THE TAXATION CHAIN

Understanding the National and International Dimension of Taxation

TRAINING MODULE TWO

2012

SEATINI
Strengthening Africa in World Trade

DGAP
DEMOCRATIC GOVERNANCE & ACCOUNTABILITY PROGRAMME

MAKE TAX FAIR

tax justice network - Africa

Oxfam

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Abbreviations and Acronyms

ADB	African Development Bank
ATAF	African Tax Administration Forum
AU	African Union
BMET	Budget Monitoring and Expenditure Tracking
CET	Common External Tariffs
CIT	Corporate Income Tax
COMESA	Common Market for Eastern and Southern Africa
CRAFT	Capacity for Research and Advocacy for Fair Taxation
CSOs	Civil Society Organizations
CSR	Corporate Social Responsibility
DRM	Domestic Resource Mobilization
EA	East Africa
EAC	East African Community
ECA	Economic Commission for Africa
ECOWAS	Economic Community of West African States
EPZ	Export Processing Zones
EU	European Union
FDI	Foreign Direct Investment
FTT	Financial Transaction Tax
GDP	Gross Domestic Product
GFI	Global Financial Integrity
GoSL	Government of Sierra Leone
HTC	Harmful Tax Competition
IASB	International Accounting Standards Board
IBP	International Budget Partnership
IFI	International Financial Institutions
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
LTU	Large Taxpayer Units
ML	Money Laundering
MLAT	Mutual Legal Assistance Treaties
MNCs	Multinational Corporations
MDGs	Millennium Development Goals
MoFPED	Ministry of Finance, Planning and Economic Development
MoU	Memorandum of Understanding
MPs	Members of Parliament
NEPAD	New Partnership for African Development
OECD	Organization for Economic Co-operation and Development
PAFA	Pan African Federation of Accountants
PAYE	Pay As You Earn
PEP	Politically Exposed Persons
PRSP	Poverty Reduction Strategy Papers

PSA	Production Sharing Agreements
SAPs	Structural Adjustment Programs
SEATINI	Southern & Eastern African Trade, Information and Negotiations Institute
SEZs	Special Economic Zones
SMEs	Small and Medium-Sized Entities
TIs	Tax incentives
TIEAs	Tax Information Exchange Agreements
TJN-A	Tax Justice Network-Africa
TRG	Titanium Resources Group
TWN-A	Third World Network-Africa
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa (same as ECA above)
URA	Uganda Revenue Authority
VAT	Value Added Tax
WB	World Bank
WTO	World Trade Organization

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Introduction

Virtually all governments across the world need tax revenues in order to invest in public goods and services like infrastructure, education, health care, environmental protection and national security. These investments are important for national welfare and provide an enabling environment for the private sector to thrive and overall economic development. It is therefore important that all individuals and firms that benefit from these public goods and services contribute to their fair share in taxes.

Unfortunately some companies use aggressive methods to avoid taxation through loopholes in the tax laws so as to evade taxes. The scope of worldwide tax evasion is enormous and it has been estimated that more than half of all the world trade is going through tax havens as a means of avoiding taxation. Tax havens play a critical role in promoting tax avoidance and evasion and consequently undermine development in developing countries.

In respect to foreign investment, most companies view taxes as a cost and use their strong negotiation position to convince countries where they wish to invest to offer them favourable or lower tax rates. In so doing Multinational Corporations (MNCs) compel countries to compete with each other on lowering tax rates and increasingly developing countries have resorted to offering tax exemptions as a means of attracting investments into their countries. Such tax competition between countries has had negative consequences for international development and undermined economic development.

The low tariffs and exemptions result in limited tax revenues for governments and thus reduce the resources available for investments in public goods and services, like education, health care and infrastructure. In several countries this has caused a shift of the tax burden to less mobile factors of production like labour to maintain government revenues and consumption by increasing income taxes and value added tax.

The problems of African countries have further been complicated by the massive capital flight that far exceeds the cumulative official development aid they receive from the developed nations of the world. Capital flight also carries high costs for the people in terms of forgone domestic investment, lower tax revenues, reduced spending on public infrastructure, health and education. These adverse effects are further aggravated by continued payments to service the debt that was accumulated by dictatorial and often illegitimate African regimes.

The CRAFT Training Module 2 on The Taxation Chain is aimed at building the capacity of civil society groups to understand the role of international players in influencing domestic resource mobilization and give civil society groups the necessary information on how to influence national tax policies. It is intended to help the participants to:

- Build their capacity so as to understand issues of tax administration at the national, sub-regional, regional and global levels, including issues of tax leakages.
- Define the concept of tax avoidance, tax evasion, illicit financial flows, secrecy jurisdictions or tax haven, tax competition and tax expenditure.
- Understand the issue of capital flight, international corruption and the repatriation of stolen assets.
- Appreciate the influence of global forces and financial institutions on the national tax framework.
- Be equipped with information and policy analysis tools to enable them to effectively advocate on issues of taxation.

The main target for the training are civil society groups that focus on, or want to focus on, tax administration and tax policy analysis as a means of building their advocacy capacity so as to influence national tax policies and international financial institutions and MNCs so as to broaden the tax base for African countries.

Objectives of the Module

By the end of this module participants will be able to:

- Explain issues of tax administration and the challenges faced by tax authorities in their countries
- Explain the relationship between tax compliance, poverty and development
- Explain how tax leakages occur and analyse the concepts of tax exemptions and concessions, tax competition, tax holidays, tax haven, transfer pricing and how it can be addressed
- Analyse international corruption and money laundering and its effect on Africa's development and how such crimes can be fought.
- Identify the different institutions that influence the national tax policies of the different African countries.
- Conduct a power mapping so as to carry out advocacy on taxation.

Structure and Duration of the Training

The training will be structured in six (6) sessions, covering a range of topics and it is planned to last for four (4) days.

The Topics Covered in this Module include:

- Improving Tax Administration
- Tax Compliance and Tax Revenues
- Tax Leakages in East Africa

- International Corruption and Money Laundering
- The National Tax System and the Global Financial Architecture
- Carrying Out Effective Tax Justice Advocacy: Using the Power Analysis Tool

Training Methods

The facilitators will use different methods that enable adult learning and these will include:

- Lectures
- Brainstorming
- Group discussion
- Case studies
- Question and answer
- Plenary discussions

Training Materials

i. Black board/Flip chart
ii. Chalk and markers
iii. Masking tape
iv. Handouts (Notes and Case Studies)
v. Projector (where possible)

Evaluation of the Participants Learning

After every session, the facilitator will develop appropriate questions based on the notes provided to assess the participants learning. The Evaluation Questions provided in Module 1 could be used as a guide for the facilitator.

Session 1: Improving Tax Administration

In most African countries, there are several challenges facing tax administration that include corruption and inefficiencies. These contribute to huge losses for the State and reduced contributions from the private sector and individual tax payers. The session looks at the administration of taxation with a specific example of Uganda. It is intended to help the participants appreciate the challenges encountered in tax administration and how they can be addressed so as to promote voluntary tax compliance. The session will focus on the need to simplify tax policies and how to improve the structure of tax administration. Participants will also discuss the various mechanisms civil society groups can use to contribute to the reforming of the tax administration structure and promote greater transparency in tax administration.

Session Objectives

At the end of the session participants should be able to:

- Explain the relevance of having simplified tax policies
- Discuss the challenges in tax administration
- Explain mechanisms of how the tax administration structure can be made more efficient
- Identify areas that civil society groups need to work on in order to influence Tax Administration Reform

Step by Step Process

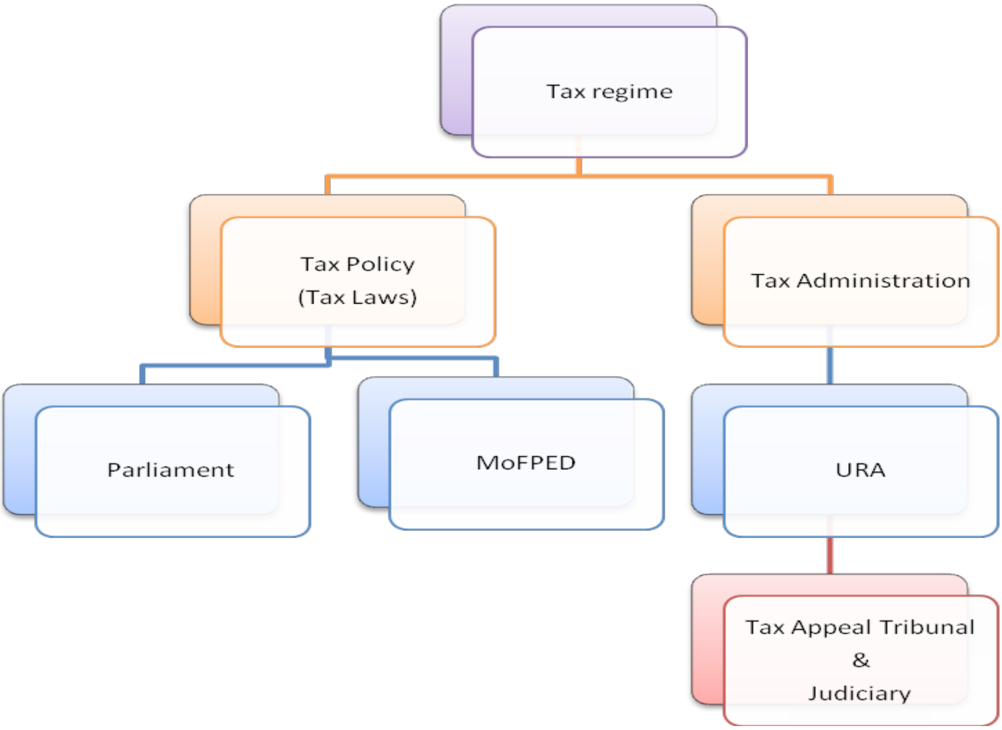
i. Introduce the session and relate it to the previous module by asking the participants to explain what they know about tax administration in Uganda.
ii. Brainstorm with the participants why in their opinion a country needs to have simplified tax policies
iii. Divide the participants and ask them to discuss why some people avoid or are reluctant to pay taxes and what measures can be put in place to improve tax administration in their country.
iv. Participants make their presentation to the plenary and the facilitator helps them to discuss how the structure of tax administration can be strengthened.
v. Conclude the session by discussing how civil society groups can contribute to the reforming of tax administration.

Duration: 90 minutes

Activity: Group Discussion, Brainstorming, Question and Answer

Facilitator's Notes

Figure 1: The Tax Regime in Uganda



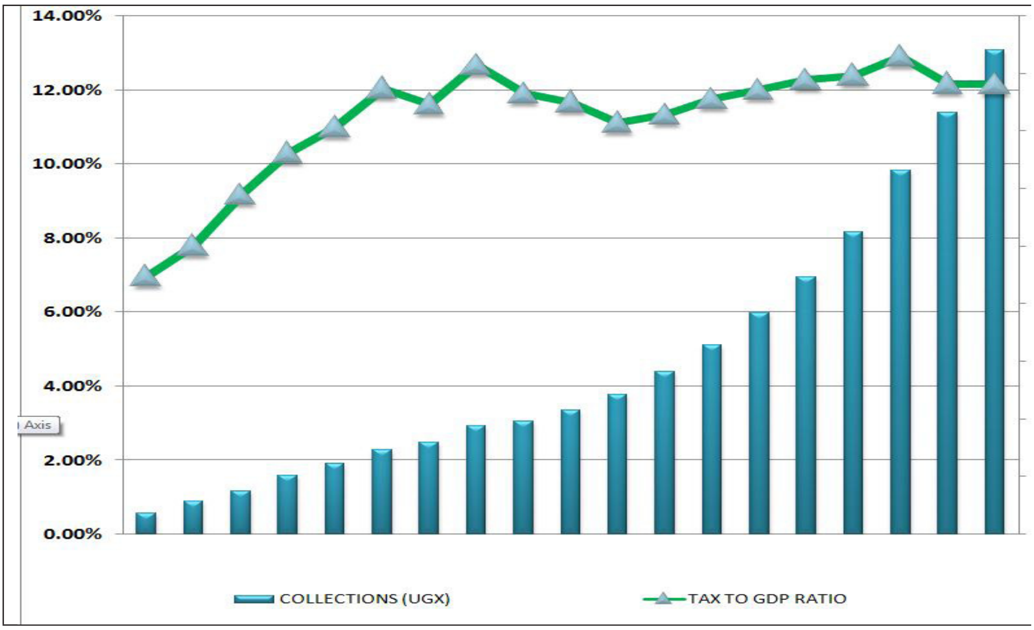
How is Uganda's Tax Policy Structured?

- All taxes are imposed by Acts of Parliament in accordance with Article 152 of the Constitution of the Republic of Uganda. There are various statutes and laws for imposing the different taxes that are enacted by Acts of the Parliament. These include:
  - The Uganda Revenue Authority Act Cap 196
  - Local Governments Act 1997 (for Local Government Revenues)
  - Income Tax Act Cap. 340 (for Income Tax)
  - East African Community Customs Management Act 2005 (for management of import duty)
  - Value Added Tax Act Cap.349 (for imposition and enforcement of VAT)
  - Stamp Duty Act Cap. 342 (imposing duty on various commercial and legal paper)
  - Excise Management Act 1970 (for collection of Excise Duty)
  - Traffic and Road Safety Act 1998, Cap.361 (for Motor vehicle licences & fees)
  - The Gaming and Pool Betting Act, Cap 292 1968
- Because of the complicated tax code, there is low voluntary compliance which increases tax administration costs and lowers the tax revenue. There is a high tendency of taxpayers to avoid and evade taxes in Uganda. Taxpayers are not able to meet their tax obligations within the stipulated period.

What is the state of Government Revenue in Uganda?

- Revenue growth in Uganda has been realized year after year for the last 20 years but the tax to GDP ratio has remained stagnant at 12%-13% for over ten (10) years.
- External budget support is declining as a result of the global financial crisis and reduction in donor funding to the national budget as a reaction the high levels of corruption in government and misuse of donor funds.
- There is a poor culture of tax compliance by the citizenry and a big informal sector which is outside the tax net. This contributes to a lot of tax leakage and revenue loss. Agriculture, which is the biggest employer and source of livelihood for the majority of Ugandans contributes very little by way of government revenue.
- Some of the existing tax incentives and exemptions offered by government results in tax leakages as opposed to attracting and encouraging investment.

Figure 2: Revenue and Tax to GDP(1991-2010)



Source: Uganda Revenue Authority

What is the Status of Tax Administration in Uganda?

- Collection of taxes in Uganda is generally problematic, riddled with rampant corruption and lack of transparency in the tax administration, leading to unchecked tax evasion. This is facilitated by the collusion of corrupt government officials, the staff of Uganda Revenue Authority (URA), some officers in the police force, and business persons. Furthermore, in practice, the tax laws are not uniformly enforced, thus promoting tax evasion by some wealthy and powerful groups.
- According to Transparency International East African Bribery Index 2010, the Uganda Revenue Authority (URA) was ranked as the fourth most corruption prone institution, out of 116 different institutions in the East African region. This result also indicated that the URA was

at the time the most corrupt institution in the country.

- Since 2004, when the government carried out a major restructuring of URA with the aim of rationalising functions and reducing leakages in tax administration, some changes have been made in terms of:
  - Improved tax collection although corruption is still rampant.
  - Introduction of ASYCUDA++ (Automated System for Customs Data) which has significantly reduced cheating by URA staff and recently ITAS (Integrated Tax Administration System) which is expected to reduce corruption in the Domestic Taxes Department.
  - The institution of modernization programmes and integrity enhancement projects throughout all structures of URA;
  - A code of conduct that has apparently contributed to improved tax collection;
  - Introduction of Tax Administration in the school curriculum and increased public information.
  - A call centre for purposes of reporting cases of corruption throughout the country.

Despite all these innovations and improvements, tax evasion is still widespread in Uganda and tax officers use the system to solicit for bribes from the tax payers. The complexity of the tax policies and the structure of tax administration collectively provide room for abuse of revenue collection in Uganda.

What are some of the challenges facing Tax Administration in Africa?

- The tax systems are still largely regressive. For example the Pay As You Earn (PAYE) threshold is very low and therefore unfair and most of the informal sector is out of the tax bracket.
- There is a lot of corruption on collection and use of tax revenues. Many citizens do not know how tax revenues collected are used and tax revenue collection is hard to project due to the prevalent corruption.
- There is inadequate knowledge and appreciation of tax issues among CSOs and limited linkage with tax bodies.
- The media reports focus largely on government expenditure and corruption but not tax collection. A lot of work has been done to educate and build capacity of media on tax justice but this has not been systematic and it is therefore not easy to measure how many journalists are conversant on tax justice issues.
- In countries with federal system of government, citizens pay different amounts of taxes at different levels which is a challenge to businesses in those States.
- In some countries there are no procedural ways of collecting taxes from informal sector workers hence few people employed in the formal sector pay the bulk of taxes.
- There are several cases where organizations do not remit taxes collected because of corruption in tax collection institutions.
- There are times when employees in the formal sector pretend to be ‘consultants’ in order to evade taxes and sometimes exemptions are done without clarity.

Why do we need simplified Tax Policies?

- Taxes are most easily administered when they have a tax base that is easy to identify and a tax rate that is easily determined.

- Simplification not only eases enforcement, but also encourages voluntary compliance. For example, eliminating demands for unnecessary information on tax returns may make it more likely that taxpayers will file returns promptly and accurately.
- Tax policies need to balance the goals of simplicity and efficiency against other policy imperatives, such as distributing the tax burden equitably across the population.

What issues need to be addressed to promote efficiency in Tax Administration?

1. Tax Base — A Tax base is the amount or value upon which the assessment or determination of a tax liability is based or the range of assets and transactions that a country chooses to tax. For example, the amount of income declared for tax purposes is the tax base for income tax, while for excise taxes and VAT, the tax base is the ex-factory price of the commodity. In order to levy a tax, the tax administrator or revenue authority must be able to identify the tax base and assign it an accurate value. This requires the tax administration to have sufficient skilled personnel and well-developed information management systems together with a conducive political environment. A broad tax base will include a wide range of assets and transactions, while a narrow tax base will have relatively few transactions. When an excise tax is levied on a per-item basis, it is relatively easy to administer; in comparison to levying a comprehensive income tax. Similarly when certain items or activities are exempted from paying taxes, the tax base will not only be narrowed but the administration of the tax will be made more complicated. Tax exemptions should therefore be applied with caution and limited to cases where they can be clearly defined and identified with the aim of meeting specific policy goals. It should be noted that if a country's potential revenue sources are concentrated in the hands of a small number of wealthy people, they may use their economic and political power to avoid paying their fair share of taxes.

2. Tax Rates — In certain circumstances, using multiple rates can pose administrative challenges. For instance, different rates for different types of income (such as capital and labor) or different products (under a VAT) can encourage taxpayers to reclassify or misclassify their income or products in order to take advantage of lower rates. Similarly, pushing tax rates up to very high levels can create incentives for tax evasion, increasing enforcement problems.

3. Tax Mix — Finding the right mix of taxes is important, because the more different types of taxes levied by the tax administrators, the more complicated and costly it can be to collect a given amount of revenue, all other things being constant. By concentrating its efforts on a smaller range of taxes, a tax authority can keep its costs down. However, relying on fewer taxes can also be problematic, making revenues collections more susceptible to shocks, for example if there is heavy reliance on income taxes, government revenue could be greatly affected in a recession. The tax mix should therefore be decided upon by taking into consideration issues of social justice and equity.

4. Tax Thresholds — Raising tax thresholds reduces the number of taxpayers, and thereby eases administrative burdens. Often, it is possible to increase the threshold without significantly reducing revenues, since large taxpayers well above the threshold pay the bulk of taxes. In this case, equity and administrative simplicity frequently go together, since raising tax thresholds may also exempt more of the poor from taxation and reduce on the costs of tax administration.

5. Enforcement of the Tax Laws - Failure to enforce the tax laws even-handedly by the tax administrator may not only make taxpayers less inclined to comply with the tax code, but also reduce the credibility of the government as a whole and potentially weaken its ability to perform and effectively deliver services to the public.

How can Tax Administration be improved?

Provide more Autonomy - Creation of an independent revenue agency with considerable autonomy could ease tax administration, so long as such an agency is constituted outside the civil service, as a means of avoiding undue political interference and patronage problems. The risk, however, may be that too much autonomy could weaken the tax administration's accountability to elected representatives and the general public.

Establish Large Taxpayer Units - Many developing countries have established Large Taxpayer Units (LTUs) within their tax administration to monitor the activities of taxpayers who pay a significant share of total taxes. Such taxpayers usually pose special challenges for tax administrators due to the complexity of their financial affairs and the creation of an LTU could help the tax administration to target its resources effectively and demonstrate its commitment to ensuring compliance among the large taxpayers.

Improve Information Technology - New technologies can improve the ability of tax administration to process and verify information. Information Technology (IT) systems permit tax data to be easily collected, aggregated and organized in a way that can shed light on issues of concern and be readily available to various stakeholders, including policymakers and civil society groups. Successful computerization, however, requires the addressing of several other institutional challenges in order for it to lead to lasting performance improvements within the agency.

Increase Transparency and Accountability - The task of the tax administration has as much to do with encouraging voluntary compliance as enforcing the tax law. Tax administration can boost compliance through outreach efforts for instance, by providing information on tax laws and procedures and by making tax personnel more available to answer tax related questions. Since voluntary compliance is promoted by expectations of fair and equitable treatment, and is discouraged by the perception that the wealthy and powerful taxpayers are making back-room deals with tax collectors, transparency in the collection and spending of tax revenue is likely to improve voluntary compliance.

How can Civil Society influence Tax Administration Reform?

Civil society involvement in tax administration is critical in reinforcing the social contract between the government and its citizens. CSOs can also promote public awareness so that tax compliance is enhanced and governments are able to raise revenue to enable them provide essential public services. This can be done by:

i. Highlighting the tax administration challenges and proposing areas for improvement in the operations of the tax administration or describing mechanisms that have been adopted by other countries facing similar challenges.
ii. Producing a citizen's revenue guide to broaden people's understanding of their country's tax

systems and to inform tax debates. The guide could discuss any recent changes in the tax administration and whether the administration follows any specific rules or codes of conduct.

iii. Examining the country's tax thresholds and assessing whether they are appropriate given the administrative concerns and the fulfillment of the equity goals.
iv. Calling attention to tax issues surrounding multinational corporations and considering joining international campaigns that pressure large multinationals to comply with local tax codes.
v. Advocating for greater transparency in tax administration and improvement in the type and quality of information released by tax agencies.

Session 2 Tax Compliance and Tax Revenues

In this session the participants will analyse tax compliance and its impact on the Tax Gap and they will be exposed to the various ways in which taxpayers and particularly companies use the loopholes within the law to avoid paying the taxes they are supposed to pay. They will also study how corruption within the tax administration structures exacerbates tax evasion.

Session Objectives

At the end of the session participants should be able to:

- Define the concept of tax compliance and the effects of non compliance
- Explain the Tax Gap and its causes
- Analyze tax avoidance and evasion and their causes
- Explain the relationship between tax compliance, poverty and development
- Identify measures that could be applied by civil society groups to address the vice of tax evasion

Step by Step Process

i. Introduce the session and relate it to the previous module by asking the participants the relevance of taxation.
ii. Ask the participants what they understand by the term tax compliance and tax non compliance and its effect on tax revenues
iii. Share with the participants the case study on Tax Avoidance Using 'Creative Accounting', discuss the key issues in the study and explain tax avoidance and tax evasion
iv. Assist the participants to make a relationship between tax policy and tax administration and how it is used to promote tax evasion
v. Conclude the session with a discussion on how civil society groups can work together to address tax evasion.

Duration: 90 minutes
Activity: Brainstorming, Question and Answer, Case Study Discussions and Lecture

Facilitator's Notes

What is Tax Payer Compliance?

- Tax compliance refers to the act of paying the correct amount of tax, at the right time and in the country or jurisdiction where the economic activity that generates a taxable income or profit actually occurs.

- Tax compliance goes hand in hand with the company's commitment to corporate social responsibility.
- Taxpayer compliance is usually as a result of payment compliance; filing compliance; and reporting compliance.
    - Payment compliance or underpayment occurs when taxpayers file their return but fail to remit the amount due by the payment due date.
    - Filing compliance or no filing occurs when taxpayers who are required to file a return do not do so on time.
    - Reporting compliance or underreporting of tax occurs when taxpayers either understate their income or overstate their deductions, exemptions and credits on timely filed returns.

What is Tax Noncompliance?

- Tax noncompliance is when individuals or companies engage in a range of activities that are unfavorable to a state's tax system so as to avoid or evade tax payment.
- Since taxation is often perceived as burdensome, governments always encounter problems with tax noncompliance. For instance taxpayers may not declare their gross income as it increases or simply refuse to pay their taxes on the ground that they are being unfairly treated.
- Those individuals who believe they are treated unfairly by the tax system are more likely to evade taxes, but if a government imposes high penalty rates and there is a high probability of detection, such tendencies of tax evasion could be discouraged.
- Groups that do not comply with payment of taxes include tax protesters who attempt to evade the payment of tax using frivolous interpretations of tax laws and tax resisters that refuse to pay taxes for conscientious reasons or simply because they do not want to support the government or some of its activities.
- Tax resisters typically do not take the position that the tax laws are themselves illegal or do not apply to them but they are more concerned with not paying for particular government policies that they are opposed to.

Figure 3: Why are some people reluctant to pay or avoid paying taxes?

- Ignorance on the part of taxpayers – "What are taxes and why should I pay?"
- Some people feel they are already over taxed anyway (in terms of levies and user fees, market dues etc.) – "So why should I pay more than I'm already paying?"
- The perceived complexity of the tax system – Even when the tax system is simplified many people believe tax matters are complicated.
- Lack of accountability for what was collected in the previous years – "I do not see where the money that was taken from me went".
- Perceived inequity of the tax system – "Why should I pay when so and so is not paying".
- "What do I get back in return when I pay?" – In terms of service delivery, hospitals, schools, security, roads, etc.
- Lack of fairness of the penalty system – At times the penalty given by the tax administrators is seen as too punitive hence a barrier to entry into the tax system.
- The low levels of integrity and professionalism of some of the tax administration staff – "There is too much corruption among the tax collectors"

What are the effects of Tax Non-Compliance?

- High-income individuals and businesses are more likely to have the flexibility to structure their finances in ways that minimize the taxes that they owe, and they can better afford the services of lawyers and accountants who advise on tax-sheltering strategies. Since the wealthy cannot be effectively taxed, this is likely to reduce overall government revenue levels, which may as a result limit the resources available for spending on anti-poverty programmes.
- In some cases, wealthier members of society may simply be better positioned to bribe the tax collector and evade payment of taxes and as a result shift the burden of supporting government programs on the people that are less well-off.

What is a Tax Gap?

- A tax gap is defined as the amount of tax liability faced by taxpayers that is not paid on time, thus causing a difference between the amount of tax revenue expected by the government and the actual amount that is collected.
- This difference is mainly caused by tax evasion and tax avoidance which could have been as a result of failure to comply with the tax payment, filing or reporting on time.
- A tax gap is brought about by underreporting of income tax, employment taxes and other taxes, and understating individual incomes, making improper deductions, overstating business expenses and erroneously claiming credits.
- In order to assess the tax gap one requires detailed income, expenditure, and tax data derived from national accounts and surveys. When such detailed information is not available, other indicators could be used to diagnose the general effectiveness and integrity of the tax administration.

Case Study 1: Tax Avoidance Using ‘Creative Accounting’

For 23 years Exxon paid no income taxes for the exploitation of the Disputadas de las Condes copper mine in Chile. Year after year Exxon declared losses, thanks to ‘financial engineering’ techniques.

The cover-up operation was carried out via several methods. One consisted of writing off the interest on a loan as expenses – a loan that it had granted itself through a subsidiary registered in a tax haven (the widespread ‘thin capitalisation’ practise). On top of this, the company carried forward losses, making use of very permissive legislation. Of the total expenses that it declared, only 58 per cent corresponded to mining activity. The rest were financial expenses, depreciation, and indirect costs.

This is not an example of tax fraud – it illustrates the limitations of local institutions in monitoring avoidance, a situation made more serious by an international context that creates let-out clauses and incentivises poor corporate practices.

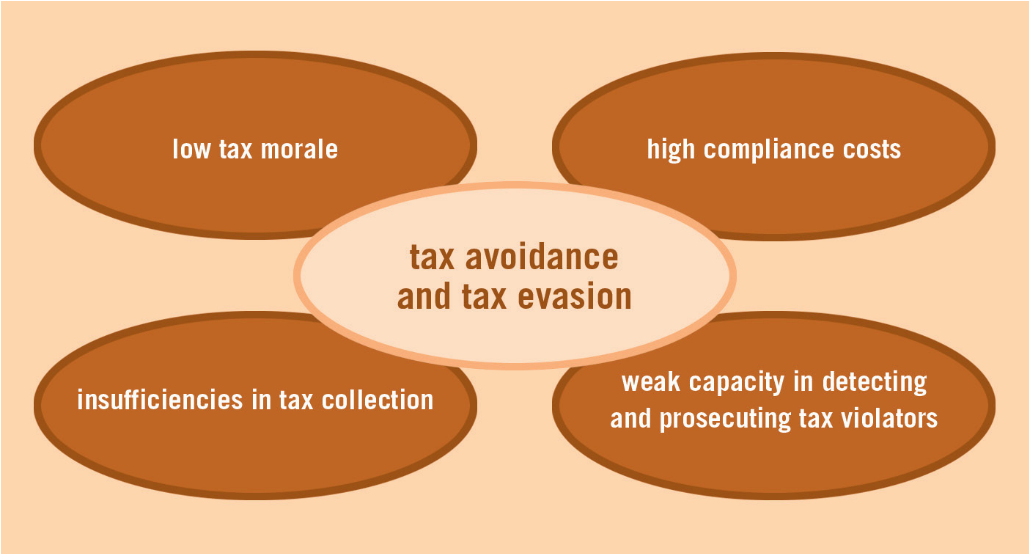
It should be emphasised that this situation also affects developed countries. ExxonMobil Spain, for example, benefited from a completely legal special tax regime whereby it paid zero tax on its profits of £10bn over the period 2008–09 (Jiménez 2011).

Source: Owning Development, Oxfam Research Report, September 2011

What is Tax Avoidance?

- Tax avoidance is the legal utilization of the tax regime to one's own advantage, to reduce the amount of tax that is payable by means that are within the law. Tax avoidance reduces tax liabilities through legal means like taking advantage of tax rate differentials and "loopholes" in the tax code.
- Taxpayers have the right to take full advantage of legally available tax breaks and they can avoid knowingly paying the taxes that are due, by effectively arranging their books or transactions in such a way that they pay less taxes than what they are supposed to pay.
- Taxpayers may shift assets and profits to low-tax foreign jurisdictions, redefine income in a form that is subject to preferential tax treatment, or allocate income to other taxpayers with lower tax rates.
- While these types of schemes may be technically legal, aggressive tax avoidance violates the spirit of the law by exploiting unintended loopholes and tax avoidance can easily cross over into tax evasion, or the illegal non-payment or under-payment of taxes.

Figure 4: Tax Avoidance Vs Tax Evasion



What is Tax Evasion?

- Tax evasion is the act of reducing tax liabilities by illegal or fraudulent means. It usually entails taxpayers deliberately misrepresenting or concealing the true status of their business or financial affairs to the tax authorities to reduce their tax liability, and includes, in particular, dishonest tax reporting such as declaring less income, profits or gains than actually earned; or overstating deductions.
- Every type of tax has its own evasion problems for example, under an income tax, individual and corporate taxpayers may underreport income (or fail to report it altogether) and claim larger-than-allowed deductions. Under a VAT, businesses may fail to register with the tax authority, but still charge their customers VAT on their purchases and retain the receipts. Excise and trade taxes can be evaded through smuggling.

- Tax evasion in direct and indirect taxes decreases tax revenue hence weakening the distributive role of the tax system and distorts the allocation of resources towards less productive activities in the economy, and consequently, undermines the fiscal and monetary policies of the nation.
- Tax evasion is a violation of the tax law, which makes the taxpayer liable to administrative or legal actions from the authorities.

Figure 5: Tax avoidance and evasion and their causes

Tax Avoidance	Tax Evasion
Legitimate	Illegal
Disclosure	Concealment
Tax deductions, change of business structure	Misrepresentation, dishonest reporting
Profit Shifting · Pricing of intercompany tangible goods transactions/ barter trade · Increase in intercompany debt · Location of central services and intangible assets Bargaining for tax incentives	Non-declaration of financial assets in offshore financial accounts Trade Mispricing VAT fraud · Missing trader fraud · Misclassification of goods · Smuggling of goods Bribing tax officials Abuse of tax incentives by falsely claiming eligibility

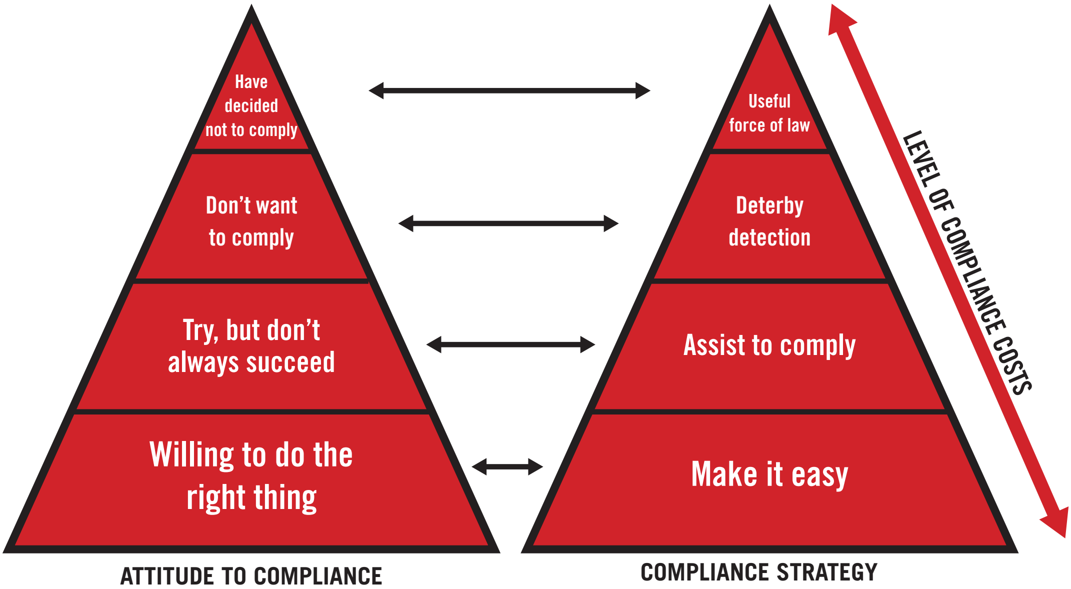
How can Tax Policy and Tax Administration lead to Tax Evasion?

Tax compliance and the amount of revenue collected are determined by the government tax policies and how they are implemented. Below are different scenarios that could hinder tax compliance and create room for tax evasion:

- There are many more small businesses than the big ones, and on average they pay much less in taxes than the big businesses do. In addition, small businesses tend to have a short life span, and many of them neither register with the tax administration nor keep extensive records. All of this makes it difficult for a tax administration to monitor small businesses in a systematic manner.
- In trying to comply with the tax laws, small businesses often spend proportionally more time and resources on this task than big businesses do and governments often exempt small businesses from some taxes altogether. For instance, countries with a VAT typically set a minimum threshold (usually based on total receipts) below which businesses are exempt from registering for the VAT.
- At times governments impose presumptive taxes where taxes are assessed on the basis of the type of business or the number of employees, rather than the business' actual income. Presumptive taxes are easier to administer and easier for businesses to comply with, since the tax payers are not required to maintain complex records. A disadvantage is that presumptive taxes may be perceived as unfair since they do not take into account that there can be large differences in income even among similar businesses.
- The existence of tax havens around the world helps wealthy individuals and multinational companies, as well as criminals and corrupt leaders move their wealth and profits offshore

to avoid paying tax. MNCs avoid taxes by what Tax Justice Network has described as "profit laundering," whereby businesses move profits out of the countries in which they were earned, into shell or holding companies registered in overseas tax havens.

Figure 6: What Strategies can be used to Enforce Tax Compliance?



The tax administrators or authorities should devise different strategies in order to enforce tax compliance for different taxpayers. For example:

a) Make it easy for taxpayers that are willing to do the right thing and facilitate them to pay.
b) Assist taxpayers to pay their taxes, if they are trying to comply but are being frustrated by the tax system.
c) Deter those taxpayers that do not want to comply by increasing your detection capacity and ensure that they pay their taxes.
d) Use the full force of the law on those taxpayers that deliberately evade paying their taxes.

What is the relationship between Tax Evasion and Corruption in Tax Administration?

- Tax evasion is often promoted by corrupt tax officials in the tax administration bodies who upon the discovery of an evasion case decide whether to report it and impose a penalty or not. Their decision largely depends on the incentive structure they are working with. In some instances the tax collectors underreport the evasion and obtain a bribe from the tax payer on top of their salary. In case they are caught, they are punished in the form of a fine, transfer to another assignment or, at worst, dismissal from office.
- However the probability that these errant tax collectors get caught is dependent on the quality of supervision over tax examiners and third party audit, which is largely lacking in most African countries. In circumstances where tax collectors report the tax evaders successfully and are allowed to retain, as a reward or bonus, some portion of the additional revenue that is

generated because of their vigilance, their decision will be dependent on the relative strength of the amount of the bribe, or the amount of the reward or bonus or the amount of the fine or penalty and the probability of being caught.

- In the situation where a taxpayer decides to evade taxes by some amount, corruption will occur if both the taxpayer and the tax collector are likely to benefit. Usually in a corrupt regime, the taxpayer will select the amount of tax to evade while the tax collector will select the effort devoted to monitoring visa vis the probability of detecting the evasion and get rewarded with a bribe.

What can CSOs do to Address Tax Evasion?

In order to address tax evasion, civil society groups need to draw public attention to the environment that permits tax evasion and carry out extensive research on the operations of MNCs and advocate for the:

- Simplification of tax policies and systems so as to limit the loopholes used to avoid payment of taxes.
- Establishment of clear standards for tax payments, including publishing all necessary accounting information by individuals, different businesses and companies;
- Shunning of profit-laundering mechanisms that are used by MNCs without substantial economic purpose but solely to reduce taxes;
- Listing of every country in which a particular MNC operates, showing how much profit is derived from activities in each of these countries, and providing a clear statement of where these profits are booked for tax purposes, that is, Country-by-Country reporting.

Session 3 Tax Leakages in East Africa

In this session the participants will look at tax leakages and how they affect the revenue obtained by governments in East Africa. They will be exposed to mechanisms used by international corporations to reduce their tax burden by taking advantage of existing tax breaks and other tax-sheltering schemes provided under the law. They will also analyse how tax dodging perpetuates extreme poverty in Africa and creates serious economic distortions that hinder sound investment decisions in economies where the practice is predominant.

Objectives

At the end of the session participants should be able to:

- Define the concept of tax leakages and their effect on tax revenues
- Explain how tax leakages occur, sources of tax leakages and how these tendencies can be reduced
- Analyse the concept of tax exemptions and concessions, tax competition, tax holidays, tax haven, transfer pricing and how it can be addressed
- Discuss the advantages and disadvantages of tax exemptions and concessions

Step by Step Process

i. Introduce the session with a review of the previous session on tax avoidance and tax evasion.
ii. Brainstorm with the participants on what they understand by tax leakages
iii. Divide the participants in groups and give them the two case studies on Revenue Loss as a Result of Tax Incentives in East Africa and Transfer pricing abuse in Ghana
iv. Ask the participants to discuss in their groups some of the causes for tax leakages in the two case studies
v. Reconvene and ask the different groups to make their presentations
vi. Enrich the discussion by giving more explanation and highlighting those areas that have been left out by the participants.
vii. Conclude the session with a discussion on the strategies on reducing tax leakages

Duration: 120 minutes

Activity: Brainstorming, Question and Answer, Case Study Discussions and Lecture

Facilitator's Notes

What is a Tax Leakage?

Tax leakage refers to losses of revenue through several loopholes in the tax and financial system. It is a situation where tax income due to government is lost, reduced or foregone through unpaid taxes, savings and imports. Revenue leakage may in some cases be caused by political interference in the tax administration, technical deficiency of tax collectors, lack of adequate public education for tax payers to understand the tax process, unwillingness of the tax payers to voluntarily pay the tax or too many different taxes required to be paid causing a tax fatigue for the taxpayers.

What causes Tax Revenue Leakage?

A lot of tax revenue is lost through tax incentives that are provided unnecessarily by African governments to attract foreign investment or MNCs into their countries. A tax incentive is a deduction, exclusion or exemption from a tax liability, offered as an enticement to engage in a specified activity such as investment in capital goods for a certain period. Tax incentives are the fiscal form of investment incentives and include corporate income tax holidays and reductions in tax rates. Non-fiscal or non-tax incentives include direct subsidies like government grants, loans and guarantees for target projects. Tax incentives are granted to attract FDI and/or to promote specific economic policies, such as to encourage investment in certain sectors. These incentives include:

Corporate income tax incentives

- Tax holidays or reduced tax rates
- Tax credits
- Investment allowances
- Accelerated depreciation
- Reinvestment or expansion allowances

Other tax incentives

- Exemption from or reduction of withholding taxes
- Exemption from import tariffs
- Exemption from export duties
- Exemption from sales, wage income or property taxes
- Reduction of social security contributions

Financial and regulatory incentives

- Subsidised financing
- Grants or loan guarantees
- Provision of infrastructure, training
- Preferential access to government contracts
- Protection from import competition
- Subsidised delivery of goods and services
- Derogation from regulatory rules and standards
- Reinvestment or expansion allowances

Case Study 1: Revenue Loss as a Result of Tax Incentives in East Africa

Tax exemptions and incentives entail very significant revenue losses in East Africa. The main beneficiaries are foreign investors, while the principal losers as a result of revenue losses are the general population and the country as a whole.

In Tanzania, revenue losses from all tax exemptions and incentives were as high as TShs 1.8 trillion (US$1.44billion) in 2008 – amounting to 6% of GDP – while the minimum revenue loss from tax incentives granted to companies alone was around TShs 381 billion (US$266 million) a year (for the years 2008/09–2009/10).

In Kenya, the government recently estimated revenue losses from all tax exemptions and incentives at KShs 100 billion (US$1.1 billion) a year. This would amount to around 3.1% of GDP. Of these, trade-related tax incentives were at least KShs 12 billion (US$133 million) in 2007/08 and may have been as high as US$566.9 million.

In Uganda, the ADB estimates that losses from tax incentives and exemptions are “at least 2%” of GDP. This amounts to around UShs 690 billion (US$272 million) in 2009/10.

In Rwanda, it is estimated that revenue losses from tax incentives as Rwf 94 billion (US$156 million) in 2008 and Rwf 141 billion (US$234 million) in 2009. These were the equivalent of 3.6% of GDP in 2008 and 4.7% of GDP in 2009.

Source:Tax Competition in East Africa: A Race to the Bottom? Actionaid and TJN-A, April 2012

i. What are some of the consequences of Tax Exemptions and Tax concessions?

- Tax exemptions and concessions are incentives given by government in form of tax waivers, low tax rates or it is a special provision given to a firm not to pay a tax that it would otherwise owe. In most cases these tax exemptions spread on to the earned company incomes and profits.
- Tax concessions are more often granted to foreign investors and many of these are usually negotiated exclusively between MNCs and government ministers with little citizen or parliamentary consultation, such as the oil extraction contracts in Uganda.
- Exemptions have racketing effects and are hard to reverse once in place because they create complex political economy incentives around their applications. In addition, the pressure from developed countries through bilateral tax agreements, prompt revenue losses for the developing countries since they are negotiated by the representative companies of the rich countries and the direct beneficiaries are the developed countries.
- In Uganda, oil exploration activities led to major discoveries in the Lake Albert basin in Western part of the country in 2006. To date the full picture of the tax incentives offered in the oil sector is not known since the government has refused to make public the Production Sharing Agreements (PSA) it has signed with the oil companies, which include Heritage, Tullow, Dominion and Tower Resources. Some parts of the existing PSAs that have been leaked to the public include sweeping “stabilisation clauses” which protect companies from increases in taxes for the 20 years duration of the agreements. Some estimates are that the government will earn large revenues from oil – perhaps around US$2 billion a year, yet

analysis by NGOs is that earnings will not be as much as the government claims, and that the principal beneficiaries will be the oil companies. The government could however earn much more money from the oil by improving the fiscal terms of the agreements.

ii What is Tax Competition?

- Tax competition is when the government lowers the fiscal burdens to either encourage the inflow of productive resources or discourage the exodus of those resources. Fiscal incentives imposed in one country can lead to tax competition among countries, leading to a phenomenon known as a 'race to the bottom'. Tax competition can occur when firms are able to locate their operations to countries where tax rates are lowest, thereby encouraging other countries to lower their tax rates in order to retain and attract dynamic firms and able workers or high value human resources. By minimizing the overall taxation level or by giving special tax preferences to corporations and individuals governments are able to create a comparative advantage for the benefiting company.
- Economic and Finance Ministers in the European Union have defined harmful tax competition as including factors such as: "having an effective level of taxation which is significantly lower than the general level of taxation in the country concerned; the presence of tax benefit categories reserved for non-residents; tax incentives for activities which are isolated from the domestic economy and therefore have no impact on the national tax base"1.
- Tax competition can make it difficult for counties to maintain the desired tax rates for fear that if they fail to lower tax rates or provide special tax incentives, they will lose foreign investment to neighboring countries that are offering such inducements. As developing countries compete for foreign investment, multinational corporations are able to demand favorable tax treatment as a condition for investing in a country. The end result of such "tax competition" is that all of the countries involved erode their tax bases and deprive their budgets of much needed revenues for development.
- There is ample evidence, however, to suggest that tax incentives are of questionable value in attracting foreign investment. These incentives tend to benefit the investors who are able to pay their workers better given the lower taxation levels offered to the corporation, but in reality they have minimal impact in influencing the investor's decision to invest in a particular country or not. Other than the tax incentives, most investors are more concerned about the political and economic stability, transparency of the legal and regulatory systems, and a skilled workforce and whether the country's tax system is in line with international norms.
- Kenya, Uganda, Tanzania and Rwanda are losing $2.8 billion each year through their use of tax incentives such as tax holidays for foreign businesses and these are promoting harmful tax competition in the region.[2] Tax rate disparities in the EAC have encouraged illicit trade, complicated operational systems for companies wishing to carry out business within the region and slowed down the integration process.
- With globalization it is becoming harder for governments to impose higher taxes, because it is increasingly easy for MNCs to shift their productive activities to lower tax environments.

iii What are some of the Tax Incentives offered in the Export Processing Zones (EPZs)?

- A free trade zone is a demarcated territory within a country where the assembly, storage,

1 Petersen et al, 'Tax Systems and Tax Harmonization in the East African Community (EAC), p. 22
2 Tax Competition in East Africa: A Race to the Bottom? Action aid and TJN-A, April 2012

and distribution of merchandise is allowed with certain tax benefits, such as non-payment of import duties on merchandise or the waiving of certain taxes while the goods remain within this zone.

- In several developing countries, like Kenya, governments have initiated Export Processing Zones (EPZs) in order to attract Foreign Direct Investment (FDI) and turn their countries into export based economies. The zones are also intended to create jobs for the growing numbers of the unemployed, lead to technology transfer and create linkages between domestic producers and exporters.
- Companies located in the zones are entitled to numerous tax incentives and in the case of Kenya, these include:
    - A 10- year corporate tax holiday, followed by a 25% rate (compared to the standard 30%) for the next 10 years
    - A 10 year exemption from all withholding taxes
    - Exemption from import duties on machinery, raw materials and inputs
    - Exemption from stamp duty and value added tax (VAT) on raw materials, machinery and other inputs
- Kenya's system of 'Manufacturing Under Bond", introduced in 1986, encourages investors to manufacture for export, and offers:
    - Exemption from duty and VAT on imported plant, machinery, equipment, raw materials and other inputs.
    - 100% investment allowance on plant, machinery, equipment and buildings
    - Exemption of the products from export taxes and levies
- The Tax Remission for Exports Office (TREO) encourages domestic manufacturers to export, and offers:
    - Remission of import duty and VAT on raw materials used in the manufacture of export goods.
    - Remission of excise duty on fuel and kerosene

Case Study 2: Kenya's Narrow Tax Base

Reducing Tax incentives would expand the tax base in Kenya, which is currently narrow. Kenya has relatively efficient tax collection – taxes bring in 19% of GDP, compared to 17.3% in Tanzania and 11.8% in Uganda. Yet the tax base could still be substantially widened, and not only from reducing incentives. A parliamentary report notes that bringing the informal economy – which accounts for around 80% of the work force – into the tax net could increase the tax base by over Kshs 79 billion (US$ 873 million). The challenge is to enlarge the net of the taxed public in a manner that is equitable and transparent, especially since the wealthy are often able to use tax avoidance schemes.

One big impediment is that many people evade paying taxes because the benefit is not instantly visible and the government is perceived as corrupt. Most micro and small enterprises evade taxes simply because they can – the KRA lacks the capacity to follow up on each eligible tax payer, particularly those in the informal sector. The high administrative burdens of paying tax in Kenya also contribute to sub-optimal revenue collection. According to the World Bank, firms have to make 41 different tax payments a year (compared to an average of 37 in sub-Saharan Africa and 13 in the OCED), and spend 393 hours a year compiling and paying tax returns (compared to 318 in sub-Saharan Africa and 186 in OECD). These administrative burdens should be reduced alongside the country's generous tax incentives.

Source: Tax Competition in East Africa, A Race to the Bottom? Tax incentives and Revenue Losses in Kenya, TJN-A and ActionAid International, 2012

Questions for Discussion

i. What are some of the challenges facing Kenya's Tax system?
ii. How can Kenya improve its tax base?
iii. Why do people avoid paying taxes?
iv. What are some of the tax avoidance schemes used to evade taxes in developing countries like Kenya?

Other Tax Incentives and Exemptions

In Kenya there are various tax incentives provided under the Income Tax Act, the most significant of which in terms of revenue losses are the Wear and Tear Allowance and the Investment Deduction Allowance

- The Wear and Tear Allowance is a form of capital allowance (or an allowable deduction) on the depreciation of goods such as tractors, computers and motor vehicles and is calculated on the remainder of expenditure after the investment deduction allowance has been claimed.
- The Investment Deduction Allowance (IDA) is an allowance on company expenditure on building and machinery used for 'manufacture under bond', calculated as a percentage of the expenditure.
- The Mining Deduction Allowance provides for an allowance for expenditure incurred by mining companies equal to 40% of that expenditure in the first year and 10% in the following six years. This includes exploration, discovery and testing of minerals, and acquiring new rights over deposits.
- The Farm Works Allowance allows owners or tenants of agricultural land a capital allowance on expenditure on the construction of farm works and the Industrial Building Allowance allows businesses a capital allowance on the construction of industrial buildings.
- Capital Gains Tax, which was introduced in 1975, was suspended in 1985 on both land and company equity. The suspension was reportedly as a result of lobbying by some politically influential individuals who at the height of public land grabbing in the 1980s wanted to transfer these properties without paying taxes.
- The VAT Act also provides for various tax exemptions. Section 23 allows the Finance Minister to remit taxes payable on any goods or services if he or she is satisfied that it is in the public interest to do so. The Eighth Schedule provides for zero rating of various goods and services.

iv. What are Tax Holidays and how do they disadvantage a country's tax base?

- Tax holidays are a temporary reduction or exemption from tax for companies which are frequently used to attract foreign direct investment (FDI) and justified on the grounds of the high-risk premium incurred when investing in less developed, yet resource-rich African countries.
- Tax holidays are used to promote investment based on zero taxation over a period of time, whereby profits are exempt from tax regardless of their size and there is usually a risk of favouring investors who expect high returns and who would have made the investment anyway, without the incentive of the tax holiday. With economic globalization there has been increased pressure on African governments to provide tax subsidies to attract investors into their countries and in September 2010, the Uganda Investment Authority (UIA) released a list of 300 investors who had benefited from government tax holidays and incentives.
- Tax holidays are a form of 'tax expenditure' since the State uses public finances to attract

businesses and individuals to its territory and this tax expenditure significantly reduces revenues available for public service provision. The amount of tax revenue lost as a result of tax breaks, as well as the corporations' reliance on stock piling their money in tax havens limits the financing of poverty reduction programmes in developing countries and meeting the United Nation's (UN) Millennium Development Goals (MDGs).

- Uganda provides fewer tax incentives than Kenya or Tanzania but still offers a range of tax incentives, such as import duty and stamp duty exemptions, for companies exporting. It also offers corporate income tax holidays for certain categories of businesses, such as companies engaged in agro-processing and those exporting finished consumer and capital goods.
- As a result, every year Uganda sacrifices an amount equal to nearly twice its entire health budget due to its use of tax incentives such as tax holidays for foreign businesses. Worse still, research shows that these incentives are not necessary to attract investments to Uganda and therefore government needs to remove excessive tax incentives, promote transparency on the tax incentives they give, and coordinate with neighbouring countries in the East African Community to avoid harmful tax competition[3].
- Although the duration of a tax holiday is limited by law, it is susceptible to abuse. Companies can creatively redesign their investments so as to continue enjoying a tax holiday, for example by closing a company and reopening the same project with a different name but the same owners. A tax holiday may be an incentive to tax dodging whereby companies that are not eligible for a tax holiday may engage in financial transactions with exempted companies solely in order to transfer profits from the former to the latter and avoid paying tax on that profit.
- Unfortunately Tax incentives tend to favour elite private investors who actually have adequate own capital. In some cases, incentives are a waste of the much needed resources for development purposes, since many of the foreign companies could still invest without them. Some investments that are able make a quick profit and are benefiting from these temporary tax holidays tend to be more mobile and often move out of the country after the tax holiday has ended. If the tax holiday is extended in an effort to retain these investments, the revenue loss from the tax break grows astronomically and where incentives have been selectively granted, sectors that consider themselves excluded will agitate for inclusion, thus widening the incentives further. It should be noted that once incentives are provided, they are politically difficult to remove.

Disadvantages with Tax Incentives

There are several disadvantages with tax incentives and these greatly outweigh the advantages often advanced by the governments and the investors. In a recent IMF report, it is argued that incentives:

- Could result in a loss of current and future tax revenue
- Could create differences in effective tax rates and thus distortions between activities that are subsidized and those that are not
- Could require large administrative resources
- Could result in rent-seeking and other undesirable activities
- Could in the case of income tax holidays, be a particularly ineffective way of promoting investment. Companies that are not profitable in the early years of operation, or companies from countries which apply a foreign tax credit to reduce the home country's tax on the foreign source income, would not benefit from income tax holidays. In contrast, such holidays would be of less importance to companies that are profitable from the start of their operation.
- Could attract mainly footloose or highly mobile firms

3 Tax incentives and Revenue losses in Uganda: A Race to the Bottom? Action aid and TJN-A, April 2012

- Can be outside the budget and non-transparent and the administration of tax deductions could lead to an increase in corruption.
- Tax incentives tend to reduce government revenue by 1 – 2 percent of GDP, according to the OECD.

i. Capital flight

- Capital flight is the unrecorded and untaxed illicit leakages of capital and resources out of a country as a result of persons transferring capital out of a country through the banking system; or where international companies falsify invoices through inflating or undervaluing prices to increase costs and reduce tax liability.
- According to the OECD (2009), developing countries lose vital revenue through tax evasion and the siphoning of money to these tax havens. The World Bank states that the illicit flow of cash from developing countries ranges between US$ 500-800 billion a year. These outflows are estimated at 7.6 percent of annual GDP of the region, and in effect, make African countries net creditors of donor countries[4].
- The most common way of shifting capital from Africa is by manipulating financial accounts. These transactions include under-pricing, overpricing, falsified invoicing and making completely fake transactions, often between subsidiaries of the same multinational company, bank transfers to offshore accounts from high street banks offering offshore accounts, and companies formed offshore to keep property out of the sight of the tax collectors. Other sources of Africa's capital flight are also as a result of earnings from oil and mineral exports being siphoned out of the continent.
- Transfer pricing is an advanced management accounting tool whereby goods and services are exchanged between subsidiaries of the same multinational enterprises as part of world trade. These transactions, which are referred to as "controlled transactions" within the same group are not exposed to the same market forces as transactions between independent enterprises. If the prices of these transactions are artificially lowered or increased they may lead to taxable profits being shifted from one country to another. A subsidiary in one country may hike and report royalties to its parent company in another country to try and reduce its tax liabilities and in effect shrinking the tax base in the country where it is based. One of the main objectives for using transfer pricing is to determine the amount of profit or loss that is attributable to the activities of a subsidiary company.

4 Towards Taxation for Development: Challenges and Opportunities: The Case of Uganda; SEATINI, 2010

Case Study 3: Transfer pricing abuse in Ghana

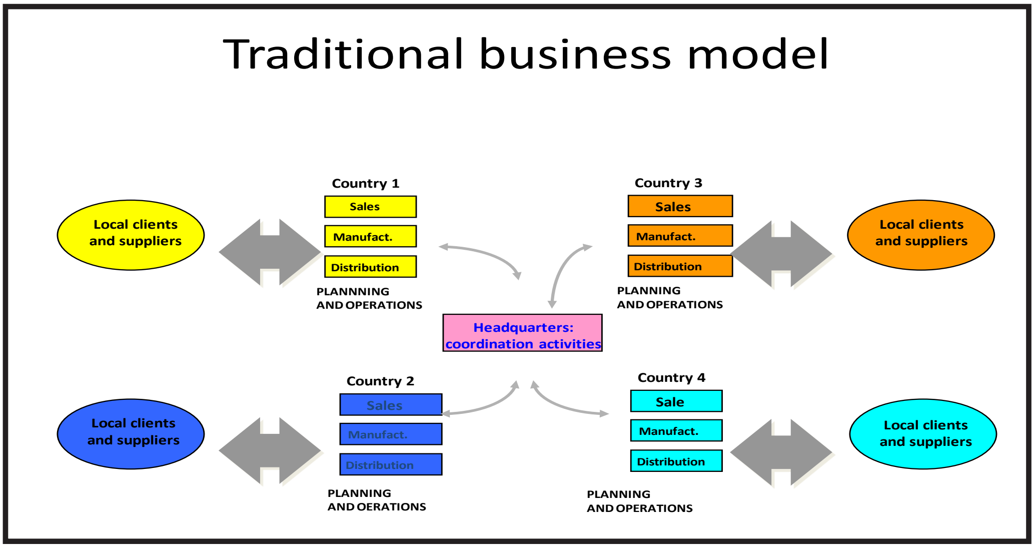
SABMiller has taken possession of iconic African beer brands and registered them in the name of its subsidiary in Rotterdam. In 2009, Accra Brewery paid about 2.1% of its turnover as royalties to this company. Secondly, SABMiller has another subsidiary in Zug which supposedly provides management services. The ActionAid report "Calling time, why SABMiller should stop dodging taxes in Africa" noted that Accra Breweries paid precisely 4.6% of its turnover annually as management fees to the Zug-based Bevman Services – a subsidiary of SABMiller Plc. SABMiller has also established another subsidiary in Mauritius where corporate tax rate is 3% to be in charge of procurement. This company in Mauritius which has 15 staff, mostly on on-the-job training, makes £150 million per annum in revenue, all by courtesy of transfer mispricing. About 50% of Accra Brewery's procurement, including items originating from South Africa and Brazil, goes through this company. Additionally, this Mauritius company granted a loan to Accra Brewery. The loan amount was more than seven times the capital of the Accra Brewery, and huge amounts of interest are charged on this loan. Accra Brewery has denied using aggressive tax avoidance schemes to avoid taxes, yet it could not explain why it failed to pay corporate tax for three years between 2007 and 2010.

Source: Emmanuel Budu Addo, Multinational enterprises must stop profit shifting and pay their corporate income taxes

- Unfortunately, many MNCs are using the transfer pricing tool to shift profit from one jurisdiction to another and usually from tax jurisdictions where the effective tax rates are higher to tax jurisdiction where the effective tax rates are significantly lower. Tax jurisdictions with significantly low effective tax rates are referred to as "tax havens", and many MNCs have subsidiaries in these tax havens for the purposes of profit shifting or what TJN refers to as profit laundering.
- In most cases the companies in the tax havens do not carry out any significant business activities, yet they record huge profits from which negligible or no corporate income taxes are levied. On the contrary, the subsidiaries where most of the business activities take place misleadingly report low or no profits, and thereby pay negligible or no taxes. Through transfer mispricing, the MNEs are able to avoid payment of taxes, a practice that significantly affects the fiscal base of the affected economies.
- There is limited capacity to reflect the actual volume of illicit financial flows, since they are primarily generated through transactions that completely bypass statistical recording. It is extremely difficult to identify the taxpayers, assess them, tax or even follow them up to enforce collection. In the absence of a very strong regulatory framework and proven standards of transparency there's a particularly high risk that tax havens could facilitate large-scale corruption and tax evasion, and pose a correspondingly large risk to good governance and economic growth.

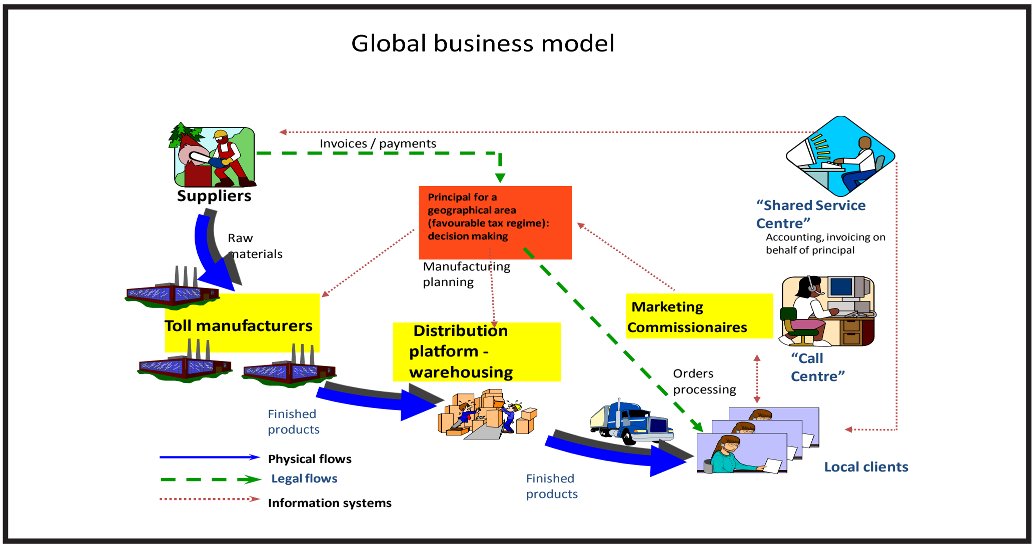
Round tripping is also used where international companies operating in African countries send their money offshore and bring it back as foreign investments or international loans in order to get preferential tax treatment.

Figure 7: Traditional Business Model



The traditional business model is an old business model and there are relatively few intra-group cross border transactions to worry about, maybe just a service fee to headquarters for co-ordinating. However with increased information and communication technologies, there is increased tax avoidance through creative accounting. The Global Business Model is a complex system for tax authorities to follow up the taxes since the companies involved employ the best tax planners and advisers to assist them carry out creative accounting so as to avoid taxes.

Figure 8: Global Business Model



How can Transfer Mispricing be addressed?

- The "arm's length principle" is largely used to address issues of transfer mispricing. Under the arm's length principle, one compares the remuneration from cross-border controlled transactions within multinationals with the remuneration from transactions made between independent enterprises in similar circumstances. The arm's length principle has become the international norm for allocating the tax bases of multinational enterprises among the countries where they operate. It provides the legal framework for governments to have their fair share of taxes, and for enterprises to avoid double taxation on their profits.

- The OECD has adopted this principle to ensure that transfer prices between companies of MNEs are established on a market value basis. In this context, the principle means that prices should be the same as they would have been, had the parties to the transaction not been related to each other. This is often seen as being aimed at preventing profits being systematically deviated to lowest tax countries, although most countries are also concerned about prices that fail to meet the arm's length test due to inattention rather than by design and that shifts profits to any other country, whether it has low or high tax rates.

What is a Tax Haven?

- A tax haven is a state, country or territory where certain taxes are levied at a low rate or not at all while offering due process, good governance, and a low corruption rate. Individuals as well as corporate entities find it attractive to relocate to areas with reduced or nil taxation levels and this creates a situation of tax competition among governments. Different jurisdictions tend to be havens for different types of taxes, and for different categories of people or companies. States that are sovereign or self-governing under international law have theoretically unlimited powers to enact tax laws affecting their territories, unless limited by previous international treaties.
- The central feature of a haven is that its laws and other measures can be used to evade or avoid the tax laws or regulations of other jurisdictions with the principle aim of minimizing the tax liability. This generally depends on the use of paper or 'shell' companies, trusts and other legal entities, and routing and managing financial flows. Hence, tax and financial management are closely linked. The attractiveness of tax havens is the level of secrecy that includes:
    - Strong bank secrecy: information cannot or be easily obtained from banks and other financial institutions for official purposes such as tax collection, including taxes due to other countries;
    - Secrecy of legal entities: information is not available or obtainable about companies, corporations, trusts, foundations, or other legal entities, such as the beneficial owners, shareholders of a company, or beneficiaries of a trust or details of persons with power to determine the use of assets, or financial accounts.
    - Tax havens generally offer specific advantages, especially a zero or low tax rate, to non-residents or foreign-owned legal entities.

ii. What are Double Taxation Agreements?

- Double taxation occurs when the same transaction or income source is subject to two or more taxing authorities. This can occur within a single country, when independent governmental units have the power to tax a single transaction or source of income, or may result when different sovereign states impose separate taxes, in which case it is called international double taxation.
- The source of the double taxation problem is that the taxing jurisdictions do not follow a

common principle of taxation. One taxing jurisdiction might tax income at its source, while others will tax income based on the residence or nationality of the recipient.

- The consequence of double taxation is to tax a certain activity at a higher rate than a similar activity that is located solely within a taxing jurisdiction. This leads to unnecessary relocation of economic activity in order to lower the incidence of taxation, or other, more objectionable forms of tax avoidance.
- Businesses usually face a higher risk of double taxation, but individuals also might find it uneconomic to work abroad if all of their income is subject to taxation by two authorities, regardless of the origin of the income.
- One of the incentives offered by African governments to international investors is to lower tax rates through double taxation agreements (DTAs), where lower tax rates are agreed upon between the signing countries. The DTAs invariably benefit more developed partners than the developing countries because rates negotiated are always lower than the prevailing tax rates.

iii. What is Africa's Debt Burden and how is the Unfair Debt Servicing related to the Continent's Capital Flight?

- Sub-Saharan Africa is heavily indebted to international creditors including banks, western governments, and international financial institutions. Its foreign debt of roughly $175 billion amounts to more than $200 per person, a large burden in a region where the average annual incomes are under one thousand dollars. In some countries, including Burundi and the Democratic Republic of Congo, the foreign debt exceeds the nation's total income[5].
- The history of Africa's debt dates way back to the 1960s when the newly independent states inherited a huge debt from their former colonial masters. The debt which unilaterally had an interest of 14% continued to astronomically grow as Africa's new leaders also incurred more debt. This was further precipitated by the oil price shocks, rising commodity prices, the rise in public expenditure by African governments and bad governance with dictatorial regimes in the 1970s and 80s.
- Most of Africa's debt was contracted by corrupt, dictatorial regimes, acting without the consent or benefiting the ordinary people and a lot of it flowed out of the continent into foreign bank accounts of politically influential individuals or was diverted into private hands through bribes, kickbacks, inflated procurement contracts for goods and services, and sometimes outright theft.
- It is estimated that for every dollar of foreign borrowing, on average more than 50 cents leaves the borrower country in the same year, hence fuelling Africa's capital flight. A substantial fraction of the money that is flowing out of Africa as capital flight came to the continent via external borrowing and today the scale of debt-fuelled capital flight and Africa's savings being held outside the continent is alarming.
- By 2010 Africa's debt burden was estimated to be more than US$200 billion and African governments were spending almost US$14 billion every year on debt servicing, thus preventing the provision of vital social services like health and education to their populations. The HIPC debt relief only cancelled just US$40 billion of debt of the 41 poorest countries, of which 33 were in Africa. But countries that did not meet the HIPC criteria like Kenya and the Democratic Republic of Congo (DRC) never benefited from HIPC and hence huge portions of their national budgets continue to service the public debts.

5 James K. Boyce and Léonce Ndikumana, Africa's Odious Debt, How Foreign Loans and Capital Flight Bled a Continent, 2011

What can CSOs do to influence the reduction of Tax Leakages?

- CSOs should educate themselves and the public on the various ways in which governments of developing countries are losing a lot of revenue as a result of tax leakages. It should be noted that tax evasion and avoidance is persistent and too complex and requires a set of administrative instruments and continuous and in-depth investigations in order to address tax leakages.
- In most cases tax policies and administrative measures focus on increasing revenue without curbing tax evasion and avoidance, so there is need for increased rigor in monitoring tax leakages and refining strategies to improve taxpayer compliance.
- Individual income tax evasion can be reduced by lowering compliance costs for professional and business income earners who have shown to be quite responsive to measures that simplify compliance in certain jurisdictions.
- In order to curb value-added tax evasion, the tax administrators have to intensify their intervention in the VAT's self-policing systems so that taxpayers are aware that they are being closely monitored.
- Increasing the probability of detection, or introducing a "fear factor" approach could reduce the chances of corporate income tax and VAT evasion and enhance taxpayer compliance. This could be a better approach rather than offering tax amnesties or reducing the tax rate. Corporate taxpayers usually develop an anticipatory behavior towards tax amnesties.
- In order to curb excise tax leakages, the tax system could be simplified since the players are large and tend to collude with the tax authority in declarations of volumes of goods brought out of the factory. Consumers too tend to move from higher-taxed to lower-taxed goods to benefit from lower prices.
- Capital gains tax evasion can be reduced by implementing measures that reduce the incentive for collusion between the taxpayer and tax authority.
- The African Union is drafting a code of conduct for land acquisitions, including a requirement to pay local taxes and the Economic Community of West African States (ECOWAS) has worked on a mining code to establish minimum tax and royalty rates for extractive industries. Such standards should be agreed upon across the continent as a means of safeguarding African economies from unscrupulous MNCs.
- In the interest of Africa's development, CSOs should advocate that Africa's debt should be written off by establishing debt tribunals and debt arbitration processes since most of it was incurred during dictatorships, and African citizens should not be held responsible for what was essentially collusion between dictatorial regimes and private creditors.

Session 4: International Corruption and Money Laundering

This session is intended to enable the participants to discuss corruption and money laundering and relate it to tax leakages in developing countries. The participants will analyse the context in which corruption thrives, the actors both at the national and international levels, the hiding of stolen assets abroad and how developing countries can utilize international legal instruments to recover their resources and attain justice.

Session Objectives

At the end of the session, participants should be able to:

- Define corruption and discuss its international characteristics.
- Identify the major actors in international crime relating to corruption, bribery, kick backs and how such crimes are carried out and covered up by the international system.
- Analyze the mechanisms that can be used to fight international corruption and reinstitute the stolen assets to the rightful owners in developing countries.

Step by Step Process

i. Introduce the session by probing the participants on their understanding of corruption, the perpetuators and how it manifests in their organizations and communities.
ii. Divide the participants in groups and give them the two case studies from Nigeria and the Philippines. Ask them to discuss the similarities on how the crime was committed and the measures taken to attain justice. What are the challenges in the two scenarios?
iii. Assist the participants to make a relationship between taxation, corruption and development
iv. Conclude the session with a discussion on the role of civil society groups in addressing international corruption and money laundering.

Duration: 120 minutes

Activity: Brainstorming, Question and Answer, Case Study Discussion and Lecture

Facilitator's Notes

What is Corruption?

- Corruption is "the misuse of public power, office or authority for private benefit – through bribery, extortion, influence peddling, nepotism, fraud, speed money or embezzlement." It is the mismanagement of public resources that involves narrow interests abusing the common good, with people within the system using guarded information and operating with impunity to harm businesses, governments and citizens, particularly poor people.

- Tax evasion is a form of corruption, whereby certain individuals or business entities abuse public assets, using dummy corporations, shielded trusts, anonymous foundations, falsified pricing and fake documentation to bypass accepted norms. Usually the rich and well-connected people are provided with one set of rules that favours them to evade taxes and another set for everyone else. Commercial tax evasion, mainly through trade mispricing, amounts to a very huge loss of tax revenue.
- Corruption is especially hard on poor people as they are least likely to be able to afford the costs of corruption and are most likely to be affected by its detrimental effects. It shrinks the legitimacy of the public administration and its ability to provide effective service delivery and worsens absolute poverty and inequality, and ultimately undermines people's faith in the rules and systems that are supposed to promote public interest.
- Corruption is principally a result of weak governance related to a failure of institutions as well as a lack of social, judicial, political and economic checks and balances. It reduces the respect for democratic institutions and moral values, hence increasing the feeling of inequality and injustice
- High levels of corruption reduce expenditures for social services, divert investment from infrastructure and institutions and discourage foreign investment and aid.

How does International Level Corruption affect Africa's Development?

- The crimes of corruption and bribery, fraud, organized crime, drug and human trafficking, environmental crime, terrorism and money laundering are all inextricably linked. Many African dictators have been involved in stealing assets and then laundering the proceeds— either at home or abroad — to avoid detection and make them appear legitimate.
- Money laundering (ML) is the hiding or obscuring the source, ownership, control, and movement of assets, and it is the last link in a long chain of corrupt acts. It seeks to lower the chances of detecting stolen funds, as well as breaking the direct link between the Politically Exposed Person (PEP) and the stolen assets by disguising their ownership.
- The billions looted by the corrupt leaders in developing States, are visible and significant enough to warrant action in their own right, but this is only part of an extensive network of corruption that infects the whole economy, to include public sector companies, the financial system, and petty corruption at times associated with policemen and factory inspectors. These various interpretations of the scope of corruption need to be kept in mind when reviewing estimates of the sums of money involved in illegal activities.
- The true cost of international corruption far exceeds the value of assets and money claimed to be stolen by the leaders of poor African countries. The damage extends to the degradation of public institutions, especially those involved in public financial management and financial sector governance; the weakening and total destruction of the private investment climate; and the corruption of social service delivery mechanisms for basic health and education programs, with a particularly adverse impact on the poor. This "collateral damage" in terms of foregone growth and poverty alleviation is usually proportional to the duration of the tenure of the corrupt leader.

What is the fate of Stolen Public Assets from Africa?

- While the international development community has been focused on fighting corruption and weak governance within the developing countries, this approach has tended to ignore the stolen assets that are often hidden in the financial centers of developed countries and the bribes offered to public officials from developing countries, often originating from MNCs; and the intermediary services provided by lawyers, accountants, and company formation agents that are used to launder or hide the proceeds.
- The net result of this organized crime is what is popularly known as Money Laundering, a diverse activity that can range from simple wire transactions to complex mechanisms that rely on shell banks, undisclosed trusts, and hedge funds, often set up with the help of professional financial advisers from developed countries. The money laundering process is usually described as involving three main stages: placement, layering, and integration.

i. Placement is the process of separating the illicit funds from their illegal source and placing them into one or more financial institutions, domestically or internationally. It is the initial introduction of criminal proceeds into the stream of commerce and the most vulnerable stage of the money-laundering process
ii. Layering is the process of separating criminal proceeds from their source by using layers of financial transactions designed to hide the audit trail and provide anonymity. It involves distancing the money from its criminal source and moving it to different accounts; in different countries and making it increasingly difficult to detect the illegality.
iii. Integration schemes place the laundered proceeds back into the legitimate economy in such a way that they appear to be normal business funds. It is the last stage in the laundering process and occurs when the laundered proceeds are distributed back to the criminal owner by creating an appearance of legitimate wealth.

Country Case Studies: High Level International Corruption

Case Study 4: General Sani Abacha, Nigeria

General Sani Abacha, who had governed Nigeria for five years from 1993 to 1998, died on June 8, 1998 of a reported heart attack. He is estimated to have looted from $3 billion to $5 billion over the five years of his rule. His death prompted the opening of investigations, first by General Abdu Salami Abubakar and then by President Olusegun Obasanjo, into Abacha's criminal dealings, culminating in campaigns to recover the assets stolen by him and his associates and hidden both within and especially outside the country.

Abacha is alleged to have used four methods for plundering public assets: outright theft from the public treasury through the central bank; inflation of the value of public contracts; extortion of bribes from contractors; and fraudulent transactions. The corruptly acquired proceeds were laundered through a complex web of banks and front companies in several countries and localities, but principally Nigeria, the UK, Switzerland, Luxembourg, Liechtenstein, Jersey, and the Bahamas.

The chronology of events leading to eventual repatriation was as follows:
In 1998 a Special Police Investigation was launched to investigate Abacha's theft. On May 26, 1999, General Abubakar issued Decree No. 53, which facilitated the domestic recovery of $800 million in cash and assets from the Abacha family and associates.

President Obasanjo, who assumed office in May 1999, redoubled the effort to find more of the stolen assets. In September 1999, the Nigerian government engaged a Swiss legal firm, Monfrini and Partners, to assist with tracing and recovering of monies held abroad. Swiss authorities accepted a request for Mutual Legal Assistance in December 1999, leading to the issuance of a general freezing order.

Before the funds could be repatriated, however, Swiss law required Nigeria to present the Swiss authorities with a final forfeiture judgment reached in the Nigerian courts. This proved legally and politically daunting. In a landmark ruling rendered in 2004, Monfrini and Partners got around this hurdle by arguing successfully that, since there was adequate proof of the criminal origin of the Abacha funds, Swiss authorities could waive the final forfeiture requirement. It took Nigeria five years to obtain a repatriation decision from the Swiss authorities due to numerous appeals brought by the Abachas, who employed large numbers of lawyers to block or slow down the case.

After a series of negotiations, which led to the selection of the World Bank as a bona fide third party for the monitoring of recovered assets, repatriation finally took place in September and November 2005 and early 2006, for a total of $505.5 million. With a grant from the Swiss government, the World Bank mobilized Nigerian civil society organizations to participate in the review and analysis of the use of the looted funds. The review found that the funds had generally been used to increase budget spending in support of the MDG areas, as promised.

Source: Stolen Asset Recovery (StAR): Challenges, Opportunities and Action Plan, UN & World Bank, 2007

Case Study 5: Ferdinand Marcos, Republic of the Philippines

Ferdinand Marcos started accumulating his ill-gotten wealth in 1965, when he was first elected president. He was reelected four years later but declared Martial Law in September 1972, before his second term was completed. The Martial Law regime continued until February 1986, when Marcos was toppled by the so-called peaceful "People Power Revolution". He is estimated to have siphoned off between $5 and $10 billion.

He ruled the country as a dictator for the last 14 of the 21 years he was in power. Even taking the lower end of the range and assuming a modest nominal interest of 5 percent, the $5 billion would have accumulated to over $13 billion by today, amounting to approximately 22 percent of the country's external debt at the end of 2006. The channels whereby the money was allegedly stolen were diverse, including the takeover of private companies; creation of monopolies for sugar, coconuts, shipping, construction, and the media; fraudulent government loans; bribes from companies; and skimming off foreign loans and raiding the public treasury. These channels suggest that the total costs in all likelihood far exceeded the $5 billion to $10 billion estimate. These costs would include the degradation of public institutions, including public financial management, the judiciary and financial sector supervision, a poor investment climate, macroeconomic uncertainty, and a tainted and unstable financial system—all of which are inimical to growth and poverty reduction and a stimulus to capital flight.

In 1986, the Republic of the Philippines filed a request for mutual assistance with the Swiss authorities in connection with the repatriation of Marcos deposits in Swiss banks. Twelve years elapsed before these deposits were transferred to escrow accounts in the Philippine National Bank (PNB) and another six years passed before the concerned $624 million was transferred to the Philippine Treasury. In between, several major legal hurdles had to be crossed, including presenting evidence that the monies were the product of embezzlement, diversion of public property, and plundering of the public treasury. Only after the Philippine government won a ruling that the monies could be moved out of Switzerland without a final conviction of Mrs. Marcos under article 74A of the International Mutual Assistance on Criminal Matters Act (IMAC) was the money moved to the Philippine National Bank in 1998. It was released to the Philippine Treasury in 2004 following a Philippine Supreme Court decision ordering the forfeiture of the Marcos Swiss deposits in July 2003.

Source: Stolen Asset Recovery (StAR): Challenges, Opportunities and Action Plan, UN & World Bank, 2007

What are the Challenges of Addressing International Corruption?

- Efforts so far to address international corruption, through the Stolen Asset Recovery (StAR) initiative that permits countries to request the freezing of stolen assets held abroad has proved very difficult as the burden of proof is high, and the process of restitution is complicated. Much as countries like Nigeria, Peru, and the Philippines have enjoyed some success in asset recovery, the process has been time-consuming and costly.

- Many countries that may wish to seek the recovery of stolen assets may not have a domestic legal regime to deal with money laundering and the forfeiture of stolen assets. Usually these poor countries from which the bulk of assets are stolen lack the capacity in their criminal justice system to produce adequate and appropriate requests for international legal assistance and even where the political will to pursue stolen assets exists, investigative and judicial capacity and inadequate financial resources could hamper the process.
- Differences in legal systems across jurisdictions where the theft occurs and money is laundered present a formidable impediment to asset recovery. Jurisdictions in developed countries where stolen assets are often hidden may not be responsive to requests for legal assistance.
- Even when the conditions are right for pursuing asset recovery, some developed countries do not cooperate because they do not trust the requesting country or lack confidence in their rule of law or for political reasons.
- Much as the entering into force of the United Nations Convention against Corruption (UNCAC) is a big step forward towards combating international corruption, some of the G-8 countries[6] have yet to ratify it and there is still need to build the capacity in developing countries to be in position to invoke the instrument.
- The death, the fugitive status, and immunity of persons engaged in looting assets from developing countries and the continuing political influence and power of former corrupt officials also impedes the process of asset recovery.

What are some of the Highlights of the United Nations Convention against Corruption (UNCAC)?

1. Prevention of Corruption

- The Convention is dedicated to prevention of corruption, with measures directed at both the public and private sectors. These include model preventive policies, such as the establishment of anticorruption bodies and enhanced transparency in the financing of election campaigns and political parties.
- Recruitment into the public service is based on merit with an aim of promoting efficiency and transparency. Public servants are subject to codes of conduct, requirements for financial and other disclosures, and appropriate disciplinary measures.
- Transparency and accountability in matters of public finance must be promoted, and specific requirements are established for the prevention of corruption, particularly in critical areas like the judiciary and public procurement.
- Those who use public services must expect a high standard of conduct from their public servants.
- The Convention calls for the involvement of non-governmental and community-based organizations, as well as other elements of civil society, to raise public awareness of corruption and what can be done about it.

2. Criminalization of Corruption

- The Convention requires countries to establish criminal and other offences to cover a wide range of acts of corruption, if these are not already crimes under domestic law.
- The Convention goes further not only to criminalize the basic forms of corruption such as bribery and the embezzlement of public funds, but also trading in influence and the

6 Germany and Japan are yet to ratify the convention

concealment and laundering of the proceeds of corruption.

- Offences committed in support of corruption, including money-laundering and obstructing justice, are also dealt with and the problematic areas of private-sector corruption.

3. International cooperation to combat Corruption

- Under the Convention countries agreed to cooperate with one another in every aspect of the fight against corruption, including prevention, investigation, and the prosecution of offenders.
- Countries are bound by the Convention to render specific forms of mutual legal assistance in gathering and transferring evidence for use in court, to extradite offenders.
- Countries are also required to undertake measures which will support the tracing, freezing, seizure and confiscation of the proceeds of corruption.

4. Asset recovery

- Countries agreed on asset-recovery, which is stated explicitly as a fundamental principle of the Convention. This is a particularly important issue for many developing countries where high-level corruption has plundered the national wealth, and where resources are badly needed for reconstruction and the rehabilitation of societies under new governments.
- Reaching agreement on this matter however has involved intensive negotiations, as the needs of countries seeking the illicit assets had to be reconciled with the legal and procedural safeguards of the countries whose assistance is being sought.
- Several provisions specify how cooperation and assistance will be rendered, in particular, in the case of embezzlement of public funds, the confiscated property would be returned to the State requesting it; in the case of proceeds of any other offence covered by the Convention, the property would be returned providing the proof of ownership or recognition of the damage caused to a requesting State; in all other cases, priority consideration would be given to the return of confiscated property to the requesting State, to the return of such property to the prior legitimate owners or to compensation of the victims.

Why is it still difficult to fight high level international corruption?

i. The lack of transparency and low public accountability and adherence to principles of open, accountable government facilitates the looting of public assets in many African countries.
ii. There are weak checks and balances in key public institutions that enable errant public servants and corrupt leaders to abuse their offices with impunity.
iii. In most African countries there is limited freedom of civil society organizations to monitor public activity, and low respect for or outright flouting of the rule of law.
iv. Most of the theft is done through the extortion of bribes from public contractors, particularly regarding the purchase of material for the armed forces and police. This stealing pattern is made possible by classifying such purchases as a state secret; hence making it difficult for parliament or any other public institution to exercise their oversight role.

What role can civil society groups play in addressing international corruption?

- Traditionally CSOs should play their main role as corruption watchdogs and expose corruption cases and criticize corrupt officials and institutions, including the judiciary. They should also identify corruption-prone areas within the legal and administrative system, including public authorities and private sector organisations.
- Civil society should mobilise pressure for change by calling on governments to meet their

international commitments under various treaties since bad governance distorts markets and destabilises societies, hence perpetuating poverty and social injustice. Governments, businesses and citizens across the world have to join efforts to fight this common scourge by promoting more open governments. Civil participation in decision-making processes can contribute to enhance transparency and fairness.

- Civil society should call for the enforcement of International Conventions and rule-making on the home front to reign in opaque budget-making, establish greater transparency on government procurement and construction projects, and the creation of government anti-corruption watchdogs. They should make effort to raise "public awareness regarding the existence, causes, gravity of and the threat posed by corruption," as stated in the UNCAC.
- Civil society groups should offer alternatives for controlling corruption and propose new policies and legislations for better governance based on integrity and accountability. They can accelerate the preparation, participation, and implementation of international, regional and local anti-corruption initiatives.
- Civil society groups should endeavour to protect reporters, experts and victims as well as anti-corruption activists through their advocacy work or joint action with other local / international community. They should also monitor and evaluate the performance of anti-corruption agencies.

Session 5 The National Tax System and the Global Financial Architecture

This session is intended to analyse how the national tax systems of the different African countries are influenced by the global forces and financial institutions. The participants will be exposed to the various international and regional organisations that influence the national tax policy for African countries and be in position to appreciate the policy recommendations given. The discussions will also broaden the participants' understanding of the operations of the different bodies in respect to Africa's economic development.

Session Objectives

At the end of the session participants should be able to:

i Identify the different institutions that influence the national tax policies of the different African countries.

ii Analyse the strength and weaknesses of the various policy recommendations advanced by the different global institutions and indentify areas that could benefit Africa.

iii Analyze the operations of the different international and regional economic bodies in respect to Africa's development.

Step by Step Process

i. Introduce the session and ask the participants to reflect on why African countries need to have a favourable tax system and what are some of the factors that influence it?

ii. Brainstorm on who actually is responsible for the taxation policies adopted on the continent. Do they suit African countries and if not, what can be done to reshape them?

iii. Enrich the discussion with more information on the various institutions and their impact on the tax framework of the respective countries.

iv. Conclude the session with a discussion on the role of civil society groups in influencing the work of international and regional economic bodies in respect to taxation.

Duration: 120 minutes

Activity: Brainstorming, Question and Answer, and Lecture

Facilitator's Notes

Why should Africa be concerned about designing a favorable tax framework?

- As a response to the worldwide economic crisis, unfavourable trade and investment agreements, and the huge cuts in development aid the status of Africa's public finances is increasingly being threatened and creating a lot of uncertainty in terms of development planning.
- For African economies, the use of tax havens means that huge amounts of potentially taxable income cannot be traced and is lost hence affecting the availability of resources badly needed for development, poverty eradication and the fulfillment of the MDGs.
- African States therefore need to design tax systems that permit them to institute effective local resource mobilization mechanisms and get a sustainable increase in the revenues attained from taxation. These systems should be able to prevent tax dodging and the illicit capital flight from African countries that is reducing the already scarce domestic resources.
- It is therefore imperative that African countries together with their development partners in the north critically analyze the unfair financial dealings used in the operations of tax havens to encourage tax dodging by allowing individuals and companies to escape from some of the financial obligations and legal regulations in their home countries.
- African nations need to build their capacity to be able to track and reduce the enormous outflow of resources to the multiple destinations used by the MNCs to avoid taxation.

Who Designs the National Tax Policy for African Countries?

The national tax policy for most African countries is largely influenced by the forces of globalisation and international organisations. These international agencies have advocated for the structural overhauling of the tax administration in several African countries and provided tax experts to handle tax policy making and in so doing African leaders have distanced themselves from taking the responsibility for the adverse reforms in their respective countries and the negative consequences. The major agencies that shape the fiscal policies adopted by African countries include:

- The World Bank
- The International Monetary Fund (IMF)
- World Trade Organisation (WTO)
- United Nations (UN)
- International Accounting Standards Board
- Organisation for Economic Cooperation and Development (OECD)
- African Union (AU)
- The New partnership for African Development (NEPAD)
- Regional Cooperation Bodies in Africa such as COMESA, EAC, SADC, ECOWAS, CEMAC

1. The World Bank and IMF Tax Policy Doctrine and Conditionalities

- Using the Washington Consensus, the multilateral donor agencies have promoted the tax consensus that is focused on reducing corporate and, to a lesser extent, personal tax rates while expanding the base for consumption taxes, in particular VAT, a trend that is leading to a reduction in government revenues and worsening poverty and inequality.

- IMF gives priority to economic efficiency over any other goals, arguing that a good tax system is one which limits any distortions that may affect the decisions of economic agents with regard to investments. The IMF strategy is focused on taxes that are easier to collect and with the lowest political costs and usually not affecting the interests of MNCs and the wealthy individuals.
- On the other hand the focus on consumption taxes and the VAT puts the burden of taxation on the final consumer and keeps direct taxes lower and most likely without distorting the intermediate stages of production and international trade. The theory behind the VAT was that it would maintain revenue collection levels and have very little negative impact on international trade and the profits of MNCs.
- Rather than tailoring recommendations to suit the conditions in specific African countries, the IMF and other multilateral agencies prescribe a 'one-size-fits-all' approach in promoting the tax consensus uniformly across countries. The same agencies have also supported trade liberalisation by reducing both export and import taxation and for all these policies the beneficiaries are the MNCs and the already rich economies in the north that largely control international trade.

Case Study 6: IMF views on Tax Policy

- Indirect taxes should be centred on end consumers; this idea is best exemplified by VAT.
- Indirect taxes should have a uniform rate. If there are different rates, these should be determined on grounds of efficiency and equity. If efficiency is the only consideration, goods with inelastic demand (goods and services for which demand remains stable even if their price increases) would be heavily taxed. The tax burden for such goods and services falls mainly on consumers and on those who consume goods out of preference (for example, tobacco and alcohol) or out of necessity (salt), i.e. goods for which there are few substitutes.

However, for reasons of equity, when a product is a necessity and is disproportionately consumed by the poorest sectors of society, it should not be taxed or could be taxed at a lower rate.

- Intermediate goods, that is, those that are used as components in final products, should not be taxed, unless it is impossible to tax the final product.
- Taxes on international trade should be lowered as they distort markets. Rates for taxing trade should be equal to those on domestic goods competing with imported goods, intermediate goods should not be taxed, and protection will only be given to new industries if subsidising them is not possible.
- It is desirable to tax the consumption of certain goods, which have a negative impact on the rest of the population (tobacco, alcohol, road use, energy, etc.), and, by the same token, to promote those goods and services that have a positive impact through subsidies.
- Given that income tax is applied to all taxpayer income, it affects both consumption and savings decisions and, consequently, investment. Taxing consumption is therefore more efficient since it only affects consumption choices.
- More recently, tax incentives have been considered detrimental and distorting.

Source: Oxfam Research Report, Owning Development: Mobilising Domestic Resources to Fight Poverty, Sept 11, based on Coady (1997)

2. World Trade Organisation

- The WTO agreements cover goods, services and intellectual property. They spell out the principles of liberalization, and the permitted exceptions that include individual countries' commitments to lower customs tariffs and other trade barriers, and to open and keep open services markets.
- The WTO treaties are based on the theory of 'free trade', prohibiting the use of tax laws to distort the markets for goods, services and investment, but the reality is often far from what is agreed upon in these trade agreements. The WTO pays very little attention on how tax competition, in the form of tax holidays, special rates, exemptions, Export Processing Zones, and other forms of indirect subsidy, have been abused by MNCs and developed nations to distort trade and investment flows.
- The WTO rules, just like those of the General Agreement on Tariffs and Trade (GATT) before them, state that if a government foregoes or forgives a tax on condition that a product or service is exported, that tax-obligation-foregone is an export subsidy. The only winners in such a process are the mobile foreign businesses which play one government against another to secure such subsidies and tax breaks.
- Export taxes on primary commodities are often used to reduce the domestic prices of raw materials in order to guarantee supply of intermediate inputs at below world market prices for domestic processing industries. In this case, export taxes provide an incentive for the development of domestic manufacturing or processing industries with higher value-added exports. However the potential negative economic implications of export taxes could be inefficient transfers of wealth within markets and among markets.
- Developed countries also apply tariffs peaks and tariff escalation to restrict or prevent importation of 'sensitive', usually processed and value-added, products mostly from developing and least-developed countries.
- Outside the WTO context, some countries have included the elimination of export taxes in their regional and bilateral trade agendas such as, EU Association Agreements and Free Trade Agreements that generally seek to eliminate such taxes between and among the parties, the North American Free Trade Agreement and bilateral trade agreements negotiated, for example, by Canada, Japan and others.

3. United Nations

- In the 1920s the League of Nations, predecessor to the United Nations, took the first steps towards encouraging countries to agree on double taxation treaties with one another. This work was taken up in the late 1940s by the UN, which later published a model double tax treaty, which in turn was re-worked by the OECD. The latter has generally led the way in tax cooperation in recent decades and its model tax treaty agreement provides the basis for most double tax treaties.
- In 2003 the UN General Assembly decided to elevate its existing expert tax group to committee status. It did this in the framework of the Monterrey Consensus on Financing for Development, which identified the need to tackle capital flight and tax evasion.
- The Committee of Experts on International Cooperation in Tax Matters as a subsidiary body of the Economic and Social Council is responsible for keeping under review and update, as necessary, the United Nations Model Double Taxation Convention between Developed and Developing Countries and the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries.
- The Committee provides a framework for dialogue with a view to enhancing and promoting

international tax cooperation among national tax authorities and assesses how new and emerging issues could affect this cooperation and is also responsible for making recommendations on capacity-building and the provision of technical assistance to developing countries and countries with economies in transition. In all its activities, the Committee gives special attention to developing countries and countries with economies in transition.

- However the role of the United Nations in taxation is not widely known or understood and African countries, in particular, have been underrepresented in UN negotiations on international cooperation on tax matters, and the interests of OECD countries – and their related secrecy jurisdictions – are significantly overrepresented. This has led to a situation in which the interests of capital exporting countries, predominantly OECD countries, and of secrecy jurisdictions (also largely linked to OECD member states), have frequently over-ridden those of countries in the global South.
- Steps are being taken to encourage wider participation in the UN processes. In conjunction with the UN Development Programme and its Finance for Development Office, civil society has been working with officials and specialists from countries of the global South to share successful tax practices. This programme for South-South Sharing of Successful Tax Practices is aimed at developing capacity and common positions for international cooperation on tax matters.

4. International Accounting Standards Board (IASB)

- The International Accounting Standards Board (IASB) is a wholly private company based in London and registered in the American secrecy jurisdiction of Delaware. It is responsible for developing a single set of high quality, understandable, enforceable and globally accepted International Financial Reporting Standards (IFRSs) through its standard-setting body, the IASB and to promote the use and rigorous application of those standards. The IASB also takes account of the financial reporting needs of emerging economies and small and medium-sized entities (SMEs); and promotes and facilitates adoption of International Financial Reporting Standards (IFRSs), being the standards and interpretations issued by the IASB, through the convergence of national accounting standards and IFRSs.
- The IASB is staffed by professional accountants and auditors and is funded largely by the "Big Four" accounting firms (PricewaterhouseCoopers, Deloitte, Ernst & Young and KMPG) and some of the biggest multinationals in the world, with the key contributors being banks and other companies which use or have an interest in promoting international standards. In 2008, American companies contributed £2.4m, more than those of any other country. The 'Big Four' have effectively appointed themselves the judge and jury when it comes to creating the accounting standards, which they apply without any political oversight.
- The absence of any public-sector oversight of the IASB in combination with the Board's close ties to the accounting industry has raised questions about whether the Board's current set-up is appropriate to its role as standard-setter for about 120 countries 13 of which are in Africa. Much as the majority of African States have adopted the IFRS rules, these accounting regulations often have limited relevance to the particular circumstances on the continent.
- The standards set by the IASB are largely biased to the industrialized world and overwhelmingly addressed to the informational needs of participants in capital markets: "preparers" (listed corporations) and "users" (investors and creditors). They would best serve mature capital markets whereby the financial statements can assist investors make critical investment decisions. In many developing and emerging economies, there is little need for standards that express this kind of information because stock markets are not a major source of finance (if they exist at all) and businesses tend to be small and medium-sized entities (SMEs) and not

the large, multinational corporations that are characteristic of North American and European economies.

- Many international organizations like the World Bank, the WTO, USAID and UNCTAD have all advocated for the adoption of IFRS in the less developed countries, where there is little choice in terms of financial rules established by competing bodies at the African level. In May 2012 the Pan African Federation of Accountants (PAFA) voted to adopt IFRS, as well as IFRS for Small and Medium-Sized Entities (SMEs).
- MNCs are able to hide their profits and avoid taxation because under the current accounting rules, a company that earns profits in ten African countries can combine all its profits and publish a single profit figure for "Africa" and the poor countries where these MNCs are operating will not have the capacity to trace the company's local profit and at times it is even difficult to specify who really owns the companies operating in their territories. The extractive industries in particular are vulnerable to corrupt practices and therefore a mandatory requirement to report on a country-by-country basis would vastly strengthen the operational transparency of subsidiaries located in countries prone to corrupt practices.

What are some of the limitations of the IASB?

- Accounting systems of a country should traditionally be shaped by its socio- economic, cultural and political environment. Usually economies are totally different from each other and therefore it should be recognized that these differences in accounting needs shape financial reporting. These differences are being recognized for the more developed countries and much as the less developed countries in Africa are requested to adopt unreservedly without any modification the IFRS, the highly industrialized countries like Canada, the European Union, China, India, Russia, and Japan have all modified IFRS to suit their economies' needs.
- Africa is a great diversity in the socio-economic setting of the continent and it is not feasible to design regulations and directives that are enforceable by all member states so as to have a uniform financial system. Africa needs to seriously analyse the possibilities of an accounting system that better reflects the needs of the continent and its individual countries.
- In Africa, even regional bodies such as EAC, ECOWAS and the AU are still grappling with the development and enforcement of common policies. While some countries are clearly natural resources driven, others are only tax based economies and while some are highly dominated by the public sector others largely depend on the private sector, hence making their informational needs differ from each other and putting IFRS in such economies unable to yield the desired goal of comparability of financial reports.
- There is need for international reporting standards that require the publication on a country-by-country basis of the tax revenues paid by companies engaged in all sectors, in particular the extractive industries to the governments that host their activities.

5. Organisation for Economic Cooperation and Development (OECD)

- The Organisation for Economic Cooperation and Development (OECD) is an international body with a membership of 34 high-income countries and is largely considered to be the leading economic Think Tank for the developed world. The OECD's work on tax issues ranges from information exchange, tax policy analysis, harmful tax practices, transfer pricing and the identification and monitoring of secrecy jurisdictions. The organisation provides a platform to compare policy experiences, seek answers to common problems, identify good practices, and coordinate domestic and international policies of its members.

- The OECD is the body that the G-8 and G-20 regularly turn to for guidance on tax matters, and the OECD has produced several codes, standards and initiatives in response to their demands. Tax transparency and the fight against cross-border tax evasion have also been key topics at the G20 Summits in Washington, London, Pittsburgh and Toronto.
- The OECD approach has largely consisted of seeking to eliminate harmful tax practices through mutual undertakings and information exchange processes. It promotes bilateral treaties between secrecy jurisdictions and countries wanting to exchange tax information to counter tax evasion, through the Tax Information Exchange Agreements (TIEAs). The OECD also produces guidelines for MNCs relating to transfer pricing based on the arm's length principle.
- Unfortunately the OECD's guidelines have many gaps and the policies they promote have proven to be weak and ineffective. For example, their guidelines on transfer pricing are scarcely relevant to the pricing of intellectual property rights such as brand logos, patents, copyrights, licences and so on, which are increasingly used for shifting profits to tax havens. The OECD model treaty for tax information exchange is likewise ineffective, and despite the G-20 Summit statements about tackling tax havens, in practice there is no evidence that the OECD processes are actually deterring tax evasion. Relevant information held by accountants and lawyers representing individuals and companies suspected of tax evasion unfortunately can still be withheld or subjected to lengthy appeals through the TIEA process and this limits the relevance of the peer reviews advocated for the OECD.

African Tax Administration Forum (ATAF)

- The African Tax Administration Forum (ATAF) is an international organisation which provides a platform for cooperation among African tax authorities. It was first conceived during a meeting of 30 African tax commissioners with representatives of the OECD in August 2008 and launched in November 2009 in Kampala, Uganda.
- The African Tax Administration Forum (ATAF) is a platform aimed at promoting and facilitating mutual cooperation among African Tax Administrations and other relevant and interested stakeholders with the aim of improving the efficiency of their tax legislation and administration.
- The Forum, which is an OECD backed initiative, with a secretariat in South Africa brings together Heads of African Tax Administrations and their representatives to discuss the progress made, challenges faced and possible new direction for African tax policy and administration in the 21st Century.
- The ATAF is working towards the promotion of economic development, good governance and accountability in Africa and increasing domestic resource mobilization. It also hopes to instill a culture of professionalism and mutual support; enhance mutual cooperation and increase the level of voluntary tax compliance. ATAF has got plans to combat tax evasion and avoidance and implement African tax strategies that will enhance the capacity of tax administration on the continent.

African Union (AU)

- The African Union (AU), a successor to the Organisation for African Unity (OAU) was founded in 2002 and is a platform for 53 African nations to discuss and agree upon strategies of addressing social, economic and political issues.
- The organs of the African Union relevant to tax justice include: the Pan-African Parliament, presently holding consultative and advisory powers, with the stated intent of developing

legislative powers; specialised technical committees such as the Committee on Monetary and Financial Affairs; the Committee on Trade, Customs and Immigration Affairs; and the Committee on Industry, Science and Technology, Energy, Natural Resources and Environment, supported by officials and ministers in various countries; the financial institutions composed of the African Investment Bank, African Central Bank and African Monetary Fund and the Economic, Social and Cultural Council of the African Union, launched in 2005, with the objectives of accelerating socio-economic and political integration of the continent, encouraging international cooperation, promoting sustainable development and co-operation in all fields of human activity to raise the living standards of African peoples.

New Economic Partnership for Africa's Development (NEPAD)

- The New Partnership for Africa's Development (NEPAD) is an economic development program of the Africa Union with four primary objectives of eradicating poverty, promoting sustainable growth and development, integrating Africa into the world economy, and accelerating the empowerment of women. It is based on the underlying principles of a commitment to good governance, democracy, human rights and conflict resolution; and the recognition that maintenance of these standards is fundamental to the creation of an environment conducive to investment and long-term economic growth.
- NEPAD's structure is based on the premise that the member states will hold one another politically accountable through the Africa Peer Review Mechanism (APRM) and its agenda is essentially based on the Africanised version of the Washington Consensus Agenda: that Africa's fate lies intertwined with foreign investment-driven development.
- The peer review mechanism has highlighted areas of government transparency, but this should be expanded to the formulation of tax policy, looking in particular at the harmful effects of tax competition. NEPAD has the potential to act as a collective bargaining point for Africa in relations with foreign governments and trade blocs, international finance institutions such as the IMF, the World Trade Organisation and multinationals.
- Much as the NEPAD seeks to attract increased investment, capital flows and funding, by providing an African-owned framework for development as the foundation for partnership at regional and international levels, it lacks a clear position on tax policy and is largely silent on secrecy jurisdictions, information exchange, country-by-country reporting, published registries of banking clients, taxing capital flows, and the implications of trade and investment liberalisation.
- The East African Community (EAC)
- The East African Community (EAC), is an intergovernmental organisation with five member countries, Uganda, Kenya, Tanzania, Rwanda and Burundi. One of the EAC's milestones has been the establishment of the Customs Union in 2005 and it is anticipated that the creation of an EAC common market will result in the free movement of labor, goods, services and capital.
- The EAC Treaty stipulates that the partner states will undertake to harmonize tax policies so as to remove tax distortions and bring about a more efficient allocation of resources within the Community.
- Taxation as a key fiscal tool has a major role to play in facilitating economic integration and is critical for each country's base of revenue. As the EAC countries aspires for regional integration there is need to address tax harmonization especially issues related to tax treatment of international services, removal or reduction of intra-EAC withholding taxes, common approach to transfer pricing and a common methodology for calculation of income tax.

- Much as it is important for Uganda and the other East African countries to protect their tax systems, all the partner countries should be willing to give up some of their national ground or sovereignty in the interest of regional integration. Insufficient tax harmonization between the East African countries has been, and will perpetually continue to be a barrier to progress in regional economic integration.

Fear of Tax Harmonization under the EAC

- The regional integration at the EAC Customs Union level is predominantly a politically driven initiative and many of the measures promulgated by regional political forums have been made before assessing the feasibility of their implementation and their implication on the Domestic Resource Mobilization (DRM) or widening of the tax base. For example:
  - The Common External Tariffs (CETs) were pronounced on the eve of the EAC Customs Union launch, and there is still a lot of haggling over them.
  - There is an absence of clarity on the appropriate classification of manufactured and semi-manufactured goods.
  - The value of goods which qualify for exemptions and remissions has been growing since the coming in force of the Customs Union.
  - There are weak and poorly coordinated controls over the rules of origin that continue to pose major problems for all the Revenue Authorities in the EAC member states.
- The harmonization of excise duties needs to take into consideration the broader political and social aspect apart from the revenue aspect. For example, VAT and excise duty are not harmonized, which could negatively impact on cross-border trade.
- There is a fear that tax integration may lead to erosion of fiscal autonomy of the member countries through increased mobility in the tax base, as corporations and individuals seek to migrate to more tax optimal locations within the region since every business entity has the right and freedom of establishment. Partner States too may seek to protect their tax base and wish to open up to competition.

Strategies to Strengthen the EAC Tax Base

- There is need to address the “unofficial” exemptions and smuggling, by having stringent exemptions regimes, tackling tariff leakages as well as VAT leakages so as to reduce revenue loss within the region.
- All the EAC countries need to harmonize their tariff exemptions regime to avoid trade deflection once internal border posts are dismantled for full Customs Union implementation.
- In the context of the implementation of the Customs Union, the EAC countries should address the weaknesses in their customs administration, border control, and transit arrangements to reduce losses of customs revenue collection.
- The EAC needs to widen the scope of tax harmonization from the current common Customs Union to encompass the whole tax spectrum, including corporate income taxes, employment taxes and VAT etc, as well as sharing of taxation information between the governments, and establishing common standards for tax administration.

Other Regional Co-operation Bodies addressing issues of Taxation in Africa

- Important regional blocs in Africa include: Common Market for Eastern and Southern Africa (COMESA), a trade bloc formed in 1994 with a membership of 19 states; the South African

Development Community (SADC), composed of 15 Southern African member states with origins going back to the 1960s; the Economic Community of West African States (ECOWAS), formed in 1975 following the Treaty of Lagos, made up of 15 West African member states, the Economic and Monetary Community of Central Africa (CEMAC), the Banque Centrale des Etats de l'Afrique de l'Ouest (BCEAO), the Economic Community of Central African States (ECCAS), with 11 members; the Community of Sahel-Saharan States (CEN-SAD), a 28-member country bloc, with organs that include an investment and trade bank to promote regional integration; the Intergovernmental Authority on Development (IGAD), with seven members countries, chiefly based in the Horn of Africa and the Arab Maghreb Union (AMU), comprised of five Maghreb or North African members.

- The collective politico-economic bargaining power of these blocs is substantial enough to catalyse change regionally, across the continent and internationally, but it should be noted that Africa's weakness is not that the continent lacks the proper channels or power to implement and influence global policy, but the necessary political will, which is isolated and dispersed.
- Civil society groups need to carry out research about the work being done by the different bodies and continuously lobby for space to monitor and influence the discussions related to taxation and economic development.

Session 6: Carrying Out Effective Tax Justice Advocacy: Using the Power Analysis Tool

This session is intended to help the participants analyse the different institutions, organisations and individuals that need to be influenced so as to bring about the change in the tax policy and tax administration. The participants will analyse the political context in their respective countries and decide on the type of advocacy strategy to be used in order to put pressure on the tax system. The participants will be exposed to the power analysis tool or power mapping tool to enable them become tax justice advocates.

Session Objectives

At the end of the session participants should be able to:

- Identify the different institutions, organisations and individuals that influence the national tax policies in their respective countries.
- Analyse the decision makers and pressure makers in respect to the formulation and implementation of the tax policy at the national and international level.
- Carry out a power analysis or power mapping exercise to decide on the importance of the key stakeholders in tax policy.

Step by Step Process

i. Introduce the session and ask the participants to reflect on the key players in the tax policy formulation?
ii. Brainstorm on who actually is responsible for the taxation policies adopted on the continent and what role do they play.
iii. Facilitate the participants to carry out a power mapping exercise.
iv. Conclude the session with a discussion on the role of civil society groups in carrying out advocacy so as to influence tax policies on the continent.

Duration: 4hrs

Activity: Brainstorming, Group Discussion, Question and Answer, and Lecture

Facilitator Notes

What is Power Analysis?

Power analysis is about capturing who has the most power to bring about the change one wants to see and who in turn has influence over them. This is best done when one carries out a power mapping to identify the institutions, organisations and individuals that need to be influenced in order to bring about the desired change. It is important to study the political context that one is operating in so as to decide on the approach to take in the advocacy campaign. The power analysis will also help to identify any upcoming opportunities that need to be taken into account and it could have a considerable bearing on the advocacy strategy and the areas one needs to focus their energies.

Who can give you audience?

Advocacy efforts are a mix of actions that pressure, persuade, educate, and mobilize people and institutions that can make change happen. It is important to simultaneously focus on multiple audiences, since one is unlikely to know which combination of actions, tactics, and tools will lead to the desired change. Advocacy efforts should therefore focus on two types of audiences:

- Decision makers: Those that have the power or authority – formal and/or informal – to make or to block change.
- Pressure makers: Those that have the power to influence or pressure decision makers or other pressure makers and to raise public opinion of an issue.

Who are the likely targets?

In tax justice advocacy the targets are likely to be the minister responsible for finance, the civil servants supporting them or their key policy advisor; the minister responsible for business, and perhaps the members of a parliamentary committee responsible for overseeing government policy on business and investment. In some countries the wife, sister, brother or daughter or son of the finance minister could have more power and influence than the civil servants or parliamentarians.

How is the Power Analysis of Power Mapping carried out?

Figure 9: Power Analysis/Mapping Tool

Draw and label a box or circle in the middle of a flip chart sheet to represent the person or institution with the most power to bring about change on your issue. Then work outwards so that the circles/boxes near the centre of the sheet have the most power to change the policy, and the circles/boxes on the edges of the sheet are those with the least power. You can then draw arrows between the circles/boxes to indicate which individuals or institutions are linked or related in some way. The power map is best developed on a large piece of flip chart paper as a participatory exercise in small groups.

The power map will help you identify the targets for your advocacy. Targets can then be broken down into: primary targets (those with the most direct influence), Secondary targets (those with influence over the primary targets, or those with some influence on the issue but not as much as the primary targets). These secondary targets are sometimes referred to as 'influentials'. Influentials can be found in a variety of places, and not just among those officially part of a decision-makers immediate circle. They include the media, members of parliament, donors, faith leaders, other government departments and trade unions.

What are some of the critical questions to be asked in a power mapping?

a. What is at stake?

When pushing for a change in tax policy, there is going to be resistance especially from people that are threatened by the change or do not want to share the power to make decisions that affect people's lives. One must therefore, anticipate and prepare for resistance by asking:

- Who is harmed by the status quo? What is their social status? What barriers do they face (for example, limited or no social mobility, history of non-engagement, marginalization, etc)?
- Who wants to maintain the status quo? Who benefits?
- Who will benefit from the change?
- Who will be threatened by the change and become potential opposers?

b. How are changes made?

In identifying the decision makers and pressure makers, one must think about both the formal and non-formal ways in which changes are made or blocked. The following questions will help in identifying the available opportunities to participate in or exert pressure on the decision-making system:

Decision makers
- Who has the power and authority to make or block change? Who decides whether a problem is addressed or ignored?
- What are their duties? For what can they be held accountable?
- What are their limitations?

Pressure makers
- Who has influence with or connection to these decision makers? (in civil society, the private sector, and the government –local, national, regional and international).
- Who influences public opinion on an issue?
- Why are they influential? What are their sources of power?
- Are any of them so influential that they are informal decision makers?

Formal and Informal structures
- What are the formal policy making processes?
- What are the informal policy making processes? (where are the key decision actually made and who makes them? – kitchen cabinet)
- What are the decision-making bodies? – branches of government ministries, departments, agencies, committees, councils, boards of directors, shareholders, etc.
- How are they organized? – What is the relationship among the different bodies and between the different levels?
- What are the particular perspective, circumstances, and constraints, with which these policy makers have to work?

Decision-making processes
- How does an issue become part of the problem-solving agenda?
- How are solutions considered, chosen, and implemented? What is the process and how much time can each stage take?

- Are there openings for public participation? Do decision makers make consultations with those affected when deciding among alternative solutions? If so, at what stages of the process and through what mechanism?
- Who has access to these mechanisms? Whose voices are sought out? Represented? Listened to? Considered important?

c. Who are the key audiences? i.e. Targeted policy makers and institutions?

These are the critical actors that can help or harm your issue the most. You need to take time to discuss each audience and gather as much relevant information as possible. Sometimes this is called a stakeholders analysis.

Who is a Stakeholder?

A stakeholder is anyone who will make use of, develop, or have an impact on any aspect of your tax advocacy campaign. Stakeholders can either be direct or indirect. Direct stakeholders are those people (government ministry officials, parliamentarians, tax administrators) whose actions can directly impact your campaign - they are involved in the project life cycle, or are impacted by the project – they use the system or output the campaign is pushing for. Indirect Stakeholders are those who have some political power to influence the campaign or those who are interested in its outcomes. In short - stakeholders are those who have a stake in the project or advocacy campaign.

What is Stakeholder Analysis?

Stakeholder analysis is the identification of all persons, groups and institutions that may have an interest in the advocacy campaign and taking the necessary steps to manage their interests and expectations so that the campaign runs as smoothly as possible. This analysis needs to be done in the early stages of the campaign so that any risks and required communication can be included in the overall advocacy plan. In this respect, stakeholder analysis is closely linked to risk management and change management.

Stakeholder Matrix

Practical Exercise

i. List the actors that hold a stake or have an interest in an issue e.g. the Value Added Tax (VAT)
ii. List all those people you identified in answering: "What is the problem?", "What is at stake?", and "How are changes made?" Why those audiences and institutions?
iii. Then divide your list into decision makers (formal and informal) and pressure makers.
iv. Add all those people whose support you need or whose opposition you need to neutralize.

Listing your Audiences

Stakeholder identification and analysis is best conducted using brainstorming techniques. This procedure is generally carried out in a workshop setting, with representatives of key participants in the advocacy campaign.

Audiences	Notes

Divide your Audiences

Formal Decision Makers	Informal Decision Makers	Pressure Makers

- For each audience, how important is it? And Why?

Being "Important" means that an audience will be directly affected by the change or has the power and opportunity to make or block change, or is very influential with decision makers, pressure makers, or in raising public opinion. There are three main categories:

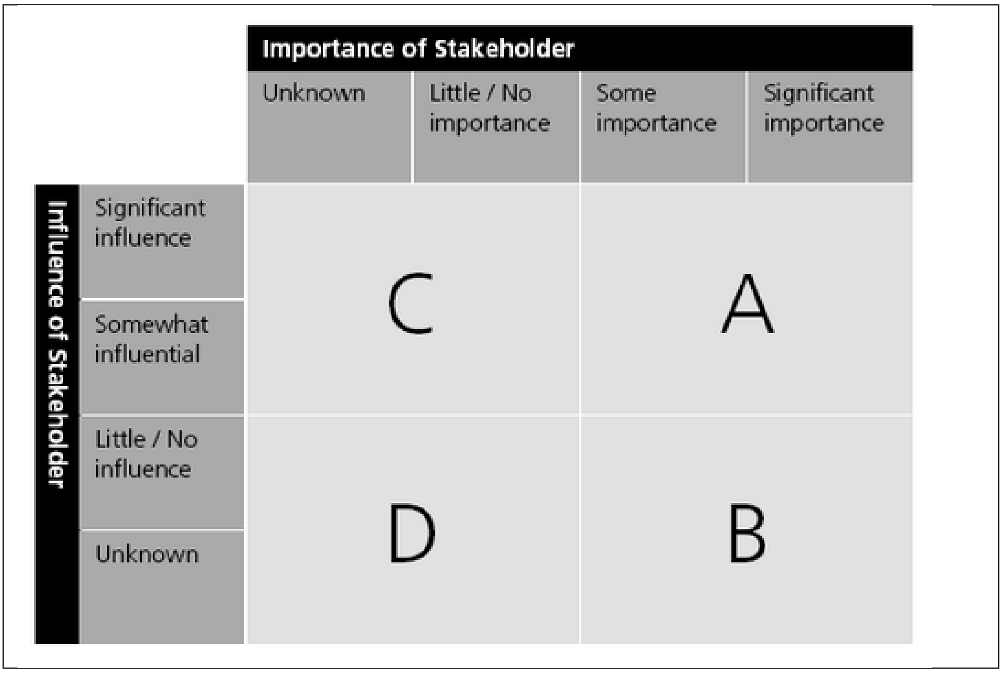
- Very important
- Somewhat important
- Not Important

The audiences you identify as "very important" will be your key or main audiences and the focus of your advocacy action plan. However you need to monitor all the other audiences in case their level of importance changes.

Evaluating your Audiences

What do you know about each key audience? Are they strong supporters; moderate supporters; fence sitters (those who are uncommitted, undecided, or easily swayed); moderate opponents and strong opponents. Gather and analyze information about each audience by asking the following questions:

- Is the audience a decision maker? Or a pressure maker? Why?
- What is the audience's stated position, if any? How do we know that? Give examples, like the official's public statements, or type of coverage in the media.
- Why does the audience support or oppose the issue?
- Who or what motivates the audience? Think about the audience's value base, personal background, etc.
- What prevents the audience from being involved?
- Are there any splits or differences of opinion among key decision makers? If so, how can you take advantage of them?



Boxes A, B and C are the key stakeholders. The implications of each box is summarised below:

Box A

These are stakeholders appearing to have a high degree of influence on the advocacy campaign and are also of high importance for its success. This implies that the implementing organisation will need to construct a good working relationship with these stakeholders, to ensure an effective coalition of support for the campaign. Examples might be the senior officials in the ministry of finance and politicians or tax revenue authority.

Box B

These are stakeholders of high importance to the success of the project, but with low influence. This implies that they will require special initiatives if their interests are to be protected. An example may be traditionally marginalised groups (e.g. women, youth, pensioners), who might be beneficiaries of the tax campaign, but who have little 'voice' in its development.

Box C

These are stakeholders with high influence, who can therefore affect the project outcomes, but whose interests are not necessarily aligned with the overall goals of the project. They might be financial administrators, who can exercise considerable discretion over funding disbursements. This conclusion implies that these stakeholders may be a source of significant risk, and they will need careful monitoring and management.

Box D

The stakeholders in this box, with low influence on, or importance to the project objectives, may require limited monitoring or evaluation, but are of low priority.

Matching Pressure Makers with Decision Makers

In your advocacy strategy, you need to be very specific about who influences whom. Write a decision maker's name in a circle. Then look at your list of other decision makers and pressures makers. Which ones are influential to the decision maker? Add their names in circles surrounding the decision maker. Use as few or as many circles as you need and repeat this for each key decision maker.

'Who's Who' of the tax stakeholders?

Communities and citizens

Because tax justice helps enable the provision of basic services and the achievement of greater equity, everyone is a stakeholder in tax justice campaigning. Because everyone is affected by low revenue or unfair distribution, you can address everyone in your community through your tax campaign.

Taxpayers

Taxpayers are not all the same, and thus they should be treated according to their capacity, and their type of activity. Taxpayers include both companies and individuals and they pay taxes directly on their income and/or indirectly, for example on goods and services. Even the poorest people in society are taxpayers through their consumption. States offer different tax treatment to taxpayers based on their income or capacity to pay, some systems being more progressive and others highly regressive. Taxpayers themselves are possibly the most important stakeholders, as citizens who are aware of their role as taxpayers can form interest groups and demand transparency in using their tax money.

Governments

Governments, local and national, are responsible for developing and implementing domestic tax policy. Tax is a vital source of revenue for most governments so, like tax justice advocates, they do have an interest in ensuring that tax is collected. However, their approaches to how taxes should be raised often differ from those of tax justice campaigners, as many governments have tended to support tax formulas that are not progressive. This is why tax justice advocates the world over are trying to influence their governments to introduce more equitable national tax policies.

Many governments also have a role in negotiating international dimensions of tax policy. In some countries, tax justice campaigners are urging their governments to take a stronger stance in the G20, or as part of the G77, to push for more transparent accountancy rules for multinational companies (MNCs) internationally.

With regard to MNC taxation, different parts of governments may have different approaches. The parts dealing with investment promotion will favour a low-tax environment to reduce MNCs' tax liability. Those dealing with tax revenue generation may oppose this. Understanding the positions of different political figures and their departments is therefore important for tax justice advocates.
Revenue authorities and tax administrators

In some countries, tax authorities are independent of government, with their own budgets and salary scales. (In others, they are typically a part of the ministry of finance.) Independent tax authorities are usually better resourced, and their staff better paid, than other government departments, because they compete with the private sector for their staff. But tax authorities in southern countries are still severely underfunded in comparison to their northern equivalents, facing real capacity constraints, often leading to low morale among staff and sometimes corruption. It is hard enough for these authorities to audit the accounts of domestic companies that may be trying to evade tax, let alone to penetrate the complex accounts of MNCs and spot if they are reallocating profit and loss among subsidiaries in order to evade tax.

- **The African Tax Administration Forum (ATAF)**, which was launched in 2009, brings together 25 African tax administration bodies and its mission is to mobilise domestic resources more effectively and increase the accountability of African States to African citizens while actively promoting an improvement in tax administration through sharing experiences, benchmarking and peer reviewing best practices.
- **Asia Tax Forum:** regularly brings together senior government officials with leading fiscal experts and industry representatives. Its goal is to create a sustainable and continuing dialogue among all interested sectors on latest developments, studies, issues and challenges on indirect taxation.

The real frustrations that they face mean that tax administrators are often more supportive of tax justice advocates than the average civil servant, and willing to build relationships with tax justice advocates. By sharing tax research and proposals for more transparent and equitable tax systems, this could indirectly influence the governments of the tax administrators you are targeting – depending on the relationship between the administrators and the politicians in your country.

Multinational companies

MNCs are major economic players and providers of employment and income in most developing countries. In addition, taxes from MNCs are a vital source of revenue, enabling governments to provide the services to which their citizens are entitled. However, MNCs have tended to demand, and have received, major tax concessions from governments as the price for setting up operations – and governments worry that investment will go elsewhere if such concessions are not offered. Such tax breaks represent a huge cost to the government coffers of developing countries. Certain unscrupulous MNCs also engage in tax avoidance and evasion, which further drastically reduces the potential tax revenue for these governments. MNCs are made up of subsidiary companies. Corporate structures differ, so while the subsidiary in one country may be under close control from the MNC's head office, in other cases it could have considerable autonomy and a local staff team. In many cases, subsidiaries are listed on the stock exchange, and there are significant local shareholders who lose out from profit shifting that reduces their dividends – and who may therefore be allies of tax justice advocates.

Accountants and accountancy bodies

Accounting companies can be anything from offices with one single accountant that provide vital services to small and medium sized enterprises (SMEs), to large national providers of accounting and payroll services. Every registered company over a certain minimum threshold needs to prepare accounts; over a certain threshold they also need to be audited. Accountants provide both services. Some accounting companies also offer services that allow their clients to avoid or evade taxes.

- **The Big Four:** the most influential among these are the so-called 'Big Four' accountancy firms: Deloitte, KPMG, Ernst & Young and PricewaterhouseCoopers. They all operate in almost all countries, and in most tax havens. Multinationals prepare their accounts with them, as do many national companies who are active in foreign trade. Tax justice advocates can target the Big Four directly, or urge their client companies to exert influence.

Most if not all accountants are members of professional associations such as Institutes of Chartered Accountants; and national branches of global accountancy bodies such as the Association of Chartered Certified Accountants (ACCA) and the Federation of Francophone Certified Accountants (FIDEF). Some of these associations provide capacity-building programmes for accountants and government auditors in developing countries. These associations are represented in the International Accounting Standards Board (IASB) and its associated bodies. Being membership associations they can adopt motions put forward by their members – so tax justice advocates could build alliances with these national bodies.

The International Accounting Standards Board

The IASB is the body of accountants that devises the rules covering how companies should produce their annual accounts. More than 100 governments worldwide tend to rubber-stamp their findings into law. Currently, MNCs only publish global accounts, which make it incredibly difficult for tax authorities in developing countries to identify where MNCs are making their profits and therefore how much tax these companies should pay in their country. This lack of transparency enables MNCs to minimise their tax payments through a variety of creative accounting mechanisms. Organisations campaigning for tax justice have been targeting the IASB to call for a country-by-country reporting standard.

Secrecy jurisdiction governments

As a key component of sovereignty is the ability to raise revenue, states that provide financial secrecy undermine the ability of other states to do this. Also known as tax havens, these states or autonomous territories provide secretive financial services for non-resident companies, causing vast tax losses for developing and developed countries alike on wealth hidden away from tax authorities. Secrecy jurisdictions raise significant revenue from annual registration fees on secret companies, while local residents often pay high indirect taxes, and some direct tax. Not all secrecy jurisdictions provide the same levels of secrecy and some are worse than others. Meanwhile, residents of many secrecy jurisdictions would like to find an exit strategy from the secrecy trade.

International Monetary Fund

The IMF exerts a powerful influence on developing countries' economic policy formulation, including approaches to taxation. In the past, through conditions attached to its loans and the influence of its reports on investor confidence, the IMF has been able to effectively promote the 'tax consensus' that has involved reductions in the rates of corporate taxation, including far-reaching tax breaks for foreign investors, reductions in export and import taxation through trade liberalisation, and the introduction or expansion of (often regressive) sales taxes such as VAT.

World Bank

The World Bank pursues a similar agenda to the IMF through its influence on developing country economic policy. Particularly influential is its "Doing Business" rankings which governments the world over use as a yardstick for measuring their business and economic policy. The rankings take into account the time and effort needed to form and maintain a company, encouraging governments to eliminate 'red tape'; but they also include indicators on tax policy.

Organisation for Economic Co-operation and Development (OECD)

The OECD is a group of around 30 of the world's richest, most powerful democracies. Based in Paris, the secretariat has adopted tax policy and administration as a core function. This includes organising advice and technical assistance for developing countries. The OECD is also an international standard-setter on tax policy: its transfer-pricing guidelines are used by tax authorities to assess companies' profit-shifting activities, and its model tax treaties form the basis of bilateral agreements on tax cooperation and information exchange. Global standards used to assess tax havens are set, and assessments made, by the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes. Naturally, OECD standards are designed with the interests of rich countries at heart, but the OECD is reaching out to developing countries in order to try to retain its dominant status in the world of international tax.

United Nations (UN)

The United Nations Committee of Experts on International Cooperation in Tax Matters, a part of the

Economic and Social Council (ECOSOC), is the other important body in the field of international tax. With a mandate to specifically consider the interests of developing countries, the committee also has a model tax treaty, which differs from the OECD's in ways that give developing countries much more scope to tax MNCs. Because it is a committee of experts, not an intergovernmental body, the UN Committee's status is perhaps lower than that of the OECD, and its members have no formal mandate from their countries.

Lawyers/Legal Bodies

Much like accountants, lawyers are a vital profession for upholding the integrity of the laws that govern countries. Tax lawyers can negotiate good tax treaties, but some engage in drafting the laws that enable large corporations and wealthy individuals to keep their earnings and assets tax-free. Some lawyers also manage and create trust accounts for their clients, and sometimes actively promote secrecy jurisdictions and tax havens to their clients.

The Judiciary

The judicial system interprets the law, and constitutes the legal branch of the government, including all of the courts. A public prosecutor may charge serious tax offenders and tackle corruption and bribery, as well as money laundering – meanwhile, inactivity may slowly erode the tax morale.

Bankers

The banking secrecy laws of jurisdictions such as Austria, Dubai and Switzerland, as well as financial secrecy in Jersey, Guernsey and the Cayman Islands, prevent tax authorities from tracing suspected tax fraud or corrupt flight of wealth. While banks play a crucial role in facilitating credit and savings for individuals and businesses, some banks have been found to be major facilitators of corruption, tax evasion and other types of illicit financial flows.

High Net worth Individuals

In most countries, the keenest individual tax avoiders fall into the category of those who have over US$1 million in financial assets. Worldwide there are about 10 million such persons, while Africa has around 860,000 rich individuals with a combined fortune of US$747 billion in personal wealth. South Africans account for over half this wealth. An estimated 30 per cent of global individual wealth remains permanently offshore which, unless declared, is unlikely to be taxed as it is hidden in secret accounts.

Trade Unions

Trade union members are also ordinary taxpayers, and so these organisations often engage in political debates around tax policy. In many countries, they fight regressive taxes such as VAT, as well as calling for higher and more effective taxation of high net worth individuals and businesses. They can be useful allies for tax justice advocates.

Human Rights Groups

There is a strong relationship between tax dodging and corruption. For example, tax evasion involves breaking the law and ensuring that you can get away with it; rich companies and individuals rely on patronage through political elites to ensure that the tax system works in their favour; and tax haven secrecy assists with tax dodging as well as with corruption. Equally, economic rights are violated when states are unable to meet their obligations because of weak or unfair taxation. So on many of the problems that tax justice advocates are trying to solve, as well as on many of the solutions, agendas can overlap with those of human rights groups.

How do you analyse the policy context and opportunities?

In addition to analysing who has power over an issue and/or who has a stake in it, one also needs to analyse what policies and policy processes should be influenced in order to bring about the desired changes – particularly at the national level. National policy-makers, for example, cannot operate in a vacuum. Even if you manage to persuade them of the need for change on a given issue, they can only bring about that change through established policy or legislative channels and processes. If you do not relate your proposals for change to specific political opportunities or policy processes available to policy-makers in your country, you are likely to be ignored.

The following are key questions to address in your analysis of the policy context:

- What are the different policies that impact on the problem or situation you are trying to address?
- Which are the policies that have the most impact on the problem and could most help solve the problem if they were changed? (this will help you prioritise where to focus your advocacy work)
- What is the current status of the policy you will seek to change? Is it enshrined in law? Or is it simply the adopted policy or position of the current government?
- What are the mechanisms for bringing about a change in the policy? (these could be local, national, regional or international – or a combination)
- How have changes to this policy been brought about in the past in your country?
- Are there opportunities for changing the policy in the near future (for example, a parliamentary bill on the extractives sector, or a general election)?
- How and where can you access further information about a policy?

Analysis of the policy context for your advocacy is not something you do just when you are first developing your advocacy strategy. It has to be ongoing throughout the course of your advocacy strategy, as politics and policies are always changing – regardless of your advocacy! For example, a general election and a change of government can change the policy context for your advocacy overnight.

Glossary

Balanced Budget
This is when the government expenditures are exactly equal to tax revenues in a given year. A government is then said to be running a balanced budget for that year.

Budget Deficits
When government expenditures exceed government tax revenues in a given year, the government is running a budget deficit for that year. The budget deficit, which is the difference between government expenditures and tax revenues, is then financed by government borrowing; or the government issues long-term, interest-bearing bonds and uses the proceeds to finance the deficit.

Budget Surpluses
When government expenditures are less than tax revenues in a given year, the government is running a budget surplus for that year. The budget surplus is the difference between tax revenues and government expenditures. The revenues from the budget surplus are typically used to reduce any existing national debt.

Capital Gain Tax
Is a tax on the profit from the sale of capital assets that were purchased at a cost amount that was lower than the amount realized on the sale. The most common capital gains are realized from the sale of stocks, bonds, shares, precious metals, land and buildings, businesses and valuable assets such as works of art. Not all countries implement a capital gains tax and most have different rates of taxation for individuals and corporations.

CSR
Corporate Social Responsibility

Duty
In economics, a **duty** is a kind of tax, often associated with customs, a payment due to the revenue of a State, levied by force of law. It is a tax on certain items purchased abroad. A duty differs from a tax in being levied on specific commodities, financial transactions, estates, etc., and not on individuals; thus import duties, excise duties, death or succession duties, etc., but not of income tax that is levied on a person in proportion to his or her income.

Export Duties
Are taxes or duties imposed on exports.

GATT
The **General Agreement on Tariffs and Trade (GATT)** was a multilateral agreement regulating international trade with the aim of having substantial reduction of tariffs and other trade barriers and the elimination of preferences, on a reciprocal and mutually advantageous basis. It was negotiated during the UN Conference on Trade and Employment and was the outcome of the failure of negotiating governments to create the International Trade Organisation (ITO). GATT

was signed in 1948 and lasted until 1993, when it was replaced by the World Trade Organisation in 1995.

Government
Is a body of people that sets and administers public policy, and exercises executive, political, and sovereign power through customs, institutions, and laws within a State.

HIPC
The initial HIPC plan was adopted in 1996 as a way in which donors could reduce the debts of the world's 41 most highly indebted poor countries to "sustainable" levels, that they could afford to service. 33 of these nations were in Africa. In 1999, HIPC II was adopted, making it easier for countries to meet the qualifying conditions, including implementing World Bank and IMF Structural Adjustment Programmes (SAPs). It also attempted to simplify the process countries needed to complete, in cooperation with the Bank, to formulate national strategies for reducing poverty, the Poverty Reduction Strategy Papers (PRSPs) that indicated that the money saved would be spent on the social sector. To qualify for HIPC, the ratio between a country's debt and its exports had to be not more than 150 per cent. Where the ratio of debt-to-revenues was used instead, it was not to exceed 250 per cent. The World Bank believed that a country with a ratio lower than 150 per cent was earning enough export revenue to service its debt hence a sustainable debt.

Income Tax
This is a direct tax that is imposed on income derived from business, employment, rent, dividends, interest, and pensions.

Informal economy
These are economic activities and the income derived from them that circumvent government regulation, taxation or observation. It includes unreported income from the production of legal goods and services, either from monetary or barter transactions, and so includes all economic activities that would generally be taxable were they reported to the tax authorities.

Import Duties
Are taxes or duties imposed on imports.

Jurisdiction
The term jurisdiction in this document is used generally to describe any territory with its own legal system, regardless of whether it is an independent or sovereign state; it may be a component of a federal or co-federal state (e.g. Dubai), a dependent, associated or overseas territory (e.g. Cayman Islands, Isle of Man); or an internal zone to which a special legal regime has been applied (e.g. Labuan).

MNEs
A multinational enterprise (MNE) is defined by OECD as "a company or group of companies with business establishments in two or more countries". MNE's, also known as multinational corporations, establish subsidiaries in countries other than their home countries with several motives – one of which is to expand their market access to increase their revenue and return on investment. MNEs contribute significantly to global production of goods and services and it is estimated that over 60% of international trade is handled by MNEs

National Debt
The total stock of government bonds and interest payments outstanding, from both the present and the past, is known as the national debt. Thus, when the government finances a deficit by borrowing, it is adding onto the national debt.

Non-tax Revenues
These are Government revenues that are not generated from taxation, notably rents and royalties from extractive industries.

Personal Tax Relief
This is a uniform tax relief that is automatically granted to all those people employed and all other personal income earners. The tax relief is deducted from the total tax payable of each individual taxpayer, thereby reducing the total amount of tax that an individual pays.

Presumptive Tax
Involves the use of indirect means to ascertain, or arrive at, a tax liability where the level of tax liability cannot be easily ascertained, for example, when taxing small-scale businesses and agriculture. The term 'presumptive' refers to the legal presumption that the taxpayer's income is not less than the amount that is approximated when completing or computing a tax return.

Progressive Taxation
Is a tax system in which as income rises, the amount of tax paid increases in proportion to the income as well as in absolute amount, that is to say the percentage tax rate increases as the income rises. It is also referred to as graduation tax.

Public Expenditure
Is the expenditure incurred by public authorities like central, State and local governments to satisfy the collective social wants of the people such as health, education, defence, pensions and expenditure on infrastructure.

Regressive Taxation
Is a tax system in which as a person's income from all sources rises, the amount of tax they pay reduces in proportion to their income even if it increases in absolute amount i.e. their percentage tax rate falls as their income goes up.

Secrecy Jurisdiction
These are countries and territories that provide financial secrecy which undermines the regulation of another jurisdiction for the primary benefit and use of those not resident in their geographical domain.

State
A State is a self-governing political entity. The term State can be used interchangeably with country.

Tax
A tax is any obligatory payment made to a State for which no direct benefit is provided in exchange, for example a payment based on a percentage of income earned from an employment is a tax. It is fee levied by a government or a regional entity on a transaction, product or activity in order to finance government expenditure.

Tax Advocacy
The campaigning and information dissemination methods that civil society uses to represent the public interest in taxation, and to give a voice to those who currently have none in tax policy.

Tax Avoidance
Is the legal utilization of the tax regime to one's own advantage, to reduce the amount of tax that is payable by means that are within the law. The United States Supreme Court has defined it as "The legal right of an individual to decrease the amount of what would otherwise be his taxes or altogether avoid them, by means which the law permits, cannot be doubted."

Tax Base
Is the amount or value upon which the assessment or determination of a tax liability is based. For example, the amount of income declared for tax purposes is the tax base for income tax. For excise taxes and VAT, the tax base is the ex-factory price of the commodity. Tax base can also refer to the range of assets and transactions that a country chooses to tax. A broad base includes a wide range of assets and transactions, a narrow base relatively few transactions.

Tax Burden
This is the amount of tax borne by an individual or company. It may not be the same as the tax actually paid because of the possibility of shifting tax to another individual or company.

Tax Deduction
Represent an expense incurred by a taxpayer, which is subtracted from the gross income when the taxpayer computes his or her income taxes. As a result, the tax deduction will lower overall taxable income and thus lower the amount of tax paid. Examples of allowable deductions can be mortgage payments and pension contributions.

Tax Effort
This is the proportion of tax revenue that is collected compared to the actual revenue potential. A high tax effort means that the government is able to collect most of its potential tax revenue. At the national level, the tax effort has a different meaning: it is tax revenues as a percentage of GDP (Gross Domestic Product).

Tax Evasion
Is the general term for efforts by individuals, corporations, trusts and other entities to evade taxes by illegal means. Tax evasion usually entails taxpayers deliberately misrepresenting or concealing the true State of their affairs to the tax authorities to reduce their tax liability, and includes, in particular, dishonest tax reporting (such as declaring less income, profits or gains than actually earned; or overstating deductions).

Tax Exemption
This is an exclusion from all or certain taxes with the result that part of the tax revenue that would normally be collected is foregone. Most basic goods are exempted from VAT (Value Added Tax) to make this tax less regressive.

Tax Expenditure
This is any reduction in government revenue that results from applying a preferential treatment such as deductions and exemptions. It is therefore regarded as a cost to the State of tax exemptions or deductions.

Tax Gap
The tax gap is defined as the amount of tax liability faced by taxpayers that is not paid on time. It is the difference between the amount of tax revenue that the government should be able to collect and the actual amount that is collected. This difference is mainly explained by tax evasion and tax avoidance.

Tax Haven
Is a country that offers foreign individuals and businesses little or no tax liability in a politically and economically stable environment. Tax havens[7] also provide little or no financial information to foreign tax authorities. Individuals and businesses that do not reside in a tax haven can take advantage of these countries' tax regimes to avoid paying taxes in their home countries. Tax havens do not require that an individual reside in or a business operate out of that country in order to benefit from its tax policies. However, pressure from foreign governments that want to collect all the tax revenue they believe they are entitled to have caused some tax haven countries to sign tax information exchange agreements (TIEAs) and mutual legal assistance treaties (MLAT) that provide foreign governments with formerly secret information about investors' offshore accounts.

Tax Holiday
This is a period during which a tax is not payable or is reduced. Governments usually create tax holidays as incentives for business investment. They are often designed to allow foreign companies to invest in a country and not pay tax for an initial period of years to enable them recover part of their establishment costs and stabilize.

Tax Incentive
A tax incentive is a deduction, exclusion or exemption from a tax liability, offered as an enticement to engage in a specified activity such as investment in capital goods for a certain period. Tax incentives are the fiscal form of investment incentives and include corporate income tax holidays and reductions in tax rates. Non-fiscal or non-tax incentives include direct subsidies like government grants, loans and guarantees for target projects. Tax incentives are granted to attract FDI and/or to promote specific economic policies, such as to encourage investment in certain sectors.

Tax Rebate
This is also referred to as a tax refund. A tax rebate is a refund on taxes when the tax liability is less than the taxes paid.

Tax Subsidy
This is a form of financial assistance to an individual, business or economic sector, where the recipients receive the benefit through the tax system. It can be used to support businesses that might otherwise fail, or to encourage activities that would otherwise not take place. Examples include tax deductions or exemption from consumption taxes such as VAT (Value Added Tax).

Tax ThresholdThis is the level of income above which income is taxable. Most countries put a threshold level in place in order to exclude low-income individuals from the tax net.

7 Countries considered tax havens include Andorra, the Bahamas, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, the Channel Islands, the Cook Islands, Hong Kong, the Isle of Man, Mauritius, Lichtenstein, Monaco, Panama, Switzerland and St. Kitts and Nevis.

TIEA
Tax Information Exchange Agreements (TIEAs) provide for the exchange of information on request relating to a specific criminal or civil tax investigation or civil tax matters under investigation.

Transfer Pricing
This is an arrangement when two or more businesses that are owned or controlled directly or indirectly by the same group trade with each other.

Transfer Mis-pricing
It is the manipulation of prices of transactions between subsidiaries of MNCs or, more specifically, the sale of goods and services by affiliated companies within a MNC to each other at artificially high prices or low prices. This could occur when a company wishes to shift profits to low-tax jurisdictions or countries providing preferred tax treatment to certain types of income.

UNCTAD
The United Nations Conference on Trade and Development was established in 1964 in order to provide a forum where the developing countries could discuss the problems relating to their economic development. UNCTAD grew from the view that existing institutions like GATT (now replaced by the WTO), the IMF, and World Bank were not properly organized to handle the particular problems of developing countries. The primary objective of the UNCTAD is to formulate policies relating to all aspects of development including trade, aid, transport, finance and technology.

Value Added Tax
Is a type of consumption tax that is placed on a product whenever value is added at a stage of production and at the final point of sale. The amount of value-added tax that the user pays is the cost of the product, less any of the costs of materials used in the product that have already been taxed. For example when a table is being produced the carpenter is charged a value-added tax on all of the supplies they purchase for producing the table. Once the table reaches the shelf, the consumer who purchases it must pay the value-added tax that applies to him or her.

Washington Consensus
The term **Washington Consensus** was coined in 1989 by the economist John Williamson to describe a set of ten relatively specific economic policy prescriptions that he considered constituted the "standard" reform package promoted for crisis-wracked developing countries by Washington, D.C.-based institutions such as the IMF, World Bank, and the US Treasury Department. The prescriptions encompassed policies in such areas as macroeconomic stabilization, economic opening with respect to both trade and investment, and the expansion of market forces within the domestic economy.

Withholding Tax
Is an income tax that is usually deducted at source from income payments made to individuals who do not directly pay income tax through the Pay As You Earn system. It is mainly levied on consultancy fees, dividends and interest income. The individual is expected to deduct this amount of tax from the total tax payable when filling in income tax returns. Withholding tax can also refer specifically to tax deducted from a payment made to a person outside the country; in this sense it tends to apply to investment income, such as interest, dividends, royalties and licence fees.

WTO

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. The WTO agreements are negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal of the organisation is to help producers of goods and services, exporters, and importers conduct their business.

Recommended Reading Materials

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SEATINI
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DGAP
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MAKE TAX FAIR

tax justice network - Africa

Oxfam