Africa Tax *Spotlight*

Quarterly newsletter of the tax justice network – Africa

2012, first quarter, volume 3

Tax Expenditure

EDITORIAL

Welcome to the 9th edition of Africa Tax Spotlight on the theme *Tax Expenditure*.

For many, the term 'tax expenditure' will not be familiar. To some it might even seem a contradiction. After all, it is common to separate the revenue and expenditure side from each other when discussing public funds. How can one then talk about 'tax expenditure'? Is it not like talking about 'one-party democracy'?

As this edition of the Africa Tax Spotlight will show, the two actually go together like hand in glove. Countries all over the world – including African ones – use the tax system not only to raise revenue but also as a public expenditure mechanism.

But exactly how can taxation qualify as an expenditure? The late Princeton economist David Bradford used the following example to show how it works: Suppose that a government wants a weapon manufacturer to produce a new airplane for the country's Air Force. The government could pay the weapon manufacturer the 1 billion that it would cost to produce the plane through a traditional expenditure programme. However, the government could also provide the company with a tax credit at the value of 1 billion in exchange for the plane. By using the latter method, the government would receive what would seem as a 'free' plane since it does not show up as an expenditure in the budget – quite a feat! Of course the reality is that the cost to the government is exactly the same whether the airplane is financed through a tax credit or a traditional expenditure programme. It is in this way that we can talk about taxation working in the same way as an expenditure programme, and hence the term 'tax expenditure'.

Tax expenditures are not only some theoretical concept that Princeton economists play around with. Research has demonstrated that tax expenditures are an enormous part of total government spending in many countries. For example, 26 percent of total spending in the US government budget is spent through the tax system in the form of tax exemptions, incentives and the like. For Canada the figure is 30 percent, for Australia 15 percent.

Furthermore, tax expenditure is not only relevant for countries such as the United States of America (US), Canada and Australia. African countries also use their tax system as a form of expenditure programme. For example, in the last decades generous tax incentives have been handed out to attract Foreign Direct Investment (FDI) by a range of African countries. Many African countries also provide tax exemptions in their Value Added Tax (VAT) system and other forms of tax incentives and exemptions.

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Published by the Tax Justice Network Africa, Nairobi Secretariat

Editorial

So why is tax expenditure important for tax justice? And how will the articles in this edition address the link between tax justice and tax expenditure?

First of all, having a clear overview of tax expenditures is important for transparency. One key aspect to achieving transparency in tax expenditures is to demand that governments publish a tax expenditure report.

The articles by Jason Lakin and Adrian Caroll of the International Budget Partnership (IBP) and by Professor Miranda Stewart look closer at this issue. The first one looks at what government's tax expenditure reporting should include and what civil society can use the information for, while the second reviews the history and experiences of tax expenditure reporting in South Africa, India and Brazil.

The importance of budget transparency should be known to activists: without it corruption and mismanagement flourish. Just as important, lack of transparency around tax expenditures can result in a situation where only the well-connected and powerful benefit from them. For example, while the USA has a somewhat progressive tax structure and expenditure policy, research by civil society has shown that 7 out of every 10 US$ spent through tax expenditures go to the top fifth income earners, while only 1 US$ ends up with the bottom 40 percent income earners. It is therefore clear that exposing the hidden world of tax expenditure to public scrutiny is important for anyone interested in tax justice.

Secondly, raising more revenue for essential public services is a key part of the tax justice agenda - and reforming tax expenditures is a promising avenue for achieving this.

Three of the pieces in this newsletter deal with this issue. The first is a summary report covering an upcoming research report by ActionAid and Tax Justice Network-Africa that focusses on lost tax revenue in four East African countries. As the report documents, the money lost from tax expenditures can be mind-boggling. For example, both Kenya and Uganda could double their health budget with the revenue that is lost through tax incentives and exemptions. Activists who are interested in increasing revenue for pro-poor spending should take note.

The second piece to deal with this issue is a contribution from Mr. Sudhamo Lal, the Director General of the Mauritius Revenue Authority (MRA). In the article, Mr. Lal outlines the success that the Mauritian government has had in removing tax exemptions and incentives to increase overall revenue. It is worth noting that the first step in the Mauritius' tax reform process was the publication of a tax expenditure analysis that for the first time showed to the public the magnitude of tax expenditures on the island.

The third piece that deals with lost revenue is the contribution from Dr. Adeniran Samuel Fakile. This article focusses on tax expenditures in Nigeria, specifically within customs. The article documents the large revenue losses arising from Nigeria's trade policies.

I thank the contributors to this edition of *Africa Tax Spotlight* for their great effort in making the murky issue of tax expenditures clearer and hope that you as a reader will be inspired to use the information in this edition to advocate for transparency, accountability and equality in your country's tax expenditures.

Christian Hallum
ActionAid International Kenya

Notes

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Tax Competition in East Africa: A race to the bottom?

Tax incentives and Revenue Losses in Tanzania, Kenya, Uganda and Rwanda

A new report from Tax Justice Network-Africa and ActionAid criticises the many tax incentives and exemptions that governments in East Africa provide to attract Foreign Direct Investments (FDI). The report is a prime example of how civil society can use tax expenditure analysis to quantify the amount of revenue that is lost through tax expenditures such as investment incentives.

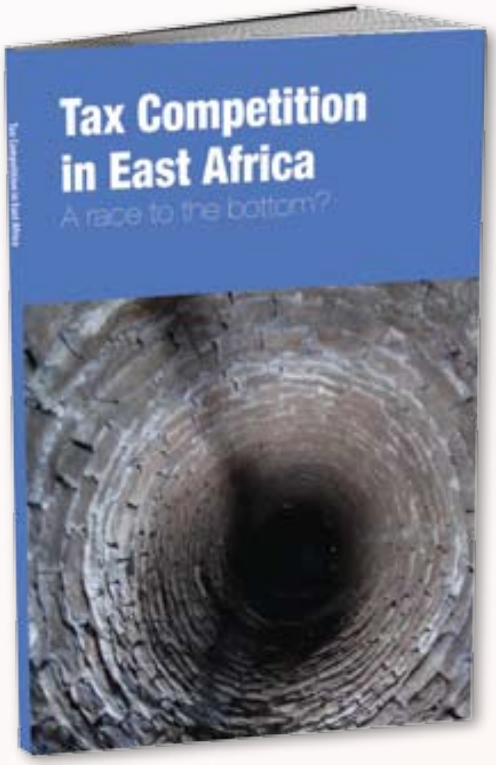
Revenue losses and development foregone

Tanzania lost as much as TShs 1.8 trillion (US$ 1.23 billion) in 2008 – amounting to 6% of GDP. Out of this Tanzania's revenue losses from tax incentives given to companies represents TShs 381 billion in 2008/09-2009/10. The TShs 381 billion could increase the national budget for education by a fifth and the health budget by two-fifths.

Kenya loses as much as KShs 100 billion (US$ 1.1 billion) a year. This amounts to around 3.1% of GDP. This represents more than twice Kenya's entire health budget of KShs 41.5 billion.

Uganda loses as much as 2% of GDP per year, amounting to around UShs 690 billion (US$ 272 million) in 2009/10. This represents nearly twice Uganda's entire health budget of UShs 375 billion for 2008/09

Rwanda lost 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. These revenue losses would be sufficient to more than double spending on health or nearly double that on education.



This important report shows that $2.8 billion is lost each year due to tax incentives in four countries members of the East Africa Community (EAC) namely Kenya, Uganda, Tanzania and Rwanda. At the same time, all EAC member countries are struggling to deliver public services needed by their citizens. By removing excessive tax incentives the countries could raise more revenue for public services such as health, education and infrastructure.

The report argues that not all tax expenditures are bad, since some – such as VAT exemptions – can help impoverished communities. But the study points out that much of the revenue loss is due to tax incentives provided to attract foreign investment, which mainly benefits large corporations.

The study further shows that tax incentives to attract FDI are leading to harmful tax competition in the region, and are not necessarily needed to attract FDI. The report quotes a 2006 report by the International Monetary Fund (IMF), focusing on East Africa, which notes that *'investment incentives – particularly tax incentives – are not an important factor in attracting foreign investment'*. The report also refers to a 2010 study by Bethuel Kinuthia which found that the main reasons for firms investing in Kenya are access to the local and regional market, political and economic stability and favourable bilateral trade agreements; fiscal concessions offered by Economic Processing Zones (EPZs) were mentioned by only 1% of the businesses sampled. Despite its generous tax incentives, Kenya has in recent years attracted very low levels of FDI, largely due to recent political violence and instability.

In Tanzania, the report refers to an IMF study that points out that the introduction of EPZs in 2002 *'has not resulted in a noticeable pickup in foreign investment'*. Tanzania's Export Processing Zone Authority has attracted investments worth $569 million during the past five years, creating 10,500 jobs, according to a senior EPZA official. The report notes that this means that each job has cost US$ 54,000 (TShs 92 million) – a large amount - to create.

Uganda has attracted higher levels of FDI than Kenya or Tanzania, which provide much more generous investment incentives. As the study notes, Uganda's attraction of more FDI than its neighbours is unlikely to be due to its use of tax incentives.

The report warns that unless East African countries deepen and speed up their commitment to reduce tax incentives, the region may experience increasing tax competition and a 'race to the bottom'. Apart from leading to ever-declining tax rates and revenues, the report also argues that disparities in tax rates in the EAC encourage illicit trade, complicate operational systems for companies wishing to carry on business throughout the EAC, and slows down the integration process.

International organisations such as the African Development Bank and the IMF have joined Non-Governmental Organizations and others in criticizing tax incentives and exemptions in East Africa, calling for them to be reviewed and reduced. As the report notes, governments in East Africa recognise that the current level of tax incentives leads to serious revenue losses and are formally committed to reviewing, rationalising and reducing them. However, progress is slow and there are major questions as to how far governments are really prepared to go.

The study ends by recommending that Governments in East Africa should:

- Remove tax incentives granted to attract foreign direct investment, especially those provided to EPZs and Special Economic Zones (SEZs) and, in Tanzania, to the mining sector.
- Undertake a review, to be made public, of all tax incentives with a view to reducing or removing many of them, especially those that involve the exercise of discretionary powers by ministers. Those incentives that remain must be simple to administer and proven to be economically beneficial.
- Provide on an annual basis, during the budget process, a publicly available tax expenditure analysis, showing annual figures on the cost to the government of tax incentives and showing who the beneficiaries of such tax expenditure are.
- Take greater steps to promote coordination in the EAC to address harmful tax competition.

The report shows the potential for civil society to engage in tax expenditure analysis. By quantifying the enormous amounts that are lost through tax exemptions and incentives and relating it to lost public expenditure, the report clearly demonstrates that tax expenditure has serious implications for government spending on essential public services.

The report can be downloaded at: http://www.actionaid.org/sites/files/actionaid/eac_report.pdf

TAXING ASSIGNMENT:

Uncovering and Analysing Tax Expenditures

Why should civil society organisations care about tax expenditures, and what can they do with tax expenditure information? In principle, tax expenditures are equivalent to normal expenditures undertaken by government. Any sectoral or programmatic concerns that civil society organisations have might be addressed through the tax structure. For example, there may be tax expenditures associated with housing policy, health care, income security, or education, just as there may also be direct expenditures and subsidies in each of these areas. Yet, tax expenditure information is often opaque and in most countries, little is known about how much is spent, who benefits from it, or why.

Since 2006, the International Budget Partnership has produced a biennial Open Budget Survey (OBS) which evaluates countries on a wide variety of transparency indicators, including the amount of tax expenditure information released to the public. The results of this survey have demonstrated that the level of tax expenditure reporting is low in most parts of the world, and particularly so in Africa. While the OBS gives a basic sense of how much tax expenditure information is released by governments, it does not set a true standard for reporting. This article offers a brief overview of what governments should report and provides some suggestions for how civil society groups can use tax expenditure information to advocate for stronger fiscal management, effective public investment, and government accountability.

What information should governments release on tax expenditures?

Under ideal circumstances, governments should release a tax expenditure report before the budget review process begins. This enables the public to have a complete understanding of projected revenues and spending when engaging in debate over budget formulation. The following information should be included in such a report.

- **Comprehensive listing of tax expenditures:** A tax expenditure report should enumerate all the tax expenditures offered under the tax code, identifying

each by type, recipient, and amount. At a minimum, the largest exemptions should be discussed.

- **Definition of benchmark:** Tax expenditures are reductions in tax relative to some standard tax 'benchmark' for what should or would normally be collected. This benchmark rate must be clearly explained.
- **Credible measurement framework:** The cost of each tax expenditure, in terms of lost revenue, and a detailed explanation of the methodology by which this cost was calculated, should be provided.
- **Detailed information on tax expenditures by sector and over time:** Tax expenditures should be reported by government function (health, education, industry assistance) and include time-series data demonstrating the cost of each expenditure for a period going back 5 years.
- **Policy Justification:** The report should provide a description of each tax expenditure's objective as well as an explanation of why a tax break is preferable to direct spending in the given scenario.
- **Distributional Impact:** Since tax expenditures alter the distribution of the tax burden, often in favour of the wealthy, an explanation of who benefits should be included.
- **Duration of tax expenditure:** As mentioned, tax expenditures are usually legislated and thus not subject to yearly review. In some cases, tax expenditures are created with "sunset clauses" that allow subsequent re-evaluations of their success in achieving certain goals. In any case, the duration of each tax expenditure should be indicated.

What does the Open Budget Survey tell us about tax expenditure reporting in Africa?

According to data from the Open Budget Survey, the state of tax expenditure reporting in Africa is particularly poor. Of the 26 countries covered in the 2010 OBS, 20 were found to release no public information on tax expenditures. Of the six that did release tax expenditure information, only South Africa and Morocco released more than minimal details. Ghana, Uganda, Zambia, and Kenya released only scant information, lacking all of the key details previously described.

South Africa stands out for making tax expenditure information consistently available in recent years. Government documents have offered a clear definition of tax expenditures, identified a comprehensive list of exemptions, and provided policy justifications. In some years, the Government has provided time series data on tax expenditures, as well as offered some information on the distributional impacts of tax expenditures. Nevertheless, the 2011 Tax Expenditure Statement does not explain how the foregone revenues were calculated and overlooks a number of potentially costly tax exemptions.

> Under ideal circumstances, governments should release a tax expenditure report before the budget review process begins. This enables the public to have a complete understanding of projected revenues and spending when engaging in debate over budget formulation

What can civil society do with tax expenditure information?

Information about tax expenditures can help civil society organizations to ignite public debate about key policy issues. For example, the environmental group Friends of the Earth has highlighted, through its publication "Dirty Little Secrets," the way tax expenditures have been used to provide benefits to polluting businesses in the United States. They have argued that these tax subsidies have encouraged pollution rather than the adoption of clean technology and resulted in profitable corporations paying less than their fair share to support public services. Another American group, Citizens for Tax Justice (CTJ), has produced analyses of corporate tax payments since the mid-1980s. Their initial reports revealed that some large firms were taxed at rates lower than the average American worker. CTJ's exposure of significant concessions granted to large companies ultimately helped build support for revisions in the tax code.

Finally, in Morocco, reporting on tax expenditure details led to closer public scrutiny of the tax code. Increases in tax rates on the general public were avoided when there was sufficient recognition that removing particular exemptions could instead be used to increase overall revenues.

Generally speaking, tax expenditure information needs to be analysed in order to understand who benefits and how much from particular exemptions, as well as whether exemptions are the most effective way to achieve stated policy goals. Through enhancing public awareness of tax expenditures and potentially building support for the repeal of particularly costly exemptions, civil society can help ensure more careful management of public funds. Efforts like these are within the grasp of many civil society groups and are essential for informing citizens about the impact of public financial management to their lives.

Adrian Carroll and Jason Lakin
International Budget Partnership

Notes

The countries that did not release public information on tax expenditure were: Algeria, Angola, Botswana, Burkina Faso, Cameroon, Chad, Democratic Republic of Congo, Equatorial Guinea, Liberia, Malawi, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome, Senegal, Sudan, and Tanzania.

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Tax Expenditures: Lessons from History and Country Experience

A brief overview of the history of tax expenditure reporting

Tax expenditure reporting began in the late 1960s, on both sides of the Atlantic Ocean. Germany first published a report on tax subsidies and preferences in 1967, while the United States (US) Treasury prepared its first tax expenditure report in 1968. In 1974, the USA enacted a budget law that required the US Treasury to report all federal tax expenditures annually in the budget. After this, tax expenditure reporting began to be adopted by many countries, including Austria in 1978, Canada and France in 1979, Spain in 1979 and Australia in 1982. Today, most OECD (Organization for Economic Co-operation and Development) member country governments conduct some form of tax expenditure reporting. A recent OECD report (2010) examines tax expenditure reporting in Canada, France, Germany, Japan, Korea, The Netherlands, Spain, Sweden, the United Kingdom and the United States.

The IMF, World Bank and OECD all recommend that a government should estimate and report at least key tax expenditures.

Developing country experience with tax expenditure reporting

Tax expenditure reporting is increasingly widespread, but it is still not applied or well understood in many countries including the majority of developing ones. Out of 94 countries who participated in the Open Budget Survey 2010, only 36 provided data on tax expenditure reporting.

Our research has identified that it is the larger emerging economies with democratic governments that have established strong tax expenditure reporting. For example, India, South Africa and Brazil have each significantly strengthened their tax expenditure reports recently. Each country has its own unique approach and the country reports also reveal some different priorities in tax expenditure reporting.

INDIA

A tax expenditure analysis was first carried out in India thirty years ago. The Indian government publishes annually in its budget papers the *Statement of Revenue Foregone under the Central Tax System*. The current approach to reporting tax expenditures is done under the authority of the Fiscal Responsibility and Budget Management Act (2003) and Fiscal Responsibility and Budget Management Rules (2004). The Act requires statements of fiscal and economic strategy, and the medium-term economic framework, to be put before the legislature each year.

The *Statement of Revenue Foregone* is published in Hindi and English. It is regularly reviewed by the Ministry of Finance and the Standing Committee on Finance. The Indian government also established a Task Force to report on reforms to improve revenue collections, including reviewing tax expenditures. A Fiscal Policy Strategy Statement of the Indian Government states:

> " [The]Government realizes that a number of tax incentives increase the deadweight costs, distort resource allocations and stunt productivity. On the other hand, keeping the need to promote the social and regional development goals of the Government and the need to provide special incentives to targeted groups, tax expenditures may still be justified and on that count some exemptions may be required to be retained for a longer period than others."

The *Statement of Revenue Foregone* reveals that tax expenditures for the corporate sector are significantly greater in size than tax expenditures for the individual sector. It also reveals the relative revenue cost of different tax breaks for companies. In particular, the largest tax expenditure is accelerated depreciation of the cost of capital assets. Additionally, it reveals that the most important Indian tax expenditures are targeted concessions for Special Economic Zones or particular regional areas, and that particular industrial sectors, such as telecommunications, power or mining, benefit from large tax expenditures.

SOUTH AFRICA

South Africa has an overall ranking of first place in transparency in the International Budget Partnership Open Budget Index of 2010. South Africa's transition to democracy has come with substantial efforts to emphasise fiscal transparency in the budget process. As early as 1994, the *Katz Commission* argued that tax expenditure analysis would be useful in South Africa, but it could not quantify the cost of tax incentives because of a lack of data and a serious manpower shortage. Even today, the South African

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Treasury is careful not to overstate its ambitions for tax expenditure reporting because of capacity constraints.

The *Tax Expenditure Statement 2011* applies the revenue foregone method for estimating tax expenditures but does not set out details about how revenue foregone is estimated. In 2011, South Africa presents data for 3 prior financial years and the current financial year but does not forecast the future cost of tax expenditures.

BRAZIL

The Brazilian Federal Constitution of 1988 marks the settlement of the democratic regime in Brazil. The Constitution contains an explicit obligation to present a public statement on tax expenditures in the annual federal budget.

In 2000, the Law of Fiscal Responsibility in its articles 5 and 14, extended to the States and Municipalities the obligation of presenting tax expenditure statements. However, not all Brazilian States present in their government's website a consolidated report on their own individual tax expenditures. Currently, the Secretariat of the Federal Revenues of Brazil (Receita Federal do Brasil, or RFB) is responsible for issuing the annual "Report on Tax Expenditures" (Demonstrativo de Gastos Tributários – DGT), for public consultation at its website.

The Brazilian concept of tax expenditure is set out as follows:

> "Tax expenditures are indirect government expenditures incurred through the tax system in order to achieve social and economic goals. They must be explicit in the rule that refers to the tax, constituting an exception to the referential tax system, thus reducing the potential tax collection and, consequently, increasing the taxpayer's economic availability."

The total federal tax expenditures for Brazil in the fiscal year 2011 are estimated as representing 2.98% of GDP and 17.84% of total federal revenue. According to the 2011 report, approximately 45% of the total tax expenditures go to the trade, service and industry sectors.

Lessons from history and country experience

Tax expenditure reporting is one way to hold governments to account for their tax law and administration. It is important to remember that detailed tax expenditure analysis requires significant governmental resources and expertise in the Treasury or Finance department. Civil society groups also need to learn how to interpret tax expenditure reports.

Civil society groups could push governments with fewer resources to prepare a minimal, basic tax expenditure report that sets out some key information and basic estimates. The goal could be to increase expertise over time if resources become available. Even a basic tax expenditure report can be very useful for budget transparency.

Experience from history and other countries suggests that as a country's tax laws become more broad-ranging and complex, and as people seek more fiscal accountability from a government through more transparent budget processes, tax expenditure reporting becomes useful to assist civil society and governments in identifying all forms of government spending.

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University of Melbourne, Australia

Civil society groups could push governments with fewer resources to prepare a minimal, basic tax expenditure report that sets out some key information and basic estimates.

Notes

Country budget websites

Brazil
http://www.receita.fazenda.gov.br/Publico/estudotributarios/estatisticas/25GastosTributarios.pdf

India
http://www.indiabudget.nic.in/ub2012-13/statrevfor/annex12.pdf

South Africa
http://www.treasury.gov.za/documents/national%20budget/2011/review/Annexure%20c.pdf

Further reading and resources

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TAX EXPENDITURE ANALYSIS: The Mauritian Experience

Tax expenditure is usually referred to as that part of revenue foregone by Governments due to provisions in the revenue legislations that allow for exemptions, deductions or special exclusions or which provide for a special credit, a preferential rate or deferred liability. Its impact on public finance is similar to a subsidy, but it is less transparent and may not be subject to the same level of public scrutiny as public spending.

Tax expenditure analysis triggering tax reforms

The Mauritian experience with the tax expenditure framework started in 2005 when the first tax expenditure estimation for Mauritius was carried out. The Tax Expenditure Report, by bringing to the limelight the cost of granting tax incentives, was one of the main triggers of the 2006 tax reform package. The reform targeted mainly personal and corporate income taxes (PIT and CIT) which jointly represented 67% of the total tax expenditure for Mauritius. The major reforms in PIT and CIT were:

- Elimination of over 20 types of personal income tax allowances/deductions
- Overhaul of complex systems of exemptions
- Introduction of a single income exemption thresholds based on the number of dependents of the taxpayer
- Reduction in the number of tax bands and rates
- Removal of investment and additional investment allowances on capital expenditure
- Removal of all allowable deductions that are not linked with production of income e.g donations, contributions and setting up of social infrastructure
- Removal of virtually all tax holidays and tax credits

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- Introduction of a time limit of five years for carry forward of trade losses
- Single tax rate of 15%

As part of the reform package, the discretionary powers of the Minister of Finance to remit, exempt or refund tax or duty in respect of customs duties, excise duties, registration duties and land duties & taxes were also removed. These taxes/duties were thus brought at par with Value Added Tax (VAT) where the legislation already did not provide for any ministerial powers of remission. In line with the Southern Africa Development Community (SADC) recommendations, steps were also taken to ensure fiscal discipline by requiring that all matters relating to taxation (including exemptions) are incorporated in tax laws.

Outcome of tax incentives reforms

Since 2007, the Annual Budget of Mauritius includes a report on tax expenditure for approval by the National Assembly although there is no legal obligation to prepare the same. The Report highlights:

- The main elements of tax expenditure under income tax, corporate tax, VAT, customs and excise duties;
- The estimated cost, as a percentage of the Gross Domestic Product (GDP), of tax expenditures under these main revenue heads; and
- The computational difficulties due to limitation of data.

It was noted that in Financial Year 2006-07, that is the pre-reform period, total tax expenditure in Mauritius was estimated at 3.23 % of GDP. Following the tax reforms, tax expenditure has fallen consistently to reach an estimated 1.23 % of GDP in 2010.

By reforming its tax incentive regime, Mauritius has been able to remove a significant number of low income earners from the tax net and reduce the tax burden on middle income earners. It has

also precluded high income earners from making an abuse of various tax expenditures (deductions, reliefs, donations) to reduce their tax liability.

As regards revenues from personal and corporate income taxes, they have since 2007 grown at an average annual rate of 16% in spite of the reduction in tax rates. The simplified tax system has also reduced administrative and compliance costs significantly. The country was ranked 9th in the 2012 World Bank's Ease of Paying Taxes Survey.

There are often concerns about the impact of removing tax incentives on the level of investment, especially Foreign Direct Investment (FDI). In Mauritius, the tax reform was complemented by a new business facilitation strategy aimed at encouraging investments in the country, both local and foreign investment. As a result, investment which stood at Rs 51.7 billion in 2006 (pre-reform) increased to Rs 74.4 billion in 2009, representing an increase of 44% over a three year period. The country was ranked 23rd in the 2012 World Bank's Doing Business Survey.

Recent experience in reforming tax incentives in Mauritius reveal that taxation is not necessarily the primary consideration for investors. Non-tax factors may be far more important than tax incentives in determining the level and quality of investment flows. However, countries that consider the granting of tax incentives as an essential element of their development strategy should as part of an open, transparent and accountable budgetary process measure the cost of granting tax incentives through "tax expenditure" computations.

Sudhamo Lal
Director General
Mauritius Revenue Authority

TAX EXPENDITURE IN SUB-SAHARAN AFRICA:

The Nigerian Experience

Introduction

The Nigerian government established the National Economic Empowerment and Development Strategies (NEEDS) in 2003 to achieve its trade policy of which the reform of the Nigeria Custom Services is one of the major functions. The central objective of the trade policy was to provide protection for domestic industries and reduce the perceived dependence on imports; reduce the level of unemployment and generate more revenues from the non-oil sector, hence tariffs on raw materials and intermediate capital goods were scaled down. Duty exemptions and concessions remain some of the quantitative policy instruments for attracting investment and boost domestic production. This paper will review and discuss Tax Expenditure and the Nigerian experience, especially on loss of revenue from customs.

Tax Incentives for Foreign Direct Investment

Many developing countries use special tax incentives like tax holidays, investment allowances, free enterprise zones or tax sparing provisions. Little statistical information on the level of existing investment incentives and their development over time is available. But a dataset recently collected by Keen and Mansour (2008), which covers 40 Sub-Saharan African countries does suggest that the use of tax incentives for investment has increased over the last decades. For instance, in 1980, only one among the 29 countries for whom data is available for this year offered free zones, i.e. zones where special corporate income tax treatment is offered. In 2005, almost half of the countries covered by the dataset offered this type of incentives. In the literature, the growing use of tax incentives for investment in developing countries is criticized for various reasons. One issue is that these tax incentives reduce corporate income tax revenue

(Bird (2008), Klemm (2009)). The analysis of the customs system in Nigeria below will show that this issue is definitely relevant for Nigeria.

Tax expenditures in Nigeria

The Nigerian government considers trade as the main engine of its development strategies because of the implicit belief that trade can create jobs, expand markets, raise incomes, facilitate competition and disseminate knowledge. The Nigerian Government has put in place a number of investment incentives for the stimulation of private sector investment from within and outside the country. While some of these incentives cover all sectors, other are limited to some specific sectors. The nature and application of these incentives have been considerably simplified. Duty exemptions and concessions remain some of the quantitative policy instruments for affecting trade policy in favour of domestic industries and to achieve the aim of diversifications.

The revenue from customs is very important as it provides the largest single chunk of revenue accruing to the federation account apart from oil revenue. The agency in charge of collecting customs - the Nigerian Customs Service - is much criticized for alleged corruption and inefficiency and its upper echelon is often filled with intrigues and in-fighting. Nigeria is an import-dependent nation and the country is awash with

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imports from all parts of the world. There are problems of sharp practices that collectively deprived the government of revenue and enriched some corrupt customs officials and their collaborators. There is under-assessment of payable duties, unauthorized transfer of funds, abuse of waivers, concessions and exemptions as well as non-remittance of government revenues.

Table 1 below shows the summary of duty loss to all concessions between January 2004 and November 2006. From the table, revenue loss in 2004 was N56.8billion which increased to N71.2billion in 2005 and reduced to N54.9billion in 2006. This documents that the government is losing much revenue annually which will definitely affect negatively the provision of necessary needs for the growth and development of Nigerian economy. With so much outflows of income in billions of naira, the policy adopted by the government on concession needs to be reviewed, more so if the sectors that enjoy the concessions are not given much back to the economy. Most of the manufacturing companies that enjoy the waivers are not operating at full capacity while some are closing businesses for neighbouring West African countries. Some have actually been liquidated for inability to continue in business. If these have characterised the manufacturing industry, then where are the companies that enjoyed the waivers and concessions?

Table 1: Revenue Loss by Nigerian Customs Services from 2004 – 2006, in naira

SN Exemption/Concession	2006 N	2005 N	2004 N
1. Revenue loss due to exemption / waivers	18,237,049,659.54	41,636,157,785.94	33,970,745,310.37
2. Revenue loss due to ETLS	1,494,223,772.13	2,548,734,595.82	2,104,089,331.98
3. Revenue loss due to concessionary Duty rate granted bonafide Manufacture/ Assemblies	564,956,189.29	10,001,804,163.24	6,982,047,350.65
4. Revenue loss due to export Processing/ excise factory	256,055,157.07	248,545,281.21	146,279,457.67
5. Revenue loss due to concessions to Manufacture-In-Bond-Schemes (MIBS)	3,819,378.39	820,147,347.45	1,115,233,719.64
6. NDCC	34,365,839,307.46	15,989,292,537.74	11,478,137,655.38
TOTAL	54,921,943,464.88	71,244,681,711.40	56,796,532,825.67

Source: Adapted from Buba, 2007

Of interest is another case of a $3 billion (N488 billion) waiver granted to a Chinese firm, WEMPCO, to encourage them to set up a $250 million Cold Rolled Steel Plant, which was thoroughly abused. Tens of billions were lost to waivers for sugar, cement, and rice imports and what not (Daily Trust, 2011). It was discovered that in 2011 alone, a colossal N37.2 billion was lost as a result of import waivers that were granted to importers of raw materials in that year alone. Nigeria Customs Service records have shown that the nation lost N276.9 billion between 2000 and 2008. A House of Representatives investigation in 2009 into waivers granted by federal government said that the government was yet to abate

the practice of granting "illegal and indiscriminate" waivers to "totally undeserving" firms and individuals, despite repeated orders from the House that the policy be discontinued (Nigerian National News, 2012).

Conclusion

Integrating tax expenditures into the budget process and subjecting them (and all other spending) to effective legislative controls could improve the efficiency of government and soften the blow from the belt tightening that is necessary if a debt crisis is to be avoided. Reductions in tax expenditures could simplify the income tax and make it less prone to abuse, especially if part of the revenues from the trimmed tax expenditures were used to cut marginal income tax rates. That is, controlling tax expenditures might increase the chances of enacting badly needed tax reform.

One issue is that the cost of tax incentives may be greater than expected because of tax avoidance schemes set up to exploit them. Moreover, it is difficult to distinguish genuine Foreign Direct Investment from domestic-source investment because 'round tripping' may occur, where domestic capital is routed offshore and then brought back as foreign investment. Therefore government should discourage tax incentives granted to attract FDI, especially tax holidays.

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The revenue from customs is very important as it provides the largest single chunk of revenue accruing to the federation account apart from oil revenue. The agency in charge of collecting customs - the Nigerian Customs Service - is much criticized for alleged corruption and inefficiency and its upper echelon is often filled with intrigues and in-fighting

TRAINING OF TRAINERS WORKSHOP ON TAX JUSTICE

Accra, January 16-19 2012

ACCRA GHANA

TJN-A teamed up with Christian Aid to organise a four-day Training of Trainers Workshop on the Tax Justice Advocacy Toolkit in Accra - Ghana - for organisations across the African continent. It brought together 30 participants from Civil Society Organizations (CSOs) engaged in tax and other economic justice campaign from Kenya, Uganda, Zambia, Zimbabwe, South Africa, Malawi, Ghana, Sierra Leone, and Nigeria. The workshop was facilitated by 5 Christian Aid, TJN-A and SOMO staffers.

Participants at the training

The workshop was organised with the following outputs in mind:

- Participants would have an increased understanding of tax concepts, policy design and terminologies and are better equipped to communicate this learning to others;
- Participants are equipped with examples from around the world and tools and tips to help in developing effective tax justice campaigns (through sharing of experience and best practice among participants and using the case studies and tools in the tax advocacy toolkit); and
- Participants become familiar with the tax advocacy toolkit and the ways in which they can use it to foster learning on tax issues and to develop tax advocacy strategies with their national CSO platforms in their countries.

INAUGURATION OF THE HIGH LEVEL PANEL ON ILLICIT FINANCIAL FLOWS FROM AFRICA

Johannesburg, February 18 2012

JOHANNESBURG SOUTH AFRICA

The High Level Panel on Illicit Financial Flows from Africa, established by the United Nations Economic Commission for Africa (UNECA) was inaugurated on 18th February 2012 at the Sandton Convention Centre, Johannesburg, South Africa. The Panel is chaired by H.E. Mr. Thabo Mbeki, former president of South Africa, and composed of nine other members both from within and outside the continent.

The Panel Members are as follows:

1. Chair: H.E. Mr. Thabo Mbeki, former President of South Africa;
2. Vice Chair: Mr. Abdoulie Janneh, Under-Secretary General and Executive Secretary of ECA;

Other Members:

3. Amb. Olusegun Apata- Chairman, Coca Cola Bottling Company, Nigeria;
4. Mr. Raymond Baker- Director, Global Financial Integrity, Washington DC;
5. Dr. Zeinab Bashir el Bakri-former Vice President of the African Development Bank, Tunisia;
6. Mr. Abdoulaye Bio-Tchane-former Minister of Finance and Economy of Benin;
7. H.E. Mrs. Ingrid Fiskaa- State Secretary for Environment and International Development, Norway;
8. Prof. El Hadi Makboul- Director, National Centre for the Study and Analysis of Population and Development (CENEAP), Algeria;
9. Barrister Akere Muna- President, Pan-African Lawyers Union, President, ECOSOC, Member, Eminent Persons Panel of the African Peer Review Mechanism (APRM), and Vice President, Transparency International;
10. Ms. Irene Ovonji-Odida- Human rights lawyer and activist for over 21 years and elected member of the East African Regional Parliament for five years.

The establishment of the High Level Panel (HLP) follows a resolution of the 4th Joint Annual Meetings of the ECA/AU Conference of Ministers of Finance, Planning and Economic Development in Africa in March 2011, which decided to address the debilitating problem of illicit financial outflows from Africa estimated at about $50 billion annually, in mandating the establishment of the Panel.

Illicit financial outflows constitute a major source of resource leakage from the continent draining foreign exchange reserves, reducing tax collection, dwindling investment inflows, and worsening poverty in Africa. The methods and channels of illicit financial outflows are many and varied including tax havens and secrecy jurisdictions, over-invoicing, under-pricing, and different money laundering strategies. This source of resource outflows is far bigger and higher in terms of scale and magnitude than the normal corruption channels, which are focused upon globally.

The panel will amongst others, determine the nature, pattern, scope and channels of illicit financial outflows from the continent; sensitize African governments, citizens, policy makers, political leaders and development partners to the problem; mobilize support for putting in place rules, regulations, and policies to curb illicit financial outflows; and influence national, regional and international policies and programmes on addressing the problem of illicit financial outflows from Africa.

(Source: Communiqué on the Inauguration of the High Level Panel on Illicit Financial Flows from Africa)

THE EAST AFRICA TAX AND GOVERNANCE NETWORK (EATGN) STRATEGY MEETING FOR 2012

Mombasa, March 7th-9th 2012

MOMBASA KENYA

The East Africa Tax and Governance Network (EATGN) was created out of a process that began in November 2009 in Naivasha, Kenya to 'increase stakeholder engagement and public debate on tax and governance in East Africa.' A network steering committee was created thereafter consisting of six members. The network has since expanded rapidly and today comprises thirteen members: Panos Eastern Africa, the Society for International Development, the Centre for Governance and Development/National Taxpayers Association, Safari Africa Radio, the Africa Bureau of Tax Policy and Law, the Kenya Debt Relief Network (KENDREN), Building Eastern Africa Community Network, the International Institute for Legislative Affairs Kenya, the Institute for Economic Affairs Kenya, Citizen's Assembly, Transparency International Kenya, the Tax Justice Network–Africa, and ActionAid International Kenya.

To plan for the future work of the EATGN and build internal capacity a Strategy Planning meeting was held from the 7th-9th of March 2012 at the Mombasa Beach Hotel.

The objectives of the Strategy Meeting were to:

a) Enhance the capacity of the Network members to effectively engage in policy advocacy on tax in Kenya;

b) Discuss, refine, and finalize Network's internal policy documents including the communication strategy and power analysis;

c) Receive an update on members own activity plans 2012 and explore possible areas for collaboration in EATGN work;

d) Develop and agree on the Network's strategic approach on research, advocacy, communication, networking and fundraising for 2012;

e) Agree on a work/activity plan and actionable deliverables for 2012.

CIVIL SOCIETY EXTRACTIVE INDUSTRIES REGIONAL WORKSHOP

Ouagadougou, March 19-24 2012

OUAGADOUGOU BURKINA FASO

The extractive industries governance regional workshop organized by OXFAM was held in Ouagadougou from the 19th to 24th of March 2012. The workshop that was opened by the Minister of Mines of Burkina Faso gathered around fifty civil society partners of Oxfam, coming from ten West Africa countries and Chad (including namely 'Publish What You Pay' coalitions; technical and financial partners such as the National Union of West Africa Mine

Chambers, the Extractive Industry Transparency Initiative (EITI) Permanent Secretariat in Burkina Faso, the West African Economic and Monetary Union and the European Union also participated to the meeting; finally, among participants, there were partners and allies such as Human Rights Watch, Open Society in West Africa (OSIWA).

During four days, the reflections have been focused on five thematic sessions, namely:

1. Session 1: The legal/regulatory framework and policies/principles governing the mining sector in the world in general and in Africa in particular
2. Session 2: Transparency in the mining sector.
3. Session 3: Environmental and human impacts on mining sites.
4. Session 4: Mineral resources and local, regional as well as national development.
5. Session 5: Oxfam's and regional partners programs

TJN-A (represented by Sandra Kidwingira) attended the meeting and presented the Capacity for Research and Advocacy for Fair Taxation being implemented in collaboration with Oxfam Novib and country lead partners in Uganda, Senegal, Mali, Nigeria, Mozambique, Angola and Egypt.

The main outcomes of the event were:

- Experience shared on the overall situation with regard to the extractive industries sector in West Africa;
- Identified duties to be assumed collectively at local, national and regional level;
- Agreed principles to build on and support what exists.

At the end of the meeting, a number of advocacy actions were taken including:

- **A letter to the American Committee in charge of drafting the Dodd Frank Act**

  Aware of the importance of the impacts of the Dodd Frank Act on the development of the region's countries, participants sent a letter calling on the American government to draft, at their earliest convenience, the implementing decrees of that Act due to the delay in this respect. The letter was handed for transmission 'to whom it may concern' at the US Embassy in Burkina Faso;

- **Letter to the European Union/regulation project for transparency in extractive and forest sectors**

  Measuring the importance of regulations for transparency in extractive and forest sectors in the process of elaboration within the European Union (EU), participants sent an encouragement letter to the presidency of the European Union for finalization and adoption; the letter was handed for transmission 'to whom it may concern' at the EU delegation in Burkina Faso;

- **Awareness meeting with the Ambassador of Canada in Burkina Faso**

  Considering the importance of Canadian mining companies in West Africa in general and Burkina Faso in particular, a delegation of participants paid a visit to the Ambassador of Canada in Burkina to raise his awareness over the need for his country to adopt similar laws to the ones adopted in the USA for greater transparency in extractive industries.

PROFILE

THE EAST AFRICA TAX AND GOVERNANCE NETWORK (EATGN)

INTERVIEW WITH BARBARA WACHAGA SAFARI AFRICA RADIO

1. Could you briefly tell our readers what the East Africa Tax and Governance Network (EATGN) is?

The Network brings together 13 civil society organisations that share an interest in tax issues. We cover a lot of different types of organisations. For example, Safari Africa Radio is a media organisation while other members are more classic development organisations, and still others are more like think tanks.The network was created out of a process that began in late 2009 in Kenya, so we are still a relatively new network.

Our goal is to contribute to a just, transparent and citizen-driven tax system that promotes equality, participation and accountability in East Africa.

We have a steering committee meeting once a month where we coordinate all our activities on tax and share information. We also carry out activities as a network. For example, one of our biggest initial successes has been hosting a large conference in Nairobi that aimed at demystifying the whole issue of taxation. In the coming years, we will increase the number of activities to be carried out by the Network.

Our base is in Kenya, but we are currently working on establishing a stronger presence in all East African countries.

2. Why did you feel that it was important to form a regional instead of a national network?

The initial group that came together to form the network had a regional outlook. They brought with them an ideal of working at a regional basis which has become an integrated part of the Network's ambition.

And for me, this regional outlook makes perfect sense in light of the on-going integration through the East African Community (EAC). EAC will bring further economic, political and social integration so it is important to have a regional approach so that we are able to move together as East Africa, including on taxation issues. Having a regional outlook allows us to move as a bloc towards tax justice.

3. Why do you think that tax issues are important for East Africa?

I am considerate about the level of knowledge that citizens have on tax. For example, are citizens aware of their direct and indirect contributions made through tax and the services that they should receive from the Government? Bringing this knowledge to the citizens in East Africa is important for me.

As a journalist who deals with development issues, I also feel that it is important for us as East Africans to hold our governments to account so that we are able to get what we deserve – and we need to be empowered on tax justice issues to do this.

4. Why do you feel that it is important as civil society organisations to be working on tax justice?

Civil society is the watchdog of the government as well as the defender of the citizen's rights; they are the voice of voiceless. This goes for all areas, including this mysterious thing called 'tax justice'. As civil society I feel that we need

to demystify this issue to get citizens more involved on tax policies. Without civil society, I feel that there would be a huge gap between citizens and policymakers.

Civil society also needs to influence tax and economic policies so that ordinary people can enjoy fair taxation. And by fair taxation, I don't necessarily mean low taxation, but taxation that is commensurable to the revenue of each citizen and accounted for through public services provided by the Government to its citizens.

5. What kind of activities is the East African Tax and Governance Network (EATGN) planning to carry out in the coming years?

We are just in the process of adopting a very ambitious two year work plan that has a range of activities on research, advocacy, communication, networking and capacity building.

The network is still young, so there is a realisation that we need to start by building our internal capacity on technical tax issues such as the Public Financial Management Bill and the Value Added Tax (VAT) Bill in Kenya, international trade and tax avoidance mechanisms such as transfer pricing as all of these relate to our core mandate of advocating for pro-poor tax policies.

In our work, we plan to move both upwards to policymakers as well as getting the issues down to the people through civic empowerment. We will work with making clear for people what kind of tax they should pay, what their rights are and so forth. So basically, we are starting internally and moving both upwards and downwards.

6. What do you get out of your membership of EATGN?

As an organization, we gain a lot from our membership of the Network. Being a media house, we feel very privileged to be able to sit with scholars and tax experts in the Network in an area that has usually been for experts only. As a member of the Network, we are now part of the process of formulating research and discussing tax issues. In essence, we feel we have gained access to a world that was closed to us before. The rich access to information through the Network has substantially benefitted our news stories.

As an individual, I also feel that I have benefitted. I have grown to recognise myself as a taxpayer. I have also learnt that the Government is my employee and that I have a responsibility to monitor my Government so that they use my money well. Nothing runs without money – and it is my money which makes me feel I have a greater stake in the process of governance.

7. Can other organisations join EATGN and how?

Interested organisations from East Africa can join. As Safari Africa Radio, we joined the Network at the invitation of one of the founding organisations.

Apart from organisations, we are also right now looking at making it possible for individuals to join the Network. For readers from one of the five East African countries who are interested in joining they can contact TJN-A at infoafrica@taxjustice.net for assistance.

Barbara Wachaga works for Safari Africa Radio, one of the 13 member organisations of the EATGN

Profile

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