

International Chamber of Commerce
Policy and Business Practices

ICC GUIDELINES ON TAX PRINCIPLES FOR MULTINATIONAL BUSINESSES

GUIDELINES

Prepared by the ICC Commission on Taxation

Intention of Guidelines on Tax Principles

These ICC Guidelines on Tax Principles are intended to serve as guidance in the formulation of the tax policies of multinational businesses and as an indication to revenue authorities of the principles sought by multinational businesses in their interactions with them.

This guidance takes account of six key observations:

- Public trust in the tax system is vital to any well-functioning society and growing economy.
- Businesses should comply fully with all applicable tax laws and regulations, and most do, recognising the obligations of governments to protect a sustainable tax base. Each business has its own unique characteristics and market conditions and therefore must apply appropriate tax principles befitting its particular situation.
- International businesses contribute significantly to the global economy and pay a substantial amount of tax comprising not only corporation tax, but also labour taxes, social contributions and other taxes such as environmental levies, and value added, sales and use taxes.
- Transparency, open dialogue and cooperation between tax authorities and business contribute to greater compliance and a better functioning tax system.
- Tax is a business expense which needs to be managed, like any other, and therefore businesses may legitimately plan their affairs and respond to tax incentives and statutory alternatives offered by governments.
- Multinational businesses recognise the contribution of governments, especially in emerging countries, in providing infrastructure, business locations, health and education services and access to natural resources and to labour and consumer markets.

The objectives of the Guidelines

- To promote the formulation of responsible tax principles by companies in order to enhance co-operation, trust and confidence between tax authorities, business taxpayers and the public concerning the operation of the global tax system.
- To promote the efficient working of the tax system to fund public services and promote sustainable growth.
- To support stability, certainty and consistency in global tax principles that will foster cross-border trade and investment.
- To provide international businesses with framework tax principles that they can develop and apply in the countries where they operate.

Model Principles for inclusion in corporate tax policy

The following principles are grouped under headings. Within each heading, the enterprise should select the principles that are relevant to its situation. For example, the reference to the relationship of cooperative compliance will be relevant for businesses operating in those countries which have established such a system, but may not be relevant for those operating in other jurisdictions which have not chosen to adopt the Organisation for Economic Co-operation and Development (OECD) recommendations on cooperative compliance.

Tax planning

Multinational businesses can elect to include appropriate principles along the following lines:

- To align the tax positions adopted with commercial and economic activity.
- To interpret the relevant tax laws in a reasonable way, consistent with a relationship of ‘co-operative compliance’ with tax authorities.
 - The enterprise will thoroughly analyse any tax issues, which may be open to interpretation. Where considered appropriate the enterprise may pre-align within a relationship of ‘co-operative compliance’ and/or request for an advance tax ruling and/or obtain an (external) legal opinion before taking a filing position. The enterprise will not adopt a filing position, which is contrary to the documented intention of the legislature and/or case law at highest level.
 - The enterprise will consider the reputational consequences of each filing position.
- To utilise tax incentives that are transparent, published and/ or endorsed by the host nation legislation.
- To refrain from claiming or accepting exemptions not granted according to the statutory, regulatory, or administrative frameworks related to taxation, financial incentives, or other issues.
- To follow established and agreed upon procedures and channels when dealing with tax authority officials.
- In international tax matters, to follow the terms of the applicable Double Taxation Treaties and relevant domestic, OECD and United Nations (UN) guidance. The enterprise is committed to participate constructively in international dialogue on the review of global tax rules and the need for any changes.
- To promote the development of multinational businesses’ governance and tax risk management framework.

Transparency and reporting principles

Relationships between multinational businesses and tax authorities should be transparent, constructive, and based on mutual trust with the result that tax authorities and business should treat each other with respect, and with an appropriate focus on areas of risk.

Multinational businesses can, therefore, elect to include principles along the following lines:

- To commit to be open and transparent with the tax authority in each jurisdiction about their tax matters and provide the relevant, reasonably requested information (subject to appropriate confidentiality provisions) that is necessary to enable a balanced assessment of possible tax risks.
- To respond to reasonable tax authority enquiries and make payment of tax liabilities within established due dates, or within a reasonable time-frame where no such due dates are established.
- Where tax authorities ask reasonable, specific and legitimate questions, to answer those questions in a straightforward and transparent manner.
- If questions or assessments from tax authorities appear not to be legitimate or are based on misunderstandings of the facts or the law, to work with tax authorities where possible, to identify the issues and explore options to resolve misunderstandings.
- Where relevant, reasonably requested information is not available, to timely inform the tax authorities and explore mutually acceptable alternatives.
- To work collaboratively with tax authorities to achieve early agreement on disputed issues and certainty on a real-time basis, wherever possible.
- To seek, where necessary, to increase public understanding of the tax system in order to build public trust in that system, and, to that end:
 - To explain to the public the economic contribution and taxes paid via some or all of the following disclosures
 - A statement of Tax Principles adopted by the enterprise.
 - A description of the measures adopted by the enterprise to improve/ensure management of tax risks and improve transparency towards stakeholders.
 - A breakdown of the tax charge for the year into current and deferred taxes analysed between charges relating to the current and prior years.
 - A reconciliation of the current year tax charge to the statutory corporate tax rate of the home country or a weighted average of the rates applying in the countries of activity.
 - Taxes paid during the year
 - The enterprise may commit to greater transparency, and where appropriate, may wish to include relevant information regarding different countries (based on commonly agreed global standards).

Fiscal environment conducive to the implementation of corporate tax principles

International businesses wishing to implement Tax Principles in accordance with the Guidelines need the cooperation of the fiscal authorities in establishing an environment, which is conducive to the effective application of these principles.

Clear legislation

- When businesses seek to interpret the relevant tax laws in a reasonable way and claim only benefits and exemptions envisaged by the lawmakers, the clarity of the legislation is an essential foundation for the success of their efforts. Fiscal authorities are encouraged to take steps to ensure the clarity of legislation and interpretative circulars etc. and involve businesses directly and indirectly affected by proposed tax measures in a consultation process regarding the content and timing of the measures.

Transparent authorities

- The efforts of businesses to be transparent towards the authorities are greatly assisted if the authorities in turn are transparent about the purposes of their enquiries and the objectives they seek to achieve. The publication of decisions – in anonymised form where necessary – and commentaries on interpretative positions can be of great help to businesses, which aim to comply with the applicable regulations.

Availability of pre-clearance of interpretations

- Despite the best efforts of the legislature to draft clear legislation and of the fiscal authorities to publish interpretative guidelines, the ever-changing world of business will continue to generate situations, which have not been contemplated. Where changes to the law are not practical or relevant, it is important to businesses, which wish to manage their tax obligations in good faith, that a system of pre-clearance is available giving certainty of interpretation for the taxpayer.

Dispute Resolution

- Effective processes need to be in place for resolution of disputes between businesses and the tax authorities about the amounts of tax due. These need to be clear, proceed in reasonable time and be managed at reasonable cost to both parties. Mechanisms should include provision for administrative level settlement and escalation to the courts.
- Effective processes need to be in place to resolve disputes between two or more countries over which has taxing rights in relation to particular income or gains of companies. This is best managed through the agreement of tax treaties including mutual agreement clauses, backed up by effective mandatory, binding arbitration or similar provisions.



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