analysis supports the need for tax sparing; i.e., adjustment by the home country to enable foreign investors to obtain the benefits of host country tax incentives.
- P3.3 – While a country should consider the impact of its tax incentives on other countries, the full implications are impossible to assess.

### **Remarks on P4 – Legislation**

- P4.1 – Incentive complexity should be a factor in development and prospective administration of incentive proposals. Difficulties in interpretation can lead to inappropriate outcomes – demonstrating a lack of certainty and thus serving as a deterrent to investment.

“Sole” authority should include the caveat that administrative/judicial review is essential. (A purely fiscal focus may disregard other implications of an incentive.) For example, The Netherlands eliminated its administrative ruling system that gave far too much power to the individual tax inspector. It was replaced with an independent review body – the *kennisgroep*. This points to the need for checks and balances to retain impartiality.

- P4.2 – In a similar vein, the importance of a robust appeals process cannot be overstated.
- P4.3 – There is a trade-off in the amount of time for implementation and the adverse impact this may have on tax certainty and consequent adverse implications for investment.
- P4.4 – The mandate that negotiated agreements between governments and private companies should all be made public ignores adverse the commercial implications such publication can have on prospective arrangements. No two investment opportunities are identical in terms of, *inter alia*, economic viability and project risk. Thus, public access to any previous undertakings can distort expectations concerning new FDI opportunities.

#### **Remarks on P.5 – Implementation**

- P5.1 – This again disregards the essential requirement of judicial oversight noted above.
- P5.3 – Again, the importance of confidentiality in public-private arrangements cannot be overstated. (See comments to P.4.4, above). Additionally, the importance of tax certainty to investors is paramount to an effective incentive strategy.

#### **Remarks on P.6 – Assessment**

- P6.1 – To enable a balanced assessment of the value of an incentive, any presentation of the anticipated/realized tax expenditures associated with it should be linked with projected benefits derived from the incentive.
- P6.2 – Wherever practicable, the importance of taxpayer confidentiality should be maintained in identifying an incentive’s specific beneficiaries.

We believe these amendments will enhance the scope of the Tax Incentives Principles by keeping a focus on the continuing value of tax incentives in promoting economic development in low-income countries.

We look forward to participating in consultations on these Principles and how we may be able to contribute further to this effort.

**Comments of the Iranian National Tax Administration regarding the highly  
valuable Tax Incentives Principles drafted by the Platform for Collaboration on  
Tax in December 2024**

**1. Do you find the principles and remarks presented in the document appropriate and well balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

a- Further explanation of tax incentives: The document can help in better understanding this topic by providing more details on various types of tax incentives (such as tax exemptions, tax deductions, tax credits, etc.).

b- Presenting case studies: Presenting case studies of countries that have been successful or unsuccessful in using tax incentives can help policymakers in their decision-making.

c- Greater emphasis on transparency and accountability:

- \* Since tax incentives can create the ground for corruption and abuse, the document can prevent these problems by emphasizing transparency and accountability in the provision and implementation of these incentives.

- \* Adding tables, charts, and practical examples can help in better understanding the principles and notes.

d- Continuous updates: Creating mechanisms for continuous updating of the document based on new feedback and economic changes can improve the quality of the document's coverage.

e- Increased stakeholder interaction: Holding more meetings and workshops with stakeholders can help in collecting new opinions and suggestions and continuously improve the document.

It is important to note that, in the original design (the second principle governing the imposition of tax incentives), as defined, is intended to "promote the desired activity" and "prevent unnecessary deviations in other activities" and "limit income costs". While this principle appears effective, it may not be the case in practice and may create unintended consequences. For example, and in line with the principle of "promoting the desired activity", reducing the corporate tax rate in some countries may lead to an increase in companies through the establishment of new companies or the conversion of business-based businesses to corporate activities. This, which seems appropriate on the surface, may be accompanied by considerable social and economic costs, and especially lead to increased tax administration costs and reduced effectiveness of resources.

Observing the rule of "limiting income expenses" may not always be possible in the "design" principle. For example, implementing an exemption (as a tax incentive) may

be accompanied by increased costs due to hiring personnel (as a condition for applying the incentive). This is evident in clause (b) of Article (132) of the IRI Amended Direct Taxes Law of 31/04/1394 (regarding the exemption of production and mining activities, hospital services, hotels, and accommodation centers of non-governmental legal entities). Although it is an effective clause in implementing another economic policy that aims to reduce unemployment.

The rules outlined in Principle 5, namely "implementation," the rule "provision of necessary data for evaluation" is of great importance. Because the results of evaluating the implementation of policies and regulations related to tax incentives can, and should, be incorporated into the review of current policies and regulations, including elimination, amendment, completion, and expansion. Although the tax cooperation platform, given the high importance of this issue, has addressed this in the description of Principle 6 (the Assessment Principle), it is expected that in addition to enacting and applying the principle in question, all necessary measures to achieve this will be taken by developing the scope of related rules, and the aforementioned platform should also pay attention to this matter.

**2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**

It was perfect.

**3. What kind of support might countries require to effectively apply the principles?**

Countries may need the following assistance to effectively implement the principles presented in this document:

a- Training and Capacity Building: Holding training courses and specialized workshops for tax policymakers and officials on how to design, implement, and evaluate tax incentives.

b- Technical Advice: Providing technical advice to countries on how to align their tax laws and regulations with the principles presented in the document.

c- Exchange of Experiences: Creating a platform for the exchange of experiences among countries on the use of tax incentives.

d- Financial Assistance: Providing financial assistance to countries to implement tax system reform programs and utilize tax incentives.

e- Strengthening Institutional Capacity: Countries need to strengthen their tax institutions and structures. This includes improving technologies, information systems, and tax processes so that the principles are implemented more effectively.

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be accompanied by increased costs due to hiring personnel (as a condition for applying the incentive). This is evident in clause (b) of Article (132) of the IRI Amended Direct Taxes Law of 31/04/1394 (regarding the exemption of production and mining activities, hospital services, hotels, and accommodation centers of non-governmental legal entities). Although it is an effective clause in implementing another economic policy that aims to reduce unemployment.

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While our country's tax law do anticipate estimating the amount of exemptions (lost tax) and announcing them; however, due to the vastness and complexity of calculating and measuring tax incentives, a precise estimate of the country's annual tax expenditures has not been made. Therefore, technical assistance from international tax organizations is needed in this area.

#### **4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

Considering the different experiences of countries regarding the use of tax incentives, the following recommendations can be made for improving the principles and explanations:

a- Considering the specific conditions of each country: The principles presented in the document should be designed in a way that different countries with different economic, social, and political conditions can use them.

b- Flexibility in implementing the principles: The implementation of the principles presented in the document should be accompanied by flexibility so that countries can implement them according to their specific conditions.

c- Continuous evaluation and review of the principles: The principles presented in the document should be continuously evaluated and reviewed to be improved as conditions change.



d- Reducing discrimination: In some cases, tax incentives may lead to discrimination between different economic sectors or social groups. These incentives must be designed in a way that does not create discrimination among individuals and companies.

e- Preventing abuse: Tax incentives should be designed to prevent abuse and fraud. This includes creating effective control and monitoring systems to ensure the proper implementation of incentives.

f- Avoiding imbalance between incentives and costs: Attention should be paid to the balance between government costs for providing incentives and their economic returns. Tax incentives should not impose a significant financial burden on the government.

#### **5- Do you have any other comments or suggestions?**

A- Establishment of a Specialized Committee: To follow up and implement the principles presented in the document, it is suggested to establish a specialized committee composed of representatives from member countries, international organizations, and independent experts.

B- Development of an Operational Plan: To implement the principles presented in the document, it is suggested to develop an operational plan with specific objectives, timelines, and evaluation indicators.

C- Submission of Periodic Reports: Member countries should periodically submit reports on their progress in implementing the principles presented in the document.

D- Regarding P5.2, Basic compliance obligations should not be waived. It seems that issues such as not granting incentives to unregistered taxpayers and the mandatory submission of timely and complete documents, which are mentioned in the aforementioned clause, should be foreseen in Principles 2 and 4 (design and legislation).

E- Regarding P6.1 Tax expenditures associated with all incentives should be estimated and regularly published.

While our country's tax laws do anticipate estimating the amount of exemptions (lost tax) and announcing them; however, due to the vastness and complexity of calculating and measuring tax incentives, a precise estimate of the country's annual tax expenditures has not been made. Therefore, technical assistance from international tax organizations is needed in this area.

F .Regarding the principle of justification, it is proposed that a criterion be added in this manner:

"Incentives should only be granted to investments that would not be undertaken without the incentive".

G .Considering that applying most of the principles requires the preparation of a tax expenditure budget, and given the complexities of preparing such a budget, it seems many countries need assistance in this area.

H. Considering the political economy of granting tax incentives, even if the "expiration" clause is foreseen, there will likely be considerable obstacles and resistance to the termination of granted incentives, which needs to be considered in principles 2-3.

I. Targeting incentives generally leads to increased complexity in their design and implementation, which in turn leads to increased compliance costs and creates opportunities for abuse; therefore, it is suggested that in the formulated principles (especially Principles 2 and 6), a balance between the issue of targeting and preventing the complexity of the tax system be specifically considered.

Dear Sir or Madam,

The Platform for Collaboration on Tax is a collaboration of the United Nations (UN), the Organization for Economic Cooperation and Development (OECD), the International Monetary Fund (IMF) and World Bank (WB). Unfortunately this collaboration is severely off track in its recent Public Consultation on Draft “Tax Incentives Principles.”

This consultation is drastically discriminatory against American tax principles and leans in favor of anti-capitalist principles. This entire body of work should be withdrawn and nations that fund these organizations should reconsider the mission of these groups and their funding of these groups. Below are some top-line comments on this consultation.

First of concern is a governance question that the consultation completely disregards the role of a democratically elected legislative body in setting tax policy.

P4.1 Tax incentives should be under the sole authority of the ministry of finance. The role of the ministry of finance as the guardian of public revenues and the tax system is fundamentally compromised if line ministries or others are able to grant incentives.

It is **offensive** to see that the PCT member organization espouse that democratically elected legislatures are simply pesky “others” that should have no role in tax policy with those powers residing with the sole control of an all-knowing “ministry of finance.”

Second, is a broadside attack on typically American incentives in favor of incentives that are more typical in communist countries.

P1.4 Tax incentives should not be used if more appropriate policy instruments serving the same policy objectives are available.

Even if expected net social benefits are positive, there may be better alternatives to a tax incentive, such as direct spending to support favored activities or tax disincentives to penalize dis-favored ones.

The OECD’s Pillar 2 global minimum tax includes this irrational supposition that specifically disfavors American R&D credits over “direct subsidies” that are somehow considered more meritorious. The PCT’s full buy-in on this supposition is fundamentally problematic.

Third, the report derides the concept of private profit and insists it should be manipulated by taxation.

P2.1 Incentives should be targeted as closely as possible on the expected source of social benefit—which, in the investment context, commonly rules out profit-based incentives

While it is not always possible to explicitly condition on the favored activity (such as knowledge spillovers), care can be taken to guard against excessively broad application (for instance by ensuring that cosmetic surgery is excluded from preferential VAT treatment intended to ensure access to basic medical interventions, and that routine product development does not qualify for any R&D preference). Profit is a source of purely private benefit, and taxing it at a preferentially low rate forgoes revenue without necessarily promoting any activity.

Governments must tax profits to perform services for citizens. Governments should tax profits and not gross revenues. But this supposition by the PCT dangerously smacks of disdain for profits and leans into the concept that profits should inure first to central governments rather than to those who risk private capital investment.

Finally, but not exhaustively, the United Nations, World Bank, International Monetary Fund and Organization for Economic Cooperation and Development are now advocating that national governments should not have an obligation to their own citizens but instead to some collective world good.

P3.3 Incentive design should pay due regard to the impact on other countries

It is natural for policy makers to look above all to their national interests, but there is also obligation to consider any significant effects (good or bad) on others. The social costs and benefits of Principle 1 should thus take account of effects on other countries, including those on their tax revenue.

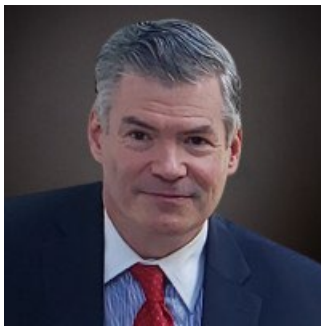
Sincerely,

Jim Carter

Principal, Navigators Global &

Transition team leader, President-elect Trump tax team 2016-17

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[Jim Carter - Navigators Global LLC - LinkedIn](#)

Welcome to my LinkedIn profile. I've worked as a senior aide/advisor/executive for the... · Experience: Navigators Global LLC · Education: George Mason University · Location: Alexandria · 500 ...

[www.linkedin.com](http://www.linkedin.com)

Transparency and simplicity are key aspects.

There must be sharing of information among Countries, for example, if an investor informs Country B that Country A is willing to grant the investor a 5 year zero tax rate, what avenue has Country B got to verify the truth of such a statement? Of course, there is competition for investment among countries but such a behaviour can be abusive.

Some points to note are :

- that countries have a sovereign right to design their tax incentives
- the less-developed economies need guidance/capacity building initiatives so they can acquire the knowledge and ability to proceed.
- technology based solutions would be useful
- tax incentives should be time-based for say 5 years or so subject to how long the Government estimates the relevant change to take place. Any extension of the tax incentive must be considered only in exceptional situations which may need to be clearly defined.
- one key aspect is that tax incentives should be granted based on specific key performance indicators being specified for the investor to achieve over the period of the tax incentives. In addition, such KPIs must be duly enforced and any relaxation should not be generally allowed except in extenuating circumstances.
- one other area is that perhaps, a 100% tax waiver should be discouraged. As such, a minimum tax rate should be applied be it 5% or 10% for the duration of the relevant incentive period or tiered incentives may be better wherein a 5% rate could be granted for 3 years and a 10% rate could be imposed for another few years and so on...this will allow some tax revenue to be collected and the investor to be an actual taxpayer.
- all countries which grant tax incentives MUST review the effectiveness of each incentive and upon achieving its objective, that incentive must be removed. Too many times, tax incentives continue to remain in the legislation and as such, some abuses can occur.
- there must be an objective manner of determining whether an investor should be given a tax incentive rather than, as in some countries, a specific Minister being accorded the power to exempt certain entities—so transparency is essential.

Thanks

Regards

Dr Veerinderjeet Singh

Senior Adviser on Tax Policy

KPMG Malaysia

**The Platform for Collaboration on Tax:**  
**Public Consultation on Tax Incentive Principles**  
**KPMG International Submission**

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10 February 2025

Thank you for the opportunity to comment on the Public Consultation Draft (the Draft) on Tax Incentive Principles for the Platform for Collaboration on Tax (PCT).

KPMG welcomes the Draft and substantially agrees with the intent and general positioning of the document. We recognise that this is a complex area where not all evidence points in one direction and that the global experience is diverse. We clearly support the general proposition that incentives should be properly costed and appropriately re-evaluated to ascertain whether they are operating effectively.

With that in mind, we would like to make a number of brief comments.

1. **Business criteria.** As is recognised throughout the Draft and the previous 2015 Report referenced in the Draft, it is important for business that the environment for investment is predictable, stable, efficient, one where the rule of law is upheld and the administrative practice is clear and based on a common sense approach.

As you rightly recognise, tax incentives cannot adequately compensate for a poor investment climate and should not be designed to do so. Integrity and transparency are critical, as is local community acceptance of the investment and the framework within which business is acting.

2. **Weight given to diversity of environments.** In framing best practice guidelines, there is a risk that the diversity of environments and circumstances of specific jurisdictions are not given sufficient weight. A simple example of this is the linkage between discretion and corruption, which is complex and varied. For example, a number of jurisdictions have low levels of corruption and a highly discretionary investment structure with specific negotiation with individual businesses for tax matters.

In our view there is an inherent tension between articulating a global best practice and recognising the diversity of environments in which tax incentives operate and in which businesses seek to invest. Whilst clear guidelines with clear aims are likely to improve

the operation of incentives generally, this diversity may need greater recognition in the Draft.

3. **Potential value of bodies outside the Central Ministries of Finance.** In many jurisdictions the professional evaluation of a proposal's value or utility is undertaken by an industry department with a wide range of skills beyond financial and economic assessments. These bodies may exist centrally or be decentralised. On the basis they act with a high level of integrity and appropriate transparency, their contribution to economic development may be significant through the divergent skill sets they tend to provide. Possibly, the focus here should be on maximising co-operation and co-ordination between various geographic and functional ministries and bodies, rather than noting the supremacy of central finance. Efficiency should be a central theme where more than one agency is involved and care needs to be taken to ensure that there are not merely additional layers of review.
4. **Large investments in LICs.** The size of the investment relative to the size of the economy is important. A large project in a Low Income Country (under World Bank criteria, such as Madagascar, Mozambique or Sierra Leone) will necessarily involve a substantial level of negotiation between business and government on multiple issues. In our view the Draft could contain a section on *best practice for large investments relative to LIC economies* which recognises this reality and specifically elaborates on scenarios which may involve specific protections to ensure a stable environment for the business investment.
5. **Tainting of discretionary evaluation.** Indeed it might be thought that a large investment issue also exists for the potential operation of very large projects in middle or high income countries. The simple 'reality' is that such a project is likely to involve a significant negotiation on a substantial number of issues including tax. Ensuring governments have the tools for proper negotiation and appropriate transparency may provide better outcomes than the preferred 'no go' approach.
6. **Climate incentives and 'second best standards'.** The 2015 report was focused on tax incentives for investment and not on other objectives such as 'reducing pollution'. The urgency of dealing with climate change has brought tax-based climate change incentives to the centre. This raises the question of what is politically achievable in a jurisdiction: the 'taxation of bads' may not be achievable in some jurisdictions which may choose to focus on 'incentives for goods'. This raises the question of whether what is economically and second-best in principle is still better than nothing at all. The perfect should not be an enemy of the good. Put briefly, the framing and attitudes towards incentives needs to take into account the political and geopolitical environment in which jurisdictions operate. This extends beyond climate and includes social issues generally.
7. **Role of refundable tax incentives.** International tax rules act as a gloss on domestic tax rules as is recognised in the Draft. The rough equation of 'cash grants' with 'refundable tax credits' under the GloBE rules is a classic example. It should be recognised that this will have a varied impact on different jurisdictions and may indeed present a disadvantage to some low income jurisdictions which do not have the

capacity or risk profile to provide cash-based or refundable tax-based incentives, as well as to some high income jurisdictions that do not have a political predisposition for cash-based grants and credits. It should be recognised that a non-refundable credit limits the government's exposure to the tax that it would otherwise have collected.

8. **Incorporation of Data Analytics.** In today's rapidly evolving economic landscape, the integration of AI and data analytics into the tax incentives framework is essential for enhancing the effectiveness and transparency of these incentives. Globally, AI and data analytics are increasingly being utilized to optimize tax systems, allowing for more precise targeting and evaluation of tax incentives. This technological advancement enables policymakers to develop high-risk profiles for taxpayers, prioritize audits, and ensure compliance, thereby enhancing the overall efficiency of tax administration. However, the current consultation paper does not acknowledge how or the means to safely use or incorporate AI usage. It is suggested that the paper adopts an affirmative stance on the importance and usage of AI, outlining clear guidelines and strategies for its integration to maximize the benefits while ensuring ethical and secure application.
9. **Fraud.** Consideration should be given to incorporation of fraud as a major consideration in the design of incentives. This issue is separate from the issue of discretion raised above.

Grant Wardell-Johnson

KPMG Global Tax Policy Leader on behalf of the KPMG Global Tax Policy Leadership Group





São Paulo, SP, Brazil, January 28, 2025.

**COMMENTARY ON PUBLIC CONSULTATION DRAFT  
“TAX INCENTIVES PRINCIPLES” (THE PLATFORM FOR COLLABORATION ON TAX)**

The Latin American Tax Policy Forum (LATPF) is a platform dedicated to the production and curation of relevant content about tax policy for Latin America. Our mission is to raise awareness about the ideas and interests that unite local academics, tax practitioners and policymakers, in the formation of a truly Latin American front in the global tax policy arena. Find out more at [www.latpf.org](http://www.latpf.org).

We would like to thank the Platform for Collaboration on Tax (PCT) for their work in the Public Consultation Draft on Tax Incentives Principles,<sup>1</sup> as well as for inviting comments from interested parties. The Draft lists five questions that we answer/comment in the paragraphs below.

**1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

Some of the principles listed in the Draft are the sort of sensible tenets of tax policy design that one should not even have to commit to paper. All types of tax incentives should have a clear justification (principle #1), otherwise they might undermine the legitimacy of the tax system that accommodates them. Incentives should be designed (principle #2) to achieve their objectives in the most efficient manner and should be based on the terms of clear, approved laws (principle #4). So in general the principles of the Draft are appropriate and a welcome guide for the governments of developing economies.

Other principles are more questionable, like for example principle #3, which is titled “international considerations”. We would recommend the inclusion of a clear distinction between **(a)** rules that jurisdictions are bound by in the wider

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<sup>1</sup> See PCT. [Tax Incentives Principles – Public Consultation Draft](#). Released on December 10, 2024.

context of their international agreements with the status of local law and **(b)** the sort of political and non-binding commitment that Executive Power representatives of countries make with one another in the current global tax landscape, and here we refer specifically to the Statement on the OECD Two-Pillar Solution of October 8<sup>th</sup>, 2021.<sup>2</sup> Jurisdictions should design their incentives in a manner that respects commitments made under **(a)**, yes, but never to the point that those commitments compromise their mid-term and long-term tax policy objectives (if they do, what we would recommend is a termination of the agreement in question prior to the enactment of a local law that would otherwise have violated it). Commitments in **(b)** should never prevent a jurisdiction from designing tax incentives that it sees as beneficial for its national and/or regional interests.

This is a relevant point because it speaks to the place of international cooperation in the design of local tax incentives. Governments – and in particular government authorities of democratic countries, who may act to secure short-term benefits to the detriment of the long-term welfare of their constituencies – would be wise to consider the global implications of their local tax incentives, because a race to the bottom undermines their ability to balance their budgets (and is also a gateway to corporate capture, which was and continues to be a risk for developing – and developed – countries). That said, the reference in P3.3 that policymakers have the “obligation to consider any significant effects (good or bad) on others” is a bridge too far for most developing countries. Globalization and nomadism have for the first time in history brought to them the ability to import qualified workers and build local infrastructure with access to multiple markets on the web. You can expect cooperation and the joint pursuit of policy solutions that serve the interests of Latin America as part of the global community, no doubt, but Latin American policymakers are under no “obligation” to design their tax incentives in a manner that creates positive externalities for their neighbors.<sup>3</sup>

As for other “sub-principles” in the Draft, P5.2 is positive in general but could be refined to account for tax incentives that include both a reduction of the tax in question and of its compliance burden (e.g., a simplified filing procedure, a

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<sup>2</sup> See OECD. *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*. Paris: OECD, 2021. The Draft exemplifies “softer commitments” by referring to the Statement on the Two Pillars as well as the BEPS Action Plan minimum standards. See PCT, note 1 *supra*, p. 14-15. As a reminder, BEPS Action Plan minimum standards are not being followed by Inclusive Framework participants exactly as they were presented on October 5<sup>th</sup>, 2015. See CARVALHO, Lucas de Lima. *‘No More, No Less’: The Misleading Fifth Peer Review Report on BEPS Action 6*. Tax Notes International, Volume 110, Number 19. Falls Church: Tax Analysts, 2023, p. 759-769.

<sup>3</sup> This appears in other parts of the Draft as well. In the remarks made to P2.1, the PCT says that governments have “international responsibilities” that act as a barrier to the offering of profit-based tax incentives. See PCT, note 1 *supra*, p. 13.

waiver of certain ancillary forms). True, waiving informative returns creates a risk for government authorities in terms of lack of oversight – and this risk can be even more pronounced if the tax incentive they granted is reliant on key performance indicators. That said, tax incentives that simplify compliance work should be a part of tax policy considerations in developing countries (and may inspire a reduction of compliance work for local taxpayers regardless of tax incentives).

P6.4 is a positive reminder that tax incentives should undergo a regular process of diagnosis, prognosis, and treatment (if needed). Our concern is with the reference to incentives having to be evaluated “with an intensity proportional to their likely significance,”<sup>4</sup> which is explained by a reference to the lack of capacity and resources of countries to carry out an in-depth, *ex post* analysis of all the tax incentives they grant under local law.<sup>5</sup> Yes, government authorities should spend tax revenues wisely and in a manner that provides tangible benefits for their local constituencies. Costly assessments of local tax incentives should only be carried out if the alternative (ignorance of their true economic impact) is expected to be more detrimental to the interests of interested policymakers. The way to correct this imbalance (of having some tax incentives properly assessed and others not so much) is to structure tax incentive laws with appropriate controls and reliance on automation from inception, requiring incentivized taxpayers to cooperate with tax authorities in their own monitoring process. Otherwise you run the risk of creating categories of poorly supervised tax incentives – of lower economic significance – that might have lack of oversight as a sort of unintended advantage for interested parties.

## **2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**

P2.1 states that tax incentives “should be targeted as closely as possible on the expected source of social benefit,” which the PCT says would rule out profit-based incentives.<sup>6</sup> This relates to P1.1 and P1.4 as well, but additional guidance would be appreciated in terms of the balance between targeting tax incentives to specific activities and making sure that those activities are not carried out by only one company or business group. In other words, policymakers should structure tax incentives in such a way that their eligibility criteria does not benefit only one recipient. This is important for at least two reasons. Tax incentives that benefit just one company raise systemic legitimacy concerns: taxpayers might argue that the

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<sup>4</sup> Id., p. 8.

<sup>5</sup> Id., p. 19.

<sup>6</sup> Id., p. 4.

incentive could have been offered to other companies or groups but that it was designed in such a manner that it “ended up”<sup>7</sup> benefitting only that one company that had incurred specific – and significant – capital expenditures.<sup>8</sup> This in turn is a catalyst for inequalities and is also a gateway to corporate capture: if the expected welfare gains of a given tax incentive are in the hands of only one recipient, their power in renegotiations of that same tax incentive tends to be greater (or at least greater than it would have been if it had been shared with other co-recipients).<sup>9</sup>

### **3. What kind of support might countries require to effectively apply the principles?**

Peer reviews have been instrumental in helping countries evaluate and redesign their local tax incentives, particularly following the minimum standard of BEPS Action 5.<sup>10</sup> While we believe that peer reviews promote dialogue between tax administrations and can enhance their individual experiences in granting local tax incentives, it is important to stress that no peer review report or resolution should restrict the ability of local constituencies to design tax policy measures in a way that safeguards their interests. Stakeholders should also be reminded that peer review processes often lack transparency. Government participants may assert that a consensus has been reached among their peers, yet it remains unclear how exactly it was achieved.<sup>11</sup> There is often no indication of whether voices from both

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<sup>7</sup> More often than not, lobbying efforts help explain the design elements that “end up” listed in the tax incentive program launched by captured governments. See, analyzing the recent history of bills of law granting tax incentives to companies in the Brazilian State of Santa Catarina (primarily in the textile sector), GOULARTI, Juliano Giassi. *A política de renúncia da receita tributária em Santa Catarina: impacto financeiro, distribuição setorial e desenvolvimento regional desigual*. Revista NECAT – Revista do Núcleo de Estudos de Economia Catarinense, Volume 9, Number 18. Florianópolis: NECAT, 2020, p. 77-102 (in Portuguese).

<sup>8</sup> See LOTT, Nicholas. *New York, Amazon, and Company-Specific Tax Incentives: A Microcosm of a National Problem*. Tax Notes State, Volume 113, Number 13. Falls Church: Tax Analysts, 2024, p. 823-835.

<sup>9</sup> This is as “aspirational” as the principles laid out in the Draft, but it is an important reminder that tax incentives should not be designed (or approved, if they were designed in such a manner) with one company or business group in mind. If it is the case that a given tax incentive is only going to benefit one company, it should be based on clear – and transparent – performance metrics. For further insight, see CARVALHO, Lucas de Lima. *Company-Specific Tax Incentives in a Global Context*. Tax Notes International, Volume 116, Number 7. Falls Church: Tax Analysts, 2024, p. 1167-1176.

<sup>10</sup> See OECD. *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 – 2015 Final Report*. Paris: OECD, 2015. See also OECD. *Harmful Tax Practices – 2023 Peer Review Reports on the Exchange of Information on Tax Rulings*. Paris: OECD, 2024.

<sup>11</sup> See ICTD. *At the Table, Off the Menu? Assessing the Participation of Lower-Income Countries in Global Tax Negotiations*. Rasmus Corlin Christensen, Martin Hearson and Tovony Randriamanalina. ICTD Working Paper, 2020, 115.

developed and developing parties were equally heard or adequately reflected in the final outcome.

Peer reviews are one avenue for the dissemination of the principles in the Draft. The other avenue is more technological, and many tax administrations are already using it to streamline their day-to-day activities: artificial intelligence (AI). A November 2024 IMF Technical Guidance Note shows that, in addition to the more established use cases for AI in tax administration (e.g., case selection for tax audits, profiling, virtual assistance for taxpayers), emerging trends include using generative AI as a support for risk management.<sup>12</sup> This can be an important tool in helping under-staffed tax administrations design local tax incentives that balance their constituencies' welfare interests and the attraction of external investment.

**4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

This relates to P1.3 and P4.3, but we would recommend that legislative proposals of tax incentives (preferable to administrative tax incentives, or those granted under the discretion of local tax authorities) are clear to constituencies in terms of their origin. If a parliament representative proposes a bill of law to grant a tax incentive to a particular industry or business sector, in addition to explaining the reasons why this incentive is necessary and provides net welfare gains, they should also disclose whether any part of the proposed text was submitted to them by interest groups or even a single company. Too often, tax legislation – including but not limited to tax incentive packages – is expertly crafted to achieve specific goals. While it may appear that democratic processes are respected during their passage into law, we should always investigate who drafted these proposals and why they were placed on the parliamentary agenda in the first place.

This discussion about the origins of tax incentive programs is relevant not just because it speaks to the legitimacy of local tax policy design (it ensures that tax policies are only implemented to the degree they reflect the interests of local constituencies) but because tax policy is generally a complex matter. You can find robust evidence of ineffective tax policy instruments that were approved into law because they were presented to local parliaments as balanced and beneficial

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<sup>12</sup> See IMF. *Understanding Artificial Intelligence in Tax and Customs Administration*. Joshua Aslett, Ignacio González, David Hadwick, Stuart Hamilton, Michael Hardy, and Azael Pérez. Washington D.C.: IMF, 2024, p. 13.

for the public budget.<sup>13</sup> In our social media environment, these sort of self-serving narratives can distort public perceptions about the true implications of incentive programs, to the point that they can shift public support towards the protection of private interest. Ensuring transparency around the source of incentive programs is a powerful tool because it enables constituencies to evaluate the reasons behind their creation (and understand why its drafters proposed them in the first place).

## 5. Do you have any other comments or suggestions?

The risk you run when you present a set of “principles” for the design of tax policy instruments (and in the case of the Draft, tax incentives) is that those might be followed by some countries – usually developing economies – but not by others. Principle #3 is probably the most egregious case of good intent serving the interests of those in power: if a local tax incentive is detrimental to the budgets of Latin America but serves the interests of the U.S. or China, no government in the Latin American region should expect those countries to pursue suboptimal policy objectives in the name of “international responsibilities.”<sup>14</sup> It is the kind of bleak yet pragmatic reality of global politics that must underpin the tax policy strategies of Latin America (and developing countries in general).

While the PCT acknowledges that the application of the principles in the Draft faces “practical and, perhaps, political constraints,”<sup>15</sup> our suggestion is that those constraints are addressed in the context of the principles themselves. It is a recognition of the role of *global tax politics* in the design of *global tax policy*.

Our final comment about the Draft is that it is limited to administrative and/or legislative actions regarding the design and approval of tax incentives. This is a recurring issue in the discourse around tax policy design – it is as if we did not recognize the fundamental role of judges in preserving, or modifying, or nullifying the effects of tax policy instruments. In the Draft, the PCT states that its principles are “aspirational” in nature, but it is exactly in that domain – the axiological or the teleological view of local tax systems – that judges can either enhance or restrict parliamentary powers. They can either validate tax incentives as they were laid out by local parliaments or impose standards that differ from those of the PCT, to the

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<sup>13</sup> “It is clear [...] that there are powerful political reasons why tax exemptions are given, and why they persist despite weak economic rationale.” See VAN DEN BOOGAARD, Vanessa. [The political economy of tax incentives in low-income countries](#). International Centre for Tax and Development, dated January 14, 2013. See also TAX JUSTICE NETWORK. [Ineffective tax incentives on profits heavily used by African nations compared to European nations, study finds](#). Posted on January 3<sup>rd</sup>, 2019.

<sup>14</sup> See PCT, note 1 *supra*, p. 13.

<sup>15</sup> Id., p. 9.

point that the jurisdiction in question becomes unable to follow the principles in the Draft (otherwise it would risk challenging local judicial precedents).

This calls for policymakers to develop soft and non-binding tools that promote the harmonization of judicial precedents in tax policy. Such an approach can reshape how judges perceive their role in advancing tax policy objectives<sup>16</sup> – from passive arbiters to collaborative agents whose rulings inspire their peers globally. Expecting judges to adhere to policy standards or interpretations without their engagement during the formulation stage is inherently suboptimal.



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<sup>16</sup> For an application of this concept in the realm of the BEPS Action 6 minimum standard, see CARVALHO, Lucas de Lima. *The Database of Approved Precedents (DAP): a Proposal to Steer the Application of the BEPS Action 6 Minimum Standard Towards Global Harmonization*. SSRN, posted on January 30, 2023.

## **Tax Incentives**

Submitted to The Platform for Collaboration on Tax (PCT)

### **Wrong goal**

In my experience, designers of tax incentive programs frequently accept the wrong underlying goal: to reward investors for doing things that are consistent with specific desires of the government. The goal should, instead, be to lead investors to undertake desirable activities that investors would not pursue without incentives.

For example, tax incentives are often awarded to all investors in sectors that a government wishes to promote, say high tech, or to all investors willing to locate in a particular location. If investors would have entered the sector or location without the incentives, granting them results in an unnecessary loss to the treasury.

In brief, tax incentives should not be structured as rewards but as inducements to encourage activities over and above what investors would undertake in their absence.

### **Wrong tool**

The most common incentives are reductions of corporate income tax rates for a period, often to zero. If a desired investment would not be profitable, this type of incentive is ineffective: no profits means no income tax owed, regardless of a tax holiday. An offer of a tax holiday is effective only if the investment would be profitable, but at a return too low to attract investment. Of course, for an investment that is profitable a tax incentive that is conditional on meeting some social goal such as meeting an ESG goal can be effective, if the action is costly to the investor, but the project remains profitable. But the actions of the investor must be monitored for compliance with the conditional tax incentive.

### **Competition over tax incentives**

Governments are often faced with competition from other jurisdictions over incentives. Investors may claim that another country is offering better incentives and threaten to locate elsewhere unless the potential host matches or exceeds these offers. In labor intensive export industries, investors may actually consider several locations and tax incentives could influence the choice of location. Absent a regional agreement limiting tax incentives, a country may have to offer them for export industries. However, governments must decide whether an alternative site is realistic. Some investors are well known for getting governments to bid against each other with tax incentives even though they have already decided to invest in a particular location.



For mining, investors are attracted by a specific mineral deposit; they are rarely actually weighing incentive offers in various countries. Similarly, investors attracted by potential sales in the local market are not usually comparing different locations.

### **Ad hoc award of incentives**

It is tempting for governments to grant tax incentives on an ad hoc basis, rather than by generally applicable rules by sector, location, or desired action. In fact, in theory doing so is consistent with the reasonable goal of not granting incentives when they would not affect decisions. On the other hand, ad hoc awards are impractical. Governments lack the capacity and information to analyze each investment or action or to monitor many conditional incentives. Further, ad hoc decisions encourage corruption. As a result, if tax incentives are offered at all they should be based on general characteristics. Better, not to offer them except in narrow cases where they are likely actually to be effective: export manufacturing, where investors often do have a choice of locations, for example.

If there are activities where investments or specific actions are very desirable from a social point of view but unprofitable for private investors, subsidies are more likely to be more effective than tax incentives. Or better, provide infrastructure, or whatever is discouraging the desired behavior.

As a practical matter, governments are usually pushed to consider tax incentives for large investments in mining or infrastructure where negotiated contractual arrangements are required. Since income tax holidays are almost never necessary for mining, it is good policy to ban them, so officials in the inevitable negotiations can simply say “no.” Infrastructure, on the other hand, is a broad category for which negotiators just might need some flexibility.

Whenever flexibility to grant tax incentives exists, authority to do so should lie in an organization where internal motivations encourage consideration of costs. Generally, this means the ministry of finance. The authority should not be located in an entity where the focus is mainly on attracting investment, such as an investment promotion agency or a mining department.

# TAX INCENTIVES PRINCIPLES

Public Consultation Draft  
to the IMF, OECD, UN, WBG

São Paulo, Brazil — February 10th, 2025

LUCAS POUBEL

Tax Attorney





This paper proposes modest suggestions with independent opinions for the Public Consultation on "Tax Incentives Principles", made by the Platform for Collaboration on Tax.

I hope the professionals responsible for this project, in collaboration with the IMF, the OECD, the UN and the WBG, can find the best and clearer guidelines possible to what the "Tax Incentives Principles" *state-of-the-art* should be. The suggestions made hereby are shared with the best intentions for a better tax world; with more legal certainty, transparency and respect for the Rule of Law.

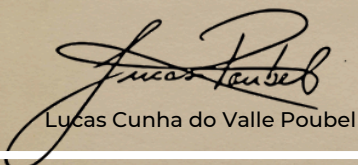
The document aims to establish general guidelines for the use and management of tax incentives, with a particular focus on developing countries.

Although the document represents a commendable effort to provide structured recommendations and assist governments in formulating tax policies, it presents three fundamental challenges that could compromise its effectiveness: (i) the use of technical language heavily influenced by legal English, making it difficult to understand for countries that do not have English as an official language; (ii) the nature of the principles presented, which often resemble specific rules and policy guidelines rather than legal principles, contradicting the classic distinction between principles and rules within legal theory and undermining the acceptance and credibility of the document in front of a global audience; (iii) these two make the guidelines to be complex, which may hinder their practical implementation and actual application by governments.

As such, my humble contributions are just some adjustments and suggestions to make the "principles" clearer, more accessible and applicable, without compromising their ability to guide policymakers in the design and management of tax incentives.

Proposals for simplifying the language, adapting the principles so that they better align with the legal concept of "principle" and ways of structuring the guidelines to ensure greater practical viability will be discussed. In the end, the aim is to contribute to a more inclusive and effective debate on the use of tax incentives as a tool for economic development.

Thank you the opportunity.



Lucas Cunha do Valle Poubel



## **Public Consultation on draft “Tax Incentives Principles”**

**Lucas Cunha do Valle Poubel**

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### **General Critics.**

#### **1. Use of native-English legal terms**

As a non native English speaker, I found some difficulties in accepting the guidelines as put; either to receive it in its seriousness or in its applicability in a more known legal system. It felt that many terms used are heavily influenced by native-English legal jargon. The document should aim for plain language that is accessible to a global audience, if it is aimed to reach global standards of how Tax Incentives should be implemented. Legal and technical terms should be explained in simple terms, and complex sentences should be broken down into shorter, digestible ones.

An idea is to include a glossary of key terms and concepts at the beginning or end of the document to help readers understand some of the technical language (e.g., “sunset clause,” “ex ante assessment”). This, also considering that some countries might not have a very well specialized team in Tax matters that are both fluent in English and familiar with Legal-English. This simplification follows best practices that recommended accessible language for policymakers<sup>1</sup>, despite their tax expertise.

When drafting documents aimed to reach such a global and broader audience, I believe it is a UN guideline to make them “*clear, accurate, consistent, grammatically correct, in conformity with United Nations editorial standards and translatable into the other five official languages*”<sup>2</sup>. So it would be great if the Platform considers translating the document into multiple languages, especially those commonly spoken in developing countries, to ensure wider accessibility.

#### **2. A core issue: these are not “legal principles”, they are specific policy guidelines**

The document often presents policy guidelines rather than general principles, which contradicts the classic distinction between principles and rules in legal theory. This makes the document feel more like a manual or set of regulations rather than a guiding framework.

Legal principles are standards that are likely to be weighed and balanced in each case<sup>3</sup>, being essential to underlie the rationale of rules, interpret<sup>4</sup> and justify the

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<sup>1</sup> Many documents and Guidelines made by International Organizations focus on maintaining the most accessible language possible. A brief example is the OECD Guidelines for Policymakers on Protecting and Promoting Civic Space, stating that “governments can publish guidelines in accessible language to make people aware of the resources available to them” (OECD (2024), Practical Guide for Policymakers on Protecting and Promoting Civic Space, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/6c908b48-en>, p. 69).

<sup>2</sup> UNITED NATIONS. Department for General Assembly and Conference Management. Guidelines for Submission of Draft Proposals in the General Assembly. Available at: [https://www.un.org/en/ga/pdf/guidelines\\_submit\\_draft\\_proposals\\_nov2017.pdf](https://www.un.org/en/ga/pdf/guidelines_submit_draft_proposals_nov2017.pdf).

<sup>3</sup> DWORKIN, Ronald (1977) Taking Rights Seriously. Harvard University Press, Cambridge, MA.

<sup>4</sup> HART, H.L.A. (1961) The Concept of Law. 2nd Edition, Oxford University Press, UK.

application of rules in specific cases<sup>5</sup>. No matter each legal theory you refer to, in none of them these guidelines under public consultation can be seen as legal principles.

The principles should emphasize core values such as fairness, transparency, efficiency, and accountability, rather than delving into specific technical details. Instead, the document feels like the “principle” part is already the part of how to apply specific rules or examples of that policy guideline.

### **3. Both together make the third: excessive complexity**

The “principles” part feels more like a guideline explanation. The “principle” guidelines are overly complex, which not only makes them difficult to classify as “principles” but also hinders their practical implementation. This affects the credibility, acceptability and application of the guidelines in more countries. Thus, I believe that the international organizations involved will have to spend more political capital than necessary to get these guidelines accepted and applied.

For example, instead of providing multiple sub-principles for each main principle, identify the most critical issues that policymakers need to address when designing and implementing tax incentives (e.g., targeting, revenue impact, governance risks) and focus the document on these issues.

#### **Specific suggestions.**

#### **Principle 1 — JUSTIFICATION**

Guideline 1 emphasizes that incentives are justified by tangible societal gains, such as environmental protection, regional development, or addressing market failures, rather than merely benefiting private entities. It requires a thorough assessment of both the social benefits and costs, including revenue implications, compliance burdens, and potential distortions. However, terms like “social benefits” and “social costs” are not clearly defined, leaving room for subjective interpretation and misuse. As well as “regional development” and “strengthened national security”.

With only these terms, one can say that granting 100% of exemption on guns and firearms is at the same time strengthening national security and “supporting macro-critical activities”, with the social gain of greater public safety, presumably. We all know this is not the truth, but a clear and straightforward guideline can avoid these kinds of distortions.

The guideline “justification” does not provide specific tools or frameworks for quantifying benefits and costs, which could lead to inconsistent application. It does not address potential risks of corruption, lobbying, or rent-seeking in the design and implementation of incentives. As such, while it mentions promoting disadvantaged groups, it does not explicitly require an equity impact assessment to ensure benefits are distributed fairly.

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<sup>5</sup> ALEXY, Robert (2002). A Theory of Constitutional Rights. Oxford University Press, UK.

For example, the term "social benefits" alone lacks concrete definitions and other metrics, risking misuse by governments to justify politically motivated incentives. While this Guideline also fails to address whether benefits are equitably distributed across society (e.g., regional disparities, marginalized groups). And "social benefits" are context-specific and often limited in low-capacity settings. So it's best to prioritize incentives with measurable, localized impacts, linked to **P1.1**.

An idea to come across this issue is to provide clear, measurable indicators for social benefits (e.g., job creation, carbon reduction) and costs (e.g., revenue forgone, administrative burdens), to offer standardized frameworks for cost-benefit analysis, including dynamic *scoring* to account for behavioral responses. This, to require explicit consideration of distributional impacts to avoid exacerbating inequality.

A good way would be to introduce anti-corruption measures<sup>6</sup>, such as conflict-of-interest disclosures and independent oversight, to prevent abuse. By doing so, this guideline would require explicit assessments of how incentives impact marginalized groups and regional disparities, and not only to serve as a justification of bad-incentives that already exist.

A simple suggestion on its title:

Now	wording suggestion
"Incentives may be warranted only if net social benefits can reasonably be expected, for reasons that are publicly articulated"	"Incentives must deliver clear, measurable, and equitable net social benefits." (or) "Incentives may be warranted only if net social benefits can reasonably be expected."

This phrase captures the essence of Principle/Guideline 1 by emphasizing the need for incentives to be **(i)** justified by tangible societal gains (not just private benefits), **(ii)** undergo rigorous cost-benefit analysis, and to **(iii)** prioritize equity and transparency in their design and implementation. A suggestion to change **P1.3's** wording:

Now	wording suggestion
"An incentive may be justified if there is good reason to expect its social benefits to exceed its social costs—with an ex ante assessment, ideally quantified, made public"	"An incentive is justified when there is a well-founded and quantified expectation that its social benefits will outweigh its social costs, supported by a publicly available preliminary assessment".

First of all if a "principle" is "ideally quantified", or "may be", it is not a principle to be followed, but only a small rule for consideration. To address the title as a "must do" and with a clear and direct wording is to give more strength to these principles, especially because P1.3 imposes a specific procedural requirement (quantified prior assessments), which reiterates a rule rather than a principle. This level of detail is better suited for *implementation* guidance.

<sup>6</sup> Or just to make a direct citation to UN-OECD guidelines on anti-corruption measures that were already established.

Finally, “*ex ante*” is a latin expression that can be easily transformed as “preliminary”, or “made in advance”, or “quantified prior assessments”.

## Principle 2 — DESIGN

Principle 2 emphasizes targeting, risk mitigation, and fiscal safeguards to ensure incentives achieve their intended goals without creating unintended consequences. I believe the key-phrase of it should focus on these key points:

Now	wording suggestion
"Incentives should be designed to promote the favored activity while avoiding unnecessary distortions to other activities and limiting the revenue cost"	"Tax incentives must be precisely targeted, fiscally responsible, and safeguarded against unintended consequences." ( <b>or</b> ) "Incentives should be designed to promote the favored activity while avoiding unnecessary distortions."

The principle uses the expression “*bang for buck*” which can be substituted by a better and clear wording, focusing on the global-English spoken by countries representatives. I believe a better wording for such can simply be “*cost-effectiveness*” or “*return on investment (ROI)*”.

Some ideas to make this “design guideline” better is to offer templates and examples for designing targeted incentives (e.g., R&D credits tied to incremental spending), and also to develop methodologies for identifying and mitigating unintended consequences, such as profit-shifting or fraud.

Profit-based incentives are not always bad. It is better to acknowledge situations where profit-based incentives might be appropriate and provide criteria for their use, as they may sometimes be justified (e.g., in high-risk sectors like renewable energy). As such, it would be good to develop a decision framework for when profit-based incentives might be appropriate (e.g., in capital-intensive industries).

Of course, it is an idea of the Guidelines to lead countries to prioritize cost-based incentives (e.g., credits for R&D) over profit-based tools, as the 2015 G20/OECD/IMF/UN/World Bank report shows these are more effective (p. 20)<sup>7</sup>, but this can be done without using prescriptive language like “rules out profit-based incentives” (**P2.1**, page 5), which is too absolute.

The last phrase of **P2.1** (“*Profit is a source of purely private benefit, and taxing it at a preferentially low rate forgoes revenue without necessarily promoting any activity.*”) is another major principle and can be put as a new **P2.2**, for its importance. Making this new **P2.2** a principle on its own can better ensure the countries create a tax

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<sup>7</sup> 2015 G20/OECD/IMF/UN/World Bank report. *Options for low income countries' effective and efficient use of tax incentives for investment : a report to the G-20 development working group by the IMF, OECD, UN and World Bank* (English). Platform for Collaboration on Tax. Washington, D.C. : World Bank Group. <http://documents.worldbank.org/curated/en/794641468000901692>.

incentive within the scope of a program, a bigger public policy. Otherwise, it is easy for countries to fall for just creating a list of favored products, common in VAT legislations or on incentives that focus on profit.

Principle P2.2 has really bad wording because it is solely based on an example. This again reinforces the point of view that these are not principles, but policy guidelines. Suggestion to change its wording to the following:

**P.2.2:** “Profit-based incentives must be designed to prevent profit shifting through domestic transfer pricing or other methods, which requires appropriate legislation. Environmental measures must account for potential *rebound effects* that could undermine overall performance. Additionally, incentives must be structured to ensure they influence the intended activity rather than merely affecting prices, as this can weaken their effectiveness and have significant distributional consequences.”

Also, P2.2, either on its own or in its explanation, can recommend anti-avoidance measures (e.g., strict transfer pricing rules, anti-abuse clauses) and encourage pilot programs to test incentives before full implementation.

Change the expression “sunset provisions”<sup>8</sup> for a more global-English one, such as “expiration clauses”, “time-limited provisions”, “fixed-term measures” or simply “temporary incentives”. With the idea that **P2.3** can be summarized in only one phrase: “*all incentives must be temporary, limited in time and in quantity*”, which also encompass the idea of setting “caps”<sup>9</sup>. This would be aligned with the methodologies detailed in the UN and CIAT publication, *Design and Assessment of Tax Incentives in Developing Countries*<sup>10</sup>.

This is an example that principle 2 is, indeed, a “**efficiency**” principle, by which incentives must generate measurable social benefits exceeding their costs. They can be combined and summarized as to use targeted instruments (e.g., R&D credits instead of profit-based holidays) to minimize distortions (align with **P2.1**) and to use sunset incentives after 5–10 years unless renewed through evaluation (simplify **P2.3**).

### Principle 3 — INTERNATIONAL CONSIDERATIONS

Principle 3 highlights the importance of designing tax incentives with international commitments, cross-border impacts, and global cooperation in mind. In general, this guideline is fine, although it is unclear why a country needs to maintain a reputation for its tax incentives. This refers to **P3.1**, in which it is intended to “*preserve credibility in tax policy making*”.

<sup>8</sup> Still considering that “sunset clauses” are a specific policy tool. Mandating their use narrows the principle into a rule, limiting flexibility for countries with different administrative capacities.

<sup>9</sup> The “caps” part is also vague. It can give guidance on setting caps (e.g., percentage of investment or absolute limits).

<sup>10</sup> UNITED NATIONS. DESIGN AND ASSESSMENT OF TAX INCENTIVES IN DEVELOPING COUNTRIES – SELECTED ISSUES AND A COUNTRY EXPERIENCE. With the Inter-American Center of Tax Administrations, 2018. Available at: [https://www.un.org/esa/ffd/wp-content/uploads/2018/02/tax-incentives\\_eng.pdf](https://www.un.org/esa/ffd/wp-content/uploads/2018/02/tax-incentives_eng.pdf).



A summary phrase for this guideline would be *"incentives must align with international rules, consider cross-border impacts, and foster global cooperation to avoid harmful competition."*

The international considerations can also ensure to have a "regional cooperation" principle, to avoid race-to-the-bottom incentives through regional agreements. A great example of this is the West African Economic and Monetary Union (WAEMU)'s unenforced directives, shown in the the 2015 G20/OECD/IMF/UN/World Bank report, warning that tax sparing and territorial systems in advanced economies can exacerbate competition (p. 31)<sup>11</sup>.

#### Principle 4 — LEGISLATION

Principle 4 stresses that tax incentives must be clearly legislated, centrally governed, and transparently integrated into tax law to ensure accountability and reduce risks of abuse, corruption<sup>12</sup>, and complexity.

I see the intention of the Guideline in assigning sole authority to the finance ministry aims to ensure coherence and to reduce fragmentation. However, this might lead to abuse of the Executive branch. The main issue here is why can't the incentive be legislated by the Parliament and then be approved by the Executive (through the President or the Finance Ministry)?

Sub-principle **P4.1** forgets that some countries are internally divided (e.g. federations or federative states). In this regard, to put a small phrase at the end stating something like "or equivalent at other levels of government" as the head of the Treasury Department can solve this issue.

**P4.2** is intrinsically linked to the "Design" ones. To not be repetitive, it can focus on the eligibility criteria and anti-abuse provisions, and let the others be only in Principle 2 part, such as the "sunset provisions"<sup>13</sup>. When the sub-Principle **P4.2** says that "*Legislation should spell out sunset provisions, anti-abuse measures, and eligibility criteria*", it sets a prescriptive requirement that dictates how to legislate, not what to achieve. This specificity could be better placed in the implementation guidelines, and not the principle itself (that, in practical terms, is already a guideline, as seen above).

A good strategy to overcome this would be to suggest establishing inter-ministerial committees to promote coordination among different government agencies, with clear mandates and performance metrics. This approach is supported by the IMF's technical note on managing tax incentives<sup>14</sup>, in its "whole-of-government approach"

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<sup>11</sup> 2015 G20/OECD/IMF/UN/World Bank report. *Options for low income countries' effective and efficient use of tax incentives for investment : a report to the G-20 development working group by the IMF, OECD, UN and World Bank* (English). Platform for Collaboration on Tax. Washington, D.C. : World Bank Group. <http://documents.worldbank.org/curated/en/794641468000901692>.

<sup>12</sup> I am using here the same meaning as the World Bank, which defines corruption as the abuse of public office for private gain; rent seeking reflects the use of companies' resources to obtain economic benefit without wealth creation.

<sup>13</sup> Once again, the "*sunset provisions*" expression should be changed to a clearer name, any that resembles time limitation, such as "expiration clauses", "time-limited provisions", "fixed-term measures" or simply "temporary incentives" or anything else.

<sup>14</sup> IMF. Miguel Pecho, Stoyan E Markov, Philip R Wood, Rachel Auclair, and Fernando Velayos. "Managing Tax Incentives in Developing Countries", *Technical Notes and Manuals* 2024, 007 (2024). Available at: <https://www.imf.org/en/Publications/TNM/Issues/2024/11/21/Managing-Tax-Incentives-in-Developing-Countries-554978>. p. 9.

to institutional governance and reflects UN recommendations for integrated governance frameworks.

Requiring parliamentary ratification ensures democratic oversight and reduces the risk of arbitrary or politically motivated incentives, of course, but by centralizing authority under the Finance Ministry may limit responsiveness to sector-specific needs or regional disparities (**P4.3**). An idea here is to allow consultation with line ministries while retaining final authority with the finance ministry to address sector-specific needs, for a better balanced governance in the Executive branch.

And principle **4.1** ("Ministry of Finance sole authority") can be contradicted by **P4.3** ("ratified by parliament"), creating ambiguity, since it would not be under the "sole authority" of the Ministry if the law needs to be rectified by Parliament.

The main thin line of this guideline is to not give disproportionate powers to a single Ministry, limiting Parliament's proposals. I believe in the good intentions of such guideline, but in some countries, this can lead to further corruption.

Suggestion to change **P4's** title:

Now	wording suggestion
"Incentive legislation should be clear, integrated into tax law and subject to effective oversight"	"Tax incentives must be legislated transparently, centrally governed, and subject to democratic oversight."

An issue of **P4.4** is to presume that the publicized law will guarantee the democratic participation, since the mere publication of incentives does not ensure public understanding or participation in oversight. Publicization alone does not ensure public understanding or engagement. Here, the explanation of this principle can include a "pre-implementation consultation", in order for the country to engage a broad spectrum of stakeholders, such as tax authorities, industry experts, civil society, and independent economists, early in the design phase.

## Principle 5 — IMPLEMENTATION

"Implementation" principles focus on ensuring that tax incentives are administered and managed effectively, with an emphasis on compliance, governance, and data collection for evaluation.

The title of **P5.2** can be written in the direct voice: "*Basic compliance obligations must always be upheld*", to focus on what it must be done. The principle uses the legal English expressions "phoenix companies", which might be common to English-based countries, but it would be best to substitute it to any expression of commonly known of global-English, or just a simple explanation such as "debt-evading successor companies", "reborn businesses to escape liabilities", "companies that shut down and restart to dodge debts", "fraudulent business reincarnations", "abusive business restarts", or anything like it.

These compliance rules can also come with compliance checks (e.g., pre-registration verification, post-incentive audits), and recommend streamlined processes for low-risk taxpayers (e.g., automated approvals).

The last phrase of **P5.2**.<sup>15</sup> gives an alert on possible violations in the “principle of non-retroactivity in taxation”, which is a real legal principle in many countries, linked to legal certainty and security. If a tax incentive can be recapture, in any case, wouldn’t this produce retroactive effects and, thus, violate basic legal principles? This is a challenge that can be addressed by this guideline by specifying it for fraud cases, for example.

It is good that **P5.3**. recognizes that giving good-tax payers easier treatments is good for the legal system and to maintain a voluntary compliance framework. The explanation of P5.3., however, can go deeper and develop risk-based frameworks for differentiating taxpayer treatment (e.g., low-risk vs. high-risk categories) or even maybe recommend performance metrics for voluntary compliance strategies (e.g., compliance rates, taxpayer satisfaction notices etc), or if this guideline is to just “create a blacklist of taxpayers”.

## Principle 6 — ASSESSMENT

Principle 6 focuses on tax expenditure reporting, beneficiary disclosure, periodic evaluations, and behavioral impact analysis. Although it is also a good intention, it represents the repetitiveness of all the other principles. Instead, it is best to have a strong principle about **transparency**.

**P6.1** is majorly repetitive with Justification and Design principles. **P6.3** also is linked to the many “principles” that also states about periodic review. Another point of attention that shows that these provisions are not principles, but rather policy guidelines.

This “principle” can be surely seen as under the “transparency” legal principle, that can really be seen as a principle guideline that all countries should adopt. For example, **P6.1** (tax expenditure reporting) and **P6.2** (publishing beneficiary data) can easily be combined into a single sub-principle of “**Transparency in Reporting**.” These guidelines are almost the same as the guide to “conduct cost-benefit analyses before adopting incentives”, in a way to simplify **P1.3**., that also deals with a kind of assessment.

The apparent preoccupation of **P6.2** with the so-called “taxpayer confidentiality” triggers the issue that anonymized data may limit the usefulness of disclosures. It is better to, for the sake of this guideline, to just exclude the mention of “taxpayer confidentiality”.

I believe that **P6.4** is more expensive for tax administrations than granting the tax incentive itself. Although it recognizes the need to assess behavioral responses and

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<sup>15</sup> “Full due diligence, with possible recapture, is required when an incentive ends.”

unintended consequences, this counterfactual analysis can be very technically challenging and resource-intensive, especially considering the evaluations of long-term or indirect effects, like macroeconomic impacts.

A possible way to overcome these issues is to provide simplified methodologies for counterfactual analysis, such as the “*difference-in-difference*” (DiD), including guidance on evaluating long-term and indirect effects (e.g., economic growth, environmental impacts).

In general, the “Assessment” principles can be summarized in a “transparency and accountability” rule, which mandates an annual tax expenditure report and periodic evaluations for all incentives with published evaluation results in accessible formats (e.g., summaries, visualizations).

## **Final remarks.**

### **1) Principles indeed.**

It would be great for the acceptability of these Guidelines if the document clarifies the hierarchy of the guidelines in real legal principles, or by “Principles vs. Implementation Guidelines”. I see that the document focuses on four main real legal principles:

- (1) transparency**, by which incentives must be justified, legislated, and evaluated through open processes;
- (2) efficiency**, by which incentives should generate measurable social benefits exceeding their costs;
- (3) fairness**, by which incentives should avoid distorting competition or exacerbating inequality; and
- (4) accountability**, in which Governments must regularly assess and report on incentive outcomes, in order to guarantee that 1, 2 and 3 are being followed and that they make sense.

These four real legal principles are the ones that really lead the document and guide all the guidelines and rules provided for in the draft under analysis. To accept and to recognize them as the real principles under stake can grant more strength, acceptability and, most specially, credibility to the principles that the International Organizations may want to suggest as a global standard.

### **2) Simplify Language to global spoken English.**

Alongside the suggestions above are plenty of native-English and legal English expressions that could be easily changed to clearer ones without losing the effectiveness of the communication and the meaning of the rule. It would be also great for the acceptability of the guidelines if it replaces technical terms with simpler

equivalents<sup>16</sup>, including the use of a simple glossary at the beginning or at the end of the document (for terms such as “METR” or others in an annex) and considering translating the document.

### **3) Add case studies to the explanations.**

There are case studies already known to the Platform for Collaboration on Tax that could enhance countries to comprehend the issues and the guidelines to solve them. An example is Costa Rica’s Renewable Energy Incentives<sup>17</sup> and how sunset clauses and transparency measures ensured accountability there; the Rwanda’s Investment Code, that provides simplified eligibility criteria to reduce administrative burden<sup>18</sup>; the issue suffered by Papua New Guinea, which struggled with R&D incentives due to administrative constraints<sup>19</sup>; or the Senegal’s Tax Code consolidation<sup>20</sup> to illustrate principles in action and how the principles can be adapted to national legal and administrative frameworks.

Many cases can be found in other documents from the Platform for Collaboration on Tax or by other tax reports made by the International Organizations responsible for this project, such as UN Handbook on Selected Issues in Protecting the Tax Base<sup>21</sup>.

By doing so, the “principles” should recognize that different countries have different legal, economic, and administrative contexts. It can include a disclaimer that the principles are intended to be adapted to local circumstances rather than applied rigidly. In this regard, the document should acknowledge the political economic challenges associated with tax incentives, such as lobbying and corruption by special interest groups and the difficulty of phasing out ineffective incentives.

### **4) Make it visual.**

It would be great to do a flowchart or infographic that visually maps the lifecycle of a tax incentive — from justification to assessment — to provide a clear overview of what these guidelines aim, since they are almost like a step-by-step of how tax incentives should be implemented.

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<sup>16</sup> To recap, instead of “ex ante quantification of social benefits” use “estimate expected benefits and costs before introducing incentives”; instead of: “tax expenditure reporting” use “regularly publish estimates of revenue lost to incentives”, and so on.

<sup>17</sup> ARTANA, Daniel, 2015, “The effectiveness of fiscal incentives: The case of the export free zone of Costa Rica, El Salvador and Dominican Republic, in Osmel Manzano, Mario Cuevas and Sebastián Auguste (eds.), *Partners or Creditors? Attracting foreign investment and productive development to Central America and Dominican Republic*,” Inter American Development Bank.

<sup>18</sup> RWANDA. Investment Code. LAW N° 006/2021 OF 05/02/2021 ON INVESTMENT PROMOTION AND FACILITATION. Available at: <https://rdb.rw/wp-content/uploads/2022/02/Investment-code-2021.pdf>.

<sup>19</sup> 2015 G20/OECD/IMF/UN/World Bank report. *Options for low income countries' effective and efficient use of tax incentives for investment : a report to the G-20 development working group by the IMF, OECD, UN and World Bank* (English). Platform for Collaboration on Tax. Washington, D.C. : World Bank Group. <http://documents.worldbank.org/curated/en/794641468000901692>.

<sup>20</sup> SENEGAL. Code General des Impôts. Loi n° 2012-31/2012. Available at: <https://faolex.fao.org/docs/pdf/sen201144.pdf>.

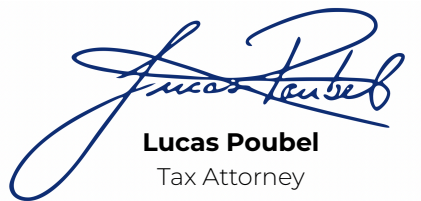
<sup>21</sup> UNITED NATIONS. United Nations Handbook on Selected Issues in Protecting the Tax Base of Developing Countries , pp 451-495. DOI: <https://doi.org/10.18356/7e6c9c09-en>. Available at: <https://www.un-ilibrary.org/content/books/9789210572361c012>.

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I register my sincere gratitude for the opportunity to contribute to this Public Consultation on the *Tax Incentives Principles*. I hope that the guidelines, once refined and implemented, will serve as a global standard for responsible and effective tax incentive policies. By fostering collaboration, transparency, and evidence-based decision-making, these principles can help countries achieve their economic and social goals while minimizing distortions and risks.

Thank you for considering my input. I look forward to seeing these principles contribute to fairer and more sustainable tax systems worldwide.

Sincerely,



**Lucas Poubel**  
Tax Attorney

\* This paper was inspired by the piece used as cover called "*As vísceras mergulham no profundo azul do mar*" ("The entrails dive into the deep blue sea", in literal translation), made by Anna Bella Geiger, in 1968. This piece of art remained in my mind when I read these guidelines on tax incentives. Sometimes abstract, but with so many concrete effects in reality and in people's lives around the world, we need to look at ourselves but also always outwards to make a directive guideline and set principles. It's impossible not to transpose what we are to others. Our viscera, ourselves, our legal cultures, in the form of practices to be replicated in a world with such a deep and diverse blue sea. May it be adaptable.

\*\* This paper is made independently and does not represent the view of my employer, my clients or any group of association that I am a part of.

**MINISTRY OF FINANCE**  
**DIRECTORATE GENERAL FOR TAX POLICY AND LEGISLATION (DGPLT)**

- 1. Do you consider the principles and comments presented in the document to be appropriate and balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for improving the document.**

The principles and commentary comprehensively address key considerations to ensure that tax incentives are designed and implemented in an effective and sustainable manner. However, some specific observations can strengthen their applicability and relevance:

**Principle 1: Justification**

The suggestion that tax incentives should be backed by a quantifiable net social benefit is key to avoid unnecessary fiscal distortions. Recommendations suggesting an *ex ante*, preferably measurable, assessment provide transparency and strengthen accountability. However, more precise guidelines on how to assess these positive externalities need to be included, especially in countries with limited capacities to conduct cost-benefit analyses at the level of detail they suggest. For example, including simplified assessment could improve the applicability of these principles.

In addition, the focus could be broadened on how to identify and manage the fiscal and social opportunity costs associated with these incentives. It would be useful to highlight the importance of coordination with other public policies to maximise socio-economic impact and avoid duplication efforts.

**Principle 2: Design**

The emphasis on maximising "return per unit of expenditure" is highly relevant, however, it would be beneficial to provide concrete examples of successful incentives and how they have been designed to limit unwanted distortions. In particular, low-income countries could benefit from case studies that exemplify how to implement effective sunset clauses or prevent abuses such as profit shifting through transfer pricing.

In addition, profit-based incentives are adequately addressed, however, the need for more specific legal safeguards to prevent tax evasion or avoidance in this context could be strengthened. In addition, strategies could be considered to align tax incentives with the Sustainable Development Goals, ensuring that they not only attract investment, but also encourage activities with environmental and social benefits.

**Principle 4: Legislation**

The paper adequately addresses the importance of integrating incentives into tax legislation and ensuring effective oversight by Ministries of Finance. However, it could be enriched with recommendations on specific mechanisms to reduce risks of corruption and abuse. For example, encouraging the

implementation of public registers of tax incentives detailing beneficiaries, amounts granted and expected results.

### **Principle 5: Implementation**

In addition to the criteria set out in this principle, provisions or clauses should be included to ensure that tax incentives are clearly delimited in the legislation and governed by the principle of mutual exclusion, preventing the same taxpayer from benefiting simultaneously from more than one incentive scheme. To this end, it is essential to have a proper register of natural or legal persons accessing exemptions, ensuring effective control and the correct application of tax provisions.

In turn, in implementation, we see as beneficial to have practical tools and simplified methodologies for the ex post evaluation of incentives, in order to measure their effectiveness in terms of revenue collection, economic impact and compliance with the objectives for which they were created. This process would allow identifying possible distortions in the market, correcting inefficiencies and optimising the design of future fiscal policies, ensuring that incentives generate the greatest possible benefit for the economy and public finances.

### **2. The document refers to additional material to help apply the principles. With this in mind, are there areas where you think further guidance is needed?**

Database of policy instruments. The suggestion to use other tools, instead of tax incentives, to achieve the same policy objectives merits the elaboration of a document that breaks down international best practices and details what other measures the government could implement to promote a productive sector, a region or to incentivise investment.

Strengthening ex ante and ex post evaluations. Emphasis on *ex ante* and *ex post* evaluations is crucial to ensure that tax incentives produce a net positive impact, and to ensure the relevance of their provision. However, low-income countries often face technical and institutional constraints that make it difficult to conduct this type of analysis with the necessary rigour. It would be helpful if the paper:

- Incorporate practical guidelines that allow fiscal, economic and social benefits and costs to be assessed in a way that is adapted to resource-constrained contexts. For example, standard evaluation models that do not require excessively detailed data, but can provide a reasonable estimate of expected outcomes.
- Include tools to identify externalities. Specifically, key indicators could be proposed to assess social or environmental impacts, making it easier for countries to prioritise incentives focused on strategic sectors, such as renewable energy or technological development.

Experiences in regional cooperation. Many countries compete by offering incentives to attract foreign investment, so the paper could provide examples of successful regional cooperation agreements that have helped prevent this "*race to the bottom*".



### **3. What kind of support might countries need in order to effectively implement the principles?**

To effectively implement the principles outlined above, countries, especially developing countries, would require comprehensive support that addresses both technical capacities and institutional and financial challenges. This support could be divided into three main areas:

#### **A. Technical capacity building**

Many countries lack the necessary tools and methodologies to assess the fiscal, economic and social impact of incentives, both *ex ante* and *ex post*. Training programmes that include real case studies and simulations could be crucial. In addition, it is crucial that countries implement systems to track the performance of tax incentives on an ongoing basis, with key indicators and regular reporting.

#### **B. International coordination**

Given the advancement of global frameworks such as the OECD/G20 Pillar 2, countries would require technical advice to align their tax incentives with these standards without compromising their competitiveness.

#### **C. Financial and technological support**

Many countries do not have the resources to conduct detailed analyses of the impacts of incentives. Private funds or international cooperation programmes could cover these initial costs. On the other hand, the adoption of integrated information systems and digital tools could help to more efficiently monitor and evaluate the impact of incentives.

### **4. Do you have any recommendations for refining the principles and comments, given your experiences with tax incentives (whether positive or negative)?**

One of the key aspects to improve the design and application of the principles related to tax incentives is to ensure that Ministries of Finance play a more active and formal role in the process of evaluating and approving the incentives proposed in draft laws submitted to Congress. This is particularly relevant when these incentives can have a significant impact on revenue collection and thus on the economic and social sustainability of the country.

It is essential that any draft legislation providing for tax incentives be subject to a rigorous technical assessment by the Ministry of Finance before it is approved. This process would ensure that legislative decisions are backed by cost-benefit analyses and accurate projections of the impact on revenue collection, public spending and economic and social objectives.

In addition, it is recommended that the observations and assessments of the Ministry of Finance have a binding character or, at least, constitute a formal requirement for the National Congress to move forward with the discussion of any project affecting public finances. This would not only increase transparency, but also ensure that legislative decisions are aligned with the country's macroeconomic goals.

In the case of the Dominican Republic, the current regulatory framework establishes oversight and control mechanisms in the granting of exemptions. Law No. 4027, on Tax Exemptions, dated 14 January 1955, provides that when a law, concession or contract grants tax or municipal exemptions to individuals or legal entities, applications must be submitted to the Ministry of Finance. Likewise, Decree No. 162-11, dated 15 March 2011, specifies that all exemptions covered by special laws must be submitted to the Ministry of Finance for study and processing, on a case-by-case basis.

In addition, Art. 45 of Law No. 253-12, dated 09 November 2012, establishes that government institutions administering laws with exemptions or exonerations must submit to the Ministry of Finance a feasibility study before approving any request for classification. Such analysis must include a cost-benefit study, and the Ministry of Finance must grant its "No Objection" for the classification of beneficiaries.

Strengthening the application of these principles would contribute to a more efficient and transparent administration of tax incentives, ensuring that they are granted in a strategic manner and aligned with the country's economic and social development objectives.



The Platform for Collaboration on Tax (PCT)

By email: [taxcollaborationplatform@worldbank.org](mailto:taxcollaborationplatform@worldbank.org)

cc. [arajca@worldbank.org](mailto:arajca@worldbank.org)

11 February 2025

**Subject: PwC feedback to the Public Consultation on Tax Incentives Principles**

PwC International Ltd (PwC), on behalf of the PwC network, is pleased to send our comments and reactions to the recently published Public Consultation on Tax Incentives Principles ('the Principles').

PwC commends the efforts of the PCT partners in setting out a concise set of high-level principles for policy makers and other stakeholders designed to help navigate the policy, legislative and administrative issues related to tax incentives. We agree that these Principles will be helpful for developing countries but should also assist more developed countries.

In this short letter, we outline some comments or additional matters for you to consider. We have grouped our comments below, paraphrasing the headings used in the document. In summary, we believe that relatively small refinements or additional guidance, suggested in the context of our experience assisting both taxpayers and tax administrations, would add to the clarity of the Principles. It will still be important to offer implementing countries assistance in interpreting their application to particular proposals or existing regimes.

**Justification**

- Careful consideration would often be needed to weigh up the potential case for whether capital and/ or revenue expenditure is to be justifiably targeted as an objective by an incentive. It will be more costly to include the former, increasing risk, and would perhaps require more detailed guidance to ensure there is no ambiguity.
- The approach to outsourcing of activities that are to be incentivised may be important. A survey we carried out suggested that, for example, research intensive organisations were particularly dependent on outsourcing to third parties. Often SMEs do not have sufficient resources internally to undertake activities themselves and therefore subcontract significant elements. There are pros and cons in justifying whether to, or to what extent to, allow claims by principals or subcontractors, particularly in attracting inward investment.

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- It is not disputed that (as noted in P1.4) tax incentives should seldom be used if more appropriate policy instruments are available. It should, however, be recognised that the range of policy instruments is different for countries at different stages of development, e.g. developing countries may not have the fiscal resources to rely heavily on upfront cash grants.

## **Design**

- Consultation with those potentially intended to benefit from an incentive and with other stakeholders and advisers is critical, potentially privately but also publicly with as much transparency as is feasible.
- A key question in future may be whether an incentive will fall within the definition of a 'Qualified Refundable Tax Credit' or a 'Marketable Transferable Tax Credit', and as such the benefits would generally be preserved for businesses applying the Pillar 2 rules. These rules will substantially limit the potential of incentives; there may be a danger for developing economies that incentives they offer may be taxed by IIR / UTPR countries - so this should be considered when designing incentives.
- The ability for a claimant to account for an incentive 'above the line' is generally beneficial compared to a 'tax line' item insofar as it could be credited to the budget of the department undertaking incentivised activities and is more likely to be taken into account, and hence less distortive, when making investment decisions. SMEs are likely to be most concerned about the net cash benefit. Availability to loss-making taxpayers may also be a factor.
- Claimants have often expressed to us an overarching desire for simplicity in the design of incentive regimes and it should be acknowledged that offering differing rates, particularly based on attributes such as type of initiative and location of activity, could be challenging and increase complexity.
- From experience, tax incentives work best as a tool to complement other economic measures, rather than as a key driver/ standalone measure to promote economic growth. Hence, a key design consideration is whether there are supporting measures/ infrastructure for pursuing the economic goals, e.g. no tax concession can promote R+D if there's no qualified personnel to undertake the research or if legal protection of IP is absent. While this may be self evident to some readers, it is important to flag this in a document that focuses on the principles of tax incentives. A coordinated approach, of which tax could be an element, is necessary.

## **International considerations**

- Countries should be encouraged to liaise with global international organisations of which they are members and/or have particular ties, regional bodies and other jurisdictions with which they have affiliations.
- The impact of incentives on the treatment afforded to activities in other countries should be borne in mind, as they could result in reporting obligations and perhaps [additional] tariffs or other remediation (like under the EU's Foreign Subsidies Regulation, where the contribution is considered to be selective).

**Legislation**

- Certainty must be at the heart of the applicable law establishing any incentive, as to eligibility, scope and amount.

**Implementation**

- Setting out guidance applicable for both the staff of the tax administration and for claimants and other stakeholders (like the UK's [Corporate Intangibles Research and Development Manual](#)) can avoid unnecessary disputes.
- Following international or regional guidance as a foundation for local implementation is to be recommended (like the [OECD International VAT/GST Guidelines \(April 2017\)](#) and the [OECD/ World Bank/ regional body Digital VAT Toolkits \(for Africa, APac and LatAm\)](#) in relation to VAT/GST incentives).
- If there's a lack of capacity at tax administration level, extensive use of incentives, which will inevitably introduce complexity (and hence uncertainty) into the tax system, could pose an issue. Businesses value certainty, at times even over lower tax rates. Therefore, the use of tax incentives should be considered in the light of tax administration capacity.

**Assessment**

- Efficient assessment of the effect of tax incentives requires robust monitoring and evaluation mechanisms. A 'light touch' pre-notification process and mandatory documentation requirements can deter and detect unsubstantiated claims. The use of sampling in audit enquiries can also efficiently assess the validity of claims while minimizing the administrative burden on businesses.

We would welcome the opportunity to discuss these with you in further detail at your convenience. PwC will continue to strongly support the work of the PCT and its partners.

Please reach out to me or any of the other contacts at the addresses below with comments or questions.

Yours faithfully,



William Morris  
PwC Global Tax Policy Leader

Dear Colleagues,

I would like to share some feedback regarding the Public Consultation on Tax Incentives Principles. After reviewing the main report and background paper, I would like to respond to the following questions:

**1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

The principles and remarks in this paper are valuable for low-income countries, particularly in highlighting the importance of tax incentives for economic development. However, since the paper was completed in 2015, it does not reflect the current landscape shaped by the introduction of the Global Minimum Tax. To make the document more relevant, I suggest incorporating guidance on how developing countries can adapt their tax incentive policies to remain competitive in the post-Pillar 2 era, such as adopting qualified refundable tax credits.

**4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

To refine the principles and remarks in this paper, I believe it is essential to highlight best practices for designing tax incentives that remain compliant with international tax rules, such as the Global Minimum Tax, while continuing to attract foreign investment. Additionally, emphasising performance-based or merit-based incentives tied to measurable outcomes, such as job creation or technology transfer, could help ensure more effective and sustainable policy outcomes. These refinements would offer valuable guidance to policymakers in developing countries.

Thank you for the opportunity to provide feedback.

Best regards,  
Saowalak



**Saowalak Boonaiem** Senior Tax Economist

Tax Policy and Corporate Planning Division  
The Revenue Department of Thailand

SALUTATIONS TO "PCT" FOR GIVING US CHANCE TO POST OUR FEEDBACK AS BELOW:

1. Not fully. The first exercise to have a bird's view of all existing tax incentives updated till a specific date would become the guiding force for levying the principles and remarks. In fact, this is required as tax incentives world wide are used as a source of gaining public popularity by the political parties who are at the helm of the government system at the cost of the tax paying public, without even having their voice heard. A HARSH RULE is required which states that the government funds available, when a political party forms the government, should not be in any case deteriorate, when the tenure of that political party is over, eventhough the political party may have got public's affirmation for forming the next government.

2. No.Only it be updated at regular intervals or available with online updations.

3. Political parties' support is crucial.

4. Given in answer 1.

5. A chance be given for presentation to us, that's all.

THANKS

Regards

CA HEMAL R THAKKAR

SHROFF CAPITAL AND FINANCE PVT

LTD THAKKAR SHOPPING CENTRE,

AT & PO. BAJWA,

DIST. BARODA-391310

Thank you for sharing Tax Incentives Principles from the Platform for Collaboration on Tax. I am pleased to offer the following comments, which are drawn from our work with economic development organizations to design and implement incentive programs that are effective and responsible, with an emphasis on improving transparency and accountability.

*Q1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.*

The principles and remarks are appropriate and should be very helpful to agencies administering tax incentives. The first principle addressing Justification is the most important since it creates a foundation for responsible tax incentive use that is built around achieving net social benefits, not just private gain. We applaud the strong opening statement under this principle, “Incentives may be warranted only if net social benefits can reasonably be expected, for reasons that are publicly articulated.”

*Q2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?*

*Q3. What kind of support might countries require to effectively apply the principles?*

One area where additional material or guidance is merited throughout the platform is the need to **identify and dedicate resources for Implementation and Assessment.**

We have worked with many economic development organizations to improve their incentive management practices and have participated in dozens of incentive evaluations. In our experience, investments in dedicated staff time and information systems are needed if agencies are to collect quality assessment data, manage it, and report on it to stakeholders. The data challenge is magnified when the desired public benefits may be difficult to measure. For example, how can tax or other agencies determine whether “enhanced knowledge and productivity spillovers” or “easing of market failures” or “increased opportunities for disfavored minorities” have been achieved? External academic studies can help, but leaders need more immediate insight on program performance to understand both costs and benefits so they can make good policy decisions. In short, agencies need resources to allow them to obtain, analyze and share tax incentive data in a timely manner.



Similarly, good evaluations take time and resources to complete, especially if striving to create a counterfactual. In many cases, it is enough of a data and reporting challenge to describe accurately what happened, let alone what might have happened. The platform and principles could encourage more straightforward, interim reporting to keep policymakers informed throughout the course of the tax incentive's use.

Without a more aggressive call for resources, the principles may remain aspirational when they are quite reachable even with relatively small amounts of additional resources. As one option, Principle 4 could address how legislation should provide for both additional resources and any necessary legal authority that would enable achievement of the transparency and accountability objectives described throughout the document.

A second recommendation is to **develop accompanying materials targeted to elected officials, economic development or investment promotion agency leaders and staff, and other line agencies**. Each of those groups will have different motivations, areas of expertise, and responsibilities than the tax experts who appear to be the target audience for this document. Materials and how-to guides that directly address their roles in supporting the proposed principles would be useful.

I appreciate the opportunity to comment. Please contact me if you have any questions or wish to discuss.

Best regards,

Ellen Harpel

Ellen Harpel, PhD

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## **South Centre Inputs on “Tax Incentives Principles”**

**11 February 2025**

### **I. Background**

The [South Centre](#) is the intergovernmental organization of developing countries that helps developing countries to combine their efforts and expertise to promote their common interests in the international arena. The South Centre has [55 Member States](#) coming from the three developing country regions of Africa, Asia and Latin America and the Caribbean. It was established by an [Intergovernmental Agreement](#) which came into force on 31 July 1995. Its headquarters are in Geneva, Switzerland.

The South Centre in 2016 launched the [South Centre Tax Initiative](#) (SCTI). This is the organization’s flagship project for promoting South-South cooperation among developing countries in international tax matters.

The South Centre submits the following inputs to the Platform for Collaboration on Tax (PCT) on Public Consultation on Tax Incentives Principles. For further queries, please contact [taxcooperation@southcentre.int](mailto:taxcooperation@southcentre.int).

### **II. Overview**

The South Centre welcomes the opportunity to provide feedback on the Tax Incentives Principles enumerated in the Public Consultation Draft (hereinafter: draft) developed by the Platform for Collaboration on Tax.

Tax incentives constitute tax expenditure for governments offering them and tax savings for recipients enjoying them. Tax incentives of all kinds including but not limited to reduced tax rate, tax holidays or reduced tax base are intended to enhance

the competitiveness of countries for the purpose of attracting investments and attendant creation of direct and indirect jobs. At the same time, these incentives create a race to the bottom with countries competing against each other to offer more generous incentives which leads to increased loss in revenues. Unarguably, tax incentives are prone to abuse and hence the suggestions in the draft to regulate incentives are welcome.

The scope of the commented draft is broad covering both direct and indirect taxes, including Value Added Tax (VAT). The principles may not be applicable to all kinds of taxes. As such, the draft can clearly mention that they apply specifically to corporate income taxes.

The draft focuses on restricting the use of profit-based incentives and suggests that they are “intrinsically bad” though without strong justification. Further, it overlooks the rise of other business incentives such as tax credits, subsidies and grants which are now being promoted under the OECD Global Minimum Tax (GMT), particularly under the mechanism of qualified refundable tax credits (QRTC). Such incentives reflect a worrying development as they distort the investment playing field and privilege developed countries who have more finances at their disposal to offer them and thus attract more investment. This dynamic can have negative implications on developing countries trying to attract, for instance, investment meant to enable them to upgrade their technological capacities, such as in areas like clean energy.

The draft should therefore take a more neutral tone towards profit-based incentives and explain that they could be improved if the applicable legislations provide for sunset clauses and clear anti-abuse provisions. The draft should also point out the dangers of subsidies like QRTC in the OECD Global Minimum Tax distorting the investment playing field against developing countries and the possibilities that it may restrict their ability to rise up in the value chain.

### **III. Comments on the six principles**

#### **Principle 1: Justification**

1. The wording “macro-critical activities” in principle 1.1 should be explained. Some of the activities constituting macro-critical could be listed.
2. The draft disapproves of incentives for start-ups. The opposite should be the case, particularly since this guidance is supposedly meant for developing countries. In other words, incentives targeted at start-ups should be encouraged, though with sunset provisions, including offering graduated incentives for businesses that transition from informal to formal economy.
3. While the draft mentions the importance of having ex-ante assessments, providing guidance on how to conduct them would be beneficial.

#### **Principle 2: Design**

1. The draft rules out profit-based incentives and seeks to portray them as “intrinsically bad”. However, tax holidays or reduced tax rates are a legitimate policy option widely used in developing countries and can be useful if anti-abuse provisions such as sunset provisions are provided for in the legislation granting the incentives.
2. The wording “crediting of any input tax has no impact on business purchases” assumes that all jurisdictions credit input VAT which may not be the case. For instance, some jurisdictions may not credit input VAT paid by an enterprise for the purchase of plant and equipment. Further, indirect taxes like VAT should not be covered by the draft, which should focus only on direct taxes.

3. The draft makes no mention of subsidies like Qualified Refundable Tax Credits that are promoted under the OECD Global Minimum Tax. The draft should point out how the use of such subsidies can distort the investment playing field against developing countries and the possibilities that it may restrict their ability to rise up the value chain.

### **Principle 3: International Considerations**

1. Principle 3.1 suggests that if countries do not follow non-binding commitments like those made on following OECD standards, they will be “penalized”. This is harsh and inappropriate language and can be replaced with the concept of “disputes”.
2. The wording “commitments as are made should be honored... including in relation to Pillars One and Two” should be redrafted. For instance, commitments to OECD statements such as in [October 2021](#), are political and legally non-binding. The requirement to honor commitments should apply solely to hard law obligations with no mention of OECD political commitments like those made under the Two Pillar solution.
3. The threats of European Union (EU) blacklisting and denial of development aid for not honoring political commitments is condemnable and should be deleted from the draft.
4. Principle 3.2 describes the OECD GMT and Controlled Foreign Company (CFC) rules as “instruments”. CFC rules are domestic laws and the Global Minimum Tax consists of Model Rules accompanied by administrative guidance and a Commentary. The Model Rules and administrative guidance are supposedly “approved by the OECD Inclusive Framework” which is not a statutory body and has no rules of procedure. The consolidated Commentary makes no mention of which was the authority that issued the Commentary. It

is therefore inappropriate to describe the OECD GMT and CFC as international law “instruments”. The word instruments should thus be deleted.

5. The wording “Incentive design should pay due regard to the impact on other countries” in paragraph 3, could limit countries from exercising their sovereignty and from pursuing policies that address their unique country needs.

#### **Principle 4: Legislation**

1. A clear and transparent legal framework that minimizes discretion of public officials is important and should be reinforced by legal anti-abuse safeguards such as stricter penalties for misuse of incentives.

#### **Principle 5: Implementation**

1. The decision to grant incentives under the law should not be under the sole responsibility of the revenue administration. Rather, the decision to grant incentives should be made in consultation with relevant government agencies (for instance, the Ministry or Agency responsible for Trade and Investment). However, the final approval should reside in the Ministry of Finance in order to promote broader fiscal analysis and economic management.

#### **Principle 6: Assessment**

1. The draft allows for anonymized disclosure of beneficiaries of tax incentives. This may undermine transparency, given that tax incentives are intended to deliver social benefits and serve the public interest.
2. The draft should include a guidance for simple evaluation metrics for countries with limited capacity in conducting impact assessments.

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## PUBLIC CONSULTATION ON TAX INCENTIVES PRINCIPLES

### ANSWERS

1. *Do you find the principles and remarks presented in the document appropriate and well balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestion you may have for refining the document.*

The framework outlined in the document appears adequate on the whole and principles and remarks are appropriate and well balanced in terms of content and coverage. However, the latter appear quite general and they could be better specified with more concrete aspects, which allow the work becoming conceptually more strong and well understanding. In this way countries may be more stimulated in positive implementation of the proposed guidelines.

2. *The document references additional material to help apply the principles. Given this, are there areas where you fell more guidance is needed?*

It's appreciable the sensitivity and attention shown by the principles to upstream budget control, through the provision of sunset clause and caps to the use of incentives. However, it would be advisable not limiting the analysis only to the measurability of the benefits themselves, but adding some references to preventive controls on implementation (i.e. a preventive assessment on the implementation and effectiveness of tax measures and on the merits of the taxpayer justifying access to the incentive). Indeed, although there is a widespread tendency to focus on ex post controls for the implementation of tax obligation, empirical evidence clearly demonstrates that it is necessary to anticipate the control ex ante, in order to prevent irregularities and inefficiencies.

3. *What kind of support might countries require to effectively apply the principles?*

To take full advantage of tax incentives while avoiding significant risks, it would be useful to develop an integrated system that includes information, training and the creation of participatory planning models. This approach would ensure the correct application of the law, while promoting a more conscious and shared management of the incentives.

4. *Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?*

The experience of many countries (including Italy) has shown how ineffective is ex post control and verification mechanisms, especially when the control is carried out many years after the tax incentives have been used by taxpayer. Indeed, carrying out verifications on the effective entitlement of the incentives after their fruition presents not a few criticalities, not only because after many years it becomes excessively complicated to recover the incentives (proven not to be due), but also because it is not possible to prevent possible distorting effects on competition (already created when the incentive was used). An anticipation of control is desirable.

5. *Do you have any other comments or suggestions?*

It would be desirable to introduce and to study the issue of ex ante checks and controls. The current ex post control systems, in fact, present certain criticalities (related to the non-recovery of the incentive and to the distortion of competition) that can substantially nullify all the social benefits that the measure was intended to pursue; therefore those controls do not appear to be effective. Ex ante controls, on the other hand, could better guarantee the correct use of the incentive, reducing the risk of fraud and errors on the part of taxpayers.





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