

The checklist below is presented only for illustrative purposes to provide capacity-building support to developing countries and is not necessarily being endorsed by the PCT, the four partner organizations, their respective managements, or the organizations' member countries.

CHECKLIST OF INFORMATION ON A COUNTRY'S TAX SYSTEM THAT SHOULD BE PROVIDED TO THE OTHER COUNTRY IN ADVANCE OF, OR DURING, A TAX TREATY NEGOTIATION:

1. A general description of the tax system, with special emphasis on the following issues, if applicable:

- a) Brief description of the different taxes (including corporation tax, personal tax, capital tax, any natural resource taxation, any gross-basis trade or cash flow taxes etc.);
- b) Concept of residency for tax purposes;
- c) Source rules and nexus rules for taxing non-residents, including tax withholding rates for payments to non-residents;
- d) Special tax regimes applied in the country (for example, to encourage certain activities or areas, remittance-basis taxation);
- e) Main time limits applied in the tax law;
- f) Anti-abuse rules in domestic legislation (e.g. GAAR, anti-conduit arrangement provisions, substance over form);
- g) The method for taxing companies and shareholders/owners (i.e. classical or integrated system);
- h) Taxation of capital gains on residents and non-residents);
- i) thin capitalisation rules and debt equity characterization;
- j) Anti-deferral regimes (e.g. CFC rules and foreign investment funds rules)
- k) Information on the general structure of any subnational taxation; and
- l) Information about any obligation under non-tax agreements that would potentially affect the terms of the tax treaty.

2. An example showing how the country's foreign tax credit or exemption calculation works, explaining whether:

- a) there is any difference between the calculation of credits/exemptions with or without a Convention; and

- b) there are any differences in the treatment of income from a permanent establishment received by a resident company.

3. Information about the legal and tax treatment of different entities under the legislation of the country, such as the following:

- a) Entities that are legal bodies and entities that are not;
- b) Partnership (transparent entities, tax rate calculation, among others);
- c) Funds and other Collective Investment Vehicles (types, juridical and tax regime).

4. A brief explanation of the country's pension system (social security system), including the tax treatment of:

- a) the contributions to the system;
- b) the payments from the pension system (including if there are differences in the treatment of lump sum distributions);
- c) the investment income of the pension funds themselves.

5. A general description of the country's law and practice concerning information gathering by tax authorities, with emphasis on:

- a) Types of information that taxpayers must give to tax authorities. Penalties in case of failure;
- b) Legislation and practice in relation to the exchange of information with other tax authorities;
- c) Bank and tax secrecy; and
- d) Penalties for unauthorised disclosure of taxpayers information