

Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption



THE WORLD BANK

 **OECD**
BETTER POLICIES FOR BETTER LIVES

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Preface

Corruption seriously damages the fabric of society. It wrongly enriches criminals at the expense of public trust in institutions, creates an unlevel playing field for law-abiding businesses, and radically limits progress on the United Nations' Sustainable Development Goals. Corruption, in all its forms, is a complex crime and through modern technology, criminals are using increasingly sophisticated methods to avoid detection. This makes it more important than ever for political leaders, policy makers, and law-enforcement authorities to develop joint approaches to stamping out such behaviours.

By its very nature, corruption often occurs alongside or involves the commission of other serious financial crimes, be it money laundering, tax evasion, or terrorist financing. Combating corruption therefore requires a holistic approach that integrates a range of law enforcement efforts to prevent, detect, investigate, and prosecute financial and economic crimes associated with corrupt acts.

In recent years, our understanding of the important links between different forms of financial crime has increased, leading jurisdictions around the globe to recognise the need for adopting more comprehensive cross-government approaches. This calls for a coordinated response from a range of government actors, including anti-corruption authorities, anti-money laundering authorities, financial intelligence units, tax authorities, customs authorities, financial regulators, police, and prosecutors, all of which may be involved at different stages of combating financial crimes.

However, most jurisdictions continue to struggle with operationalising comprehensive government efforts to combat financial and economic crime. In this publication, the OECD and World Bank have joined forces to share their experience working with governments and agencies across the world in meeting this challenge. Recognising that tax authorities, especially, can be key allies in the fight against corruption, this joint OECD/World Bank report shines a spotlight on the legal, strategic, operational, and cultural aspects of co-operation between tax authorities and anti-corruption authorities in investigating and prosecuting corruption and tax crimes. Drawing on data from 67 countries from all geographical regions, the report shows that, while most countries have laws in place to support co-operation, more work is needed to ensure that these laws are effective and well implemented. By enhancing inter-agency collaboration between tax authorities and anti-corruption authorities, governments will be better equipped to fight corruption and restore faith in public and private sector institutions.

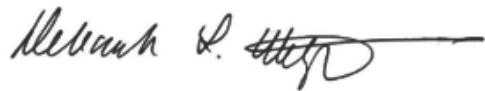
We invite leaders of both developed and developing countries to use this report to benchmark their governments' co-operation frameworks and identify areas for improvement. Preventing, detecting, and punishing financial crimes like tax evasion and corruption requires collective action and the OECD and World Bank remain committed to supporting jurisdictions' efforts. We must not let the advances made in building inclusive and fair societies be frustrated by these crimes. A sustained commitment to prioritise a

whole-of-government approach to combating financial crimes will ensure that jurisdictions around the globe are better equipped than ever to end impunity and hold corrupt actors to account.



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Table of contents

| | |
|--|----|
| Abbreviations and acronyms | 11 |
| Chapter 1. Introduction and key findings | 13 |
| Introduction | 13 |
| Overview of the joint OECD/World Bank report | 15 |
| Key findings | 16 |
| Bibliography | 20 |
| Chapter 2. Institutional frameworks for the investigation and prosecution of tax crime and corruption | 21 |
| General institutional frameworks for investigating tax crime | 22 |
| General institutional frameworks for investigating corruption | 24 |
| Prosecuting tax crime and corruption | 26 |
| Institutional frameworks for the prevention of tax crime and corruption | 29 |
| Bibliography | 32 |
| Chapter 3. Benefits of effective co-operation | 33 |
| Threat assessment | 35 |
| Detection | 36 |
| Referral | 38 |
| Information sharing | 38 |
| Joint investigations and sharing capability | 38 |
| Institutional integrity | 39 |
| Policy development | 40 |
| Examples | 40 |
| Bibliography | 43 |
| Chapter 4. Overcoming challenges to effective co-operation | 45 |
| Legal basis | 45 |
| Operational framework | 47 |
| Co-operation agreements | 48 |
| Culture and political support | 50 |
| Chapter 5. Gateways for reporting and information sharing | 53 |
| Reporting and sharing of taxpayer information by tax administration | 56 |
| Reporting and sharing information by authorities responsible for tax crime investigations | 58 |
| Reporting suspicions and sharing information by a corruption investigation authority | 60 |
| The need to better record the frequency of reporting and information sharing by authorities | 62 |
| Bibliography | 66 |

| | |
|--|-----|
| Chapter 6. Training | 67 |
| Why training is an essential element of effective co-operation..... | 67 |
| Training tax officials on the indicators of potential corruption..... | 68 |
| Training anti-corruption officials on the indicators of potential tax crime..... | 70 |
| Methods for delivering training..... | 72 |
| Training officials on what to do when an indicator is identified..... | 73 |
| Bibliography | 74 |
| Chapter 7. Joint operations and taskforces | 75 |
| The role joint operations and taskforces play in tackling tax crime and corruption..... | 75 |
| Benefits of joint operations and taskforces | 78 |
| Challenges posed by joint operations and taskforces..... | 81 |
| Successful processes for establishing joint operations | 82 |
| Chapter 8. Other co-ordination mechanisms | 85 |
| Parallel investigations | 85 |
| Other structured co-ordination fora..... | 87 |
| Joint intelligence centres | 88 |
| Secondments and co-location of staff | 91 |
| Reviewing the tax affairs of persons sanctioned for corruption offences..... | 92 |
| Registers for the income and assets of public officials | 94 |
| Bibliography | 96 |
| Concluding remarks | 97 |
| Annex A. Key steps to enhance co-operation between tax authorities and anti-corruption authorities | 99 |
| Annex B. OECD Council Recommendations | 100 |
| Figures | |
| Figure 2.1 Number of countries applying different tax crime investigation models | 22 |
| Figure 2.2 Number of countries applying different corruption investigation models | 24 |
| Figure 2.3 Number of countries applying different frameworks for prosecuting tax crime and corruption | 26 |
| Figure 2.4 Number of countries with specialised prosecutors | 28 |
| Figure 5.1 Reporting of suspicions of corruption by civil tax authorities (number of countries) | 56 |
| Figure 5.2 Sharing of information held by tax administration for tax assessment purposes with corruption investigation authorities (number of countries). | 57 |
| Figure 5.3 Reporting of suspicions of corruption by tax crime investigation authorities (number of countries) | 58 |
| Figure 5.4 Sharing of information held by a tax crime investigation authorities with corruption investigation authorities (number of countries). | 59 |
| Figure 5.5 Reporting of suspicions of tax crime by corruption investigation authorities (number of countries) | 60 |
| Figure 5.6 Sharing of information held by corruption investigation authorities with tax crime investigation authorities (number of countries). | 61 |
| Figure 8.1 Can your country's tax administration review the tax affairs of persons convicted of corruption? | 93 |

Tables

| | | |
|-----------|---|----|
| Table 3.1 | Typical areas where tax authorities and anti-corruption authorities can further each other's work | 34 |
| Table 3.2 | Indicators of bribery and corruption | 36 |
| Table 4.1 | Examples of co-operation agreements | 49 |
| Table 5.1 | Reporting suspicions of tax crime and corruption | 54 |
| Table 5.2 | Ability of tax authorities and anti-corruption authorities to share information with each other | 55 |
| Table 6.1 | Corruption indicators that tax officials should be able to identify | 68 |
| Table 6.2 | Tax crime indicators that anti-corruption officials should be trained to identify | 70 |
| Table 6.3 | Methods for training tax and anti-corruption officials on indicators of corruption and tax crime | 72 |

Boxes

| | | |
|---------|--|-----|
| Box 3.1 | Example of a revenue authority with a public corruption investigation unit: the United States IRS-CI | 34 |
| Box 3.2 | Corruption case detected through assessment of suspected tax crime – Georgia | 37 |
| Box 3.3 | Joint tax and anti-corruption authority investigation of a GST fraud scheme – Australia . | 40 |
| Box 3.4 | Joint investigation into cross-border tax crime and other offences by an organised crime group – Bosnia and Herzegovina | 41 |
| Box 3.5 | Joint tax authority and anti-corruption authority investigation of a phoenix scheme – Hungary | 43 |
| Box 4.1 | Examples of contemporary law reform – Finland and New Zealand | 47 |
| Box 4.2 | Other examples of written agreements between tax authorities and anti-corruption authorities – Lithuania, Peru and Uganda | 50 |
| Box 5.1 | Impact of institutional model for tax crime investigations on information sharing between tax authorities and anti-corruption authorities | 59 |
| Box 5.2 | Financial Criminal Investigation Network | 61 |
| Box 5.3 | Examples of effective reporting and information sharing between tax authorities and anti-corruption authorities – Brazil | 62 |
| Box 7.1 | Establishment of a multi-agency taskforce to deal with the Panama Papers – United Kingdom | 77 |
| Box 7.2 | Examples of wider information sharing gateways in joint operations – Canada and the United States | 80 |
| Box 7.3 | Challenges posed by joint operations – South Africa | 81 |
| Box 7.4 | Successful multi-agency taskforce in practice – Australia | 83 |
| Box 7.5 | Successful joint operation in practice – United States | 83 |
| Box 8.1 | Examples of joint intelligence centres that involve tax and anti-corruption officials | 90 |
| Box 8.2 | Co-location of tax and anti-corruption staff – Finland | 92 |
| Box 8.3 | Examples of IAD systems administered by tax or anti-corruption authorities – Rwanda and Latvia | 94 |
| Box B.1 | Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions | 100 |
| Box B.2 | Recommendation of the Council to Facilitate Co-operation between Tax and Other Law Enforcement Authorities to Combat Serious Crimes | 102 |

Abbreviations and acronyms

| | |
|----------------|---|
| AFP | Australian Federal Police |
| AGO | Attorney General's Office |
| ARO | Asset Recovery Office |
| ATO | Australian Taxation Office |
| BP | Border Police of Bosnia and Herzegovina |
| CARF | Brazil's Administrative Council of Tax Appeals |
| CPIB | Corrupt Practices Investigation Bureau |
| CRA | Canada Revenue Agency |
| DOJ | United States Department of Justice |
| FCInet | Financial Criminal Investigation Network |
| FEC | Financial Expertise Centre of the Netherlands |
| FIFA | Federation Internationale de Football Association |
| FIOD | Fiscal Information and Investigation Service |
| GST | Goods and Service Tax |
| HMRC | Her Majesty's Revenue and Customs |
| IAD | Income and Asset Disclosure |
| IFC | Intelligence Fusion Centre |
| ITA | Indirect Taxation Authority |
| KNAB | Corruption Prevention and Combating Bureau |
| KPK | Corruption Eradication Commission |
| MOU | Memorandum of Understanding |
| NABU | National Anti-Corruption Bureau of Ukraine |
| NPPA | National Public Prosecution Authority |
| NRRET | Malaysian National Revenue Recovery Enforcement Team |
| NTCA | National Taxation and Customs Administration |
| OECD | Organisation for Economic Co-operation and Development |
| ØKOKRIM | The National Authority for Investigation and Prosecution of Economic and Environmental Crime (Norway) |

| | |
|--------------|--|
| PEP | Politically Exposed Person |
| RCMP | Royal Canadian Mounted Police |
| RFB | Federal Revenue of Brazil |
| SFO | Serious Fraud Office |
| SFCT | Serious Financial Crime Taskforce |
| SIPA | State Investigation and Protection Agency |
| STI | State Tax Inspectorate of Lithuania |
| SUNAT | Tax Administration of Peru |
| UNCAC | United Nations Convention Against Corruption |
| VAT | Value Added Tax |
| YEDDE | Greece's Specialist Tax Agency |

Chapter 1

Introduction and key findings

Introduction

1. **Countries around the globe are facing a common threat posed by increasingly complex and innovative forms of financial crime.** By exploiting modern technology and weaknesses in local legislation, criminals can now covertly move substantial sums between multiple jurisdictions with relative ease and great speed. As a consequence, criminal activity such as tax evasion, bribery and other forms of corruption are becoming ever more sophisticated. Meanwhile, law enforcement structures have, in many cases, not evolved at the same speed and the international community has struggled to keep up with this threat.
2. **While viewed as distinct crimes, tax crime and corruption are often intrinsically linked,** as criminals fail to report income derived from corrupt activities for tax purposes, or over-report in an attempt to launder the proceeds of corruption. A World Bank study of 25 000 firms in 57 countries found that firms that pay more bribes also evade more taxes.¹ More broadly, where corruption is prevalent in society, this can foster tax evasion. A recent IFC Enterprise Survey found that 13.3% of businesses globally report that “firms are expected to give gifts in meetings with tax officials”, with the frequency of this ranging across countries from nil to 62.6%.²
3. **The links between tax crime and corruption mean that tax authorities and law enforcement authorities can benefit greatly from more effective co-operation and sharing of information.** Tax authorities hold a wealth of personal and company information such as income, assets, financial transactions and banking information, that can be a valuable source of intelligence to anti-corruption investigators. Similarly, anti-corruption authorities can provide tax administrations with important information about ongoing and completed corruption investigations that could assist a decision to reopen a tax assessment, initiate a tax crime investigation, or more generally promote integrity among tax officials. The investigation into Brazilian majority-state-owned oil company, *Petrobras*, initiated in 2014, is a prime example of this. Civil tax auditors played a critical role in this transnational corruption investigation by analysing suspects’ tax and customs data and sharing this with the police and public prosecutor as permitted by law. As a result, officials were able to uncover evidence of money laundering, tax evasion, and hidden assets, and to track financial flows. While criminal investigations and prosecutions are still ongoing, as of August 2018, the operation has resulted in dozens of charges against high profile public officials and politicians and billions of dollars in criminal fines, tax penalties, and recovered assets.
4. **However, there remains significant room for improvement in co-operation between tax authorities and anti-corruption authorities.** Despite success stories, anecdotal

evidence provided by many jurisdictions involved in this report suggests that reporting and information sharing between authorities often occurs on ad-hoc basis rather than systematically. This is reinforced by the OECD's 2017 study on the *Detection of Foreign Bribery*, which provides that only 2% of concluded foreign bribery cases between 1999 and 2017 were detected by tax authorities.³

5. These issues are at the heart of the current global agenda. In 2015, the United Nations agreed 17 Sustainable Development Goals, including a specific target of substantially reducing corruption in all of its forms.⁴ The World Bank and OECD strongly support these goals and recognise the importance of dealing with corruption and tax evasion at a policy and technical level. In this context, for many years, international organisations including the OECD and World Bank have been active in supporting countries to strengthen their legal and institutional frameworks for the prevention, detection, investigation, and prosecution of tax crime and corruption, and the recovery of the proceeds of these crimes. In 2012, the Financial Action Task Force (FATF) recognised these links by including corruption, bribery, and tax crimes in the list of designated predicate offences for money laundering purposes in its *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*.⁵

6. In 2009⁶ and 2010⁷, the OECD issued two Council Recommendations calling for greater co-operation and better information sharing between different government agencies involved in combating financial crimes. These are supported by the Oslo Dialogue, an initiative which encourages a whole of government approach to tackling all forms of financial crime.⁸ As part of this initiative, in 2017, the OECD published its third edition of *Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes* (the Rome Report) which analyses the legal gateways and mechanisms for inter-agency co-operation between authorities responsible for investigating tax and other financial crimes. At the same time, the OECD published *Ten Global Principles for Fighting Tax Crime*, the first report of its kind which allows countries to benchmark their legal and operational frameworks for tackling tax crime, and identify areas where improvements can be made.

7. The OECD continues to advance practical tools and training to combat tax crime and corruption. OECD Handbooks on Money Laundering Awareness and Bribery and Corruption Awareness provide practical guidance to help tax officials identify indicators of possible criminal activity in the course of their work. In 2013, the OECD International Academy for Tax Crime Investigation was launched in co-operation with Italy's *Guardia di Finanza* to strengthen developing countries' capacity to tackle illicit financial flows. In 2017, a sister Academy was piloted in Kenya and will be formally launched in Nairobi, in late 2018. In July 2018, OECD and Argentina's Federal Administration of Public Revenue (AFIP) signed a MoU to establish a Latin American centre of the OECD Academy in Buenos Aires, Argentina, with the first programme planned for late 2018.

8. The World Bank is also helping strengthen developing countries' capacity to stem tax evasion. In 2015, the World Bank and the International Monetary Fund (IMF) launched the Joint Initiative to Support Developing Countries in Strengthening Tax Systems to give greater voice to developing countries in the global debate on tax issues.⁹ Through this joint initiative, the World Bank and the IMF are assembling a set of tools and guidance aimed at addressing developing economy needs. As part of this work, the World Bank has also partnered with the governments of Norway and Denmark to launch the Tax Evasion Initiative to enable enforcement agencies in developing countries to more effectively combat tax crimes and other financial crimes. Under the Tax Evasion Initiative, the World

Bank is developing a set of tools, including a handbook on tax evasion schemes and red flags for tax investigators and auditors, as well as a methodology for assessing the performance of criminal tax investigation units which is currently being piloted.

9. In researching, developing, and publishing this joint report on the legal, strategic, and operational aspects of co-operation between tax authorities and anti-corruption authorities, the World Bank and OECD aim to complement their existing work and advance the shared objective of improving the capacity of all countries to effectively combat financial crime.

Overview of the joint OECD/World Bank report

10. **This joint report by the World Bank and OECD identifies building blocks for more effective co-operation and is the first comprehensive global study of its kind.** The report identifies key agencies involved in the fight against tax crime and corruption and examines the organisational models applied to these agencies in different countries. Reflecting on this, the report examines the obligations on personnel in each authority to report suspicions of tax crime or corruption that they come across in the course of their normal activities, as well as the extent to which legal gateways are in place for tax authorities and anti-corruption authorities to share information. The report also explores practical ways in which countries facilitate other forms of co-operation between authorities engaged in combating tax crime and corruption, including through joint and parallel investigations, joint taskforces, joint intelligence centres, targeted training, and staff secondments. The report articulates the importance of effective co-operation and the benefits that this can bring to tax administrations, tax crime investigation authorities, and corruption investigation authorities, within the context of their country's specific legal and operational framework. It also recognises potential challenges to effective co-operation and examines how these may be addressed based on the experience of countries.

11. The content of the report is based on responses from 67 countries to a survey, which examined the organisational structure for investigating and prosecuting tax crime and corruption, as well as models for, and the experience of, inter-agency co-operation in fighting these crimes.¹⁰ The survey was sent to a diverse cross-section of developed and developing countries from all geographic regions and all countries that responded to the survey were included in the report. These countries represent a broad geographical spread and vary greatly in their levels of economic development and experience of inter-agency co-operation to combat complex, financial crime. These survey responses were supplemented by follow-up questions and telephone interviews with experts from specific countries. This information has been analysed under a number of different headings, set out in the following chapters, in order to understand the spread of practices between countries, the benefits these provide, and the challenges they pose. This analysis is presented using a combination of tables, charts, and narrative description. In addition, two countries, which were not able to provide responses to the survey, provided case studies demonstrating inter-agency co-operation between their tax authorities and anti-corruption authorities that have been included in the report. Initial outcomes were discussed at a roundtable during the fifth OECD Forum on Tax and Crime, hosted by HM Revenue and Customs in London, in November 2017, which was attended by over 212 delegates from 60 countries and eight international organisations. These discussions have been fed into the final report, and the input from many jurisdictions attending that event is also reflected. The information in this report is current as of August 2018.

12. The report will enable authorities to review and evaluate their own approaches and structures for co-operation relative to those in other countries, and identify opportunities for making improvements based on practices that have been used successfully elsewhere.¹¹ However, it does not propose a “one size fits all” solution. Countries differ in many ways, including in terms of their tax and legal systems, their size and population, the structure of agencies responsible for administering taxes and investigating crime, overall rates of compliance, and the existence of other enforcement strategies (such as administrative penalties). The systems that countries need to facilitate co-operation between tax authorities and anti-corruption authorities are directly influenced by the legal and operational frameworks they apply to combat tax crime and corruption. These, in turn, reflect countries’ broader legal, institutional, and cultural environments. Each country must identify and implement a framework for inter-agency co-operation that is consistent with its domestic context, its obligations under international standards and conventions and, in the case of European Union Member States, European Union law.

13. For the purposes of this report, tax crime and corruption are defined broadly. References to “tax crime” mean all criminal offences concerning the administration or payment of taxes, including violations of income tax laws and indirect tax obligations (such as Value Added Tax (VAT) or Goods and Service Tax (GST)). References to “corruption” mean all offences set out in Chapter III of the *United Nations Convention Against Corruption* (UNCAC),¹² including the bribery of domestic and foreign public officials in the public and private sectors, embezzlement, misappropriation of property by a public official, trading in influence, abuse of functions, and illicit enrichment.

Key findings

14. An examination of the co-operation frameworks in place in each country led to a number of **key findings**:

- I. **Effective inter-agency co-operation begins with a robust and clearly defined institutional framework.** This does not imply there is a single correct approach to how a country should structure its authorities with responsibility for administering taxes or combating tax crime and corruption. However, whatever model is adopted should be implemented in a way that provides a clear allocation of responsibilities and defined governance arrangements (e.g. decision-making responsibility, accountability, and supervision), thus reducing the risk of duplication of efforts and gaps in enforcement.
- II. **Co-operation between tax authorities and anti-corruption authorities is an essential element of the whole-of-government approach to tackling financial crime.** The work of tax authorities and anti-corruption authorities is fundamentally linked. Tax crime and corruption often occur together and so either authority may uncover indications of misconduct that should be reported to the other for possible assessment or investigation. In addition, in the course of their work, tax authorities and anti-corruption authorities collect and hold information that may be directly relevant to the work of other authorities. Legal gateways can be established to support the sharing of this information, subject to suitable safeguards. By fully exploiting the areas in which authorities can enhance and support each other’s work, countries could gain significant benefits in terms of detecting, investigating, prosecuting, understanding, and deterring tax crime and corruption, and economic crime more broadly.

- III. Countries are encouraged to consider the extent to which legal, operational, or cultural/political challenges are undermining effective co-operation.** The lack of a legal basis for co-operation or undue legal restrictions on co-operation – such as laws that prohibit or impose excessive burdens on the sharing of information – present a fundamental challenge and are inconsistent with a whole-of-government approach to combating financial crime. Operational frameworks are ineffective without streamlined and efficient procedures for obtaining information, awareness on the part of one authority about the types of information held by the other, and training for officials on information sharing gateways. In addition, such processes should also be supported by a culture of co-operation. This can be difficult to establish, particularly in the absence of trust, political support, or where there are concerns around the political independence of either agency. Co-operation may also be hampered where an agency lacks the backing of senior leadership or takes a narrow view of its mandate with respect to combating economic crime.
- IV. Countries should consider a range of mechanisms to increase instances of information sharing between their tax authorities and anti-corruption authorities.** The majority of countries in this report have mechanisms in place to support the reporting of suspected crime and the sharing of information between tax authorities and anti-corruption authorities. Nonetheless, restrictions or limits on reporting and information sharing still exist and reported instances of both remain low in many countries. To facilitate increased information sharing, countries should consider making a range of legal gateways available and implement systems to ensure that these are operational. This may include having identifiable contact points within each agency and ensuring that key individuals within each agency have a clear understanding of the types of information and powers the other agencies possess. Finally, regardless of the legal gateway or combination of legal gateways available in a given country, it is critical that countries have safeguards in place to protect the confidentiality of the information they hold and the integrity of the work carried out by other agencies. This will often require clear parameters on who can access information and for what purpose, as well as having defined governance mechanisms to ensure that information is used for its intended purpose.
- V. It is important that tax examiners and auditors can detect corruption red flags and that corruption investigators can identify indicators of tax crime.** Training in this area is important and can be highly effective and efficient because it enables increased detection of tax crime and corruption simply by utilising the established roles of tax and anti-corruption officials and the information already available to them. This report provides guidance on the actual indicators that officials would be likely to come across in the course of their ordinary activities. Such indicators may arise in the context of assessing a subject's external and internal risk environment, transactions, payments and money flows, and outcomes of transactions. Countries are encouraged to consider including training on these matters as part of the core curriculum for tax examiners/auditors, tax crime investigators, and corruption investigators.
- VI. Countries have experienced positive results from the use of joint operations and taskforces that involve tax authorities and anti-corruption authorities. These benefits could be replicated in other countries.** The role of joint operations and taskforces is growing as more enforcement authorities grapple

with the increasing complexity of economic crime and the particular interplay between tax crime and corruption. They are an efficient and effective means of co-operation and have versatile application to a range of issues connected to tax crime and corruption. The benefits of joint operations and taskforces include increased enforcement capacity, a broader set of investigative powers and tools, ability to share resources, de-confliction of enforcement action, undertaking simultaneous action, enhancing information sharing, and increasing deterrence.

VII. Parallel investigations, co-ordination fora, and joint intelligence centres, are important mechanisms to enhance information sharing and other forms of co-operation. Well co-ordinated parallel investigations can greatly enhance co-operation between tax authorities and anti-corruption authorities. Countries have also developed a range of different types of co-ordination fora to bring together tax authorities, anti-corruption authorities, and others, at regular intervals for structured analysis or discussions on issues to advance a shared objective. These fora may be used for a variety of purposes, such as to develop inter-agency crime fighting strategies, assess threats, detect misconduct, co-ordinate cases, or distil lessons from past investigations. Joint intelligence centres are a related but different mechanism that collect, store, and analyse information, and co-ordinate the sharing of information between agencies. By centralising the function of data analysis, joint intelligence centres can look across a wider spectrum of financial crime data than individual authorities acting on their own, and can more easily identify trends or individual cases where corruption and tax crime overlap.

VIII. Other mechanisms include staff secondments, automatic review of the tax affairs of persons sanctioned for corruption, and income and asset registers can also support co-operation between tax authorities and anti-corruption authorities. Secondments and the co-location of personnel can improve working arrangements between anti-corruption and tax authorities. This strategy enhances other forms of co-operation by improving the ability of the seconded individual to identify opportunities for co-operation and to develop personal contacts, which can be used to further develop co-operation in future. By reviewing the tax affairs of persons sanctioned for corruption, a tax authority can complement the work of the anti-corruption authority and may also detect tax evasion that is connected to corruption offences. Finally, registers of the income and assets of public officials are an important centralised tool that may contain information useful for investigations conducted by either authority.

Notes

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6. OECD Council Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions, 25 May 2009, C(2009)64.
7. OECD Council Recommendation to Facilitate Co-operation between Tax Authorities and Other Law Enforcement Authorities to Combat Serious Crimes, 14 October 2010, C(2010)119.
8. The Oslo Dialogue was launched at the first OECD Forum on Tax and Crime in Oslo, Norway, in 2011. The initiative, co-ordinated by the OECD Task Force on Tax Crimes and Other Crimes (TFTC), brings together key public and private sector partners, as well as NGOs, to promote a “whole of government” approach to fighting tax crime and other financial crimes at the national level.
9. See press release available at www.imf.org/en/News/Articles/2015/09/14/01/49/pr15330.
10. The following 67 countries were surveyed for the report: Angola, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Bhutan, Brazil, Burkina Faso, Canada, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Kenya, Korea, Latvia, Lithuania, Luxembourg, Madagascar, Malaysia, Mexico, Moldova, Myanmar, the Netherlands, New Zealand, Nigeria Norway, Paraguay, Peru, Portugal, Rwanda, Serbia, Singapore, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Uganda, Ukraine, the United Kingdom, the United States, Vietnam and Zambia. In addition, Armenia and Bosnia and Herzegovina provided case studies.
11. See Principle 5 of the OECD’s *Ten Global Principles for Fighting Tax Crime* which provides that countries should “put in place an organisational structure with defined responsibilities”. The Ten Global Principles are available at www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles.pdf.
12. United Nations Convention Against Corruption available at www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

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Chapter 2

Institutional frameworks for the investigation and prosecution of tax crime and corruption

15. This chapter focuses on the institutional models countries use for the investigation and prosecution of tax crime and corruption. The model or models adopted in a particular jurisdiction typically reflect its history, legal system, and general law enforcement framework. The number and type of agencies will directly impact the processes and agreements required to facilitate effective enforcement.

16. **Several agencies are typically involved** in the administration of taxes, the prevention, detection, investigation, and prosecution of tax crime and corruption, and the recovery of the proceeds of these crimes. These include the tax administration, general law enforcement bodies such as the police¹ and public prosecution authority, and agencies with a specific mandate to combat tax crime and corruption. The agency competent to investigate a particular offence may depend on the geographical region in which the suspected crime was committed, the type of person involved (e.g. government official vs member of the public), and the nature of the suspected crime.

17. **A whole-of-government approach requires a well-functioning institutional framework.** The involvement of multiple agencies in civil inquiries, criminal investigations, and the prosecution of tax crimes and corruption increases transaction costs and necessitates effective co-ordination. Cross-agency co-ordination should be led by a central government agency or, at a minimum, be a co-ordinated effort among relevant agencies to address issues as they arise. In line with Principle 5 of the *OECD's Ten Global Principles for Fighting Tax Crime*², a clear definition of institutional responsibilities is a precondition for effective co-operation among tax authorities and anti-corruption enforcement bodies.

18. **Individual agencies should take into account the institutional landscape.** The need for co-ordination is particularly present in countries where multiple agencies are involved in tax crime and corruption cases or where the prevalence of tax crime or corruption is high. In either situation, the individual enforcement bodies would be well-served by assessing the institutional landscape from its particular vantage point by:

- **Understanding the benefits of co-operation.** Having a clear understanding of the objectives and benefits of better inter-agency co-operation helps ensure line of sight between co-ordination activities and results. Potential benefits include: ensuring that the possibility of tax non-compliance is explored in all corruption cases and vice-versa pursuing possible corruption in cases involving civil tax breaches; addressing complex cases through more joint or parallel investigations; conducting more robust threat assessments; improving conviction rates; sharing business intelligence; and contributing to legislative improvements to combat tax crime and corruption.

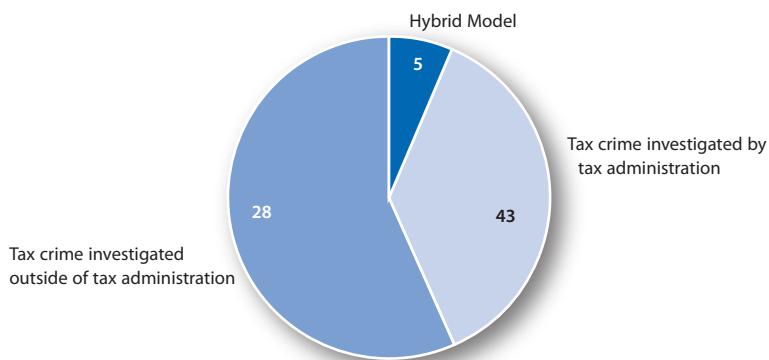
- ***Engaging the relevant units within a particular agency.*** This report focuses on co-operation between agencies, but agencies also need to have arrangements in place to ensure they co-operate effectively internally. Where a centralised unit is responsible for co-ordinating co-operation with other agencies, officials within this unit should have a good understanding of its key role in the fight against tax crime and corruption, any obligations for co-operation that exist, and the benefits of co-operation, particularly where discretion may be applied. They should also have a good understanding of areas within their agency where relevant information may be held and the importance of a swift response to a request for co-operation; take an active role in encouraging other areas within their agency to support greater inter-agency co-operation; and engage with these areas to understand cases where they may benefit from co-operation with other agencies to ensure this co-operation is reciprocal, within the limits permitted by law.
- ***Taking stock of existing co-operation arrangements.*** Tax and anti-corruption agencies should regularly take stock of their collaborative arrangements as determined by laws, formal agreements, and informal arrangements, in order to determine their fitness for purpose.

19. The institutional frameworks described in this chapter are only intended to reflect the *general* practice within a country. Many countries' frameworks for the investigation and prosecution of tax crime and corruption will have particular features, some of which are detailed in examples. A more comprehensive examination of countries' enforcement frameworks can be found in the latest edition of the OECD *Report on Effective Inter-Agency Co-operation in Fighting Tax Crimes and Other Financial Crimes* (the Rome Report).

General institutional frameworks for investigating tax crime

20. **The tax administration is responsible for investigating tax crime in 42 countries.³** A country's tax administration is responsible for the assessment and collection of taxes on behalf of the government. This involves gathering and processing information on individuals and corporations that are liable to pay taxes, including personal details, property ownership, investments, financial transactions, and business operations. Tax administrations employ large numbers of trained specialists and investigators with experience in auditing and analysing financial data and investigating suspicious or anomalous transactions. Tax administrations

Figure 2.1. Number of countries applying different tax crime investigation models



Note: The five countries applying hybrid models are included in all three categories.

often have extensive powers to access information and documentation from taxpayers and third parties and are thus well placed to play a central role in the prevention and detection of both tax crime and corruption.

- In 30 countries, including all common law countries included in this report, the tax administration has responsibility for both conducting and directing tax crime investigations.⁴
- In 15 countries, tax crime investigations are conducted by the tax administration and directed by a public prosecutor (or, in the case of *Spain*, an examining judge).⁵ In *El Salvador*, some cases are conducted by the police with support from the tax administration, but are still led by the public prosecutor.
- *Germany* and *the United States* are included in both frameworks as their respective prosecution authorities and tax administrations may both investigate tax crime. In *Germany*, investigations are typically conducted by the tax investigation unit of the respective *Land*'s tax administration, under the direction of a public prosecutor. However, the office for administrative fines and criminal matters, which is part of the tax investigation unit, can conduct certain tax-related criminal investigations directly. *The United States*, on the other hand, has two types of criminal investigation: investigations conducted and directed by the tax administration and grand jury investigations where the prosecutor initiates and directs the tax administration's investigation.

21. Agencies outside of the tax administration are empowered to conduct tax crime investigations in 28 countries, including the majority of civil law jurisdictions.⁶

- Five countries applying this model have specialist tax investigation agencies⁷ (e.g. Investigation Service of the Ministry of Finance of *Georgia*⁸ and *Greece*'s YEDDE under the Independent Authority of Public Revenue).
- In the vast majority of countries that apply this model (26 in total) tax crime investigations are conducted by the police under the direction of a public prosecutor (or, in the case of *Chile* and *Colombia*, by the public prosecutor directly).⁹
- *Ghana*, *Greece*, and *Iceland* are included in each of these lists as both specialist tax agencies and the police may conduct tax crime investigations. For example, while specialist agencies outside of the tax administration conduct most investigations, in *Ghana* the national police still has broad investigative powers which cover tax crimes and in *Iceland* the police can conduct independent investigations into serious tax crimes.

22. Five countries apply a hybrid model whereby tax crime investigations can take place both within and outside of the tax administration.¹⁰ Five countries have been included under both of the above institutional frameworks, as they apply hybrid models whereby both the tax administration and external agencies (e.g. police) may conduct tax crime investigations. In *Paraguay*, *Spain*, and *Sweden*, in addition to the police, investigations may in some instances be conducted by the tax administration under the direction of an examining judge or public prosecutor. In *Rwanda*, the Revenue Authority exercises judicial police powers to investigate tax offences, though the Rwanda Investigation Bureau (an independent body under the supervision of the Ministry of Justice) and the National Public Prosecution Authority (NPPA) are also empowered to conduct investigations. In *Greece*, tax crime investigations may be undertaken by the revenue authority or the YEDDE.

23. *Italy* is not included in the above models. Tax crime is investigated by the *Guardia di Finanza* (military police) both independently and under the direction of the public prosecutor.

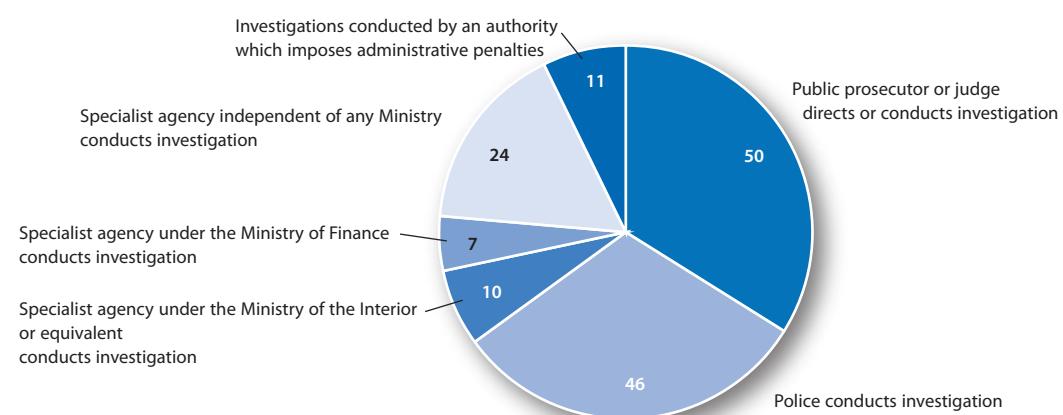
General institutional frameworks for investigating corruption

24. **There is greater diversity in the models for investigation of corruption than for the investigation of tax crime.** A country's framework for tackling corruption can include a broad range of tools to promote integrity, transparency, and accountability, and to deter and punish corrupt misconduct in the public and private sectors, both domestically and internationally. This section focuses primarily on countries' frameworks for the *investigation* of corruption, which can take many forms and involve multiple stakeholders across all branches and levels of government (e.g. elected officials, judges, police, prosecutors, dedicated anti-corruption authorities, corporate regulators, auditors, comptrollers, and ombudsmen). As with tax crime, the agencies responsible for corruption investigations will differ between countries and many jurisdictions will have multiple, overlapping competent authorities. In this situation, decisions on which authority will conduct an investigation may be based on a range of factors such as location (e.g. crimes committed in a particular region), the nature of the crime (e.g. foreign versus domestic bribery), the identity of the suspect (e.g. corruption by public officials), or entirely practical considerations (e.g. who detected evidence of a possible crime).

25. **A public prosecutor or an examining judge either directs, supervises, or participates in the investigation of corruption offences in 50 countries.** This typically reflects the general structure of law enforcement in these countries, which are mostly civil law jurisdictions.¹¹

26. **In 46 countries, the police (often through a specialist anti-corruption unit) conduct corruption investigations.**¹² In some cases, there may be more than one authority conducting investigations. For example, In *Indonesia*, the Attorney General's Office (AGO) and the police are responsible for investigating corruption. However, top-level corruption is investigated by the Corruption Eradication Commission (KPK) – which also has the power to supervise and take over the AGO's investigations. Similarly, in *Norway*, corruption cases are investigated by the police under the supervision of the Public Prosecutor's Office. However, the most serious and complex corruption cases are investigated and prosecuted at *ØKOKRIM*, which is the national authority for the investigation and prosecution of economic and environmental crime.

Figure 2.2. Number of countries applying different corruption investigation models



Note: Some countries apply more than one model.

27. For the purposes of this model, no distinction is made between countries where police can conduct entire investigations autonomously (e.g. *Australia*, *Finland*, and *South Africa*) or where they require external supervision. However, where countries are listed under the above two models, investigations are typically conducted by the police under the direction or supervision of a public prosecutor or examining judge (e.g. *Angola*, *Brazil*, and *Madagascar*). The report also does not distinguish between countries where the police are the main corruption investigation body (e.g. the *Royal Canadian Mounted Police*) and those where police *can* conduct investigations but are not the primary investigative body (e.g. *Singapore*, where the independent *Corrupt Practices Investigation Bureau* (CPIB) has primary authority over corruption investigations).

28. **In ten countries, a specialist agency under the Ministry of the Interior conducts corruption investigations.**¹³ Examples include *New Zealand*'s Serious Fraud Office (SFO) which is mandated to investigate and prosecute serious and complex fraud and corruption, *Kenya*'s Ethics and Anti-Corruption Commission which investigates corruption and economic crimes and makes recommendations on prosecutions, and *Austria*'s Federal Bureau of Anti-Corruption. Even where countries have a specialist unit, other agencies may still play a key role in the investigation of corruption. For example, in the *United Kingdom*, the SFO is responsible for all serious and complex fraud cases, including foreign bribery. However, the National Crime Agency also has a wide remit to tackle serious and organised crime, including corruption, and the City of London Police, Metropolitan Police Service, Ministry of Defence Police, and Territorial police forces (all of which sit under Model 2) are also responsible for corruption investigations within their jurisdictions.

29. **Seven countries have specialist anti-corruption bodies established under the Ministry of Finance that can investigate corruption.**¹⁴ Bodies are set up in this way for a variety of reasons. In *Costa Rica*, the Department of Internal Affairs investigates corruption by Ministry officials, whereas the Investigation Service of the Ministry of Finance of *Georgia* investigates corruption where it arises in the private sector and the Financial Investigation Service detects the crime.

30. **In 24 countries, specialist agencies independent of any ministry conduct corruption investigations.**¹⁵ Reflecting the importance and widespread nature of corruption, these agencies typically report directly to the Office of the President, Prime Minister, Cabinet, Parliament, or similar. Again, such agencies can take on a variety of forms and functions. In *Burkina Faso*, the Higher Authority for State Control and Anti-Corruption is responsible for (among other things) conducting investigations into corruption and related offences within public bodies. It is attached to the Office of the Prime Minister and a dedicated budget guarantees its financial independence. Similarly, *India*'s Central Vigilance Commission is an independent federal government body which investigates suspected corruption by certain categories of public servants, including high level public officials. In *Singapore*, the CPIB is the sole and independent law enforcement agency responsible for investigating offences under the Prevention of Corruption Act. Its director reports to the Prime Minister and while it is housed within the Prime Minister's Office, it operates with functional independence. The National Anti-Corruption Bureau of Ukraine (NABU), created in 2015, specialises in investigating corruption committed by senior officials.

31. **Eleven countries also have authorities that can impose administrative penalties in corruption cases.**¹⁶ All of the above models concern criminal investigation authorities capable of conducting corruption investigations. In addition, eleven countries provided information on financial regulators and other authorities which are able to

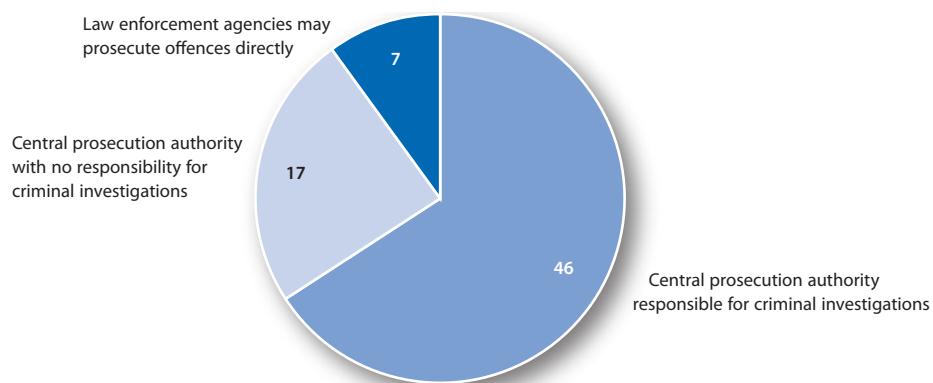
conduct non-criminal investigations into certain categories of corruption, and impose administrative fines or other sanctions. In the United States, the Securities and Exchange Commission (SEC) has a specialised unit responsible for civil enforcement of the *Foreign Corrupt Practices Act* over certain classes of companies and their officers, directors, employees, agents, or stockholders acting on the issuer's behalf. In Brazil and Colombia the Offices of the Comptroller General and Superintendence of Companies respectively may bring administrative proceedings against legal persons for corrupt misconduct.

Prosecuting tax crime and corruption

(i) Institutional frameworks

32. The prosecution authority is the government agency that represents the state before the courts in prosecutions of criminal offences. This report identifies general themes among countries' institutional frameworks for the prosecution of tax crime and corruption. As with the above section on the *investigation* of tax crime and corruption, these are broad categories and exceptions will necessarily exist within countries.

Figure 2.3. Number of countries applying different frameworks for prosecuting tax crime and corruption



Note: Some countries apply more than one model.

33. **Forty-six countries have a central prosecution authority that is also responsible for criminal investigations (including almost all civil law countries included in the report).** In these countries, tax crime and corruption prosecutions are conducted by a public prosecutor or, in some cases, an examining judge, who also supervises or controls the investigation of these crimes.¹⁷ In many of these countries, the police are referred to as "judicial police" when acting as agents of a prosecution or judicial authority. In some jurisdictions, the public prosecutor is only involved in the early stages of investigations into very serious offences. In Burkina Faso, criminal investigations are instigated by the public prosecutor but led by an examining judge. In Mexico, responsibility for conducting investigations lies with the Attorney-General, who exercises this function through the Federal Agency of Investigation and a number of specialist units. In Moldova, the Anti-Corruption Prosecutor's Office leads all criminal investigations conducted by the National Anti-Corruption Centre, though it can also conduct its own criminal investigations. In Ukraine, NABU directs investigations conducted by its detectives in the Specialised Anti-Corruption Prosecutor's Office.

34. In a further 17 countries, including most common law countries, public prosecutors and judges are not directly involved in criminal investigations.¹⁸ However, they may take on an advisory role with respect to matters of procedure and evidence. Under this model, investigations are conducted by the police or a specialised agency (e.g. tax administration or dedicated anti-corruption body) and then forwarded to a central prosecution authority for review. The prosecution agency may typically either proceed with a prosecution, refer the case back to the investigating agency for further evidence, or refuse to prosecute. Countries applying this model should seek to involve the prosecution service in financial investigations from an early stage to ensure that due process is followed and sufficient evidence is collected to proceed to prosecution. Ongoing and frequent consultation between investigative and prosecutorial bodies can increase the chances of a successful prosecution.

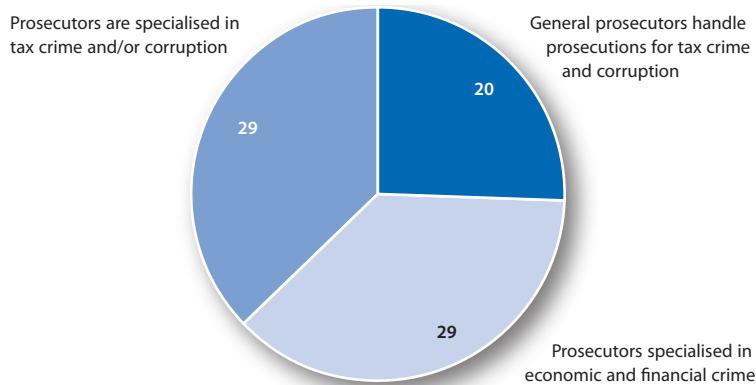
35. In seven countries, law enforcement agencies may prosecute offences directly.¹⁹ This model is closely related to the above model where the central prosecution has an investigative role. However, in addition to a central prosecution authority, other law enforcement agencies (e.g. police, tax administration, or anti-corruption authority) may conduct criminal prosecutions directly. For example, in *New Zealand* the Inland Revenue Department and SFO are responsible for the investigation and prosecution of tax crime and serious fraud (including corruption) respectively. In *Nigeria*, the Independent Corrupt Practices and Other Related Offences Commission and the Economic and Financial Crimes Commission (both of which report to Parliament) are able to independently prosecute corruption offences without the involvement of the Attorney General.

36. Each prosecution model offers different advantages and disadvantages. In jurisdictions where law enforcement authorities can prosecute crimes directly, agencies will develop a high degree of specialist skills with respect to offences within their purview which enables prosecutions to be conducted by experts in a particular area of criminal law. By controlling their own prosecutions, agencies also benefit from greater decision-making autonomy and flexibility in setting their strategic direction, and have less direct competition for resources. However, this model does increase the potential that resources will be duplicated as each agency maintains its independent prosecution structure. There is also the risk of inconsistency in approach between agencies and the possibility that important cases may not be pursued based on the priorities of a particular agency that does not consider implications for the enforcement of economic crimes more generally. Conversely, jurisdictions with a central prosecution agency will see less duplication and may have greater flexibility to prioritise and combine charges as appropriate (e.g. it may be easier for a central authority to combine charges for tax evasion, bribery, and money laundering into a single prosecution than it is for a jurisdiction where different agencies are responsible for prosecuting these crimes). **Hybrid models:** Some countries where the central prosecution authority is generally responsible for prosecuting tax crime and corruption also have exceptions whereby certain law enforcement agencies may prosecute these crimes directly. For example, in *Rwanda*, the NPPA prosecutes all cases of corruption investigated by the Rwanda Investigation Bureau, but the Office of the Ombudsman can independently prosecute cases of corruption that it investigates without involving the NPPA. In *Ghana* and *Malaysia*, the Attorney-General's office may grant law enforcement agencies, including the tax administration, the power to prosecute cases they have investigated. In *Germany*, the 16 Länder (regions) have responsibility for prosecuting all tax and corruption offences while in the *United Kingdom*, serious financial crimes may be prosecuted by the SFO.

(ii) Specialisation of prosecutors²⁰

37. The specialisation of prosecutors is a natural consequence of a legal system where tax administrations and specialised anti-corruption bodies are able to conduct their own prosecutions. However, this is not the only way that countries can ensure their prosecutors have sufficient expertise to prosecute complex financial offences like tax crime and corruption. Forms of specialisation will vary between countries, and there is no single “best practice” to achieve this. An analysis of the 65 countries that provided information on the specialisation of prosecutors for tax crimes and corruption revealed some common themes among countries’ institutional frameworks. Approximately 84% of countries have prosecutors that are either specialised in tax crime, corruption, and/or economic and financial crimes more generally. Several countries fall within more than one model and examples of why this may occur are provided below.

Figure 2.4. Number of countries with specialised prosecutors



Note: Some countries apply more than one model.

38. General prosecutors handle prosecutions for tax crime and corruption in 20 countries.²¹ The term “general prosecutors” refers to the fact that they are competent to prosecute all or a broad range of criminal offences including non-financial crimes. Nine of these countries fall within more than one model, meaning that some, but not all, prosecutors responsible for tax crime and corruption have a degree of specialisation.

39. In 29 countries, prosecutors specialised in economic and financial crime are responsible for tax crime and corruption cases.²² In *Georgia*, *Paraguay*, and *Turkey*, tax crime and corruption are the responsibility of specialised economic crime units within the central prosecution office.

40. In a further 29 countries, prosecutors are specialised in tax crime and/or corruption.²³ This includes all six countries whose law enforcement agencies are competent to prosecute these offences directly (e.g. *Azerbaijan*, *Bhutan*, and *Malaysia*, where the tax administration may prosecute tax crime directly). This model also captures a range of other countries that have specialised prosecutors. These prosecutors may have a dedicated unit within a central prosecution body or an agency specialised in the prosecution of *some* forms of tax crime and corruption. For example, in *Sweden*, prosecutors specialising in tax crime sit within the Swedish Economic Crime Authority and prosecutors specialising in corruption sit within the central prosecution body. *Singapore’s* central tax authority

has dedicated tax crime prosecutors, but important cases may also be carried out by the Attorney-General's Chambers which is also responsible for all corruption prosecutions (and has dedicated anti-corruption prosecutors for this purpose). Malaysia seconds deputy public prosecutors from its Attorney-General Chambers to the Anti-Corruption Commission.

41. Several countries fall within more than one model for a range of reasons. In *Denmark, France, the Netherlands, Sweden, and the United Kingdom*, low level matters are handled by general prosecutors, whereas more serious or complex tax crime and corruption will be handled by prosecutors specialising in tax crime, corruption, or economic crime more generally. Other countries have prosecutors specialising in tax crime but not corruption or vice versa. For example, in *Uganda*, the Revenue Authority has specialised tax crime prosecutors, whereas other financial crimes, including corruption, are handled by general prosecutors. *Rwanda*'s NPPA has an Economic and Financial Crime Unit that is responsible for the prosecution of financial crimes generally, however, the Office of the Ombudsman also has prosecutors that are specialised in corruption cases.

42. Clear guidelines are important in countries where more than one agency is able to prosecute the same offences or types of offences. This includes guidance on when a case will fall within the competency of a specific agency and clear channels for referral and communication between the competent prosecution bodies. This may be as simple as assigning cases based on the type of offence or the monetary amount involved (in many countries these factors will overlap). For example, the *Czech Republic* has specialised prosecutors for crimes with a damage threshold over EUR 5.6 million. This again requires detailed guidance on determining the scope of the suspected offence, amounts involved, and when and how cases that fall outside the scope of one agency's mandate should be handed over to another competent authority.

43. General prosecutors must be able to handle complex financial matters. While the creation of a dedicated agency or unit is an effective way to ensure prosecutors are capable of handling complex cases, this is not the only way for countries to ensure that prosecutors are equipped to fight tax crime and corruption. At a minimum, countries should ensure that they have general prosecutors capable of handling complex tax crime and corruption cases as they arise. This is particularly important in jurisdictions where the prosecution has no direct role in investigations and can be achieved through training and an effective system for the allocation of financial crime cases.

Institutional frameworks for the prevention of tax crime and corruption

44. While this chapter is focussed on countries' models for the enforcement of tax crime and corruption, this is not the whole story and almost all countries have frameworks for preventing these financial crimes that operate alongside enforcement frameworks. The role of prevention frameworks is a broad area and an in-depth analysis of these is beyond the scope of this report. However, it is still useful to briefly highlight the important and complementary role that preventative institutions play in the fight against tax crime and corruption.

45. In most jurisdictions, the enforcement of taxes and the prevention of tax crime is the tax administration's responsibility. This often involves a range of activities including developing and co-ordinating strategies to prevent tax crime (often part of a wider tax compliance strategy), setting the policy agenda, promulgating laws, developing and disseminating guidance, and raising public awareness. For example, in *Bangladesh* and *Vietnam*, the tax administration is responsible for educating the public on state tax

policies and providing guidance and other support to assist taxpayers in meeting their legal obligations. In countries where tax crime may also be investigated outside of the tax administration, prevention may be a co-ordinated effort between the tax administration and relevant law enforcement bodies. For example, in *Canada*, where tax crime is primarily the responsibility of the tax administration, at times, the prevention of tax crimes, is a concerted effort between the tax administration, financial intelligence unit, police, and prosecution service.

46. **Preventative frameworks can take a variety of forms.** As with models for the investigation and prosecution of corruption, preventative frameworks can take a variety of forms and carry out a multitude of functions. Again, there is no single “best practice model” and countries must develop a framework that is effective within their legal and cultural context. To this end, some countries have established multi-purpose agencies that combine the enforcement and prevention of corruption. For example, *Lithuania*’s Special Investigation Service (accountable to the President and the Parliament of the Republic of Lithuania), works in four core areas; criminal investigation of corruption-related crimes, corruption prevention, anti-corruption education and public awareness-raising, and analytical anti-corruption intelligence. *Kenya*’s Ethics and Anti-Corruption Commission is mandated to combat and prevent corruption and economic crime in *Kenya* through law enforcement, preventive measures, public education, and promotion of standards and practices of integrity, ethics, and anti-corruption.

47. Other countries have agencies dedicated wholly to the prevention of crime with no investigative or enforcement function. While these agencies do not have law enforcement powers, they may have other responsibilities, such as control over asset declarations. For example, *Turkey*’s Council of Ethics for Public Service was established to improve transparency in public administration, with a special focus on civil servants’ practices. The Council set a code of conduct for civil servants and investigates complaints against public officials and their asset declarations, but is not able to enforce its decisions with disciplinary measures. In *France*, the *Agence Française Anti-Corruption* (established in March 2017), reports to the Ministries of Justice and Budget and is mainly in charge of overseeing the implementation of preventive anti-corruption measures taken by large companies²⁴ subject to a legal duty of prevention. In *Ukraine*, the National Agency on Corruption Prevention (created in 2016) has no law-enforcement powers and performs a range of preventative functions, including maintaining and verifying a register of e-declarations on assets and financial obligations submitted by civil servants and public officials.

48. In other jurisdictions, there is no one institution tasked with prevention, and this is instead a co-ordinated effort across a range of government agencies with a corruption prevention mandate.

Notes

1. For the purposes of this report, “police” includes specialist criminal investigations agencies established under the Ministry of the Interior, Ministry of Home Affairs, or Ministry of Justice, such as France’s *Brigade Nationale de Répression de la Délinquance Fiscale* and Lithuania’s *Financial Crime Investigation Service*.
2. Principle Five provides that countries should “put in place an organisational structure with defined responsibilities”. The Ten Global Principles are available online here: www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles.pdf.
3. 42 out of 67 countries surveyed.
4. 30 out of 67 countries surveyed: Angola, Argentina, Australia, Bangladesh, Bhutan, Canada, Germany, Greece, India, Indonesia, Ireland, Israel, Japan, Kenya, Korea, Madagascar, Malaysia, Moldova, Myanmar, New Zealand, Nigeria, Rwanda, Singapore, South Africa, Switzerland, Ukraine, Uganda, the United Kingdom, the United States and Zambia.
5. 15 out of 67 countries surveyed: Austria, Azerbaijan, El Salvador, Estonia, Germany, Hungary, Latvia, the Netherlands, Paraguay, Portugal, Serbia, Sweden, Spain, Tunisia and the United States.
6. 28 out of 67 countries surveyed.
7. Five out of 67 countries surveyed: Georgia, Greece, Ghana, Iceland and Turkey.
8. This agency is also responsible for the prevention, suppression and detection of all financial-economic crimes.
9. 26 out of 67 countries surveyed: Belgium, Brazil, Burkina Faso, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Ecuador, Finland, France, Ghana, Greece, Iceland, Lithuania, Luxembourg, Mexico, Norway, Paraguay, Peru, Rwanda, Slovak Republic, Slovenia, Spain, Sweden and Vietnam.
10. Five out of 67 countries surveyed for this report: Greece, Paraguay, Rwanda, Spain and Sweden.
11. 50 out of 67 countries: Angola, Argentina, Austria, Azerbaijan, Belgium, Brazil, Burkina Faso, Chile, Colombia, Costa Rica, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, France, Georgia, Germany, Ghana, Greece, Hungary, Iceland, Indonesia, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Madagascar, Mexico, Moldova, Myanmar, Netherlands, Norway, Paraguay, Peru, Portugal, Rwanda, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey, United States and Vietnam.
12. 46 out of 67 countries surveyed: Angola, Australia, Austria, Belgium, Brazil, Burkina Faso, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Lithuania, Luxembourg, Madagascar, the Netherlands, Nigeria, Norway, Peru, Portugal, Rwanda, Serbia, Singapore, the Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Uganda, United Kingdom, the United States and Vietnam.
13. Ten out of 67 countries surveyed: Angola, Australia, Austria, Germany, Ghana, Kenya, New Zealand, Portugal, Norway, United Kingdom
14. Seven out of 67 countries surveyed: Costa Rica, Georgia, Greece, Italy, Kenya, the Netherlands and the United States.
15. 24 out of 67 countries surveyed: Australia, Bangladesh, Bhutan, Burkina Faso, Colombia, Ecuador, Georgia, Ghana, India, Indonesia, Kenya, Latvia, Lithuania, Madagascar, Malaysia, Mexico, Moldova, Nigeria, Rwanda, Serbia, Singapore, Uganda, Ukraine and Zambia.

16. 11 out of 67 countries surveyed: Argentina, Australia, Brazil, Colombia, Costa Rica, El Salvador, France, Greece, Slovenia, the United Kingdom and the United States.
17. 46 out of 67 countries surveyed: Angola, Argentina, Austria, Belgium, Brazil, Burkina Faso, Chile, Colombia, Costa Rica, the Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Indonesia, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Madagascar, Moldova, Mexico, Myanmar, the Netherlands, Norway, Paraguay, Peru, Portugal, Rwanda, Serbia, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tunisia, Turkey and Ukraine.
18. 17 out of 67 countries surveyed: Australia, Bangladesh, Canada, Ghana, Iceland, India, Ireland, Israel, Kenya, Malaysia, Singapore, South Africa, Uganda, the United Kingdom, the United States, Vietnam and Zambia.
19. Seven out of 67 countries surveyed: Azerbaijan, Bhutan, Indonesia, New Zealand, Nigeria, Rwanda and Zambia.
20. This section does not include information on two countries included elsewhere in the report: Angola and Burkina Faso.
21. 20 out of 65 countries surveyed: Bangladesh, Brazil, Canada, Colombia, France, Ghana, India, Ireland, Korea, Luxembourg, Madagascar, Myanmar, the Netherlands, Norway, Slovak Republic, Sweden, Turkey, Tunisia, Ukraine and United Kingdom.
22. 29 out of 65 countries surveyed: Argentina, Australia, Chile, Belgium, Colombia, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, Georgia, Germany, Iceland, Italy, Japan, Latvia, Lithuania, Norway, Paraguay, Portugal, Rwanda, South Africa, Slovenia, Spain, Tunisia, Uganda, United States and Zambia.
23. 29 out of 65 countries surveyed: Austria, Azerbaijan, Bhutan, Costa Rica, Denmark, France, Germany, Greece, Hungary, Indonesia, Israel, Kenya, Malaysia, Mexico, Moldova, Myanmar, the Netherlands, New Zealand, Nigeria, Peru, Portugal, Rwanda, Singapore, Sweden, Switzerland, Uganda, Ukraine, United Kingdom and Vietnam.
24. Defined as those with over 500 employees and turnover in excess of EUR 100 million.

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OECD (2017), *Effective inter-agency cooperation in fighting tax crimes and other financial crimes*, available at www.oecd.org/ctp/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes.htm.

Chapter 3

Benefits of effective co-operation

49. **Corruption and tax crime are closely linked.** Co-operation between tax authorities and anti-corruption authorities is essential to effectively combat tax crime and corruption. As highlighted throughout this report, the two roles of authorities responsible for tackling these offences are linked as tax crime and corruption often occur together. Conduct that violates anti-corruption laws, such as embezzlement or bribery, also violates tax laws when the income is not reported to revenue authorities or bribe payments are deducted as business expenses. Similarly, tax evasion may be enabled through the bribery of tax officials. Importantly, the need for co-operation may also arise if only one offence has been substantiated, since the other authority may be able to share information relevant to that offence or the information gathered could allow the other authority to substantiate other offences. Despite this, the majority of countries have separate authorities responsible for investigating tax crime and corruption. This operational and conceptual separation can be a barrier to implementing effective measures for combating financial crime.

50. **The nexus between corruption and tax crime is particularly important in developing countries.** Surveys conducted by the World Bank Group’s International Finance Corporation show that of the more than 131 000 firms polled world-wide, 29.4% expect to give gifts to secure government contracts. The figures are 14.3% for high-income OECD countries and 45.6% for countries in the East Asia and Pacific regions. Firms also report that world-wide, 13.3% are expected to give gifts in meetings with tax officials – figures show a similar contrast for high-income OECD countries and East Asia and the Pacific (0.7% and 20.3%, respectively).¹ These figures show that corruption is a key development challenge, and underscore the importance of inter-agency co-operation in these environments.

51. **Co-operation is required for a comprehensive response to financial crime.** Many governments have created dedicated enforcement bodies for key financial crimes, such as tax evasion, money laundering, corruption, and social benefit fraud. Although these bodies enable a specialised operational focus, criminals often breach multiple criminal laws. These threats require authorities to work closely together to develop a coherent strategy to attack perpetrators, groups of perpetrator, and criminal conduct that spans multiple crime types. Inter-agency co-operation provides authorities with the necessary tools through: (i) better intelligence and generation of leads; (ii) a broader set of investigative powers; (iii) augmentation of staff numbers and skills; (iv) improved ability to identify and deal with organised crime groups; and (v) the ability to leverage other agencies’ investigative work, potentially resulting in greater efficiency and impact.

Box 3.1. Example of a revenue authority with a public corruption investigation unit: the United States IRS-CI

The United States Internal Revenue Service – Criminal Investigation (IRS-CI) has created an entire unit dedicated to public corruption investigations. This unit’s work focuses on a wide range of corruption offences in the tax context, such as bribery, extortion, embezzlement, illegal kickbacks, tax fraud, and money laundering. Although the United States Department of Justice (DOJ) has primary responsibility for the criminal enforcement of corruption offences at the federal level, the mandate given to IRS-CI with respect to public corruption reflects the interconnectedness of tax crime and corruption. This unit complements the existing co-operation between IRS-CI and DOJ (for example, joint operations). In 2016 alone, IRS-CI initiated 84 public corruption investigations, not including cases that fall under the category of general tax fraud, abusive tax schemes, and other categories of tax crime, many of which may also involve corruption.* Case examples include:

- A former State Senator who received over USD 150 000 in bribes from a “hospital owner who wanted a law to remain in effect so he could continue to reap tens of millions of dollars in illicit profits from a health care fraud scheme.”
- A former Fire Department Treasurer who embezzled more than USD 1.1 million which he used to make payments on his home mortgage loan as well as other personal expenditures. The Treasurer failed to report this income on his personal income return.
- A former Congressperson who received 10 years imprisonment for bribery, wire fraud, honest services fraud, money laundering, and mail fraud.

*United States Inland Revenue Service Criminal Investigation, 2016, Annual Report, available at www.irs.gov/pub/foia/ig/ci/2016_annual_report_02092017.pdf.

52. **This chapter highlights typical areas of co-operation between tax authorities and anti-corruption authorities.** These areas are summarised in Table 3.1 and expanded on in the body of the chapter. The chapter concludes with case examples in which tax authorities and anti-corruption authorities have co-operated to achieve better law enforcement outcomes.

Table 3.1. Typical areas where tax authorities and anti-corruption authorities can further each other’s work

| | |
|-------------------|---|
| Threat assessment | <ul style="list-style-type: none"> • Tax authority may identify trends or large groups of individuals within an organisation (government or private sector) that are red-flag indicators for corruption • Anti-corruption authority may provide a risk profile of the types of officials and organisations with a higher likelihood of engaging in corruption |
| Detection | <ul style="list-style-type: none"> • Tax authority may detect indicators of corruption such as taxpayers whose known income could not support their lifestyle or who are attempting to conceal payments to public officials • Anti-corruption authority may detect indicators of tax crime such as assets or income that an individual or company has attempted to conceal or a corruption scheme involving officials of a customs or tax authority |
| Referral | <ul style="list-style-type: none"> • Either authority may refer suspicions of either tax crime or corruption to the appropriate investigative authorities or public prosecutor • Either authority may refer suspicions that the proceeds of corruption or tax crime have been laundered to the national FIU or appropriate law enforcement authority |

Table 3.1. Typical areas where tax authorities and anti-corruption authorities can further each other's work (*continued*)

| | |
|---|---|
| Information sharing | <ul style="list-style-type: none"> Either authority may share intelligence and evidence collected through criminal investigations, including from suspect interviews, witnesses, surveillance, searches, and subpoenas Where permissible, either authority may have access to extensive databases covering personal and company information such as income, assets, financial transactions, and banking information Authorities may leverage mutual legal assistance agreements to obtain evidence, intelligence or other assistance from foreign countries in multi-jurisdictional cases, including foreign tax administrations |
| Joint investigations and sharing capability | <ul style="list-style-type: none"> Both authorities can work together to de-conflict cases, form joint strategies, and maximise enforcement outcomes Either authority may bolster corruption investigations and tax crime investigations by applying the tools and skills of the other authority Tax authorities may undertake more quickly and efficiently net worth analyses of subjects Anti-corruption authorities may investigate potential corrupt behaviour underlying tax data, audit findings, and tax investigations |
| Strengthened enforcement outcomes | <ul style="list-style-type: none"> Anti-corruption authorities may take enforcement action against acts of corruption identified by the revenue authority Tax authorities may seek additional sanctions for the failure to declare proceeds of corruption or for claiming a deduction for bribe payments One authority may pursue alternative measures when the other cannot. For example, if bribery cannot be established the tax crime authority may pursue tax fraud or unexplained wealth proceedings to recover proceeds of corruption (where possible) Prosecution authorities can make strategic decisions about whether or not to combine charges for tax crimes, corruption, and other financial crimes, into a single prosecution. |
| Institutional integrity | <ul style="list-style-type: none"> Where appropriate, tax authorities may alert the anti-corruption authority to cases of serious tax non-compliance involving public officials, including officials of the anti-corruption authority itself Anti-corruption authorities may assess corruption risks in the revenue authority and work with its management to pursue more vigorously cases of internal corruption |
| Policy development | <ul style="list-style-type: none"> Both authorities may be involved in developing or shaping economic crime policy |

Threat assessment

53. A joint assessment of corruption threats can help focus enforcement resources. Threat assessments can demonstrate links between apparently separate cases, inform law enforcement and regulatory strategy, enhance detection, and help to set priorities. Central to the threat assessment is the identification of corruption hot spots within areas such as: (i) high-risk firms operating in corruption-prone sectors and foreign markets (ii) doing business with the public sector in countries with high levels of corruption; and (iii) public officials working in procurement, private sector regulation, and state-owned enterprises; handling cash and assets; and with access to economic and political information that has a bearing on the prices of stocks, bonds, currencies, and real estate. The assessment is based on anti-corruption authorities' data related to complaints, cases, and sanctions, and tax authorities' financial data pointing to anomalies among certain groups of civil servants and companies.

Detection

54. **With proper training, tax examiners and auditors may detect indicators of possible corruption** in the course of examining the financial affairs, transactions, and records of individuals, companies, and other tax payers. This is more likely to occur when corruption transactions are “on the books”, meaning they appear in the financial records or accounts, as opposed to transactions that are “off the books”, meaning not recorded. Tax examiners, who are already expertly equipped to identify indicators of possible tax evasion, should also be alert to indicators of possible bribery or corruption. To recognise these indicators, tax examiners and auditors should use the same analytical and audit skills, training, experience, and judgment applied to detect possible tax evasion.

55. However, identification in the anti-corruption context requires knowledge of what the possible indicators of bribery and corruption look like. In the tax examination/audit context, **indicators of possible bribery or corruption** fall into two broad groups: affirmative indications and affirmative acts. Affirmative indications are not in themselves sufficient to establish corruption, but indicate that corrupt acts may have been committed. Affirmative acts, on the other hand, establish that corruption has occurred by reference to a particular action or series of actions that were deliberately committed for the purpose of deception, concealment, or to disguise the facts. The indicators of potential corruption that tax examiners should look out for are discussed in detail in Chapter 6 of this report. Tax examiners and auditors may also consult the *OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors* which provides comprehensive information about the indicators of corruption in the context of tax examinations and audits.

Table 3.2. **Indicators of bribery and corruption**

| Affirmative indications | Affirmative acts |
|---|--|
| Officials with a lifestyle that is not supported by known income | Omission of items from financial records where other similar items are included |
| A business undertaking transactions with unusually high or low gross profit margins | Concealment of bank accounts |
| An unusually close relationship between a taxpayer and its external consultants | Failure to deposit money into a business account Concealing the source or destination of payments |

56. **Similarly, with proper training, corruption investigators and prosecutors may detect tax crime** in the course of their duties. Corruption investigations focus on uncovering concealed transactions, such as plans to provide a bribe payment or measures to embezzle public funds. An investigation may commence once an allegation of corruption is detected. Sources for such allegations can include tip-offs by victims, witnesses, or others who know the offender; self-reporting by individual or corporate offenders; other reports by members of the public or media; reports by other government agencies, including tax officials and other law enforcement agencies; tip-offs by whistle-blowers or ex-employees of a suspect corporation; or intelligence developed by another intelligence or law enforcement body or the corruption investigation authority itself.

57. To develop a case once an allegation is detected, corruption investigators look for evidence necessary to prove the corruption, such as financial transactions, correspondence,

or witness testimony. An individual or company willing to commit corruption is also likely to be willing to commit tax crime and the two types of misconduct often occur together. Accordingly, corruption investigators should also be alert to tax crime red flags when conducting investigations. Consider, for example, a company that bribes a public official to produce illegitimate receipts so that the company can improperly claim VAT refunds from the tax authority. A corruption investigator looking for evidence of bribery should also be aware that this case involves a tax crime, namely VAT fraud.

58. To identify **indicators of tax evasion**, corruption investigators should generally use the same investigative skills, training, experience, and judgment applied to investigate corruption. However, corruption investigators must have awareness of what the possible indicators of tax crime look like. For example, corruption investigations may uncover hidden assets, income, transactions or accounts that should have been declared to tax authorities under domestic legislation. A corruption investigation may also reveal illicit payments that were disguised as legitimate payments and for which a tax deduction was improperly claimed. Any corruption scheme involving tax or customs officials should also indicate a tax crime red flag. Indicators of potential tax crime that corruption investigators should be aware of are detailed in Chapter 6 of this report.

Box 3.2. Corruption case detected through assessment of suspected tax crime – Georgia

The Investigation Service of the Ministry of Finance of Georgia is a specialised law enforcement authority separate to the tax administration. The Investigation Service may investigate tax offences and also corruption offences where they are detected in the course of its activities. In 2014, the Investigation Service began investigating a group of related companies suspected of committing tax crime facilitated by forged documents.

The investigator engaged the Audit Department of the Revenue Service of the Ministry of Finance to reassess the companies' tax liabilities. The companies had defrauded the tax authority by artificially inflating their expenses in connection with a state-run construction project, thus fraudulently reducing (on paper) their taxable income.

In parallel, the Investigation Service analysed the documentation provided by the companies in connection with the tax evasion and uncovered a corruption scheme involving fraud. The companies, which were delivering major construction projects for three separate public agencies, defrauded the state by charging for works they had not completed and using falsified documentation to support their claims to the state agencies and to the relevant banks. As a result, important construction works for the public were undermined. The investigation also discovered that the individual directors of the various companies were related to each other and had laundered the proceeds of their fraud by purchasing real estate and other property.

Georgia notes that the relevant state officials involved in the contracts with the companies were partly responsible for failing to prevent the fraud. They did not exercise proper controls over the construction process, failed to verify the companies' claims, and failed to exercise contractual rights concerning the service agreement between them and the companies.

Referral

59. Countries should put in place frameworks that enable or require tax authorities to report suspicions of corruption, and anti-corruption authorities to report suspicions of tax crime, to the appropriate law enforcement authority. There is an obligation on both authorities to do so in many countries where suspicions are detected in the course of a tax examination or audit, or in the course of a criminal investigation. Even in the absence of an obligation, it is a good practice to report suspicions provided this is lawful.

60. While investigating suspected corruption is the role of the appropriate law enforcement authority, tax authorities have an important detection role and a referral by a tax examiner or auditor may lead to a full investigation that would not otherwise take place. Referral can also facilitate action by the appropriate authority to recover the proceeds of corruption. As a result, the financial benefit from corrupt activity is taken away. Similarly, a referral by the anti-corruption authority to a tax administration for tax assessment purposes or a tax crime investigation agency can lead to successful tax recovery (for example through reassessment of tax liability) or prosecution for tax crime. Tax administrations may be able to ensure that individuals and companies are required to pay tax on all of their income, while denying a deduction for expenses related to criminal activity. Reporting suspicions of possible tax crime and corruption is covered in further detail in Chapter 5.

61. For either authority, there may also be an obligation and significant benefit to **report suspicions to the national financial intelligence unit (FIU)** where there are indicators of possible money laundering of the proceeds of corruption or tax crime. The OECD *Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors* is a practical guide to raise awareness of issues surrounding money laundering and the indicators of possible money laundering that tax examiners and auditors may come across in the course of their work.

Information sharing

62. **Tax authorities often hold information that may assist a corruption investigation.** As discussed in Chapter 5 on information sharing, almost all countries provide some mechanism for tax authorities (civil and criminal) to share information with corruption investigation authorities. The information may include extensive databases held by the tax authority covering personal and company information such as income, assets, financial transactions, and banking information which may reveal information pertinent to a corruption investigation. However, countries need to have clear frameworks in place to determine when and how information gathered for tax assessment purposes can be used in a criminal investigation. Similarly, **anti-corruption authorities may hold information that may assist a tax crime investigation.** This may include suspicions of tax crime or other intelligence or evidence gleaned from investigations, including from suspect interviews, witnesses, surveillance, searches, and subpoenas. Prosecution, police, and anti-corruption authorities may also be able to leverage mutual legal assistance agreements to obtain information or other assistance from foreign countries in multi-jurisdictional cases.

Joint investigations and sharing capability

63. Tax crime investigation authorities and anti-corruption authorities may engage in closer co-operation with each other in the actual investigation of cases or groups of cases. This allows authorities to de-conflict cases, form joint strategies, and streamline

investigations by focusing on crimes that are easier to prove (without jeopardising their case load deliverables), thus maximising enforcement outcomes. Closer co-operation may occur through co-ordinated joint operations or taskforces that pursue cases involving both tax crime and corruption. The benefits of these forms of enhanced co-operation are detailed in Chapter 7.

64. Tax crime investigation and anti-corruption authorities can bolster each other's investigations. Tax authorities can bolster a corruption investigation by applying specialised tools and skills common to tax examiners and auditors, such as undertaking net worth analyses of suspects or conducting analysis to disentangle and make sense of complex financial transactions. Anti-corruption authorities may have special enforcement powers not available to the tax authorities, such as powers of arrest and the power to lay more serious criminal charges. Anti-corruption authorities also have experience with and knowledge of criminal conspiracies that may assist tax investigators to uncover connections between separate tax frauds. They may also investigate potential corrupt behaviour underlying tax data, audit findings, and tax investigations so that the authorities can collectively put together the full picture of criminality. One authority may have developed or acquired a special technical capacity that could assist the other, such as processes and technology for mapping and interrogating computer-hard-drives, or other analytical software for managing and searching large pools of data. The mandate of one authority may also include specialised investigative instruments or resources that the other may not have, for example, the ability to tap phones or the availability of mobile squads for the surveillance of suspects.

65. Strengthened enforcement outcomes. By working together in a complementary manner, tax authorities and anti-corruption authorities can ensure that all aspects of criminality or non-compliance in a particular case are comprehensively dealt with. In most countries, authorities handling corruption cases are able to consider seeking additional sanctions for the failure to declare proceeds of corruption or for claiming a deduction for bribe payments. Alternatively, it may be preferable to pursue charges or regulatory measures within the purview of the tax authority or tax crime investigation authority when bribery cannot be established, such as charges for tax fraud or unexplained wealth proceedings. Some countries also have non-conviction based asset recovery, meaning that authorities can initiate civil (rather than criminal) proceedings to recover proceeds of corruption, and do not require a criminal conviction to do so. Anti-corruption authorities may contribute to ensuring comprehensive treatment of cases by taking criminal action against acts of corruption identified by the revenue authority and by investigating alleged acts of corruption.

Institutional integrity

66. Anti-corruption authorities play an important role in protecting the integrity of the tax authority itself. They may investigate cases of corruption involving tax officials, assess the corruption risks in the revenue authority, and work with its management to pursue more vigorously cases of internal corruption. Unfortunately, tax and customs officials are sometimes bribed to facilitate tax evasion. Tax officials are targeted for corruption because they are in positions of power regarding tax collection and can facilitate tax evasion. By enforcing anti-corruption laws strictly and working with tax authorities to strengthen internal integrity measures, anti-corruption authorities help to deter corruption and promote a culture of integrity within the tax authority.

67. Tax authorities may, in turn, promote the integrity of the public sector by alerting other authorities to serious tax non-compliance cases involving public officials, including

those working within anti-corruption authorities. Serious tax non-compliance may indicate that a staff member is seeking to conceal income and may be at risk of being influenced improperly in the course of their duties. For example, the *Canada Revenue Agency* (CRA) is able to access its taxpayer databases for the purposes of providing background checks to individuals being considered for positions within the Prime Minister's Office, the Prosecution Service, and the Department of Justice. When the Revenue Agency has received a signed consent form, it conducts a background check to determine if there are any serious compliance issues (e.g. issues with an individual's filing status, or outstanding debts with the Revenue Agency).

Policy development

68. Both authorities should be consulted in the development of relevant economic crime policy whether the policy development is driven by the tax authority, tax crime investigation authority, anti-corruption authority, or another government agency. Policy in this context may include matters such as sentencing reform for economic offences, case settlement procedures for corporate defendants, or selection of priority targets for regulatory or law enforcement activities.

Examples

69. The following case examples from *Australia*, *Bosnia and Herzegovina*, and *Hungary* highlight the needs, benefits, and results of co-operation between tax authorities and anti-corruption authorities in practice.

Box 3.3. Joint tax and anti-corruption authority investigation of a GST fraud scheme – Australia

Operation X in Australia was a multi-agency joint investigation led by the Australian Federal Police (AFP) into suspected systemic defrauding of GST. (Operation X's mission was to effectively investigate the alleged offences to obtain and collate admissible evidence in order to successfully prosecute the principal offenders.

The joint agency investigation was formalised in a Joint Agency Agreement and overseen by a Joint Management Committee, comprising the AFP Co-ordinator of Crime Operations and National Director of the Australian Taxation Office's (ATO) Serious Non-Compliance area. The overall direction and scope of the investigation was decided collectively by AFP and ATO management through the Joint Management Committee.

As the lead agency, AFP responsibilities under a joint agency investigation agreement included provision of a range of capabilities including, investigations, intelligence, physical surveillance, computer forensics, and primary responsibility for the brief of evidence and proceeds of crime action. AFP skills and expertise exercised in Operation X included tactical decision making, drafting affidavits for search warrants and facilitating access to other law enforcement agencies.

The key ATO areas involved in the joint agency investigation were Fraud Prevention and Internal Investigations (FPII) and the Serious Non-Compliance (later Private Groups and High Wealth Individuals) Investigations area. The ATO's responsibilities included provision of investigation capability, data mining, dissemination and exchange of information, computer

Box 3.3. Joint tax and anti-corruption authority investigation of a GST fraud scheme – Australia (continued)

forensic assistance, intelligence support, facilitation of audit resources and expert financial advice. Key ATO staff were out-posted to the AFP to provide ongoing investigative support and facilitate disclosure of ATO protected information, which included taxpayer data, high level analysis of the data and FPII relevant information.

The AFP, under proceeds of crime legislation, seized over AUD 1.5 million in cash from three individuals linked to Operation X. These three individuals were successfully prosecuted for dealing in money reasonably suspected of being the proceeds of crime.

The joint agency investigation resulted in the successful prosecution of a former ATO staff member and three individuals suspected of corrupting the former ATO staff member have also been charged with conspiracy offences. Two of the three individuals have also been charged and found guilty of numerous state based offences not directly related to the abovementioned crimes.

Box 3.4. Joint investigation into cross-border tax crime and other offences by an organised crime group – Bosnia and Herzegovina

This case involved a joint investigation into alleged tax evasion, tax fraud, money laundering, and corruption committed by an organised crime group across international borders. A number of individuals and corporations have been charged with criminal offences in connection with this major case. The details have been anonymised and generalised because the matter is ongoing.

The alleged offences involve a scheme in which goods were imported into Bosnia and Herzegovina and sold to fictitious (and legitimate) buyers. A range of tax evasions and frauds were at the centre of the scheme, including failure to pay VAT and other taxes on transportation, freight, and delivery fees; fictitious invoices and other documentation that recorded the false sale of goods and understated the price of those goods; and concealment of the actual sale of the goods to legitimate customers. As a result, the group did not pay VAT on various services and, at the same time, through the use of fictitious invoices and by concealing actual sales, submitted to the tax authority fraudulent claims for VAT credit. The scheme was well concealed and was conducted for a number of years before it was detected.

In Bosnia and Herzegovina, the prosecutor who assesses a case may decide to set up an investigation team composed of officers from several agencies. The prosecutor manages the investigation and issues orders and instructions. The prosecutor may order that officers of one agency conduct the investigation and that other agencies provide assistance and act on instructions of the person designated by the prosecutor. Alternatively, the prosecutor may directly manage the investigation, distribute assignments and instructions.

To investigate the present case, the lead prosecutor set up a joint investigation team comprised of three law-enforcement agencies: Border Police of Bosnia and Herzegovina, Indirect Taxation Authority and the State Investigation and Protection Agency. Each of these agencies has its own internal criminal investigation units. Bosnia and Herzegovina explains that due to the complexity of the case, the prosecutor decided to manage the joint investigation directly (a financial and tax expert advisor and an investigator with experience in corruption offences, both from the Prosecutor's Office, were also included in the investigation team).

Box 3.4. Joint investigation into cross-border tax crime and other offences by an organised crime group – Bosnia and Herzegovina (continued)

The prosecutor determined that involving the three agencies was necessary due to the nature of the case:

- **Border Police of Bosnia and Herzegovina (BP), which controls border crossings and may investigate offences related to border crossings and customs clearance procedures.** In this case, goods were crossing borders regularly and in large quantities. It was necessary to involve BP in order to have quick access to the control of border and customs houses, access to the databases of entry and exists maintained by the BP and to have BP personnel and systems available for the investigation. In addition, BP was part of the team responsible for searching trucks and goods at the customs terminal when the joint investigation team conducted searches.
- **Indirect Taxation Authority (ITA), which is responsible for compliance with tax and customs legislation and may investigate matters concerning tax liabilities and other tax related issues.** The involvement of ITA was necessary because the primary subject of the investigation was tax evasion and tax fraud. ITA investigation units had the expertise, experience, and resources required to investigate these types of offences, such as specific knowledge of tax and customs procedures. ITA investigators (both tax and customs inspectors) also had direct access to databases about import, customs clearance, and taxation of goods. Among other things, during searches, the task of the tax investigators was to search and later analyse business and financial documents.
- **State Investigation and Protection Agency (SIPA), which has general competence over investigations into criminal offences provided for in the country's Criminal Code, including corruption offences.** At the outset of the investigation, the prosecutor determined that, noting the case involved organised crime, it would likely become necessary to collect information, conduct surveillance, carry out searches, detain suspects, conduct witness interviews, and possibly controlled/undercover operations, which are areas in which SIPA has the most experience and most appropriate resources. SIPA is also the corruption investigation authority, which is relevant because the investigation initially included assessment of bribery of certain customs officers suspected of being connected to the organised crime group. Among other things, SIPA investigators were responsible for preparing and securing the search locations, such as suspects' homes, by using appropriate police techniques and with the support of ITA where necessary.

The success of this complex and large investigation was a result of close collaboration between the three agencies, overseen by the prosecutor, in which each agency contributed complementary skills and information to advance the investigation. The joint investigation team met regularly to review progress, exchange information, and allocate tasks in addition to separate bilateral meetings between the prosecutor and each agency, where necessary. The co-operation ultimately culminated in co-ordinated, joint-BP-ITA-SIPA searches, seizures and arrests at multiple locations across the country. The co-operation continued in the final investigation phase during which evidentiary material was processed and analysed by the joint team to prepare the case for prosecution.

Box 3.5. Joint tax authority and anti-corruption authority investigation of a phoenix scheme – Hungary

In Hungary, co-operation between the National Taxation and Customs Administration (NTCA) (both the civil and criminal areas of NTCA were involved) and the anti-corruption unit of the Budapest Police Headquarters, led to the derailment of a major fraud scheme. The scheme involved multiple companies and individuals, including a corrupt official within the NTCA.

NTCA detected a group of executives who appeared to be involved in “phoenixing” – a practice which involves setting up companies to accumulate large amounts of debt and then liquidating those companies so that the executives make a profit and the debts are not paid. It was discovered that an NTCA tax official was assisting the executives with their scheme.

During the investigation, the internal control department of NTCA received an official request from the anti-corruption unit of the Budapest Police Headquarters stating that it was investigating a related suspect for reasonable suspicion of abuse of power and maladministration. The anti-corruption unit sought information about the tax official in question, who had already been identified by the internal control department of NTCA, in connection with four suspected companies. The police then launched its investigation based on information provided by the NTCA. This included information obtained by NTCA through covert wiretaps of a suspect.

Following further investigation, NTCA informed the police that it had detected a much wider pool of suspects. This wider investigation uncovered a fraud scheme involving 35 individuals and 85 companies. During a co-ordination meeting with the criminal authority of NTCA, it was agreed that the data obtained by the NTCA would also be passed on to the anti-corruption unit to prove fiscal frauds. The cases were successfully resolved.

Hungary points to a range of benefits arising from the co-operation, including the ability to undertake joint action, exchange information including data that was gathered through covert measures, and ultimately resolve a much larger number of cases than would have otherwise been possible if each authority had acted alone.

Note

1. World Bank Group, International Finance Corporation, *IFC Enterprise Surveys*, available at www.enterprisesurveys.org/data/exploretopics/corruption#--1.

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Chapter 4

Overcoming challenges to effective co-operation

70. There are common challenges that prevent tax authorities and anti-corruption authorities from opening and maintaining effective communication channels, sharing information, and working together on joint investigations. In order to improve co-operation between anti-corruption authorities and tax authorities it is important that countries consider and identify whether any of these challenges are present.

71. In most countries, tax administrations and anti-corruption authorities are separate. Naturally, separate authorities may be governed by different laws and they generally have different working methods and operational mandates and priorities. The same may even be said of anti-corruption and tax crime units that operate within the same authority. As *Brazil* put it:

The greatest challenges involve getting the different agencies and government bodies to conciliate their diverse agendas, priorities and strategic objectives. Since each agency has its own set of difficulties and objectives, agreeing on the approach in a specific investigation is not always easy.

72. In this chapter, challenges to improved co-operation are separated into three broad groups: legal (the lack of a legal basis for co-operation), operational (the absence of an effective operational framework for co-operation), and cultural/political (the lack of culture that supports co-operation and inadequate high-level encouragement for co-operation). The chapter explains the challenges and presents a selection of examples from countries that have taken measures to address them.

Legal basis

73. **The lack of a legal basis for co-operation, or legal restrictions on co-operation, presents a fundamental challenge.** Legal barriers to improved co-operation include specific restrictions and prohibitions which apply to prevent an agency obtaining access to relevant information held by another agency. The lack of a legal basis or the existence of an insufficient legal basis for information sharing between tax authorities and anti-corruption authorities arise in circumstances where:

- **The law prohibits information sharing from one authority to another.** An analysis of the countries surveyed for this report shows that such prohibitions are rare in practice. Only two countries participating in this report have an explicit prohibition on the tax administration from sharing information with the authority responsible for conducting corruption investigations. These are known as tax secrecy laws and are common in many countries. However, most countries have introduced exceptions that allow tax information to be shared for the enforcement

of non-tax offences. Only five countries prohibit anti-corruption authorities from sharing information with tax authorities for use in administering taxes and all countries allow the corruption investigation authority to provide information to the authority responsible for investigating tax crime.

- **The law provides a legal basis for sharing, but it is insufficient.** Challenges to information sharing may also arise where the legal basis for sharing exists but restrictions prevent full and effective information sharing. Tax authorities may be allowed to share information with anti-corruption authorities only in relation to a certain set of corruption offences. If this set of offences is too narrow or not kept up to date as new corruption offences are introduced to the statute book, effective information sharing could be curtailed. Further, rules that allow information sharing in general may not ensure enhanced forms of co-operation, such as joint operations or taskforces. These particular forms of co-operation are examined in Chapter 7.
- **The legal basis for information sharing is difficult to apply in practice.** The legal basis for information sharing may be difficult to use if it imposes undue restrictions on the use of information obtained or involves time consuming or costly processes. Countries should avoid undue restrictions on the use of the information obtained from a tax authority or anti-corruption authority. For example, if the law prescribes that information obtained from the tax authority may be used for investigative purposes but not as evidence in proceedings, this will likely present an unnecessary barrier to successful prosecution of corruption offences. In addition, the law may require that a formal criminal procedure be commenced under the authority of a public prosecutor, or that a court order or ministerial approval be obtained, before an anti-corruption authority may receive information covered by tax secrecy. These processes provide oversight and a mechanism to balance the interests of protecting personal or confidential information with the interests of the corruption investigation authority. However, they may increase the cost of obtaining information in a corruption investigation and cause delay particularly if the processes are not routine. A streamlined process should be provided in these circumstances to avoid unnecessary delays and costs.
- **The law only allows information sharing on request or provides no legal obligation to share.** Finally, a challenge arises where the law only allows information sharing on request. In these circumstances, if an anti-corruption or tax authority detects information of interest to the other, it can only be shared if the other authority actively seeks it out. As a result, there is less chance that the information will reach the other authority. A separate issue arises where there is no legal obligation to share and officials have the discretion to pick and choose when they share information. In this second situation, agencies should implement internal policies on the types of information that should be shared (and when and how this should occur) to ensure that this discretion is exercised appropriately.

74. Maintaining undue legal barriers to co-operation between anti-corruption and tax authorities (whether for the purpose of administering taxes or investigating tax crime or corruption) is inconsistent with a whole-of-government approach to combating financial crime. Such laws do not reflect the complexity of combating modern financial crime, particularly the need for information sharing between tax authorities and anti-corruption authorities for the purpose of investigating serious corruption or tax crime, or for proper tax administration. However, laws providing for the sharing of information, and the policy

framework around such laws, should ensure that information sharing does not harm an ongoing investigation, for example, by tipping off a suspect. Due regard should also be had to protecting confidential information as appropriate and within the country's domestic legal framework and in line with taxpayer rights and international human rights principles.

Box 4.1. Examples of contemporary law reform – Finland and New Zealand

Until recently in *Finland*, the law provided that the tax administration may only provide information to the anti-corruption authority (the police) on request, which is an approach common to many countries. However, on 1 May 2018, amendments to the Act on the Public Disclosure and Confidentiality of Tax Information came into force permitting the spontaneous sharing of information at the discretion of the tax administration. These were the combined effort of policy experts from the tax administration and Ministry of Justice (responsible for anti-corruption policies).

Similarly, *New Zealand* is currently considering proposals for modernising the Tax Administration Act 1994 (the TAA). In this regard a Government Discussion Document was released in late 2016 that included the subject of tax information and confidentiality. Tax secrecy in relation to a taxpayer's individual affairs is seen as a critical component of the integrity of the New Zealand tax system. However, New Zealand has identified that the current rules can lead to tensions, in particular, tensions between confidentiality and wider Government objectives, including the more efficient operation of Government agencies in combating financial crime. The discussion document is proposing to modernise the information protection and disclosure framework in the TAA by moving to a regulatory model permitting information sharing (that meets certain legislated criteria) to be authorised by order in council. This new framework would encompass information sharing between Inland Revenue and other Government agencies, including the corruption investigation authority, to assist improved detection and investigation of serious corruption offences.

Operational framework

75. An effective operational framework facilitates co-operation by reducing friction and smoothing interaction. Operational framework refers to the practical and structural context in which co-operation takes place, including procedures for requesting information. The lack of an operational framework for co-operation is detrimental to effective collaboration between authorities. In countries where the anti-corruption authority and tax authority have not previously worked together or have had limited experience in co-operation, the operational framework is unlikely to be well developed. An effective operational framework needs personal and institutional connections between anti-corruption and tax authorities. The challenges explored in this section will assist countries seeking to establish an operational framework or wanting to identify possible challenges in an existing framework.

76. Complex or lengthy procedures can make information stale and less useful. This challenge may be caused or exacerbated by a lack of resources or by authorities simply being too slow to respond to requests for assistance. Authorities may also take an inflexible approach to assisting other authorities. Alternatively, as discussed in the previous section, complex or lengthy procedures may stem from legal requirements that establish formal approval procedures that delay and add cost to the information sharing process. Complex or lengthy procedures may also stem from the operational or policy settings internal to

an anti-corruption or tax authority. For example, challenges may arise where an authority has multiple layers of internal approval before it can share information, unclear policies governing its information sharing procedure, or fails to issue clear written guidance for other authorities. Guidance for other authorities can take the form of a written agreement and should explain the procedure that the other authority should follow to request and obtain information, including:

- a description of the types of information that the authority can provide
- who a request for information should be sent to
- information about what will happen to the request
- who the other authority can contact to follow up
- likely timeframes for processing a request, and
- a description of what information the requested authority needs in order to process a request.

77. **Co-operation assumes awareness of available information and mechanisms for collaboration.** A lack of understanding among tax and corruption investigators about the types of offences that each other investigate and the types of information each other have also undermines the operational framework for co-operation. In the tax crime investigation context, this may include a lack of awareness that corruption offences are often committed together with tax offences and that anti-corruption authorities may hold useful information about a person suspected of tax crime. Similarly, corruption investigation authorities may not understand the interplay between corruption and tax crime and may not be aware that the tax authority is able to share information (where applicable) that might assist a corruption investigation.

78. **Lack of training on using channels for co-operation hinders their adoption.** This may include training on information sharing gateways as well as enhanced forms of co-operation through joint operations and taskforces (see Chapter 7). Effective training for tax crime investigators and corruption investigators is discussed in Chapter 6.

79. **Inadequate resources will hamper co-operation.** It stands to reason that co-operation will be greater between agencies that are adequately resourced to carry out their mandate. Agencies that are insufficiently staffed or face other budget constraints may be less able to dedicate their time and resources to assisting another agency with an investigation and to receive assistance in turn. Budget constraints are of course a political consideration, reinforcing the need for leaders to make an all of government approach to combatting financial crime a political priority.

Co-operation agreements

80. **A written co-operation agreement, such as a memorandum of understanding (MOU), between tax authorities and anti-corruption authorities is a simple yet effective tool for facilitating a working relationship.** An agreement in this context may be part of a wider inter-agency agreement, for example between police and tax authorities that also covers corruption issues. In general, MOUs provide an administrative framework for co-operation that is consistent with the mandates, operational policies, and legislation governing the parties. A co-operation agreement such as an MOU between tax authorities and anti-corruption authorities should set out, at a minimum:

- a shared understanding of the need for co-operation in fighting tax crime and corruption and joint commitment to work together for a common goal
- the types of information and assistance each authority can provide the other
- the available gateways for sharing information and any requirements regarding confidentiality and security of information, and
- where appropriate, any special arrangements to address operational needs, such as parallel investigations, enhanced co-operation through joint operations, taskforces or training.

81. For example, in *Canada* the MOU between the CRA and the *Royal Canadian Mounted Police* (RCMP), and the co-operation agreement between the *Hungarian* tax authority and the anti-corruption authority, cover in broad terms, the same main topics (including relevant officials, information sharing guidelines, and joint activities), with each document containing detail relevant to the particular jurisdiction's needs.

Table 4.1. Examples of co-operation agreements

| Canada | Hungary |
|--|---|
| Designated officials for the CRA and the RCMP | Contact persons |
| Confidentiality and security of information | Underlying principles and legal basis for co-operation |
| Responsibilities and commitments of the parties for searches and seizures during the course of a CRA led tax investigation | Information sharing |
| Guidelines for the participation of CRA Investigators on RCMP Financial Crime Teams | Forms for data requests |
| Guidelines governing the referral of information and documentation from the RCMP to the CRA | Plans for implementing the agreement |
| Guidelines for the creation of case specific Joint Force Operations agreements | Types of information that may be requested |
| Responsibilities and commitments of the CRA and the RCMP for assistance in the transport of target(s) | Training, including the tax and National Protective Service (which has corruption prevention responsibilities) providing each other instruction |
| Responsibilities and commitments of the CRA and the RCMP for undercover operations to assist in a CRA investigation | Provision of technical support, including conducting covert surveillance activities and information gathering relevant to officers of the tax authority |

82. Canada explains that its MOU, which was agreed in 2016, recognises that information needs to be exchanged between the CRA and the RCMP in order to facilitate the effective administration of their respective enforcement mandates. The parties recognise that an integrated approach to combating financial crime is more effective in disrupting and dismantling tax evasion, fraud, capital market fraud, money laundering, proceeds of crime, corruption, and other serious and organised crime. The MOU is an administrative understanding between the parties and is not legally binding or enforceable before the Courts.

Box 4.2. Other examples of written agreements between tax authorities and anti-corruption authorities – Lithuania, Peru and Uganda

In *Lithuania*, the State Tax Inspectorate (STI) and the Special Investigation Service (responsible for corruption investigations) have an agreement to co-operate in exchanging data and providing assistance in relation to preventing, detecting, and investigating corruption-related activities. Under this co-operation agreement, the STI reports to the Special Investigation Service instances of corruption that are detected in the course of performing its functions. In January 2018, this agreement was amended to ensure the implementation of the non-deductibility of bribes, including in relation to the re-examination of tax returns of individuals and companies that have been convicted of bribery. In 2017, these and other agencies, including the Prosecutor's Office, the Police Department and the Financial Crime Investigation Service of the Ministry of Interior, signed an agreement specifically in relation to affording the widest measure of assistance and co-operation in cases involving the bribery of foreign public officials.

In *Peru*, the tax administration (SUNAT) has a set of agreements for the exchange of information, technical assistance and training, which allows incorporating information relevant to the execution of its control activities, which are invoked as required. Agreements have been signed with a number of authorities including the National Police of Peru, responsible for corruption investigations. In 2017, SUNAT signed a Framework Agreement with the General Comptrollership of the Republic (which has a corruption prevention function through supervising, monitoring, and verifying the correct application of public policies and the use of resources and assets), that established a strategic alliance for the development of technical assistance, information exchange with discretion and training, based on specific agreements managed by work teams.

In *Uganda*, to enhance inter-agency co-operation, MOUs have been signed to facilitate sharing of information. In each of these MOUs an official contact person is identified at each participating agency who is then made responsible for ensuring that the agreements are effective.

Culture and political support

83. A **lack of a culture and political and senior level support** for anti-corruption authorities and tax authorities to co-operate with each other is a key challenge to successful collaboration. At best, successful co-operation in these circumstances is likely to occur only on an *ad hoc* basis, as staff considering seeking assistance from the other authority may feel discouraged. It can take time and considerable goodwill to develop a culture and political support for co-operation, particularly where two authorities have had little historic interaction or have made attempts that went badly or failed. Key indicators of a lack of co-operation culture include:

- **Distrust.** A lack of co-operative culture between authorities may be present where authorities have not established trust. This may be present where authorities have historically protected their own information and processes from outsiders and have not experienced the benefits of closer collaboration. It may also stem from bad experiences. For example, if an authority failed to act promptly in response to a referral or request for information from another; unduly took over or was perceived to have unduly taken over an investigation from the contacting authority; or failed to protect confidential information. A particular challenge may arise where one authority has previously conducted an investigation concerning personnel of the other (e.g. the tax authority has previously investigated a corruption investigator for tax evasion or where a tax official is suspected of corruption).

- ***Unsupportive leadership.*** In the absence of support for stronger co-operation from the senior leadership of the authority or the political figures who oversee it, anti-corruption authorities and tax authorities will have difficulty establishing joint operational mandates and priorities. It also creates a difficult environment for the changes required to remove or reduce legal and operational barriers to information sharing or closer co-operation. This problem may be a function of a range of factors, such as different political agendas between the ministers or senior leadership responsible for anti-corruption and taxation, or it may reflect risk aversion, change aversion, or an unwillingness to embrace a whole-of-government approach to combating financial crime.
- ***Narrow view of an authority's mandate.*** A lack of encouragement for co-operation may also stem from a narrow view about an authority's mandate with respect to combating economic crime. If an individual authority's priorities and objectives are not aligned with a broader common goal towards combating financial crime through collective efforts, it will be less likely to see value in co-operation.
- ***Lack of independence.*** Lack of political independence or perceived lack of political independence of either authority may result in distrust and reluctance to share information. In countries where either authority cannot, objectively, be viewed as independent from political influence, officials may not be able to ensure the confidentiality and legitimate use of information shared. This is one circumstance in which strengthened co-operation between tax and anti-corruption authorities may be viewed with caution.

Chapter 5

Gateways for reporting and information sharing

84. Previous chapters have outlined the importance of effective reporting and information sharing between tax authorities and anti-corruption authorities. This chapter provides a more detailed examination of the legal gateways that countries have in place to permit reporting and information sharing between authorities responsible for the administration of taxes, tax crime investigations, and corruption investigations. The analysis is based on the broad position in each country and is not intended to reflect the complexity of the arrangements between agencies within each jurisdiction.¹ A positive finding is that the vast majority of countries surveyed for the report either require or permit authorities responsible for the administration of taxes and tax crime investigations to report and share information with anti-corruption authorities and vice versa. That said, information sharing in many countries is subject to restrictions and countries are strongly encouraged, within the framework permitted by their law, to make the broadest range of legal gateways available for information sharing.

85. In the course of their normal activities, authorities responsible for both civil and criminal tax matters and corruption investigation authorities, all gather and hold important information on individuals, companies, and transactions. The information held by one authority may therefore provide a valuable source of intelligence to another in combating the financial crimes within their respective mandates. Effective reporting of suspicions of criminal activity and sharing of information can be used to identify evidence which may lead to new investigations, support ongoing investigations, and reduce duplication (thus keeping costs down and increasing efficiency). Importantly, mechanisms for reporting and information sharing may be used to foster relationships at the agency and investigator level which are crucial to the fight against corruption and tax crime.

86. **With respect to the reporting of suspected offences, countries are categorised under four broad models:** (i) mandatory reporting: officials are under a legal obligation to report all suspected instances of tax crime or corruption to the relevant enforcement authorities; (ii) discretionary reporting: officials are able, but not required to report; (iii) restricted reporting: officials have restrictions placed on when and how they can report; and (iv) reporting is not permitted. Discretionary and mandatory reporting can both be effective, provided the right structures are in place. This includes having a clearly articulated reporting policy, endorsing and communicating that policy, promoting a culture from the top that encourages the use of reporting procedures, having governance structures in place that provide active oversight of the reporting mechanism, and procedures in place for when it is breached. **Nonetheless, a well-managed mandatory reporting structure will likely yield more reports than a discretionary system, particularly where there are consequences for non-compliance.**

87. The number of countries within each model is set out in Table 5.1. All countries included in this report either require or permit corruption investigation authorities to report suspicions of tax crime to the relevant investigative body. Although the majority of countries require or permit authorities responsible for both criminal and civil tax matters to report suspicions of corruption, a number impose restrictions or prohibitions on such reporting.

Table 5.1. Reporting suspicions of tax crime and corruption

| Type of reporting | Reporting suspicions of corruption by authority responsible for administration of taxes | Reporting suspicions of corruption by authority responsible for tax crime investigations | Reporting suspicions of tax crime by authority responsible for criminal corruption investigations |
|-------------------|---|--|---|
| Mandatory | 43 | 37 | 28 |
| Discretionary | 14 | 13 | 22 |
| Restricted | 2 | 2 | 0 |
| Not Permitted | 0 | 0 | 0 |

Note: Not all countries provided data on reporting.

88. **In addition to reporting suspected crime, it is also vital that agencies can go on to share information relevant to the suspicion with the appropriate law enforcement authority.** Arrangements for information sharing through legal gateways have been grouped into four broad models based on whether agencies can obtain information held by another through (i) direct access to the information; (ii) mandatory spontaneous sharing of information; (iii) discretionary spontaneous sharing of information; (iv) information sharing on request only; and (v) no sharing of information.

89. Each of these models has advantages and disadvantages which can vary depending on whether countries have one or several arrangements in place and how these are implemented (e.g. the agencies involved, type of information concerned, and circumstances in which it is required). For example, discretionary, spontaneous sharing of information may be very effective when there is a longstanding co-operative relationship between the agencies involved and a clear understanding of what information may be useful in the activities of the recipient agency. This will necessarily require training and guidance on what information should be shared and in what circumstances. On the other hand, direct access to information may be ineffective in cases where officials are unfamiliar with the information available or have not received appropriate training in using systems operated by the other agency. Where the information required is very specific in substance or form, information on request may be the most suitable model.

90. In light of this, information sharing will be most effective where countries make available a broad range of information sharing gateways between authorities responsible for the administration of taxes, investigation of tax crime, and criminal investigation of corruption. For example, countries that provide a corruption investigation authority with direct access to a tax authority's database are likely to see more comprehensive and better quality sharing of information if the tax authority also provides information which it believes is relevant to possible cases of corruption spontaneously and on request where the information is thought to be relevant by the corruption investigation authority.

91. In line with Principle 8 of the *OECD's Ten Global Principles for Fighting Tax Crime*², the key to making the most of any information sharing gateway is having identifiable contact points and ensuring that key individuals within each agency have a clear understanding of the types of information and powers the other agencies possess. Finally, regardless of the legal gateway or combination of legal gateways available in a given country, it is critical that countries have safeguards in place to protect the confidentiality of the information they hold and the integrity of the work carried out by other agencies. This will often require clear parameters on who can access information and for what purpose, as well as having defined governance mechanisms to ensure that information is used for its intended purpose. This is particularly relevant to information shared by tax administrations given the strong confidentiality laws that often apply to information collected and held for tax assessment purposes. For example, in *Sweden*, information shared between agencies through legal gateways must at all times comply with the provisions of the Secrecy Act. In many countries (e.g. *Brazil* and the *United States*) court orders are used to safeguard information held by relevant corruption and tax crime investigators.

92. Table 5.2 shows the number of countries that apply these different models for the sharing of information by authorities responsible for civil and criminal tax matters with corruption investigation authorities, and vice versa.

Table 5.2. Ability of tax authorities and anti-corruption authorities to share information with each other

| Type of information sharing | Sharing information held by the tax administration for tax assessment purposes with the corruption investigation authority | Sharing information held by the authority responsible for tax crime investigations with the corruption investigation authority | Sharing information held by corruption investigation authority with authority responsible for tax crime investigation |
|-----------------------------------|--|--|---|
| Direct access | 10 | 11 | 13 |
| Mandatory spontaneous sharing | 12 | 11 | 8 |
| Discretionary spontaneous sharing | 17 | 15 | 21 |
| Sharing on request only | 16 | 11 | 10 |
| Sharing not permitted | 2 | 3 | 1 |

Note: Not all countries provided data on information sharing.

93. The framework for, and limits on, information sharing between tax authorities and anti-corruption authorities may be set out in law, or contained in agreements between the relevant agencies. For example, within the framework of what is permitted by law, agencies may enter into co-operation agreements, including MOUs, which contain details of the types of information that can be shared, circumstances under which sharing can take place, and restrictions on when and how information may be used. Such agreements may also set out details such as the format for information requests, details of competent officials authorised to deal with requests, agreed notice periods and time limits, or a requirement for the receiving agency to provide feedback on the results of investigations where the information was used. Having clearly defined parameters for what information can be shared, when, and with whom, is critical to creating an environment where officials

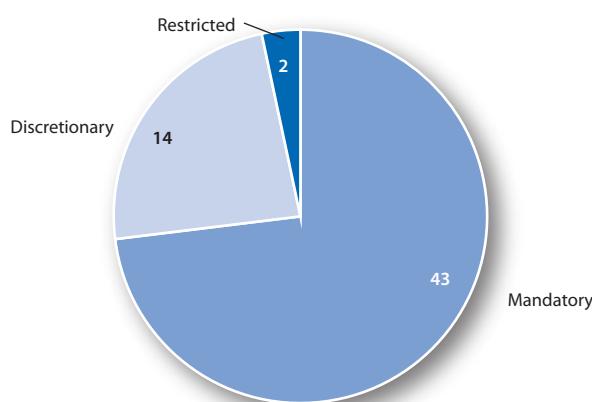
are comfortable and confident with cross-agency co-operation. Any framework that leaves space for hesitation, doubt, or uncertainty is counterproductive to co-operation and increases the likelihood of evidential issues arising during trial. More information on MOUs and examples of MOUs that countries have in place are set out in Chapter 4.

Reporting and sharing of taxpayer information by tax administration

(i) *Reporting of suspicions of corruption by tax administration³*

94. As described in the *OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors*, while tax officials are not responsible for the detection and investigation of corruption, tax administrations often hold valuable information on taxpayers' income, assets, and financial transactions. This can contain important indicators of possible corruption as well as information that could prove useful in the course of an investigation.

Figure 5.1. **Reporting of suspicions of corruption by civil tax authorities
(number of countries)**



Note: Some countries apply more than one model.

95. Of the 59 countries that provided information on reporting, 43 impose an obligation on the tax administration to report suspected corruption to the public prosecutor, police, or other authority responsible for conducting corruption investigations.⁴ These obligations vary in nature between countries. For example, in Tunisia, there is a general obligation on all public officials to report any suspected offence. In *Belgium*, the Taxpayers' Charter means that suspicions of possible corruption may only be reported to the public prosecutor and not to the police or any other authority. In 14 countries, the tax authority may report suspected corruption to the relevant criminal investigative authority,⁵ and just two countries place restrictions on reporting.⁶ *New Zealand* does not permit reports of corruption unless the information also relates to tax crime and in the *United States*, the IRS can only report suspicions to the Department of Justice once a request for a grand jury investigation is approved.

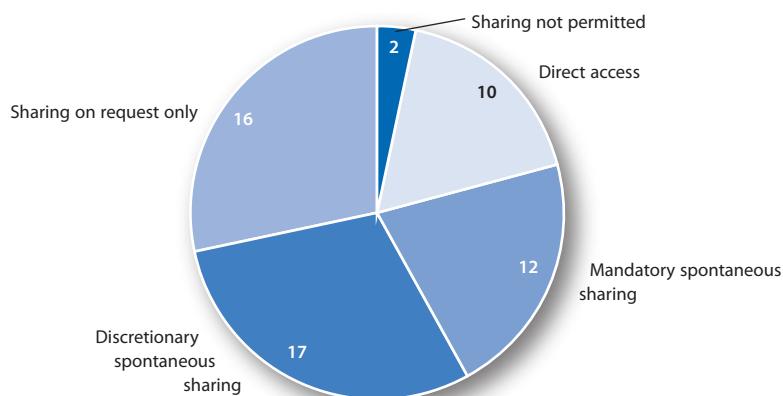
96. However, despite the fact that 95% countries surveyed require or permit the tax authority to report suspicions of corruption, a 2017 OECD study on the *Detection of Foreign Bribery* found that only 2% of concluded foreign bribery cases between 1999 and 2017 were detected by tax authorities. While not representative of all corruption offences,

the access that tax administrations have to detailed financial information suggests that there could remain significant scope for improvement in how tax administrations identify, capture, and report suspicions of corruption that arise during the course their work. This was supported by many jurisdictions involved in the study which provided anecdotal evidence that co-operation can be inconsistent from case to case, occurring on an ad-hoc basis rather than systematically.

(ii) Sharing of information held by tax administration for tax assessment purposes with corruption investigation authorities⁷

97. In ten of the 56 countries that provided data on information sharing, at least some authorities competent to conduct investigations into corruption have direct access to information held by the tax administration for the purpose of assessing taxes.⁸ In *Moldova*, a series of co-operation agreements enables criminal prosecution bodies to access the online information resources held by the State Tax Service. In 12 countries, the tax administration must spontaneously share civil tax information relevant to a corruption investigation.⁹ This is often subject to restrictions. For example, in *Georgia*, law enforcement agencies have the right to receive confidential tax information only if it concerns a case they are investigating.

Figure 5.2. Sharing of information held by tax administration for tax assessment purposes with corruption investigation authorities (number of countries)



Note: Some countries apply more than one model.

98. In 17 countries, the tax authority is able to spontaneously provide information to corruption investigators, but is not required to do so.¹⁰ Again, restrictions apply. For example, in *Israel*, the police must apply to the Minister of Finance to gain access to taxpayer information for the purposes of an investigation (though in practice this has been delegated to the Director of the Israel Tax Authority and authorisations are routine and regular).

99. In a further 16 countries the tax administration only provides information to corruption investigators on request.¹¹ In *Portugal*, the Tax and Customs Authority may provide the public prosecutor with certain information relevant to criminal investigations spontaneously and is also obliged to provide information on request where a prosecutor has determined that tax secrecy provisions should be lifted. Information may be shared between the *Polícia Judiciária* and the Tax and Customs Authority via an established

liaison group. Employees of the Inland Revenue Board of *Malaysia*, can only share information with anti-corruption authorities with the written authority of the Minister of Finance or of the person or partnership to whose affairs it relates.

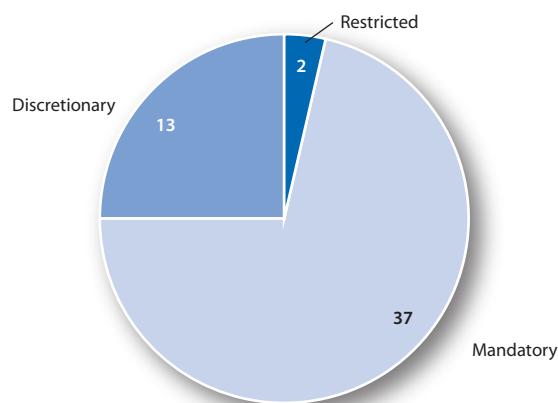
100. In two countries it is not possible for the tax administration to share information with corruption investigators. In *Belgium*, this is owing to a provision in the Taxpayers' Charter restricting co-operation between the tax administration and the federal police. In *New Zealand*, the tax administration is restricted from providing information to the SFO other than for the purposes of investigating and/or prosecuting suspected tax offences. Information relevant to a possible corruption offence may only be shared if there is an associated tax crime to be investigated.

Reporting and sharing information by authorities responsible for tax crime investigations

(i) Reporting of suspicions of corruption by tax crime investigation authorities¹²

101. Of the 52 countries that provided information on reporting, tax crime investigation authorities must report suspicions of corruption to the police, public prosecutor, or relevant law enforcement authority in 36 countries¹³ and are able, but not required to do so in 13 countries.¹⁴ Both countries that restrict reporting by tax crime authorities do so to the same extent that civil authorities are restricted from reporting.¹⁵

Figure 5.3. Reporting of suspicions of corruption by tax crime investigation authorities (number of countries)

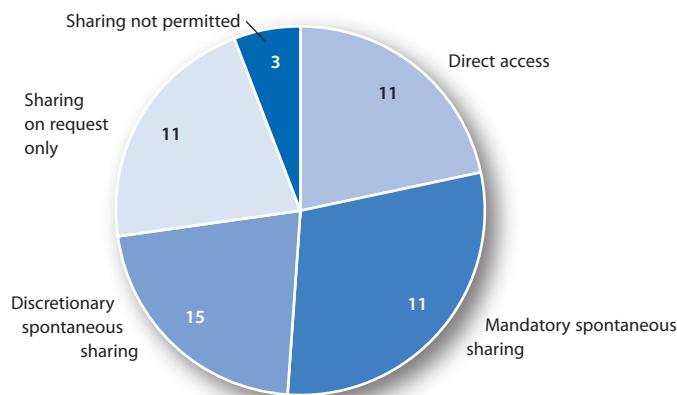


Note: Some countries apply more than one model.

(ii) Sharing of information held by tax crime investigation authorities with corruption investigation authorities¹⁶

102. Financial crimes including tax crime and corruption often do not occur in isolation. In the course of an investigation into suspected criminal activity, tax crime investigators may also uncover information concerning other crimes. To the extent responsibility for investigating these other crimes lies with a different agency, it is important that gateways are in place for this information to be shared.

Figure 5.4. Sharing of information held by a tax crime investigation authorities with corruption investigation authorities (number of countries)



Note: Some countries apply more than one model.

103. Of the 50 countries that provided data on information sharing, 11 provide corruption investigators direct access to information held by the authority responsible for tax crime investigations.¹⁷ However, in all of these countries, both tax crime and corruption investigations are conducted by the police or public prosecutor. In a further 11 countries, the tax crime investigation authority has an obligation to share information spontaneously with corruption investigators.¹⁸ For example, in *Brazil*, tax crime and corruption are investigated by separate teams within the Organised Crime Directorate of the Federal Police. Where the suspected tax crime and corruption are related, both teams can investigate both crimes. Where they are not, each team is required to share all relevant information with the other.

104. In 15 countries, tax crime investigators can spontaneously share information relevant to a corruption investigation but are under no obligation to do so.¹⁹ And in 11 countries such information can only be provided on request.²⁰ Three countries do not permit any such information sharing.²¹

Box 5.1. Impact of institutional model for tax crime investigations on information sharing between tax authorities and anti-corruption authorities

In general terms, countries where tax crime investigations are conducted outside the tax administration provide for greater sharing of information with corruption investigators, although this is not always the case.

Of the countries that conduct tax crime investigations within the tax administration, two countries allow corruption investigators direct access to information held by the authority responsible for tax crime investigations.^a Seven countries require the tax crime investigation authority to spontaneously share such information,^b and 11 countries allow, but do not require, spontaneous sharing.^c Nine countries allow tax investigators to provide information on request^d and a further three countries do not permit any sharing of information.^e

In contrast, of the countries that can conduct tax crime investigations outside of the tax administration, nine countries provide corruption investigators with direct access to information held by the tax crime authority.^f Five countries require the tax crime investigation authority to

Box 5.1. Impact of institutional model for tax crime investigations on information sharing between tax authorities and anti-corruption authorities (continued)

share information spontaneously.^g Four countries enable the tax crime investigation authority to spontaneously share information (but do not require them to do so)^h and in two countries the criminal tax authority can only share such information on request.ⁱ

Notes:

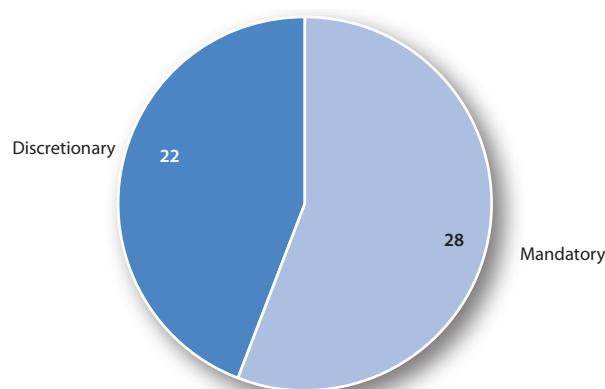
- a. Greece and the Netherlands.
- b. Austria, Germany, Hungary, Japan, Netherlands, Spain and Switzerland.
- c. Australia, Bangladesh, Canada, Estonia, Israel, Kenya, Moldova, Tunisia, Uganda, the United Kingdom and the United States
- d. Argentina, Ireland, Madagascar, Malaysia, Paraguay, Portugal, Rwanda, Singapore and Zambia.
- e. Ecuador, New Zealand and Indonesia.
- f. Belgium, Chile, the Czech Republic, Denmark, Finland, France, Greece, Norway and Slovenia.
- g. Brazil, Georgia, Lithuania, Slovak Republic and Spain..
- h. Costa Rica, Ghana, Sweden and Vietnam.
- i. Paraguay and Peru.

Reporting suspicions and sharing information by a corruption investigation authority

(i) Reporting of suspicions of tax crime by corruption investigation authorities²²

105. All 50 countries that provided information on reporting either require or allow corruption investigators to report tax crimes. In 28 countries corruption investigators are under an obligation to report suspicions of tax crime to the public prosecutor or relevant law enforcement agency.²³ In *Georgia*, when the corruption authority suspects tax crime, it can, with the consent of the chief prosecutor or deputy, conduct the investigation itself. In *Greece*, any exchange of information relating to suspected tax crime must take place within the framework of co-operation between the relevant and competent agencies. In 22 countries, authorities responsible for investigating corruption may report suspicions of tax crime, but there is no specific obligation for them to do so.²⁴

Figure 5.5. Reporting of suspicions of tax crime by corruption investigation authorities (number of countries)

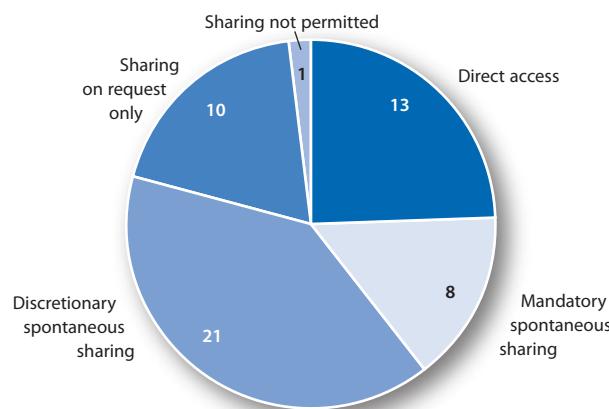


Note: Some countries apply more than one model.

(ii) Sharing of information held by corruption investigation authorities with tax crime investigation authorities²⁵

106. Of the 53 countries that responded to this part of the survey, 13 provide the tax crime investigation authority direct access to information held by corruption investigators,²⁶ and 8 require corruption investigators to spontaneously share information relevant to a tax crime investigation with tax crime investigators. In 21 countries, corruption investigators may provide information spontaneously to tax crime investigators but can exercise discretion in doing so.²⁷ For example, in *Canada*, the corruption investigation authority may send leads to the tax administration, tax crime investigation authorities, and the customs authority, relating to the compliance and enforcement of their acts. There are no restrictions on what information may be provided.

Figure 5.6. **Sharing of information held by corruption investigation authorities with tax crime investigation authorities (number of countries)**



Note: Some countries apply more than one model.

107. In the remaining ten countries, corruption investigators can only provide information upon the request of tax crime investigators.²⁸ For example, in the *United States*, public corruption investigations are typically conducted through a grand jury investigation and thus subject to the relevant rules for secrecy. If tax crime investigators are not part of a grand jury investigation, they may apply for a court order to obtain information gathered during the investigation. *Indonesia* is the only country surveyed that prohibits its corruption investigation authority from sharing information with its tax crime authority.

Box 5.2. Financial Criminal Investigation Network

The Financial Criminal Investigation Network (FCInet) is a decentralised and sophisticated computer network supporting Criminal Tax Investigation authorities in matching data. It enhances ability of an authority to: (i) identify individuals and/or companies that are of mutual concern; and (ii) match data about the individuals and/or companies in question on a “hit/no hit” basis regarding the availability of information with participating authorities in other countries.

Box 5.2. Financial Criminal Investigation Network (*continued*)

FCInet is a software and infrastructure platform physically located within each authority. It contains the data the authorities wish to make available for the purposes of matching to one or more FCInet members. The key functionality of the software is data matching. It works by pseudonymising information of one or more individuals and/or companies into one key (i.e. a string of numbers).

Based on FIU.net developed for the Financial Intelligence Units in the European Union, the software platform was designed to overcome key organisational, informational, and technical challenges to information sharing. FCInet is an initiative of the OECD’s Heads of Tax Crime Investigations and is being developed and maintained by the Fiscal Information and Investigation Service (FIOD) of the Netherlands Tax and Customs Administration and HM Revenue and Customs of the United Kingdom.

It is currently being investigated whether the use of FCInet can be further enrolled amongst other participants and within law enforcement tax authorities.

The need to better record the frequency of reporting and information sharing by authorities

108. The majority of countries surveyed for this report were not able to indicate the frequency with which tax authorities and anti-corruption authorities report suspicions of crime or share information with each other. The reasons for this varied and it is recognised that in some cases capturing this data may be challenging (e.g. if criminal investigators have direct access to information held by another agency for different purposes, the number of times and the purposes for which they access the information may not be clear). However, better recording of the number of times suspicions are reported or information is shared, and the outcomes of this co-operation, would improve the ability of a country to assess the relationship between reporting and information sharing on the one hand, and the number, or success of criminal investigations, on the other.

Box 5.3. Examples of effective reporting and information sharing between tax authorities and anti-corruption authorities – Brazil

Operation Zelotes

In 2013, the Secretariat of the Federal Revenue of Brazil (RFB) (subordinated to the Ministry of Finance) received an anonymous complaint about alleged irregularities in the functioning of CARF – the Administrative Council of Tax Appeals, established under the Ministry of Finance, mandated to hear appeals from the Administrative Courts of First Instance (among others) relating to the application of tax legislation. The complaint suggested that certain CARF counsellors were engaging in acts of passive and active corruption including trading in influence, organised crime, and money laundering.

In March 2014, the RFB learned that the Federal Police had received the same complaint and established “Operation Zelotes” – a joint tax force consisting of the RFB, Federal Police, and Prosecution Office to investigate the allegations. To facilitate the task force’s work, the Police applied for a court order to override tax secrecy legislation and enable the RFB to share information with the Police and Prosecution.

Box 5.3. Examples of effective reporting and information sharing between tax authorities and anti-corruption authorities – Brazil (*continued*)

By the second half of 2014, the task force had formed serious suspicions of corruption within the CARF and invited the administrative unit responsible for internal control and corruption prevention activities within the Ministry of Finance to join the task force. Again, a judicial order was requested to ensure that all relevant information, including taxpayer information, could be shared among the relevant agencies. Eventually, a centre of operations was set up within the RFB where investigators from each agency could work together in one place.

The investigation revealed that several CARF counsellors were corrupted into altering decisions relating to more than USD 150 million in tax penalties. The investigation was carried out in nine stages and resulted in:

- Twelve administrative proceedings by the internal control unit of the Ministry of Finance aimed at dismissing all individuals suspected of corruption
- Four administrative proceedings
- Thirteen judicial proceedings
- Two judicial misconduct proceedings
- Ten convictions in the Court of First Instance
- Fifteen auditing proceedings by the RFB resulting in penalties of more than USD 150 million.
- Overall, the case demonstrates the effective use of legal and operational frameworks for information sharing, together with the successful creation of a joint task force (see Chapter 7).

Operation Lava Jato (Car Wash)

In 2014, the Brazilian Federal Police and public prosecutors announced a formal investigation into Brazilian majority-state-owned oil company, Petrobras. Commonly known as “Operation Lava Jato” (Car Wash), it is widely regarded as the largest corruption investigation in Brazil’s history. It is alleged that approximately USD 3 billion in bribes were paid in Brazil and other parts of the world in relation to this complex corruption scheme. Petrobras executives allegedly approved contracts with companies and inflated the contracts to pay themselves and to establish a slush fund to bribe politicians and political parties.

Operation Lava Jato has resulted in charges against dozens of company executives, public officials, and politicians for corruption, racketeering, money laundering, and organised crime. The Brazilian authorities have secured convictions against many offenders, including senior politicians. To date there have been:

- 72 criminal cases against 289 individuals
- 182 sentences imposed on 118 individuals, totalling 1809 years in prison sentences
- USD 3.5 billion in recovered assets, and
- USD 3.7 billion in tax penalties.

Criminal investigations and prosecutions are ongoing in Brazil and elsewhere (including Switzerland and the United States). Brazil explains that civil tax auditors have worked closely with criminal corruption investigators and prosecutors since the early stages of Operation Lava Jato. The role of tax auditors has included analysing the tax and customs data of suspects. They

Box 5.3. Examples of effective reporting and information sharing between tax authorities and anti-corruption authorities – Brazil (continued)

have managed to uncover evidence of money laundering, tax evasion, and hidden assets, and to track financial flows. For example, the civil tax authority identified the purchase of a luxury car by the daughter of a former director of Petrobras. The analysis of the invoice showed a connection with an operator of the corruption scheme, who the director had denied knowing. Further analysis of the director showed that he was the beneficial owner of an offshore company that owned a luxurious apartment where the operator once lived. As another example, the tax authority identified bribe payments from construction companies to front companies that had been concealed through false consultancy contracts.

Overall, the civil tax authority has supported the entire investigation by providing relevant tax information and specialised analysis in the context of the broader objectives of the investigation.

Notes

1. A more comprehensive analysis of the information sharing agreements in place in specific countries can be found in *Effective Inter-agency Cooperation in Fighting Tax Crimes and Other Financial Crimes* available at: www.oecd.org/ctp/crime/effective-inter-agency-co-operation-in-fighting-tax-crimes-and-other-financial-crimes.htm.
2. Principle 5 provides that countries' should “have an effective framework for domestic inter-agency cooperation”. The Ten Global Principles are available at www.oecd.org/tax/crime/fighting-tax-crime-the-ten-global-principles.pdf.
3. This section does not cover the following eight countries covered elsewhere in the report: Burkina Faso, Colombia, El Salvador, India, Korea, Mexico, South Africa and Turkey.
4. Argentina, Angola, Austria, Azerbaijan, Bangladesh, Belgium, Bhutan, Brazil, Chile, Costa Rica, the Czech Republic, Denmark, Estonia, France, Georgia, Germany, Greece, Hungary, Iceland, Indonesia, Italy, Japan, Latvia, Lithuania, Luxembourg, Moldova, the Netherlands, Nigeria, Norway, Paraguay, Peru, Portugal, Serbia, Singapore, the Slovak Republic, Slovenia, Spain, Sweden, Rwanda, Tunisia, Ukraine, Vietnam and Zambia.
5. Australia, Canada, Ecuador, Finland, Ghana, Ireland, Israel, Kenya, Madagascar, Malaysia, Myanmar, Switzerland, Uganda and the United Kingdom.
6. New Zealand and the United States.
7. This section does not cover the following 11 countries covered elsewhere in the report: Burkina Faso, Colombia, El Salvador, Korea, Luxembourg, Mexico, Nigeria, Serbia, South Africa, Turkey and Ukraine.
8. Bhutan, Chile, Ecuador, Estonia, Greece, Italy, Moldova, Netherlands, Norway and Spain.
9. Bangladesh, Brazil, the Czech Republic, France, Georgia, Germany, Iceland, Japan, Lithuania, Myanmar, Slovenia and Switzerland.
10. Australia, Canada, Costa Rica, Denmark, Ghana, Ireland, Israel, Kenya, Peru, Paraguay, Rwanda, Sweden, Tunisia, Uganda, United Kingdom, United States and Vietnam.
11. Angola, Argentina, Austria, Azerbaijan, Finland, Hungary, India, Indonesia, Latvia, Malaysia, Madagascar, Peru, Portugal, Singapore, the Slovak Republic and Zambia.

12. This section does not cover the following 15 countries covered elsewhere in the report: Brazil, Burkina Faso, Colombia, Denmark, Ecuador, El Salvador, India, Indonesia, Korea, Moldova, Myanmar, Mexico, Serbia, South Africa and Turkey.
13. Angola, Argentina, Austria, Azerbaijan, Bangladesh, Belgium, Bhutan, Chile, Costa Rica, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Hungary, Iceland, Italy, Japan, Latvia, Lithuania, Luxembourg, Nigeria, Norway, Paraguay, Peru, Portugal, Rwanda, Singapore, Slovak Republic, Slovenia, Spain, Sweden and Ukraine.
14. Australia, Canada, Israel, Ireland, Kenya, Madagascar, Malaysia, Switzerland, Tunisia, Uganda, United Kingdom, Vietnam and Zambia.
15. New Zealand and United States.
16. This section does not cover the following 17 countries covered elsewhere in the report: Angola, Azerbaijan, Bhutan, Burkina Faso, Colombia, El Salvador, Iceland, India, Korea, Latvia, Luxembourg, Mexico, Myanmar, Nigeria, Serbia, South Africa and Turkey.
17. Belgium, Chile, Czech Republic, Denmark, Finland, France, Greece, Italy, Netherlands, Norway and Slovenia.
18. Austria, Brazil, Georgia, Germany, Hungary, Japan, Lithuania, Netherlands, Slovak Republic, Spain and Switzerland.
19. Australia, Bangladesh, Canada, Costa Rica, Estonia, Ghana, Israel, Kenya, Moldova, Sweden, Tunisia, Uganda, United Kingdom, United States and Vietnam.
20. Argentina, Ireland, Madagascar, Malaysia, Paraguay, Peru, Portugal, Rwanda, Singapore, Ukraine and Zambia.
21. Ecuador, Indonesia and New Zealand.
22. This section does not provide information on the following 17 countries included elsewhere in the report: Australia, Bhutan, Brazil, Burkina Faso, Colombia, El Salvador, Germany, India, Korea, Latvia, Lithuania, Luxembourg, Madagascar, Mexico, South Africa, Spain and Turkey.
23. Angola, Argentina, Austria, Belgium, Chile, Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Georgia, Ghana, Greece, Hungary, Italy, Moldova, Myanmar, Netherlands, Nigeria, Paraguay, Portugal, Peru, Rwanda, Serbia, Slovak Republic, Slovenia and Tunisia.
24. Azerbaijan, Bangladesh, Canada, Costa Rica, Iceland, Indonesia, Ireland, Israel, Japan, Kenya, Malaysia, New Zealand, Norway, Sweden, Switzerland, Tunisia, Uganda, Ukraine, the United Kingdom, the United States, Vietnam and Zambia.
25. This section does not contain information on 14 countries covered elsewhere in the report: Angola, Burkina Faso, Colombia, El Salvador, India, Korea, Mexico, Nigeria, Paraguay, Peru, Serbia, South Africa, Turkey and Ukraine.
26. Belgium, Bhutan, Brazil, Chile, the Czech Republic, Ecuador, Estonia, Finland, France, Italy, the Netherlands, Norway and Rwanda.
27. Australia, Bangladesh, Canada, Costa Rica, Denmark, Georgia, Ghana, Greece, Iceland, Ireland, Japan, Kenya, Moldova, New Zealand, Peru, Portugal, Slovenia, Spain, Uganda, the United Kingdom and Vietnam.
28. Azerbaijan, Hungary, Latvia, Malaysia, Madagascar, Singapore, Tunisia, United States and Zambia.

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Chapter 6

Training

109. This chapter is focused on benefits that can be attained from training tax examiners and auditors to detect corruption red flags and on training corruption investigators to detect indicators of tax crime. It provides guidance on the actual indicators that officials would be likely to come across in their ordinary activities. Training in this area is highly effective and efficient because it enables increased detection of tax crime and corruption simply by utilising the established roles of tax and corruption officials and the information already available to them. For this reason, countries are encouraged to consider including this type of training in the core curriculum for tax examiners/auditors, tax crime investigators, and corruption investigators.

110. The majority of the countries included in this report provide anti-corruption officials with some training on the indicators of tax crime. Training tax officials on the indicators of potential corruption is even more common, with almost all countries providing some training. Many countries use the *OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors* as a key training resource for tax officials. That Handbook provides detailed guidance to tax administration personnel on how to recognise indicators of possible bribery and corruption that they may come across in the course of regular tax examinations and tax audits. Tax officials are strongly encouraged to refer to that Handbook, which expands on the indicators of corruption that are summarised in this chapter.

111. This chapter begins with a brief explanation of why training is an essential element of effective co-operation. Subsequent sections are separated into training tax officials on the indicators of potential corruption, training anti-corruption officials on the indicators of potential tax crime, methods of training delivery, and instruction on what to do if an indicator is identified.

Why training is an essential element of effective co-operation

112. Programmes to train tax examiners and auditors on the indicators of corruption, and programmes to train corruption investigators on the indicators of tax crime, are essential elements of effective co-operation for several reasons. Awareness of the key indicators of tax crime or corruption enables officials to identify something suspicious and report it to the other authority in accordance with domestic law and subject to any applicable restrictions.

113. In addition, training programmes that involve direct interaction between personnel of tax authorities and anti-corruption authorities – for example a joint training exercise or where an official from one authority trains a group of officials from the other – provide an important opportunity for relationship building and collective problem solving. These

programmes allow officials to build professional networks, and to exchange and learn from each other's experiences in dealing with common problems. They also allow for greater awareness and understanding of the activities of other authorities, including the types of misconduct they are responsible for investigating.

Training tax officials on the indicators of potential corruption

114. A tax examiner or auditor may identify indicators of corruption at various stages. Indicators may be present in the compliance risk analysis process for selecting cases, during the examination of a tax return, planning a tax audit and during the audit itself. When considering possible indicators, tax examiners and auditors must think very broadly. Almost any unusual or unexplained feature of a taxpayer's business, financial records or personal finances (or those of close relatives of the taxpayer) that is significant may be an indicator of possible corruption. This should prompt the examiner or auditor to pay extra attention to other possible indicators and to interrogate whether a tax deduction has been improperly claimed for a corrupt payment. It may also prompt referral of the suspicion to the appropriate corruption investigation authority, public prosecutor, or FIU (or a combination of these authorities).

115. The indicators of potential corruption that tax officials should be trained to identify are summarised in Table 6.1. Each indicator is further explained in the text after the table and a more detailed examination can be found in the *OECD Bribery and Corruption Awareness Handbook for Tax Auditors and Tax Examiners*.

Table 6.1. Corruption indicators that tax officials should be able to identify

| | Indicators |
|---------------------------|--|
| External risk environment | <ul style="list-style-type: none"> • Operating in a high corruption-risk country or industry • Operating in a highly regulated sector |
| Internal risk environment | <ul style="list-style-type: none"> • Legal structures or connections that could be exploited for corrupt purposes • A company with weak internal controls • History of corruption offences |
| Transactions | <ul style="list-style-type: none"> • Transactions that are unusual in the context of the ordinary activities of the taxpayer • Transactions involving certain parties • Transactions involving suspicious terms |
| Payments and money flows | <ul style="list-style-type: none"> • Payments or money flows with an unusual or unclear source/destination • Payments with suspicious terms |
| Outcomes of transactions | <ul style="list-style-type: none"> • Transactions that result in unusual or unexplained benefits to the taxpayer's business • Unusual outcomes concerning financial records or assets |
| Receiving a bribe | <ul style="list-style-type: none"> • Receiving a bribe or the proceeds of corruption |

116. Corruption indicators concerning the **external and internal risk environment** of a taxpayer may be present at the earliest stage of a tax examination when the examiner or auditor is becoming familiar with the taxpayer's business or industry. A clearer picture of the corruption red flags will emerge after thorough review of the taxpayer's business environment, premises and records, and by understanding key decision makers in a business, such as those who authorise contracts and payments, and their relationship to other stakeholders. Through this process, an examiner or auditor trained in corruption red flags will identify weak controls and opportunities for corruption.

117. Red flags in the **external risk environment** arise where an individual or company operates in a **high corruption-risk country**, such as those that score poorly on the Transparency International Corruption Perceptions Index¹ or Bribe Payers Index², or **high corruption-risk industry**, such as construction, extractive, transportation and storage, information and communication, and manufacturing. **Highly regulated sectors**, or sectors that require government authorisations and licences, such as extractives or energy, are also risky because of the high degree of interaction between public and private actors.

118. In the **internal risk environment**, certain **legal structures or connections** can be exploited for corrupt purposes. A complex corporate structure with no apparent commercial, legal, or tax benefit is a red flag for corruption. Owning or controlling a legal entity with no commercial purpose or employing/interacting with politically exposed persons is another. **Weak internal controls** for the prevention of corruption could allow owners or managers of a business to pay bribes without detection, which includes lax anti-corruption policies, poor internal audit function or a lack of due diligence in hiring consultants. Further, a **history of corruption offences**, or attempts to undermine or influence the tax examination or audit, is another key corruption indicator.

119. **Unusual transactions** are those that do not fit with the taxpayer's ordinary activities, background or circumstances, have no logical economic or practical explanation, or where the origin or destination of funds is unclear. The existence of certain **parties** to transactions may also indicate possible corruption, for example if a party has no clear identity; is an agent, consultant, politically exposed person (PEP)³; or a company related to a PEP; is unusual in the taxpayer's industry, or is a foreign company or intermediary, particularly if based in a high corruption-risk country. Transactions involving **suspicious terms**, such as contracts with no underlying documentation, vague terms, or no reasonable commercial basis, are a further indicator of corruption that may be detected during a tax audit.

120. **Payments and money flows** between parties to a bribery or corrupt transaction are often disguised as legitimate business payments and thus capable of being detected by auditors and examiners. An **unusual or unclear payment source or destination** may indicate a corrupt purpose in a wide range of circumstances. These circumstances include payments connected to a high corruption risk country or one with bank secrecy rules, an unidentified person or unidentified beneficial owner, a bank account or an intermediary in a third country, a PEP, or an entity that did not appear to take part in the projects linked to the payment. Payments with **suspicious terms** generally stand out because they do not fit the taxpayer's usual profile. These may include unusually high or frequent payments; deviation from normal approval procedures; vague contractual terms or the absence of a written contract; unscheduled payments; disproportionate income for the goods or services provided; excessive payments made to an intermediary or consultant; or payments to an unknown beneficial owner. **Other corruption indicators** concerning payments and money flows include significant, unexplained cash withdrawals; frequently opening and closing bank accounts; payments that are not recorded in financial records; and unexplained payments.

121. The **outcomes of transactions** can also indicate red flags for corruption. Tax officials should look out for transactions that result in **benefits to the taxpayer's business**, such as favourable treatment by government agencies; unusually high success rate of winning contracts; and contracts or other benefits granted by PEPs or their relatives, or awarded without public tender. There are also a wide range of **outcomes that impact financial records or assets** that might indicate corruption. These include key financial ratios inconsistent with similar businesses, unusual or unexplained losses or profits on contracts, expenses that are not linked to sales or profits, unexplained loans, or transactions

resulting in luxury assets acquired by the company, or a taxpayer whose income does not support their lifestyle or spending pattern.

122. Most of the indicators of corrupt payments are also indicators that a person has received a bribe or proceeds of corruption on the other side of the transaction. Tax examiners and auditors should be aware that bribe recipients may seek to hide the payments they receive or disguise them as legitimate income. Indicators that are particularly relevant to the receipt of a corrupt payment include where a person: is a public official in a high corruption risk country; is responsible for public procurement or granting authorisations or licences; has unexplained growth in net wealth or unexplained cash spending.

Training anti-corruption officials on the indicators of potential tax crime

123. Anti-corruption officials may come across indicators of tax crime at any stage in the process of detecting, investigating, or prosecuting a corruption case. When considering possible indicators, corruption investigators should be aware that many indicators of corruption are also indicators of tax crime. Almost every bribery transaction is likely to involve tax evasion – by the bribe payer who claims a tax deduction for the payment, or the bribe recipient who fails to declare the income in their tax declaration. Concealed or otherwise suspicious financial transactions or legal arrangements may also be an indicator of tax crime. These should prompt the anti-corruption official to pay close attention to other possible indicators of tax crime and consider a referral of the suspicion to the appropriate tax authority, tax crime investigation authority, or prosecutor.

124. The indicators of potential tax evasion and tax crime that anti-corruption officials should be trained to identify are summarised in Table 6.2. Each indicator is further explained in the text after the table.

Table 6.2. Tax crime indicators that anti-corruption officials should be trained to identify

| Indicators | |
|---------------------------|--|
| External risk environment | <ul style="list-style-type: none"> Industry with high commercial risk or taxpayer under financial strain Industry or sector subject to relatively high taxes or other duties Opportunities that can be exploited to avoid paying taxes |
| Internal risk environment | <ul style="list-style-type: none"> Legal structures that could be used to facilitate tax crime Business methods that could conceal income or facilitate tax crime History of tax evasion or tax crime |
| Transactions | <ul style="list-style-type: none"> Bribe payment to a domestic or foreign official Suspicious payment to a public official not part of their normal income stream Assets that have not been declared to the tax authority Foreign or hidden accounts |
| Outcome of transactions | <ul style="list-style-type: none"> Companies that are permanent loss-makers Unusual outcomes, or destroyed/incomplete records |
| Receiving a bribe | <ul style="list-style-type: none"> Receiving a corrupt payment |

125. In any investigation, a corruption investigator needs to understand the business environment surrounding an individual or organisation suspected of corruption, and how that suspect conducts its business operations. Accordingly, corruption investigators routinely gather information on the risk environment of a suspect. While this information would generally include many of the tax crime indicators mentioned above, specific training in tax crime indicators concerning the **external and internal risk environment** enables corruption investigators to identify opportunities and higher risk situations for tax crime.

126. Tax crime red flags in the **external risk environment** are present where a business operates in an industry with **high commercial risk** or an individual taxpayer is otherwise under significant **financial strain**. These pressures may compel a person to evade taxes or make false claims for tax deductions. Industries and sectors subject to **relatively high taxes or other duties**, such as tobacco or extractives in some countries, are also risky because of the significant financial gains that follow tax evasion. The external risk environment may also provide **opportunities to avoid paying tax**, particularly where the collection of income tax or VAT relies on self-reporting by the taxpayer. These opportunities include businesses with a high volume of cash transactions and those that deal in high value and portable products, such as diamonds.

127. In the **internal risk environment**, corruption investigators should be aware of certain **legal structures that could be used to facilitate tax crime**. A legal entity that appears to have no commercial purpose, a legal entity among a group that cannot be explained, or a company registered in a low tax or tax-secrecy jurisdiction outside of the place of residence of the suspect, could be vessels for tax evasion.⁴ **Business methods that could conceal income or facilitate tax crime** include the use of foreign principals or foreign export companies, poor record keeping practices that disguise the purpose or destination of financial transactions, or sham agencies in which the suspect company purports to be independent of the principal when in reality it is under common ownership or control. A family trust or other legal structure may have been established to obscure the connection between the company and the principal. Further, a **history of tax evasion or tax crime** or the failure to file a tax declaration are another set of key indicators of tax crime risk in a suspect's internal risk environment.

128. Corruption investigators routinely identify unusual, suspicious or corrupt **transactions** that have or may have a connection to tax crime. A common example is **bribe payments to domestic or foreign public officials**, which are not tax deductible in most countries. Another red flag for tax crime is a **payment to a public official that is not part of their normal income stream**, such as cash, lavish gifts or luxury travel. The official may incur a tax liability for such payments even if corruption, in the form of a *quid pro quo* for the payment, cannot be proven. The risk of tax crime is magnified if the official who received the payment works for the revenue or tax authority and has power to influence tax assessments or to approve tax relief/reimbursement. **Assets that have not been declared to the tax authority**, for example they appear to be concealed in the books and records of a company, are another tax crime indicator since there is likely to be a tax reporting obligation regarding the asset itself or the return on the asset. A further set of suspicious transactions are those involving **foreign or hidden accounts** that a corruption investigator suspects were used to transmit or hold bribe payments, or that hold funds that cannot be explained considering the official's income. The existence of such accounts, or duplicate separate accounts for the same business, may indicate tax evasion.

129. Corruption investigators should be aware that certain **outcomes of transactions** may indicate red flags for tax crime. If an investigator's analysis reveals that a company **permanently runs at a loss**, it may indicate uncommercial trading and a control relationship with suppliers or customers of the company that may be manipulated to evade tax. **Unusual outcomes** may include paying significantly more than market value for an asset, which could indicate a person is inflating the value of business expenses. Transactions should also be clearly and properly recorded in a company's books and records. **Destroyed or incomplete records** may indicate an attempt to conceal tax crime.

130. Finally, the **receipt of a corrupt payment** would, in many countries, trigger a tax liability. A public official or company officer who receives a bribe, embezzles funds or otherwise collects a corrupt payment is unlikely to have declared it to the tax authority in violation of domestic tax laws.

Methods for delivering training

131. Authorities use a wide variety of methods for delivering training to tax officials on corruption indicators and to corruption investigators on tax crime indicators. The most effective approaches are those that systematically and routinely target all relevant officials and cover, at a minimum, the indicators set out in this report and the *OECD Bribery and Corruption Awareness Handbook for Tax Auditors and Tax Examiners*. Training of this nature should generally involve officials from both the tax and anti-corruption authority, or be led by an expert from one authority who trains a group from the other.

132. The delivery methods developed by both countries and multilateral organisations target the full range of officials, from new recruits to experienced officers. A selection of good practices for training methods is set out below to enable authorities to consider and adopt the most appropriate and effective methods for their circumstances.

Table 6.3. Methods for training tax and anti-corruption officials on indicators of corruption and tax crime

| | |
|---|---|
| Induction or basic training | <ul style="list-style-type: none"> Induction or basic training for new tax examiners and auditors and anti-corruption officials should include indicators of corruption and tax crime, respectively Examples include the Netherlands, where FIOD provides basic training for corruption investigators that includes tax crime investigations, and Singapore, where CPIB officers are trained on the indicators of tax crime in the Corrupt Practices Investigation Officer Basic Course and in periodic in-service training In Israel, all new tax examiners receive targeted training sessions on the topic of corruption and bribery as part of the preliminary training, which is in addition to annual training sessions held by the Israeli Tax Authority for all its investigative offices |
| In-service training or professional development courses | <ul style="list-style-type: none"> In-service training or professional development courses are often taught by experienced tax or corruption investigators Such may be provided to officials at any career stage A common and effective model is for one authority to organise training for the other in the form of a workshop, seminar, or conference In Slovenia, this occurs on the basis of a written agreement between the revenue and policy authority In Canada, the RCMP's new money laundering and proceeds of crime training course (taken by corruption investigators) includes a module delivered by CRA tax investigators In jurisdictions where the same authority is responsible for both corruption and tax crime investigations, such as France and Italy, it can be mandatory for officials to receive training in the indicators of both tax crime and corruption |
| Specialist degrees or programmes | <ul style="list-style-type: none"> Indicators of tax crime and corruption can be included in specialist degrees undertaken by corruption investigators or tax examiners/auditors In Italy, members of the anti-corruption unit of the <i>Guardia di Finanza</i> undertake the economic and financial investigator degree involving a one-year course and two practical phases Malaysia offers anti-corruption officials the Certified Financial Investigator Programme, which includes modules taught by the Inland Revenue Authority |

Table 6.3. Methods for training tax and anti-corruption officials on indicators of corruption and tax crime (continued)

| | |
|---|--|
| Regional or multilateral training courses taught by specialists | <ul style="list-style-type: none"> The OECD International Academy for Tax Crime Investigation, based in Italy and Kenya, trains tax examiners and auditors and includes modules on financial crime investigations The Inter-American Center of Tax Administrations sponsors special events to train corruption investigators |
| Additional ad hoc training | <ul style="list-style-type: none"> Additional <i>ad hoc</i> training is particularly important to enable officials to keep abreast of relevant developments For example, when new corruption or tax offences are introduced, new investigative powers are granted, or the processes or rules regarding information sharing are changed |
| Handbooks and manuals | <ul style="list-style-type: none"> Handbooks and manuals are a key source of information regarding practical measures to identify tax and corruption indicators and guidance on the steps an official should take once detected Countries are encouraged to use and promote this report and incorporate the substance into their own domestic handbooks for tax examiners and corruption investigators, as appropriate For example, Brazil's tax authority has included in its auditing manuals detailed information for tax auditors to detect and handle suspicions of bribery and corruption; it also encourages the use of the OECD Bribery and Corruption Awareness Handbook for Tax Auditors and Tax Examiners, which is made available in Portuguese, and has incorporated that Handbook's key themes into its own auditing manual Other materials, whether in hardcopy or electronic, can be used to deliver key information and to supplement active training. This includes brochures, circulars, newsletters, pamphlets, emails, and e-learning modules |
| Recruitment of experienced officials | <ul style="list-style-type: none"> Recruiting officials who have worked in anti-corruption or tax authorities and have experience in detecting indicators is an effective method for training other staff |
| Record and monitor | <ul style="list-style-type: none"> It is good practice to record and monitor the number of officials trained in the indicators of tax crime and corruption, as occurs in Georgia This helps to determine whether training has been sufficiently wide-reaching and routine year on year |

Training officials on what to do when an indicator is identified

133. Staff training is essential to reinforcing an agency's stance on reporting and information sharing, including the procedures that must be followed. It is important that all relevant tax and anti-corruption officials are aware of their obligations with respect to reporting and information sharing. Officials need to have a clear understanding of what to do once an indicator of possible corruption or tax crime is identified and officials responsible for handling requests for information from other authorities should understand their obligations, and the importance of information sharing to the extent they may exercise discretion. The content of training or guidance on this issue will depend on the particular legal framework in which the authorities operate. In general, it should explain the operation of the law, including whether reporting and information sharing are mandatory or discretionary (or prohibited), and whether further steps must be taken before the information can be shared (for example, obtaining a court order or formal request from the other authority). Officials should also be informed about the relevant procedures to follow from the point at which a suspicion is identified, including any internal approval processes, contact points in the other authority, and the form and manner in which information is to be shared (see Chapters 3 and 5 for more information).

Notes

1. Available at www.transparency.org/research/cpi.
2. Available at www.transparency.org/bpi2011.
3. Generally speaking, a politically exposed person is an individual who is or has been entrusted with a prominent function. A more detailed definition is available in the FATF Guidance on Politically Exposed Persons (recommendations 12 and 22), available at www.fatf-gafi.org/fr/documents/documents/peps-r12-r22.html.
4. The Tax Justice Network Financial Secrecy Index ranks jurisdictions according to their secrecy and scale of offshore activities. The Index is available at www.financialsecrecyindex.com.

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Chapter 7

Joint operations and taskforces

134. This chapter examines how joint operations and taskforces (collectively “joint investigations”) can enhance domestic co-operation between tax crime and anti-corruption authorities. Joint investigations are used frequently and with significant success in several countries. Where appropriate, authorities are encouraged to adopt or enhance their use of such measures and this chapter is designed to assist in this regard.

135. The first part of this chapter discusses the role of joint operations and taskforces in tackling tax crime and corruption. It explains the differences between these two types of enhanced collaboration, explores the various bases on which joint investigations may be formed, and demonstrates their versatility. The practical benefits of joint operations and taskforces, as reported by countries that have experience using them, are examined in the second part. The third part considers challenges posed by joint operations and taskforces. The chapter concludes with a summary of good practices and three examples of real world joint operations and taskforces that have successfully addressed tax crime and corruption.

The role joint operations and taskforces play in tackling tax crime and corruption

136. Joint investigation teams are formed for the purposes of a specific joint operation or case, or structured as a permanent or long-term taskforce. Joint operations are distinct from taskforces in that they are formed on an ad-hoc, case by case, basis with no permanency. They are used to maximise enforcement outcomes in a particular case. Taskforces, on the other hand, are permanent or long-term arrangements that handle multiple cases and may address issues in addition to investigations, such as intelligence gathering and analysis and strategy setting. They are generally used to target cases that fall within a particular category of offending, such as organised crime or widespread tax evasion schemes.

137. Joint investigations take many different forms, reflecting the particular legal or institutional framework of the country in which they operate and the purpose for which they were established. Thus, their organisation may differ from country to country, and within a country depending on the needs of the case. However, regardless of form, the fundamental role of any joint team in any country is to provide a mechanism for more efficient and effective co-operation between authorities. A significant number of countries participating in this report have identified joint operations and taskforces as important tools for combating tax crime and corruption. It appears that the role of these tools is growing as more enforcement authorities grapple with the increasing complexity of economic crime and the particular interplay between tax crime and corruption.

138. **The legal basis for forming joint operations varies from country to country.** Joint operation teams enable tax authorities and anti-corruption authorities to work together on a particular investigation. The following examples show the basis on which

joint operations involving investigators of both tax and corruption have been established in practice, including where special legislation was necessary to allow joint operations:

- **By simple agreement between investigative authorities.** For example, in *Brazil*, there are no clear legislative rules to establish joint task forces for performing investigations, but the use of such operations is supported by the superior court. In practice, they are established by a simple agreement between authorities and subject to judicial authorisation. In *Portugal*, the Tax and Customs Administration and criminal police are able to form joint investigation teams to work on complex investigations involving tax and non-tax offences. Typically, a team will include tax officials dealing with tax issues arising from the analysis of accounting and financial records and documents, and police officers dealing mainly with arrests, searches and phone tapping.
- **Under the authority of the public prosecutor.** In *Austria*, the public prosecutor may authorise joint police and tax authority investigations into major cases of corruption and social or economic fraud. In *Georgia*, the Prosecution Service undertakes overall co-ordination and supervision of criminal investigations and the decision to form a joint investigation is made by the Deputy Chief Prosecutor. To support this process and further facilitate inter-agency co-operation in *Georgia*, the Chief Prosecutor has entered into an MOU with other agency heads, under which a special Inter-Agency Co-operation Council was created. In *Hungary*, legislation exists to allow agencies to establish joint investigation teams. This requires an agreement to be drawn up by the heads of the participating authorities, which must be approved by the public prosecutor. Legislation introduced in *Slovenia* in 2009 allows multi-agency teams to be brought together to work on investigations, under the direction of the State Prosecutor's Office. The composition of these teams varies depending on the demands of the case, and can include officials from the tax administration, customs administration, police, and other agencies, as required.
- **Under the authority of a special body.** In *Greece*, the Office of Action and Business Planning Co-ordination has been established, pursuant to law and a Presidential Decree, in the General Secretary Against Corruption, allowing the Minister of Justice to act as operational leader for the co-ordination of joint operations between the Financial Police Division, Financial and Economic Crime Unit, and other inspection bodies.

139. Parallel investigations are different to joint operations. In a parallel investigation, authorities co-ordinate some investigative activities but carry out separate investigations. They generally involve a lower level of co-operation between authorities but may be useful in certain circumstances, as discussed in the Chapter 8.

140. **Multi-agency taskforces are formed as permanent or semi-permanent structures or to pursue multiple cases.** They tend to be established when co-operation among particular authorities is expected to be necessary or beneficial in each case and may extend to supporting a co-ordinated approach to the prevention and detection of crime, as well as to its investigation. The examples of economic crime taskforces identified for this report demonstrate their versatile application to a range of issues, including:

- **Institute a whole of government approach to combating organised crime and terrorism.** The Multi-Agency Team Framework established in *Kenya* brings together a host of authorities including the Office of the President, Ethics and Anti-Corruption Commission, Director of Public Prosecutions, Directorate of Criminal Investigations, National Intelligence Service, Financial Reporting Centre, Asset

Recovery Agency and Kenya Revenue Authority. The framework focuses on co-operation for the investigation and prosecution of corruption, economic crime, and organised crime. Under this framework, in appropriate cases, some or all of these agencies conduct joint investigations.

- **Respond to data leaks such as the “Panama Papers”.** In 2016, the *United Kingdom* established a multi-agency taskforce to deal with intelligence following the release of the so-called “Panama Papers”. The Taskforce has advanced the United Kingdom’s understanding of the complex and contrived structures that are being developed to mask offshore tax evasion and economic crime, and, as set out in Box 7.1, the taskforce has already produced a number of successful results.

Box 7.1. Establishment of a multi-agency taskforce to deal with the Panama Papers – United Kingdom

The cross-agency Taskforce established in response to the Panama Papers included secondees from Her Majesty’s Revenue and Customs (HMRC), the Serious Fraud Office, the National Crime Agency, and the Financial Conduct Authority. HMRC reports that work on the Panama papers has resulted in a number of ongoing enforcement actions including civil and criminal investigations into over 140 individuals for suspected tax offences. It also notes that the Taskforce has also acted as a catalyst for uniting closer and wider inter-agency co-operation both domestically and internationally. HMRC reflects that its participation on the Taskforce has enabled it to better understand offshore tax evasion and economic crime activities. For example, it now knows much more about the role and behaviours of company formation agents in facilitating offshore evasion. HMRC continues to work collaboratively with international colleagues through other legal mechanisms. For example, a new alliance dedicated to tackling international tax crime and money laundering known as the J5, which includes government agencies from Australia, the United States, the Netherlands, Canada and the United Kingdom.

- **Co-ordinate co-operation between the tax authority and police at the national and regional levels to combat tax crime.** In the *Czech Republic*, in 2014, the Ministry of Finance and the Ministry of Interior made an agreement on co-operation, information sharing, and co-ordination in combating tax evasion and tax crime with the ultimate aim of protecting the state budget. The Financial Authority (national and regional arms), Customs Administration (national General Directorate of Customs and regional offices of customs administration) and the police (National Organised Crime Agency, Financial Crime Command, Tax Crime Division and the economic crime divisions of regional police directorates) co-operate under this agreement in what is known as the Tax Cobra Strategy. It is a permanent arrangement that facilitates reciprocal exchanges of information and co-ordinates efforts to fight tax crime utilising the skills of tax officials and police (including those responsible for economic crimes such as corruption). Formal meetings of management are held monthly and discuss overarching strategic issues, assess joint activities and identify cases for joint investigation. Informal, working level meetings in specific cases occur as needed. The Strategy focuses on serious cases of tax crime and other related criminal activity that supports it, such as corruption.
- **Promote federal and state level co-operation against tax crime and corruption.** In *Brazil*, joint taskforces comprised of the federal police, federal and state

prosecutors, tax and customs administration, and the Comptroller General are regularly established and used to investigate tax crime and corruption.

- **Combat organised crime through tax and anti-corruption enforcement.** In *Israel*, a unit dedicated to the fight against organised crime (referred to by its acronym “Yahalom” – the Hebrew word for diamond) was established in 2011 within the tax administration’s Investigations Unit and is composed of tax authority investigators and members of the Israeli Police. This designated investigative unit of the tax authority is intended to focus its intelligence gathering and investigatory efforts on financial offences, including, *inter alia*, bribery, forgery, and false invoices in which criminal organisations may be involved or implicated. It was created pursuant to a 2007 Government Decision on combating organised crime. A wide range of investigative techniques are at Yahalom’s disposal so as to ensure the unit has all the tools and techniques necessary to perform its tasks.
- **Co-ordinate the fight against financial crime.** The *Malaysian* National Revenue Recovery Enforcement Team (NRRET) works to combat tax crimes and other financial crimes and is headed by the Attorney General Chambers. NRRET members include Inland Revenue Board of Malaysia, the Company Commission Malaysia, Central Bank of Malaysia, Malaysian Anti-Corruption Commission and Royal Customs Department. The role of the NRRET is to improve co-operation among law enforcement authorities to ensure a holistic approach on development, good governance and anti-corruption as well as to assist authorities in combating financial crimes, and in particular tax evasion and money laundering. The NRRET also monitors the sharing of information and the planning of joint operations between authorities. In *Australia*, the multi-agency Serious Financial Crime Taskforce includes the AFP, ATO, and several other intelligence, policy, enforcement, and regulatory agencies. It has operational, intelligence, and reform functions, and is explained further in the examples below.

Benefits of joint operations and taskforces

141. Countries that have experience using joint operations or taskforces report significant benefits with respect to both tax crime and corruption investigations. Looking across the practices and experiences of all countries participating in this report, the major benefits of joint operations and taskforces can be grouped as follows:

- increased enforcement capacity
- broader set of investigative powers, tools, and offenses
- sharing of resources
- de-conflicting enforcement action
- undertaking simultaneous action
- enhancing information sharing, and
- increasing deterrence.

(i) Increased enforcement capacity

142. When corruption and tax crime investigation authorities come together in a joint operation or taskforce, their strength and capacity is increased because the field of inquiry is expanded and the level of expertise applied to it is broadened. Joint operations and taskforces can multiply the strength and capacity of an investigation by enabling separate authorities to capitalise on each other's unique expertise, skills, technical knowledge, investigative techniques, and investigative powers. Working together in this way is particularly relevant to investigations into misconduct that span offences against tax and anti-corruption law. For example, a bribery scheme in which the bribe payments are incorrectly claimed by the bribe payer as tax deductible or not declared by the bribe recipient contrary to tax obligations. This form of co-operation can have significant positive implications for joint strategic intelligence and for setting a strategy to optimise law enforcement outcomes. Regarding intelligence, for example, the tax investigator may see in a financial statement evidence of a tax crime not immediately apparent to a corruption investigator. Similarly, a corruption investigator may suggest charging an offence that would not have been in the mind of the tax investigator.

143. This form of joint approach is highly beneficial to tackling complex financial crime schemes, which often involve tax crime and corruption. It allows investigators to work together to unpack multiple financial transactions, examine multiple corporations and individuals involved in the scheme, determine where the evidence more clearly indicates one type of crime over another, and set the case strategy appropriately. The joint approach may also be applicable to more simple cases of tax crime and corruption, particularly a group of related cases. *Israel* explains that it uses joint operations regularly because “There is notable improvement in the quality of information and its diversification as well as the quality of ‘cracking’ cases. Co-operation has brought multiplication of power. Each enforcement authority has a relative advantage in terms of thinking and in its nature of exercising authority. Combining these differences improves enforcement and creates enhanced ‘deterrence’.”

(ii) Broader set of investigative powers, tools and offences.

144. As discussed in Chapter 4, tax crime investigators have specialised knowledge of financial and tax arrangements. They are trained and experienced in investigating tax crimes and familiar with identifying these types of offences in the tax returns, books, or records of companies and individuals. They generally have the power to charge offences or recommend charges relating to the tax code of a country. On the other hand, corruption investigators are familiar with corruption schemes, perhaps involving bribery of domestic or foreign public officials, bribery in the private sector, embezzlement, misappropriation of property by a public official, trading in influence, abuse of functions, illicit enrichment or money laundering. Corruption investigators may charge offences or recommend charges pursuant to corruption offences in a country’s criminal law. Joint investigations more readily enable investigators to identify tax and corruption offences and thus make tactical decisions about which charges they want to advance based on litigation speed and potential outcomes. This, in turn, reduces tensions that stem from potential conflicts concerning deliverables and statistics.

(iii) Sharing of resources and de-conflicting enforcement action.

145. Joint operations and taskforces also achieve greater efficiency by allowing the sharing of resources and ensuring no duplication of enforcement efforts. For example, one authority may have analytical software that would not otherwise be available to the other except in the context of the joint work. Joint efforts also promote better co-ordination between authorities, thus reducing the risk of different enforcement actions by separate authorities coming into conflict with each other. Efficiency is further increased by enabling officials from each agency to focus on different aspects of an investigation in a well-co-ordinated manner, based on their experience and legal powers.

(iv) Simultaneous actions.

146. Joint operations allow for the sharing of information and intelligence on a real-time basis and enable authorities to conduct co-ordinated simultaneous actions, such as asset freezing or recovery, search and seizure, surveillance, charging, and prosecution.

(v) Enhanced information sharing

147. Joint operations also promote better information sharing, although there may be restrictions placed on information that is shared between authorities during an investigation. Better information sharing occurs in joint investigations by virtue of investigators working more closely with each other. A tax investigator may more readily identify where tax records and bank account/asset information could assist a corruption investigation if the tax investigator is actually involved in the investigation. Similarly, the joint nature of the work may prompt a corruption investigator to share information gleaned from an earlier or separate ongoing investigation that is relevant to the joint operation. In some circumstances, joint operations or taskforces may even allow for wider gateways for sharing information between authorities than would ordinarily be available.

Box 7.2. Examples of wider information sharing gateways in joint operations – Canada and the United States

In *Canada*, joint working arrangements such as Joint Forces Operation and Combined Forces Special Enforcement Unit (an integrated, multidisciplinary team that is tasked with investigating major crime in partnership with local, national and international agencies) provides the police with a means to share all information with the Canada Revenue Agency (CRA) investigators, where such sharing would not otherwise be possible. For example, information obtained by police wiretap can be shared with the CRA under specific circumstances and can provide invaluable tax and financial information that otherwise would not be available to the CRA.

In the *United States*, the tax administration has greater power to share tax information with other law enforcement agencies when it is participating in a joint criminal investigation with these agencies. This information may not be shared with agencies outside of the joint investigation.

(vi) Deterrence

148. Joint operations and taskforces can achieve greater deterrence of tax crime and corruption. Greater deterrence is a function of more robust law enforcement activity and the joint public messaging that goes with it. The message that tax crime and corruption will be detected and robustly investigated and prosecuted can be far stronger when it comes from both the anti-corruption and tax authorities in the context of a joint operation or taskforce. Accordingly, effective public promotion of a successful major joint operation or taskforce is a powerful tool in awareness raising and deterring misconduct.

Challenges posed by joint operations and taskforces

149. Joint operations and taskforces are not suited to every tax crime or corruption investigation for a number of reasons. In most minor cases, it is simply unnecessary and inefficient to consider this level of co-operation, unless a taskforce may help authorities deal with a number of similar or related cases. Further, setting up and running joint investigative work requires investment of time, resources, and potentially commitment of political will (for example to amend the law to allow wider gateways for information sharing). Although joint investigations may offer substantial cost savings, for example by avoiding duplicative investigative measures, they could also incur costs related to logistical and technical support and other administrative matters depending on the set up of the operation or taskforce. These considerations may be applied on a case-by-case basis.

150. Several of the general challenges to improved co-operation mentioned in Chapter 5 also apply to joint operations and taskforces. Some of these challenges, such as information sharing and issues of trust, are heightened in the particular context of joint work. Information sharing is a key consideration when setting up a joint operation or taskforce because the ability to share information freely is critical to success. In particular, any restrictive rules regarding information sharing should be identified early and may mean that a joint operation cannot be effectively established.

Box 7.3. Challenges posed by joint operations – South Africa

For example, in *South Africa*, law enforcement agencies frequently co-operate when investigating financial crimes through joint investigation teams, comprising specialists from each agency. However, the team would not generally include the tax administration. In cases where the tax administration does assign tax officials to joint investigation teams, the official is unable to use any special legislative powers held by virtue of their position as a tax administration employee. More often, where suspected criminal activities include tax and non-tax offences, the tax administration does co-operate with other agencies by running its own parallel investigation and sharing information with the joint investigation team.

151. The need for authorities to trust each other is another challenge that must be dealt with in the joint investigation setting. In the absence of trust, the joint investigation is likely to fail. Trust may be difficult to establish where, for example, an authority is concerned about a partner authority's independence or its ability or willingness to follow proper procedures, protect confidential information or to use information appropriately.

152. Countries have also identified that working on a joint operation or taskforce may bring practical challenges. These include managing competing priorities between authorities; working among unfamiliar cultural, technical, or structural surrounds; and reaching agreement on key aspects of a case as it develops, for example setting a shared investigation strategy or deciding which charges to bring in a particular case. A related challenge that may be particular to developing countries is resource and capacity imbalance between their authorities. For example, if a tax investigation authority has far greater resources than a police authority (e.g. for investigations, support staff, training, technical resources etc.) – forming a joint operation could be particularly difficult.

Successful processes for establishing joint operations

153. The following are a set of processes for effectively establishing joint operations and taskforces in the fight against tax crime and corruption that have proven successful in several jurisdictions. These examples are based on the country experiences examined for this report and discussed earlier in this chapter. Authorities interested in participating in a joint operation or taskforce to combat tax crime and corruption should:

- **Determine whether there is an adequate legal basis.** Consider, for example, whether an explicit legislative basis for establishing a joint investigation exists and, if not, whether one is required. It may be necessary to amend legislation in this regard.
- **Identify the legal gateway for information sharing.** The ability to share information freely between authorities is an important feature of successful joint operations and taskforces. Existing rules may need to be amended to provide for this and procedures put in place to ensure taxpayer rights are protected and information is exchanged lawfully.
- **Examine practical issues.** Key topics to examine include the relevant differences in each authority's approach to investigations and prosecutions. What informs the investigation strategy and what investigative steps are given priority? How are targets prioritised? How are charging decisions made? When are suspects confronted and what steps are taken to avoid tipping them off? As part of this discussion, authorities should also identify shared goals and priorities as well as any competing interests. Naturally, tax authorities are more likely to support the joint operation pursuing tax evasion and anti-corruption authorities pursuing the corruption. Beyond these issues, authorities may also have different strategic interests, for example priority targets based on sectors or particular types of misconduct. All of these issues should be identified and discussed early and measures adopted to mitigate them. Other practical issues for discussion include internal management and approval structures, legal procedures, sharing of costs, evidence preservation measures and dispute resolution mechanisms.
- **Consider the extent to which arrangements should be formalised in writing.** For example, through an overarching memorandum of understanding or a case specific agreement. The structure of the arrangement may be tailored in any number of ways to meet the needs of the participating authorities and to fit the circumstances of the investigation or taskforce. However, in general, the written agreement (if any) should clearly define the roles of the participating authorities and the general purpose of the joint investigation (noting that if the document could be discoverable, it should not be drafted in a way that it would tip off targets). It could also address any liability issues, such as who is financially liable if investigative measures give rise to claims against the joint investigation for damages.

154. Many countries are already using joint investigation teams and taskforces to enhance co-operation in the investigation of tax crime and corruption.¹ The following case examples from *Australia* and the *United States* help to demonstrate this trend and to show the real-life application of joint operations and taskforces.

Box 7.4. Successful multi-agency taskforce in practice – Australia

The Serious Financial Crime Taskforce (SFCT) is a multi-agency taskforce targeting Serious Financial Crime in Australia and builds on the success of Project Wickenby in addressing international tax evasion. The SFCT includes the AFP, the ATO, and several other intelligence, policy, enforcement and regulatory agencies. The heads of each Taskforce agency meet regularly to provide governance and focus for cross agency collaborative efforts.

The Taskforce forms part of the Fraud and Anti-Corruption Centre, which is led by the AFP.* The Taskforce brings together the agencies' strategic and operational level intelligence, capacity, and capability to identify and treat serious financial crime.

The SFCT focuses on operational activities, intelligence collection and sharing, and identifying and initiating reform measures. It works to remove wealth generated by criminal activity, including tax crime and corruption, and to prosecute facilitators and promoters of serious financial crime. Offences targeted by the SFCT relate to serious fraud, money laundering, and defrauding the Commonwealth. The current priorities include criminality related to international tax evasion, fraudulent phoenix activity, trusts, and superannuation.

The SFCT commenced on 1 July 2015 and is progressing 31 criminal, civil, and intelligence matters. The following is a snapshot of results to 30 June 2018:

- 137 search warrants executed
- 824 audits completed
- 7 prosecutions commenced
- 5 people convicted
- AUD 599.34 million in tax liabilities raised
- AUD 232.16 million recouped

*See www.afp.gov.au/what-we-do/crime-types/fraud/fraud-and-anti-corruption.

Box 7.5. Successful joint operation in practice – United States

The Federation Internationale de Football Association (FIFA) corruption investigation is an example of a successful inter-agency co-operation in the United States, not only between tax authorities and anti-corruption authorities, but also with foreign law enforcement counterparts which provided valuable assistance. The 24-year scheme was investigated by IRS-Criminal Investigation (IRS-CI) along with the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). The scheme involved bribery, money laundering conspiracies, wire fraud, and other illicit activities among high ranking FIFA officials and corporate executives.

Box 7.5. Successful joint operation in practice – United States (*continued*)

The officials received bribes and kickbacks in exchange for votes to determine the host nation for world cup tournaments as well as votes to award lucrative contracts for media and marketing rights to international soccer tournaments. The payment of the bribes and kickbacks were disguised using various mechanisms such as fabrication and back dating of contracts to create an appearance of legitimacy for the illicit payments. Shell companies were formed and held offshore accounts to conceal the true source of the payments. Trusted intermediaries were used to facilitate the bribe payments. Nominees and numbered accounts were used and opened at countries known to be tax havens and at other secretive banking jurisdictions. The investigation has resulted in some guilty pleas of individuals involved. Charles Blazer, former member of the FIFA executive committee used his position for personal gain. Blazer failed to file U.S individual income tax returns for tax years 2005 through 2010, failed to pay income tax and engaged in affirmative acts of evasion. Blazer pleaded guilty to charges of, among others, income tax evasion and failure to file a Report of Foreign Bank and Financial Accounts.

Note

1. Countries covered in the Rome Report that are using joint investigation teams to enhance inter-agency co-operation include Australia, Austria, Azerbaijan, Brazil, Burkina Faso, Canada, Czech Republic, Denmark, El Salvador, Finland, Germany, Ghana, Greece, Hungary, India, Israel, Japan, Malaysia, Netherlands, Portugal, Singapore, Slovenia, South Africa, Spain, Turkey and the United States.

Chapter 8

Other co-ordination mechanisms

155. This chapter presents additional mechanisms to enhance information sharing and other forms of co-operation between tax authorities and anti-corruption authorities:

- Parallel investigations
- Other structured co-ordination fora
- Joint intelligence centres
- Staff secondments
- Reviewing the tax affairs of persons sanctioned for corruption
- Registers for the income and assets of public officials

156. Each of these different co-ordination mechanisms advances co-operation between authorities in different ways. Parallel investigations are tools for promoting better co-ordination of operational activities. Other structured co-ordination fora are used to develop overarching capabilities and strategies of relevance to both tax authorities and anti-corruption authorities. Joint intelligence centres serve an operational function, but are focused specifically on the collection, analysis, and distribution of intelligence. Staff secondments enable individual officers to gain first-hand, on-the-job experience of the other authority and to strengthen professional networks. Calling on the tax authority to review the tax affairs of persons sanctioned for corruption ensures the financial benefits derived from corruption are stripped from offenders. Finally, registers for the income and assets of public officials (which in some countries are administered by the tax authority or anti-corruption authority) may be used to help detect tax crime or corruption and may hold other useful information for investigators.

Parallel investigations

157. A parallel investigation enables two or more separate authorities to co-ordinate some key operational activities in cases that involve a combination of corruption, tax crime or other tax-related misconduct. While authorities work more closely in a joint operation; a parallel investigation may still allow a degree of co-ordination and may be a more appropriate vehicle for co-operation in circumstances where a joint operation would be impractical or undesirable, as discussed below.

158. In a parallel investigation, tax authorities and anti-corruption authorities maintain their own separate investigations, but to the extent possible, co-ordinate their actions simultaneously. Parallel investigations differ from joint operations (see chapter 7) because they involve two or more separate sets of investigations under the management of separate

regulatory or enforcement bodies. As such, parallel investigations involve a lower level of integration among the different investigative authorities. Depending on the level of co-ordination, authorities engaged in parallel investigations may (subject to applicable information sharing rules) share investigative leads, intelligence, and evidence, and interview witnesses and settle pleadings together. Parallel investigations may also allow authorities to make some operational decisions jointly, for example, dividing broad elements of an investigation and charging decisions.

159. The decision to use a parallel investigation rather than a joint operation may have a genuine operational basis. For example, where the high level of co-ordination achieved by a joint investigation is unnecessary, or a joint investigation cannot be pursued because of requirements that civil and criminal investigations be separated. In some countries, the law prohibits use of civil tax information for a separate criminal purpose, such as using civil tax information for a corruption investigation. A parallel investigation in this circumstance may more readily safeguard inappropriate disclosure of tax information while still maintaining co-ordination with the anti-corruption authority.

160. Parallel investigations can also be used to pursue simultaneous civil and criminal investigations, which could not be pursued as a joint operation. Most countries require civil and criminal investigations to remain separate, but the authorities may still co-ordinate their efforts and share information in a parallel investigation. In doing so, authorities must be careful to respect due process, for example, by ensuring any disclosure obligations to the suspect are met and that criminal processes are not used as a pretext to obtain information for a civil investigation and *vice versa*. A defendant who co-operates with a civil investigation may need to be advised that their co-operation could potentially be used for a criminal investigation.

161. A parallel investigation may also be preferable for procedural or strategic reasons if a jurisdiction has technical legal rules that lead to undesirable consequences from joint investigations. These considerations generally relate to procedural issues and need to be assessed by each country on a case-by-case basis. Generally speaking, maintaining distinct investigations has merits where the authorities expect to conduct their own separate prosecutions. For example, if the investigations are distinct, the court is less likely to expect the authority bringing the prosecution to know all of the materials residing in the other authority's files. In another example, one authority may enjoy procedural advantages not available to the other, such as disclosure protections, that they can preserve by maintaining a distinct parallel investigation.

162. Unfortunately, in other circumstances, an authority may choose a parallel investigation over a joint one due to a dysfunctional relationship with another authority. One authority may wish to limit or control the other's involvement because of poor relations between management, distrust, lack of belief in the other agency's ability, or concern that another authority may take credit for a particular case. It may be necessary for authorities to take steps to build trust, develop closer ties, and achieve a better understanding of each other's approaches before progressing from parallel to joint investigations.

163. Well-co-ordinated parallel investigations can enhance co-operation between tax authorities and anti-corruption authorities, but this is unlikely to be to the same extent as joint operations. In general, they do not enable authorities to directly draw on the wider range of skills and experiences that they could offer each other and may also lead to work being duplicated. As the parties to parallel investigations do not work as closely together, they tend to be less effective at building strong networks between authorities.

Other structured co-ordination fora

164. Countries may choose to establish other structured co-ordination fora in order to develop particular capabilities (for example crime fighting strategies, threat assessments, or detection of crime) or to co-ordinate at a strategic (non-operational) level the fight against specific types of crime (such as foreign bribery cases, national security threats or organised crime). Unlike taskforces, which were considered in the previous chapter, these fora do not have a direct operational role. Instead, they enable a particular issue to be examined jointly by several authorities and for those authorities to contribute to shared solutions.

165. Countries have developed a range of other co-ordination mechanisms and applied them to tax and anti-corruption collaboration. The structure of these mechanisms can be moulded to the needs and circumstances of each authority. What they have in common is that each brings together tax, anti-corruption, and other authorities at regular intervals for structured analysis or discussions on issues to advance a shared objective. In practice, these fora vary considerably and have been used by both tax authorities and anti-corruption authorities:

- **Develop inter-agency crime fighting strategies.** In *Finland*, the steering group for the prevention of economic crime includes representatives from different authorities, including the prosecution service, the police, the customs administration, and the tax administration, as well as from a number of ministries. The steering group meets on a regular basis and has, among other things, prepared the National Strategy for Tackling the Shadow Economy and Economic Crime for 2016-2020.
- **Assess threats.** In *Lithuania*, the Financial Crimes Investigations Service and the State Tax Inspectorate have established the Risk Analysis Centre, which includes officials from both authorities, and since 2014, includes the Customs Department under the Ministry of Finance. The Risk Analysis Centre analyses information received from all participating authorities, and makes proposal for competent authorities to carry out operational activities and conduct pre-trial investigations. It analyses and exchanges information between the institutions to identify threats to the country's financial system and tax collection, and to identify tax evasion, corruption and other criminal conduct.
- **Proactively detect misconduct.** *Lithuania's* Risk Analysis Centre also co-ordinates common operations in order to prevent, detect, and investigate tax law violations or crimes. Upon the detection of possible tax evasion or other criminal activity, it informs the relevant law enforcement authority, gives suggestions on priority actions, and conducts further enquiries with respect to the facts it has uncovered.
- **Co-ordinate bribery cases.** In *Israel*, an inter-ministerial team headed by the Director of the Department of Criminal Affairs in the State Attorney's Office monitors and co-ordinates the examination of information regarding suspected bribery of foreign public officials. The team meets periodically with representatives from a range of law enforcement and regulatory authorities, including the tax authority. The work of the team does not replace the work of the Israeli Police and other law enforcement authorities in investigating foreign bribery; rather it provides a practical co-ordination and advisory role.
- **Co-ordinate security related cases.** *Ghana* uses inter-agency co-operation to promote national security. At the national level, it has established a forum that comprises the customs division of Ghana Revenue Authority and the Economic

and Organised Crime Office. This forum is supported by a second-tier meeting comprising those same two authorities, the police, CID and Ministry of Finance.

- **Distil lessons from past investigations.** In *Austria*, based on an inter-institutional agreement between the Federal Ministry of Finance and the Federal Ministry of the Interior, meetings between the investigators of the Federal Bureau of Anti-Corruption and of the Tax Investigation Department take place approximately twice per year. The main objective of these meetings is the exchange of feedback concerning cases that are being investigated by both authorities. Investigators from the two authorities do not work collaboratively on cases, but share feedback and experiences once a case is completed.

Joint intelligence centres

166. Joint intelligence centres are a co-ordination mechanism that countries should consider adopting to add efficiency and overarching perspective to the collection, analysis, and distribution of intelligence. They are a particularly effective tool for identifying connections and trends between sets of data held by separate authorities and for developing a whole of government approach to combating financial crime. They may also add value in circumstances where an individual agency is unable to effectively manage the large volume of available intelligence or where multiple agencies have overlapping intelligence functions that could be centralised. To run effectively, information sharing rules may need to be adjusted to enable the centre to receive and handle intelligence from multiple agencies.

167. Joint intelligence centres collect, store, and analyse information and co-ordinate the sharing of it between agencies. The benefit of such centres lies in their ability to pool experts from a wider range of fields than each agency would typically be able to employ and provide access to intelligence that would not otherwise have been available to each participating agency. By centralising the function of data analysis, joint intelligence centres can look across a wider spectrum of financial crime data than individual authorities acting on their own, and can more easily identify trends or individual cases where corruption and tax crime overlap. A further benefit is that these centres may improve the effectiveness of existing gateways for providing information as tax and anti-corruption officials within the centres gain experience in the legal and practical aspects of information sharing and develop professional contacts for future co-operation.

168. Joint intelligence centres may be configured in various ways depending on their purpose and the information sharing framework in which they operate. In general, the key decisions regarding establishing a joint intelligence centre concern its organisation, purpose, function and data sources:

- **Organisation: standalone body vs. unit of an existing agency.** A **standalone body** requires setting up a suitable governance and decision-making framework, for which special laws regarding information sharing may be necessary. It may also require establishing a new legal entity or government agency. Alternatively, it may be established on a more informal basis, for instance an exchange of letters or memorandum of understanding between participating authorities. It can employ staff or work on the basis of secondments from other authorities, or a mix of both. Having a standalone body generally gives the centre greater independence from any one agency and would tend to be more suitable to a centre with a broad, cross-cutting purpose. A **unit of an existing agency** is generally more straightforward to establish and often enables the host agency to play a strong role in leading the

work of the centre. There may be practical reasons for choosing this organisational model, for example, if the centre is primarily focused on combating tax crime it may be advisable to establish it in the tax authority.

- **Purpose: narrow vs. broad.** The overarching purpose of any joint intelligence centre is to collect, analyse, and share information. However, beyond this common feature, joint intelligence centres can serve myriad different purposes. A **narrow** purpose could include detecting a particular crime type, such as corruption in the public sector or VAT fraud. A **broader** purpose may be to understand and identify financial crime trends, including tax crime and corruption, or to develop policy and operational responses to emerging corruption or tax crime risks.
- **Function: operational vs. strategic.** An **operational** function means the centre is focused on specific cases or a group of cases, for example proposing specific large-scale targets for investigation by participating anti-corruption authorities. The operational function may extend beyond managing intelligence to co-ordinating investigative action by multiple authorities, reviewing cases or even conducting investigations. A **strategic** function focuses on conducting threat or risk assessments, which could include examining whether economic criminals are changing the way they operate. These assessments can inform the overarching strategy against financial crime and help to co-ordinate the priorities and objectives of tax and anti-corruption agencies. They may also inform the development of new tactics and techniques for combating financial crime. It is common for intelligence centres to perform both operational and strategic functions.
- **Data source: Information gathering powers vs. relying on information gathering powers of others.** A joint intelligence centre established as a standalone body may have its **own information gathering powers**. Where appropriate, these powers may even exceed those of an individual participating authority so that the centre can effectively work with information relevant to multiple authorities. In addition, as they deal with intelligence rather than evidence, it may be appropriate to grant joint intelligence centres coercive or other special powers not available to law enforcement authorities. Otherwise, joint intelligence centres **rely on the information gathered by participating agencies or open sources**. Through public/private partnerships, industry can also provide data.

169. Several countries currently utilise joint intelligence centres in which both tax authorities and anti-corruption authorities participate. A sample of these is presented in Box 8.1.

Box 8.1. Examples of joint intelligence centres that involve tax and anti-corruption officials

Profile of the Grey Economy Information Unit (GEIU) – Finland

| | |
|------------------------------------|--|
| Organisation | The Grey Economy Information Unit (Harmaan talouden selvitysyksikkö) is a specialist unit within the Finnish tax administration. |
| Purpose | Established in 2011 to work closely with other government agencies. Agencies with the appropriate legal permissions can become a client of the GEIU. Currently there are 22 authorities with permission to request compliance reports from the GEIU. GEIU was set up to offer a permanent and efficient solution to the challenges of gathering and sharing information. |
| Operational or strategic function? | Both. GEIU gathers, produces, shares, and publishes information as "grey economy reports" in order to support strategic decision making against the shadow economy. GEIU also produces "compliance reports" on organisations and individuals for other authorities to support their tasks at the operational level. Compliance reports include information how a person has complied with legal obligations concerning tax and other payments, business activities, financial position and connections. GEIU provides a large amount (250 000 in 2017) of compliance reports through automatic interface solutions. This means that most compliance reports are produced automatically and delivered to the information system of the requesting authority. |
| | Finland explains that GEIU has helped to address the challenges of sharing data between agencies and that the Finnish parliament has been responsive in removing legal barriers to its success. Finland further notes the benefit of having a centralised unit is that it can improve efficiency, which in turn gives the authorities requesting the information more time to tackle the grey economy. |
| Data sources | GEIU collects data from the existing databases of other authorities. |

Profile of the National and Regional Intelligence Centres – Sweden

| | |
|------------------------------------|--|
| Organisation | Standalone body comprising representatives of the police, Economic Crimes Bureau, tax administration and others. |
| Purpose | Established as part of an inter-agency strategy to address serious organised crime, including financial crime. |
| Operational or strategic function? | Both. The National Intelligence Centre (NIC) conducts intelligence analysis to inform law enforcement strategy and has an operational function for intelligence co-ordination. One of the NIC's main tasks is to compile a common threat assessment, which is used as the basis for strategic decision making by the participating agencies. The NIC identifies and maintains databases of indicators of organised crime, and of factors that facilitate organised crime, to be used in preventing and detecting offences. The NIC also co-ordinates flows of information between the Regional Intelligence Centres (RICs). |
| | The eight RICs are located at the headquarters of the local police authority and are responsible for conducting intelligence work in their respective region. The composition of RICs varies, but typically they comprise officers from all collaborating agencies, as well as from the Immigration Service. Officers assigned to a RIC generally work together for three days a week, with the remaining time spent working within their own agency. Each agency must provide their agents with technology to allow them to access agency information directly from the RIC's office. |
| Data sources | Access to information gathered by member authorities |

Box 8.1. Examples of joint intelligence centres that involve tax and anti-corruption officials (*continued*)

Profile of the Intelligence Fusion Centre (IFC) – Israel

| | |
|------------------------------------|---|
| Organisation | Part of the tax authority's Investigation Unit. |
| Purpose | Established in order to combat serious and organised crime. |
| Operational or strategic function? | Both. The IFC combines forces from the Israeli Police, the Tax Authority and the Money Laundering Prohibition Authority. It enables enforcement and intelligence entities to work together, exchange information in real time and produce high-quality collaborative intelligence materials. Israel reports that, as a result, the flow of information between entities has improved, thereby enhancing the overall quality of enforcement and warning, subject to the restrictions imposed by law. Tax authorities are able to use the information gathered at the IFC for their own purposes. |
| Data sources | Access to information gathered by law enforcement authorities. |

Profile of the Financial Expertise Centre (FEC) – the Netherlands

| | |
|------------------------------------|---|
| Organisation | Standalone body made up of seven partner organisations: the Netherlands Authority for the Financial Markets, Netherlands Financial Intelligence Unit, Tax Administration, FIOD, Public Prosecution Service (OM), police. |
| Purpose | Collaboration between supervisory, investigative, intelligence and prosecution authorities to monitor and strengthen the integrity of the financial sector. |
| Operational or strategic function? | Both. Its mission is to strengthen the financial sector by encouraging, co-ordinating and increasing co-operation between the partner organisations through the exchange of information and the sharing of information, knowledge and skills. FEC shares information and builds a knowledge centre for the benefit of all partners, for example regarding money laundering and a range of financial frauds. |
| Data sources | Partner organisations. FEC maintains an information group, which is composed of staff from each of the FEC partners. They provide general and specific data to the FEC Information Platform, mostly on jointly formulated issues. The Information Platform “pushes and pulls” information for the FEC partners. The exchange of information in the information platform is a continuous process controlled by FEC unit employees. |

Secondments and co-location of staff

170. Secondments and the co-location of personnel can improve working arrangements between anti-corruption and tax authorities. It is a cost-effective tool for building professional networks and developing greater awareness of the work of another authority, and may be particularly useful when one authority is conducting a major investigation for which additional resources are needed. When setting up these arrangements any information sharing restrictions between the participating authorities should be identified and managed appropriately.

171. This strategy enhances other forms of co-operation by improving the ability of the seconded individual to identify opportunities for co-operation and to develop a deeper understanding of the other authority and personal contacts, which can be used to further develop co-operation in future. As a result, the speed and efficiency of information sharing is increased and the level of understanding of the work of the other authority enhanced.

172. In the tax and anti-corruption context in particular, secondments are a highly effective tool for officials to learn about the indicators of tax crime and corruption. They also provide a robust basis for countries to develop enhanced forms of co-operation, namely joint operations or taskforces. These arrangements can be utilised when a major investigation needs additional resources, such as staff to assist in carrying out a raid or analysing large volumes of documents. Caution needs to be exercised to ensure that any applicable information sharing rules are not violated as a consequence of the co-location, which may require temporarily removing the seconded official's access to information in their home agency where necessary.

173. In practice, based on country survey responses, it appears more common for tax officials to be seconded to anti-corruption or prosecution authorities to assist on complex cases, rather than the reverse. Seconded tax officials are able to apply their specialist knowledge of tax to add significant value to the work performed by corruption investigators. However, there would also be benefits for tax authorities in accepting secondments of anti-corruption experts, particularly where tax authorities are examining circumstances where corruption red flags are present.

Box 8.2. Co-location of tax and anti-corruption staff – Finland

In *Finland*, the investigation of the most serious and complex corruption cases, including those with an international connection, are generally transferred to the specialised National Bureau of Investigation of the Finnish Police. The Asset Recovery Office (ARO) is located in the Criminal Investigation Division at the National Bureau of Investigation. The ARO is mainly staffed by personnel from the Finnish police, but also includes officials from the tax administration.

Finland estimates that the most significant benefit from this co-location of staff is that criminal investigators are able to obtain the necessary tax information immediately and thus can have a comprehensive overview on the financial status of the suspected person (even though this can also be achieved with the compliance reports mentioned in the previous section of this chapter). From the Tax Administration's point of view, the enquiries made by criminal investigators can prompt the tax administration to scrutinise taxation issues more closely, which may lead to a tax audit. Overall, the co-location enables comprehensive overview of the target in a way that supports both the civil and criminal investigation aspects of a case.

Reviewing the tax affairs of persons sanctioned for corruption offences

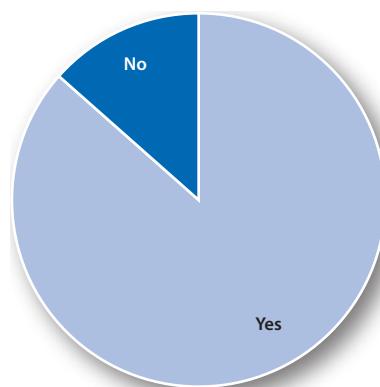
174. Calling on the tax authority to review the tax affairs of persons sanctioned for corruption ensures the financial benefits derived from corruption are stripped from offenders and promotes the integrity of the tax system. Where this process is allowed (as discussed below, some countries prohibit the tax administration from reassessing tax liability after a corruption conviction), it is another cost-effective measure since the person has already been found to have committed an offence and the remaining question is whether their historical tax assessments are accurate in light of that finding. These countries should consider establishing a simple operational mechanism whereby the relevant anti-corruption or prosecution authority routinely refers corruption cases that result in conviction to the tax authority for assessment.

175. Information concerning persons that have been sanctioned for corruption offences may be used for the purposes of reviewing their tax compliance in a particular country, even if this does not lead to a criminal tax investigation. This applies equally to persons sanctioned for supply and demand-side bribery (e.g. the individual or company that pays a bribe and the public official that receives the bribe payment).

176. The UNCAC requires that “Each State Party … disallow the tax deductibility of expenses that constitute bribes… and where appropriate, other expenses incurred in furtherance of corrupt conduct.” Similarly, the OECD 2009 Council Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions, recommends among other things, “that Member countries and other Parties to the OECD Anti-Bribery Convention explicitly disallow the tax deductibility of bribes to foreign public officials, for all tax purposes in an effective manner”. To support the implementation of this Recommendation, the OECD Working Group on Bribery, which is made up of States Parties to the Convention, regularly recommends that countries implement a system whereby relevant law enforcement authorities can promptly inform the tax administration of all foreign bribery related convictions so that it may verify whether bribes were illegally deducted.¹ It is similarly important to review the tax affairs of persons sanctioned for demand-side bribery (e.g. corrupt public officials), as they may have disguised the bribe payments they received as legal income.

177. While in the majority of countries in this report there are no legal barriers preventing officials from examining the tax affairs of persons convicted of corruption, most countries appear to lack the operational frameworks to ensure that this occurs in practice. Of the 53 countries that responded to this part of the survey, 46 confirmed that their tax administration is able to examine the tax affairs of persons convicted of corruption.² However, little information is available on how often this occurs, and in general, a review is not mandatory or automatic.³

Figure 8.1. Can your country’s tax administration review the tax affairs of persons convicted of corruption?



178. In contrast, in seven countries, the tax administration is not able to examine the tax affairs of a person simply because they have been sanctioned for corruption without other specific indicators of tax non-compliance.⁴

179. In light of the prohibition on the tax deductibility of bribes in both the OECD Anti-Bribery Convention and UNCAC, countries are encouraged to consider whether they have appropriate legislation, procedures, and practices in place to review substantiated corruption in order to ensure that tax deductions for bribes and other expenditures have not been claimed.⁵

Registers for the income and assets of public officials

180. Registers for the income and assets of public officials may assist in the detection of tax crime or corruption and may provide other information to support an investigation or assessment. If they are administered (or accuracy tested) by the tax or anti-corruption authority, they may also prompt information sharing between these authorities when indicators of tax crime or corruption are identified in the register's information.

181. The majority of countries in this report operate registers for the income and asset disclosure (IAD) by certain public officials.⁶ Requirements differ significantly from country to country in terms of who is required to file income and asset declarations, what information filers are required to declare, and how often filers are required to declare.⁷ However, the rules concerning such registers generally require high-level officeholders (such as heads of state, ministers, members of parliament, other civil servants) to disclose personal and business assets and may also require disclosure of sources of income, interests in profit and non-profit corporations/organisations, debts, gifts, payments for travel or other benefits, and the income and assets of relatives. It is good practice to require the disclosure of assets for which the public official is the beneficial owner, and not merely the legal owner.

Box 8.3. Examples of IAD systems administered by tax or anti-corruption authorities – Rwanda and Latvia

In *Rwanda*, the Office of the Ombudsman (responsible for some corruption investigations) receives and checks IADs. While no other institution is authorised to access the data directly, during criminal proceedings, the prosecutor general (who is also responsible for tax and corruption investigations) or the president of a court can request information concerning suspects' assets from the Office of the Ombudsman. This information can only be used for that specific proceeding and cannot be disclosed to any other institution.

In *Latvia*, the register of public officials' declarations is administered by the tax administration (State Revenue Service, SRS). *Latvia* explains that the register is related to the prevention of corruption, as information specified in public officials' declarations is often used in revealing corruption-related criminal offences. The anti-corruption authority (Corruption Prevention and Combating Bureau (KNAB)) has online access to the SRS Information System of Public Officials' Declarations and, hence, has direct access to the all information specified in public officials' declarations. This includes such information as real properties, vehicles, securities, income, positions held, transactions performed, cash savings, debt commitments and relatives.

182. While the primary goals of IAD registers are to promote integrity in public office, avoid conflicts of interest, foster public trust in government, and combat corruption, they also play a role in facilitating inter-agency co-operation, by improving the quality of information that is available.

183. In relation to anti-corruption efforts, IAD registers can assist national and international financial investigations and prosecutions, international asset recovery efforts, combating illicit enrichment, and in identifying politically exposed persons. The World Bank has produced a guide, *Public Office, Private Interests: Accountability through income and asset disclosure*, to help policy makers and practitioners engaged in developing and using IAD schemes to establish the capacities and institutional links required for better use by anti-corruption authorities. Anti-corruption investigators may use income and asset registries as a valuable source of information, or even a mechanism to facilitate prosecution of officials for a violation of the disclosure requirement or as a result of irregularities in their income and asset declarations, when underlying acts of corruption may be difficult to prove.

184. There are also complementary functions between the IAD system and the tax authority in assessing tax revenue.⁸ Through close co-operation, effective IAD schemes can help to support the tax authority to monitor the wealth of public officials. The tax administration and the competent IAD authority can co-operate in the verification process to ensure the accuracy of declarations made by public officials to both the tax authority and the competent authority. Inconsistencies in these declarations should raise red flags and prompt thorough examination by either or both authorities. Further, the information in the IAD registry itself may indicate possible tax evasion or corruption if it suggests disconnection between documented income and assets, on the one hand, and actual property or assets owned by a public official, on the other.

Notes

1. See for example Australia Phase 3 Report, recommendation 14b.
2. Argentina, Azerbaijan, Bangladesh, Belgium, Bhutan, Brazil, Canada, Chile, Denmark, Ecuador, Estonia, Finland, France, Georgia, Germany, Ghana, Greece, Indonesia, Ireland, Israel, Italy, Kenya, Latvia, Luxembourg, Malaysia, Moldova, Myanmar, Netherlands, New Zealand, Nigeria, Norway, Paraguay, Peru, Portugal, Rwanda, Singapore, Slovak Republic, Slovenia, Spain, Switzerland, Tunisia, Ukraine, the United Kingdom, the United States, Vietnam and Zambia.
3. This section does not include information on the following 14 countries included elsewhere in the report: Burkina Faso, Colombia, El Salvador, Hungary, Iceland, India, Japan, Korea, Lithuania, Mexico, Serbia, South Africa, Turkey and Uganda.
4. Angola, Australia, Austria, Costa Rica, Czech Republic, Madagascar and Sweden.
5. This does not include information on 14 countries (Argentina, Burkina Faso, Colombia, El Salvador, France, Iceland, India, Korea Latvia, Madagascar, Mexico, Portugal, Serbia, South Africa)
6. The types of institutions responsible for implemented IAD schemes vary widely among countries and include specialised bodies, anti-corruption authorities, tax authorities, election commissions, audit offices and parliamentary bodies.
7. See World Bank and UNODC (2012), *Public office, private interests: accountability through income and asset disclosure*, available at www.right2info.org/resources/publications/publications/public-office-private-interests, pp. 9-21 and 34-52; and OECD (2011), *Asset declarations for public officials: a tool to prevent corruption*, available at <http://dx.doi.org/10.1787/9789264095281-en>.
8. OECD (2011), *Asset declarations for public officials: a tool to prevent corruption*, available at <http://dx.doi.org/10.1787/9789264095281-en>, p.43.

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Concluding remarks

185. Corruption and tax crime remain key obstacles to sustainable economic, political, and social development, particularly in developing and emerging economies. It is well established that economic offences such as bribery and corruption and tax evasion reduce efficiency and increase inequality and this report confirms that co-operation between tax authorities and anti-corruption authorities is critical to overcoming this. While all countries surveyed for this report have at least some measures in place to facilitate co-operation between authorities responsible for enforcing tax crime and corruption, there is substantial room for improvement when it comes to implementing these in practice.

186. The report highlights that enhancing co-operation requires a multi-faceted approach and recommends that countries consider a broad range of co-operation mechanisms. There is no single correct approach and countries must develop a co-operation framework that works within their domestic context and ensures the confidentiality of sensitive information. However, at a minimum, this requires a robust and clearly defined institutional framework, legal gateways and operational procedures that permit reporting and information sharing between authorities, and comprehensive training delivered on an ongoing basis. The report also highlights the benefits of enhanced co-ordination measures such as joint operations and taskforces, parallel investigations, and joint intelligence centres.

187. The report commends the positive measures that countries have adopted to improve co-operation and provides real life case examples where co-operation was central to successful outcomes. However, anecdotal evidence suggests that in most jurisdictions, actual levels of co-operation between tax authorities and anti-corruption authorities remain low. Even jurisdictions with well-developed co-operation frameworks and successful case outcomes report that co-operation is still sporadic.

188. Countries are strongly encouraged to use this report as a tool to identify shortcomings in their co-operation frameworks and to take action to overcome these. This could include a range of measures such as the provision of additional training, fine-tuning of operational procedures, or legislative review. The World Bank and OECD have long been committed to supporting countries in their fight financial crime through standard setting, guidance, and capacity building. Both organisations remain committed to this cause and to working with countries to overcome the challenges highlighted by this report through bi-lateral and multilateral technical assistance and capacity building programmes¹ and future horizontal projects.²

189. While in most cases the mechanisms for co-operation are already available, the report does identify a clear need for governments in both developed and developing countries to make these mechanisms accessible and effective in practice. Successful co-operation necessitates trust between agencies at all levels and this starts with a sustained commitment from political leaders and senior government officials to provide political and cultural support for the development and implementation of legal, institutional, and operational frameworks for co-operation. Top-level support is the only way to establish a culture

of co-operation both within and between agencies and thus develop an effective whole-of-government approach to combatting financial crime. When systematic co-operation between tax authorities and anti-corruption authorities is used to its full potential, authorities will be in stronger position to fight these serious financial crimes.

190. The report provides an empirical analysis of existing collaborative arrangements across 67 developed and developing countries. It also raises several questions that will need to be considered by countries as they move forward in developing processes for improved inter-agency co-operation in combating tax crime and corruption. These include:

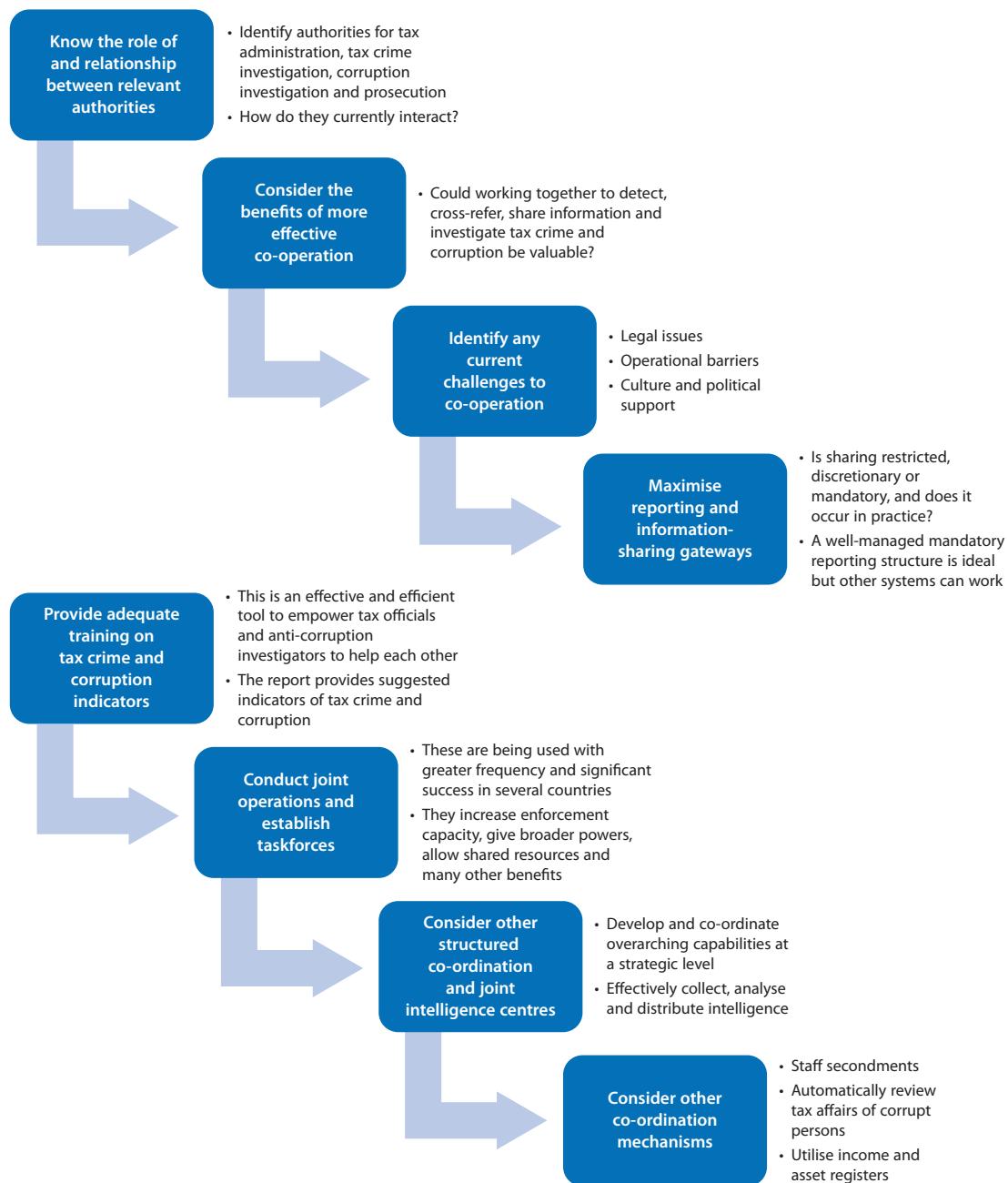
- Whether existing models for co-operation in the fight against tax crime and corruption are sufficient, or if new, more integrated, models need to be developed.
- Whether certain arrangements for co-operation are more effective than others, and if this depends on the legal and institutional framework, local culture, political will, or other factors.
- How the performance of inter-agency collaboration should be measured and assessed and how countries can be supported in determining the success of their own approaches.
- What reasonable safeguards should be in place to ensure that the concentration of intelligence is not abused, data privacy is respected, and taxpayer rights are upheld.
- Whether the effectiveness of inter-agency co-operation should be the responsibility of a central body or authority in government or left to individual agencies.
- How to more effectively leverage inter-agency co-operation for prevention purposes.

Notes

1. Such as the World Bank Tax Evasion Initiative and the OECD International Academy for Tax Crime Investigation.
2. For example, the 2019 edition of the OECD report on *Ten Global Principles for Combatting Tax Crimes* will assess countries implementation of the ten global principles and allow governments to benchmark their practices and identify specific areas for reform. The World Bank Tax Crime Risk Assessment Tool will assess the performance of tax crime investigation functions' legal, strategic, organisational and administrative functions.

Annex A

Key steps to enhance co-operation between tax authorities and anti-corruption authorities



Annex B

OECD Council Recommendations

Box B.1. Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions

25 May 2009

THE COUNCIL,

Having regard to Article 5, b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Recommendation of the Council on the Tax Deductibility of Bribes to Foreign Public Officials (hereafter the “1996 Recommendation”), to which the present Recommendation succeeds;

Having regard to the Revised Recommendation of the Council on Bribery in International Business Transactions;

Having regard to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions to which all OECD Members and eight non-members are Parties, as at the time of the adoption of this Recommendation (hereafter the “OECD Anti Bribery Convention”);

Having regard to the Commentaries on the OECD Anti-Bribery Convention;

Having regard to the Recommendation of the Council concerning the Model Tax Convention on Income and on Capital (hereafter the “OECD Model Tax Convention”);

Welcoming the United Nations Convention Against Corruption to which most parties to the OECD Anti-Bribery Convention are State parties, and in particular Article 12.4, which provides that “Each State Party shall disallow the tax deductibility of expenses that constitute bribes”;

Considering that the 1996 Recommendation has had an important impact both within and outside the OECD, and that significant steps have already been taken by governments, the private sector and non-governmental agencies to combat the bribery of foreign public officials, but that the problem still continues to be widespread and necessitates strengthened measures;

Considering that explicit legislation disallowing the deductibility of bribes increases the overall awareness within the business community of the illegality of bribery of foreign public officials and within the tax administration of the need to detect and disallow deductions for payments of bribes to foreign public officials; and

Considering that sharing information by tax authorities with other law enforcement authorities can be an important tool for the detection and investigation of transnational bribery offences;

Box B.1. Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions
(continued)

On the proposal of the Committee on Fiscal Affairs and the Investment Committee;

I. RECOMMENDS that:

(i) Member countries and other Parties to the OECD Anti-Bribery Convention explicitly disallow the tax deductibility of bribes to foreign public officials, for all tax purposes in an effective manner. Such disallowance should be established by law or by any other binding means which carry the same effect, such as:

- Prohibiting tax deductibility of bribes to foreign public officials;
- Prohibiting tax deductibility of all bribes or expenditures incurred in furtherance of corrupt conduct in contravention of the criminal law or any other laws of the Party to the Anti-Bribery Convention.

Denial of tax deductibility is not contingent on the opening of an investigation by the law enforcement authorities or of court proceedings.

(ii) Each Member country and other Party to the OECD Anti-Bribery Convention review, on an ongoing basis, the effectiveness of its legal, administrative and policy frameworks as well as practices for disallowing tax deductibility of bribes to foreign public officials. These reviews should assess whether adequate guidance is provided to taxpayers and tax authorities as to the types of expenses that are deemed to constitute bribes to foreign public officials, and whether such bribes are effectively detected by tax authorities.

(iii) Member countries and other Parties to the OECD Anti-Bribery Convention consider to include in their bilateral tax treaties, the optional language of paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention, which allows “the sharing of tax information by tax authorities with other law enforcement agencies and judicial authorities on certain high priority matters (e.g. to combat money laundering, corruption, terrorism financing)” and reads as follows:

“Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.”

II. Further RECOMMENDS Member countries and other Parties to the OECD Anti-Bribery Convention, in accordance with their legal systems, to establish an effective legal and administrative framework and provide guidance to facilitate reporting by tax authorities of suspicions of foreign bribery arising out of the performance of their duties, to the appropriate domestic law enforcement authorities.

III. INVITES non-members that are not yet Parties to the OECD Anti-Bribery Convention to apply this Recommendation to the fullest extent possible.

IV. INSTRUCTS the Committee on Fiscal Affairs together with the Investment Committee to monitor the implementation of the Recommendation and to promote it in the context of contacts with non-members and to report to Council as appropriate.

Box B.2. Recommendation of the Council to Facilitate Co-operation between Tax and Other Law Enforcement Authorities to Combat Serious Crimes

14 October 2010

THE COUNCIL

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

Having regard to the Recommendation of the Council on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions;

Having regard to the Recommendation of the Council concerning the Model Tax Convention on Income and on Capital (hereafter the “OECD Model Tax Convention”)

Having regard to the Conclusions of the 2010 meeting of the Council at Ministerial level and the Declaration on Propriety, Integrity and Transparency in the Conduct of International Business and Finance

Having regard to the Conclusions of the 2009 meeting of the Council at Ministerial level;

Having regard to the FATF 40 Recommendations and nine Special Recommendations;

Having regard to the 2009 OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors;

Considering that tax authorities can play an important role in the detection of all serious crimes and not only foreign bribery;

Considering that sharing information by tax authorities with other law enforcement authorities can advance efforts to detect, investigate and prosecute serious crimes;

On the proposal of the Committee on Fiscal Affairs;

I. RECOMMENDS that Members establish, in accordance with their legal systems, an effective legal and administrative framework and provide guidance to facilitate reporting by tax authorities of suspicions of serious crimes, including money laundering and terrorism financing, arising out of the performance of their duties, to the appropriate domestic law enforcement authorities.

II. FURTHER RECOMMENDS that Members consider to include in their bilateral tax treaties, the optional language of paragraph 12.3 of the Commentary to Article 26 of the OECD Model Tax Convention, which allows “the sharing of tax information by tax authorities with other law enforcement agencies and judicial authorities on certain high priority matters (e.g. to combat money laundering, corruption, terrorism financing)” and reads as follows:

“Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.”

III. INVITES non-Members to adhere to this Recommendation.

IV. ENCOURAGES all countries to distribute widely within their tax administrations the 2009 OECD Money Laundering Awareness Handbook for Tax Examiners and Tax Auditors.

V. INSTRUCTS the Committee on Fiscal Affairs to monitor the implementation of the Recommendation and to promote it in the context of contacts with non-Members and to report to Council as appropriate.

Improving Co-operation between Tax Authorities and Anti-Corruption Authorities in Combating Tax Crime and Corruption

Drawing on the knowledge and practices of 67 countries, this report is the first comprehensive global study of the legal, strategic, operational, and cultural aspects of co-operation between tax authorities and anti-corruption authorities. The report will enable countries to review and evaluate their own approaches for co-operation on matters relating to tax and corruption, and identify opportunities for improvements based on practices that have proved successful elsewhere.

The report was prepared jointly by the OECD and World Bank and will be used to support ongoing capacity building work carried out by both organisations.

