

Report

on the

Coordinated Audit

of Tax Subsidies



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Working Sub-Group 2

Germany
Hungary
Latvia
Russian Federation
Slovak Republic

Working Sub Group 3

Germany
Latvia
Lithuania
Switzerland

Preface

At the VI EUROSAL Congress held in Bonn from 30 May to 2 June 2005, the EUROSAL governing board decided to discuss the theme “audit of revenues”. As a result of the Congress, it was decided to conduct a coordinated audit of tax subsidies open to all EUROSAL members. Apart from achieving the technical goals set, the aim was also to encourage co-operation and share experience between the EUROSAL members as well as expand informal networks.

In the Bundesrechnungshof’s function as chair of the coordinated audit I am delighted to submit the final audit report to the VII EUROSAL Congress. The report shows that, in addition to producing important findings on tax subsidies, we have in particular managed to achieve our soft goals. After 11 SAs had already shown their interest in participating in the activities of the working group on “tax subsidies” at the end of the VI EUROSAL Congress, in the course of the audit, this number rose to a total of 19 EUROSAL members, and the group was divided into three working sub-groups. The large number of work meetings, for the organisation of which I would like to express once again my sincere thanks to the hosting SAs, provided a useful forum for sharing experience and intensifying contacts. Altogether, more than 50 auditors and other unnamed staff were involved in the audit activities. Following a request from the working group on “tax subsidies”, in February 2006, that is, before the audit started, I organised a basic seminar for the group in Bonn, Germany, which provided a valuable opportunity to establish contacts with the academia and other international organisations.

The success of our audit and the concrete results produced should encourage us to carry on our joint activities and intensify our co-operation in the future. I am firmly convinced that maintaining the informal contacts established will be to the benefit of all EUROSAL members.

Prof. Dieter Engels

President of the Bundesrechnungshof

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1 Summary

The VI EUROSAL Congress held in Bonn from 30 May to 2 June 2005 dealt with the audit of public revenues by Supreme Audit Institutions (SAIs).

The analysis of the country papers submitted by EUROSAL's members prior to the congress has shown a number of cases where cash flows that, strictly speaking, have the nature of expenditures are transferred to revenue budgets, especially in the form of tax subsidies. Tax relief schemes of this kind have reached a considerable magnitude in some countries. However, up to now, there has still been insufficient knowledge about the effectiveness of tax subsidies. SAIs should develop more reliable findings about the volume and target achievement of such tax subsidies. Some country papers noted the extent and complexity of tax legislation that can lead to tax shortfalls and tax exceptions. The Congress therefore advocated conducting a coordinated audit of tax subsidies that was open to all EUROSAL members.

Shortly after the Congress, 11 SAIs met to implement the project including the Netherlands as an observer. They formed an international Working Group, whose membership increased to eighteen in the course of time: Cyprus, Denmark, Finland, France, Germany, Hungary, Iceland, Italy, Latvia, Lithuania, Poland, Romania, the Russian Federation, Slovak Republic, Sweden, Switzerland, the United Kingdom and the Netherlands.

To obtain comparable results, a checklist was drafted that addressed all stages of a tax subsidy from legislation via implementation up to reporting. At the same time, this checklist formed the non-binding framework for an audit of transparency and reporting.

The project started with a seminar, where more than 60 participants from 22 EUROSAL member countries and the European Court of Auditors discussed subsidy policies, the effectiveness and the audit of subsidies with subject matter experts from the OECD, the University of Cologne, the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) and the Algemene Rekenkamer.

After completing audit work, the Working Group came to the conclusion that, concerning tax subsidies, improvements were needed in the fields of legislation, evaluation and reporting in all participant states in order to create the overall transparency which it considered necessary both for the legislator and the general public.

It was found that, already in draft legislation, the objectives of tax subsidies were not adequately described and that the information on the costs and benefits of a tax subsidy were completely inadequate. As a result, there is a lack of reliable data on which to base monitoring, analyses and evaluation of tax subsidies. Statements on evaluation after adopting legislation are often not made or are at least insufficient. Furthermore, as to tax subsidies, there is usually no time limit imposed with respect to the subsidies nor are there arrangements to reduce the subsidy amounts over time. After the introduction of a tax subsidy there is a patent lack of any systematic monitoring, analysis and evaluation. Reporting of tax subsidies as part of the budgetary process or in a separate report is completely inadequate. The budget legislator and the general public are largely left uninformed about the objectives of tax subsidies and their accomplishment, their financial, economic and environmental impact and the results of evaluations.

Furthermore, three Working Sub-Groups were set up to deal with specific tax subsidies. The Working Sub-Group on Corporate Income Tax looked for comparable themes and agreed to audit tax relief themes for micro-enterprises, small and medium sized enterprises and – where relevant – tax relief for regional development, which exist in all countries that participate in this Working Sub-Group. It developed a questionnaire on which the design of the audits of the participating SAls was to be based.

The Working Sub-Group on Corporate Income Tax addressed corporate tax allowances for small and medium-sized enterprises which in all countries must be based on legislation. In the majority of participating countries there is no corporate income tax subsidy which can be utilized solely by these companies. The participating SAls looked especially into the legislation process, monitoring procedures and the use of IT systems. In all participating countries, preliminary evaluations are required in the course of the legislative procedure, but were not or were just partially fulfilled by the Ministries of Finance. The practice of defining the objectives of the corporate income tax subsidies is different and the possibility of replacing corporate tax subsidies by direct financial aids was not evaluated in any participating country by their financial governments. Generally, the data supply on corporate income tax subsidies is insufficient to compare and assess the impacts of this kind of subsidy.

In most participating countries the objectives of the corporate income tax subsidies were defined clearly and measurably and there are regulations to determine that the impacts of tax subsidies and the achievement of the objectives have to be evaluated. However, in generally, there is no sufficient monitoring of the achievement of these objectives. The regulations do not prescribe compulsory controls as well. In all participating countries the tax authorities have developed and applied IT systems to process corporate tax returns' data and to assist tax controls by the common procedure in all local tax authorities

There are five groups of recommendations by this Working Sub-Group. It is recommended to conduct both a preliminary and a concurrent regulatory impact assessment and considering alternative options in the legislative procedure: to design eligibility rules for tax subsidies, to publish relevant information and to evaluate the target achievements of tax subsidies periodically. Also IT systems should be used more often, i. e. to set up a register of tax subsidies and to link this register up to other available data bases.

The Working Sub-Group on VAT addressed the reduced VAT rate. As agreed the Working Group members collected audit evidence on the reduced VAT rate in their respective countries. The audit was designed to establish for example whether individual VAT rate reductions in the member states covered were still justified or generated unintended side-effects. Furthermore, the Working Group members were requested to compile information about the problems existing in connection with the application of reduced VAT rates, the aggregate loss of VAT revenue caused by a reduced VAT rate, the effectiveness of the subsidy and the procedures to assess the effectiveness of reduced VAT rates.

As a result of national auditing and reporting, the members of the VAT Working Sub-Group arrived at some common conclusions about the effect and the effectiveness of lower VAT rates. For example, the imposition of a lower VAT rate should be of direct benefit to consumers by lowering the prices for goods and services. Also, there is a disproportionate

relation between detailed regulations for rate differentiation and available resources of tax authorities to enforce them.

Therefore, the members of VAT Working Sub-Group recommend that monitoring and evaluation of the application and effects of lower VAT rates should be introduced on a systematic basis and an annual report of the actual amount of state budget revenue lost as a result of VAT concessions should be published. Also, it needs to be assessed as to whether the number of VAT concessions by reduced tax rates on specific goods and services could be decreased and alternative instruments could be chosen.

On the whole, the three Working Sub-Groups looked at tax subsidies from differing perspectives but still produced similar audit findings. The Working Group has derived some common recommendations. Draft Bills should document objectives sought by introducing tax subsidies in a clear and well structured way. Tax subsidy reporting should include data on the tax losses incurred as a result of tax subsidies. Such reports should be issued at regular intervals, preferably on an annual basis. Evaluations should be carried out at regular intervals to provide assurance on the efficiency, effectiveness and target achievement of tax subsidies. Within the framework of their procedures the participating SAIs discussed the audit findings and recommendations with the competent national bodies – as a rule with the governments or ministries. Subsequently, most of the audit reports were made accessible to the general public.

Although diverging tax systems were examined, the SAIs involved in the coordinated audit have still found comparable problems and shortcomings in tax subsidy schemes. In addition, the SAIs also pursued soft goals such as sharing experience, expanding informal networks and enhancing communication with other external institutions.

2 Introduction

Currently, rapid change is taking place in Europe accelerated by major geopolitical initiatives such as the EU enlargement process and ongoing globalisation. This development does not fail to have an impact on the Supreme Audit Institutions (SAIs), that increasingly have to face similar challenges in this economic area, in which borders are steadily declining.

Apart from this, European unity has to be filled with life. After all, European unity is a continuing process that relies on citizens and public bodies approaching one another, a process that sometimes moves at a slow pace. Seen against this background, this coordinated audit of tax subsidies has brought in a small but valuable puzzle piece.

The coordinated audit in which all EUROSAI members might participate was therefore designed to meet the growing need for SAIs to become acquainted with each other in the course of an audit and to share their lessons learnt by it. The purpose of the audit mission was to produce best practice information and strengthen informal networks. Also, the SAIs wished to enhance cooperation with the academic community. In addition, congress participants intended to develop a sound methodology for programme results evaluation and improve the impact of tax relief schemes.

The German SAI responded to this desire when hosting the VI EUROSAI Congress. The

choice of the audit theme was governed largely by the objective of presenting to the Congress a theme of substance and importance. The choice made was the audit of tax subsidies, i.e. special arrangements in tax law which in general considerably reduce public revenue all over Europe and at the same time make tax law rather complex. The representatives of the European SAIs welcomed the proposal made by the German SAI at the Petersberg Conference Centre near Bonn on 2 June 2005. While cooperation between the members of EUROSAI is nothing new and is generally growing, the level of cooperation envisaged by this coordinated audit project still has been exceptional.

The design of the national audits was left to the individual SAIs. This permitted a parallel audit by a large number of SAIs in a rather short period of time without being detracted by questions about the scope of each SAI's responsibilities. Each SAI assigned its own audit team to look into the same field from each SAI's particular perspective, taking into account its relevant legal mandate. Experiences were shared during joint meetings and served as input into each SAI's own work. The participating SAIs will submit their final reports independently to their respective Parliament or responsible ministry.

It was agreed that each Working Group member should produce its own project report reflecting the national SAI's perspective. That means a national report, not a common report of the Working Sub-Groups. The *available* report was to *be* a survey of the national audit findings and recommendations. This overall report on the coordinated audit mission was finished by year-end 2007 submitted to the next EUROSAI Congress.

Since each SAI audited independently on its national territory, the first task addressed was to agree on a questionnaire for the survey and on the timetable. Lists of questions were drafted in joint meetings that provided the participating SAIs with a structure facilitating a comparative presentation of results in the final report. Each SAI was free to adopt this structure wholly or in part for its own audit design and schedule.

International Working Group

To develop a sound methodology for programme results evaluation and improve the impact of tax relief schemes the international Working Group met for the first time in Bonn on 10-11 November 2005 (cp. Table 1).

The delegates who attended that meeting decided to place audit focus on transparency and reporting on subsidies. Many SAIs advocated looking into the efficiency and effectiveness. Apart from that, the German SAI also wished to address the topic of fiscal policy decisions. Many members made statements as to any specific audit assignments proposed for the years 2006 and 2007. Others wished to determine the themes at a later point in time. Based on the proposed tax subsidy missions, three Working Sub-Groups were set up (cp. Section 3).

Enhancing transparency was the first priority of all Working Group members. The development and implementation as valid mechanisms for programme results evaluation and thus the demand for comprehensive and complete information about the objectives and impact of tax subsidies, their financial volume and success have become the primary goal of the activities undertaken by the international Working Group. The results generated by the

Table 1

Date	Place	Participating SAI		
10-11 November 2005	Bonn	Denmark Lithuania Slovak Republic United Kingdom	Germany Poland Sweden	Hungary Romania Switzerland
22 February 2006	Bonn	Cyprus Finland Hungary Poland Slovak Republic United Kingdom	Czech Republic France Latvia Romania Sweden	Denmark Germany Lithuania Russian Federation Switzerland
28 August 2006	Copenhagen	Denmark Germany Latvia Romania Switzerland	Finland Hungary Lithuania Slovak Republic	France Iceland Poland Sweden
16 February 2007	Warsaw	Denmark Hungary Poland Slovak Republic	Finland Latvia Romania	Germany Lithuania Russian Federation
12 September 2007	Bratislava	Denmark Germany Lithuania Slovak Republic	Finland Hungary Poland	France Latvia Romania
30-31 January 2008	Bonn	Denmark Germany Italy Netherlands Russian Federation Switzerland	Finland Hungary Latvia Poland Slovak Republic	France Iceland Lithuania Romania Sweden

coordinated audit have shown that the objectives and requirements of tax subsidies are not always specified adequately. The potential impact of tax subsidies and their potential economic and social impact and alternative options for achieving the same objectives are not adequately studied. The same applies to the impact which their implementation could have on our environment. Thus, Parliament is lacking the most important information base for its decisions. In exceptional cases only, the legal provisions by which tax subsidies are created involve a time limit for the validity of the legislation that would give Parliament a chance to decide about the subsidy on the basis of the knowledge already available about the impact of the subsidy noted so far. The actual impact of the subsidy after the coming into force of the relevant legal provision is not identified. Legislators usually do not provide for programme results evaluations although these might contribute to the mitigation of the clash of political opinions about their reduction or abolition.

Three Working Sub-Groups

A total of three Working Sub-Groups was set up, with each of which addressing one particular aspect of tax subsidy auditing.

The Working Sub-Group “Transparency and Subsidy Report” composed of the SAIs of Germany (chair), Denmark, Finland, France, Iceland, Lithuania, Poland, Romania, the Russian Federation, the Slovak Republic, and Sweden dealt with issues of transparency of tax subsidies and relevant reporting.

Two other Working Sub-Groups were set up to look into individual tax subsidies. The Working Sub-Group “Corporate Income Tax” led by the Hungarian SAI audited the efficiency and effectiveness of tax subsidies in the field of corporate income tax that are granted to small and medium-sized enterprises. In this case also a common list of questions was developed by the SAIs of Hungary, Latvia, the Russian Federation, Slovakia and Germany. Another Working Sub-Group studied the granting of a reduced VAT rate for particular deliveries or services. This Working Sub-Group encompassed the SAIs of Latvia, Lithuania, Switzerland and Germany (chair).

Questionnaires as a common base

The international Working Group agreed to develop a questionnaire – especially for the Working Sub-Group on “Transparency and Subsidy Report” – in order to facilitate later comparison of the results. An auditor that proceeded along the lines of the questionnaire produced by this Working Sub-Group was to be guided to the core issues of transparency during the life cycle of a subsidy from its introduction and implementation to reporting about the subsidy and assessing its impact.

The questionnaire was designed to be dealt with in two steps. Firstly, it was agreed to complete the questionnaire where alternative options for the responses were given. If none of the options was applicable, further details were requested. Secondly, the questionnaire drafted by the international Working Group provided a basis for designing audit work.

Furthermore, the Working Sub-Group on “Corporate Income Tax” drafted an additional detailed questionnaire for its coordinated audit on tax subsidies in the field of corporate income tax.

Starting with a Seminar on “Tax Subsidies”

To work out this questionnaire, a seminar organised by the EUROSAI Chairman was held on the subject of tax subsidies in Bonn on 21-22 February 2006.

Any interested EUROSAI members not participating in the Working Group were also invited to attend. The workshop was designed to establish a professional basis for the EUROSAI-wide coordinated audit of tax subsidies as approved by the VI EUROSAI Congress. More than 60 participants from 22 EUROSAI member countries and the European Court of Auditors discussed subsidy policies, the effectiveness and the audit of subsidies. The workshop was to provide a scientific basis for the EUROSAI-wide coordinated audit of tax subsidies.

Presenters from Cologne University’s Institute of Fiscal Studies and from OECD helped create a common knowledge base which was to serve as a sound point of departure for the success of the common project. The seminar addressed both the definition of tax subsidies and the Swiss Subsidies Act in which the most important provisions for transparency in this field have been laid down. The requirement made was proactive reporting about tax subsidies and their better integration into the budget process. In their presentation, the Netherlands SAI pointed out that, after an audit, more emphasis was placed on the

effectiveness and the results of the measures and that tax subsidies were reported in an annex to the annual budget. One representative of *Deutsche Gesellschaft für Technische Zusammenarbeit* (a technical cooperation company owned by the German Federal Government) emphasised that foreign investors' choice of location did not depend so much on tax subsidies but rather on good governance and a sound tax system. Another issue discussed was the abolition of nearly all tax subsidies implemented in New Zealand in the course of an overall tax and economic reform in the mid-80s (cp. Table 2).

Table 2

Author	Organisation	Presentation
Dr. David Nguyen-Thanh	GTZ	Tax incentives in developing and transition countries
Dr. Michael Thöne	Cologne University	Overview and insight on subsidy control for tax expenditures
Christian Valenduc	OECD	Tax expenditure reporting and effectiveness analysis
Jan H. Velthoven	Algemene Rekenkamer	Taxes as a policy instrument

Common information platform

The Working Group members kept abreast of current developments by having access to a password-protected section on the website of VI EUROSAT Congress (www.eurosai-2005.de).

That section of the website provided information about the current status of the project, minutes of the meetings and the questionnaires (checklists) submitted by the SAs, progress reports, timetable and audit information of the three Working Sub-Groups, also audit concepts (audit design outlines), audit reports and useful web links.

Audit work

Since May 2005, the SAs of Cyprus, Denmark, Germany, Finland, France, Hungary, Iceland, Italy, Latvia, Lithuania, Poland, Romania, the Russian Federation, the Slovak Republic, Sweden, Switzerland and the United Kingdom have been members of the Working Group while the Netherlands participated in the capacity of an observer.

At their meetings, the participating SAs continuously coordinated their audit work. In doing so, they agreed on common audit questions and audit focuses and informed the other participants of their latest audit findings.

The present final report about the coordinated audit on tax subsidies highlights the audit findings generated by the three Working Sub-Groups.

It is supplemented by a separate report of each Working Sub-Group that informs in greater detail about the audit findings generated by the SAs that participated in the work of the Working Sub-Groups. The national reports are incorporated in this report as annexes in the form of electronic documents.

3 Definition

3.1 Common Understanding

To prepare their audits, which also had the purpose of generating comprehensive findings about the granting of tax subsidies in the respective countries, a common understanding of the concept of “tax subsidies” had to be developed by the participating SAIs.

There is no generally acknowledged definition either nationally or internationally. As a rule, the term “subsidy” is defined in a narrower or wider sense depending on the objective pursued by applying such definition.

However, a definition was important especially for the Working Sub-Group on “Transparency and Subsidy Report”, since that Working Sub-Group’s audit approach was to be cross-cutting, covering subsidies under all types of taxes and tax systems and analysing their transparency, particularly in the form of any subsidy reports.

After the seminar and an in-depth discussion of this point the Working Group came to the conclusion that they understood tax subsidies in a broad sense covering all kind of tax expenditures. Definition of the latter is taken from Best Practice Guidelines – Off Budgets and Tax Expenditures published by OECD¹. According to this paper, a tax expenditure can be defined as a transfer of public resources that is achieved by reducing tax obligations with respect to a benchmark tax, rather than by a direct expenditure. Further, in the paper the following classification of tax subsidies is included:

- exemptions: amounts excluded from the tax base;
- allowances: amounts deducted from the benchmark to arrive at the tax base;
- credits: amounts deducted from tax liability;
- rate relief: a reduced rate of tax applied to a class of tax payers or taxable transactions;
- tax deferral: a relief that takes the form of a delay in paying tax.

The Working Group concurred that all types of tax subsidies mentioned above were to be covered by the audits of the participating SAIs.

3.2 National Input by SAIs

There is neither a generally acknowledged international definition of the term “tax subsidy”, nor is there a national legal definition in the participating countries. The SAIs therefore looked into legal provisions that were classified as tax subsidies by the respective government in their national environment. In the course of their audits, nevertheless the SAIs also addressed alternative definitions discussed in economic research nationally and internationally. In particular, they highlighted national deviations that influenced the reporting of the respective governments on the volume and importance of tax subsidies.

¹ Best Practice Guidelines – Off Budgets and Tax Expenditures, OECD, GOV/PGC/SBO(2004)6, 19-May-2004.

3.3 Relevance of Definition

Definitions of the terms “tax subsidy”, “tax privilege”, “exceptional provision of tax law” or similar terms in the respective national context differed in importance among the three Working Sub-Groups.

The two Working Sub-Groups on “Corporate Income Tax” and “VAT” looked into exceptional provisions of tax law which could be considered as tax subsidies at the national level. The Working Sub-Group on “Corporate Income Tax” concentrated on corporate income tax subsidies that are granted in the participating countries in the same or a largely similar way. Eventually, the SAIs agreed on looking into tax relief for micro-enterprises, small and medium-sized enterprises and – where relevant – into tax relief for regional development. The SAIs participating in the Working Sub-Group on “VAT” agreed to generally deal with the problems of a reduced VAT rate. In almost all countries, some types of supplies and services are subject to a reduced VAT rate differing from the general rate. The participating SAIs considered the granting of the reduced rate as a tax privilege that might have the nature of a subsidy. The individual SAIs therefore were fully free to decide what exceptional provision of tax law their audit mission was to cover.

The Working Sub-Group on Transparency and Subsidy Report dealt with tax subsidies both under the perspective of their introduction, change and administration as well as reporting. In this context the definition of the concept of tax subsidy differs in the framework of legislation and reporting.

In all countries, legislation is required to introduce, modify or abolish a tax subsidy. Such legislation must essentially meet the same national requirements as any other legislation.

The situation is different where reporting is concerned. In this field, the question as to whether a certain provision of tax law is considered as a “tax subsidy”, “tax privilege” or the like is of central importance. Where national provisions call for reporting, it is incumbent on the respective governments to define the term of tax subsidies in their respective national context. In practice, this leads to a scope for discretionary decisions by which the national governments can determine the extent and contents of reporting on tax subsidies. With transparency in mind, the audit activities of the SAIs focus on this issue.

4 Audit Missions

4.1 Background

In the course of the coordinated audit, each of the participating SAIs carried out audits of its own in its respective country. Taking into account the agreements made in the Working Sub-Groups, they decided at their own discretion about their contents, scope, methodology and implementation. Each SAI assigned its own audit team that looked into the same field from each SAI’s particular perspective, taking into account its relevant legal mandate. Lessons learnt were shared during joint meetings and served as input into each SAI’s own work. The participating SAIs will submit or already have submitted their final reports independently to their respective Parliament or responsible ministry.

4.2 Overview of audit mandates

The audit mandates of the participating SAls are governed by the respective national legislation.

Generally, SAls have a mandate to audit the revenues and expenditures of public budget. When looking into tax subsidies, which usually implies a waiver of public revenues, SAls audit or collect audit evidence at those bodies that are responsible for drafting the relevant legislation, administering the tax in question and granting the tax relief. In most cases, tax subsidies must be applied for in tax return forms. To that extent, SAls are able to audit the tax subsidies at the level of government entities.

As a rule, SAls have no special audit mandate with respect to tax subsidies.

However, the political choice between a direct subsidy and a tax subsidy at the same time affects the audit rights of SAls. As a rule, the national legislation stipulates that the appropriate use of direct subsidies may be audited, where necessary at the level of the recipient of the subsidy. In case of tax subsidies, the opposite applies. Hardly any SAI may audit tax subsidies at the level of recipients. As a consequence, SAls are not able to verify the effectiveness and efficiency of a tax subsidy by also collecting audit evidence at the level of beneficiaries. The audit on tax subsidy is therefore also limited to the government level.

4.3 Working Sub-Group 1 – “Transparency and Subsidy Report”

A total of eleven SAls of the countries Denmark, Finland, France, Germany, Iceland, Lithuania, Poland, Romania, the Russian Federation, Slovak Republic, and Sweden had agreed to deal with the transparency and report on tax subsidies under the coordinated audit.

The questionnaire adopted by the Working Group was based essentially on the Polish SAI's draft. The questionnaires and proposals for modification submitted to the Working Group by Denmark, Germany, Finland, Romania, Sweden and the Slovak Republic also included essential suggestions that were taken up.

4.3.1 Type of Survey

In the course of their audit, the participating SAls focused on the areas of legislation, law enforcement and reporting.

In all countries, tax subsidies, amounting to exceptional provisions in tax law, must be introduced by legislation. Hence, these provisions must meet the national requirements for legislation.

As a rule, the implementation of tax subsidies is incumbent on the national tax administration, which in some cases is also responsible for monitoring the impact of tax subsidies.

Not all participating countries have provisions about reporting in place. Furthermore, a distinction is drawn between reporting within the framework of the respective national budget and separate information in the form of a subsidy report.

The contents and scopes of the audit carried out by the participating SAIs were determined largely by the prevailing national situation. One common objective of the audits was to answer the question about what responsibilities the national governments have with respect to tax subsidies and how they meet these responsibilities.

Since, as a rule, national finance ministries have to prepare and lead the legislation on tax subsidies, they were in most cases the appropriate contact for the participating SAIs.

4.3.2 Findings

Adequate transparency is not guaranteed in the field of tax subsidies.

The national draft bills for tax subsidies sometimes have considerable weaknesses in comparison with the existing standards of national legislation. Thus, the qualitative and the quantitative objectives of tax subsidies are in many cases documented inadequately. The description of objectives is often worded in such general terms that it is impossible to measure target achievement by means of these descriptions. The information furnished about the costs and benefits of tax subsidies often differs largely in quality. Statements about the possibilities of evaluations, especially on the timing, contents and scope, are presented only inadequately.

This is tantamount to a lack of bases for monitoring, analysing and evaluating tax subsidies. In many cases, options for setting a time limit and/or reducing the amount of a subsidy over time are often not reported.

At the stage of granting the tax subsidies, no systematic monitoring, analysing and evaluation takes place. There is a lack of appropriate strategic concepts. In most cases no current data on costs and benefits is available. No systematic evaluation takes place, which is attributable in part to the lack of such data.

The arrangements for reporting on tax subsidies either in the budget or a separate report are inadequate. An overview about all tax subsidies is often not available. Losses of tax revenues are calculated and/or estimated incompletely. No information is given about the basis of such estimates and assumptions. The presentation submitted by the national government is in most cases too concise with respect to the objectives, the target achievement, the actual outcomes and the evaluation of tax subsidies.

4.3.3 Recommendations

On the whole, the participating SAIs considered improvements in the range from legislation to reporting on tax subsidies necessary in order to create the transparency needed both for the legislator and the general public.

Based on their audits, the participating SAIs developed the following recommendations to the national governments and/or Parliaments.

Legislation

In future, legislation must define unambiguous, clearly stated and verifiable objectives of tax

subsidies. The analyses produced by government during the legislative process should be comprehensively documented. It is suggested that time limits be imposed for the validity of tax subsidies, if applicable.

Regular evaluation

At the national level, strategies must be developed and implemented that permit systematic monitoring, analysis and evaluation of the tax subsidies. Evaluations need to be carried out regularly in order to be able to provide assurance on the effectiveness and efficiency of the tax subsidies.

Reporting

All tax subsidies are to be included in reporting. Therefore the government has to make clear what it considers to be a tax subsidy and what is excluded from its reports. Comprehensive and complete information is to be provided about the losses of tax revenue caused by the tax subsidy. On the whole, regular, up-to-date and full reporting on tax subsidies is necessary.

Since few recipients benefit from tax subsidies while these subsidies are funded from the taxes paid by all taxpayers, this burden on all taxpayers can be justified only by increased transparency that discloses the effectiveness and efficiency of the exceptional provisions of tax law.

4.4 Working Sub-Group 2 – “Corporate Income Tax”

The Working Sub-Group on corporate income tax subsidies consisted of SAIs of Germany, the Republic of Latvia, the Slovak Republic, the Russian Federation and Hungary (chair). The participants of the Working Sub-Group audited corporate income tax subsidies focusing on the efficiency and effectiveness of subsidies granted for small and medium-sized enterprises or, if subsidies like these did not exist in the respective country, for regional development. The SAI of Latvia audited the whole system of corporate income tax subsidies.

4.4.1. Findings

In all participant countries, the taxation must be based on legislation. In 4 countries, corporate income tax rules are regulated in separate laws, while in the Russian Federation the Tax Code contains these rules in the chapter ‘Corporate Income Tax’. In 3 countries (Hungary, the Republic of Latvia and the Slovak Republic), the total amounts of corporate income tax are paid to the central budget, while in Germany and the Russian Federation the amounts are divided between the central budget and the budget of German states and the constituent entities of the Russian Federation.

In 3 countries (Germany, Hungary and the Slovak Republic), all corporate income tax subsidies are regulated by the Law on Corporate Income Tax, in the Republic of Latvia and the Russian Federation some of them are regulated by other laws.

The regulation on tax subsidies granted for SMEs shows a great variation in the participating countries:

- in four countries (Germany, the Republic of Latvia, the Russian Federation, the Slovak Republic), there are no special corporate tax allowances for SMEs (in the Slovak Republic corporate income tax subsidies are granted only for the purpose of regional development)
- in Hungary a special allowance is granted for SMEs in the Corporate Tax Act.

This means that in the majority of participating countries there is no corporate income tax subsidy which can be utilized solely by SMEs. However SMEs – according to general conditions – have the right to take advantage of corporate tax subsidies.

The definition of SMEs is different in the participating countries. In member states of the European Union it is based on the recommendation of the Commission. As a result of a recommendation in 1996, the Commission established for the first time a common definition for SMEs. On 6 May 2003, the European Commission adopted a new definition for SMEs to be effective from 1st of January 2005. The Russian Federation applies different rules, where the category of medium sized enterprises exists only from the 1st of January 2008.

In all participating countries, preliminary evaluations are required in the course of the legislative procedure. This includes feasibility studies, the assessment of the expected financial, economic and social impacts of the proposed law or other type of regulation. However, in general, these requirements were not or were just partially fulfilled by the Ministries of Finance. The consequence of the lack of thorough preliminary assessment of tax subsidies is that the target achievement and therefore the effectiveness of these subsidies are not evaluated later.

The regulations concerning corporate tax subsidies have been modified during the audited period several times in all countries, but these changes had only limited effect on the entire regulations. The reason of modifications was the EU harmonisation in Hungary and the Slovak Republic.

Generally, no entire legal regulation was abolished, however, in the Republic of Latvia and the Russian Federation some clauses of laws were repealed.

The practice of defining the objectives of the corporate income tax subsidies is different in the participating countries, so it is not possible to evaluate it generally. In Germany and in the Slovak Republic, the audits found that the objectives were defined and well documented, in the Republic of Latvia and the Russian Federation the objectives of corporate income tax subsidies were not defined in the legal regulations. In Hungary the objectives were defined indirectly through the requirements (conditions) for utilizing the subsidies.

The possibility of replacing corporate tax subsidies by direct financial aids was not evaluated in any country by their financial governments. The Ministries of Finance have not prepared any comprehensive evaluation on the target achievement of the legal provisions. Therefore, it is impossible to assess if alternatives exist for better legislation to achieve the same objectives. However, it can be stated that direct financial aids have different impacts on taxpayers than tax subsidies. Replacing tax subsidies by direct financial assistance would

have additional administrative costs as accompanying effects.

In all participating countries, the utilization of tax subsidies is restricted by legal regulations in the form of different types of limitations (time, amount and others). Generally, the corporate tax subsidies can be claimed without certifying the conditions. The control of the compliance with these requirements is assured by the posterior controls of the tax authorities.

The Ministries of Finance of all the participating countries estimate the amount of the tax subsidies within the central budget, the methodology of which is at the same time different. The Ministry of Finance in the Republic of Latvia and the Slovak Republic estimates the number of taxpayers utilising tax subsidies additionally to the amount. The German Ministry of Finance prepares estimation on the amount of subsidies and the taxpayers utilising them; however it is not always based on up-to-date data, because the data from official statistics may in individual cases be founded on evidence collected five or more years ago. The Ministry of Finance in Hungary and in the Russian Federation estimates the amount of tax subsidies for the proposal of the central budget.

Generally, the data supply on corporate income tax subsidies is insufficient to compare and assess the impacts of subsidies, including subsidies for SMEs. The ratio between the total number of taxpayers and the taxpayers utilised corporate tax subsidies can not be compared according to the data of the participating countries. This ratio can neither be analysed for SMEs, too. The reason is that the data of SMEs and the total number of taxpayers utilising subsidies are available only in Hungary. There are no corporate income tax subsidies separated for SMEs in Germany, the Republic of Latvia, the Russian Federation and the Slovak Republic.

The average amount of the tax subsidies for taxpayers can not be compared according to the data from the participating countries. This ratio can neither be analysed for SMEs.

The rate of the corporate tax revenues within the total tax revenues of the central budgets in the participating countries varies between 3.1% and 26.3%. The rate of the corporate tax subsidies compared to the total tax revenues of the central budget is between 0.7% and 3.3%. The rate of the corporate tax subsidies compared to the corporate tax revenues is the lowest in the Russian Federation (2.75-3.79%), meanwhile it was the highest in 2004 in the Slovak Republic (20.23%) and in 2005 and 2006 in Hungary (28.26% and 24.09%). These rates can not be calculated for SMEs.

The Ministries of Finance of the participating countries follow up the tendency of the corporate tax subsidies in order to base the central budget proposal. The tendency of corporate tax subsidies – except the Slovak Republic – is not evaluated by the Ministries of Finance of the participating countries, this is particularly true for the evaluation of the taxpayers utilising tax subsidies.

In all the participating countries, the tax authorities developed and apply IT systems to process corporate tax returns' data and to assist tax controls by the common procedure in all local tax authorities. The systems cover all the phases of the control procedure and the stored data are reliable. The access rights and the storing of records about changes made in systems are also regulated. Some kinds of deficiencies had been revealed in three countries in connection with the application of IT systems, however these problems were solved.

In all the participating countries the IT systems of the tax authorities include risk management modules to assist controls. The number and scope of the risk factors built into these modules, as well as the quality of their applications are different because of the specialities of the countries. However, each tax authority qualifies the taxpayers based on the data of the tax returns and other fiscal information, as willingness to fulfil payments. In Germany, Hungary and in the Russian Federation the inherency of data in tax returns is taken into consideration, as well.

In the participating countries – except for the Republic of Latvia – the objectives of the corporate income tax subsidies were defined clearly and measurably.

There are regulations in all the participating countries to determine that the impacts of tax subsidies and the achievement of the objectives have to be evaluated. However, in generally, there is no sufficient monitoring of the achievement of these objectives. The Ministries of Finance of the participating countries with the exception of Germany have not built up any follow-up and assessment system. Neither have they developed any methodology for evaluating target achievements. Although in Germany such methods have been developed, most of the government departments do not use a well structured approach or generally acknowledged methodology.

The administrative costs of collecting the different types of taxes – including tax subsidies – are separated neither in the Ministry of Finance nor in tax authorities of each participating countries. Therefore, the efficiency of tax subsidies can not be estimated.

Generally, the regulations do not prescribe compulsory controls. The tax authorities' controls on corporate tax include the audit of corporate tax subsidies, as well. However the types and methods of the control mechanisms are different.

The data on the controls and their results are registered differently by the tax authorities. Therefore, there is no possibility to compare them. Information on the irregularities as results of the controls – especially on tax-related criminal offences and/or administrative offences – is provided only by the Tax Authorities of Germany, Hungary and the Slovak Republic, in latter one no irregularities were identified. In Germany, such information is not centrally registered.

4.4.2. Recommendations

The Working Sub-Group, on the basis of the findings generated by the coordinated audit developed the following recommendations.

1 Proposals on legislative procedure	documentation of the objectives of subsidies, following a systematic approach conducting both a preliminary and a concurrent regulatory impact assessment and considering alternative options, e.g. direct financial assistance
2 Design of eligibility rules for subsidies	assessment of the possibility to apply the legislation limited in time ('sunset legislation') preference for an eligibility time limit in respect of individual beneficiaries

3 Obligation to publish relevant information	losses of tax revenue caused by subsidies to be stated annually, comparing the actual to targeted amount, also in respect of other tax types and financial years administrative costs where possible beneficiaries' bureaucracy costs where possible number and structure of beneficiaries
4 Periodical results evaluations	evaluation of target achievement evaluation of effectiveness evaluation of efficiency
5 Use of IT systems	fully computerised systems with compatible data base use of risk management systems based on relevant data linking-up of available data bases setting up a register of subsidies

4.5 Working Sub-Group 3 – “Value Added Tax”

The Working Sub-Group on VAT consisted of the SAIs of Latvia, Lithuania, Switzerland and Germany (chair). The participants of the Sub-Group were tasked to look into subsidies connected with the reduced VAT rate. They met at three meetings between February 2006 and January 2008.

4.5.1 Scope of Audit

As agreed the Working Sub-Group members collected audit evidence on the reduced VAT rate in their respective countries. They deliberated on audit scope and the audit methods to be used. As a result each SAI was free to choose the tax subsidies and audit objectives it wished to cover in its national audit work.

The purpose of the audit was to find out, for example, whether individual VAT rate reductions in the member states covered were still justified or generate unintended side-effects. The audit was also designed to address the question as to who or what target group benefited from the tax rate reduction in question and whether this tax privilege was a suitable tool for supporting specified activities. Furthermore, the Working Sub-Group members were requested to compile information about the problems existing in connection with the application of reduced VAT rates, the aggregate loss of VAT revenue caused by a reduced VAT rate, the effectiveness of the subsidy and the procedures to assess the effectiveness of reduced VAT rates.

After concluding audit work, the audit findings generated were presented in national audit reports by the Working Group members.

4.5.2 Findings

One SAI carried out a detailed study on the application and implementation of the reduced VAT rate in the sectors of ‘fast food restaurants’, ‘works of art and collectors’ items’ and

‘combined articles’. The audit has confirmed in particular, that the application of the reduced VAT rates partly involves windfall profits and abusive arrangements and can be enforced only with a vast input of staff resources because of considerable difficulties of definition. Therefore it was recommended that the reduced VAT rate be abolished in these sectors.

Another SAI conducted audit to verify if control over justified application of reduced VAT rates is provided and organized and if revenue from reduced VAT rates is accounted. It also examined if forgone tax revenue, resulting from application of reduced rate, which could possibly be received if full VAT rate had been applied, was calculated and if reduced tax rate’s efficiency and benefit to the public was assessed. This SAI found that the benefit of the public from implementation of reduced VAT rates policy is not assessed.

In one country an economic study was commissioned by the SAI. Its purpose was to examine the effect of the reduced VAT rate upon prices, supply, demand etc. The results of the study illustrated the reduced VAT rate did not produce any direct effect upon product and service prices and consumers did not derive any direct benefit.

Furthermore, one SAI chose the reduced VAT rates as the subject of an evaluation, since they represented a largely untransparent form of subsidisation, and since a reform of the VAT Act was underway that aimed at simplifying the rate structure all the way towards a uniform tax rate.

4.5.3 Conclusions

As a result of national auditing and reporting, the members of the VAT sub-Working Group arrived at the following common conclusions about the effect and the effectiveness of lower VAT rates:

- The imposition of a lower VAT rate should be of direct benefit to consumers by lowering the prices for goods and services.
- The Working Sub-Group confirms that lower VAT rates are inappropriate to reduce prices for goods and services, to stimulate supply and demand or to increase the workforce in sectors with lower rates. Where some effect of lower rates can be measured, that effect could have been achieved more economically by other means.
- In some cases, it is only the trader and not the customer who benefits from lower tax rates. This enables traders to maximise profits. The tax subsidy thus has an unintended impact on business operations.
- In connection with the application of lower VAT rates, unintended misclassification and abuse exist that lead to considerable VAT revenue losses.
- Furthermore, misallocation of a tax subsidy does not only infringe the national policy on subsidies but is also likely to be a problem for Community law.
- There is a disproportionate relation between detailed regulations for rate differentiation and available resources of tax authorities to enforce them. The Working Sub-Group is concerned that the lower VAT rates are often unduly granted.

- The members of the Working Sub-Group found that VAT rate reductions for particular goods and services were often outdated and therefore not in line with the original legislative intent. Legal provisions for a regular evaluation of such subsidies are lacking.
- Monitoring of effects of subsidies such as lower VAT rates does not receive sufficient attention. Efficiency of tax concessions, their effects on consumer prices, changing consumption patterns and additional administrative costs are not regularly assessed.
- It is worthwhile for a country to examine whether the goals envisaged by its lower VAT rate(s) might be achieved better by modifying existing instruments of social, fiscal or economic policy.

4.5.4 Recommendations

The members of VAT Working Sub-Group recommend that the following options be explored:

- Monitoring and evaluation of the application and effects of lower VAT rates on a systematic basis.
- Annual publication of the actual amount of state budget revenue lost as a result of VAT concessions.
- Assessment as to whether the number of VAT concessions by reduced tax rates on specific goods and services could be decreased and alternative instruments could be chosen.

4.6 Overall Recommendations

Although the three Working Sub-Groups looked at tax subsidies from differing perspectives, they still produced similar audit findings. The Working Group has derived the following recommendations from them.

Legislation

The objectives sought by introducing tax subsidies need to be documented in a clear and well structured way. After due examination, legislation to be adopted should limit tax subsidies to a specific period of time in all adequate cases. Alternative options such as financial grants in aid should also be considered and the regulatory impact should be assessed.

Reporting

Tax subsidy reporting should include data on the tax losses incurred as a result of tax subsidies. Such reports should be issued at regular intervals, preferably on an annual basis. Further information such as data on administrative cost and actual/targeted cost is desirable. The SAls recommend preparing a full inventory of all tax subsidies accessible to everybody and based on clear national implementation of international definitions.

Evaluation

Evaluations should be carried out at regular intervals to provide assurance on the efficiency, effectiveness and target achievement of tax subsidies.

Information Technology

In addition, it is desirable to enhance relevant IT procedures for tax subsidies and to build networks with other relevant data processing systems to ensure data matching.

5 Activities by National Governments and Parliaments

5.1 Background

There is no EUROSAI regulation specifically governing a coordinated audit. The individual national audits and the handling of the audit findings were governed by the respective national provisions of each participating SAI.

5.2 National Activities

Within the framework of their procedures the participating SAIs had discussed the audit findings and recommendations with the competent national bodies – as a rule with the governments or ministries. Subsequently, most of the audit reports were made accessible to the general public. Where the reports were discussed at the level of Parliament, this took the form e.g. of hearings or discussions in the appropriate committees. During these hearings or discussions, the national SAIs had the opportunity of presenting their points of view and explaining them in detail. In isolated cases, statements were made to the effect that the SAIs' recommendations would in future be implemented. However, the audits have not yet resulted in tangible changes in legislation, tax administration and reporting.

6 Conclusions

In light of the diverging tax systems examined, the SAIs involved in the coordinated audit have still found comparable problems and shortcomings in tax subsidy schemes. A joint effort by the SAIs may open up new perspectives on a wider environment and stimulate fresh insights on the national audit findings notably if the applicable legal provisions are based on a common footing.

In addition, the SAIs also pursued soft goals such as sharing experience, expanding informal networks and enhancing communication with other external institutions. The SAIs involved in the coordinated audit have also reached those targets set. The Working Group hopes that the EUROSAI member SAIs will carry this effort forward and build on the success achieved so far in further joint activities.

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Seminar on “Tax Subsidies”
hosted by the Chairman of EUROSAI
 Bonn, 21-22 February 2006
- Workshop Results -

“Overview and Insight – On Subsidy Control for Tax Expenditures”

Dr. Michael Thöne, Public Finance Research Institute of the University of Cologne

At first, Michael Thöne stated that, by virtue of their audit findings, SAIs may be able to convince the Legislature to modify tax laws with respect to tax subsidies. However, he added that it was unrealistic to expect legislators to take the first step.

For benchmarking purposes (comparison with a tax system without any subsidies), a distinction would have to be drawn between tax privileges and subsidies. Based on a wide definition, Michael Thöne defined tax privileges as any deviation from such a tax system which leads to losses of tax revenue and aims at inciting change in the behaviour of the tax payer.

Michael Thöne went on to say that the effect of ‘sunset legislation’ was overestimated. He recommended a Subsidy Act along the lines of the Swiss model, provided that it would be generally known and therefore could not be amended without such modification being noted.

Subsequently, the participants discussed benchmarking. Especially, it was found necessary what objectives, e.g. efficiency, equity, ‘administrative convenience’, estimated tax revenue, the participants had in mind. Also, each country would have to set its own benchmark data (applicable tax system, structure of government etc.), since a multinational comparison of the benchmarks would not be possible otherwise.

An abolition of all exceptional provisions of tax law could, on the whole, lead to a significantly higher degree of equity in taxation. This was demonstrated by the example of New Zealand which abolished almost all tax privileges in the course of its tax and economic reform of the mid-1980s. The participants expressed the hope that the audit would at least lead to abolition of the oldest tax privileges.

“Subsidy report and effectiveness of tax subsidies”

Christian Valenduc, OECD

On the whole, Mr. Christain Valenduc expressed the opinion that reporting on tax subsidies was an important step towards transparency. Such reporting needed to be proactive and would have to be better integrated into the budget process. Economic experts could be called in to analyse effectiveness; however, the final decision about the advantages and disadvantages of any tax privilege had to be taken at the political level.

Subsequently, the participants raised the question, in connection with the analysis of effectiveness, as to what extent the analyses carried out could be verified by SAIs.

Another question was as to whether there already existed a common understanding about what constituted tax privileges in a given tax system. It was considered unlikely that a uniform concept of ‘subsidy’ could be developed by means of the coordinated audit. In fact, that was one of the most difficult definitions, the principle being: the broader the definition the better. Furthermore, the concept of ‘subsidy’ would have to be revised on a regular basis.

In this context, the discussion about benchmark was considered as being rather complex. The tax system on which the comparison was to be based should be designed in a way ensuring that the developing countries remained outside the benchmark. The participants considered questions of international competition as too far-reaching in this context. The reduced VAT rate was also to be left outside the scope of benchmarking, although it could be justified for basic goods. However, the participants concurred that the application of the reduced VAT rate to some products was no longer justifiable.

Nevertheless, the (subsidy) effects of international tax competition and the target achievement degree as to the redistribution of income aimed at by the reduced VAT rate would have to be evaluated independently of whether or not they were part of the benchmark.

A long-term objective could be to include tax subsidies identified in the annual budget process and to make them quantifiable. For this purpose, priorities could be set, i.e. particular tax privileges could be highlighted, e.g. those that had never been evaluated during the last ten years.

“Taxes as a policy instrument”

Jan H. Velthoven, Algemene Rekenkamer, Netherlands

In the 1990s, the Netherlands SAI conducted a nationwide audit on the theme of ‘Taxes as a policy-making tool’. The second follow-up audit was scheduled for 2007, while the first had already taken place in 2003.

‘For the audit, 28 ‘safe’ positive incentives with an aggregate volume of NLG 6.6 billion had been selected in 1998 and had been looked into under the aspects of preparation, implementation and outcome. Furthermore, the audit had ascertained the extent to which the successes of these measures were known at the ministerial level.

The Netherlands SAI had found a series of deficiencies in the extremely important preparatory stage. E.g., the reason for selecting the tool had often not been laid down in writing and had therefore not been transparent. Also, the impact to be achieved by the measure had often been described inadequately or in terms that were not measurable. Other aspects to be taken into account in the preparatory stage were:

- a concrete formulation of the objectives of the measure;
- estimating the cost of the measure including the cost of implementation and administration;
- a decision about whether the measure was to be time-limited or not and
- the verification of feasibility and compatibility with EU law.

Concerning the implementation of the individual measures, the Netherlands SAI had found that the impact on tax revenue, the costs of implementation and administration and the degree of compliance had been known by the Government to a limited extent only. Furthermore, often the ministries had only inadequate information about the results achieved by the measures, with the follow-up checks of negative tax measures being higher than those of positive tax measures.

The Netherlands SAI's recommendations had included the following demands:

- seeking a greater consensus in the definition of the terms 'positive/negative tax incentives';
- clearly describing the *ex ante* situation;
- formulating the objectives in a more measurable way;
- paying more attention to costs;
- determining the criteria for and timing of an evaluation at an early stage and
- enhancing the possibilities of programme effectiveness in order to decide about programme continuation.

On the whole, the audit of the SAI had been favourably received. Most ministries made efforts to implement the recommendations. In contrast, the Finance Ministry only intended to ensure better documentation in the preparatory phase, and, in all other respects, had responded rather critically to the SAI's report.

During the follow-up audit in 2003, the SAI found that the Finance Ministry had started to develop a checklist for tax-based tools in the fields of income tax, wage tax, VAT and excise taxes. Since 1999, it has been obligatory to state tax subsidies in an annex to the annual budget. Since 2001, the regulations on budget preparation have also applied to tax subsidies. Furthermore, greater attention has been paid to determine the losses of tax revenues as well as the effectiveness and results of the measures.

In the participants' opinion, the audit was especially successful in enhancing the transparency of tax subsidies in the Netherlands, in having induced the Ministry to start work on a checklist and thus helped to improve the Ministry's information base. Subsequently, they discussed questions surrounding the responsibility of the line ministries in the field of subsidies, set apart from the responsibilities of the Finance Ministry, and the standards of evaluations. They concurred that the only chance to exclude the imponderables were audits carried out by the SAI.

The question of including compliance costs was also discussed. Looking into compliance costs was considered as particularly difficult in the case of small and medium-sized enterprises, depending, however, on the specific regulation. Such costs were to be taken into account, although not as a central issue. Nevertheless, it was emphasised that this was not limited to costs of tax collection.

“Tax incentives in developing and emerging countries“

Dr. David Nguyen-Thanh, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)

In Dr. Nguyen-Thanh's opinion, a definition of the term 'tax subsidy' was also necessary in connection with developing and emerging countries. Above all, tax privileges were designed to make these countries attractive for foreign investors. The tax privileges were to promote development in particular regions and above all in the formal sector and to reduce unemployment.

Nevertheless, tax privileges were a controversial issue in developing and emerging countries. If tax privileges were adequately designed, they could be effective and create momentum for tax competition. On the other hand, there were negative consequences, e.g. losses in revenue (caused partly by 'windfall profits'), unequal treatment and corruption. The decisions about granting tax privileges often lacked transparency. The resulting administrative costs should not be ignored, bearing in mind the usually scarce administrative capacity in these countries.

Meanwhile, it had turned out that good governance and a sound tax system were important factors for a successful reform process. Tax privileges alone that had often been granted by decree of the Ministry of Finance, were not the decisive factor for foreign investors. Most enterprises attached greater importance to non-tax factors e.g. the political environment, infrastructure, availability of skilled workers and the degree to which rule of law and the availability of legal remedies prevailed.

Other factors important for the future were compliance and the development of an external audit function. Greater transparency would open up vast possibilities for the SAIs. Guidance and recommendations of other SAIs and a benchmarking exercise with respect to the tax administration would be helpful.

Subsequently, the participants discussed the difficulties connected with granting of tax subsidies also in industrial countries. They stated that the Ministry of Finance was often organised better than units in other ministries that had to deal with subsidies. It was considered desirable that a single unit within the remit of the Finance Ministry should be set up to deal with subsidies.

Further Readings

REFERENCES FOR THE EUROSAI – PROJECT

This reference list does not cover the entire field of tax expenditures, but focuses on recent publications that are in close relationship with the EUROSAI-project. The list can therefore serve as a starting-point for the members of the Working Group. The comments of the Swiss Federal Audit Office are mainly based on abstracts, back covers or introductions of the related books or articles.

IMPROVING TRANSPARENCY ABOUT TAX SUBSIDIES

Bojje Robert: Should Tax Expenditures be integrated into the Budget Process? In: Economic Review, 2/2002 (14 pages).

The author of this article worked as advisor on fiscal policy for the Swedish Riksbank. When tax expenditures come into widespread use, there is a risk that the purpose to the Swedish expenditure ceiling would be undermined. A complete integration of tax expenditures into the budget process would remove the incentive to circumvent the expenditure ceiling by reducing taxes instead. The article explains the functioning and purpose of the Swedish governments tax expenditure reporting and discusses various application problems that are pivotal if it should be thought desirable in the long term to integrate the tax expenditures fully in the budget process. It is important that there exists a broad political consensus in the Riksdag on the interpretation of the uniformity principle, at least if the tax expenditures are to be fully integrated into the budget process. The inventory of problems also indicates that the present tax expenditure calculations are incomplete and flawed by some technical problems. Therefore, the author concludes that at present, it is not possible to fully integrate tax expenditures into the budget process. Despite this, the current tax expenditure report is important in that it provides rough estimates of the tax benefits in the tax system and therefore identifies proposals with the object to by-passing the expenditure ceiling.

http://www.riksbank.com/upload/Dokument_riksbank/Kat_publicerat/Artiklar_PV/er02_2_artikel4.pdf

Forman Jonathan Barry: Would a Social Security Tax Expenditure Budget Make Sense?, In: Public budgeting and financial management, 1993, vol. 5, n° 2 (14 pages).

IMF: Manual on Fiscal Transparency, In: IMF – Fiscal Affair Department, Washington DC, 2001. <http://www.imf.org/external/np/fad/trans/manual/>

OECD: Best Practice Guidelines – Off Budget and Tax Expenditures, OECD, 19 May 2004 (19 pages).

The purpose of this paper is to formulate best practice guidelines to ensure that off-budget and tax expenditures do not impair the proper functioning of the budget. This paper proposes

particularly guidelines for the identification of tax expenditures, the budgetary control of tax expenditures and the estimation of tax expenditures.

[http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/\\$FILE/JT00164525.PDF](http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/$FILE/JT00164525.PDF)

OECD: Tax Expenditures. Recent Experiences, OECD, Paris, 1996 (118 pages).

This report provides a survey of tax expenditure reporting, highlighting a number of differences in practice and investigating the reasons for those differences. It provides a review of each country in a standard format: the background to and introduction of tax expenditure reporting, the structure of the report, the definition of tax expenditures, the method of calculation and the use of tax expenditure reports.

United States General Accounting Office (GAO): Tax Policy. Tax Expenditures Deserve More Scrutiny, GAO/GGD/AIMD-94-122 Tax Expenditures, June 1994 (135 pages).

GAO develops in this report three options to increase attention paid to tax expenditures and reduce their revenue losses. First, greater scrutiny could be achieved with little or no change in congressional processes and jurisdictions by strengthening or extending techniques currently used to control tax expenditures, ceilings and floors on eligibility, better highlighting of information, or setting a schedule for periodic review of some tax expenditures. The second option is for Congress to further integrate tax expenditures into the budget process. One feasible approach would be for Congress to decide whether savings in tax expenditures are desirable and, if so, to set in annual budget resolutions specific savings targets. Savings could be enforced through existing reconciliation processes. A third option is to integrate reviews of tax expenditures with functionally related outlay programs, which could make the government's overall funding effort more efficient. Such integrated reviews could be done by executive or legislative branches, or both.

<http://www.unclefed.com/GAORports/ggd94-122.pdf>

AUDITING, EVALUATING, AND/OR COMPARING SELECTED TAX SUBSIDIES

Datta Lois-Ellin & Grasso Patrick G.: Evaluating Tax Expenditures: Tools and Techniques for Assessing Outcomes: New Direction for Evaluation, n° 79, Jossey-Mass, September 1998 (150 pages).

Social justice and good governance both demand determination of whether tax expenditures are yielding the benefits anticipated in the original legislation, and if there are as good or better than policy alternatives in direct expenditures programs. The six case studies in this issue examine a variety of tax expenditures. Applying a range of evaluative, research and analytic techniques, the authors demonstrate how publicly available data and the familiar tools of evaluation can be successfully used to examine the effectiveness, results and impacts of tax expenditures.

Eade Deborah: Bad Breaks all Around: the Report of the Century Foundation Working Group on Tax Expenditures, Century Foundation Press, New York, 2002 (200 pages).

This volume offers the report of the Working Group and three background papers that informed the group's deliberation. Those papers offer analytical and factual insights about tax expenditures. Eric Toder's paper provides evidence on the growing importance of tax breaks as a policy tool in the US and discusses the problems this raises as well as circumstances under which the tax code may be a useful vehicle for providing benefits. Bernard Wasow's paper suggests that it is very hard to demonstrate, with evidence or with theory, that tax breaks have the desirable effects on behaviour that advocates take for granted. The third is the thorough review of tax breaks by Michael Ettlinger. He provides detailed information on the myriad tax breaks in the US to businesses and households as well as careful assessments of the beneficiaries of tax breaks.

Howard Christopher: The Hidden Welfare State. Tax Expenditures and Social Policy in the United States, Princeton University Press, Princeton, 1997 (272 pages).

This book focuses four selected tax expenditures with social welfare objectives in the US: deductions for home mortgage interest rate, employer-provided retirement pensions, the Earned Income Tax Credit, and the Targeted Jobs Tax Credit. In particular, the study analyzes the longterm development of these social programs that are administered through the tax code. The approach of the book is decidedly historical, as the author considers history as helpful in analyzing tax expenditures because evidence for any single year or interesting episode is often only spotty. Tax expenditures turn out to be easily enacted and to grow in times of escalating budget deficits and heightened criticism of traditional welfare programs. They are difficult to be politically influenced in relation to size and benefit distribution.

Netherlands Court of Audit: Taxes as a policy instrument (summary published March 18th, 1999, 5 pages).

The Netherlands Court of Audit drew up an inventory of fiscal incentives or disincentives that were introduced or amended between 1988 and 1998. It selected 28 fiscal incentives and looked at the preparation, implementation and results of policy. In the 1999 Budget Memorandum it was estimated that these 28 schemes represented a loss of tax and contributions of approximately NLG 6.6 billion in 1998. In the case of 6 clusters of fiscal disincentives the Netherlands Court of Audit performed an audit on ministerial awareness of policy results.

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Polackova Brix Hana, Valenduc Christian M.A. & Li Swift Zhicheng: Tax Expenditures – Shedding Light on Government Spending through the Tax System. Lessons from Developed and Transition Economies, The International Bank for Reconstruction and Development, Washington, 2004 (233 pages).

This book discusses conceptual and methodological issues relating to tax expenditures, provides a framework for evaluating them, offers case studies on government treatment of tax expenditures from developed and transition economies, and outlines generally applicable policy frameworks. It also provides individual chapters with case studies of the treatment of tax expenditures in Australia, Belgium, Canada, China, the Netherlands, Poland, and the United States. Each chapter presents how the nation defines tax expenditures and the corresponding benchmark tax system. Some chapters also examine specific topics, such as methods for estimating and evaluating tax expenditures for policy analysis, how this analysis can contribute to policy debate, and how to budget for the cost of tax expenditures. The experience of two transition economies, Poland and China, illustrate the consequences of implementing tax expenditure policies without an adequate institutional and analytical framework.

Weisbach David A. & Nussim Jacob: The Integration of Tax and Spending Programs, in: John M. Olin Program in Law & Economics Working Paper, n° 194 (2d series), University of Chicago, September 2003 (74 pages).

This paper provides a theory for deciding when a spending program should be implemented through the tax system. The decision is traditionally thought to be based on considerations of tax policy. The most common theories are the comprehensive tax base theory and the tax expenditures theory, both of which rely on tax policy to make the determination. The authors argue instead that the decision between tax and spending programs should be based solely on consideration of organizational design. After developing this theory, the paper analyses whether food stamps and the Earned Income Tax Credit should be implemented through the tax system or not, an important paper for everyone who wants to compare tax expenditures with other instruments of public policy.

<http://www.yalelawjournal.org/pdf/113-5/WeisbachFINAL.pdf>

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International Monetary Fund – Manual on Fiscal Transparency,
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- **Reduced VAT rate**

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- **International Tax Dialogue**

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Rapport

sur le

contrôle coordonné des subventions fiscales

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1 Sommaire

Le VI^e Congrès de l'EUROSAI, qui s'est tenu à Bonn du 30 mai au 2 juin 2005, avait pour thème le contrôle des recettes publiques par les Institutions Supérieures de Contrôle des finances publiques (ISC).

L'analyse des rapports nationaux, soumis par les membres de l'EUROSAI avant le Congrès, a révélé un certain nombre de cas où des flux financiers constituant, à strictement parler, des dépenses sont transférées dans les recettes budgétaires notamment sous forme de subventions fiscales. Dans certains pays, ces allègements fiscaux ont atteint des proportions considérables. Toutefois, jusqu'ici, nos connaissances de l'efficacité des subventions fiscales laissent encore à désirer. Il serait souhaitable que les ISC approfondissent leurs savoir-faire sur le volume et le degré de réalisation des objectifs fixés pour ces subventions fiscales. Un certain nombre de rapports nationaux avaient traité la portée et la complexité de la législation fiscale qui peuvent résulter en déficits fiscaux et dérogations fiscales. Pour cette raison, le Congrès a recommandé d'effectuer une mission coordonnée de contrôle des subventions fiscales ouverte à tous les membres de l'EUROSAI.

Suite au Congrès, 11 ISC ont commencé à réaliser ce projet, y compris les Pays-Bas en tant qu'observateur. Elles ont formé un groupe de travail international, dont le nombre des membres a augmenté au fil du temps pour atteindre 18 pays, à savoir : l'Allemagne, le Chypre, le Danemark, la Finlande, la France, la Hongrie, l'Islande, l'Italie, la Lettonie, la Lituanie, la Pologne, la Roumanie, la Fédération de Russie, la République Slovaque, la Suède, la Suisse, le Royaume-Uni et les Pays-Bas.

Afin d'obtenir des résultats comparables, un questionnaire a été élaboré couvrant toutes les phases d'une subvention fiscale de la législation à travers son exécution jusqu' au rapport de subvention. En même temps, ce questionnaire formait un cadre commun non-obligatoire permettant un contrôle de la transparence et du rapport quelconque de subvention.

Le projet a été lancé par un séminaire, où plus de 60 participants provenant de 22 pays membres de l'EUROSAI et la Cour des comptes européenne ont discuté des politiques de subvention, de l'efficacité et du contrôle des subventions avec des experts de l'OCDE, l'Université de Cologne, la Coopération Technique Allemande (GTZ) et l'Algemene Rekenkamer (l'ISC des Pays Bas).

À l'achèvement de son travail de contrôle, le groupe de travail a tiré la conclusion que des améliorations sont nécessaires dans les domaines de la législation, de l'évaluation et des rapports dans tous les États participants afin de créer la transparence générale considérée indispensable pour le législateur et le public.

Même dans les projets législatifs, les objectifs des subventions n'étaient pas adéquatement décrits et les informations sur les coûts et les avantages d'une subvention fiscale étaient absolument insuffisantes. Par conséquent, il n'existe pas de données fiables servant de base pour la surveillance, l'analyse et l'évaluation. Suite à l'adoption de la législation, des évaluations ne sont pas réalisées ou le sont de manière insuffisante. De plus, il n'y a pas de date d'échéance des subventions fiscales ni des dispositions visant à réduire le montant des subventions au fil du temps. Après leur introduction, les subventions fiscales ne sont souvent pas surveillées, analysées ou évaluées systématiquement. Les rapports sur les subventions

fiscales dans le cadre du processus budgétaire ou les rapports séparés sont complètement inadéquats. Le législateur budgétaire et le grand public ne sont pas informés, en grande partie, sur les objectifs des subventions fiscales et s'ils ont été atteints, sur les effets financiers, économiques et environnementaux, ainsi que sur les résultats des évaluations.

Trois sous-groupes de travail ont été créés pour étudier des subventions fiscales spécifiques. À la recherche de sujets comparables, le sous-groupe de l'impôt sur le revenu des sociétés est convenu de contrôler les allègements fiscaux pour des micro-entreprises, petites et moyennes entreprises qui existent dans tous les pays membres de ce sous-groupe et, le cas échéant, les allègements fiscaux pour le développement régional. Un questionnaire a été rédigé sur lequel les ISC participantes ont basé leurs plans des contrôles.

Les participants de ce sous-groupe ont examiné l'efficacité et l'efficacité des allègements fiscaux octroyés aux petites et moyennes entreprises dans le domaine de l'impôt sur le revenu des sociétés. Dans tous les pays participants, les allègements doivent être fondés sur la législation pertinente. Dans la majorité des pays participants, il n'existe pas de subvention fiscale dans le domaine du revenu des sociétés qui peut être exclusivement utilisée par les PME. Les ISC participantes ont examiné particulièrement le processus législatif, la surveillance et l'emploi des systèmes informatiques. Dans tous les pays participants, des évaluations préliminaires sont à réaliser pendant le processus législatif. Toutefois, ces obligations ne sont pas ou seulement partiellement respectées par le ministère des Finances. Dans la pratique, les procédures mises en place pour définir les objectifs des subventions fiscales aux sociétés sont différentes dans les pays et la possibilité de remplacer les subventions fiscales aux sociétés par des aides directes n'a pas été évaluée par les ministères des Finances nationaux. En règle générale, les données fournies sur les subventions fiscales aux sociétés sont insuffisantes pour comparer et évaluer les impacts des subventions.

Dans la plupart des pays participants les objectifs des subventions fiscales aux sociétés sont définis d'une façon claire et mesurable et ils existent des règlements imposant une évaluation de l'impact des subventions fiscales et de leur performance. Mais en général, la surveillance de la performance est insuffisante. En outre, les règlements ne prévoient pas d'inspections obligatoires. Dans tous les pays participants, les autorités fiscales ont développé et appliqué des systèmes informatiques pour traiter les données des déclarations fiscales et pour assister l'inspection fiscale selon des procédures communes dans toutes les autorités fiscales locales.

Ce sous-groupe de travail a présenté cinq groupes de recommandations. Il recommande d'effectuer une analyse préalable ou concomitante de l'impact des lois et de considérer des alternatives; de concevoir les critères d'octroi, publier l'information pertinente et évaluer régulièrement les résultats obtenus. Les systèmes informatiques devraient être utilisés plus souvent, par exemple pour établir un registre des subventions fiscales et des réseaux d'échange avec d'autres banques de données disponibles.

Le sous-groupe de travail sur la TVA s'est penché sur le taux réduit de TVA. Les membres du sous-groupe ont obtenu des informations probantes relatives au taux réduit de TVA dans leur pays respectif. Ils ont, par exemple, examiné si les taux réduits de TVA dans les pays membres sont toujours justifiés ou s'ils ont provoqué des effets secondaires non désirés. En

outre, il était prévu que les membres du sous-groupe recueillaient des informations liées aux problèmes résultant de l'application des taux réduits, le montant total des pertes de recettes TVA découlant du taux réduit, l'efficacité des taux réduits et les procédures mises en place pour l'évaluer.

À la suite des contrôles et des rapports nationaux, les membres du sous-groupe sur la TVA ont développé des conclusions conjointes relatives à l'impact et l'efficacité des taux réduits de TVA. Un taux réduit de TVA, par exemple, devrait privilégier les consommateurs par une réduction des prix des biens et services. En plus, il existe une relation disproportionnée entre, d'une part, les dispositions détaillées qui servent à différencier les taux et, d'autre part, les ressources disponibles aux autorités fiscales pour les appliquer.

Pour cette raison, les membres du sous-groupe sur la TVA recommandent que l'application et les effets des taux réduits de TVA soient systématiquement surveillés et évalués et qu'un rapport annuel soit publié sur les pertes fiscales découlant du taux réduit de TVA. Il est également nécessaire de considérer la possibilité de réduire le nombre des taux réduits d'imposition pour certains biens et services et de chercher des instruments alternatifs.

Dans l'ensemble, tandis que les trois sous-groupes de travail ont examiné les subventions fiscales sous des points de vue différents, les résultats obtenus étaient comparables. Le groupe de travail en a tiré des conclusions communes. Les projets de loi devraient décrire clairement et d'une façon bien structurée les objectifs poursuivis par les subventions fiscales. Les rapports de subventions devraient chiffrer les pertes fiscales découlant des subventions fiscales. Ces rapports devraient être publiés à des intervalles réguliers, préférablement annuellement. Il convient d'effectuer des évaluations à titre régulier pour assurer l'efficacité, l'efficacité et la réalisation des objectifs des subventions fiscales. Dans le cadre de leurs procédures de contrôle, les ISC participantes ont éclairé les autorités nationales compétentes sur les résultats et les conclusions formulées, c'est-à-dire, généralement, les gouvernements ou les ministères. Puis, la plupart des rapports de contrôle ont été rendus accessibles au grand public.

Malgré la diversité des systèmes fiscaux faisant l'objet du contrôle, les problèmes et déficiences constatés par les ISC étaient comparables. En outre, les ISC ont poursuivi des objectifs secondaires, comme par exemple l'échange d'expériences, le renforcement de réseaux informels et l'amélioration de la communication externe.

2 Introduction

Actuellement, l'Europe ne cesse pas de changer et ce processus est encore accéléré par d'importantes initiatives géopolitiques telles que le processus d'élargissement de l'UE et la mondialisation. Ce développement a des répercussions sur les Institutions Supérieures de Contrôle des finances publiques (ISC) qui, dans ce domaine économique caractérisé par une diminution des frontières, font face à des défis similaires.

En plus, il faut vitaliser l'unité européenne. Après tout, l'unité européenne est un processus continu qui dépend du rapprochement entre citoyens et autorités publiques et qui progresse parfois lentement. Dans ce contexte, le contrôle coordonné des subventions fiscales est une petite, mais importante pièce clé pour compléter l'ensemble.

Le contrôle coordonné ouvert à tous les membres de l'EUROSAI est donc né du besoin croissant des ISC de mieux se faire connaître et de partager les expériences faites lors du contrôle. La mission de contrôle visait à développer des informations sur les meilleures pratiques et l'expansion des réseaux informels. Les ISC envisageaient également à améliorer la coopération avec les institutions académiques. En outre, les ISC souhaitaient développer une méthodologie cohérente ayant pour but l'évaluation des résultats des programmes et l'amélioration de l'impact des allègements fiscaux.

L'ISC allemande a répondu à ce besoin dans le cadre de son VI^e Congrès de l'EUROSAI. Le critère déterminant pour le choix du sujet était le but de présenter au Congrès un sujet essentiel et important. Les participants ont opté pour le contrôle coordonné des subventions fiscales, c'est-à-dire les dispositions fiscales dérogatoires qui, en règle générale, réduisent considérablement les recettes publiques dans toute l'Europe et qui, en même temps, contribuent à rendre plus complexe la législation fiscale. Les représentants des ISC européennes ont accordé leur appui à la proposition présentée par l'ISC allemande dans le centre de conférence à Petersberg, près de Bonn, le 2 juin 2005. Tandis que la coopération entre les membres de l'EUROSAI ne constitue pas de nouveauté, le niveau de collaboration prévu dans ce projet de contrôle coordonné était exceptionnel.

Chaque ISC était responsable de planifier ses propres contrôles nationaux. Un contrôle parallèle pouvait donc être réalisé auquel un grand nombre d'ISC participaient dans une période plutôt courte et soumises aux limites fixées par le cadre de leurs mandats de contrôle respectifs. Chaque ISC a désigné sa propre équipe de contrôle chargée de contrôler le même sujet sous le point de vue particulier de l'ISC, tout en tenant compte du cadre légal en vigueur. Dans les réunions conjointes, les expériences ont été échangées enrichissant l'activité de chaque ISC. Les ISC participantes ont indépendamment soumis les principaux constats au Parlement respectif ou au ministère responsable.

Les membres du groupe de travail étaient convenus que chaque ISC produisait son propre rapport du projet reflétant la perspective de l'ISC nationale. Cela signifie qu'il s'agissait de rapports nationaux et non pas de rapports conjoints des sous-groupes de travail. Le rapport *disponible* est une analyse des résultats de contrôle et des recommandations qui en résultent. Ce rapport général sur le contrôle coordonné a été achevé fin 2007 et soumis au prochain Congrès de l'EUROSAI.

Etant donné que chaque ISC a effectué ses contrôles indépendamment dans le territoire national respectif, la première tâche était de se rendre d'accord sur un questionnaire de contrôle et un calendrier. Lors des réunions conjointes, des questionnaires ont été rédigés pour fournir aux ISC participantes une structure facilitant la présentation des résultats dans le rapport final sous forme comparable. Chaque ISC était libre d'adopter cette structure entièrement ou partiellement lors de la planification et la programmation du contrôle.

Groupe de travail international

Afin de développer une méthodologie cohérente pour évaluer les résultats de programmes et améliorer l'impact des allègements fiscaux, le groupe de travail international s'est réuni pour la première fois à Bonn les 10 et 11 novembre 2005 (voir tableau 1).

Les délégués participant à cette réunion ont décidé de mettre l'accent du contrôle sur la transparence et les rapports de subvention. Plusieurs ISC ont également favorisé le contrôle de l'efficacité et l'efficacité. En plus, l'ISC allemande a manifesté son désir d'aborder la question des décisions de politique fiscale. Un grand nombre d'ISC se sont prononcées pour des missions de contrôle spécifiques prévues pour 2006 et 2007. Les autres souhaitaient déterminer les sujets plus tard. Sur la base des contrôles prévus, trois sous-groupes de travail ont été formés (voir section 3).

Tableau 1

Date	Place	ISC participantes		
10 à 11 novembre 2005	Bonn	Danemark Lituanie République Slovaque Royaume-Uni	Allemagne Pologne Suède	Hongrie Roumanie Suisse
22 février 2006	Bonn	Chypre Finlande Hongrie Pologne République Slovaque Royaume-Uni	République Tchèque France Lettonie Roumanie Suède	Denmark Allemagne Lituanie Fédération de Russie Suisse
28 août 2006	Copenhague	Danemark Allemagne Lettonie Roumanie Suisse	Finlande Hongrie Lituanie République Slovaque	France Islande Pologne Suède
16 février 2007	Varsovie	Danemark Hongrie Pologne République Slovaque	Finlande Lettonie Roumanie	Allemagne Lituanie Fédération de Russie
12 février 2007	Bratislava	Danemark Allemagne Lituanie République Slovaque	Finlande Hongrie Pologne	France Lettonie Roumanie
30 à 31 janvier 2008	Bonn	Danemark Allemagne Italie Pays-Bas Fédération de Russie Suisse	Finlande Hongrie Lettonie Pologne République Slovaque	France Islande Lituanie Roumanie Suède

L'augmentation de la transparence était la première priorité de tous les membres du groupe de travail. L'objectif principal du groupe de travail international était le développement et l'application de mécanismes fiables pour évaluer les programmes et, ainsi, obtenir des informations exhaustives et complètes sur les objectifs et les répercussions des subventions fiscales, leur volume financier et le succès remporté. Les résultats obtenus lors du contrôle coordonné ont illustrés que les objectifs et les exigences pour l'octroi des subventions fiscales ne sont pas toujours définis de façon adéquate. Ni l'impact économique et social potentiel des subventions fiscales ni les mesures alternatives pour atteindre les mêmes objectifs ont été étudiés de façon adéquate. Il en va de même pour l'impact environnemental des subventions fiscales. Le Parlement ne dispose donc pas d'informations-clés pour adopter des décisions bien fondées. Ce n'est que dans des cas exceptionnels, que les dispositions juridiques ayant pour but l'introduction des subventions fiscales impliquent l'échéance de leur validité, ce qui permet au Parlement d'adopter sa décision sur la base des

informations disponibles relatives à l'impact actuel des subventions. Après l'entrée en vigueur de la disposition juridique pertinente, l'impact réel d'une subvention n'est pas identifié. Généralement, la législation ne prévoit pas l'évaluation des résultats des programmes, même si cela pourrait contribuer à apaiser les désaccords politiques concernant leur réduction ou abolition.

Trois sous-groupes de travail

Trois sous-groupes de travail ont été créés, chacun couvrant un aspect particulier du contrôle des subventions fiscales.

Le sous-groupe de travail « Transparence et rapport de subvention », composé des ISC de l'Allemagne (présidence), du Danemark, de la Finlande, la France, l'Islande, la Lituanie, la Pologne, la Roumanie, la Fédération de Russie, la République Slovaque et la Suède, s'est attaché à la transparence des subventions fiscales et aux rapports de subvention y afférents.

Les autres deux sous-groupes de travail ont été constitués pour examiner des subventions fiscales individuelles. Le sous-groupe « Impôt sur le revenu des sociétés » présidé par l'ISC hongroise a contrôlé l'efficacité et l'efficacité des subventions fiscales dans le domaine de l'impôt sur le revenu des sociétés octroyées aux petites et moyennes entreprises. Les membres de ce sous-groupe, les ISC de la Hongrie, la Lettonie, la Fédération de Russie, la République Slovaque et l'Allemagne ont également élaboré un questionnaire conjoint. Le troisième sous-groupe a étudié l'octroi du taux réduit de TVA pour des biens et services particuliers. Ce sous-groupe était composé des ISC de la Lettonie, la Lituanie, la Suisse et l'Allemagne (présidence).

Questionnaires comme point de départ

Les membres du groupe de travail international sont convenus de développer un questionnaire spécial pour le sous-groupe de travail « Transparence et rapport de subvention » afin de faciliter la comparaison des résultats obtenus. Un auditeur procédant selon les lignes directrices de ce questionnaire était capable de vérifier les questions clés de la transparence pendant le cycle de vie d'une subvention fiscale, depuis son introduction et application jusqu'à la présentation des rapports et l'évaluation de son impact.

Le questionnaire a été conçu pour être traité en deux phases. Dans une première phase, les participants sont convenus de répondre aux questions en indiquant des options alternatives. Si les options disponibles n'étaient pas applicables, il fallait indiquer des détails supplémentaires.

Dans une seconde phase, le questionnaire a représenté une base pour planifier les activités de contrôle.

En outre, le sous-groupe de travail « Impôt sur le revenu des sociétés » a élaboré un questionnaire supplémentaire détaillé pour le contrôle coordonné dans ce domaine.

Le séminaire sur « Les subventions fiscales »

Afin d'élaborer le questionnaire, un séminaire sur le thème des subventions fiscales, organisé par le Président de l'EUROSAI, s'est tenu à Bonn les 21 et 22 février 2006.

Les membres de l'EUROSAI qui ne participaient pas au groupe de travail étaient également invités à assister au séminaire. Le séminaire visait à établir une base professionnelle pour le contrôle coordonné des subventions fiscales conformément à la décision adoptée par le VI^e Congrès de l'EUROSAI. Plus de 60 participants provenant de 22 pays membres de l'EUROSAI et la Cour des comptes européenne ont discuté des politiques de subvention, leur efficacité et le contrôle. Le but du séminaire était la création d'une base scientifique pour le contrôle coordonné dans les pays de l'EUROSAI.

Les experts de l'Institut des Études fiscales de l'Université de Cologne et de l'OCDE ont aidé à créer une base de connaissances communes qui servait de point de départ pour rendre ce projet un succès. Dans le séminaire, les participants ont analysé non seulement la définition de la notion « *subvention fiscale* » mais aussi le Code fiscal suisse qui a établi les dispositions-clés au sujet de la transparence dans ce domaine. Ils ont demandé que le pouvoir exécutif informe tous ceux qui sont concernés de façon proactive sur les subventions fiscales et que les subventions soient mieux intégrées dans le processus budgétaire. Dans sa présentation, l'ISC néerlandaise a indiqué que, en tant que résultat du contrôle, l'efficacité et les résultats des mesures revêtaient plus d'importance et que, sous forme d'annexe au budget annuel, des informations portant sur les subventions fiscales sont émises. Un représentant de *Deutsche Gesellschaft für Technische Zusammenarbeit* (la Coopération Technique Allemande) a souligné que la décision sur le choix des investisseurs de s'installer dans un pays déterminé ne dépendait pas de subventions fiscales mais plutôt de la bonne gouvernance et de la solidité du système fiscal. Un autre sujet discuté était l'abolition de presque toutes les subventions fiscales en Nouvelle-Zélande, qui s'est produite dans le cadre d'une réforme fiscale et économique générale vers le milieu des années 80 (voir tableau 2).

Tableau 2

Auteur	Organisation	Présentation
Dr. David Nguyen-Thanh	GTZ	Incitations fiscales dans les pays en développement et en transition
Dr. Michael Thöne	Université de Cologne	Le contrôle des subventions en tant que dépenses fiscales
Christian Valenduc	OCDE	Rapport de subvention et subventions fiscales
Jan H. Velthoven	Algemene Rekenkamer	Les impôts en tant qu'instrument politique

Plate-forme d'information commune

Les membres du groupe de travail se sont tenus au courant en utilisant l'accès à une section protégée par mot de passe sur le site Internet du VI^e Congrès de l'EUROSAI (www.eurosai-2005.de).

Le site Internet a éclairé les membres sur l'état actuel du projet, les procès-verbaux des réunions et les questionnaires soumis par les ISC, ainsi que les rapports de progrès, le calendrier et les informations sur les activités de contrôle menées par les sous-groupes, les plans de contrôle et les liens Internet utiles.

Activités de contrôle

Depuis mai 2005, les ISC de l'Allemagne, du Chypre, du Danemark, de la Finlande, la France, la Hongrie, l'Islande, l'Italie, la Lettonie, la Lituanie, la Pologne, la Roumanie, la Fédération de Russie, la République Slovaque, la Suède, la Suisse et du Royaume-Uni ont été membres du groupe de travail tandis que les Pays-Bas y participaient en tant qu'observateur.

Lors des réunions, les ISC participantes ont coordonné leurs activités de contrôle. Elles se sont mises d'accord sur les questions et l'approche du contrôle et elles ont révélés les résultats les plus récents aux autres participants.

Ce rapport final sur le contrôle coordonné des subventions fiscales comprend les résultats développés par les trois sous-groupes.

Il est complété par un rapport séparé, rédigé par chaque sous-groupe et qui contient les résultats de contrôle détaillés de chaque ISC participante. Les rapports nationaux sont joints à ce rapport sous forme de documents électroniques.

3 Définition

3.1 Protocole d'accord

Afin de préparer leurs missions de contrôle, qui visaient également à obtenir des résultats généraux relatifs à l'octroi des subventions fiscales dans les pays respectifs, les ISC participantes ont développé un accord commun sur la notion de « subventions fiscales ».

Ni à l'échelle nationale, ni à l'échelle internationale il n'existe une définition généralement acceptée. En général, le terme « subvention » est défini au sens large ou strict, selon l'objectif poursuivi.

Pourtant, établir une définition uniforme était particulièrement important pour le sous-groupe « Transparence et rapport de subvention », car il a appliqué une approche horizontale qui couvrait les subventions liées à tous les types d'impôts et impliquait l'analyse de leur transparence, particulièrement celle des rapports de subvention.

Après le séminaire et la discussion approfondie, le groupe de travail a tiré la conclusion d'utiliser une définition vaste de subventions fiscales couvrant tous les types de dépenses fiscales. Les participants ont adopté la définition des « Directrices sur les meilleures pratiques – dépenses hors budget et dépenses fiscales » publiées par l'OCDE¹. Selon ce document, une dépense fiscale peut être définie comme un transfert de ressources

¹ Lignes directrices sur les meilleures pratiques – dépenses hors budget et dépenses fiscales, OCDE, GOV/PGC/SBO (2004)6, 19 mai 2004.

publiques qui est réalisé en réduisant des obligations fiscales par rapport à un système fiscal de référence, plutôt qu'en procédant à des dépenses directes. Le document inclut la classification des subventions fiscales suivante :

- exonérations : montants exclus de la base d'imposition ;
- déductions : montants déduits du revenu de référence pour obtenir le montant imposable ;
- crédits : montants déduits de l'impôt dû ;
- réduction de taux : taux d'imposition réduit appliqué à une catégorie de contribuables ou de transactions imposables ;
- report d'impôt : allègement sous forme de délai de paiement de l'impôt.

Le groupe de travail est convenu que les contrôles à réaliser par les ISC devraient couvrir tous les types de subventions fiscales mentionnés ci-dessus.

3.2 Rapports des missions nationales

Il n'existe ni une définition internationale généralement acceptée du terme « subvention fiscale » ni une définition nationale légale dans les pays participants. Pour cette raison, les ISC ont examiné les dispositions légales classifiées comme subventions fiscales par les gouvernements nationaux. Au cours des contrôles, les ISC ont pourtant appliqué des définitions alternatives qui ont été discutées à l'échelle nationale et internationale dans les sciences économiques. En particulier, elles ont mis en relief des variantes nationales ayant influé les rapports rendus par les gouvernements nationaux en ce qui concerne le volume et l'importance des subventions fiscales.

3.3 Pertinence de la définition

Les définitions des termes « subvention fiscale », « allègement fiscal », « régime fiscal dérogatoire » ou de notions comparables utilisées dans le contexte national revêtent une importance différente parmi les trois sous-groupes de travail.

Les deux sous-groupes « Impôt sur le revenu des sociétés » et « Taxe sur la valeur ajoutée » ont examiné les régimes fiscaux dérogatoires qui peuvent être considérés, au niveau national, comme subvention fiscale. Le sous-groupe « Impôt sur le revenu des sociétés » a mis l'accent sur les subventions liées à l'impôt sur le revenu des sociétés concédées dans les pays participants de façon plus ou moins pareille. Les ISC se sont mises d'accord d'examiner les allègements fiscaux accordés aux micro-entreprises, petites et moyennes entreprises et, le cas échéant, les allègements fiscaux pour le développement régional. Les ISC du sous-groupe sur la TVA se sont consacrées aux problèmes liés au taux réduit de TVA. Dans la quasi-majorité des pays, certains biens et services ne sont pas assujettis au taux de TVA général, mais à un taux réduit. Les ISC participantes ont considéré l'octroi des taux réduits comme privilège fiscal qui pouvait avoir les caractéristiques d'une subvention. Les ISC individuelles pouvaient choisir indépendamment les régimes fiscaux à contrôler.

Le sous-groupe « Transparence et rapport de subvention » s'est attaché aux subventions fiscales sous l'aspect de l'introduction, modification et gestion, en observant également la publication des rapports correspondants. Dans le contexte de la législation et des rapports, la définition de « subvention fiscale » est divergente.

Dans tous les pays, l'introduction, la modification ou l'abolition d'une subvention fiscale requiert un acte législatif. Cette loi doit satisfaire aux mêmes exigences que toutes les autres lois nationales.

La situation est différente lorsqu'il s'agit de la rédaction des rapports. Dans ce domaine, la question de savoir si une disposition fiscale est considérée comme « subvention fiscale », un « avantage fiscal » etc. est d'importance centrale. Lorsque les dispositions nationales prévoient la présentation de rapports de subvention, il incombe au gouvernement de définir les « subventions fiscales » dans le contexte national respectif. Dans la pratique, cela crée un cadre discrétionnaire de décision dans lequel les gouvernements peuvent déterminer l'étendue et le contenu des rapports sur les subventions fiscales. Tenant compte de la transparence, les activités de contrôle des ISC mettent l'accent sur cette question.

4 Missions de contrôle

4.1 Contexte

Dans le contexte du contrôle coordonné, chacune des ISC participantes a effectué ses propres missions de contrôle dans son pays respectif. Compte tenu des accords adoptés par les sous-groupes de travail, chaque ISC a décidé librement du contenu, de l'envergure, de la méthodologie et de la réalisation des activités de contrôle. Chaque ISC a désigné sa propre équipe de contrôle chargée de contrôler le même sujet sous le point de vue particulier de l'ISC, tout en tenant compte du mandat respectif de l'ISC. Dans les réunions conjointes, les expériences ont été échangées enrichissant l'activité de chaque ISC. Les ISC participantes ont indépendamment soumis les principaux constats au Parlement respectif ou au ministère responsable.

4.2 Aperçu des mandats de contrôle

Les mandats de contrôle des ISC participantes sont régis par la législation nationale respective.

En règle générale, les mandats permettent aux ISC de contrôler les recettes et les dépenses publiques. Dans le cas de subventions fiscales, qui généralement impliquent une perte de recettes publiques, les ISC contrôlent les autorités qui sont responsables pour l'élaboration de la législation pertinente, la gestion de l'impôt et l'octroi de l'allégement fiscal. Dans la plupart des cas, les subventions fiscales sont sollicitées par le biais des formulaires de déclaration fiscale. Les ISC sont autorisées à contrôler les subventions fiscales à l'échelle des organismes publics.

Dans la majorité des cas, les ISC ne sont pas dotées d'un mandat de contrôle spécial par rapport aux subventions fiscales.

Toutefois, le choix politique entre une subvention directe et une subvention fiscale a des conséquences pour le mandat de contrôle des ISC. En règle générale, selon la législation nationale, l'emploi approprié des subventions directes peut être contrôlé, lorsqu'il est jugé nécessaire, au niveau des bénéficiaires d'une subvention. Dans le cas des subventions fiscales, c'est l'inverse. Presque aucune ISC n'a le droit de vérifier l'efficacité et l'efficacité d'une subvention fiscale en effectuant des enquêtes sur place auprès des bénéficiaires. Le contrôle sur les subventions fiscales est donc toujours limité au niveau des organismes publics.

4.3 Sous-groupe de travail 1 - « Transparence et rapport de subvention »

Les 11 ISC de l'Allemagne, du Danemark, de la Finlande, la France, l'Islande, la Lituanie, la Pologne, la Roumanie, la Fédération de Russie, la République Slovaque et la Suède se sont mises d'accord pour examiner la transparence et le rapport de subventions fiscales dans le cadre du contrôle coordonné.

Le questionnaire adopté par le groupe de travail s'appuie essentiellement sur le projet soumis par l'ISC polonaise. Les questionnaires et propositions de modification soumis au groupe de travail par l'Allemagne, le Danemark, la Finlande, la Roumanie, la Suède et la République Slovaque, qui ont fourni également des suggestions essentielles, ont été pris en considération.

4.3.1 Type d'enquête

Lors de leurs contrôles, les ISC participantes ont mis l'accent sur les domaines de la législation, l'application des lois et la publication des rapports.

Dans tous les pays, l'introduction des subventions fiscales, c'est-à-dire des régimes fiscaux dérogatoires, requièrent une loi. Pour cette raison, ces dispositions doivent satisfaire aux mêmes exigences que les autres lois nationales.

Normalement, l'exécution des subventions fiscales incombe à l'administration fiscale nationale, qui, le cas échéant, est également responsable de la surveillance de l'impact des subventions fiscales.

Quant aux rapports, il n'existe pas de dispositions en vigueur dans tous les pays. En outre, une distinction est faite entre les rapports présentés dans le cadre du budget public et les rapports séparés sous forme de rapports de subvention.

Le contenu et l'étendue des contrôles réalisés par les ISC ont été largement déterminés par les caractéristiques nationales. Un objectif commun des contrôles était d'examiner la question de la responsabilité des gouvernements nationaux face aux subventions fiscales et la façon dont ils assument cette responsabilité.

Puisque, en règle générale, les ministères des Finances nationaux préparent et dirigent les activités législatives portant sur les subventions fiscales, ils ont constitué, dans la plupart de cas, l'organisme de liaison approprié pour les ISC participantes.

4.3.2 Résultats

Dans le domaine des subventions fiscales, une transparence adéquate n'est pas assurée.

Quelques projets de loi nationaux sur les subventions fiscales ont révélé des faiblesses considérables par rapport à la législation nationale en vigueur. Fréquemment, les objectifs qualitatifs et quantitatifs des subventions fiscales sont documentés de façon inadéquate. Comme ils ne sont souvent décrits qu'en termes généraux, il est donc impossible de mesurer la réalisation des objectifs. La qualité des informations sur les coûts et bénéfices des subventions fiscales varie énormément. Les déclarations sur les possibilités d'évaluation, particulièrement par rapport au calendrier, au contenu et aux objectifs sont également présentées de façon inadéquate.

L'absence d'une base qui permet la surveillance, l'analyse et l'évaluation des subventions fiscales est évidente. Dans plusieurs cas, les informations sur la possibilité de fixer un délai ou réduire le montant de la subvention au fil du temps font défaut.

Dans la phase de l'octroi des subventions fiscales, la surveillance, l'analyse et l'évaluation ont été non-existantes. Des programmes stratégiques appropriés font également défaut. Dans la majorité des cas, des données actuelles sur les coûts et avantages n'étaient pas disponibles. Aucune évaluation systématique n'a été réalisée, dû, en partie, à l'absence de données pertinentes.

Les dispositions relatives aux rapports présentés sur les subventions fiscales, soit dans le budget soit dans un rapport séparé sont inadéquates. Fréquemment, une synthèse de toutes les subventions fiscales n'est pas disponible. Les pertes fiscales ont été calculées et/ou projetées de manière incomplète. Les informations sur la base des prévisions ne sont pas fournies. En outre, les informations soumises par le gouvernement national sont, dans la plupart des cas, trop concises par rapport aux objectifs poursuivis, leur réalisation, les résultats réels et l'évaluation des subventions fiscales.

4.3.3 Recommandations

En résumé, les ISC participantes considèrent une amélioration de la législation et des rapports indispensable pour créer la transparence générale considérée nécessaire à la fois pour le législateur et le grand public.

En vertu des contrôles effectués, les ISC participantes ont formulé les recommandations suivantes à l'adresse des gouvernements et/ou parlements nationaux.

Législation

Désormais, la législation devra définir, par rapport aux subventions fiscales, des objectifs précis, clairement définis et vérifiables. Les analyses réalisées par le gouvernement pendant le processus législatif devraient être documentées de manière complète. Les ISC recommandent de fixer éventuellement un délai y relatif.

Évaluations régulières

À l'échelon national, il faut développer et appliquer des stratégies permettant de surveiller, analyser et évaluer de façon systématique les subventions fiscales. Afin de contrôler l'efficacité et l'efficience des subventions fiscales, il est recommandable que les évaluations pertinentes soient effectuées régulièrement.

Rapports

Les rapports devraient couvrir toutes les subventions fiscales. Pour cette raison, les gouvernements devraient clarifier ce qu'ils considèrent comme subvention fiscale et ce que sera exclu des rapports. Il est nécessaire que l'information fournie sur les pertes fiscales à cause des subventions soit exhaustive et complète. En résumé, il est indispensable que l'information soit actuelle, complète et régulièrement présentée.

Puisque le nombre de bénéficiaires est faible et compte tenu du fait que les fonds publics nécessaires pour financer ces subventions proviennent de la totalité des contribuables, la charge supportée par les citoyens ne peut être considérée comme justifiée que si les organismes compétents augmentent la transparence relative à l'efficacité et l'efficience des régimes fiscaux dérogatoires.

4.4 Sous-groupe de travail 2 - « Impôt sur le revenu des sociétés »

Le sous-groupe de travail « Impôt sur le revenu des sociétés » s'est composé des ISC de l'Allemagne, la Fédération de Russie, la Hongrie (présidence), la Lettonie et la République Slovaque. Les participants de ce sous-groupe ont examiné l'efficience et l'efficacité des subventions fiscales dans le domaine de l'impôt sur le revenu des sociétés octroyées aux petites et moyennes entreprises et, lorsque ces subventions n'existaient pas dans le pays respectif, les allègements fiscaux pour le développement régional. L'ISC de la Lettonie a examiné l'intégralité du système des subventions fiscales dans le domaine de l'impôt sur le revenu des sociétés.

4.4.1 Résultats de contrôle

Dans tous les pays participants, les impôts doivent être fondés sur la législation. Dans quatre pays, l'impôt sur le revenu des sociétés est régi par des lois spécifiques, tandis que le Code fiscal de la Fédération de Russie prévoit les dispositions pertinentes dans le chapitre « l'impôt sur le revenu des sociétés ».

Dans trois pays (la Hongrie, la Lettonie et la République Slovaque) les recettes provenant de l'impôt sur le revenu des sociétés reviennent au budget central, tandis qu'en Allemagne et dans la Fédération de Russie ce montant est divisé entre le budget central et le budget des États fédérés et les constituantes de la Fédération de Russie. Dans trois pays (Allemagne, Hongrie et République Slovaque) la Loi sur l'impôt sur le revenu des sociétés règle toutes les subventions concédées dans ce domaine. Dans la Lettonie et la Fédération de Russie, certaines subventions sont régies par d'autres lois.

Les dispositions régissant l'octroi des subventions fiscales aux PME montrent une grande diversité dans les pays participants :

- dans quatre pays (Allemagne, Lettonie, Fédération de Russie et République Slovaque), des déductions spéciales dans le domaine de l'impôt sur le revenu des sociétés n'existent pas (dans la République Slovaque, ces subventions ne sont concédées que pour le développement régional) ;
- en Hongrie une déduction spéciale est concédée aux PME selon la Loi sur l'impôt sur le revenu des sociétés.

Cela signifie que dans la majorité des pays participants il n'existe pas de subvention fiscale dans le domaine du revenu des sociétés qui peut être exclusivement utilisée par les PME. Pourtant, les PME ont le droit, selon les conditions générales, de recourir à des subventions fiscales aux sociétés.

La définition des PME varie dans les pays participants. Dans les États membres de l'UE, elle est fondée sur la recommandation de la Commission. À la suite de la recommandation formulée en 1996, la Commission a établi la première définition commune des PME. Le 6 Mai 2003 elle a adopté la nouvelle définition, elle est entrée en vigueur le 1er janvier 2005. Dans la Fédération de Russie d'autres règlements sont appliqués selon lesquels la catégorie des moyennes entreprises existe depuis le 1er janvier 2008.

Dans tous les pays participants, des évaluations préliminaires sont à réaliser pendant le processus législatif. Cela comprend des études de faisabilité, l'évaluation des impacts économiques et sociaux de la loi proposée ou d'autres types de dispositions prévues. Toutefois, ces obligations ne sont pas ou seulement partiellement respectées par le ministère des Finances. À défaut d'une évaluation approfondie préliminaire, la performance et donc l'efficacité des subventions ne sont pas estimées *à posteriori*.

Pendant la période de contrôle, les règlements concernant les subventions fiscales aux sociétés ont été modifiés à plusieurs reprises dans tous les pays. Ces modifications ont, néanmoins, un effet limité sur l'intégralité des règlements. La raison en était l'harmonisation européenne en Hongrie et la République Slovaque.

Aucun règlement n'a été complètement aboli, dans la République Slovaque et la Fédération de Russie quelques dispositions ont été abrogées.

Dans la pratique, les procédures mises en place pour définir les objectifs des subventions fiscales aux sociétés sont différentes dans les pays. Il n'est donc pas possible d'effectuer une évaluation générale. En Allemagne et dans la République Slovaque, les auditeurs ont constaté que les objectifs sont bien définis et documentés, en Lettonie et dans la Fédération de Russie, les objectifs des subventions fiscales aux sociétés ne sont pas définis dans les lois respectives, tandis qu'en Hongrie, ils sont définis de façon indirecte par les exigences de leur utilisation.

La possibilité de remplacer les subventions fiscales aux sociétés par des aides directes n'a pas été évaluée par les ministères des Finances nationaux. En outre, ils n'ont réalisé pas d'évaluation exhaustive de la performance des dispositions légales. Pour cette raison, il est impossible de savoir si les mêmes objectifs peuvent être atteints par une meilleure loi.

Néanmoins, il est évident que l'impact produit par les aides financières directes sur les contribuables se distingue de celui exercé par les subventions fiscales. Le remplacement des subventions fiscales par les aides directes engendrait, en tant qu'effet secondaire, des surcoûts administratifs.

Dans tous les pays participants, des limites différentes sont établies par les dispositions statutaires en ce qui concerne l'utilisation des subventions fiscales (par exemple échéance, plafond). Habituellement, les subventions fiscales aux sociétés peuvent être demandées sans certifier le respect des conditions. Le contrôle de la conformité avec les dispositions légales est assuré par les inspections postérieures des autorités fiscales.

Les ministères des Finances de tous les pays participants estiment le montant des subventions fiscales dans le cadre du budget central en appliquant des méthodes différentes. En Lettonie et la République Slovaque, les ministères des Finances n'estiment pas seulement le montant total, mais le nombre de contribuables qui ont recours aux subventions fiscales. Le ministère des Finances allemand estime le montant des subventions et des contribuables bénéficiaires. Toutefois, cette estimation n'est pas toujours basée sur des données actuelles, puisque les renseignements des statistiques officielles s'appuient, dans certains cas, sur des preuves apportées il y a cinq ans ou plus. Auparavant, afin d'élaborer le budget central, les ministères des Finances de Hongrie et de la Fédération de Russie estiment le montant des subventions fiscales.

En règle générale, les données fournies sur les subventions aux sociétés sont insuffisantes pour comparer et évaluer leur impact, y compris celui des subventions destinées aux PME. La proportion entre le nombre total de contribuables et ceux qui bénéficient de subventions fiscales aux sociétés ne peut pas être comparée sur la base des données présentées par les pays participants. Une analyse du ratio dans le cas des PME n'est possible non plus, parce que les données relatives aux PME et aux contribuables bénéficiaires des subventions ne sont disponibles qu'en Hongrie. Il n'existe pas de subvention particulière pour les PME dans l'Allemagne, Lettonie, Fédération de Russie et dans la République Slovaque.

Le montant moyen des subventions fiscales aux contribuables ne peut pas être comparé sur la base des données fournies par les pays participants. Ce ratio ne peut non plus être analysé pour les PME.

Le taux des recettes provenant de l'impôt sur le revenu des sociétés dans le budget central des pays participants varie entre 3,1 % et 26,3 %. Le taux des subventions fiscales aux sociétés par rapport aux recettes fiscales totales du budget central s'élève à un niveau entre 0,7 % et 3,3 %. Le ratio des subventions fiscales aux sociétés par rapport aux recettes publiques provenant de l'impôt aux revenus des sociétés est le plus faible dans la Fédération de Russie (2,75 - 3,79 %), tandis que la République Slovaque a enregistré le plus haut en 2004 (20,23 %) et la Hongrie en 2005 et 2006 (28,26 % et 24,09 %). Ce ratio ne peut pas être calculé pour les PME.

Les ministères des Finances des pays participants surveillent l'évolution des subventions fiscales aux sociétés afin d'obtenir la base pour le projet de la loi de finances. Sauf dans la République Slovaque, l'évolution des subventions fiscales aux sociétés n'est pas évaluée par les ministères des Finances. Cela vaut particulièrement pour l'évaluation des contribuables bénéficiaires des subventions fiscales.

Dans tous les pays participants, les autorités fiscales ont développé et appliqué des systèmes informatiques pour traiter les données des déclarations fiscales et pour assister l'inspection fiscale selon des procédures communes dans toutes les autorités fiscales locales. Les systèmes couvrent toutes les étapes de la procédure d'inspection et les données conservées sont fiables. Les droits d'accès et la mémorisation de données relatives aux modifications de la procédure sont également soumis à des règlements. Dans trois pays, les ISC ont révélé des faiblesses dans l'application des systèmes informatiques. Cependant, ces problèmes ont été éliminés.

Dans tous les pays participants, les systèmes informatiques des autorités fiscales sont dotés de modules de gestion des risques en guise d'appui aux inspecteurs fiscaux. À cause de particularités nationales, le nombre et l'étendue des facteurs de risque pris en compte par ces modules et la qualité des applications varient. Néanmoins, chaque autorité fiscale classe les contribuables en se servant des données fournies dans la déclaration fiscale et d'autres informations pertinentes, comme par exemple la moralité fiscale. En Allemagne, Hongrie et la Fédération de Russie, la cohérence des données fiscales est également prise en compte.

Dans les pays participants, sauf en Lettonie, les objectifs des subventions fiscales aux sociétés sont définis d'une façon claire et mesurable.

Dans tous les pays participants, ils existent des règlements imposant une évaluation de l'impact des subventions fiscales et de leur performance. Dans tous les pays participants, ils existent des règlements imposant une évaluation de l'impact des subventions fiscales et de leur performance. Mais en général, la surveillance de la performance est insuffisante. Sauf en Allemagne, les ministères des Finances n'ont pas établi de procédures de suivi et d'évaluation. Une méthodologie pour évaluer la performance n'a été développée non plus. Bien qu'en Allemagne ces méthodes aient été développées, la plupart des ministères ne recourent pas à une approche bien structurée ou à une méthodologie généralement reconnue.

Les coûts administratifs du recouvrement des différents types d'impôts, y comprises les subventions fiscales, ne sont enregistrés de façon séparée, ni par le ministère des Finances ni par les autorités fiscales des pays participants. L'efficacité des subventions fiscales ne peut donc pas être estimée.

Dans la majorité des cas, les règlements ne prévoient pas d'inspections obligatoires. Les inspections fiscales concernant l'impôt sur le revenu des sociétés incluent également le contrôle des subventions fiscales aux sociétés. Néanmoins, les types et méthodes de contrôle varient.

Lors de l'enregistrement des données et résultats des inspections fiscales, les autorités fiscales procèdent de façon différente. Une comparaison n'est donc pas possible. Des informations relatives aux irrégularités détectées par les inspections, particulièrement en ce qui concerne les infractions fiscales pénales et/ou administratives, ne sont fournies que par les autorités fiscales d'Allemagne, Hongrie et de la République Slovaque. Cette dernière n'a pourtant identifié pas d'irrégularité. En Allemagne, ces informations ne sont pas enregistrées de manière centrale.

4.4.2 Recommandations

Le sous-groupe de travail a développé, sur la base des résultats générés par le contrôle coordonné, les recommandations suivantes :

1 Propositions sur la procédure législative	documenter systématiquement les objectifs des subventions effectuer une analyse préalable ou concomitante de l'impact des lois et considérer des alternatives, comme par exemple l'aide financier directe
2 Conception de critères d'octroi	évaluer la possibilité d'appliquer une législation temporaire l'octroi temporaire aux contribuables bénéficiaires individuels
3 Obligation de publier l'information pertinente	indiquer chaque année les pertes fiscales découlant des subventions concédées, en comparant les coûts réels avec les coûts prévus et en considérant aussi d'autres impôts et exercices budgétaires coûts administratifs, dans la mesure du possible coûts bureaucratiques des bénéficiaires, dans la mesure du possible nombre et structure des bénéficiaires
4 Evaluations périodiques des résultats obtenus	évaluer la performance évaluer l'efficacité évaluer l'efficience
5 Emploi de systèmes informatiques	appliquer des systèmes complètement informatisés avec des banques de données compatibles employer des systèmes de gestion des risques basés sur des données fiables établir des réseaux d'échange établir un registre des subventions

4.5 Sous-groupe de travail 3 - « Taxe sur la valeur ajoutée »

Le sous-groupe de travail sur la TVA s'est composé des ISC de la Lettonie, la Lituanie, la Suisse et l'Allemagne (présidence). Les membres du sous-groupe avaient la tâche d'analyser les subventions liées au taux réduit de TVA. Entre février 2006 et janvier 2008, le sous-groupe a tenu trois réunions.

4.5.1 Etendue des activités de contrôle

Comme convenu, les membres du sous-groupe de travail ont mené des enquêtes sur le taux réduit de TVA dans leur pays respectif. Ils ont discuté l'étendue des activités de contrôle et les procédures de contrôle à appliquer. Chaque ISC pouvait choisir librement les subventions fiscales à contrôler et les objectifs de contrôle.

Le contrôle visait à vérifier, par exemple, si les réductions individuelles du taux de TVA dans les pays membres étaient toujours justifiées ou s'ils provoquaient des effets secondaires non désirés. Le contrôle a été également conçu pour examiner à quels bénéficiaires ou quel

groupe cible sont accordés des réductions du taux et si cet avantage fiscal était un instrument approprié pour appuyer des activités spécifiques. En outre, les membres du sous-groupe ont recueilli des informations sur les problèmes liés à l'application des taux réduits de TVA, le montant total des pertes de recettes TVA suite à un taux réduit, l'efficacité de la subvention et les procédures d'évaluation de l'efficacité des taux réduits de TVA.

À l'achèvement du travail de contrôle, les résultats de contrôle obtenus ont été présentés dans les rapports nationaux rédigés par les membres du sous-groupe.

4.5.2 Résultats de contrôle

Une ISC a effectué une étude détaillée sur l'application et l'exécution du taux réduit de TVA dans les secteurs « restauration rapide », « œuvre d'art et objets de collection » et « articles combinés ». Le contrôle a illustré que l'application du taux réduit de TVA produit des effets d'aubaine et des procédures abusives découlant des difficultés considérables de définition, ce que ne peut être évité que par une augmentation des ressources humaines. Pour cette raison, une abolition du taux réduit est recommandée dans ces secteurs.

Une autre ISC a examiné s'il existe un contrôle de l'application justifiée des taux réduits de TVA, si ce contrôle est bien organisé et si les recettes provenant du taux réduits de TVA sont comptabilisées. L'ISC a également contrôlé si les pertes fiscales suites à l'application d'un taux d'imposition réduit (les recettes que l'État aurait pu recevoir s'il avait appliqué le taux général) ont été calculées et si l'efficacité et l'utilité du taux réduit de TVA pour le public général ont été évaluées. Selon les constatations faites par l'ISC, l'utilité sociale de l'application des taux réduits de TVA n'a pas été évaluée.

Une ISC a commandé la réalisation d'une étude économique. L'étude avait pour but d'examiner l'impact du taux réduit de TVA sur les prix, l'offre, la demande, etc. Les résultats de l'étude ont montré que le TVA réduit n'a produit pas d'impact direct sur les prix des produits et services et que les consommateurs n'en bénéficient pas directement.

Une autre ISC a procédé à une évaluation des taux réduits de TVA, lorsqu'ils représentent une forme de subvention peu transparente, étant donné qu'une réforme de la loi sur la TVA était en train d'être réalisée qui visait à simplifier le barème de l'impôt et, en fin de compte, à établir un taux d'imposition uniforme.

4.5.3 Conclusions

Sur la base des contrôles effectués et des rapports nationaux y afférents, les membres du sous-groupe de travail sur la TVA ont déduit les suivantes conclusions conjointes portant sur les effets et l'efficacité des taux réduits de TVA:

- Par le biais de la réduction des prix des biens et des services, les consommateurs devraient profiter directement de l'imposition d'un taux réduit de TVA.
- Le sous-groupe confirme que les taux réduits de TVA constituent une mesure inappropriée pour réduire les prix des biens et services, stimuler l'offre et la demande ou renforcer l'emploi dans les secteurs auxquels les taux réduits sont appliqués. Lorsqu'il

était possible de mesurer un impact des taux réduits, le même effet pourrait être obtenu de façon plus efficace par d'autres mesures.

- Dans certains cas, c'est exclusivement l'entrepreneur et non les clients qui profitent des taux réduits d'imposition. Ceux-là peuvent donc maximiser leurs profits. Par conséquent, les subventions fiscales ont un impact non désiré sur les activités commerciales.
- En relation avec l'application des taux réduits de TVA, les ISC ont constaté des cas de fausse classification réalisée involontairement et d'abus qui ont entraîné la perte considérable de recettes TVA.
- En plus, la mauvaise allocation d'une subvention fiscale ne contrevient pas seulement à la politique nationale de subvention mais elle peut également représenter un problème du point de vue du droit européen.
- Il existe une relation disproportionnée entre, d'une part, les dispositions détaillées qui servent à différencier les taux et, d'autre part, les ressources disponibles aux autorités fiscales pour les appliquer. Il est inquiétant que les taux réduits de TVA soient souvent indûment octroyés.
- Les membres du sous-groupe ont constaté que dans le cas de biens et services particuliers, les réductions du taux de TVA sont souvent dépassées, et donc plus conforme à l'intention législative originale. Les dispositions juridiques prévoyant l'évaluation régulière de ces subventions font défaut.
- Les autorités responsables ne prêtent pas une attention suffisante à la surveillance des effets des subventions, telles que les taux réduits de TVA. Elles n'évaluent pas régulièrement l'efficacité des avantages fiscaux, leurs effets sur les prix à la consommation, les habitudes changeantes de consommation et les surcoûts administratifs.
- En général, il est recommandable que les pays examinent si les objectifs envisagés par les taux de TVA réduits peuvent être atteints plus efficacement en modifiant les instruments disponibles de politique sociale, fiscale et économique.

4.5.4 Recommandations

Les membres du sous-groupe sur la TVA préconisent explorer les options suivantes :

- Surveiller et évaluer systématiquement l'application et l'impact des taux réduits de TVA.
- Publier annuellement le montant réel des pertes budgétaires attribuables aux avantages fiscaux en matière de TVA.
- Évaluer si les avantages fiscaux sous forme de taux réduits pour certains biens et services peuvent être réduits ou remplacés par des dispositifs alternatifs.

4.6 Recommandations générales

Bien que les trois sous-groupes de travail aient contrôlé les subventions fiscales sous différents points de vue, les résultats obtenus étaient similaires. Le groupe de travail en a tiré les recommandations suivantes :

Législation

Les objectifs visés par l'introduction des subventions fiscales doivent être documentés d'une manière claire et bien structurée. Après un examen détaillé, la législation à adopter devrait établir, dans tous les cas considérés adéquats, un délai de validité des subventions fiscales. Il est également recommandable que des mesures alternatives soient prises en considération, comme par exemple l'octroi de subventions financières. En plus, l'impact réglementaire devrait être évalué.

Rapports

Les rapports sur les subventions fiscales devraient inclure des données indiquant les recettes fiscales perdues. Il est recommandable que ces rapports soient régulièrement publiés, préférentiellement chaque année, et que les autorités responsables fournissent de l'information concernant les coûts administratifs y relatifs et les coûts réels/prévus. Les ISC préconisent dresser un registre complet de toutes les subventions fiscales. Ce registre devrait être rendu disponible au grand public et se baser sur une version nationale bien claire des définitions internationales en vigueur.

Évaluation

Les évaluations, visant à assurer l'efficacité, l'efficacé et l'accomplissement des objectifs des subventions fiscales, doivent également être réalisées à intervalles réguliers.

Technologies de l'information

Selon le groupe de travail, il convient d'améliorer les procédures informatiques liées aux subventions fiscales et d'établir des réseaux avec d'autres systèmes de traitement de données afin d'harmoniser les données pertinentes.

5 Activités des gouvernements et parlements nationaux

5.1 Contexte

Il n'existe pas de guide de l'EUROSAI régissant la réalisation d'un contrôle coordonné. Les contrôles nationaux individuels et le traitement des résultats de contrôle sont soumis aux dispositions nationales respectives de chaque ISC participante.

5.2 Activités nationales

Dans le cadre de leurs procédures de contrôle, les ISC participantes ont éclairé les autorités nationales compétentes sur les résultats et les conclusions formulées, c'est-à-dire, généralement, les gouvernements ou les ministères. Puis, la plupart des rapports de contrôle ont été rendus accessibles au grand public. Quand les rapports ont été délibérés au niveau parlementaire, des réunions ou des débats ont été tenus au sein des commissions

compétentes. Lors de ces réunions ou débats, les ISC nationaux avaient l'occasion de faire connaître ses avis et de les expliquer en détail. Dans des cas isolés, les autorités responsables ont déclaré que les préconisations formulées seraient suivies d'effet. Cependant, les contrôles n'ont pas entraîné, jusqu'au moment, des changements concrets dans la législation, la gestion des subventions et la présentation ou diffusion des rapports.

6 Conclusions

Malgré la diversité des systèmes fiscaux examinés, les ISC participant au contrôle coordonné ont pu révéler des problèmes et insuffisances comparables dans le domaine des régimes de subvention fiscale. La collaboration des ISC peut ouvrir de nouvelles perspectives plus globales et donner de nouvelles impulsions aux résultats de contrôle nationaux, notamment si les dispositions juridiques ont été élaborées sur la même base conceptuelle.

En outre, les ISC ont poursuivi des objectifs secondaires, comme par exemple l'échange d'expériences, le renforcement de réseaux informels et l'amélioration de la communication externe. Ces objectifs ont été également atteints par les ISC participant au contrôle coordonné. Le groupe de travail espère que les ISC membres de l'EUROSAI poursuivront leur effort en matière de ce projet et réaliseront de nouvelles activités conjointes afin de consolider les succès remportés jusqu'à présent.

Liste des membres et d'autres personnes impliquées

(par ordre alphabétique)

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Séminaire sur « Les subventions fiscales »

organisé par le Président de l'EUROSAI

Bonn, les 21 et 22 février 2006

- Résultats de l'atelier -

« Contrôle de subventions en tant que dépenses fiscales »

Dr. Michael Thöne, Institut des Études de finances publiques de l'Université de Cologne

D'abord, Michael Thöne a affirmé que, si les ISC se basaient sur leurs résultats de contrôle, elles seraient capables de convaincre le législateur de modifier la législation fiscale relative aux subventions fiscales. Cependant, il serait irréaliste de penser que les législateurs feraient le premier pas.

Afin d'effectuer une analyse comparative (avec un système fiscal sans subventions) il était nécessaire de distinguer entre avantages fiscaux et subventions fiscales. En appliquant une interprétation large des termes, Michael Thöne a défini les avantages fiscaux comme dérogation fiscale qui pourrait engendrer la perte fiscale et motiver un changement dans le comportement des contribuables.

Selon Michael Thöne, l'impact de la législation à durée de vie temporaire était surestimé. Il a recommandé d'établir une loi de subvention selon le modèle suisse et d'assurer la connaissance générale de cette loi pour éviter des modifications en catimini.

Après, les participants ont débattu de l'analyse comparative. Ils ont considéré comme nécessaire que les responsables clarifient les objectifs, comme par exemple l'efficacité, l'équité, la convenance administrative et les recettes fiscales estimées qui servaient de base. En outre, chaque État devrait en premier lieu fixer ses propres critères de comparaison (système fiscal de référence, structure de l'État), sinon, une comparaison des *benchmarks* à l'échelle internationale ne serait pas possible.

L'abolition de toutes les dispositions dérogatoires de la législation fiscale pourrait, dans l'ensemble, augmenter considérablement le degré d'équité fiscale. Thöne a exposé que l'expérience en Nouvelle-Zélande pouvait servir d'exemple : l'abolition de presque toutes les subventions fiscales avait réalisée dans le cadre d'une réforme fiscale et économique générale vers le milieu des années 80. Les participants ont exprimé l'espoir que le contrôle contribuerait au moins à éliminer les avantages fiscaux les plus anciens.

« Rapport de subvention et efficacité des subventions fiscales »

Christian Valenduc, OCDE

Christian Valenduc a considéré que la publication de rapports portant sur les subventions fiscales constituait un pas important vers la transparence. Les rapports devraient être proactifs et leur intégration dans la procédure budgétaire devrait être améliorée. Les experts économiques pourraient être chargés d'analyser l'efficacité. Pourtant, la décision finale sur

les bénéfices et les inconvénients de chaque avantage fiscal incombait aux décideurs politiques.

Ultérieurement, les participants se sont posés la question, liée à l'analyse de l'efficacité, de savoir dans quelle mesure cette analyse pourrait être vérifiée par les ISC.

Une autre question était de savoir s'il existait déjà un accord commun sur la définition d'un avantage fiscal dans un système fiscal. Il était peu probable de développer une notion uniforme de « subvention » dans le cadre du contrôle coordonné. Il s'agissait effectivement, selon Valenduc, d'une des définitions les plus difficiles. En règle générale, plus la définition était vaste, mieux. En plus, la notion de « subvention » devrait être régulièrement révisée.

Dans ce contexte, la discussion sur l'analyse comparative était, selon Valenduc, plutôt complexe. Le système fiscal de référence devrait être conçu de telle façon que les pays en développement ne seraient pas inclus dans le *benchmark*. Les participants ont considéré que les questions relatives à la compétition internationale dépassaient les limites de la discussion. Le taux réduit de TVA ne devrait non plus être inclus dans l'analyse comparative, même s'il pouvait être justifié pour les biens fondamentaux. Cependant, les participants partageaient l'opinion que l'application du taux réduit de TVA à certains produits n'était plus justifiable.

Néanmoins, il était recommandable de procéder à une évaluation des effets (subventionnels) de la compétition fiscale internationale et du degré d'accomplissement des objectifs poursuivis avec le taux réduit de TVA dans le domaine de la redistribution des revenus, indépendamment du fait si ces deux facteurs étaient inclus au *benchmark* ou non.

Un objectif à long terme pouvait être d'intégrer dans le processus budgétaire annuel les subventions fiscales qui pouvaient être identifiées, et de les quantifier. En même temps, il serait possible de fixer des priorités, en soulignant par exemple les avantages fiscaux qui, au cours de la décade passée, n'avaient pas été soumis à une évaluation.

« Les impôts en tant qu'instruments politiques »

Jan H. Velthoven, Algemene Rekenkamer, Pays-Bas

Dans les années 1990, l'ISC néerlandaise a contrôlé les « Impôts comme instruments politiques ». Le deuxième contrôle de suivi a été prévu pour 2007, le premier avait été mis en oeuvre en 2003.

En 1998, 28 incitations fiscales « fiables » ont été choisies, s'élevant à un montant total de 6,6 milliards de NLG. L'ISC néerlandaise a examiné l'élaboration, l'application et les résultats obtenus par ces incitations. En outre, elle a observé jusqu'à quel degré les ministères connaissaient le succès des mesures réalisées.

L'ISC a détecté une série d'insuffisances dans l'étape de l'élaboration, considérée d'importance particulière. Par exemple, les objectifs n'avaient pas été fixés sous forme écrite et n'étaient donc pas transparents. En outre, la description de l'impact prévu par les mesures était inappropriée ou se caractérisait par des termes non quantifiables. D'autres aspects à prendre en considération lors de l'élaboration étaient :

- formulation concrète des objectifs poursuivis par la mesure ;
- évaluation des coûts de la mesure, y inclus les coûts de son application et gestion ;
- décision s'il s'agissait d'une mesure temporaire ou pas, et
- vérification de la faisabilité et la compatibilité avec le droit communautaire.

En ce qui concernait la mise en œuvre de mesures individuelles, l'ISC néerlandaise a révélé que les informations disponibles au gouvernement par rapport aux effets produits sur les recettes fiscales, les coûts d'application et de gestion ainsi qu'au degré d'accomplissement des objectifs étaient limitées. En outre, les ministères ne disposaient pas d'informations suffisantes portant sur les résultats obtenus par les mesures. S'agissant de mesures fiscales négatives, le nombre de contrôles de suivi était plus élevé que dans le cas des mesures fiscales positives.

Dans ses recommandations, l'ISC néerlandaise a exigé par exemple :

- qu'un large consensus soit établi sur la définition des termes « mesures fiscales positives/négatives » ;
- que la situation *ex-ante* soit clairement décrite ;
- que les objectifs formulés soient plus facilement mesurables ;
- que l'attention prêtée aux coûts soit augmentée ;
- que les critères et le calendrier de l'évaluation soient déterminés d'une manière précoce et
- que les possibilités soient améliorées pour évaluer l'efficacité d'une mesure, afin de pouvoir décider de la poursuivre ou non.

En général, le contrôle de l'ISC a été bien accueilli. La plupart des ministères ont déployé des efforts afin que les préconisations formulées soient suivies d'effet. Cependant, le ministère des Finances s'est seulement borné à assurer l'amélioration de la documentation dans la phase de l'élaboration et, par rapport au reste, il a critiqué le rapport communiqué par l'ISC.

Pendant le contrôle de suivi effectué en 2003, l'ISC s'est assurés si le ministère des Finances a commencé à élaborer un questionnaire sur les instruments fiscaux dans les domaines de l'impôt sur le revenu, l'impôt sur les salaires, la TVA et les droits d'accises. Depuis 1999, il était obligatoire de présenter les subventions fiscales dans un document annexé au budget annuel. Depuis 2001, les règlements régissant l'établissement du budget s'appliquaient également aux subventions fiscales. En outre, l'attention prêtée à la détermination de la perte fiscale ainsi qu'à l'efficacité et à la performance des mesures a augmentée.

Selon les participants, le principal succès du contrôle était d'avoir augmenté la transparence des subventions fiscales dans les Pays-Bas, contribué à l'élaboration du questionnaire par le ministère des Finances et donc à l'amélioration des informations disponibles au ministère. Puis, les participants ont discuté les questions liées à la responsabilité des ministères de tutelle dans le domaine des subventions, par contraste avec les responsabilités qui

incombent au ministère des Finances. En plus, ils ont traité les critères d'évaluation. Ils ont partagé l'opinion que la seule façon d'exclure tous les risques imprévisibles était la réalisation de contrôles par les ISC.

Ils ont également traité la question liée aux coûts engendrés par l'observation des règlements fiscaux. Le contrôle de cette observation était particulièrement difficile lorsqu'il s'agissait de petites et moyennes entreprises. Le degré de difficulté dépendait pourtant des règlements spécifiques en vigueur. Selon les participants, ces coûts d'observation, même s'ils ne revêtaient pas une importance centrale, devraient être pris en considération. Cependant, ils ont souligné que cette question n'était pas limitée aux coûts afférents au recouvrement des impôts.

« Mesures fiscales dans les pays en développement et émergents »

Dr. David Nguyen-Thanh, Coopération Technique Allemande (GTZ)

Dans l'opinion du Dr. Nguyen-Thanh, une définition du terme « subvention fiscale » était également nécessaire pour les pays en développement et émergents. Les avantages fiscaux ont été surtout conçus pour augmenter l'attractivité du pays auprès des investisseurs étrangers. Les avantages fiscaux visaient au développement de régions particulières, surtout dans le secteur formel, et à la réduction du chômage.

Néanmoins, les avantages fiscaux sont controversés dans les pays en développement et émergents. Si les avantages fiscaux étaient conçus de façon appropriée, ils pourraient, selon Dr. Nguyen-Thanh, être efficaces et stimuler la compétition fiscale. D'un autre côté, ils entraînaient des conséquences négatives, comme par exemple la perte de recettes (provoquée par des effets d'aubaine), les traitements inégaux et la corruption. Les décisions portant sur l'octroi des avantages fiscaux étaient souvent peu transparentes. Les coûts administratifs ne devraient pas être ignorés, dû à la pénurie de ressources administratives disponibles dans ces pays.

Selon le Dr. Nguyen-Thanh, la bonne gouvernance et un système fiscal solide étaient des facteurs importants pour qu'une réforme soit fructueuse. Les avantages fiscaux seuls, concédés en général au titre d'un décret adopté par le ministère des Finances, n'ont pas représenté un facteur décisif pour les investisseurs étrangers. La plupart des entreprises ont accordé plus d'importance aux facteurs non fiscaux tels que l'environnement politique, l'infrastructure, la disponibilité de main-d'œuvre qualifiée, le degré de légalité et la protection juridique.

D'autres facteurs jugés importants pour l'avenir étaient la conduite et le développement du contrôle externe. L'augmentation de la transparence ouvrirait de larges possibilités aux ISC. Les dispositions régissant l'activité des autres ISC, leurs recommandations de contrôle et la réalisation d'analyses comparatives dans le domaine de la gestion fiscale seraient d'utilité.

Finalement, les participants ont discuté des difficultés liées à l'octroi des subventions fiscales dans les pays industriels. Ils ont exposé que le ministère des Finances était souvent mieux organisé que les unités chargées des subventions aux seins d'autres ministères. Il serait recommandable de créer une unité unique au sein du ministère des Finances pour se charger des subventions.

Littérature supplémentaire

RÉFÉRENCES POUR LE PROJET DE L'EUROSAI

Cette liste de références ne couvre pas toute la gamme des dépenses fiscales, elle contient plutôt les publications les plus récentes, étroitement liées aux activités menées dans le cadre du projet de l'EUROSAI. La liste peut donc servir de point de départ pour les membres du groupe de travail. Les commentaires formulés par le Bureau de Contrôle fédéral des finances suisse sont principalement basés sur les résumés, les couvertures ou les introductions de livres ou articles pertinents.

AMÉLIORER LA TRANSPARENCE DES SUBVENTIONS FISCALES

Bojie Robert: Should Tax Expenditures be integrated into the Budget Process? (Est-il recommandable d'intégrer les dépenses fiscales dans le processus budgétaire ?), dans : Economic Review, 2/2002 (14 pages).

L'auteur de cet article a travaillé comme conseiller pour la Swedish Riksbank. Selon l'article, l'octroi généreux de subventions fiscales entraîne le risque de non respect du plafond des dépenses en vigueur en Suède. Une intégration complète des dépenses fiscales dans le processus budgétaire éliminerait la motivation d'éviter le plafond de dépenses par la réduction d'impôts. L'article explique le fonctionnement et l'objectif des rapports sur les dépenses fiscales rédigés par le gouvernement suédois et expose les problèmes pratiques susceptibles de surgir si, dans l'avenir, toutes les dépenses fiscales seraient complètement intégrées dans les processus budgétaire. Si les dépenses fiscales étaient complètement intégrées, il serait important qu'il existe un large consensus dans le Parlement par rapport à l'interprétation du principe de l'uniformité du budget. Les problèmes décrits par l'auteur indiquent également que le calcul des dépenses fiscales effectué actuellement n'est pas complet et qu'il est caractérisé par des problèmes techniques. Pour cette raison, l'auteur tire la conclusion qu'aujourd'hui il n'est pas possible d'intégrer entièrement les dépenses fiscales dans le processus budgétaire. Malgré cela, les rapports sur les dépenses fiscales sont importants parce qu'ils fournissent un calcul approximatif des avantages fiscaux existants et contribuent donc à identifier les tentatives d'éviter le plafond de dépenses.

http://www.riksbank.com/upload/Dokument_riksbank/Kat_publicerat/Artiklar_PV/er02_2_artikel4.pdf

Forman Jonathan Barry: Would a Social Security Tax Expenditure Budget Make Sense? (Est-il recommandable d'établir un budget propre pour les subventions fiscales dans le domaine de la sécurité sociale ?), dans : Public budgeting and financial management, 1993, vol. 5, n° 2 (14 pages).

IMF: Manual on Fiscal Transparency, dans : IMF - Fiscal Affairs Department (Manuel sur la transparence des finances publiques, dans : FMI : Département des finances publiques), Washington DC, 2001. <http://www.imf.org/external/np/fad/trans/manual/>

OCDE: Lignes directrices sur les meilleures pratiques – dépenses hors budget et dépenses fiscales, OCDE, 19 mai 2004 (19 pages).

L'objectif de ce document est de formuler des directrices sur les meilleures pratiques afin d'assurer que les dépenses hors budget et les dépenses fiscales ne préjudicient pas la bonne exécution budgétaire. Le document comprend particulièrement des directrices pour l'identification des dépenses fiscales, leur contrôle budgétaire et leur évaluation.

[http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/\\$FILE/JT00164525.PDF](http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/$FILE/JT00164525.PDF)

OCDE: Dépenses fiscales. Expériences récentes, OCDE, Paris, 1996 (118 pages).

Cette publication donne un aperçu des rapports relatifs aux dépenses fiscales, tout en soulignant une série d'approches pratiques variées et en analysant les raisons de ces différences. Elle contient une étude standardisée de chaque pays et précise le contexte et l'introduction des rapports sur les dépenses fiscales, la structure des rapports, la définition des dépenses fiscales, la méthode de calcul et l'emploi fait des rapports.

United States General Accounting Office (GAO): Tax Policy. Tax Expenditures Deserve More Scrutiny (Finances publiques: la nécessité de renforcer le contrôle des dépenses fiscales, ISC des États-Unis), GAO/GGD/AIMD-94-122 Tax Expenditures, juin 1994 (135 pages).

Dans ce rapport, le GAO développe trois options visant à augmenter l'attention prêtée aux dépenses fiscales et contribuant à réduire la perte de recettes. L'amélioration de la surveillance pourrait être possible sans modifier ou en modifiant légèrement les procédures du Congrès et de la juridiction ; dans ce cas, les mesures à adopter seraient : le renforcement et l'extension des méthodes actuelles de surveillance, l'augmentation ou la réduction des limites pour bénéficier des subventions, l'amélioration du traitement des informations ou l'élaboration d'un programme prévoyant le contrôle régulier de certaines subventions fiscales. La deuxième option consiste à renforcer l'intégration des dépenses fiscales dans le processus budgétaire au sein du Congrès. Le Congrès pourrait par exemple décider de réduire les dépenses fiscales et, s'il en est ainsi, de fixer dans les documents budgétaires annuels des objectifs de réduction de dépenses fiscales à atteindre. La réduction pourrait être imposée par les processus de concertation existants. La troisième option serait d'intégrer le contrôle des dépenses fiscales dans celui des programmes de dépenses similaires du point de vue fonctionnel. Ainsi, l'activité générale de financement exercée par le gouvernement pourrait s'avérer plus efficace. Ces contrôles intégrés peuvent être mis en place séparément par le pouvoir exécutif et législatif, ou par tous les deux.

<http://www.unclefed.com/GAORports/ggd94-122.pdf>

CONTRÔLER, ÉVALUER ET/OU COMPARER LES SUBVENTIONS FISCALES CHOISIES

Datta Lois-Ellin & Grasso Patrick G.: Evaluating Tax Expenditures: Tools and Techniques for Assessing Outcomes: New Direction for Evaluation (Évaluation des dépenses fiscales : Instruments et techniques pour évaluer les résultats de programmes – nouvelle approche d'évaluation), n° 79, Jossey-Mass, septembre 1998 (150 pages).

Pour mettre en oeuvre la justice sociale et la bonne gestion des affaires publiques il est utile d'examiner si la législation en vigueur permet d'atteindre les objectifs fixés avec les dépenses fiscales existantes et si la performance de ces dépenses est similaire ou plus grande que celle atteinte par des programmes politiques alternatives contenant des mesures de dépenses directes. Dans les six cas analysés, les auteurs présentent plusieurs dépenses fiscales. En appliquant des techniques d'évaluation, d'investigation et d'analyse, ils montrent comment les données disponibles au public et les instruments d'évaluation connus peuvent être employés pour examiner avec succès l'efficacité, les résultats et les effets des dépenses fiscales.

Eade Deborah: Bad Breaks all Around: the Report of the Century Foundation Working Group on Tax Expenditures (Les subventions fiscales débordent : Rapport sur les dépenses fiscales présenté par le groupe de travail Century Foundation), Century Foundation Press, New York, 2002 (200 pages).

Ce volume contient le rapport établi par le groupe de travail *Century Foundation* et trois documents de cadrage qui ont servi de base pour les délibérations du groupe. Ces documents offrent un aperçu analytique et factuel des dépenses fiscales. Eric Toder explique qu'aux Etats-Unis l'importance des allègements fiscaux en tant qu'instrument politique est en train d'augmenter. En outre, il décrit les problèmes qui en résultent et les conditions à remplir afin que le Code fiscal représente un outil utile pour la prestation de services publics. Bernard Wasow indique que, non seulement du point de vue pratique mais également théorique, il est très difficile de démontrer que les allègements fiscaux exercent sur le comportement des bénéficiaires les effets désirés par leurs défenseurs. Le troisième document présente un examen profond des allègements fiscaux par Michael Ettlinger. Il fournit des informations détaillées sur les innombrables allègements fiscaux concédés aux entreprises et foyers américains ainsi qu'une évaluation prudente de leurs bénéficiaires.

Howard Christopher: The Hidden Welfare State. Tax Expenditures and Social Policy in the United States (L'État-providence caché : Dépenses fiscales et politique sociale aux États-Unis), Princeton University Press, Princeton, 1997 (272 pages).

Ce livre met l'accent sur quatre dépenses fiscales américaines liées à des objectifs sociaux : les déductions des intérêts hypothécaires, les régimes complémentaires de retraite, le crédit d'impôt ciblé sur les foyers de salariés modestes et le crédit d'impôt destiné à l'embauchage et à la réintégration de travailleurs défavorisés. L'étude met surtout en évidence le

développement à long terme des programmes sociaux qui sont régis par le Code fiscal des États-Unis. L'auteur applique une approche historique. L'histoire est utile pour analyser les dépenses fiscales. Selon l'auteur, les déclarations qui se rapportent à une période au-delà d'une année ou à un temps déterminé ne sont qu'un échantillonnage. Les dépenses fiscales se présentent comme des mesures qui peuvent être facilement décrétée. Leur nombre continue à augmenter en temps de déficits budgétaires croissants et de critiques de plus en plus nombreuses à l'égard des programmes sociaux traditionnels. Selon l'auteur, il est difficile d'influer politiquement sur le montant et la distribution des subventions fiscales.

Algemene Rekenkamer: Taxes as a policy instrument (L'ISC des Pays-Bas : les impôts en tant qu'instruments politiques) ; résumé publié le 18 mars 1999, 5 pages.

L'ISC néerlandaise a effectué une étude portant sur les mesures fiscales positives et négatives établies ou modifiées entre 1997 et 1998. Elle a choisi 28 mesures fiscales positives et a examiné leur élaboration, et les résultats obtenus. Dans le mémorandum budgétaire de 1999, le montant total des pertes fiscales générées par ces 28 incitations fiscales a été estimé à 6,6 milliards de NLG. Dans le cas des 6 groupes de mesures fiscales négatives, l'ISC a observé si les ministères étaient au courant de la réussite des mesures fiscales.

http://www.rekenkamer.nl/9282000/d/q179_summary.pdf

Polackova Bixi Hana, Valenduc Christian M.A. & Li Swift Zhicheng: Tax Expenditures – Shedding Light on Government Spending through the Tax System. Lessons from Developed and Transition Economies, The International Bank for Reconstruction and Development (Dépenses fiscales – augmenter leur transparence, apprendre des leçons tirées dans le pays développés et en transition ; Banque internationale pour la reconstruction et le développement), Washington, 2004 (233 pages).

Ce livre aborde les concepts et les méthodes liés aux dépenses fiscales, fournit un cadre pour leur évaluation, offre des études de cas illustrant comment les gouvernements des économies développées et en transition gèrent les dépenses fiscales et décrit les cadres politiques généralement applicables. Le livre contient également des chapitres individuels avec des études sur la gestion des dépenses fiscales en Australie, au Belgique, au Canada, en Chine, aux Pays-Bas, en Pologne, et aux États-Unis. Les auteurs expliquent dans chaque chapitre la façon dont les nations définissent les dépenses fiscales et le système fiscal de référence. Dans certains chapitres, ils examinent des sujets spécifiques, comme par exemple les méthodes de calculer et d'évaluer les dépenses fiscales dans le cadre d'une analyse politique ; ils expliquent comment cette analyse contribue au débat politique et la manière dont les coûts engendrés par les dépenses fiscales sont prévus dans le budget. L'expérience de deux économies en transition, la Pologne et la Chine, illustre les impacts d'une politique de dépenses fiscales mise en œuvre sans un cadre institutionnel et analytique adéquat.

Weisbach David A. & Nussim Jacob: The Integration of Tax and Spending Programs (Intégration des dépenses fiscales dans le processus budgétaire), dans : John M. Olin Program in Law & Economics Working Paper, n° 194 (2^{ème} édition), Université de Chicago, septembre 2003 (74 pages).

Dans ce document les auteurs développent une théorie qui permet de déterminer les cas où un programme de dépense devrait être mis en œuvre à travers le système fiscal. Traditionnellement, la décision est basée sur des réflexions relatives à la politique fiscale. Les théories les plus courantes sont les suivantes : la théorie de la base d'imposition et celle des dépenses fiscales. Toutes les deux s'appuient sur la décision de politique fiscale adoptée. Selon les auteurs, le choix entre programmes fiscaux et programmes de dépenses devrait se fonder exclusivement sur les réflexions relatives à l'organisation. Suite à la présentation de cette théorie, les auteurs analysent si les bons d'alimentation et le crédit d'impôt ciblé sur les foyers de salariés modestes devraient être mis en œuvre au biais du système fiscal ou non. Il s'agit d'un document important pour tous ceux qui ont l'intention de comparer les dépenses fiscales avec d'autres instruments politiques.

<http://www.yalelawjournal.org/pdf/113-5/WeisbachFINAL.pdf>

LIENS INTERNET

- **Transparence**

Fonds monétaire international - Manuel sur la Transparence Fiscale,
<http://www.imf.org/external/np/fad/trans/manual/index.htm>

- **Taux réduit de TVA**

Commission européenne - Documents de travail fiscalité : indicateurs de TVA,
http://ec.europa.eu/taxation_customs/resources/documents/vat_indicators.pdf

Commission européenne – Taux de TVA appliqués dans les États membres de la Communauté européenne,
http://ec.europa.eu/taxation_customs/taxation/vat/consumers/vat_rates/index_fr.htm

- **Dialogue fiscal international**

ITDweb - échange des bonnes pratiques et analyse de la politique fiscale et des questions de la gestion fiscale, <http://www.itdweb.org/Pages/Home.aspx>

- **Dépenses fiscales**

Rigsrevisionen, ISC du Danemark, Rapport sur la transparence des dépenses fiscales (exonérations, déductions fiscales, etc.),
[http://www.rigsrevisionen.dk/media\(461,1033\)/Transparency_of_Tax_Expenditures.pdf](http://www.rigsrevisionen.dk/media(461,1033)/Transparency_of_Tax_Expenditures.pdf)

Riksrevisionen, ISC de la Suède, Rapport sur les dépenses fiscales : préparation et information par le gouvernement, http://www.riksrevisionen.se/templib/pages/NormalPage_1646.aspx

Valtiontalouden tarkastusvirasto, ISC de la Finlande, Rapport sur les subventions fiscales : succès et reddition des comptes, http://www.vtv.fi/chapter_images/8108_Tax_subsidies_netiti.pdf

Rapport de l'ISC des Etats-Unis : performance du gouvernement et responsabilité – les dépenses fiscales représentent une obligation fédérale considérable y doivent être réexaminées ;
<http://www.gao.gov/new.items/d05690.pdf>

Ministère des Finances de la République d'Irlande: Budget 2006 – contrôle de régimes fiscaux,
<http://www.finance.gov.ie/viewdoc.asp?DocID=3749>

- **Rapport de subvention**

20ème rapport sur les subventions fiscales publié par le gouvernement fédéral allemand,
http://www.bundesfinanzministerium.de/lang_de/DE/Service/Downloads/Abt_I/0603151a1002,templateId=raw,property=publicationFile.pdf (seulement en allemand),

21ème rapport sur les subventions fiscales publié par le gouvernement fédéral allemand,
http://www.bundesfinanzministerium.de/cln_01/lang_de/nn_4542/DE/Aktuelles/Pressemitteilungen/2007/08/20071508_PM092a,templateId=raw,property=publicationFile.pdf (seulement en allemand)

- **Évaluation**

Évaluation, <http://www.staat-modern.de/Modernes-Verwaltungsmanagement/-,11751/Effektivitaet.htm>, (seulement en allemand)

Évaluation de l'impact des réglementations dans l'Union européenne http://www.staat-modern.de/sm_artikel_staat_modern,-802673/Gesetzesfolgenabschaetzung-bei.htm (site Internet en allemand, documents téléchargeables en anglais)

Documents de l'EU sur l'évaluation de l'impact des réglementations,
http://ec.europa.eu/governance/impact/key_en.htm

Bericht

über die

Abgestimmte Prüfung

von

Steuersubventionen

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1 Zusammenfassung

Der VI. EUROSAT-Kongress vom 30. Mai bis zum 2. Juni 2005 in Bonn hat sich mit der Kontrolle der öffentlichen Einnahmen durch die Obersten Rechnungskontrollbehörden befasst.

Die Auswertung der Länderpapiere der EUROSAT-Mitglieder vor dem Kongress hat gezeigt, dass in einer Reihe von Fällen eigentlich ausgabewirksame Finanzströme auf die Einnahmenseite der Haushalte verschoben werden, insbesondere durch steuerliche Fördermaßnahmen mit Subventionscharakter. Diese Formen von Steuervergünstigungen haben in einigen Staaten erhebliche Größenordnungen erreicht. Bis heute ist der Einblick in die Wirksamkeit von Steuervergünstigungen jedoch noch unzureichend. Die Rechnungshöfe sollten ihre Erkenntnisse über Umfang und Zielerreichungsgrad dieser Steuervergünstigungen verbessern. Einige Länderpapiere behandeln den Umfang und die Kompliziertheit der Steuergesetzgebung, die zu Steuerausfällen und Steuerausnahmen führen können. Der Kongress sprach sich deshalb für eine abgestimmte Prüfung steuerlicher Subventionen aus, an der alle EUROSAT-Mitglieder teilnehmen konnten.

Im Anschluss an den Kongress begannen 11 Rechnungshöfe, darunter die Niederlande als Beobachter, mit der Umsetzung dieses Vorhabens. Sie setzten eine internationale Arbeitsgruppe ein, deren Mitgliederzahl im Lauf der Zeit auf 18 Teilnehmer gestiegen ist: Dänemark, Deutschland, Finnland, Frankreich, Island, Italien, Lettland, Litauen, Polen, Rumänien, die Russische Föderation, Schweden, Schweiz, Slowakische Republik, Ungarn, Vereinigtes Königreich, Zypern und die Niederlande.

Zur Erzielung vergleichbarer Ergebnisse wurde eine Checkliste entwickelt, die den gesamten Lauf einer Subvention umfasste, von der Gesetzgebung zur Einführung der Subvention, ihrer Umsetzung bis zum Subventionsbericht. Ohne für alle beteiligten Rechnungshöfe verbindlich zu sein, bildete die Checkliste den gemeinsamen Rahmen für die Prüfung der Transparenz und den Subventionsbericht.

Das Projekt begann mit einem Seminar, an dem mehr als 60 Teilnehmer aus 22 EUROSAT-Mitgliedstaaten und der Europäische Rechnungshof über Subventionspolitik, die Effektivität und die Prüfung von Subventionen mit Sachverständigen von der OECD, der Universität Köln, der Deutschen Gesellschaft für Technische Zusammenarbeit (GTZ) und dem niederländischen Rechnungshof diskutierten.

Nach Abschluss der Prüfungen hielt die Arbeitsgruppe Verbesserungen im Bereich der Gesetzgebung und der Berichterstattung über Steuersubventionen in allen beteiligten Staaten für geboten, um eine aus ihrer Sicht zwingend notwendige Transparenz sowohl für den Gesetzgeber als auch die Öffentlichkeit zu schaffen.

Bereits in den Gesetzesentwürfen waren die Ziele nicht ausreichend definiert und die Angaben zu den Kosten und dem Nutzen einer Steuersubvention unzureichend. Damit fehlen die Grundlagen, um Steuersubventionen zu beobachten, zu analysieren und zu bewerten. Nach Verabschiedung des Gesetzes fanden selten Evaluierungen statt bzw. waren oft unzureichend. Die Möglichkeit einer befristeten und/oder degressiven Ausgestaltung von Steuersubventionen wird in vielen Fällen nicht genutzt. Nach Einführung einer Steuersubvention mangelt es an einer systematischen Beobachtung, Analyse und Bewertung. Die Berichterstattung über Steuersubventionen als Teil des Haushaltsverfahrens oder in einem eigen-

ständigen Bericht ist unzureichend. Der Gesetzgeber und die Öffentlichkeit werden über die Ziele, die Umsetzung der Steuersubventionen und ihre finanziellen, ökonomischen und ökologischen Auswirkungen weitgehend im Unklaren gelassen.

Drei Unterarbeitsgruppen wurden eingerichtet, um steuerliche Ausnahmeregelungen zu prüfen. Die Unterarbeitsgruppe „Körperschaftsteuer“ verständigte sich auf die Themen Vergünstigungen für Kleinstunternehmen, kleine und mittlere Unternehmen“ sowie ggf. für die Regionalentwicklung, die in den beteiligten Ländern in gleicher oder möglichst ähnlicher Art und Weise gewährt werden. Sie entwickelte ihren eigenen Fragebogen, auf dessen Grundlage die teilnehmenden Rechnungshöfe ihr Prüfungskonzept entwarfen.

Die Unterarbeitsgruppe „Körperschaftsteuer“ befasste sich mit Körperschaftsteuerfreibeträgen für kleine und mittlere Unternehmen, für die es in allen Ländern einer gesetzlichen Grundlage bedarf. In den meisten beteiligten Staaten gibt es keine Körperschaftsteuersubvention, die nur von diesen Unternehmen in Anspruch genommen werden kann. Die beteiligten Rechnungshöfe prüften insbesondere das Gesetzgebungs- und Kontrollverfahren sowie den Einsatz von IT-Systemen. In allen beteiligten Staaten sind im Laufe des Gesetzgebungsverfahrens vorläufige Evaluierungen vorgeschrieben, was von den Finanzministerien allerdings nicht oder nur teilweise beachtet wurde. Die Festlegung der Ziele der Körperschaftsteuersubventionen wird unterschiedlich gehandhabt und die Möglichkeit, Körperschaftsteuersubventionen durch direkte finanzielle Beihilfen zu ersetzen, wurde in keinem der beteiligten Staaten von den Finanzverwaltungen evaluiert. In der Regel reichen die zu den Körperschaftsteuersubventionen bereitgestellten Daten nicht aus, um die Auswirkungen dieser Subventionsart zu vergleichen und zu bewerten.

In den meisten beteiligten Staaten waren die Ziele körperschaftlicher Steuersubventionen klar und messbar definiert. Zudem gibt es in den Staaten Vorschriften, die eine Evaluierung der Auswirkungen der Subventionen und der Erreichung der Ziele vorsehen. In der Regel wird die Erreichung dieser Ziele jedoch nicht ausreichend überwacht. Die Vorschriften sehen auch keine verpflichtenden Kontrollen vor. In allen Staaten haben die Steuerbehörden IT-Systeme entwickelt, die sie zur Verarbeitung von Daten zu Körperschaftsteuereinnahmen und zur Unterstützung der nach dem herkömmlichen Verfahren durchgeführten Steuerprüfungen in den kommunalen Steuerbehörden verwenden.

Die Unterarbeitsgruppe hat fünf Arten von Empfehlungen ausgesprochen. Sie regt an, sowohl eine vorgängige als auch eine begleitende Gesetzesfolgenabschätzung vorzunehmen und im Gesetzgebungsverfahren alternative Möglichkeiten zu prüfen: Entwicklung von Vorschriften für die Inanspruchnahme der Steuersubventionen, Veröffentlichung wichtiger Informationen und regelmäßige Evaluierung des Zielerreichungsgrades. Des Weiteren sollten IT-Systeme häufiger zum Einsatz kommen, d. h. es sollte ein Steuersubventionsregister geschaffen und dieses Register mit anderen verfügbaren Datenbanken verknüpft werden.

Die Unterarbeitsgruppe „Umsatzsteuer“ befasste sich mit dem ermäßigten Umsatzsteuersatz. Wie vereinbart haben die Arbeitsgruppenmitglieder Erhebungen zum ermäßigten Umsatzsteuersatz in ihren Ländern durchgeführt. Die Prüfung sollte z. B. zeigen, ob die in den Mitgliedstaaten untersuchten Umsatzsteuerermäßigungen noch gerechtfertigt sind oder zu unbeabsichtigten Nebenwirkungen führen. Darüber hinaus sollten die Mitglieder der Unterarbeitsgruppe Informationen über die Probleme sammeln, die in ihren Ländern im Zusammen-

hang mit der Anwendung ermäßigter Umsatzsteuersätze bestehen, die Gesamthöhe der Umsatzsteuerausfälle, die in ihrem Land infolge der Anwendung eines ermäßigten Umsatzsteuersatzes entstanden, die Wirksamkeit der Subvention und die Verfahren zur Beurteilung der Wirksamkeit ermäßigter Umsatzsteuersätze.

Aufgrund der nationalen Prüfungen und Berichte kamen die Mitglieder der Unterarbeitsgruppe zu gemeinsamen Schlussfolgerungen zur Wirksamkeit und Wirtschaftlichkeit ermäßigter Umsatzsteuersätze. Von der Anwendung eines niedrigeren Umsatzsteuersatzes sollten unmittelbar die Konsumenten durch eine Senkung der Waren- und Dienstleistungspreise profitieren. Zwischen den detaillierten Vorschriften für die Satzdifferenzierung und den Mitteln, die den Steuerbehörden zu deren Anwendung zur Verfügung stehen, herrscht ein unangemessenes Verhältnis.

Die Mitglieder der Unterarbeitsgruppe „Umsatzsteuer“ empfehlen daher die Einführung einer systematischen Beobachtung und Bewertung der ermäßigten Umsatzsteuersätze und ihrer Auswirkungen sowie die Veröffentlichung eines Berichtes, in dem die durch die Subventionen verursachten Steuermindereinnahmen im Staatshaushalt beziffert werden. Neben dem Einsatz anderer alternativer Instrumente könnte auch die mögliche Reduzierung der Anzahl der ermäßigten Umsatzsteuersätze auf bestimmte Waren und Dienstleistungen untersucht werden.

Obwohl die drei Unterarbeitsgruppen die Steuersubventionen aus verschiedenen Blickwinkeln betrachtet haben, waren die Prüfungsergebnisse ähnlich. Daher hat die Arbeitsgruppe Gesamtempfehlungen ausgesprochen. In Gesetzesentwürfen sollten die Ziele der Steuersubventionen klar und strukturiert dargestellt werden. Der Subventionsbericht sollte die durch die Subventionen verursachten Mindereinnahmen beziffern. Solche Berichte sollten regelmäßig, am besten jährlich verfasst werden. Bewertungen sollten in regelmäßigen Abständen stattfinden, um die Wirksamkeit, Wirtschaftlichkeit und die Zielerreichung der Steuersubventionen zu gewährleisten. Vor dem Hintergrund ihrer jeweiligen Prüfungsverfahren diskutierten die Rechnungshöfe ihre Feststellungen und Ergebnisse mit den zuständigen nationalen Institutionen – in der Regel mit der Regierung oder den Ministerien. Danach wurden die meisten Prüfungsberichte der Öffentlichkeit zugänglich gemacht.

Trotz Prüfung unterschiedlicher Steuersysteme, stellten die an der abgestimmten Prüfung beteiligten Rechnungshöfe ähnliche Probleme und Missstände im Bereich der Steuersubventionen fest. Des Weiteren verfolgten die Rechnungshöfe auch andere Ziele wie z. B. den Erfahrungsaustausch, die Schaffung informeller Netzwerke und die Förderung der Kommunikation mit anderen Rechnungshöfen und Institutionen.

2 Einführung

Das heutige Europa verändert sich unaufhörlich und durch geopolitische Initiativen wie die EU-Erweiterung und die fortschreitende Globalisierung wird dieser Prozess noch beschleunigt. Diese Entwicklung hat auch Auswirkungen auf die Obersten Rechnungskontrollbehörden, die sich in diesem Wirtschaftsbereich, in dem Grenzen zunehmend abgebaut werden, ähnlichen Herausforderungen stellen müssen.

Die europäische Einheit muss mit Leben erfüllt werden. Schließlich ist die europäische Einigung ein fortlaufender Prozess, der von der Annäherung zwischen Bürgern und der öffentli-

chen Verwaltung lebt und nicht immer zügig verläuft. Vor diesem Hintergrund hat die abgestimmte Prüfung der Steuersubventionen einen kleinen aber wertvollen Beitrag geleistet.

Der Wunsch nach einer abgestimmten Prüfung, an der alle EUROSAT-Mitglieder teilnehmen konnten, sollte daher dem wachsenden Bedürfnis der Rechnungshöfe Rechnung tragen, sich im Rahmen einer Prüfung kennenzulernen und die darin gewonnenen Erfahrungen auszutauschen. Ziel der Prüfung war Erlangung von Best Practice-Informationen und die Stärkung informeller Netzwerke. Darüber hinaus strebten die Rechnungshöfe nach einer Verbesserung der Zusammenarbeit mit der Wissenschaft. Außerdem planten die Kongressteilnehmer die Entwicklung aussagefähiger Erfolgskontrollen für Steuervergünstigungen und die Verbesserung der Wirkung von Steuervergünstigungen.

Der Bundesrechnungshof entsprach diesem Wunsch im Rahmen des von ihm ausgerichteten VI. EUROSAT-Kongresses. Maßgebliches Kriterium für die Auswahl des Prüfungsthemas war das Ziel, dem Kongress ein wichtiges und grundlegendes Thema zu präsentieren. Die Wahl fiel auf die Prüfung der steuerlichen Subventionen, d. h. steuerliche Ausnahmeregelungen, die europaweit im Allgemeinen zu beträchtlichen Minder-einnahmen führen und gleichzeitig das Steuerrecht komplexer gestalten. Die Vertreter der europäischen Rechnungshöfe begrüßten den am 2. Juni 2005 in Petersberg bei Bonn unterbreiteten Vorschlag des Bundesrechnungshofes. Obwohl die Zusammenarbeit zwischen den EUROSAT-Mitgliedern kein Novum ist und regelmäßig stattfindet, bedeutete die abgestimmte Prüfung ein außergewöhnlich hohes Maß an Zusammenarbeit.

Das Prüfungskonzept der nationalen Prüfungen oblag den einzelnen Rechnungshöfen. So war in kürzester Zeit eine parallele Prüfung möglich, an der zahlreiche Rechnungshöfe beteiligt waren, ohne dass die Frage nach dem jeweiligen Prüfungsmandat im Wege stand. Jeder Rechnungshof bestimmte sein eigenes Prüfungsteam, das unter Berücksichtigung des jeweiligen Prüfungsmandats den gleichen Bereich aus Sicht seines nationalen Rechnungshofes prüfte. Das erworbene Wissen wurde in gemeinsamen Sitzungen weitergegeben und bereicherte die Arbeit anderer Rechnungshöfe. Die teilnehmenden Rechnungshöfe werden ihre Abschlussberichte unabhängig ihrem Parlament oder dem zuständigen Ministerium vorlegen.

Es wurde vereinbart, dass alle Mitglieder der Arbeitsgruppe einen eigenen Projektbericht aus Sicht ihres nationalen Rechnungshofes erstellen, also einen nationalen Bericht und nicht einen gemeinsamen Bericht der Unterarbeitsgruppen. Der *vorliegende* Bericht soll einen Überblick über die Prüfungsergebnisse und Empfehlungen geben. Dieser Gesamtbericht über die abgestimmte Prüfung wurde Ende 2007 fertig gestellt und wird dem nächsten EUROSAT-Kongress vorgelegt.

Da jeder Rechnungshof in seinem Land unabhängig prüfte, bestand die erste Aufgabe in der Erstellung eines Fragebogens und eines Zeitplans. Bei den Treffen wurde zur Erzielung vergleichbarer Ergebnisse im Abschlussbericht Fragebögen verfasst, die jedem teilnehmenden Rechnungshof die Gliederung der Prüfung vorgaben. Jedem Rechnungshof war es freigestellt, diese Gliederung ganz oder teilweise in sein eigenes Prüfungskonzept zu übernehmen.

Internationale Arbeitsgruppe

Zur Entwicklung aussagefähiger Erfolgskontrollen und zur Verbesserung der Wirkung von

Steuervergünstigungen, traf sich die internationale Arbeitsgruppe zum ersten Mal vom 10. bis 11. November 2005 in Bonn (siehe Tabelle 1).

Tabelle 1

Datum	Ort	Beteiligte Rechnungshöfe		
10.11.2005 11.11.2005	Bonn	Dänemark Litauen Slowak. Republik Vereinig. Königreich	Deutschland Polen Schweden	Ungarn Rumänien Schweiz
22.02.2006	Bonn	Zypern Finnland Ungarn Polen Slowak. Republik Vereinig. Königreich	Tschech. Republik Frankreich Lettland Rumänien Schweden	Dänemark Deutschland Litauen Russ. Föderation Schweiz
28.08.2006	Kopenhagen	Dänemark Deutschland Lettland Rumänien Schweiz	Finnland Ungarn Litauen Slowak. Republik	Frankreich Island Polen Schweden
16.02.2007	Warschau	Dänemark Ungarn Polen Slowak. Republik	Finnland Lettland Rumänien	Deutschland Litauen Russ. Föderation
12.09.2007	Bratislava	Dänemark Deutschland Litauen Slowak. Republik	Finnland Ungarn Polen	Frankreich Lettland Rumänien
30.01.2008 31.01.2008 I	Bonn	Dänemark Deutschland Italien Niederlande Russ. Föderation Schweiz	Finnland Ungarn Lettland Polen Slowak. Republik	Frankreich Island Litauen Rumänien Schweden

Die anwesenden Vertreter der Rechnungshöfe beschlossen, die Schwerpunkte der Prüfung im Bereich der Transparenz und des Subventionsberichts zu setzen. Viele Rechnungshöfe sprachen sich auch für die schwerpunktmäßige Prüfung von Effizienz und Effektivität aus. Der deutsche Rechnungshof wollte sich zusätzlich dem Bereich der fiskalpolitischen Entscheidungen widmen. Viele Mitglieder äußerten sich bereits zu konkreten Prüfungsvorhaben für die Jahre 2006 und 2007 geäußert. Andere wollten die konkreten Themen erst später festlegen. Ausgehend von den geplanten Prüfungen wurden drei Unterarbeitsgruppen eingerichtet (siehe Abschnitt 3).

Der Erhöhung der Transparenz wurde von allen Arbeitsgruppenmitgliedern höchste Priorität eingeräumt. Die Entwicklung und Umsetzung wirksamer Mechanismen zur Erfolgskontrolle und somit der Bedarf an umfassenden und vollständigen Informationen über die Ziele und Auswirkungen der Steuersubventionen, ihr Finanzvolumen und ihr Gelingen waren das primäre Ziel der internationalen Arbeitsgruppe. Die Ergebnisse der abgestimmten Prüfung haben gezeigt, dass Ziele und Maßgaben der Steuersubventionen nicht immer angemessen spezifiziert werden. Weder die möglichen sozialen und ökonomischen Auswirkungen noch Alternativen zur Erreichung desselben Ziels wurden angemessen untersucht. Dies gilt auch für mögliche Auswirkungen auf die Umwelt. Somit fehlt dem Parlament die wichtigste Infor-

mationsgrundlage für seine Entscheidungen. Nur in Ausnahmefällen unterliegen die gesetzlichen Bestimmungen zu Steuersubventionen einer Befristung, die dem Parlament eine Entscheidung über ihren Fortbestand ermöglichen würde, nachdem Erkenntnisse über die Auswirkungen der Subvention vorliegen. Nach dem gesetzlichen Inkrafttreten der Subvention wird nicht mehr untersucht, welche Auswirkungen sie hat. Die Gesetzgeber sehen üblicherweise keine Erfolgskontrollen vor, obwohl diese dazu beitragen könnten, die politische Auseinandersetzung über die Reduzierung oder Abschaffung von Steuersubventionen zu entschärfen.

Drei Unterarbeitsgruppen

Insgesamt wurden drei Unterarbeitsgruppen eingerichtet, von denen sich jede einzelne mit einem speziellen Aspekt der Prüfung steuerlicher Subventionen beschäftigte.

Die Unterarbeitsgruppe „Transparenz und Subventionsbericht“, die sich aus den Rechnungshöfen von Deutschland (Vorsitz), Dänemark, Finnland, Frankreich, Island, Litauen, Polen, Rumänien, der Russischen Föderation, Schweden und der slowakischen Republik zusammensetzte, befasste sich mit der Transparenz und dem Subventionsbericht zu Steuersubventionen.

Zwei Unterarbeitsgruppen wurden eingerichtet, um steuerliche Ausnahmeregelungen zu prüfen. Die Unterarbeitsgruppe „Körperschaftsteuer“ unter Vorsitz des ungarischen Rechnungshofes prüfte Wirksamkeit und Wirtschaftlichkeit der Steuererleichterungen für kleine und mittlere Unternehmen. Zu diesem Zweck erarbeiteten die Rechnungshöfe von Deutschland, Lettland, Slowakische Republik, Russische Föderation und Ungarn ebenfalls einen gemeinsamen Fragebogen. Eine weitere Unterarbeitsgruppe prüfte die Gewährung eines ermäßigten Umsatzsteuersatzes auf bestimmte Lieferungen und Dienstleistungen. Diese Unterarbeitsgruppe bestand aus den Rechnungshöfen von Deutschland (Vorsitz), Lettland, Litauen und der Schweiz.

Fragebögen als gemeinsame Grundlage

Die internationale Arbeitsgruppe verständigte sich – speziell für die Unterarbeitsgruppe „Transparenz und Subventionsbericht“ – auf einen Fragebogen, um vergleichbare Ergebnisse zu erzielen. Hielt ein Prüfer sich an die Vorgaben des Fragebogens, wurde er durch den gesamten Lauf einer Subvention zu den Kernpunkten der Transparenz geführt von der Einführung der Subvention, ihrer Umsetzung, zum Subventionsbericht bis zu der Bewertung ihrer Auswirkungen.

Der Fragebogen sollte dabei in zwei Schritten behandelt werden. Zunächst wurde vereinbart, den Fragebogen zu beantworten. Dazu wurden Antwortalternativen angeführt. Sollten diese nicht einschlägig sein, wurde zur Begründung um weitere Details gebeten. Anschließend sollte der von der internationalen Arbeitsgruppe erstellte Fragebogen als Grundlage für die Ausarbeitung des Prüfungskonzepts verwendet werden.

Die Unterarbeitsgruppe „Körperschaftsteuer“ erstellte für ihre gemeinsame Prüfung der Steuervergünstigungen im Bereich der Körperschaftsteuer darüber hinaus einen weiteren detaillierten Fragebogen.

Einstieg mit einem Seminar zu Steuersubventionen

Zur Ausarbeitung dieses Fragebogens fand auf Einladung des EUROSAI-Präsidenten am 21. und 22. Februar 2006 in Bonn ein Seminar zum Thema Steuersubventionen statt.

Auch interessierte EUROSAI-Mitglieder, die nicht der Arbeitsgruppe angehörten, waren eingeladen, am Seminar teilzunehmen. Das Seminar sollte einen professionellen Rahmen für eine abgestimmte Prüfung der Steuersubventionen erarbeiten, wie sie auf dem VI. Kongress beschlossen worden war. Mehr als 60 Teilnehmer aus 22 EUROSAI-Mitgliedstaaten und vom Europäischen Rechnungshof diskutierten über Subventionspolitik, die Effektivität und die Prüfung von Subventionen. Ziel des Seminars war die Schaffung einer wissenschaftlichen Grundlage für die abgestimmte Prüfung der Steuersubventionen in den EUROSAI-Mitgliedstaaten.

Dozenten vom finanzwissenschaftlichen Institut der Universität Köln und der OECD trugen dazu bei, einen gemeinsamen Kenntnisstand als Grundlage für den Erfolg des gemeinsamen Projektes zu schaffen. Im Seminar wurde sowohl die Definition steuerlicher Subventionen als auch das Schweizer Subventionsgesetz, das die wichtigsten Bestimmungen für die Transparenz in diesem Bereich umfasst, erörtert. Voraussetzung war eine vorausschauende Berichterstattung über Steuersubventionen und ihre bessere Integration in den Haushaltsprozess. Der Vortragende des niederländischen Rechnungshofes wies darauf hin, dass nach der erfolgten Prüfung mehr Wert auf die Wirksamkeit und Ergebnisse der Maßnahmen gelegt wurde und dass die Steuersubventionen in einem Anhang zum jährlichen Haushaltsplan ausgewiesen wurden. Ein Vertreter der *Deutschen Gesellschaft für Technische Zusammenarbeit* betonte, dass die Standortwahl ausländischer Investoren nicht so sehr von Steuersubventionen abhängt, sondern vielmehr von einer guten Regierungsführung und einem soliden Steuersystem. Ein weiteres Thema war die Abschaffung fast aller Steuervergünstigungen im Zuge der Steuer- und Wirtschaftsreform Mitte der 80er Jahre in Neuseeland (siehe Tabelle 2).

Tabelle 2

Vortragender	Organisation	Vortrag
Dr. David Nguyen-Thanh	GTZ	Steuerliche Anreize in Entwicklungs- und Transformationsländern
Dr. Michael Thöne	Universität Köln	Subventionskontrolle bei Steuererleichterungen
Christian Valenduc	OECD	Subventionsbericht und Wirksamkeit von Steuersubventionen
Jan H. Velthoven	Algemene Rekenkamer	Steuern als politisches Instrument

Gemeinsame Informationsplattform

Die Arbeitsgruppenmitglieder hielten sich durch eine gemeinsame Internetseite mit geschütztem Zugang auf der Webseite des VI. EUROSAI-Kongresses (www.eurosai-2005.de) auf dem Laufenden.

Dieser Teil der Webseite informierte über den aktuellen Sachstand des Projektes, enthielt die Sitzungsprotokolle und die von den Rechnungshöfen eingereichten Fragebögen (Checklis-

ten), sowie Fortschrittsberichte, den Zeitplan und Informationen zu den Prüfungen der drei Unterarbeitsgruppen, sowie Prüfungskonzepte, Prüfungsberichte und wichtige Weblinks.

Prüfungen

Seit Mai 2005 waren die Rechnungshöfe von Dänemark, Deutschland, Finnland, Frankreich, Island, Italien, Lettland, Litauen, Polen, Rumänien, der Russischen Föderation, Schweden, Schweiz, der Slowakischen Republik, Ungarn, dem Vereinigten Königreich und Zypern Mitglieder der Arbeitsgruppe, während der niederländische Rechnungshof als Beobachter teilnahm.

In mehreren Treffen stimmten die Rechnungshöfe fortlaufend ihre Prüfungen ab. Sie verständigten sich auf gemeinsame Prüfungsfragen und -schwerpunkte und berichteten den anderen Teilnehmern über ihre aktuellen Prüfungserkenntnisse.

Der vorliegende Abschlussbericht über die abgestimmte Prüfung von Steuersubventionen stellt zusammenfassend die Prüfungsergebnisse der drei Unterarbeitsgruppen dar.

Er wird ergänzt durch einen eigenständigen Bericht jeder Unterarbeitsgruppe, der über die Prüfungsfeststellungen der an den Unterarbeitsgruppen beteiligten Rechnungshöfe ausführlicher informiert. Die nationalen Berichte sind als elektronische Dokumente Bestandteil dieses Berichts.

3 Definition

3.1 Übereinkommen

Zur Vorbereitung ihrer Prüfungen, die auch das Ziel übergreifender Erkenntnisse über die Gewährung von Steuersubventionen aus den jeweiligen Ländern hatten, war zunächst ein gemeinsames Verständnis des Begriff „Steuersubvention“ bei den beteiligten Rechnungshöfen zu schaffen.

Weder international noch national ist eine allgemeingültige Definition vorhanden. Üblicherweise wird der Begriff „Subvention“ mehr oder weniger stark eingegrenzt bzw. ausgedehnt, je nachdem, welches Ziel damit verfolgt wird.

Insbesondere für die Unterarbeitsgruppe „Transparenz und Subventionsbericht“ war jedoch eine Definition von Bedeutung, da ihr Prüfungsansatz übergreifend über alle Steuerarten und Steuersysteme Subventionen erfassen und deren Transparenz u.a. in der Form eines Subventionsberichts analysieren sollte.

Nach dem Seminar und einer umfassenden Diskussion zu diesem Thema kam die Arbeitsgruppe zu dem Schluss, den Begriff „Steuersubventionen“ in einem weiten Sinn zu verstehen, d. h. er umfasst alle Einnahmen mindernde Steuervergünstigungen. Die Definition stammt aus der OECD-Publikation *„Best Practice Guidelines – Off Budgets and Tax Expenditures“*.¹ Laut diesem Papier „... kann eine steuerliche Subvention als ein Transfer öffentli-

¹ *Best Practice Guidelines – Off Budgets and Tax Expenditures*, OECD, GOV/PGC/SBO(2004)6, 19.Mai 2004

cher Mittel durch Reduzierung einer steuerlichen Belastung gegenüber der normalen Steuerbelastung definiert werden, der an Stelle unmittelbarer Ausgaben geleistet wird.“ In der genannten Publikation werden die Steuersubventionen in folgende Kategorien unterteilt:

- Steuerbefreiungen: bestimmte Beträge werden aus der Steuerbemessungsgrundlage herausgenommen;
- Steuerfreibeträge: Abzüge, die zu einer Verringerung der Steuerbemessungsgrundlage führen;
- Steuerergutschriften: Abzüge von der Steuerschuld;
- Ermäßigte Steuersätze für bestimmte Steuerpflichtige oder bestimmte Geschäfte;
- Späterer Eintritt der Steuerschuld.

Die Arbeitsgruppe stimmte darin überein, alle zuvor genannten Arten von Steuersubventionen grundsätzlich in Rahmen ihrer Prüfungen zu berücksichtigen.

3.2 Nationale Projektberichte

So wie es international keine allgemeingültige Definition des Begriffs „Steuersubvention“ gibt, ist im Allgemeinen auch in den beteiligten Ländern keine nationale gesetzliche Definition vorhanden. Die Rechnungshöfe haben sich daher mit solchen Regelungen befasst, die in ihrem nationalen Umfeld durch die jeweilige Regierung als Steuersubvention klassifiziert wurden. In ihren Prüfungen griffen sie aber auch alternative Abgrenzungen auf, die in der wirtschaftswissenschaftlichen Forschung national und international diskutiert werden. Insbesondere zeigten sie nationale Abweichungen auf, die die Berichterstattung der jeweiligen Regierungen über Umfang und Bedeutung der Steuersubventionen beeinflussen.

3.3 Relevanz der Definition

Eine Definition des Begriffs „Steuersubvention“, „Steuervergünstigung“, „steuerliche Ausnahmeregelung“ oder ähnliche Formulierungen im jeweiligen nationalen Zusammenhang hatte für die Prüfungstätigkeit in den drei Unterarbeitsgruppen unterschiedliche Bedeutung. Die beiden Unterarbeitsgruppen „Körperschaftsteuer“ und „Umsatzsteuer“ befassten sich mit steuerlichen Ausnahmeregelungen, die jeweils national als Steuersubvention eingeordnet werden könnten. Dabei konzentrierte sich die Unterarbeitsgruppe „Körperschaftsteuer“ auf solche körperschaftssteuerliche Subventionen, die in den beteiligten Ländern in gleicher oder möglichst ähnlicher Art und Weise gewährt werden. Letztlich verständigten sich die Rechnungshöfe auf Vergünstigungen für Kleinstunternehmen, kleine und mittlere Unternehmen sowie ggf. für die Regionalentwicklung. Die Rechnungshöfe der Unterarbeitsgruppe „Umsatzsteuer“ kamen überein, sich grundsätzlich mit der Problematik eines ermäßigten Umsatzsteuersatzes zu befassen. In fast allen Ländern werden einige Lieferungen und Leistungen abweichend vom Regelsteuersatz mit einem ermäßigten Satz besteuert. Diese Ermäßigung wird von den beteiligten Rechnungshöfen als steuerliche Vergünstigung angesehen, die Subventionscharakter haben kann. Bei den Prüfungen lag es dabei im Ermessen des jeweiligen Rechnungshofes, welche Ausnahmetatbestände im Einzelnen in die Prüfungen einbezogen wurden.

Die Unterarbeitsgruppe „Transparenz und Subventionsbericht“ befasste sich mit Steuersubventionen sowohl unter den Blickwinkel der Einführung bzw. Änderung und Verwaltung als auch einer Berichterstattung. Die Definition des Begriffs „Steuersubvention“ hat dabei im Rahmen der Gesetzgebung und der Berichterstattung eine unterschiedliche Bedeutung.

In allen Ländern ist zur Einführung, Änderungen und Abschaffung einer Steuersubvention ein Gesetz erforderlich. Dieses hat im Rahmen der Gesetzgebung im Wesentlichen die gleichen nationalen Anforderungen zu erfüllen, die auch an jedes andere Gesetz gestellt werden.

Anders gestaltet sich die Situation für die Berichterstattung. Hier ist die Frage, ob eine steuerliche Regelung als „Steuersubvention“, „Steuervergünstigung“ oder ähnliches bewertet wird, von zentraler Bedeutung. Soweit nationale Normen eine Berichterstattung vorsehen, obliegt es den jeweiligen Regierungen, für ihre Unterrichtungen den Begriff der Steuersubventionen im jeweiligen nationalen Kontext zu bestimmen. Es führt in der Praxis dazu, dass ein Beurteilungsspielraum entsteht, mit dem die nationalen Regierungen Umfang und Inhalt einer Berichterstattung über steuerliche Subventionen bestimmen können. Unter dem Gesichtspunkt der Transparenz setzen die Prüfungsaktivitäten der Rechnungshöfe an dieser Stelle an.

4 Prüfungen

4.1 Hintergrund

Im Rahmen der abgestimmten Prüfung führten die beteiligten Rechnungshöfe in ihren Ländern jeweils eigenständige Prüfungen durch. Über deren Inhalt, Umfang, Methodik und Ablauf entschieden sie – unter Berücksichtigung der in den Unterarbeitsgruppen getroffenen Vereinbarungen – nach eigenem Ermessen. Jeder Rechnungshof bestimmte sein eigenes Prüfungsteam, das unter Berücksichtigung des jeweiligen Prüfungsmandats den gleichen Bereich aus Sicht seines nationalen Rechnungshofes prüfte. Das erworbene Wissen wurde in gemeinsamen Sitzungen weitergegeben und bereicherte die Arbeit anderer Rechnungshöfe. Die teilnehmenden Rechnungshöfe werden ihre Abschlussberichte unabhängig ihrem Parlament oder dem zuständigen Ministerium vorlegen oder haben dies bereits getan.

4.2 Übersicht der Prüfungsmandate

Die Prüfungsrechte der beteiligten Rechnungshöfe werden durch ihre jeweiligen nationalen Gesetze bestimmt.

Im Allgemeinen obliegt es der externen Finanzkontrolle, die Einnahmen und Ausgaben der öffentlichen Haushalte zu prüfen. In Bezug auf Steuersubventionen, bei denen im Regelfall auf die Erhebung von Einnahmen verzichtet wird, prüfen die Rechnungshöfe bei den Stellen, die für den Gesetzesentwurf und die Durchführung der jeweiligen Steuer zuständig sind und die Vergünstigungen bewilligen. Die Gewährung der Steuersubventionen ist überwiegend in Steuerformularen zu beantragen. Insoweit können die Rechnungshöfe die Steuersubventionen auf der Ebene der staatlichen Institutionen prüfen.

Im Regelfall bestehen keine besonderen Prüfungsrechte in Bezug auf Steuersubventionen.

Die politische Wahl zwischen einer direkten Subvention und einer Steuersubvention wirkt sich jedoch auf die Prüfungsrechte der Rechnungshöfe aus. Die nationalen Gesetze sehen im Regelfall vor, dass die bestimmungsgemäße Verwendung von direkten Subventionen bei Bedarf auch auf der Ebene des Subventionsempfängers geprüft werden kann. Ein vergleichbares Prüfungsrecht ist bei Steuersubventionen nicht gegeben. Es ist kaum einem Rechnungshof möglich, Steuersubventionen auf der Ebene des Empfängers zu prüfen. Folglich ist es den Rechnungshöfen nicht möglich, die Wirksamkeit und Wirtschaftlichkeit einer Steuersubvention auch durch Erhebungen bei dem Begünstigten zu verifizieren. Die Prüfung einer Steuersubvention beschränkt sich damit stets auf die staatliche Ebene.

4.3 Unterarbeitsgruppe 1 – „Transparenz und Subventionsbericht“

Insgesamt 11 Rechnungshöfe aus den Ländern Dänemark, Deutschland, Finnland, Frankreich, Island, Litauen, Polen, Rumänien, Russische Föderation, Schweden und der Slowakischen Republik hatten sich bei der abgestimmten Prüfung darauf verständigt, sich mit der Transparenz und dem Subventionsbericht zu Steuersubventionen zu beschäftigen.

Die von der Unterarbeitsgruppe übernommene Checkliste beruhte im Wesentlichen auf dem Entwurf des polnischen Rechnungshofes. Die der Unterarbeitsgruppe vorgelegten Fragebögen und Änderungswünsche der Rechnungshöfe von Dänemark, Deutschland, Finnland, Rumänien, Schweden und der Slowakischen Republik, die ebenfalls wichtige Anregungen gaben, wurden berücksichtigt.

4.3.1 Erhebungsart

Bei ihren Prüfungen konzentrierten sich die beteiligten Rechnungshöfe auf die Bereiche der Gesetzgebung, des Gesetzesvollzugs und der Berichterstattung.

In allen Ländern sind Steuersubventionen als steuerliche Ausnahmeregelung durch Gesetz zu normieren. Diese Vorschriften müssen folglich jeweiligen nationalen Vorschriften für die Gesetzgebung beachten.

Der Vollzug der Steuersubventionen obliegt im Regelfall den nationalen Steuerverwaltungen, die ggf. auch für die Beobachtung der Wirkungen von Steuersubventionen zuständig sind.

Regelungen über eine Berichterstattung liegen nicht in allen beteiligten Ländern vor. Dabei wird zudem zwischen einer Unterrichtung im Rahmen der jeweiligen nationalen Haushalte und einer eigenständigen Information in Form eines Subventionsberichts unterschieden.

Inhalt und Ziele der von den beteiligten Rechnungshöfen durchgeführten Prüfungen bestimmten sich im Wesentlichen an den jeweiligen nationalen Gegebenheiten. Dabei sollte übereinstimmend die Frage beantwortet werden, welche Verantwortlichkeiten für die nationale Regierung in Bezug auf Steuersubventionen bestehen und wie diese wahrgenommen werden.

Da die Gesetzgebung zu Steuersubventionen im Regelfall durch das jeweilige Finanzministerium vorbereitet und federführend geleitet wird, war dieses überwiegend der primäre Ansprechpartner für die beteiligten Rechnungshöfe.

4.3.2 Prüfungsfeststellungen

Eine ausreichende Transparenz zu den Steuersubventionen ist nicht gewährleistet.

Nationale Gesetzesentwürfe für Steuersubventionen besitzen in Bezug auf die bestehenden nationalen Vorschriften teilweise erhebliche Schwachstellen. So werden die Ziele der Steuersubvention qualitativ und quantitativ vielfach nicht ausreichend dokumentiert. Die Zielbeschreibung ist häufig so allgemein, dass die Zielerreichung daran nicht gemessen werden kann. Die Angaben zu den Kosten und dem Nutzen einer Steuersubvention haben sehr unterschiedliche Qualität. Aussagen zu einer Evaluierung, insbesondere zu deren Zeitpunkt, Inhalt und Zielen werden nur unzureichend dargestellt.

Damit fehlen die Grundlagen, um Steuersubventionen zu beobachten, zu analysieren und zu bewerten. Über die Möglichkeit einer befristeten und/oder degressiven Ausgestaltung wird in vielen Fällen nicht berichtet.

Während der Gewährung der Steuersubventionen wird eine systematische Beobachtung, Analyse und Bewertung nicht durchgeführt. Entsprechende strategische Konzepte fehlen. Aktuelle Daten zu den Kosten und dem Nutzen sind überwiegend nicht vorhanden. Eine systematische Evaluierung erfolgt – auch wegen dieser fehlenden Daten – nicht.

Die Berichterstattung über Steuersubventionen als Teil des Haushalts oder in einem eigenständigen Bericht ist unzureichend. Eine Übersicht über alle Steuersubventionen ist vielfach nicht vorhanden. Steuermindereinnahmen werden nur unvollständig ermittelt bzw. geschätzt. Die Schätzgrundlagen und -annahmen fehlen. Zu den Zielen und zur Zielerreichung, den tatsächlichen Auswirkungen und zur Evaluierung der Steuersubventionen waren die Darstellungen der nationalen Regierungen überwiegend zu knapp.

4.3.3 Empfehlungen

Insgesamt hielten die beteiligten Rechnungshöfe Verbesserungen im Bereich der Gesetzgebung zu und der Berichterstattung über Steuersubventionen für geboten, um eine aus ihrer Sicht zwingend notwendige Transparenz sowohl für den Gesetzgeber als auch die Öffentlichkeit zu schaffen.

Die beteiligten Rechnungshöfe kamen aufgrund ihrer Prüfungen zu folgenden Empfehlungen an die nationalen Regierungen bzw. Parlamente:

Gesetzgebung

In der Gesetzgebung sind zukünftig eindeutige, klar umschriebene und überprüfbare Ziele für die Steuersubventionen zu definieren. Die Analysen, die die Regierungen im Zusammenhang mit dem Gesetzgebungsverfahren erstellen, sollen umfassend dokumentiert werden. Eine Befristung von Steuersubventionen wird ggf. angeregt.

Regelmäßige Evaluierung

Jeweils national ist eine Strategie zu entwickeln und umzusetzen, die eine systematische

Beobachtung, Analyse und Bewertung der Steuersubventionen ermöglicht. Regelmäßige Evaluierung sollen durchgeführt werden, um die Wirksamkeit und Wirtschaftlichkeit der Steuersubventionen nachweisen zu können.

Berichterstattung

In die Berichterstattung sollen alle Steuersubventionen einbezogen werden. Die Regierung sollte daher klarstellen, was sie unter Steuersubvention versteht und was nicht zur Berichterstattung gehört. Über die durch die Steuersubventionen verursachten Mindereinnahmen ist umfassend und vollständig zu informieren. Insgesamt ist eine regelmäßige, aktuelle und umfassende Berichterstattung zu Steuersubventionen notwendig.

Da die Steuersubventionen für wenige Empfänger aus den Steuerzahlungen aller Steuerpflichtigen finanziert werden, ist nur durch eine erhöhte Transparenz, die die Wirksamkeit und Wirtschaftlichkeit der steuerlichen Ausnahmeregelung offen legt, deren Belastung zu begründen.

4.4 Unterarbeitsgruppe 2 – „Körperschaftsteuer“

Die Unterarbeitsgruppe Körperschaftsteuer setzte sich aus den Rechnungshöfen von Deutschland, der Republik Lettland, der Slowakischen Republik, der Russischen Föderation und Ungarn (Vorsitz) zusammen. Die Teilnehmer der Unterarbeitsgruppe prüften die Wirtschaftlichkeit und Wirksamkeit der Kleinstunternehmen, kleinen und mittleren Unternehmen (KMU) gewährten Subventionen im Bereich der Körperschaftsteuer oder falls diese in einem Land nicht existierten, jene für die Regionalentwicklung. Der Rechnungshof der Republik Lettland hat das ganze System der im Bereich der Körperschaftsteuer gewährten Subventionen geprüft.

4.4.1 Prüfungsfeststellungen

In allen beteiligten Ländern bedarf die Besteuerung einer gesetzlichen Grundlage. In vier Ländern gibt es für die Körperschaftsteuer ein eigenes Gesetz. In der russischen Steuerordnung enthält das Kapitel „Körperschaftsteuer“ die entsprechenden Rechtsgrundlagen. In drei Ländern (Ungarn, Republik Lettland und Slowakische Republik) fließen die Einnahmen aus der Körperschaftsteuer dem zentralstaatlichen Haushalt zu, während in Deutschland und in der Russischen Föderation die Einnahmen unter dem Staatshaushalt und dem der Bundesländer bzw. dem der Untergliederungen der Russischen Föderation aufgeteilt werden.

In drei Ländern (Deutschland, Ungarn und Slowakische Republik) werden alle körperschaftsteuerlichen Subventionen durch das entsprechende Körperschaftsteuergesetz geregelt. In der Republik Lettland und in der Russischen Föderation werden einige durch sonstige Gesetze geregelt.

Die Bestimmungen zur Gewährung körperschaftsteuerlicher Subventionen an KMU sind in den beteiligten Ländern sehr vielfältig:

- in vier Ländern (Deutschland, Republik Lettland, Russische Föderation und Slowakische Republik) gibt es keine speziellen körperschaftsteuerlichen Freibeträge für KMU (in der Slowakischen Republik werden körperschaftsteuerliche Subventionen nur zur Förderung der Regionalentwicklung gewährt);
- im ungarischen Körperschaftsteuergesetz ist ein spezieller Steuerfreibetrag für KMU vorgesehen;

Dies bedeutet, dass es in der Mehrzahl der beteiligten Staaten keine körperschaftsteuerliche Subvention gibt, die ausschließlich auf KMU abzielt. KMU besitzen jedoch das Recht, gemäß den allgemeinen Bestimmungen körperschaftsteuerliche Subventionen in Anspruch zu nehmen.

KMU werden in den beteiligten Staaten unterschiedlich definiert. In den Mitgliedstaaten der Europäischen Union basiert die Definition auf Empfehlungen der Kommission. Als Ergebnis der Empfehlung von 1996 hat die Kommission erstmals eine gemeinsame Definition der KMU aufgestellt. Am 6. Mai 2003, hat sie die neue Definition der KMU angenommen. Sie ist am 1. Januar 2005 in Kraft getreten. Die Russische Föderation wendet andere Bestimmungen an, wobei die Gruppe der mittleren Unternehmen erst ab 1. Januar 2008 eingeführt wird.

In allen beteiligten Ländern sind im Laufe des Gesetzgebungsverfahrens vorab Evaluierungen durchzuführen. Dies beinhaltet Machbarkeitsstudien sowie die Abschätzung der zu erwartenden finanziellen, wirtschaftlichen und sozialen Folgen des Gesetzesentwurfs oder sonstiger Bestimmungen. Diese gesetzlichen Anforderungen werden aber nicht bzw. nur teilweise von den Finanzministerien umgesetzt. Fehlende gründliche Vorabanalysen führen im Falle der Steuersubventionen allerdings dazu, dass weder die Zielerreichung noch die Wirksamkeit der Subventionen im Nachgang evaluiert werden.

Die Bestimmungen zur Körperschaftsteuer wurden während des Prüfungszeitraums in allen Ländern mehrmals geändert, was sich allerdings nur begrenzt auf die Gesamtheit der Bestimmungen ausgewirkt hat. Grund für diese Änderungen war die in Ungarn und in der Slowakischen Republik vollzogene Harmonisierung im Sinne des EU-Rechts.

Im Allgemeinen wurde nicht das gesamte Regelwerk abgeschafft, sondern wie in der Republik Lettland oder in der Russischen Föderation nur einzelne Klauseln gestrichen.

Die Praxis bei der Zielsetzung für körperschaftsteuerliche Subventionen ist in den beteiligten Ländern unterschiedlich – eine allgemeingültige Aussage ist also nicht möglich. Während in Deutschland und in der Slowakischen Republik Zieldefinitionen für körperschaftsteuerliche Subventionen vorhanden und gut dokumentiert waren, ist dies in den gesetzlichen Bestimmungen der Republik Lettland und in der Russischen Föderation nicht der Fall. In Ungarn werden die Ziele indirekt definiert, d. h. über die Bedingungen für die Inanspruchnahme der Subventionen.

Die Möglichkeit, körperschaftsteuerliche Subventionen durch unmittelbare Finanzhilfen zu ersetzen, haben die zuständigen Stellen in keinem der beteiligten Länder in Erwägung gezogen. Die Finanzministerien haben keine umfassenden Evaluierungen der durch die gesetzlichen Bestimmungen erreichten Ziele durchgeführt. Aus diesem Grund kann nicht untersucht werden, ob es Alternativen gibt, durch bessere Regelungen den gleichen Zielerreichungs-

grad zu gewährleisten. Es steht jedoch fest, dass unmittelbare Finanzhilfen sich für Steuerpflichtige anders auswirken als Steuersubventionen. Das Ersetzen der Steuersubventionen durch unmittelbare Finanzhilfen hätte zusätzliche Verwaltungskosten zur Folge.

In allen beteiligten Ländern ist die Inanspruchnahme der Steuersubventionen durch gesetzliche Bestimmungen in vielfacher Hinsicht begrenzt (zeitlich, betragsmäßig und durch sonstige Auflagen). Gewöhnlich können körperschaftsteuerliche Subventionen ohne Bescheinigung über die Einhaltung der Auflagen in Anspruch genommen werden. Die Einhaltung der Auflagen wird durch die nachgängige Prüfung der Steuerbehörden gewährleistet.

Die Finanzministerien aller beteiligten Staaten schätzen den haushaltswirksamen Gesamtbetrag der Steuersubventionen, allerdings mit unterschiedlichen Verfahren. Die Finanzministerien der Republik Lettlands und der Slowakischen Republik nehmen – neben der Schätzung des Gesamtbetrags – auch eine Schätzung der Zahl der Steuerpflichtigen, die Steuersubventionen in Anspruch nehmen, vor. Das deutsche Finanzministerium erstellt Schätzungen zur Höhe der Subventionen und zur Zahl der Steuerpflichtigen, die sie in Anspruch nehmen. Diese Schätzung stützt sich allerdings nicht auf aktuelle Datenbestände, denn die Daten aus den offiziellen Statistiken beruhen auf Feststellungen, die fünf Jahre oder älter sind. Das ungarische und das russische Finanzministerium führen zwecks Erstellung des Haushaltsplanentwurfs jeweils eine Schätzung des Gesamtbetrages der Steuersubventionen durch.

Im Allgemeinen reicht die Datengrundlage im Bereich der körperschaftsteuerlichen Subventionen für einen Vergleich und eine Evaluierung der Folgenabschätzung von Steuersubventionen, einschließlich der für KMU, nicht aus. Das Verhältnis zwischen der Gesamtzahl der Steuerpflichtigen und derer, die körperschaftsteuerliche Subventionen in Anspruch nehmen kann auf der Grundlage der Daten der beteiligten Länder nicht verglichen werden. Auch im Falle der KMU ist dieses Verhältnis nicht zu ermitteln. Grund dafür ist, dass nur in Ungarn Daten über die KMU und über die Gesamtzahl der Steuerpflichtigen, die Subventionen in Anspruch nehmen, verfügbar waren. In Deutschland, der Republik Lettland, der Russischen Föderation und der Slowakischen Republik gibt es für KMU keine speziell vorgesehenen Subventionen.

Der durchschnittliche Betrag der Steuersubventionen für Steuerpflichtige kann anhand der von den beteiligten Ländern zur Verfügung gestellten Daten nicht verglichen werden. Auch für die KMU ist die Ermittlung dieses Verhältnisses nicht möglich.

Der Anteil körperschaftsteuerlicher Einnahmen an den gesamten Steuereinnahmen des Staatshaushalts der beteiligten Länder schwankt zwischen 3,1 und 26,3%. Der Anteil der körperschaftsteuerlichen Subventionen am Gesamtbetrag der Einnahmen des Staatshaushalts beträgt zwischen 0,7 und 3,3%. Das Verhältnis zwischen körperschaftsteuerlichen Subventionen und körperschaftsteuerlichen Einnahmen ist in der Russischen Föderation am geringsten (2,75-3,79%), dagegen in der Slowakischen Republik 2004 (20,23%) und 2005 sowie 2006 in Ungarn (28,26% und 24,09%) am höchsten. Für KMU können diese Indikatoren nicht ermittelt werden.

Die Finanzministerien der beteiligten Staaten verfolgen die Entwicklung körperschaftsteuerlicher Subventionen, um sie bei der Haushaltsaufstellung berücksichtigen zu können. Die Entwicklung der körperschaftsteuerlichen Subventionen wird – außer in der Slowakischen

Republik – nicht von den Finanzministerien evaluiert. Dies gilt insbesondere für die Anzahl der Steuerpflichtigen, die Steuersubventionen in Anspruch nehmen.

In allen beteiligten Staaten werden von der Steuerverwaltung IT-Verfahren entwickelt und angewandt, die sie bei der körperschaftsteuerlichen Antragsbearbeitung und für Steuerprüfungszwecke beim einheitlichen Verfahren aller Finanzämter verwenden. Die IT-Verfahren decken alle Prüfungsphasen ab, die gespeicherten Daten sind zuverlässig. Die Zugangsrechte und die Speicherung der Daten über Veränderungen im Verfahren unterliegen ebenfalls den entsprechenden Bestimmungen. Bestimmte Mängel konnten in drei Ländern im Zusammenhang mit der Anwendung von IT-Verfahren festgestellt werden. Diese Probleme wurden jedoch beseitigt.

In allen beteiligten Ländern verfügen die IT-Verfahren der Steuerbehörden auch über Risikomanagementmodule zur Unterstützung der Steuerprüfungen. Anzahl und Umfang der dabei berücksichtigten Risikofaktoren sowie die Qualität der Anwendungen sind aufgrund unterschiedlicher nationaler Gegebenheiten verschieden. Jede Steuerverwaltung klassifiziert die Steuerpflichtigen anhand der Daten der Steuererklärungen und sonstiger steuerlicher Informationen, wie z. B. der Steuerzahlungsmoral. In Deutschland, Ungarn und der Russischen Föderation wird auch die Stimmigkeit der Daten der Steuererklärungen berücksichtigt.

In den beteiligten Ländern – außer der Republik Lettland – sind die Ziele der körperschaftsteuerlichen Subventionen klar und messbar definiert.

In allen Ländern gibt es Bestimmungen, die eine Evaluierung der Folgen von Steuersubventionen und deren Zielerreichung vorschreiben. Generell lässt sich jedoch feststellen, dass die Zielerreichung nicht ausreichend überwacht wird. Die nationalen Finanzministerien haben – außer Deutschland – keine Verfahren zur Nachverfolgung und Beurteilung eingerichtet. Ebenso wenig wurden Methoden zur Evaluierung der Zielerreichung entwickelt. Obwohl in Deutschland solche Methoden entwickelt worden sind, verfolgen die meisten Ressorts keinen klar strukturierten Ansatz oder eine allgemein anerkannte Methode.

Die Verwaltungskosten für die Erhebung der verschiedenen Steuerarten – einschließlich der Steuersubventionen – werden weder von den Finanzministerien noch von den zuständigen Steuerbehörden gesondert erfasst. Die Wirtschaftlichkeit der Steuersubventionen kann deshalb nicht ermittelt werden.

In den Bestimmungen sind meist keine obligatorischen Prüfungen vorgeschrieben. Die Körperschaftsteuerprüfungen der Steuerverwaltung beinhalten allerdings auch die Prüfung der körperschaftsteuerlichen Subventionen. Prüfungsart- und methodik unterscheiden sich aber.

Bei der Erfassung der Prüfungsdaten und der Ergebnisse gehen die Steuerverwaltungen unterschiedlich vor. Ein Vergleich ist daher nicht möglich. Informationen zu Unregelmäßigkeiten, die sich aus den Prüfungen ergeben – insbesondere im Hinblick auf steuerstrafrechtliche und/oder verwaltungsrechtlich relevante Ordnungswidrigkeiten – werden nur von der deutschen, ungarischen und slowakischen Steuerverwaltung bereitgestellt. Von letzterer wurden dabei keine Unregelmäßigkeiten festgestellt. In Deutschland werden solche Informationen nicht zentral erfasst.

4.4.2 Empfehlungen

Aufgrund der bei der abgestimmten Prüfung gewonnenen Prüfungsergebnisse, hat die Unterarbeitsgruppe folgende Empfehlungen erstellt:

1 Vorschläge zum Gesetzgebungsverfahren	Systematische Dokumentation der Subventionsziele Durchführung einer vorgängigen und gleichzeitigen Gesetzesfolgenabschätzung und Überprüfung von Alternativen, z. B. direkte Finanzhilfen
2 Entwicklung von Bewilligungskriterien	Abschätzung der Möglichkeit einer befristeten Gewährung von Subventionen Vorzug für eine zeitlich begrenzte Bewilligung in Bezug auf einzelne Steuerpflichtige, die Subventionen erhalten
3 Verpflichtung zur Veröffentlichung maßgeblicher Daten	Jährliche Bezifferung der durch die steuerlichen Vergünstigungen entstehenden tatsächlichen Einnahmefälle, Vergleich von Ist- und Sollkosten auch in Bezug auf andere Steuerarten und Haushaltsjahre Ggf. Verwaltungskosten Ggf. Bürokratiekosten der Steuerpflichtigen, die Subventionen erhalten Anzahl und Struktur der Steuerpflichtigen, die Subventionen erhalten
4 Regelmäßige Evaluierung	Evaluierung der Zielerreichung Evaluierung der Wirksamkeit Evaluierung der Wirtschaftlichkeit
5 Einsatz von IT	Automatisierte Verfahren mit kompatiblen Datenbanken Einsatz von Risikomanagementsystemen auf der Grundlage von zuverlässigen Daten Bildung von Netzwerken Einrichtung eines Subventionsregisters

4.5 Unterarbeitsgruppe 3 – „Umsatzsteuer“

Der Unterarbeitsgruppe „Umsatzsteuer“ gehören Lettland, Litauen, die Schweiz und Deutschland (Vorsitz) an. Die Unterarbeitsgruppe „Umsatzsteuer“ wurde beauftragt, sich mit den Steuervergünstigungen durch Anwendung eines ermäßigten Umsatzsteuersatzes zu befassen. Sie kamen im Zeitraum von Februar 2006 bis Januar 2008 zu drei Sitzungen zusammen.

4.5.1 Prüfungsumfang

Wie vereinbart haben die Mitglieder der Unterarbeitsgruppe Erhebungen zum ermäßigten Umsatzsteuersatz in ihren Ländern durchgeführt. Sie erörterten den Prüfungsumfang und die anzuwendenden Prüfungsverfahren. Jeder Rechnungshof konnte die Steuersubventionen und Prüfungsziele, die er im Rahmen seiner nationalen Prüfungen abdecken wollte, frei wählen.

Die Prüfung sollte z. B. zeigen, ob die in den Mitgliedstaaten untersuchten Umsatzsteuersatzermäßigungen noch gerechtfertigt sind oder zu unbeabsichtigten Nebenwirkungen führen. Außerdem sollte die Prüfung der Frage nachgehen, wer oder welche Zielgruppe von der jeweiligen Steuersatzermäßigung profitiert und ob diese steuerliche Begünstigung ein geeignetes Instrument zur Unterstützung der angegebenen Maßnahmen ist. Darüber hinaus sollten die Mitglieder der Unterarbeitsgruppe Informationen über die Probleme sammeln, die in ihren Ländern im Zusammenhang mit der Anwendung ermäßigter Umsatzsteuersätze bestehen, die Gesamthöhe der Umsatzsteuerausfälle, die in ihrem Land infolge der Anwendung eines ermäßigten Umsatzsteuersatzes entstanden, die Wirksamkeit der Subvention und die Verfahren zur Beurteilung der Wirksamkeit ermäßigter Umsatzsteuersätze.

Die getroffenen Prüfungsfeststellungen wurden zunächst in nationalen Prüfungsberichten vorgestellt.

4.5.2 Prüfungsfeststellungen

Ein Rechnungshof hat die Anwendung und den Vollzug des ermäßigten Umsatzsteuersatzes für „Fast-Food-Gastronomie“, „Kunstgegenstände und Sammlungsstücke“ sowie „Kombinationsartikel“ näher untersucht. Die Prüfung bestätigte, dass es bei der Anwendung einzelner Umsatzsteuerermäßigungen zu Mitnahmeeffekten und missbräuchlichen Gestaltungen kommt und aufgrund erheblicher Abgrenzungsschwierigkeiten nur mit einem hohen Personaleinsatz wirksam durchzuführen ist. Es wurde daher empfohlen, den ermäßigten Umsatzsteuersatz in diesen Bereichen abzuschaffen.

Ein weiterer Rechnungshof führte Erhebungen durch, um zu überprüfen, ob die rechtmäßige Anwendung des ermäßigten Umsatzsteuersatzes systematisch kontrolliert wird und ob die dadurch erzielten Einnahmen beziffert werden. Er untersuchte weiterhin, ob die durch die Ermäßigung erzielten steuerlichen Mindereinnahmen berechnet werden und ob die Wirksamkeit des ermäßigten Umsatzsteuersatzes und der Nutzen für die Öffentlichkeit beurteilt werden. Der Rechnungshof stellte fest, dass nicht beurteilt wurde, ob die Umsetzung des ermäßigten Umsatzsteuersatzes einen Nutzen für die Öffentlichkeit darstellt.

Ein Rechnungshof gab eine wirtschaftswissenschaftliche Studie in Auftrag, um die Auswirkungen des ermäßigten Umsatzsteuersatzes auf Preise, Angebot, Nachfrage usw. zu ermitteln. Die Studie hat gezeigt, dass der ermäßigte Umsatzsteuersatz sich nicht direkt auf Waren- und Dienstleistungspreise auswirkt und dass kein direkter Nutzen für den Verbraucher entsteht.

Ein Rechnungshof wählte die niedrigeren Sätze in der MwSt als Thema einer Evaluierung, weil sie eine wenig transparente Form der Subventionierung darstellten und eine Reform des Mehrwertsteuergesetzes im Gange war, welche eine Vereinfachung der Satzstruktur bis hin zu einem Einheitssatz anstrebte.

4.5.3 Schlussfolgerungen

Auf der Grundlage der nationalen Prüfungen und Berichte gelangten die Mitglieder der Unterarbeitsgruppe „Umsatzsteuer“ hinsichtlich der Auswirkungen und der Wirtschaftlichkeit

niedrigerer Umsatzsteuersätze zu den folgenden gemeinsamen Schlussfolgerungen:

- Von der Anwendung eines niedrigeren Umsatzsteuersatzes sollten unmittelbar die Konsumenten durch eine Senkung der Waren- und Dienstleistungspreise profitieren.
- Die Unterarbeitsgruppe bekräftigt, dass niedrigere Umsatzsteuersätze nicht geeignet sind, die Preise für Waren und Dienstleistungen zu senken, das Wachstum von Angebot und Nachfrage zu stimulieren oder in Bereichen mit niedrigeren Umsatzsteuersätzen neue Arbeitsplätze zu schaffen. Wo die Anwendung niedrigerer Sätze dennoch eine gewisse Wirkung entfaltet, hätte diese Wirkung auf anderem Wege erzielt werden können.
- In manchen Fällen profitieren von den niedrigeren Umsatzsteuersätzen nicht die Konsumenten, sondern ausschließlich bestimmte Unternehmen. Diese können dadurch ihre Gewinne maximieren. Die Steuersubvention hat so unbeabsichtigte Auswirkungen auf die Geschäfte.
- Bei der Anwendung niedrigerer Umsatzsteuersätze kommt es zu unbeabsichtigten Missklassifikationen und Fällen von Missbrauch, die zu erheblichen Umsatzsteuer-Einnahmenausfällen führen können.
- Hinzu kommt, dass die Fehlallokation von Steuervergünstigungen nicht nur gegen die nationale Subventionspolitik verstößt, sondern auch gemeinschaftsrechtlich problematisch sein kann.
- Zwischen den detaillierten Vorschriften für die Satzdifferenzierung und den Mitteln, die den Steuerbehörden zu deren Anwendung zur Verfügung stehen, herrscht ein unangemessenes Verhältnis. Die Unterarbeitsgruppe befürchtet, dass die niedrigeren Umsatzsteuersätze oft zu Unrecht gewährt werden.
- Die Mitglieder der Unterarbeitsgruppe stellten fest, dass die ermäßigten Umsatzsteuersätze für bestimmte Waren und Dienstleistungen oft überholt sind und daher nicht mit der ursprünglichen Absicht des Gesetzgebers übereinstimmen. Eine regelmäßige Evaluierung solcher Ermäßigungen ist rechtlich nicht vorgesehen.
- Der Kontrolle der Auswirkungen von Steuervergünstigungen wie niedrigeren Umsatzsteuersätzen wird nicht genügend Beachtung geschenkt. Die Wirtschaftlichkeit der Steuervergünstigungen, ihre Auswirkungen auf die Verbraucherpreise, Konsummuster und Verwaltungskosten werden keiner regelmäßigen Bewertung unterzogen.
- Es ist für einen Staat generell prüfenswert ob die mit ermäßigten Umsatzsteuersätzen angestrebten Ziele mit bestehenden wohlfahrtstaatlichen und wirtschaftspolitischen Instrumenten wirtschaftlicher erreicht werden können.

4.5.4 Einzelempfehlungen

Die Mitglieder der Unterarbeitsgruppe „Umsatzsteuer“ empfehlen, die folgenden Möglichkeiten zu prüfen:

- Systematische Kontrolle und Evaluierung der Anwendung und Auswirkungen niedrigerer Umsatzsteuersätze

- Jährliche Veröffentlichung der durch die steuerlichen Vergünstigungen entstehenden tatsächlichen Einnahmenausfälle für den Haushalt
- Überprüfung, ob die Zahl der Umsatzsteuervergünstigungen in Form ermäßigter Steuersätze auf bestimmte Waren und Dienstleistungen reduziert und ggf. durch andere Instrumente ersetzt werden könnten.

4.6 Gesamtempfehlungen

Obwohl die drei Unterarbeitsgruppen Steuersubventionen aus verschiedenen Blickwinkeln betrachtet haben, waren die Prüfungsergebnisse ähnlich. Daher hat die Arbeitsgruppe folgende Gesamtempfehlungen ausgesprochen:

Gesetzgebung

Künftig sollten bei der Einführung von Steuersubventionen eindeutige, klar umschriebene Ziele umfassend dokumentiert werden. Nach eingehender Prüfung sollte in geeigneten Fällen eine Befristung von Steuersubventionen in den Gesetzesentwürfen erfolgen. Andere Förderhilfen sollten berücksichtigt und die Gesetzesfolgen abgeschätzt werden.

Berichterstattung

Die Subventionsberichterstattung sollte die durch die steuerlichen Vergünstigungen entstehenden tatsächlichen Einnahmenausfälle beziffern. Solche Berichte sollten regelmäßig, am besten jährlich verfasst werden. Die Bereitstellung weiterer Daten wie z. B. zu den Verwaltungskosten sowie den Ist/Sollkosten ist anzustreben. Die Rechnungshöfe empfehlen, eine Liste aller Steuersubventionen zu erstellen auf der Grundlage internationaler Definitionen, die an die nationalen Gegebenheiten anzupassen sind und die Liste jedem zugänglich zu machen.

Evaluierung

Evaluierungen sollten regelmäßig durchgeführt werden, um die Wirksamkeit, Wirtschaftlichkeit und Zielerreichung der steuerlichen Subventionen zu gewährleisten.

Informationstechnologie

Zusätzlich sollten IT-Verfahren für Steuersubventionen weiterentwickelt und Netzwerke mit anderen Datenverarbeitungssystemen gebildet werden um, einen Datenabgleich zu gewährleisten.

5 Aktivitäten der nationalen Regierungen und Parlamente

5.1 Hintergrund

Es gibt keine EUROSAT-Richtlinien für die Durchführung einer abgestimmten Prüfung. Die nationalen Prüfungen und die Behandlung der Prüfungsergebnisse richteten sich jeweils nach dem nationalen Prüfungsmandat jedes einzelnen teilnehmenden Rechnungshofes.

5.2 Nationale Aktivitäten

Die beteiligten Rechnungshöfe hatten im Rahmen ihrer Verfahren die Prüfungsergebnisse und Empfehlungen mit den zuständigen nationalen Stellen – im Regelfall den Regierungen bzw. Ministerien – diskutiert. Die Prüfungsberichte wurden anschließend überwiegend der Öffentlichkeit zugänglich gemacht. Soweit es zu einer parlamentarischen Behandlung der Berichte kam, wurden z. B. Anhörungen oder Diskussionen in den zuständigen Ausschüssen geführt. Hierbei hatten die jeweiligen nationalen Rechnungshöfe die Gelegenheit, ihre Standpunkte darzustellen und näher zu erläutern. Dabei wurde vereinzelt bereits erklärt, Empfehlungen der Rechnungshöfe zukünftig umzusetzen. Konkrete Änderungen in der Gesetzgebung, der Steuerverwaltung und der Berichterstattung haben sich jedoch aufgrund der Prüfungen noch nicht ergeben.

6 Schlussfolgerungen

Trotz unterschiedlicher Steuersysteme stellten die an der abgestimmten Prüfung beteiligten Rechnungshöfe ähnliche Probleme und Missstände im Bereich der Steuersubventionen fest. Ein gemeinsames Vorgehen der Rechnungshöfe könnte neue Perspektiven in einem größeren Umfeld eröffnen und zu neuen nationalen Prüfungserkenntnissen beitragen vor allem, wenn die geltenden gesetzlichen Bestimmungen auf einer gemeinsamen Grundlage beruhen.

Weitere Ziele der Rechnungshöfe waren der Erfahrungsaustausch, die Schaffung informeller Netzwerke und die Förderung der Kommunikation mit anderen Rechnungshöfen und Institutionen. Die an der abgestimmten Prüfung beteiligten Rechnungshöfe haben auch diese Ziele erreicht. Die Arbeitsgruppe hofft, dass die Rechnungshöfe der EUROSAT ihre Bemühungen weiter fortsetzen und auf den bisherigen Errungenschaften in weiteren gemeinsamen Aktionen aufbauen.

Mitglieder- und Teilnehmerliste

(in alphabetischer Reihenfolge)

Land	Name		Adresse
Dänemark	Herr Henrik Berg Rasmussen Herr Jesper Neumann		Rigsrevisionen Landgreven 4 Postboks 9009 1022 København
Deutschland	Herr Dirk Ehlscheid Herr Jan Eickenboom Herr Frank Fritsch Frau Claudia Goldammer Herr Norbert Hauser Herr Peter Korn	Herr Achim Nettersheim Herr Ralf Olheide Herr Klaus Schleicher Herr Michael Schrenk Herr Ulrich Walter	Bundesrechnungshof Adenauerallee 81 53113 Bonn Germany
Finnland	Herr Visa Paajanen Herr Hannu Rajamäki		Valtiontalouden Tarkastusvirasto POB 1119 00101 Helsinki
Frankreich	Herr Pierre Jaillard		Cour des Comptes 13, rue Cambon 75100 Paris
Island	Herr Ingi K Magnússon		Ríkisendurskodun Skulagata 57 150 Reykjavík
Italien	Herr Ennio Colasanti Herr Luigi Mazzillo Herr Mario Nispi Landi		Corte dei Conti Via Baiamonti 25 00195 Roma
Lettland	Herr Ieva Braunfelde Frau Iveta Burkane Herr Oskars Erdmanis	Frau Iveta Martuzane Frau Ilze Ozola Frau Iva Saicane	Latvijas Republikas Valsts kontrole 13 k-5 Skanstes Street Rīga, LV 1013 Latvia
Litauen	Frau Edita Janušienė Frau Jolita Korzunienė Frau Kristina Vaivadienė		Lietuvos Respublikos Valstybės Kontrolė Pamėnkalnio 27 01113 Vilnius
Niederlande	Frau Marjan de Rijke Herr Lauw Simonse		Algemene Rekenkamer Lange Voorhout 8 2514 ED Den Haag
Polen	Herr Waldemar Długolecki Herr Józef Górny Herr Adam Niedzielski	Herr Marek Sikorski Herr Dominik Wadecki	Najwyższa Izba Kontroli P.O. Box-14 00-950 Warszawa 1 Poland
Rumänien	Frau Anisoara Fratila Frau Cristina Ivan Herr Stefan Popa Frau Anca Szigeti		Curtea de Conturi a României 22- 4 Lev Tolstoi St. Sect 1 71289 Bucharest Romania
Russische Föderation	Herr Valery Goreglyad Frau Olga Maslova Herr Vladimir Sychev Herr Sergey Trufanov		Accounts Chamber of the Russian Federation Zubovskaya Street 2 119992 Moscow
Schweden	Frau Anneli Josefsson Frau Katarina Stenmark Frau Frida Widmalm		Riksrevisionen Nybrogatan 55 114 90 Stockholm
Schweiz	Herr Bruno Nideröst		Eidgenössische Finanzkontrolle Monbijoustrasse 45 3003 Bern
Slowakische Republik	Herr Vladimír Daniš Herr Emil Kočíš		Najvyšší kontrolný úrad SR Priemyselná 2 824 73 Bratislava
Ungarn	Herr Gábor Földvári Frau Gabriella Kapronczai Frau Mária Vörös		Állami Számvevőszék Apáczai Csere János utca 10 1052 Budapest
Vereinigtes Königreich	Herr Steven Ardron Herr Iain Johnston Herr David Waddell		National Audit Office 157-197 Buckingham Palace Road Victoria London SW1W 9SP
Zypern	Herr Theodosios Hadjimichael		Audit Office of the Republic of Cyprus 12 Vizantiou Street 1406 Strovolos-Nicosia

**Seminar „Steuersubventionen“
organisiert vom Präsidenten der EUROSAI**

21.-22. Februar 2006 in Bonn

- Seminarergebnisse -

„Subventionskontrolle bei Steuererleichterungen“

Dr. Michael Thöne, Finanzwissenschaftliches Forschungsinstitut an der Universität zu Köln

Dr. Thöne merkte zunächst an, dass die Rechnungshöfe durch die Ergebnisse ihrer Prüfungen im Subventionsbereich den Gesetzgeber eventuell zu Änderungen der Steuergesetzgebung bewegen könnten. Dass der Gesetzgeber von sich aus den ersten Schritt unternimmt, sei hingegen unrealistisch.

Für ein Benchmarking (mit einem Steuersystem ohne jegliche Subventionen als Vergleichsgröße) müsste zwischen Steuervergünstigungen und Subventionen unterschieden werden. Dabei definierte Dr. Thöne bei weiter Auslegung Steuervergünstigungen als alle Abweichungen von diesem Steuersystem, die zu Steuerausfällen führen und darauf abzielen, eine Verhaltensänderung beim Steuerpflichtigen zu bewirken.

Die Wirkung der „Sunset-Legislation“ hielt Dr. Thöne für überbewertet. Er empfahl ein Subventionsgesetz nach Schweizer Vorbild unter der Voraussetzung, dass es allgemein bekannt wäre und daher nicht unbemerkt geändert werden könnte. Auch die USA seien im Subventionsbereich schon weiter fortgeschritten.

Anschließend diskutierten die Teilnehmer die Frage des Benchmarking. Dabei sei insbesondere abzuklären, von welchen Zielgrößen, wie z. B. Wirtschaftlichkeit, Gerechtigkeit, „Verwaltungsconvenience“, veranschlagtes Steueraufkommen, die Teilnehmer ausgingen. Auch müsse jeder einzelne Staat zunächst seine eigenen Vergleichsgrößen festlegen (Bezugssteuersystem, Staatsaufbau etc.), da ansonsten ein staatenübergreifender Vergleich der Benchmarks nicht möglich sei.

Eine Abschaffung aller Ausnahmetatbestände könnte insgesamt zu deutlich mehr steuerlicher Gerechtigkeit führen. Dies zeige auch das Beispiel von Neuseeland, wo im Zuge der Steuer- und Wirtschaftsreform Mitte der 80er Jahre fast alle Steuervergünstigungen abgeschafft wurden. Die Teilnehmer äußerten die Hoffnung, dass durch die Prüfung zumindest die ältesten Steuervergünstigungen aufgehoben würden.

„Subventionsbericht und Wirksamkeit von Steuersubventionen“

Christian Valenduc, OECD

Insgesamt vertrat Herr Valenduc die Meinung, dass die Berichterstattung über Steuervergünstigungen ein wichtiger Schritt in Richtung Transparenz sei. Sie müsse jedoch vorausschauend sein und besser in den Haushaltsprozess integriert werden. Für eine Effektivitätsanalyse könnten Wirtschaftsexperten hinzugezogen werden, die endgültige Entscheidung über die Vor- und Nachteile einer Steuervergünstigung läge jedoch bei der Politik.

Im Anschluss stellten die Teilnehmer im Zusammenhang mit der Effektivitätsanalyse die Frage, inwieweit die durchgeführten Analysen von den Rechnungshöfen nachgeprüft werden könnten.

Außerdem wurde die Frage aufgeworfen, ob es bereits ein gemeinsames Verständnis gäbe, was in einem bestimmten Steuersystem Steuervergünstigungen darstelle und was nicht. Im Rahmen der abgestimmten Prüfung könne wohl kein einheitlicher Subventionsbegriff gefunden werden. Dies sei eine der schwierigsten Definitionen, wobei grundsätzlich gelte: je breiter, desto besser. Zudem müsse der Subventionsbegriff regelmäßig überarbeitet werden.

Problematisch sei in diesem Zusammenhang auch die Diskussion über die Benchmarks. Das Vergleichssteuersystem solle so gestaltet sein, dass die Entwicklungsländer außerhalb des Benchmarks blieben. Fragen des internationalen Wettbewerbs hielten die Teilnehmer in diesem Zusammenhang für zu weitgehend. Auch der ermäßigte Umsatzsteuersatz solle beim Benchmarking außen vor gelassen werden, auch wenn er für so genannte Grundgüter zu rechtfertigen sei. Mittlerweile sei aber bei manchen Gütern die Zuordnung zum ermäßigten Steuersatz nicht mehr nachvollziehbar.

Trotzdem müssten auch die (Subventions-)Wirkungen des internationalen Steuerwettbewerbs bewertet werden sowie der Erfolgsgrad der mit dem ermäßigten Umsatzsteuersatz angestrebten Einkommensumverteilung, und zwar unabhängig davon, ob sie Teil des Benchmarks seien oder nicht.

Ein Fernziel könnte sein, identifizierte Steuersubventionen in den jährlichen Haushaltsprozess aufzunehmen und diese quantifizierbar zu machen. Dabei könnten Prioritäten gesetzt, d. h. bestimmte Steuervergünstigungen herausgegriffen werden, beispielsweise solche, die in den letzten zehn Jahren nie evaluiert worden seien.

„Steuern als politisches Instrument“

Jan H. Velthoven, Algemene Rekenkamer, Niederlande

Der niederländische Rechnungshof hat Ende der 90er Jahre eine landesweite Prüfung zum Thema „Steuern als politisches Instrument“ durchgeführt. Für das Jahr 2007 ist nach 2003 bereits die zweite Kontrollprüfung vorgesehen.

Für die Prüfung wurden 28 „sichere“ positive Anreize mit einem Volumen von insgesamt 6,6 Milliarden NLG im Jahr 1998 ausgewählt und unter den Gesichtspunkten Vorbereitung, Durchführung und Ergebnis der einzelnen Maßnahmen untersucht. Zudem wurde überprüft, inwieweit die Erfolge dieser Maßnahmen auf ministerieller Ebene bekannt sind.

Der niederländische Rechnungshof stellte eine Reihe von Mängeln in der äußerst wichtigen Vorbereitungsphase fest. Beispielsweise war der Beweggrund für die Wahl des Mittels häufig nicht schriftlich niedergelegt und damit nicht transparent. Auch die mit der Maßnahme beabsichtigte Wirkung wurde häufig nur unzureichend oder in nicht messbaren Begriffen dargelegt. Ebenfalls in der Vorbereitungsphase zu berücksichtigen sind:

- Konkrete Formulierung der Ziele der Maßnahme

- Schätzung der Kosten der Maßnahme einschließlich der Implementierungs- und Verwaltungskosten
- Entscheidung, ob die Maßnahme befristet oder ohne zeitliche Beschränkungen ausgestaltet werden soll
- Prüfung von Durchführbarkeit und Vereinbarkeit mit EU-Recht.

Hinsichtlich der Durchführung der einzelnen Maßnahmen stellte der niederländische Rechnungshof fest, dass die Auswirkungen auf das Steueraufkommen, die Implementierungs- und Verwaltungskosten sowie das Maß an Compliance der Regierung nur in mäßigem Umfang bekannt waren. Zudem verfügten die Ministerien vielfach auch über mangelhafte Informationen hinsichtlich der mit den Maßnahmen erzielten Ergebnisse, wobei die Zahl der Kontrollen bei negativen steuerlichen Maßnahmen höher ist als bei positiven.

Im Rahmen seiner Empfehlungen forderte der niederländische Rechnungshof u. a.:

- einen größeren Konsens bei der Definition der Begriffe positive/negative steuerliche Anreize anzustreben
- die Ausgangslage klar zu beschreiben
- die Ziele messbarer zu formulieren
- ein größeres Augenmerk auf die Kosten zu richten
- bereits früh die Kriterien und den Zeitpunkt für eine Evaluierung festzulegen
- die Möglichkeiten der Beurteilung der Wirksamkeit einer Maßnahme zu erhöhen, um über deren Fortbestand entscheiden zu können.

Insgesamt wurde die Prüfung des Rechnungshofes positiv aufgenommen. Die meisten Ministerien bemühten sich um die Umsetzung der Empfehlungen. Das Finanzministerium wollte hingegen nur eine bessere Dokumentation in der Vorbereitungsphase sicherstellen und reagierte ansonsten eher kritisch auf den Bericht des Rechnungshofes.

Bei der Kontrollprüfung im Jahr 2003 stellte der Rechnungshof fest, dass das Finanzministerium damit begonnen hatte, für steuerliche Instrumente in den Bereichen Einkommensteuer, Lohnsteuer, Umsatzsteuer und Verbrauchsteuern eine Checkliste zu erstellen. Seit 1999 sind Steuersubventionen in einem Anhang zum jährlichen Haushaltsplan auszuweisen. Die Regelungen zur Haushaltsvorbereitung gelten seit 2001 auch für Steuersubventionen. Zudem wurde auf die Bestimmung der Steuerausfälle sowie auf die Wirksamkeit und Ergebnisse der Maßnahmen zunehmend mehr Wert gelegt.

Die Teilnehmer werten es als besonderen Erfolg, dass die Steuersubventionen in den Niederlanden durch die Prüfung transparenter geworden seien und das Ministerium mit der Checkliste begonnen habe und mittlerweile über mehr Informationen verfüge. Anschließend diskutieren sie Fragen der Verantwortung der Sektorministerien im Subventionsbereich in Abgrenzung zu der des Finanzministeriums und des Standards von Evaluierungen. Die einzige Chance, diese Unwägbarkeiten auszuschließen, seien eigene Erhebungen durch die Rechnungshöfe.

Auch die Frage der Einbeziehung von Steuerbefolgungskosten wurde diskutiert. Deren Un-

tersuchung sei bei kleinen und mittelgroßen Unternehmen sehr schwierig, wobei dies aber auch von der betreffenden Regelung abhängt. Sie sollten – wenn auch nicht schwerpunktmäßig – mit berücksichtigt werden. Allerdings falle hierunter nicht nur die Frage nach den Erhebungskosten.

„Steuerliche Anreize in Entwicklungs- und Transformationsländern“

Dr. David Nguyen-Thanh, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)

Dr. Nguyen-Thanh hielt auch im Zusammenhang mit Entwicklungs- und Transformationsländern eine Definition des Begriffs „Steuervergünstigung“ für erforderlich. Steuervergünstigungen sollen vor allem dazu beitragen, diese Länder für ausländische Investoren attraktiv zu machen. Bestimmte Regionen und vor allem der formale Sektor sollen dadurch gefördert und die Arbeitslosigkeit gemindert werden.

Dennoch sind Steuervergünstigungen in Entwicklungs- und Transformationsländern umstritten. Bei guter Ausgestaltung können Steuervergünstigungen effektiv sein und möglicherweise ein Signal für den steuerlichen Wettbewerb geben. Andererseits gibt es auch negative Folgen, wie z. B. Einnahmehausfälle (auch durch Mitnahmeeffekte), Ungleichbehandlung und Korruption. Die Entscheidungen über die Gewährung von Steuervergünstigungen seien oft nicht transparent. Auch die dadurch entstehenden Verwaltungskosten sollte man aufgrund der regelmäßig knappen administrativen Kapazität in diesen Ländern nicht außer Acht lassen.

Mittlerweile hat sich herausgestellt, dass eine gute Regierungsführung und ein solides Steuersystem wichtige Gesichtspunkte für erfolgreiche Reformprozesse sind. Steuervergünstigungen allein, die oft per Dekret vom Finanzministerium gewährt werden, sind für ausländische Investoren hingegen nicht ausschlaggebend. Nichtsteuerlichen Faktoren, wie z. B. dem politischen Umfeld, der Infrastruktur, der Verfügbarkeit von Fachkräften und dem Grad an Rechtsstaatlichkeit und Rechtsschutz, messen die meisten Unternehmen wesentlich größere Bedeutung bei.

Wichtig für die Zukunft seien auch Compliance und die Entwicklung einer externen Kontrolle. Eine größere Transparenz würde den Rechnungshöfen sehr große Möglichkeiten eröffnen. Handreichungen und Empfehlungen anderer Rechnungshöfe und ein Benchmarking im Bereich der Steuerverwaltung wären hilfreich.

Anschließend diskutieren die Teilnehmer die Schwierigkeiten im Zusammenhang mit der Gewährung von Steuersubventionen auch in Industrieländern. Oft sei das Finanzministerium besser organisiert als Stellen in anderen Ministerien, die mit Subventionen befasst sind. Es wäre wünschenswert, für den Subventionsbereich eine einzige Stelle im Bereich der Finanzverwaltung einzurichten.

Weiterführende Literatur

LITERATURANGABEN FÜR DAS EUROSAT-PROJEKT

Diese Literaturliste zur Thematik der steuerlichen Subventionen erhebt keinen Anspruch auf Vollständigkeit. Sie beinhaltet vor allem neuere Veröffentlichungen, die in engem Zusammenhang zum EUROSAT-Projekt stehen und dient der Arbeitsgruppe somit als erste Orientierungshilfe. Die beigefügten Angaben des schweizerischen Rechnungshofes stützen sich in erster Linie auf die vorhandenen Inhaltsangaben Zusammenfassungen, Umschlagseiten oder sonstige Hinweise in Büchern oder Fachaufsätzen.

ERHÖHUNG DER TRANSPARENZ IM BEREICH DER STEUERSUBVENTIONEN

Bojje Robert: Should Tax Expenditures be integrated into the Budget Process? (Sollten steuerliche Subventionen in die Haushaltsaufstellung einbezogen werden?) In: Economic Review, 2/2002 (14 Seiten).

Der Autor dieses Artikels arbeitete als steuerpolitischer Berater für die schwedische Zentralbank. Bei einer großzügigen Gewährung von steuerlichen Subventionen besteht die Gefahr, die schwedische Ausgabenhöchstgrenze zu untergraben. Im Falle einer vollständigen Ausweisung von steuerlichen Subventionen beim Haushaltsverfahren bestünde kein Anreiz mehr, die Ausgabenhöchstgrenze durch Steuererleichterungen zu umgehen. Der Aufsatz erläutert Verfahren und Ziele der schwedischen Subventionsberichterstattung und erläutert verschiedene praktische Probleme, die bei einer eventuellen Einbeziehung auftreten könnten. Sollten die steuerlichen Subventionen vollständig in die Haushaltsaufstellung einbezogen werden, ist ein breiter politischer Konsens bezüglich der Interpretation des Einheitlichkeitsprinzips im Parlament wichtig. Die Probleme zeigen auch, dass die gegenwärtigen Subventionsberechnungen unvollständig und aufgrund technischer Probleme fehlerhaft sind. Der Autor schließt daraus, dass zum gegenwärtigen Zeitpunkt eine vollständige Einbeziehung der Subventionen in die Haushaltsaufstellung nicht möglich ist. Trotzdem ist der aktuelle Subventionsbericht wichtig, da er eine grobe Schätzung der Steuervergünstigungen im Steuersystem liefert und damit Ansätze aufzeigt, die die Umgehung der Ausgabenhöchstgrenze zum Ziel haben.

http://www.riksbank.com/upload/Dokument_riksbank/Kat_publicerat/Artiklar_PV/er02_2_artikel4.pdf

Forman Jonathan Barry: Would a Social Security Tax Expenditure Budget Make Sense? (Wäre ein eigener Haushalt für steuerliche Subventionen im Bereich der sozialen Sicherung sinnvoll?), In: Public budgeting and financial management, 1993, Band. 5, Nr. 2 (14 Seiten).

IMF: Manual on Fiscal Transparency (Leitfaden Steuerliche Transparenz), In: IMF – Fiscal Affair Department, Washington DC, 2001. <http://www.imf.org/external/np/fad/trans/manual/>

OECD: Best Practice Guidelines – Off Budget and Tax Expenditures (Best Practice-Leitsätze – Ausgaben außerhalb des Haushalts und steuerliche Subventionen), OECD, 19. Mai 2004 (19 Seiten).

Ziel dieser Publikation ist die Formulierung von Best Practice-Leitsätzen, mit Hilfe derer ein reibungsloser Haushaltsvollzug trotz Ausgaben außerhalb des Haushalts und steuerlicher Subventionen gewährleistet werden kann. Die Publikation enthält vorwiegend Leitsätze zum Erkennen von steuerlichen Subventionen; der Haushaltskontrolle von steuerlichen Subventionen und deren Schätzung.

[http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/\\$FILE/JT00164525.PDF](http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/$FILE/JT00164525.PDF)

OECD: Tax Expenditures. Recent Experiences, (Steuerliche Subventionen : Neuerungen) OECD, Paris, 1996 (118 Seiten).

Diese Publikation gibt einen Überblick über Subventionsberichte, beleuchtet unterschiedliche Ansätze in der Praxis und forscht nach den Gründen für diese Unterschiede. Jedes Land wird in standardisierter Form näher untersucht: Hintergrund zu und Einführung in die Subventionsberichterstattung, Struktur des Berichts, Definition der steuerlichen Subvention, Berechnungsmethode und Verwendung der Subventionsberichte.

United States General Accounting Office – GAO (Amerikanischer Rechnungshof): Tax Policy Tax Expenditures Deserve More Scrutiny, (Steuerpolitik. Größere Überwachung steuerlicher Subventionen angebracht), GAO/GGD/AIMD-94-122 Tax Expenditures, Juni 1994 (135 Seiten).

Der amerikanische Rechnungshof erarbeitet in diesem Bericht drei Alternativen zur stärkeren Überwachung von steuerlichen Subventionen und zur Reduzierung von Einnahmeverlusten. Ohne oder nur mit geringfügigen Änderungen der Verfahrensabläufe des Kongresses und der Rechtsprechung könnte eine größere Überwachung erzielt werden durch: Stärkung oder Ausweitung der gegenwärtigen Überwachungsmethoden, Verschiebung der Berechtigungshöchstgrenzen nach unten und oben, verbesserte Informationsverwertung oder Erstellung eines Arbeitsplans für die regelmäßige Überprüfung bestimmter steuerlicher Subventionen. Die zweite Alternative besteht in einer stärkeren Einbindung der steuerlichen Subventionen in die Haushaltsaufstellung durch den Kongress. Ein realistischer Ansatz wäre eine Entscheidung des Kongresses zu der Frage, ob Einsparungen bei den steuerlichen Subventionen wünschenswert sind und, falls dem so ist, die Festlegung spezifischer Sparziele in den jährlichen Haushaltsresolutionen. Einsparungen könnten durch bestehende Abstimmungsverfahren erzielt werden. Eine dritte Möglichkeit ist die Verknüpfung von Subventionskontrollen mit funktionsspezifisch ähnlichen Ausgabenprogrammen, die die gesamte staatliche Finanzierung wirksamer machen könnte. Solche Kontrollen könnten sowohl von der Exekutive als auch der Legislative oder von beiden durchgeführt werden.

<http://www.unclefed.com/GAOREports/ggd94-122.pdf>

PRÜFUNG, EVALUIERUNG; UND/ODER VERGLEICH AUSGEWÄHLTER STEUER-SUBVENTIONEN

Datta Lois-Ellin & Grasso Patrick G.: Evaluating Tax Expenditures: Tools and Techniques for Assessing Outcomes: New Direction for Evaluation (Evaluierung von steuerlichen Subventionen: Instrumente und Techniken für die Erfolgskontrolle: Neue Ausrichtung der Evaluierung), Nr. 79, Jossey-Mass, September 1998 (150 Seiten).

Im Hinblick auf die soziale Gerechtigkeit und eine verantwortungsbewusste Regierungsführung sollte untersucht werden, ob die steuerlichen Subventionen im Rahmen der bestehenden Gesetzgebung zu den gewünschten Resultaten führen und ob sie gleich gut oder besser als andere politische Alternativen in direkten Ausgabenprogrammen sind. In den sechs Fallstudien werden verschiedene steuerliche Subventionen näher beleuchtet. Unter Anwendung von Evaluierungs-, Forschungs- und Analysetechniken, zeigen die Autoren wie öffentlich verfügbare Daten und die bekannten Evaluierungsinstrumente für die Prüfung der Wirksamkeit, der Ergebnisse und der Auswirkungen von steuerlichen Subventionen erfolgreich genutzt werden können.

Eade Deborah: Bad Breaks all Around: the Report of the Century Foundation Working Group on Tax Expenditures, (Steuererleichterungen ufern aus: Bericht der Century Foundation Working Group zu steuerlichen Subventionen, Century Foundation Press, New York, 2002 (200 Seiten).

Dieser Band beinhaltet den Bericht der Arbeitsgruppe und drei Hintergrunddokumente, die die Überlegungen der Gruppe geprägt haben. Diese Dokumente bieten analytische und inhaltliche Einblicke in steuerliche Subventionen. Toders Aufsatz zeigt, dass Steuererleichterungen als politisches Instrument in den USA immer wichtiger werden und erläutert sowohl die Probleme, die das mit sich bringt, als auch die Umstände, unter denen die Abgabenordnung ein nützliches Instrument für die Bereitstellung von Leistungen sein kann. Wasows Aufsatz zeigt auf, dass es sowohl praktisch als auch theoretisch sehr schwierig zu nachzuweisen ist, dass Steuererleichterungen tatsächlich die von den Befürwortern gewünschte Wirkung erzielen. Im dritten Aufsatz untersucht Ettlinger Steuererleichterungen im Detail. Er liefert ausführliche Informationen zu den unzähligen Steuererleichterungen in der amerikanischen Wirtschaft und in Privathaushalten sowie eine vorsichtige Einschätzung der Steuerbegünstigten.

Howard Christopher: The Hidden Welfare State. Tax Expenditures and Social Policy in the United States (Der versteckte Wohlfahrtsstaat. Steuerliche Subventionen und Sozialpolitik in den Vereinigten Staaten), Princeton University Press, Princeton, 1997 (272 Seiten).

Diese Publikation konzentriert sich auf vier ausgewählte steuerliche Subventionen mit sozialpolitischem Charakter in den USA: Abzüge für Hypothekenzinsen, Betriebsrenten, einkommensabhängige und berufsabhängige Sonderabschreibungsmöglichkeiten. Die Studie untersucht besonders die Langzeitentwicklung dieser sozialpolitischen Programme, die

durch die Abgabenordnung geregelt werden. Der Ansatz dieser Publikation ist eindeutig historischer Natur, da der Autor Aussagen über ein Jahr oder einen bestimmten Zeitraum als Stichprobe sieht und somit die Geschichte als hilfreiches Instrument bei der Analyse steuerlicher Subventionen betrachtet. Steuerliche Subventionen werden schnell und einfach gesetzlich verfügt und nehmen in Zeiten sprunghaft steigender Haushaltsdefizite und wachsender Kritik an den traditionellen Wohlfahrtsprogrammen zu. Ihr Umfang sowie ihre Verteilung können politisch nur schwer beeinflusst werden.

Niederländischer Rechnungshof: Taxes as a policy instrument (Steuern als politisches Instrument) (Zusammenfassung veröffentlicht am 18. März 1999, 5 Seiten).

Der niederländische Rechnungshof macht eine Bestandsaufnahme steuerlicher Anreize bzw. Fehlanreize, die zwischen 1988 und 1998 eingeführt oder geändert wurden. Er wählte 28 steuerliche Anreize aus und prüfte die Vorbereitung, Durchführung und das Ergebnis dieser Steuerpolitik. Im Haushaltsmemorandum von 1999 wurde geschätzt, dass diese 28 Maßnahmen im Jahr 1998 zu Mindereinnahmen an Steuern und Beiträgen von ca. 6,6 Milliarden Gulden geführt haben. Bei sechs Gruppen von Fehlanreizen prüfte der niederländische Rechnungshof inwieweit die Erfolge dieser Maßnahmen auf ministerieller Ebene bekannt waren.

http://www.rekenkamer.nl/9282000/d/q179_summary.pdf

Polackova Brixia Hana, Valenduc Christian M.A. & Li Swift Zhicheng: Tax Expenditures – Shedding Light on Government Spending through the Tax System. Lessons from Developed and Transition Economies, The International Bank for Reconstruction and Development (Steuerliche Subventionen – Schaffung von Transparenz). Lehren von entwickelten Ländern und Transformationsländern, Die Internationale Bank für Wiederaufbau und Entwicklung, Washington, 2004 (233 Seiten).

In dieser Publikation werden Konzepte und Methoden für steuerliche Subventionen besprochen, Evaluierungshilfen angeboten, Fallstudien erläutert, wie Regierungen in entwickelten Ländern und Transformationsländern mit steuerlichen Subventionen umgehen und allgemein anwendbare politische Handlungsrahmen skizziert. In einzelnen Kapiteln werden auch Fallstudien aus Australien, Belgien, China, Kanada, den Niederlanden, Polen und dem Vereinigten Königreich beschrieben. Jedes Kapitel erläutert, wie der Staat steuerliche Subventionen und die Maßstäbe des Steuersystems definiert. Einige Kapitel befassen sich z. B. mit Methoden zur Schätzung und Evaluierung von steuerlichen Subventionen für eine politische Analyse, mögliche Auswirkungen dieser Analyse auf die politische Debatte und die Veranschlagung der Kosten für steuerliche Subventionen. Die Erfahrungen der beiden Transformationsländer, Polen und China, beschreiben die Folgen einer Subventionspolitik ohne adäquaten institutionellen und analytischen Rahmen.

Weisbach David A. & Nussim Jacob: The Integration of Tax and Spending Programs (Einbeziehung der steuerlichen Subventionen ins Haushaltsverfahren), in: John M. Olin Program in Law & Economics Working Paper, Nr. 194 (2. Auflage), Universität von Chicago, September 2003 (74 Seiten).

Die Theorie dieser Publikation untersucht, in welchen Fällen man sich entscheiden sollte, ein Ausgabenprogramm durch das Steuersystem zu finanzieren. Man geht davon aus, dass die Entscheidung traditionell auf steuerpolitischen Überlegungen beruht. Die bekanntesten Ansätze sind die der Besteuerungsgrundlage und die der steuerlichen Subventionen, wobei beide von der steuerpolitischen Entscheidung abhängen. Die Autoren argumentieren, dass die Entscheidung zwischen Steuer- oder Ausgabenprogrammen sich nur an der Organisation orientieren sollte. Nach Aufstellung dieser Theorie untersucht die Publikation ob Lebensmittelmarken und die einkommensabhängigen Sonderabschreibungsmöglichkeiten durch das Steuersystem umgesetzt werden sollten. Der Bericht bietet einen Vergleich steuerlicher Subventionen mit anderen politischen Instrumenten.

<http://www.yalelawjournal.org/pdf/113-5/WeisbachFINAL.pdf>

WEBLINKS:

- **Transparenz**

International Monetary Fund – Manual on Fiscal Transparency,
<http://www.imf.org/external/np/fad/trans/manual/index.htm>

- **Ermäßigter Umsatzsteuersatz**

European Commission – Taxation Papers: VAT indicators,
http://ec.europa.eu/taxation_customs/resources/documents/vat_indicators.pdf

European Commission – VAT rates in the member states of the EU,
http://ec.europa.eu/taxation_customs/taxation/vat/consumers/vat_rates/index_en.htm

- **Internationaler Steuerdialog**

ITDweb – sharing good practices and researching tax policy and tax administration issues,
<http://www.itdweb.org/Pages/Home.aspx>

- **Steuerliche Subvention**

Rigsrevisionen, Supreme Audit Institution of Denmark, Report on Transparency of Tax Expenditures (Tax Exemptions, Allowances, etc.),
[http://www.rigsrevisionen.dk/media\(461,1033\)/Transparency_of_Tax_Expenditures.pdf](http://www.rigsrevisionen.dk/media(461,1033)/Transparency_of_Tax_Expenditures.pdf)

Riksrevisionen, Swedish National Audit Institution, The Government's Preparation and Statement of Tax Expenditure, http://www.riksrevisionen.se/templib/pages/NormalPage_1646.aspx

Valtiontalouden tarkastusvirasto, National Audit Office of Finland, Tax Subsidies – Achievement of Accountability, http://www.vtv.fi/chapter_images/8108_Tax_subsidies_netti.pdf

GAO Report: Government Performance and Accountability – Tax Expenditures Represent a Substantial Federal Commitment and Need to Be Reexamined, <http://www.gao.gov/new.items/d05690.pdf>

Department of Finance of the Republic of Ireland: 2006 Budget – Review of Tax Schemes,
<http://www.finance.gov.ie/viewdoc.asp?DocID=3749>

- **Subventionsbericht**

20th Tax Subsidy Report by the Federal Government,
http://www.bundesfinanzministerium.de/cn_de/DE/Service/Downloads/Abt_I/0603151a1002.templateId=raw.property=publicationFile.pdf (only in German),

21th Tax Subsidy Report by the Federal Government,
http://www.bundesfinanzministerium.de/cn_01/lang_de/nn_4542/DE/Aktuelles/Pressemitteilungen/2007/08/20071508_PM092a.templateId=raw.property=publicationFile.pdf (only in German)

Eidgenössische Finanzkontrolle, Tax expenditures of the Swiss Confederation, examination of the reporting of the Federal Finance Administration, 5/2005,
http://www.efk.admin.ch/pdf/4287_Titelblatt_der_Englisch_Übersetzung.pdf

- **Evaluierung**

Evaluierung, <http://www.staat-modern.de/Modernes-Verwaltungsmanagement/-,11751/Effektivitaet.htm>, (only in German)

Regulatory impact assessment in the European Union http://www.staat-modern.de/sm_artikel_staat_modern,-802673/Gesetzesfolgenabschaetzung-bei.htm (Website in German, papers for download in English)

EU documents on regulatory impact assessment, http://ec.europa.eu/governance/impact/key_en.htm

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1 Краткая сводная информация

VI^й Конгресс ЕВРОСАИ, проводившийся в Бонне с 30-го мая по 2-е июня 2005 г., был посвящен вопросам аудита государственных доходов, проводимого Высшими органами финансового контроля (далее именуются «ВОФК»).

Анализ докладов стран, представленных участниками ЕВРОСАИ перед Конгрессом, продемонстрировал ряд примеров, в которых денежные потоки, носящие, строго говоря, характер затрат, переводились в бюджеты поступлений, в частности, в форме налоговых субсидий. Схемы освобождения от налогообложения данного рода в ряде стран приобрели внушительный размах. Однако, вплоть до сегодняшнего дня, сохраняется дефицит знаний об эффективности налоговых субсидий. ВОФК должны получить более надежные сведения об объемах и целевой эффективности этих налоговых субсидий. В докладах ряда стран отмечено, что большой объем и сложность налогового законодательства могут приводить к недочетам и исключениям при налогообложении. Поэтому Конгресс выступил за проведение скоординированного аудита налоговых субсидий, который открыт для всех участников ЕВРОСАИ.

Вскоре после Конгресса представители 11 ВОФК собрались для реализации проекта, в том числе Нидерланды в качестве наблюдателя. Они сформировали международную рабочую группу, количество участников которой со временем возросло до 18. Это Кипр, Дания, Финляндия, Франция, Германия, Венгрия, Исландия, Италия, Латвия, Литва, Польша, Румыния, Российская Федерация, Словацкая Республика, Швеция, Швейцария, Великобритания и Нидерланды.

Для получения сопоставимых результатов был составлен перечень контрольных вопросов, который охватывал все этапы налоговых субсидий - законодательство, реализация, отчетность. В то же время, данный перечень контрольных вопросов формировал не носящую обязательного характера рамочную структуру для аудита прозрачности и отчетности.

Проект начался с семинара, на котором более 60 участников из 22 стран-членов ЕВРОСАИ и Европейской счетной палаты обсудили политику предоставления субсидий, эффективность и аудит субсидий с экспертами в соответствующих областях из ОЭСР, Кельнского Университета, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) и Счетной палаты Нидерландов.

После завершения аудиторской работы, рабочая группа пришла к заключению о том, что в аспекте налоговых субсидий требуются усовершенствования в сферах законодательства, оценки и отчетности во всех странах-участницах, для достижения общей прозрачности, которая, по ее мнению, необходима и для законодателей, и для широкой общественности.

Было установлено, что уже в проектах законодательства, цели налоговых дотаций были описаны недостаточно, и информация о затратах и выгодах от налоговых субсидий была совершенно недостаточной. В результате этого имеется дефицит надежных данных, которые сформировали бы основу для мониторинга, анализа и оценки налоговых субсидий. Сообщения об оценке после ввода законодательства в действие часто не оформляются или, по меньшей мере, недостаточны. Помимо этого,

в отношении налоговых субсидий часто отсутствуют установленные лимиты времени, а также схемы, нацеленные на уменьшение размеров субсидий со временем. После введения налоговой субсидии имеется существенный дефицит какого-либо систематического мониторинга, анализа и оценки. Отчетность о налоговых субсидиях, являющаяся частью бюджетного процесса или отраженная в отдельном отчете, совершенно недостаточна. Законодатели в бюджетной сфере и широкая общественность в значительной степени не получают информацию о целях налоговых субсидий и о реализации таких целей, об их финансовом, экономическом и экологическом воздействии и о результатах оценки.

В дополнение к этому, были созданы две рабочие подгруппы для работы с конкретными налоговыми субсидиями.

Рабочая подгруппа по налогу на прибыль юридических лиц проанализировала сравнимые аспекты и договорилась провести аудит механизмов освобождения от налогообложения для микро-предприятий, малых и средних предприятий, и там, где это уместно, налоговое освобождение в отношении регионального развития, которые существуют во всех странах, участвующих в данной рабочей подгруппе. Она самостоятельно подготовила перечень контрольных вопросов, который должен служить основой для разработки схем аудиторских проверок участвующих ВОФК. Эта рабочая подгруппа выработала следующие важные результаты.

Рабочая подгруппа по НДС рассматривала пониженную ставку НДС. Члены Рабочей группы собрали аудиторские доказательства по сниженному НДС в своих странах. Аудит должен выявить, являлось ли, например, снижение ставки НДС в различных странах-членах Рабочей группы целесообразным, или вызвало нежелательные побочные эффекты. Далее, членов Рабочей группы попросили собрать воедино информацию о проблемах, существующих в связи применением сокращенных ставок НДС, общую потерю поступлений от НДС, вызванную снижением ставки, эффективность субсидий и процедур оценки эффективности сокращения НДС.

В результате проведения национального аудита и составления отчета, члены подгруппы по НДС пришли к совместному заключению о воздействии и эффективности пониженных ставок НДС. Как пример, применение более низкой ставки НДС является прямой выгодой для потребителя, т.к. происходит снижение цен на товары и услуги. Также, существует диспропорциональное соотношение между подробными правилами регулирования дифференцированной ставки НДС и доступных ресурсов налоговых органов, которые они могут использовать.

Таким образом члены подгруппы по НДС предлагают, чтобы мониторинг и оценка применения и полученного эффекта от более низких ставок НДС внедрялись на систематической основе; также должен публиковаться ежегодный отчет о действительном количестве потерь в поступлениях государственного бюджета в результате льгот по НДС. Также необходима оценка для того, чтобы выявить, должно ли количество льгот по НДС через сниженные налоговые ставки на товары и услуги быть сокращено, и необходимо ли выбирать альтернативные инструменты.

В целом три рабочие подгруппы посмотрели на налоговые субсидии с различных

углов, но пришли к аналогичным полученным данным. Рабочая группа выработала ряд рекомендаций. Проекты законов, предусматривающих предоставление субсидий, должны указывать цели их предоставления в четкой и структурированной манере. Отчет по налоговым субсидиям должен включать в себя данные по налоговым потерям в результате действия налоговых субсидий. Такие отчеты должны публиковаться через регулярные промежутки времени, желательно на ежегодной основе. Оценки должны проводиться через регулярные периоды времени с тем, чтобы гарантировать эффективность, результативность и достижение поставленных целей в области налоговых субсидий. В рамках процедур, принятых в своих странах, участвующие ВОФК обсудили полученные данные по аудитам и рекомендации с соответствующими национальными органами, как правило, с правительствами или министерствами. Далее большинство отчетов по аудиту было представлено широкой общественности.

С точки зрения различия проверенных налоговых систем, ВОФК, вовлеченные в совместный аудит, обнаружили сопоставимые проблемы и недостатки в механизмах действия налоговых субсидий. В дополнение ВОФК преследовали также и такие цели, как обмен опытом, расширение неформальных контактов и увеличение взаимодействия между высшими органами финансового контроля.

2 Введение

Сегодня в Европе происходят стремительные изменения, ускорителем которых выступают крупные геополитические инициативы, в частности, процесс расширения ЕС и постоянный процесс глобализации. Это развитие не могло не отразиться на Высших органах финансового контроля (далее именуются «ВОФК»), которым все чаще приходится сталкиваться со сходными сложными аспектами в этой экономической области, в которой происходит устойчивое стирание национальных границ.

Кроме этого, необходимо оживить идею единения Европы. В конце концов, единение Европы – это непрерывный процесс, опирающийся на взаимное сближение граждан и государственных органов, процесс, который в ряде случаев продвигается медленными темпами. На этом фоне описываемый скоординированный аудит налоговых дотаций стал маленьким, но ценным элементом общей картины.

Поэтому желание провести скоординированный аудит, в котором могли бы принять участие все участники ЕВРОСАИ, нацелено на то, чтобы удовлетворить растущую потребность ВОФК познакомиться друг с другом в ходе проведения аудиторской деятельности и поделиться полученными при этом уроками. Цель этого аудиторского проекта состояла в том, чтобы получить информацию о наиболее ценном практическом опыте и укрепить неформальные связи. Также мы хотели укрепить сотрудничество с академическим сообществом. Кроме этого, участники конгресса намеревались разработать действенную методологию для оценки результатов программы и повысить эффективность схем освобождения от налогообложения.

Немецкий ВОФК ответил на эту потребность, став принимающей стороной VI^{го} Конгресса ЕВРОСАИ. Выбор темы аудита был в значительной степени продиктован задачей предложить Конгрессу такую тему, которая была бы важной и значимой. Был выбран

аудит налоговых субсидий, т.е. специальных схем в налоговом законодательстве, которые значительно сокращают государственные доходы во всей Европе и, одновременно с этим, делают налоговое законодательство довольно сложным. Представители европейских ВОФК приветствовали предложение, выдвинутое немецким ВОФК в Конференц-центре Питерсберга под Бонном 2-го июня 2005 г. В то время как взаимодействие между участниками ЕВРОСАИ не представляет ничего нового, и, в общем и целом, увеличивается и расширяется, уровень взаимодействия, который предусмотрен данным проектом скоординированного аудита, стал исключительным.

Схема аудиторских проверок в странах была оставлена на усмотрение конкретных ВОФК. Это дало возможность большинству ВОФК осуществить параллельный аудит в относительно сжатые сроки, без отвлечения на вопросы об объеме ответственности каждого ВОФК. Каждый ВОФК назначил собственную аудиторскую группу для рассмотрения одного вопроса с позиций каждого конкретного ВОФК, с учетом соответствующих юридических полномочий. Полученный опыт был обсужден в ходе совместных заседаний, и послужил вкладом в собственную работу каждого ВОФК. Участвующие ВОФК представляют свои итоговые отчеты независимо от соответствующих Парламентов или ответственных министерств.

Была достигнута договоренность о том, что каждый участник рабочей группы представит собственный проектный отчет, отражающий позиции ВОФК его страны. Это означает национальный отчет, а не общий отчет рабочих подгрупп. *Доступный* отчет должен представлять собой исследование полученных результатов и рекомендаций по аудиту в соответствующих странах. Этот суммарный отчет о скоординированном аудиторском проекте был завершен к концу 2007 года, с представлением на следующем Конгрессе ЕВРОСАИ.

Поскольку каждый ВОФК проводит независимый аудит на территории своей страны, первая задача состояла в том, чтобы согласовать перечень контрольных вопросов для исследования и сроки. Списки вопросов составлялись на совместных заседаниях; они сформировали для участвующих ВОФК структуру, которая упрощает сравнительное представление результатов в итоговом отчете. Каждый ВОФК мог свободно адаптировать данную структуру, полностью или частично, к собственной схеме и графику проведения аудита.

Международная рабочая группа

С целью разработки действенной методологии для оценки результатов программы и повышения эффективности применяемых схем субсидирования, международная рабочая группа собралась на первое заседание в Бонне, 10-11 ноября 2005 г. (см. Таблицу 1).

Делегаты, участвовавшие в этом заседании, приняли решение сосредоточить аудит на прозрачности и отчетности по дотациям. Многие ВОА призывали проанализировать аспекты эффективности и результативности. Помимо этого, немецкий ВОА также хотел рассмотреть аспект решений, принимаемых в финансовой политике. Многие участники выступили с заявлениями по конкретным направлениям аудита, предлагаемым на 2006 и 2007 год. Другие хотели определиться с темами на ближайшее будущее. На базе предложенных проектов по налоговым дотациям были созданы три рабочие подгруппы (см. Раздел 3).

Таблица 1

Дата	Место	Участвующие ВОФК		
10 ноября 2005 г. — 11 ноября 2005 г.	Бонн	Дания Литва Словацкая Республика Великобритания	Германия Польша Швеция	Венгрия Румыния Швейцария
22 февраля 2006 г.	Бонн	Кипр Финляндия Венгрия Польша Словацкая Республика Великобритания	Чешская Республика Франция Латвия Румыния Швеция	Дания Германия Литва Российская Федерация Швейцария
28 августа 2006 г.	Копенгаген	Дания Германия Латвия Румыния Швейцария	Финляндия Венгрия Литва Словацкая Республика	Франция Исландия Польша Швеция
16 февраля 2007 г.	Варшава	Дания Венгрия Польша Словацкая Республика	Финляндия Латвия Румыния	Германия Литва Российская Федерация
12 сентября 2007 г.	Братислава	Дания Германия Литва Словацкая Республика	Финляндия Венгрия Польша	Франция Латвия Румыния
30 января 2008 г. — 31 января 2008 г.	Бонн	Дания Германия Италия Нидерланды Российская Федерация Швейцария	Финляндия Венгрия Латвия Польша Словацкая Республика	Франция Исландия Литва Румыния Швеция

Повышение прозрачности является первостепенным приоритетом для всех участников рабочих групп. Развитие и внедрение как действенные механизмы оценки результатов программы и, следовательно, потребность в полной и комплексной информации о целях и влиянии налоговых дотаций, их финансовом объеме и успешности применения стали основной задачей работы, выполненной международной рабочей группой. Результаты, уже полученные в рамках скоординированного аудита, продемонстрировали, что цели и требования налоговых дотаций не всегда прописываются в достаточном объеме. Потенциальное влияние налоговых субсидий и их потенциальное экономическое и социальное воздействие и альтернативные варианты достижения тех же целей недостаточно изучаются. Это же применимо и к воздействию, которое их реализация может оказать на нашу окружающую среду. Таким образом, у Парламента нет важнейшей информационной базы для принимаемых им решений. Только в исключительных случаях юридические положения, на основании которых формируются налоговые субсидии, оговаривают лимит времени действия законодательства, что дает Парламенту возможность принимать решения о субсидиях на основании доступной, уже собранной информации об эффекте субсидий. Фактический эффект субсидий после вступления в силу соответствующих юридических положений не определен. Как правило, законодатели не предусматривают оценку результатов программ, хотя это могло бы склонить чашу политических мнений в пользу их сокращения или отмены.

Три рабочие подгруппы

В общей сложности, были созданы три рабочие подгруппы, каждая из которых рассматривает один конкретный аспект аудита налоговых субсидий.

Рабочая подгруппа «Прозрачность и отчетность по субсидиям», состоящая из ВОФК Германии (председатель), Дании, Финляндии, Франции, Исландии, Литвы, Польши, Румынии, Российской Федерации, Словацкой Республики, и Швеции работала над проблемами прозрачности налоговых дотаций и соответствующей отчетности.

Две другие рабочие подгруппы рассматривали конкретные налоговые субсидии. Рабочая подгруппа, возглавляемая ВОФК Венгрии, рассмотрела эффективность и результативность налоговых субсидий в разрезе налога на прибыль юридических лиц, которые предоставляются малым и средним предприятиям. В этом случае ВОФК Венгрии, Латвии, Российской Федерации, Словакии и Германии также разработали общий перечень вопросов. Другая рабочая подгруппа изучила предоставление пониженной ставки НДС для конкретных видов поставок или услуг. В эту подгруппу входят ВОФК Латвии, Литвы, Швейцарии и Германии (председатель).

Перечни контрольных вопросов как общая основа

Международная рабочая группа договорилась о разработке перечня контрольных вопросов, в частности, для рабочей подгруппы, работающей в направлении «Прозрачность и отчетность по налоговым субсидиям», для упрощения последующего сопоставления результатов. Аудитор, заполняющий строки перечня контрольных вопросов, который составлен этой рабочей подгруппой, подводится к ключевым проблемам прозрачности на протяжении рабочего цикла субсидии, с момента ее введения и реализации до составления отчетности по субсидии.

Перечень контрольных вопросов был разработан для выполнения двух функций одновременно.

С одной стороны, была достигнута договоренность ответить на вопросы перечня. Были даны альтернативные варианты ответов. Если ни один из вариантов не подходил, запрашивались дополнительные сведения.

С другой стороны, перечень контрольных вопросов, составленный международной рабочей группой, служил основой для составления схемы аудиторской работы.

В дополнение к этому, рабочая подгруппа по налогу на прибыль юридических лиц разработала дополнительный подробный перечень контрольных вопросов для своего скоординированного аудита налоговых субсидий в области налога на прибыль юридических лиц.

Начало – семинар по теме «Налоговые субсидии»

Для разработки этого перечня контрольных вопросов семинар, посвященный теме налоговых субсидий, организованный председателем ЕВРОСАИ, был проведен в Бонне 21-22 февраля 2006 года.

Заинтересованные участники ЕВРОСАИ, не входящие в эту рабочую группу, также были приглашены к участию. Семинар был нацелен на построение профессиональной основы для скоординированного, в масштабах всего EUROSАI, аудита налоговых субсидий, который был одобрен VI^м Конгрессом ЕВРОСАИ. Более 60 участников из 22 государств-участников ЕВРОСАИ и Европейской счетной палаты обсудили политику субсидий, эффективность и аудит субсидий. Семинар был призван сформировать научный фундамент для скоординированного, в масштабах всего EUROSАI, аудита налоговых субсидий.

Докладчики – представители Института изучения финансовых проблем при Кельнском университете и ОЕСР, помогли сформировать общую базу знаний, которая послужила действенной отправной точкой в успешной реализации общего проекта. На семинаре были рассмотрены и определение налоговых дотаций, и швейцарский Указ о дотациях, в котором оговорены важнейшие положения об обеспечении прозрачности в этой сфере. Было сформулировано требование о предварительной отчетности по налоговым дотациям и их более эффективной интеграции в бюджетный процесс. В своем докладе ВОФК Нидерландов отметил, что после проведения аудита больший акцент был сделан на эффективности и результатах применяемых мер, и отчетность по налоговым субсидиям была приведена в приложении к годовому бюджету. Один из представителей *Deutsche Gesellschaft für Technische Zusammenarbeit* (Агентство по техническому сотрудничеству при Федеральном правительстве Германии) подчеркнул, что географический выбор иностранных инвесторов зависит не столько от налоговых субсидий, сколько от эффективного управления и действенной налоговой системы. Другим обсуждавшимся вопросом стала отмена практически всех налоговых субсидий, введенных в Новой Зеландии, в ходе общей налоговой и экономической реформы в середине 80-х гг. (см. Таблицу 2).

Таблица 2

Автор	Организация	Доклад
Д-р Дэвид Нгуен-Тхан	GTZ	Налоговые льготы в странах с развивающейся и переходной экономикой
Д-р Михаэль Тоне	Кельнский университет	Обзор и углубленный анализ контроля над дотациями в сфере налоговых затрат
Кристиан Валендак	ОЕСР	Отчетность и анализ эффективности в разрезе налоговых затрат
Йан Х. Вельтхофен	Счетная палата Нидерландов	Налоги как политический инструмент

Наша общая информационная платформа

Участники рабочей группы постоянно находятся в курсе текущих процессов развития благодаря доступу к защищенному паролем разделу Интернет-страницы VI^{го} Конгресса ЕВРОСАИ (www.eurosai-2005.de).

Этот раздел Интернет-страницы содержит информацию о текущем статусе проекта, протоколы заседаний и перечни контрольных вопросов, полученные от ВОФК, отчеты о ходе работ, графики работ и информацию об аудите, проводимом тремя подгруппами,

а также концепции аудиторской деятельности (схемы построения аудита), аудиторские отчеты и полезные Интернет-ссылки.

Аудиторская работа

С мая 2005 года ВОФК Кипра, Дании, Германии, Финляндии, Франции, Венгрии, Исландии, Италии, Латвии, Литвы, Польши, Румынии, Российской Федерации, Словацкой Республики, Швеции, Швейцарии и Великобритании были членами Рабочей группы, а Нидерланды участвовали в качестве наблюдателя.

На своих заседаниях участвующие ВОФК непрерывно координировали свою аудиторскую работу. При этом они согласовывали общие вопросы аудита и области особого внимания и информировали других участников о последних результатах, полученных в ходе аудита.

Данный итоговый отчет о скоординированном аудите налоговых субсидий описывает результаты, полученные тремя рабочими подгруппами.

Он дополнен отдельным отчетом каждой рабочей подгруппы, который более подробно информирует о результатах аудита, полученный теми ВОФК, которые участвовали в работе подгрупп. Одновременно с этим, рабочая группа договорилась о том, что отчеты стран, на базе которых сформирован этот итоговый отчет, должны быть доступны для заинтересованных ВОА, которые не участвовали в скоординированном аудите. Национальные отчеты включены в данный отчет в качестве приложений, в форме электронных документов.

3 Определение

3.1 Единое понимание

Для подготовки своих аудиторских мероприятий, которые также имели цель сформировать комплексные сведения о предоставлении налоговых дотаций в соответствующих странах, участвующим ВОФК было необходимо добиться единого понимания концепции «налоговых субсидий».

Нет ни национального, ни международного общепризнанного определения. Как правило, термин «субсидия» имеет более или менее четкое или расплывчатое определение в зависимости от цели, которая преследуется при применении этого определения.

Однако определение играло важную роль, в частности, для рабочей подгруппы, работающей в направлении «Прозрачность и отчетность по субсидиям», поскольку подход этой подгруппы к аудиту должен был быть сквозным, охватывающим субсидии по всем типам налогов и налоговых систем и анализирующим их прозрачность, в особенности в форме отчетов по субсидиям.

После семинара и углубленного обсуждения этого момента рабочая группа пришла к заключению о том, что ей понятна суть налоговых субсидий в общем смысле, с охватом всех видов налоговых затрат. Определение последних взято из публикации

ОЕСР «Эффективные практические рекомендации – Внебюджетные и налоговые затраты»¹. В соответствии с этим документом, налоговые затраты можно определить как переход государственных ресурсов, который достигается за счет уменьшения налоговых обязательств по отношению к некоему базисному налогу, а не за счет прямых затрат. В документ включена следующая классификация налоговых субсидий:

Налоговые затраты могут присутствовать в различных формах:

- освобождения: суммы, исключаемые из налоговой базы;
- скидки: суммы, вычитаемые из базисной величины для получения налоговой базы;
- кредиты: суммы, вычитаемые из налоговых обязательств;
- снижение ставки: уменьшенная ставка налога, применяемая к какому-либо классу налогоплательщиков или налогооблагаемых операций;
- налоговая отсрочка: снижение размера уплаты в форме отсрочки в уплате налога.
- Рабочая группа сошлась во мнении о том, что все типы налоговых субсидий, которые перечислены выше, должны быть охвачены аудиторскими проверками участвующих ВОФК.

3.2 Вклад ВОФК стран

Какое-либо общепризнанное международное определение термина «налоговая субсидия», как и национальные юридические определения в странах-участниках, отсутствуют. Поэтому ВОФК рассматривали юридические положения, классифицируемые как налоговые субсидии, субсидированные соответствующими правительствами стран на государственном уровне. Несмотря на это, в ходе своей аудиторской работы ВОА также принимали во внимание альтернативные определения, которые обсуждаются в экономических исследованиях на национальном и международном уровне. В частности, они выделили расхождения между странами, которые влияют на отчетность соответствующих правительств в разрезе объема и важности налоговых субсидий.

3.3 Соответствие определения

Определения терминов «налоговая субсидия», «налоговая льгота», «особые положения налогового законодательства» и аналогичных терминов в соответствующем национальном контексте имели для трех рабочих подгрупп разную степень важности.

Две рабочие подгруппы, по налогу на прибыль юридических лиц и по НДС, изучали особые положения налогового законодательства, которые можно рассматривать как налоговые субсидии на уровне стран. Рабочая подгруппа по налогу на прибыль юридических лиц сосредоточила внимание на субсидиях по налогу на прибыль юридических лиц, которые предоставляются в странах-участниках одинаковым или во многом сходным образом. В итоге ВОФК договорились об углубленном рассмотрении

¹ Эффективные практические рекомендации – Внебюджетные и налоговые затраты, ОЕСР, GOV/PGC/SBO(2004)6, 19 мая 2004 г.

налоговых скидок для микро-предприятий, малых и средних предприятий. ВОФК, участвующие в рабочей подгруппе по НДС, договорились об общем рассмотрении проблем применения пониженной ставки НДС. Во всех странах определенные виды поставок и услуг облагаются НДС по пониженной ставке, которая отличается от общей ставки. Участвующие ВОФК рассматривают предоставление пониженной ставки как налоговую льготу, которая может иметь характер субсидии. Поэтому ВОФК имели полную индивидуальную свободу принять решение о том, какие особые положения налогового законодательства будет охватывать их аудиторский проект.

Рабочая подгруппа, занимающаяся прозрачностью и отчетностью по субсидиям, рассматривала налоговые субсидии и в аспекте их введения, изменения и администрирования, и в аспекте отчетности. В этом контексте определение концепции налоговой субсидии отличается в рамках законодательства и отчетности.

Во всех странах требуется законодательное введение, корректировка или упразднение налоговых субсидий. Требуется, чтобы это законодательство в значимых аспектах отвечало тем же требованиям страны, что и любое другое законодательство.

В аспекте отчетности ситуация иная. В этом направлении основополагающую важность приобретает вопрос о том, рассматривается ли определенное положение налогового закона как «налоговая субсидия», «налоговая льгота» и т.п. Хотя правовые положения стран предписывают обязательную отчетность, формулировка определения «налоговая субсидия» в соответствующем национальном контексте относится к сфере ответственности соответствующего правительства. На практике это открывает простор для произвольных решений, на основании которых правительства стран могут определять рамки и содержание отчетности по налоговым субсидиям. С учетом аспекта прозрачности, аудиторская работа ВОФК концентрируется на этой проблеме.

4 Аудиторский проект

4.1 Предыстория

В ходе скоординированного аудита каждый из участвующих ВОФК самостоятельно проводил аудиторские мероприятия в соответствующей стране. Принимая во внимание договоренности, достигнутые в рабочих подгруппах, они по собственному усмотрению принимали решения о контексте, содержании, методологии и проведении этой работы. Каждый ВОФК выделил собственную аудиторскую команду для рассмотрения одного и того же вопроса с позиций каждого конкретного ВОФК, принимая во внимание соответствующие правовые полномочия. Обмен полученными выводами происходит на общих заседаниях; они могут служить вкладом в собственную работу каждого ВОФК. Участвующие ВОФК будут подавать свои итоговые отчеты независимо, в соответствующий парламент или ответственное министерство.

4.2 Обзор аудиторских полномочий

Аудиторские полномочия участвующих ВОФК регламентируются соответствующим национальным законодательством.

Как правило, ВОФК уполномочены проводить аудит поступлений и затрат государственного бюджета. При изучении налоговых дотаций, которые обычно подразумевают отказ от взыскания определенных государственных доходов, ВОА проводят аудит или собирают аудиторские доказательства в тех органах, которые ответственны за подготовку соответствующего законодательства, административное управление соответствующим видом налога и предоставление налоговых льгот. В большинстве случаев заявления о предоставлении налоговых дотаций требуется включать в формы налоговых деклараций. ВОФК имеют возможность в соответствующем объеме проводить аудит налоговых дотаций на уровне правительственных учреждений.

Как правило, ВОФК не имеют специальных аудиторских полномочий по отношению к налоговым дотациям.

Однако, в то же самое время, политический выбор между прямой субсидией и налоговой субсидией влияет на аудиторские права ВОФК. Как правило, законодательство страны предусматривает, что надлежащее использование прямых субсидий может, при необходимости, быть предметом аудиторской проверки, на уровне получателя субсидий. В отношении налоговых субсидий действует противоположное правило. ВОФК не имеют возможности провести аудит налоговых субсидий на уровне получателей. Вследствие этого ВОФК не могут достоверно проверить эффективность и результативность налоговых субсидий, также проводя сбор аудиторских доказательств на уровне выгодоприобретателей. Поэтому аудит налоговых субсидий также ограничивается правительственным уровнем.

4.3 Рабочая подгруппа 1 – «Прозрачность и отчетность по субсидиям»

В общей сложности одиннадцать ВОФК таких стран, как Дания, Финляндия, Франция, Германия, Исландия, Литва, Польша, Румыния, Российская Федерация, Словацкая Республика и Швеция достигли договоренности рассмотреть в рамках скоординированного аудита аспекты прозрачности и отчетности по налоговым субсидиям.

Перечень контрольных вопросов, утвержденный рабочей группой, в основном создан на базе проекта, предложенного польским ВОФК. Перечни контрольных вопросов и предложения по внесению модификаций, представленные вниманию рабочей группы Данией, Германией, Финляндией, Румынией, Швецией и Словацкой Республикой, также включали важные предложения, которые были приняты во внимание.

4.3.1 Тип исследования

В ходе своей аудиторской работы участвующие ВОФК сконцентрировали внимание на аспектах законодательства, правоприменения и отчетности.

Во всех странах требуется, чтобы налоговые дотации, приравняемые к особым положениям налогового законодательства, вводились в законодательном порядке. Поэтому необходимо, чтобы эти положения отвечали требованиям конкретных стран, предъявляемым к законодательству.

Как правило, введение налоговых субсидий относится к сфере ответственности налоговых ведомств страны, которые в ряде случаев также ответственны за мониторинг эффекта налоговых субсидий.

Не во всех участвующих странах существуют правовые положения, регламентирующие отчетность. Кроме этого, проводится разграничение между отчетностью в рамках соответствующего национального бюджета и отдельной информацией в форме отчета о субсидиях.

Контекст и объем аудита, проводимого участвующими ВОФК, в значительной мере определялись фактической ситуацией, складывающейся в стране. Одной общей целью аудиторских мероприятий был ответ на вопрос о том, какую ответственность несут правительства стран по отношению к налоговым субсидиям, и как они соблюдают эту ответственность.

Поскольку, как правило, министерства финансов стран должны осуществлять подготовку и сопровождение законодательства о налоговых дотациях, в большинстве случаев именно они были надлежащей контактной стороной для участвующих ВОФК.

4.3.2 Полученные результаты

Достаточная прозрачность в сфере налоговых субсидий не гарантирована.

Законопроекты стран по налоговым субсидиям в некоторых случаях имели существенные недоработки по сравнению с существующими стандартами национального законодательства. Поэтому количественные и качественные цели налоговых субсидий во многих случаях имеют недостаточное документальное отражение. Описание целей зачастую сформулировано настолько общими словами, что на основании этих описаний невозможно измерить достижение поставленных целей. Предоставляемая информация о затратах и выгодах налоговых субсидий зачастую имеет значительные качественные расхождения. Описания возможностей оценки, особенно в разрезе сроков, контекста и объема, приводятся в недостаточном объеме.

Это равнозначно отсутствию базисов для мониторинга, анализа и оценки налоговых субсидий. Во многих случаях в отчетности отсутствуют сведения о возможной установке лимитов времени и/или сокращении со временем величины субсидий.

На этапе предоставления налоговых субсидий отсутствует систематический мониторинг, анализ и оценка. Нет надлежащих стратегических концепций. В большинстве случаев отсутствуют текущие сведения о затратах и выгодах. Не проводится систематическая оценка, что отчасти обусловлено отсутствием указанных данных.

Схемы оформления отчетности по налоговым субсидиям, как в рамках бюджета, так и в форме отдельных отчетов, не являются достаточными. Во многих случаях отсутствуют обзоры, которые охватывали бы все налоговые субсидии. Недополученные налоговые поступления рассчитываются и/или оцениваются не в полном объеме. Не предоставляется информация о базисе таких оценок и предположений. Доклады, представленные правительствами стран, в большинстве случаев содержали слишком сжатую информацию о целях, достижении целевых ориентиров, фактических результатах и оценке налоговых субсидий.

4.3.3 Рекомендации

В целом, участвующие ВОФК сочли усовершенствования в диапазоне областей от законодательства до отчетности по налоговым субсидиям необходимыми для обеспечения прозрачности, которая нужна и для законодателей, и для широкой общественности.

На базе проведенных ими аудиторских действий, участвующие ВОФК разработали следующие рекомендации для правительств и/или парламентов стран.

Законодательство

В будущем потребуется, чтобы законодательство устанавливало однозначные, четко сформулированные и проверяемые цели применения налоговых субсидий. Аналитические данные, получаемые правительством в ходе законодательного процесса, должны быть полностью задокументированы. Рекомендовано устанавливать лимиты времени действия налоговых субсидий, если это возможно.

Регулярная оценка

На национальном уровне требуется разработать и внедрить стратегии, которые дали бы возможность систематического мониторинга, анализа и оценки налоговых субсидий. Оценку необходимо проводить регулярно, для подтверждения эффективности и результативности налоговых дотаций.

Отчетность

Все налоговые субсидии необходимо отражать в отчетности. Таким образом, правительство должно дать понять, что оно полагает должно считаться налоговой субсидией, и что должно исключаться из отчетов. Необходимо предоставлять полную комплексную информацию о недополученных бюджетных поступлениях, возникающих вследствие налоговых субсидий. В общем и целом, необходима регулярная, своевременная комплексная отчетность по налоговым субсидиям.

Поскольку выгодоприобретателями по налоговым субсидиям является небольшое число их получателей, а финансирование этих дотаций осуществляется из налогов, выплачиваемых всеми налогоплательщиками, это бремя, ложащееся на всех налогоплательщиков, может быть обосновано только за счет растущей прозрачности, которая демонстрирует эффективность и результативность особых положений налогового законодательства.

4.4 Рабочая подгруппа 2 – «Налог на прибыль юридических лиц»

Рабочая подгруппа включает в себя ВОФК Германии, Республики Латвии, Словацкой Республики, Российской Федерации и Венгрии (председатель). Участники подгруппы проверили субсидии по налогу на прибыль юридических лиц, сконцентрировав

внимание на эффективности и результативности субсидий, предоставляемых малым и средним предприятиям, или, если субсидии не применяются в данной стране, то средств на региональное развитие. ВОФК Латвии проверил всю систему субсидий по налогу на прибыль юридических лиц.

4.4.1 Полученные результаты

Во всех участвующих странах налогообложение основывается на законодательстве. В четырех странах налог на прибыль организаций регулируется отдельными законами, в то время, как в то время как в Российской Федерации применение этого налога регулируется главой «налог на прибыль юридических лиц» Налогового кодекса. В трех странах (Венгрия, Республика Латвия и Словацкая Республика) вся сумма налога на прибыль юридических лиц выплачивается в федеральный бюджет, в то время, как в Германии и Российской Федерации суммы разделяются между центральным бюджетом и бюджетами соответственно немецких федеральных земель и российских регионов.

В трех странах (Германия, Венгрия и Словацкая Республика) все субсидии по налогу на прибыль юридических лиц регулируются Законом о налоге на прибыль юридических лиц, в Республике Латвия и Российской Федерации некоторые из них регулируются другими законами.

Законодательство по налоговым субсидиям, предоставляемым малым и средним предприятиям отличается большим разнообразием в участвующих странах:

- В четырех странах (Германия, Республика Латвия, Российская Федерация, Словацкая Республика) не существует отдельных льгот по налогу на прибыль юридических лиц для малых и средних предприятий (в Словацкой Республике субсидии по налогу на прибыль юридических лиц предоставляются только с целью регионального развития);
- В Венгрии отдельные налоговые льготы предоставляются для малых и средних предприятий Законом о налоге на прибыль юридических лиц.

Это означает, что в большинстве участвующих стран не существует субсидий по налогу на прибыль юридических лиц, которые бы использовались исключительно малыми и средними предприятиями. Однако малые и средние предприятия – в соответствии с общими положениями имеют право воспользоваться преимуществами субсидий по налогу на прибыль юридических лиц.

Определение малых и средних предприятий различается в участвующих странах В странах-членах Европейского Союза оно основано на рекомендации Европейской комиссии. В результате рекомендаций, принятых в 1996 году, Европейская комиссия впервые дала единое определение для малых и средних предприятий. 6 мая 2003 года Европейская комиссия утвердила новое определение малых и средних предприятий, которое вступило в силу 1 января 2005 года. Российская Федерация применяет другие определения, где категория средних предприятий существует только с 1 января 2008 года.

Во всех участвующих странах требуются предварительные оценки относительно законодательного процесса. Это включает в себя исследования по достижимости

поставленных задач, оценку ожидаемых финансового, экономического и социального воздействия предлагаемого закона или другого типа законодательства. Однако в целом эти требования не были или частично не были выполнены Министерством Финансов. Результатом отсутствия тщательной предварительной оценки налоговых субсидий является то, что достижение цели и, следовательно, эффективность и результативность этих субсидий в дальнейшем не оценивались.

Законодательство по налогу на прибыль во всех странах несколько раз изменялось в течение проверяемого периода, но эти изменения оказали ограниченное воздействие на законодательство в целом. В Словацкой Республике и в Венгрии причиной изменений явилось приведение законодательства в соответствие с требованиями ЕС.

В целом ни в одной стране не была произведена полная отмена законодательства, тем не менее в Республике Латвия и Российской Федерации некоторые положения были отменены.

Практика определения целей предоставления налоговых субсидий является различной в участвующих странах, таким образом, не представляется возможным оценить ее в целом. В Германии и Словацкой Республике проведенные аудиты выявили, что цели были четко определены и задокументированы, в Республике Латвия и Российской Федерации цели субсидий по налогу на прибыль юридических лиц не были определены в законодательстве. В Венгрии цели были определены косвенно, через требования по использованию субсидий.

Возможность замены субсидий по налогу на прибыль юридических лиц прямой финансовой помощью не была подвергнута оценке финансовым правительством какой-либо страны. Министерства Финансов не подготовили какой-либо всеобъемлющей оценке достижения целей, указанных в положениях законодательства. Таким образом, невозможно оценить, существует ли альтернатива в виде лучшего законодательства для достижения тех же самых целей. Замена налоговых субсидий прямой финансовой помощью добавит в качестве сопровождающего эффекта дополнительные административные затраты.

Во всех участвующих странах применение налоговых субсидий ограничено правовыми положениями в виде различных видов ограничений (время, сумма и другие). В целом, субсидии по налогу на прибыль юридических лиц могут требоваться без удостоверения выполнения условий. Выполнение требований контролируется через последующий контроль налоговыми органами.

Министерства Финансов всех участвующих стран оценивают сумму налоговых субсидий в центральном бюджете, методология оценки в каждой стране различна. Министерство Финансов Республики Латвия и Словацкой Республики оценивают количество налогоплательщиков, использующих налоговые субсидии дополнительно к сумме субсидий. Министерство Финансов Германии готовит оценку суммы субсидий и количества налогоплательщиков, использующих их; однако не всегда у них есть последние данные, т.к. данные статистики могут в отдельных случаях быть основаны на информации, собранной пять или более лет назад. Министерства Финансов Венгрии и Российской Федерации оценивают сумму налоговых субсидий для предложений по центральному бюджету.

В целом данных по субсидиям по налогу на прибыль юридических лиц недостаточно для того, чтобы сравнивать и оценивать воздействие субсидий, включая субсидии для малых и средних предприятий. Соотношение между общим количеством налогоплательщиков и налогоплательщиками, которые используют субсидии по налогу на доходы юридических лиц нельзя сравнить, основываясь на данных, предоставленных участвующими странами. Это также не может быть проанализировано для малых и средних предприятий. Причиной является то, что данные по малым и средним предприятиям и общее число налогоплательщиков, использующих субсидии имеются только в Венгрии. В Германии, Республике Латвия, Российской Федерации и Словацкой Республике субсидии по налогу на прибыль юридических лиц для малых и средних предприятий не выделяются.

Средняя сумма налоговых субсидий для налогоплательщиков не может быть сопоставима в соответствии с данными, полученными от участвующих стран. Также это соотношение не может быть проанализировано для малых и средних предприятий.

Уровень доходов по налогу на прибыль юридических лиц в общих налоговых доходах центральных бюджетов участвующих стран варьируется между 3,1% и 26,3%. Уровень субсидий по налогу на прибыль юридических лиц по сравнению с общими налоговыми доходами центрального бюджета варьируется от 0,7% до 3,3%. Уровень субсидий по налогу на прибыль юридических лиц по сравнению с доходами по налогу на прибыль юридических лиц является самым низким в Российской Федерации (2,75 – 3,79%), в то время, как самым высоким он был в 2004 году было в Словацкой Республике (20,23%) и в 2005 и в 2006 годах в Венгерской Республике (28,26% и 24,09%). Эти соотношения не могут быть подсчитаны для малых и средних предприятий.

Министерства Финансов участвующих стран следят за тенденцией субсидий по налогу на прибыль юридических лиц для обоснования предложения по центральному бюджету. Тенденция субсидий по налогу на прибыль юридических лиц – за исключением Словацкой Республики – не оценивается министерствами финансов участвующих стран, что особенно верно в отношении налогоплательщиков, использующих налоговые субсидии.

Во всех участвующих странах налоговые органы разработали и применяют информационные системы для того, чтобы обрабатывать данные из налоговых деклараций по налогу на прибыль юридических лиц и принимать участие в налоговом контроле через общую процедуру во всех местных налоговых органах. Система охватывает все фазы процедуры контроля и хранящиеся данные являются надежными. Право доступа и хранение материалов об изменениях в системах также регулируются. Некоторые виды недостатков, связанные с применением информационных систем были выявлены в трех странах, но эти проблемы были решены.

Во всех участвующих странах информационные системы налоговых органов для облегчения контроля включали модули управления рисками. Количество и масштаб факторов риска, встроенных в эти модули, также, как и качество их применения, являются разными из-за различий стран. Однако каждый налоговый орган квалифицирует налогоплательщиков на основе данных налоговых деклараций и другой налоговой информации, такой, как готовность осуществлять платежи. В Германии, Венгрии и Российской Федерации качество данных, содержащихся в налоговой декларации также принимается во внимание.

В участвующих странах, за исключением Республики Латвия, цели субсидий по налогу на прибыль юридических лиц были определены четко и подлежали измерению.

В законодательстве участвующих стран указывается, что воздействие налоговых субсидий и достижение целей должны подлежать оценке. Однако в целом не осуществляется достаточно эффективного мониторинга достижения этих целей. Министерства финансов участвующих стран, за исключением Германии, не создали какую-либо последующую систему оценки. Хотя в Германии такие методы были разработаны, большинство государственных департаментов не использует четко структурированный подход или общепринятую методологию.

Административные затраты на сбор различных видов налогов – включая налоговые субсидии – не разделен ни в министерстве Финансов, ни в налоговых органах каждой участвующей страны. Таким образом, эффективность налоговых субсидий не может быть оценена.

В целом законодательство не предписывает обязательный контроль. Контроль налоговых органов в области налоговых субсидий включает также аудит субсидий по налогу на прибыль юридических лиц. Однако типы и методы механизмов контроля различны.

Данные по контролю и результаты по-разному регистрируются налоговыми органами. Таким образом, нет возможности их сопоставления. Информация о нарушениях, выявленных в результате контроля – особенно в уголовно преследуемых областях, связанных с налогами и/или административных нарушениях – представляется только налоговыми органами Германии, Венгрии и Словацкой Республики; в последней указанной стране не было выявлено нарушений. В Германии такая информация не подлежит регистрации на центральном уровне.

4.4.2 екомендации

Рабочая подгруппа на основании полученных данных, выявленных в ходе скоординированного аудита, разработала следующие рекомендации:

<p>1. Предложения по законодательным процедурам</p>	<p>Документирование целей предоставления субсидий, с последующим систематическим подходом</p> <p>Проведение предварительной и текущей оценки законодательного воздействия и рассмотрение альтернативных вариантов, например, таких как предоставление прямой финансовой помощи</p>
<p>2. Разработка правил предоставления субсидий</p>	<p>Оценка возможности применять законодательство, ограниченное во времени («законодательство заходящего солнца»)</p> <p>Предпочтение по приемлемому временному ограничению в отношении отдельных получателей</p>

3. Обязательство публиковать соответствующую информацию	<p>Потери налоговых доходов, вызванные предоставлением субсидий необходимо отражать ежегодно, сопоставляя фактическую и планируемую сумму, также в отношении других типов налогов и финансовых лет</p> <p>Административные затраты там, где это возможно</p> <p>Затраты получателей, связанные с бюрократическими процедурами, там, где это возможно</p> <p>Количество и структура получателей</p>
4. Периодические результаты оценок	<p>Оценка достижения цели</p> <p>Оценка результативности</p> <p>Оценка эффективности</p>
5. Использование информационных систем	<p>Полностью компьютеризированные системы с сопоставимой базой данных</p> <p>Использование систем управления риском, основанных на соответствующей информации</p> <p>Создание регистра субсидий</p>

4.5. Рабочая подгруппа 3 – «Налог на добавленную стоимость»

Рабочая подгруппа по НДС состоит из ВОФК Латвии, Литвы, Швейцарии и Германии (председатель). Участники подгруппы рассмотрели вопрос предоставления субсидий, связанный с пониженной ставкой НДС. Участники провели три встречи в период между февралем 2006 и январем 2008 года.

4.5.1 Объем аудита

Как было согласовано, члены рабочей подгруппы собрали аудиторские доказательства по сниженной ставке НДС соответственно в своих странах. Они согласовали объем проведения аудита и применяемые методы. В результате каждый ВОФК мог выбрать налоговые субсидии и цели проведения аудита, которые он желал с тем, чтобы охватить их в национальном аудите.

Аудит должен показать, например, является ли сокращение ставки НДС в странах-членах подгруппы обоснованным или это вызывает незапланированные внешние эффекты. Целью аудита также было поднять вопрос, кто или какая целевая группа получает преимущество от сокращения вышеупомянутой налоговой ставки и является ли эта налоговая льгота соответствующим инструментом поддержки определенных видов деятельности. Далее, членов рабочей подгруппы попросили собрать воедино информацию о проблемах, существующих в связи с применением сокращенных ставок НДС, общих потерях доходов по НДС, вызванных сокращением ставки НДС, эффективности субсидий и процедур оценки сокращенных ставок НДС.

После завершения аудитов, полученные аудиторские доказательства были представлены членами рабочей подгруппы в национальных отчетах.

4.5.2 Полученные результаты

Один ВОФК провел подробное исследование по применению и использованию сокращенной ставки НДС в секторе «ресторанов быстрого питания», «предметов искусства и коллекционируемых предметов и «смешанных наименований». Проведенный аудит в частности подтвердил, что применение сокращенных ставок НДСЧ частично включает «прибыль упавшую с неба» и вводящие в заблуждение договоренности и может отслеживаться только через обширный вклад человеческих ресурсов из-за трудностей определения. Таким образом, было рекомендовано, чтобы сниженная ставка НДС в этих секторах была отменена.

Другой ВОФК провел аудит с тем, чтобы удостовериться, организован ли и осуществляется ли контроль за обоснованным применением сниженных ставок НДС и отражается ли прибыль от сокращенных ставок НДС. Также было исследовано, подсчитывается ли налоговая прибыль, неполученная от применения сокращенной ставки, которая возможно могла бы быть получена, если бы применялась полная ставка НДС и оценивается ли сокращенная эффективность налоговой ставки и преимущества в отношении общественности. Этот ВОФК выявил, что преимущества в отношении общественности от применения политики сокращенной НДС не оценивались

В одной стране ВОФК провел экономическое исследование. Целью исследования было выявить воздействие сокращенной ставки НДС на цены, предложение, спрос, др. Результаты исследования показали, что сокращенная ставка НДС не оказывает прямого воздействия на уровень цен и услуг и покупатели не получают прямых преимуществ.

Далее один ВОФК выбрал сокращенные ставки НДС как предмет оценки, так как они представляют крайне непрозрачную форму субсидирования. В настоящее время продолжается реформа Закона об НДС, в рамках которой планируется упростить структуру ставки и приблизить ее к единой налоговой ставке.

4.5.3 Заключение

В результате проведения национальных аудитов и составления отчетов, члены подгруппы по НДС пришли к следующим общим заключениям о воздействии и эффективности сниженных налоговых ставок:

- Применение сниженной ставки НДС должно приносить прямые преимущества потребителям через снижение цен на товары и услуги.
- Члены Рабочей подгруппы подтверждают, что более низкие ставки НДС являются несоответствующим механизмом для снижения цен на товары и услуги, стимулирования спроса и предложения или увеличения присутствия рабочей силы в секторах с более

низкими ставками. Там, где может быть измерен некоторый эффект от снижения ставок, то он мог бы быть достигнут более экономично через другие средства.

- В некоторых случаях продавец, а не покупатель выигрывает от снижения налоговых ставок. Это позволяет продавцам максимизировать прибыль. Налоговая субсидия, таким образом, оказывает непреднамеренное воздействие на экономические операции.
- В связи с применением более низких ставок НДС, происходит непланируемая неправильная классификация и возникновение злоупотреблений, что приводит к значительным потерям доходов по НДС.
- Далее, неправильное распределение налоговых субсидий не только нарушает национальную политику по субсидиям, но и становится проблемой для законодательства Европы.
- Существует диспропорция между подробными правилами по дифференциации ставки и доступными ресурсами налоговых органов для воплощения их в жизнь. Члены подгруппы уверены, что более низкие ставки по НДС часто предоставляются необоснованно.
- Члены Рабочей подгруппы пришли к выводу, что снижение ставок НДС для отдельных товаров и услуг часто оказывается несвоевременным и, таким образом, не отражает изначальные законодательные намерения. Отсутствуют правовые положения по регулярной оценке таких субсидий.
- Мониторинг такого воздействия субсидий, как снижение ставки НДС не получает достаточного внимания. Эффективность налоговых льгот, их воздействие на потребительские цены, изменяющуюся структуру потребления и дополнительные административные затраты не оцениваются на регулярной основе.
- Для страны было бы полезно исследовать, можно ли достичь поставленные цели не через снижение ставок НДС, а через модернизацию существующих инструментов социальной, налоговой или экономической политики.

4.5.4 Рекомендации

Члены Рабочей подгруппы по НДС порекомендовали исследовать следующие варианты:

- Проводить мониторинг и оценивать применение более низких ставок НДС на систематической основе.
- Ежегодно публиковать действительную сумму потерь доходов федерального бюджета в результате льгот по НДС.
- Оценивать, можно ли количество льгот по НДС, предоставляемых через сокращенные ставки на определенные товары и услуги, снизить и выбрать альтернативные инструменты.

4.6 Общие рекомендации

Хотя все три члены подгруппы рассматривали налоговые субсидии с различных точек зрения, все представили аналогичные аудиторские доказательства. На основании их Рабочая группа сделала следующие выводы.

Законодательство

Цели, преследуемые при предоставлении налоговых субсидий должны быть задокументированы в четкой и понятной форме. После соответствующего исследования, законодательство по налоговым субсидиям должно ограничивать предоставление налоговых субсидий определенным периодом времени во всех соответствующих случаях.

Отчетность

Отчетность по налоговым субсидиям должна включать данные о налоговых потерях, понесенных в результате предоставления налоговых субсидий. Такие отчеты должны публиковаться через регулярные интервалы времени, желательно на ежегодной основе. Желательно получение дальнейшей информации, такой, как данные по административным затратам и действительные/планируемые затраты. ВОФК предлагают подготовить полную инвентаризацию налоговых субсидий, куда мог бы получить доступ каждый на основании четких национальных интерпретаций международных определений.

Оценка

Оценка должна проводится через регулярные интервалы времени для того, чтобы гарантировать эффективность, производительность и достижение цели налоговых субсидий.

Информационные технологии

В дополнение желательно совершенствовать соответствующие информационные процедуры по налоговым субсидиям и создать сеть совместимую с другими соответствующими системами обработки данных для обеспечения соответствия данных.

5 Деятельность правительств и парламентов стран

5.1 Предыстория

Не существует положений ЕВРОСАИ отдельно регулирующих проведение совместного аудита. Проведение национальных аудитов и обработка полученных в ходе аудита результатов регламентировались правовыми положениями соответствующих стран, применимыми к каждому участвующему ВОФК.

5.2 Деятельность стран

В рамках применяемых ими процедур, участвующие ВОФК обсудили полученные результаты аудита и рекомендации с компетентными ведомствами стран; как правило, с правительствами или министерствами. Затем большинство аудиторских отчетов были обнародованы для доступа широкой общественности. Там, где отчеты обсуждались на уровне парламента, эти мероприятия проходили, например, в форме слушаний или обсуждений в соответствующих комитетах. В ходе этих слушаний или обсуждений ВОФК стран получили возможность представить свою точку зрения и разъяснить ее. В отдельных случаях были сделаны заявления о том, что рекомендации ВОФК будут реализованы в будущем. Однако эта аудиторская деятельность пока еще не привела к значительным изменениям в сферах законодательства, налогового администрирования и отчетности.

6 Заключение

В свете различия исследованных налоговых систем, ВОФК, которые провели скоординированный аудит, обнаружили сопоставимые проблемы и недостатки в схемах предоставления налоговых субсидий. Совместные усилия, предпринятые ВОФК могут открыть новые перспективы в более широком масштабе и содействовать появлению свежих взглядов на полученные национальные аудиторские данные, в частности, если соответствующие правовые положения основаны на общем фундаменте.

В дополнение ВОФК также преследовали и такие цели как, обмен опытом, расширение неформальных контактов и усиление взаимодействия внешних органов финансового контроля. ВОФК, проводившие скоординированный аудит, также выполнили эти поставленные задачи. Рабочая группа надеется, что ВОФК-члены ЕВРОСАИ воспользуются достигнутым успехом и будут на нем основывать свои дальнейшие совместные действия.

Список участников и других привлеченных сотрудников

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Семинар председателя EUROSАI по налоговым дотациям

Бонн, 21-22 февраля 2006 г.

- Результаты семинара -

«Обзор и углубленный анализ контроля над дотациями в сфере налоговых затрат»

д-р Михаэль Тоне, Институт изучения проблем государственного финансирования при Кельнском университете

Во-первых, Михаэль Тоне заявляет, что, на основании полученных им результатов аудита, ВОФК, возможно, смогут убедить законодательные органы внести в законы о налогообложении изменения, связанные с налоговыми субсидиями. Однако, добавляет он, маловероятно, чтобы законодатели сделали первый шаг.

Для целей бенчмаркинга (оценочного сравнения, т.е. сопоставления с некой эталонной налоговой системой, не имеющей субсидий) следует провести разграничение между налоговыми льготами и субсидиями. Основываясь на широкой интерпретации, Михаэль Тоне определяет налоговые льготы как любое отклонение от такой эталонной налоговой системы, которое ведет к возникновению недополученных налоговых поступлений и нацелено на стимулирование изменений в поведении налогоплательщика.

Затем Михаэль Тоне отмечает, что влияние «законодательства заходящего солнца» [законов, утрачивающих силу в срок, указанный в самом законе] переоценено. Он рекомендует Указ о субсидиях, в соответствии со швейцарской моделью, при условии, что он будет общеизвестен и, следовательно, внесение в него поправок без того, чтобы эти коррективы были замечены, будет невозможно.

Позднее участники обсудили бенчмаркинг. В частности, была признана необходимость целей, предусматриваемых участниками, таких как эффективность, равноценность, «удобство администрирования», ориентировочные налоговые поступления. Кроме этого, каждой стране необходимо очертить собственные сравнительные данные (применяемая налоговая система, структура правительства и т.д.), поскольку при их отсутствии было бы невозможно международное сравнение контрольных показателей.

Упразднение всех особых положений налогового законодательства могло бы, в общем и целом, привести к значительно более высокой степени равноценности в налогообложении. Это было продемонстрировано на примере Новой Зеландии, которая отменила практически все налоговые льготы в ходе своей налоговой и экономической реформы в середине 1980-х гг. Участники выразили надежду на то, что аудиторские мероприятия приведут, по меньшей мере, к упразднению старейших налоговых льгот.

«Отчетность по дотациям и эффективность налоговых субсидий»

Кристиан Валендак, ОЕСР

В целом, г-н Кристиан Валендак выразил мнение о том, что отчетность по налоговым субсидиям является важным шагом в направлении обеспечения прозрачности. Эта

отчетность должна быть предварительной, и необходима ее более глубокая интеграция в бюджетный процесс. Можно привлечь экспертов в области экономики для анализа эффективности, однако окончательное решение о преимуществах и недостатках налоговых льгот должно приниматься на политическом уровне.

Затем участники подняли в связи с анализом эффективности вопрос о том, в какой мере ВОА могли бы проверять достоверность выполняемого анализа.

Другой вопрос состоял в том, сформировалось ли уже общее понимание того, каковы составляющие налоговых льгот в данной налоговой системе. Была сочтена маловероятной возможность того, что посредством скоординированного аудита будет разработана единая концепция «субсидий». На практике это одно из наиболее сложных определений, причем действует принцип: чем шире определение, тем лучше. Кроме этого, концепцию «субсидий» будет необходимо регулярно пересматривать.

В этом контексте дискуссия об эталонных критериях была сочтена довольно сложной по характеру. Эталонная налоговая система, на базе которой проводились бы сопоставления, должна быть выстроена так, чтобы страны с развивающейся экономикой оставались вне диапазона эталонных значений. Участники посчитали, что вопросы международной конкуренции в этом контексте имеют слишком широкий охват. Пониженную ставку НДС также необходимо оставить за пределами бенчмаркинга, хотя для базовых категорий товаров это, возможно, было бы обосновано. Однако участники пришли к общему мнению о том, что применение пониженной ставки НДС по отношению к ряду товаров перестало оправдывать себя.

Несмотря на это, влияние (субсидий) на международную налоговую конкуренцию и степень достижения поставленных задач в аспекте перераспределения прибылей, на которое нацеливается пониженная ставка НДС, необходимо оценивать независимо от того, являются ли они частью эталонных критериев.

В длительной перспективе можно было бы включить установленные налоговые субсидии в ежегодный бюджетный процесс и предусмотреть возможность их количественного выражения. Для этих целей можно установить приоритеты, в частности, выделить конкретные категории налоговых льгот, например, те из них, которые не подвергались оценке на протяжении последних десяти лет.

«Налоги как политический инструмент»

Ян Х. Вельтхофен, Счетная палата Нидерландов

В 1990-е гг. ВОФК Нидерландов провел общенациональную аудиторскую проверку под названием «Налоги как политический инструмент». Второй контрольный аудит был запланирован на 2007 год, первый уже был проведен в 2003 году.

Для проведения аудита в 1998 году были выбраны 28 «надежных» позитивных финансовых стимулов на общую сумму 6,6 млрд. голландских гульденов, их рассмотрение проводилось в аспектах подготовки, реализации и результата. Кроме этого, аудит уточнил тот объем, в котором успешность соответствующих мер была известна на министерском уровне.

ВОФК Нидерландов выявил ряд недоработок на исключительно важном подготовительном этапе. Например, причина выбора данного инструмента во многих случаях не была изложена письменно и, следовательно, не была прозрачна. Кроме этого, эффект, который должен быть достигнут за счет применения мер, во многих случаях был описан недостаточно или такими терминами, которые не поддаются количественной оценке. Другие аспекты, которые необходимо принимать во внимание на подготовительном этапе:

- конкретная формулировка целей данной меры;
- оценка стоимости применяемой меры, включая затраты на реализацию и администрирование;
- решение о том, будет ли данная мера лимитированной по времени; и
- проверка обоснованности и соответствия законодательству ЕС.

В связи с реализацией индивидуальных мер, ВОФК Нидерландов обнаружил, что влияние на налоговые поступления, затраты на реализацию и администрирование и степень соответствия были известны правительству только в ограниченном объеме. Помимо этого, министерства во многих случаях получали недостаточную информацию о результатах, достигнутых за счет применения мер, причем последующие контрольные проверки мер, связанных с негативными налогами, были шире, чем проверки мер, связанных с позитивными налогами.

Рекомендации ВОФК Нидерландов включали в себя следующие требования:

- следует стремиться к большему консенсусу в определении терминов «позитивные/негативные налоговые стимулы»;
- четкое описание *ex ante* [прогнозируемой] ситуации;
- формулировка задач более измеримым образом;
- больше внимания к аспекту затрат;
- определение критериев и сроков проведения оценки на раннем этапе; и
- укрепление возможностей для оценки эффективности применяемых мер в целях принятия решений о продолжении их применения.

В целом, аудит, проведенный ВОФК, был встречен положительно. Большинство министерств предприняли усилия для реализации рекомендаций. В противоположность им, министерство финансов намеревалось только обеспечить более эффективное оформление документации на подготовительном этапе, и во всех остальных аспектах отреагировало на отчет ВОФК довольно критически.

В ходе последующего контрольного аудита в 2003 году ВОФК выявил, что Министерство финансов начало разрабатывать контрольный перечень налоговых инструментов в областях подоходного налога, налога на заработную плату, НДС и акцизных налогов. С 1999 года требуется отражать налоговые дотации в приложении к годовому бюджету. С 2001 года правовые положения по подготовке бюджета также применяются к налоговым дотациям. Кроме этого, более пристальное внимание

уделяется определению недополученных налоговых поступлений, а также эффективности и результатов применяемых мер.

По мнению участников, аудит оказался особенно успешным в повышении прозрачности налоговых дотаций в Нидерландах, став для министерства толчком к началу разработки контрольного перечня и, тем самым, помог усовершенствовать информационную базу министерства. Затем они обсудили вопросы ответственности линейных министерств в сфере дотаций, отдельно от сферы ответственности Министерства финансов, и стандарты оценки. Они сошлись во мнении о том, что единственная возможность исключить факторы неопределенности – это аудиторские проверки, которые проводит ВОФК.

Также обсуждался вопрос включения затрат на обеспечение соответствия. Анализ затрат на обеспечение соответствия был признан особо сложным в сфере малых и средних предприятий, но при этом зависящим от конкретных правовых норм. Эти затраты необходимо принимать во внимание, но это не является центральной проблемой. Несмотря на вышесказанное, было подчеркнуто, что они не ограничиваются затратами на взимание налогов.

«Налоговые льготы в странах с развивающейся и переходной экономикой»

д-р Дэвид Нгуен-Тхан, Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)

По мнению д-ра Нгуен-Тхана, определение термина «налоговая субсидия» также необходимо в отношении стран с развивающейся и переходной экономикой. Прежде всего, налоговые льготы предназначаются для того, чтобы эти страны были привлекательны для иностранных инвесторов. Налоговые льготы призваны стимулировать развитие в конкретных регионах и, прежде всего, в официальном секторе для снижения безработицы.

Несмотря на это, налоговые льготы в странах с развивающейся и переходной экономикой носили противоречивый характер. Если бы налоговые льготы были достаточно проработаны, они могли бы быть эффективны и сумели бы придать импульс налоговой конкуренции. С другой стороны, существовали бы негативные последствия, например, недополученные поступления (частично обусловленные «внезапными прибылями»), неравенство применяемых подходов и коррупция. Решения о предоставлении налоговых льгот во многих случаях принимались непрозрачно. Административные затраты, возникающие в этой связи, не следует игнорировать, помня о том, что в этих странах административные ресурсы, как правило, дефицитны.

На данный момент времени обнаруживается, что эффективное управление и действенная налоговая система служат важными факторами в успешности процесса реформ. Налоговые льготы как таковые, которые часто предоставлялись на основании распоряжения Министерства финансов, не являлись решающим фактором для иностранных инвесторов. Большинство предприятий уделяют большее внимание неналоговым факторам, например, политической обстановке, инфраструктуре, доступности квалифицированного персонала и степени фактического соблюдения правовых норм и доступности средств правовой защиты.

Другими факторами, важными для будущего, явились соответствие требованиям и развитие внешней аудиторской функции. Более высокая прозрачность открывает широчайшие возможности для ВОФК. Были бы полезны инструкции и рекомендации от других ВОФК и проведение оценочного сравнения в аспекте администрирования налогообложения.

Затем участники обсудили трудности, связанные с предоставлением налоговых дотаций также и в промышленно-развитых странах. Они отметили, что Министерство финансов часто имеет более эффективную организацию, чем подразделения других министерств, работающие с дотациями. Было признано желательным создание одного подразделения в рамках Министерства финансов для работы с субсидиями.

Дополнительные материалы

БИБЛИОГРАФИЧЕСКИЕ ССЫЛКИ ПО ПРОЕКТУ ЕВРОСАИ

Этот библиографический список не охватывает область налоговых субсидий целиком; он сконцентрирован на новых публикациях, тесно связанных с проектом ЕВРОСАИ. Поэтому данный список может служить начальным пунктом для членов рабочей группы. Комментарии швейцарской Федеральной аудиторской службы в основном даны на базе рефератов, аннотаций или вступлений к соответствующим книгам или статьям.

ПОВЫШЕНИЕ ПРОЗРАЧНОСТИ В АСПЕКТЕ НАЛОГОВЫХ СУБСИДИЙ

Бойе, Роберт: Следует ли включать налоговые затраты в бюджетный процесс? Где опубликовано: Экономический обзор, 2/2002 (14 страниц).

Автор этой статьи работал консультантом по финансовой политике SwedRiksbank. Когда налоговые затраты получают широкое распространение, возникает риск того, что целевой потолок затрат в Швеции будет нарушен. Полное интегрирование налоговых затрат в бюджетный процесс устранило бы соблазн обойти потолок затрат, уменьшив вместо этого сами налоги. В статье описывается функционирование и цели отчетности по налоговым затратам в правительственных органах Швеции и рассматриваются различные проблемы применения, которые приобретут основополагающее значение, если будет признано желательным в длительной перспективе полностью интегрировать налоговые затраты в бюджетный процесс. Важную роль играет существование широкого политического консенсуса в Риксдаге по поводу интерпретации принципа единообразия, по меньшей мере, если предполагается полная интеграция налоговых затрат в бюджетный процесс. Круг проблем также демонстрирует, что существующие расчеты налоговых затрат неполные и несовершенные из-за ряда технических проблем. Поэтому автор приходит к заключению, что в данный момент времени невозможно полностью интегрировать налоговые затраты в бюджетный процесс. Несмотря на это, текущие отчеты по налоговым затратам играют важную роль; они дают приблизительную оценку налоговых льгот в налоговой системе и, следовательно, выявляют предложения, нацеленные на обход потолка затрат.

http://www.riksbank.com/upload/Dokument_riksbank/Kat_publicerat/Artiklar_PV/er02_2_artikel4.pdf

Форман, Джонатан Барри: Обоснован ли бюджет налоговых затрат в области социального страхования? Где опубликовано: Государственный бюджетный процесс и финансовое управление, 1993, том 5, № 2 (14 страниц).

МВФ: Руководство по финансовой прозрачности, Где опубликовано: МВФ – Департамент финансовых проблем, Вашингтон, Округ Колумбия, 2001. <http://www.imf.org/external/np/fad/trans/manual/>

ОЕСР: Эффективные практические рекомендации – Внебюджетные и налоговые затраты, ОЕСР, 19 мая 2004 г. (19 страниц).

Цель этой работы – описать эффективные практические рекомендации, гарантирующие, что внебюджетные и налоговые затраты не ухудшают надлежащее функционирование бюджета. В этой работе даются, в частности, рекомендации по выявлению налоговых затрат, бюджетному контролю над налоговыми затратами и оценке величины налоговых затрат.

[http://appli1.OECD.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/\\$FILE/JT00164525.PDF](http://appli1.OECD.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/$FILE/JT00164525.PDF)

ОЕСР: Налоговые затраты: новейший опыт, ОЕСР, Париж, 1996 (118 страниц).

В этом отчете приводится исследование отчетности по налоговым затратам, которое подчеркивает ряд расхождений, возникающих на практике, и исследует причины этих расхождений. Обзор каждой страны дается в стандартном формате: предыстория введения и введение отчетности по налоговым затратам, структура отчетов, определение налоговых затрат, способ расчета и применение отчетов по налоговым затратам.

Бюджетно-контрольное управление (GAO) США: Налоговая политика: налоговые затраты заслуживают более тщательного рассмотрения, GAO/GGD/AIMD-94-122 Налоговые затраты, июнь 1994 г. (135 страниц).

В этом отчете GAO разрабатывает три варианта повышения внимания, уделяемого налоговым затратам, и снижения потерь поступлений, к которым они приводят. Во-первых, можно обеспечить более высокую степень тщательности при незначительных или нулевых изменениях в процедурах и юрисдикции конгресса, за счет усиления или расширения методов, применяемых в настоящее время для контроля над налоговыми затратами, верхними и нижними предельными нормами соответствия, за счет более эффективного информационного процесса или формирования графика периодического анализа ряда налоговых затрат. Второй вариант заключается в продолжении интеграции Конгрессом налоговых затрат в бюджетный процесс. Один из возможных подходов заключается в том, что Конгресс принимает решение о желательности экономии на налоговых затратах и, если такая экономия желательна, оговаривает в годовых бюджетных резолюциях конкретные целевые показатели экономии. Экономия можно обеспечить, применяя существующие процессы согласования. Третий вариант – интегрировать анализ налоговых затрат с функционально-связанными программами ассигнований, что могло бы повысить эффективность финансовых мероприятий правительства в целом. Этот интегрированный анализ могли бы проводить исполнительная и/или законодательная ветви.

<http://www.unclefed.com/GAOReports/ggd94-122.pdf>

АУДИТ, ОЦЕНКА И/ИЛИ СРАВНЕНИЕ ИЗБРАННЫХ НАЛОГОВЫХ ДОТАЦИЙ

Датта, Лоуис-Эллин и Грассо, Патрик Г.: Оценка налоговых затрат: Инструменты и методы экспертизы результатов: Новое направление для оценки, № 79, Jossey-Mass, сентябрь 1998 г. (150 страниц).

И социальная справедливость, и эффективное управление требуют уточнения того, приносят ли социальные затраты те выгоды, которые предусматриваются первоначальным законодательством, и существуют ли столь же хорошие или лучшие, чем политические, альтернативы в программах прямых затрат. В шести практических примерах, изученных в этой области, рассматривается разнообразие налоговых затрат. Применяя спектр оценочных, исследовательских и аналитических методов, авторы демонстрируют, как общедоступные данные и известные инструменты оценки могут быть успешно применены для изучения эффективности, результатов и воздействия налоговых затрат.

Эдди, Дебора: Повсеместные негативные льготы: отчет рабочей группы Century Foundation по налоговым затратам, Century Foundation Press, Нью-Йорк, 2002 (200 страниц).

Эта публикация содержит отчет рабочей группы и три базовых доклада, которые стали информационной основой обсуждений в группе. Эти доклады дают основанный на анализе и на фактических данных углубленный обзор налоговых затрат. В работе Эрика Тодера приводятся доказательства растущей важности налоговых льгот как политического инструмента в США и рассматриваются проблемы, возникающие в этой связи, а также ситуации, в которых налоговый кодекс мог бы служить эффективной движущей силой получения выгод. В работе Бернарда Васоу говорится о том, что очень сложно продемонстрировать, на базе доказательств или на базе теории, что налоговые льготы оказывают желаемое воздействие на поведение, что воспринимается приверженцами этой идеи как само собой разумеющееся. Третья работа – это подробный обзор налоговых льгот, проведенный Майклом Эттлингером. Он дает подробную информацию о бесчисленных налоговых льготах в США для предприятий и домохозяйств, и тщательную экспертизу выгодоприобретателей налоговых льгот.

Говард Кристофер: Скрытое благосостояние. Налоговые затраты и социальная политика в Соединенных Штатах, Princeton University Press, Принстон, 1997 (272 страницы).

В этой книге внимание сосредоточено на четырех избранных категориях налоговых затрат в США, цели которых относятся к области социального обеспечения: вычеты из ипотечных процентных ставок, пенсии по возрасту, обеспечиваемые работодателями, налоговые льготы, предоставляемые получателям заработной платы, и налоговые льготы для целевых категорий работников. В частности, в исследовании

анализируется долговременное развитие этих социальных программ, администрирование которых осуществляется на базе налогового кодекса. В этой книге намеренно применен ретроспективный подход, поскольку автор рассматривает исторические события как полезный инструмент анализа налоговых затрат, т.к. материалы о любом конкретном годе или интересном эпизоде часто носят отрывочный характер. Как оказывается, налоговые затраты легко вводятся в действие и возрастают в период роста бюджетного дефицита и усиления критики традиционных программ социального обеспечения. На них сложно оказать политическое влияние в аспекте размера и распределения выгод.

Аудиторская палата Нидерландов: Налоги как политический инструмент (сводная информация, опубликованная 18-го марта 1999 г., 5 страниц).

Аудиторская палата Нидерландов составила опись финансовых стимулов или дестимулов, которые были введены или скорректированы в период с 1988 по 1998 год. Она выбрала 28 налоговых льгот и изучила подготовку, реализацию и результаты политики. По оценкам, приведенным в бюджетном меморандуме 1999 года, эти 28 схем в 1998 году привели к недополучению налогов и сборов в размере около 6,6 млрд. голландских гульденов. По шести группам финансовых дестимулов Аудиторская палата Нидерландов провела аудит осведомленности министерств о результатах политических мер.

http://www.rekenkamer.nl/9282000/d/q179_summary.pdf

Поласкова, Брикси Хана, Валендак, Кристиан М.А и Ли, Свифт Чжиченг: Налоговые затраты – Освещение государственных затрат посредством налоговой системы. Уроки, полученные в развитых и переходных экономических системах. Международный банк реконструкции и развития, Вашингтон, 2004 (233 страницы).

В этой книге рассматриваются концептуальные и методологические проблемы, связанные с налоговыми затратами, описывается рамочная структура их оценки, приводятся практические примеры отношения государства к налоговым затратам в развитых и переходных экономических системах и дается обзор общеприменимых политических рамок. В ряде глав также приведены практические примеры применения налоговых затрат в Австралии, Бельгии, Канаде, Китае, Нидерландах, Польше и США. В каждой главе описывается определение налоговых затрат, применяемое в данной стране, и соответствующая эталонная налоговая система. В ряде глав также рассматриваются специфические темы, например, методы оценки и экспертизы налоговых затрат для политического анализа, возможный вклад этого анализа в политические дебаты и бюджетирование налоговых затрат. Опыт двух переходных экономических систем – польской и китайской – иллюстрирует последствия реализации политики в области налоговых затрат при отсутствии адекватной институциональной и аналитической структуры.

Вейсбах, Дэвид А. и Нассим, Якоб: Интеграция программ налогообложения и финансовых ассигнований; опубликовано в Программе Джона М. Олина в рабочем докладе по экономике и праву, № 194 (серия 2d), Чикагский университет, сентябрь 2003 г. (74 страницы).

В этой работе описывается теория принятия решений о реализации программ финансовых ассигнований через налоговую систему. В соответствии с традиционной точкой зрения, такие решения основываются на соображениях налоговой политики. Наиболее распространенные теории – это теория полной налоговой базы и теория налоговых затрат; обе теории опираются на определяющую роль налоговой политики. Авторы выдвигают противоположное утверждение о том, что выбор между налоговыми программами и программами финансовых ассигнований должен опираться исключительно на факторы организационной структуры. Вслед за развитием этой теории, в работе анализируется, следует ли применять продовольственные талоны и налоговые льготы для получателей заработной платы через налоговую систему; это важная работа для каждого, кто хотел бы сравнить налоговые затраты с другими инструментами государственной политики.

<http://www.yalelawjournal.org/pdf/113-5/WeisbachFINAL.pdf>

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Informe

sobre la

auditoría coordinada de subvenciones fiscales

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1 Resumen

El tema del VI Congreso de EUROSAL, celebrado desde el día 30 de mayo hasta el 2 de junio de 2005 en Bonn, fue el control de los ingresos públicos por las Entidades Fiscalizadoras Superiores (EFS).

El análisis de los informes nacionales aportados por los miembros de EUROSAL ha puesto de manifiesto diversos casos donde los flujos financieros que, en sentido estricto, tienen el carácter de gastos presupuestarios, se transfieren al presupuesto de ingresos, especialmente en forma de subvenciones fiscales. Estas subvenciones fiscales han alcanzado dimensiones considerables en algunos países. Sin embargo, hasta ahora continúa existiendo una perspectiva insuficiente acerca de la eficacia de las subvenciones fiscales. Las EFS deberán desarrollar conocimientos más fiables sobre el volumen y el grado de consecución de los objetivos previstos para estas subvenciones fiscales. Algunos informes nacionales se han referido al alcance y la complejidad de la legislación fiscal, lo que puede provocar déficits fiscales y regímenes fiscales derogatorios. Por consiguiente, el Congreso se expresó a favor de una misión coordinada de auditoría de las subvenciones fiscales abierta a todos los miembros de EUROSAL.

Inmediatamente después del Congreso, once EFS empezaron a realizar este proyecto, incluidos los Países Bajos como observadores. Se formó un grupo internacional de trabajo que al final estaba integrado por 18 miembros: Alemania, Chipre, Dinamarca, Federación Rusa, Finlandia, Francia, Hungría, Islandia, Italia, Letonia, Lituania, Polonia, República Eslovaca, Rumania, Suecia, Suiza, Reino Unido y Países Bajos.

Para obtener resultados comparables se elaboró una lista que contenía todas las fases de una subvención fiscal, desde la legislación, pasando por su implantación, hasta la información. Esta lista constituía también el marco facultativo para la auditoría de la transparencia y de los informes de subvención.

El proyecto comenzó con un seminario al que acudieron más de 60 participantes de 22 países miembros de EUROSAL y del Tribunal de Cuentas Europeo. Los participantes discutieron las políticas de subvención fiscal, la eficacia y la fiscalización de las subvenciones con expertos de la OCDE, la Universidad de Colonia, la Cooperación Técnica Alemana (GTZ) y la Algemene Rekenkamer (la EFS de los Países Bajos).

Tras concluir el trabajo fiscalizador, el grupo de trabajo llegó a la conclusión de que, en lo que se refiere a las subvenciones fiscales, era necesario mejorar la legislación, evaluación e información en todos los Estados participantes a fin de poder asegurar la transparencia general que se considera imprescindible tanto a escala del legislador como para la sociedad civil en su conjunto.

El grupo de trabajo reveló que, ya en la fase de elaboración de las leyes, los proyectos no contenían descripciones adecuadas de los objetivos perseguidos con las subvenciones fiscales y que la información sobre los costes y beneficios es completamente inapropiada. No existen pues datos fiables que podrían servir de base para la vigilancia, el análisis y la evaluación de las subvenciones fiscales. Frecuentemente, después de la adopción de las leyes, las declaraciones emitidas por el Poder ejecutivo acerca de la evaluación son insuficientes o incluso inexistentes. Tampoco suelen existir plazos en los que caducan las

subvenciones fiscales ni disposiciones para reducir su monto a lo largo del tiempo. Tras su introducción, las subvenciones fiscales no suelen ser vigiladas, analizadas ni evaluadas de forma sistemática. También es totalmente inadecuada la información rendida en el marco del ciclo presupuestario o a través de informes de subvención separados. Tanto el legislador presupuestario como la sociedad civil ignoran, en gran parte, los objetivos de las subvenciones fiscales y su consecución, el impacto financiero, económico y medioambiental así como los resultados de las evaluaciones.

Además, fueron constituidos tres subgrupos de trabajo que se dedicaron a examinar dos tipos específicos de subvenciones fiscales. El subgrupo del impuesto sobre la renta de las sociedades estudió asuntos comparables y acordó fiscalizar el asunto de las reducciones fiscales para microempresas, pequeñas y medianas empresas. El subgrupo controló también, cuando convenía, las reducciones fiscales para el desarrollo regional, existentes en todos los países miembros del subgrupo. Preparó un cuestionario que debía servir de base para diseñar las auditorías previstas.

El subgrupo del impuesto sobre la renta de las sociedades fiscalizó el asunto de las reducciones fiscales para microempresas, pequeñas y medianas empresas que, en todos los países, se rigen por la legislación pertinente. En la mayoría de los países participantes, no existe subvención fiscal destinada a empresas que pueda ser exclusivamente utilizada por las PYMES. Las EFS que intervinieron en la auditoría se concentraron en el procedimiento legislativo, la vigilancia y en el uso de los sistemas informáticos. En todos los países participantes es obligatorio que se realicen evaluaciones preliminares a lo largo del procedimiento legislativo. Sin embargo, los ministerios de Hacienda no suelen cumplir estos requisitos, o los cumplen sólo en parte. La práctica de definir los objetivos de las subvenciones fiscales concedidas a empresas es distinta en los países participantes y la posibilidad de sustituir las subvenciones fiscales otorgadas a empresas por ayudas financieras directas no fue evaluada por ningún ministerio de Hacienda de los países participantes. En general, los datos proporcionados son insuficientes para comparar y evaluar el impacto de estas subvenciones.

En todos los países participantes, los objetivos de las subvenciones fiscales para empresas están claramente definidos y pueden ser medidos. Existen disposiciones que requieren la evaluación de los impactos producidos por las subvenciones fiscales y la consecución de los objetivos han de ser evaluados. No obstante, el alcance de los objetivos no suele ser suficientemente vigilado. Las disposiciones no prevén la realización obligatoria de inspecciones. En todos los países participantes, las autoridades tributarias han desarrollado y aplicado sistemas informáticos para tramitar las solicitudes tributarias y para asegurar que la inspección fiscal se realice según procedimientos comunes en todas las autoridades tributarias locales.

El subgrupo desarrolló cinco categorías de recomendaciones. Se aconseja analizar, tanto de forma preliminar como concomitante, el impacto regulatorio, considerar opciones alternativas, desarrollar criterios para la concesión de subvenciones fiscales, publicar información pertinente y evaluar periódicamente la consecución de los objetivos previstos por las subvenciones. Además, es recomendable aumentar el uso de los sistemas informáticos, por ejemplo para establecer un registro de las subvenciones fiscales y unas redes de intercambio con otras bases de datos disponibles.

El tema central del subgrupo del impuesto sobre el valor añadido fue el tipo reducido del IVA. Los miembros del subgrupo consintieron en reunir pruebas fiscalizadoras sobre el tipo reducido del IVA en su respectivo país. El objetivo de la fiscalización fue por ejemplo verificar si los tipos reducidos del IVA en los diferentes Estados miembros seguían siendo justificados y si producían efectos secundarios no deseados. Además, estaba previsto que los miembros del subgrupo reunieran informaciones sobre los problemas existentes en la aplicación del tipo reducido del IVA, la pérdida total de ingresos provenientes del IVA y causada por los tipos reducidos, la eficacia de la subvención y los procedimientos para evaluarla.

Como resultado de las fiscalizaciones y de los informes rendidos en su país, los miembros del subgrupo sobre el IVA formularon conclusiones comunes acerca del efecto y la eficacia de los tipos reducidos. Según ellos, sería por ejemplo conveniente que el tipo reducido del IVA representara, a través de la reducción del precio de los bienes y servicios, un beneficio directo para los consumidores. Existe una relación desproporcionada entre, por un lado, las normas detalladas que sirven para distinguir los diferentes tipos y, por otro, los instrumentos con que cuentan las autoridades tributarias para su aplicación.

Por este motivo, los miembros del subgrupo IVA recomiendan vigilar y evaluar sistemáticamente la aplicación y los efectos producidos por los tipos reducidos del IVA, así como publicar un informe anual sobre el monto total de fondos públicos perdidos por la concesión de estas subvenciones fiscales. También debería evaluarse la posibilidad de disminuir el número de subvenciones del IVA a través de tipos reducidos para determinados bienes y servicios, y de buscar instrumentos alternativos.

En general, los tres subgrupos analizaron el tema desde perspectivas distintas, pero los resultados obtenidos fueron similares. Los proyectos de ley deberían describir de forma clara y bien estructurada los objetivos perseguidos con la introducción de subvenciones fiscales. La información rendida debería incluir datos sobre pérdidas fiscales provocadas por las subvenciones fiscales. Se recomienda que los informes sean emitidos en intervalos regulares, preferentemente cada año. También es recomendable realizar evaluaciones regularmente. Su finalidad es garantizar la eficacia, eficiencia y la consecución de los objetivos. En el marco de los procedimientos nacionales vigentes, las EFS participantes procedieron a contrastar los resultados y las recomendaciones con las entidades nacionales competentes, o sea, generalmente, con los gobiernos o ministerios competentes. Después, los informes de auditoría fueron puestos a disposición del público.

Teniendo en cuenta los diferentes regímenes fiscales auditados, las EFS involucradas en la fiscalización coordinada encontraron problemas y deficiencias comparables. Además, las EFS perseguían objetivos secundarios, como por ejemplo intercambiar experiencias, extender una red de relaciones informales y mejorar la comunicación con terceros.

2 Introducción

Actualmente se están produciendo en Europa unas transformaciones dinámicas originadas por iniciativas geopolíticas como la ampliación de la UE o la globalización. Este desarrollo ejerce un impacto sobre las Entidades Fiscalizadoras Superiores (EFS), que, en este ámbito económico caracterizado por un número decreciente de fronteras, se ven enfrentadas a desafíos similares.

Aparte de ello, se debe llenar de vida a la unidad europea. La unidad europea es, al fin y al cabo, un proceso continuo que depende del acercamiento entre ciudadanos y entidades públicas, un proceso que a veces avanza bastante despacio. En este contexto, la fiscalización coordinada de los beneficios fiscales es una pieza pequeña, pero importante para poder completar el conjunto.

La auditoría coordinada, que está abierta a los miembros EUROSAL, tiene su origen en la intención de las EFS de estrechar sus vínculos de colaboración e intercambiar los conocimientos obtenidos a través de la labor fiscalizadora. El objetivo era presentar información sobre las mejores prácticas y fortalecer la red de relaciones informales. Las EFS también querían mejorar la cooperación con el mundo académico. Además, los participantes del Congreso intentaban desarrollar una metodología consistente para evaluar los resultados de programas y para mejorar el impacto de los regímenes de reducción fiscal.

La EFS alemana respondió a esta intención organizando el VI Congreso EUROSAL. La selección de este tema de auditoría se debe al objetivo de presentar al Congreso una cuestión esencial e importante. Los participantes optaron por auditar los beneficios fiscales, o sea aquellas disposiciones fiscales derogatorias que, en general, reducen considerablemente los ingresos públicos en toda Europa y que, al mismo tiempo, contribuyen a seguir complicando las leyes tributarias. Los representantes de las EFS europeas acogieron con agrado la propuesta presentada el día 2 de junio de 2005 por la EFS alemana en el Centro de Conferencias de Petersberg, cerca de Bonn. A pesar de que la cooperación entre los miembros de EUROSAL no es nada nuevo y su alcance va aumentando, el nivel de colaboración previsto para esta auditoría conjunta fue excepcional.

La organización de las auditorías nacionales quedó en manos de las EFS. Esto permitió una labor paralela realizada por un alto número de EFS en un periodo bastante corto y sin tener que tratar la cuestión del alcance de la competencia de cada EFS. Cada entidad fiscalizadora designó su propio equipo de auditores para que éstos fiscalizaran el mismo asunto desde la perspectiva particular de la EFS, teniendo siempre en cuenta el respectivo mandato legal. En las reuniones mantenidas se intercambiaron experiencias que servían para enriquecer la labor de cada EFS. Las EFS participantes sometieron independientemente su informe final al Parlamento respectivo o al ministerio competente.

Los miembros del grupo de trabajo acordaron que cada EFS produciría su propio informe del proyecto y que este informe reflejaría la perspectiva de la EFS nacional. O sea que se trataba de informes nacionales y no de un informe conjunto de los subgrupos de trabajo. El *presente* informe es un análisis de los resultados fiscalizadores y de las recomendaciones correspondientes. Este informe general sobre la fiscalización coordinada fue completado a finales de 2007 y será sometido al próximo Congreso de EUROSAL.

Dado que cada EFS realizaba independientemente en su territorio nacional las comprobaciones pertinentes, la primera tarea consistió en convenir un cuestionario para el estudio y un calendario. En reuniones conjuntas fueron elaboradas listas de preguntas que proporcionaron a las EFS una estructura para poder establecer una síntesis comparativa de los resultados del informe final. En la organización y planificación de la auditoría, incumbió a cada EFS decidir sobre si se adoptaba el conjunto de la estructura o se implantaba sólo parcialmente.

Grupo de trabajo internacional

A fin de desarrollar una metodología consistente para evaluar los resultados y mejorar el impacto de las reducciones fiscales, el grupo de trabajo internacional se reunió por primera vez el 10 de noviembre de 2005 en Bonn (véase tabla 1).

Los delegados que acudieron a la reunión decidieron enfocarse en la transparencia y los informes de subvención. Muchas EFS abogaron por verificar también la eficiencia y eficacia. Aparte de ello, la EFS alemana expresó el deseo de que se trataran también cuestiones relacionadas con las decisiones políticas de relevancia fiscal. Un gran número de miembros se pronunció sobre proyectos de auditoría específicos, previstos para los años 2006 y 2007. Otros mencionaron que determinarían los temas dentro de poco. En vista de las auditorías planeadas, se formaron tres subgrupos (véase sección 3).

Tabla 1

Fecha	Sitio	EFS participantes		
10 y 11 de noviembre de 2005	Bonn	Dinamarca Lituania República Eslovaca Reino Unido	Alemania Polonia Suecia	Hungría Rumania Suiza
22 de febrero de 2006	Bonn	Chipre Finlandia Hungría Polonia República Eslovaca Reino Unido	República Checa Francia Letonia Rumania Suecia	Dinamarca Alemania Lituania Federación Rusa Suiza
28 de agosto de 2006	Copenhague	Dinamarca Alemania Letonia Rumania Suiza	Finlandia Hungría Lituania República Eslovaca	Francia Islandia Polonia Suecia
16 de febrero de 2007	Varsovia	Dinamarca Hungría Polonia República Eslovaca	Finlandia Letonia Rumania	Alemania Lituania Federación Rusa
12 de septiembre de 2007	Bratislava	Dinamarca Alemania Lituania República Eslovaca	Finlandia Hungría Polonia	Francia Letonia Rumania
30 y 31 de enero 2008	Bonn	Dinamarca Alemania Italia Países Bajos Federación Rusa Suiza	Finlandia Hungría Letonia Polonia República Eslovaca	Francia Islandia Lituania Rumania Suecia

Aumentar la transparencia es la primera prioridad de todos los miembros del grupo de trabajo. Los objetivos principales de las actividades emprendidas por el grupo de trabajo internacional han sido desarrollar e implantar mecanismos fiables para la evaluación de programas y, con ello, llegar a una información exhaustiva y completa acerca de los propósitos e impactos de las subvenciones fiscales, su volumen financiero y el éxito conseguido. Los resultados obtenidos por la auditoría coordinada demuestran que no siempre se describen adecuadamente los objetivos y los requisitos para la concesión de subvenciones fiscales. Los responsables no

estudian de forma oportuna el posible impacto económico y social ni las opciones para conseguir los mismos objetivos con medidas alternativas. Lo mismo vale para el impacto medioambiental de las subvenciones. Por este motivo, el Parlamento carece de las informaciones más importantes para poder tomar decisiones bien fundamentadas. Sólo en casos excepcionales, las disposiciones legales que establecen las subvenciones fiscales contienen un plazo de vigencia, lo que posibilita al Parlamento decidir sobre el instrumento de subvención, y apoyarse en informaciones ya disponibles acerca del impacto actual. Después de la entrada en vigor de las normativas legales, los organismos competentes no identifican el impacto real de las subvenciones. En general, la ley no prevé que se evalúen los resultados de los programas, sin embargo, ello podría contribuir a atenuar el enfrentamiento de opiniones políticas sobre la reducción o abolición de las subvenciones fiscales.

Tres subgrupos de trabajo

Se formaron tres subgrupos, cada uno trató un aspecto particular de la auditoría de las subvenciones fiscales.

El subgrupo sobre la transparencia e informes de subvención estaba integrado por las EFS de Alemania (presidencia), Dinamarca, Federación Rusa, Finlandia, Francia, Islandia, Lituania, Polonia, República Eslovaca, Rumania, y Suecia y examinó asuntos relacionados con la transparencia de subvenciones fiscales y la rendición de informes.

Los otros dos subgrupos fueron constituidos para estudiar subvenciones fiscales individuales. El subgrupo del impuesto sobre la renta de las sociedades, presidido por la EFS de Hungría, auditó la eficiencia y eficacia de las subvenciones del impuesto sobre la renta de sociedades concedidas a PYMES. Para este fin, los miembros del subgrupo, las EFS de Alemania, Hungría, Letonia, Federación Rusa y de la República Eslovaca, elaboraron otro cuestionario conjunto. El tercer subgrupo se dedicó a los tipos del IVA reducidos para bienes y servicios particulares. Este subgrupo estaba integrado por Letonia, Lituania, Suiza y Alemania (presidencia).

Cuestionarios como base común

El grupo internacional de trabajo se dedicó a desarrollar un cuestionario especial para el subgrupo sobre la transparencia e informes de subvención, a fin de facilitar la comparación de los resultados obtenidos. Cada auditor que realizaba su labor según lo establecido en el cuestionario elaborado por el subgrupo era capaz de llegar a las cuestiones medulares de la transparencia que suelen surgir a lo largo del ciclo de vida de una subvención, desde su introducción y ejecución hasta la rendición de los informes y la evaluación de su impacto.

El cuestionario fue diseñado para ser tratado en dos fases. Primero, los participantes acordaron responder a las preguntas indicando opciones alternativas. En caso de que las opciones disponibles no fueran aplicables, se requerían más detalles. Después, el cuestionario representaba también una base para organizar la labor fiscalizadora.

Además, el subgrupo del impuesto sobre la renta de las sociedades elaboró un cuestionario adicional detallado para la labor coordinada en este ámbito.

Empezando con el seminario sobre las subvenciones fiscales

A fin de preparar el cuestionario, el Presidente de la EUROSAL organizó un seminario que tuvo lugar del 21 al 22 de febrero de 2006 en Bonn.

Aquellos miembros de EUROSAL que no participaban en el grupo de trabajo estaban invitados a acudir. El objetivo del taller fue crear una base profesional para que la auditoría coordinada de las subvenciones fiscales pudiera realizarse en todos los países miembros y conforme a lo aprobado por el VI Congreso EUROSAL. Más de 60 participantes provenientes de 22 países miembros y del Tribunal de Cuentas Europeo discutieron las políticas de subvención fiscal, la eficacia y las cuestiones relacionadas con el control. En el taller desarrollaron la base científica para el cumplimiento de la auditoría coordinada en el territorio de la EUROSAL.

Un ponente de la Facultad de Estudios Fiscales de la Universidad de Colonia y un experto de la OCDE ayudaron a crear este fundamento de conocimientos comunes que sirvió de punto de partida para el éxito de este proyecto. En el seminario se analizaron tanto la definición del término “subvención fiscal” como la Ley Tributaria suiza que estableció las disposiciones más importantes para garantizar la transparencia en este campo. Los participantes solicitaron que el Poder ejecutivo informara de forma proactiva sobre las subvenciones fiscales y que éstas fueran mejor integradas en el procedimiento presupuestario. En su presentación, la EFS de los Países Bajos señaló que, como resultado de su auditoría, la eficacia y los resultados de las medidas habían adquirido más importancia y que, a partir de entonces, en un anexo al presupuesto general se informaba acerca de las subvenciones fiscales. Un representante de la *Deutsche Gesellschaft für Technische Zusammenarbeit* (Cooperación Técnica Alemana) subrayó que la decisión de inversores extranjeros para instalarse en un país determinado no dependía tanto de las subvenciones fiscales sino más bien del *buen gobierno* y de la solidez del régimen fiscal. Otro asunto discutido fue una reforma fiscal y económica, realizada a mediados de los años 80 en Nueva Zelanda, que abolió casi todas las subvenciones fiscales (véase tabla 2).

Tabla 2

Autor	Organización	Presentación
Dr. David Nguyen-Thanh	Cooperación Técnica Alemana	Incentivos fiscales en países emergentes y en desarrollo
Dr. Michael Thöne	Universidad de Colonia	Síntesis del control de subsidios en el caso de los gastos fiscales
Christian Valenduc	OCDE	Informe de subvención y eficacia de los subsidios fiscales
Jan H. Velthoven	Algemene Rekenkamer	Los impuestos como instrumento político

Plataforma común de información

Los miembros del grupo de trabajo se mantenían informados a través de una sección de la página Web del VI Congreso EUROSAL con acceso protegido por contraseña (www.eurosai-2005.de).

La a página Web proporcionaba información sobre el estado actual del proyecto, actas de las reuniones y cuestionarios sometidos por las EFS, informes de progreso, calendario e información fiscalizadora de los tres subgrupos, así como el plan de auditoría, informes de auditoría y páginas Web útiles.

Labor fiscalizadora

Desde mayo de 2005, las EFS de Alemania, Chipre, Dinamarca, Federación Rusa, Finlandia, Francia, Hungría, Islandia, Italia, Letonia, Lituania, Polonia, Rumania, República Eslovaca, Suecia, Suiza y del Reino Unido fueron miembros del grupo de trabajo, mientras que los Países Bajos participaron como observadores.

En las reuniones, las EFS participantes seguían coordinando su labor fiscalizadora. Acordaron preguntas y enfoques de auditoría comunes e informaron a los demás participantes sobre sus resultados de auditoría más recientes.

El presente informe final refleja los resultados obtenidos por los tres subgrupos.

El informe está complementado por otro informe separado, elaborado por cada subgrupo y con los resultados de auditoría detallados de las EFS que participaron en la labor. Los informes nacionales han sido integrados en el presente documento como anexos en forma electrónica.

3 Definición

3.1 Acuerdo de entendimiento

Para preparar las auditorías, cuyo propósito es también producir resultados generales sobre la concesión de subvenciones fiscales en los respectivos países, las EFS desarrollaron un acuerdo común respecto a la definición de las “subvenciones fiscales”.

No existe una definición generalmente aceptada a nivel nacional o internacional. Como regla general, el término “subvención” es definido de manera más o menos estricta, dependiendo del objetivo perseguido.

Sin embargo, llegar a una definición uniforme era particularmente importante para el subgrupo de trabajo sobre la transparencia e informes de subvención, ya que el enfoque de auditoría tenía que ser horizontal, abarcar las subvenciones relacionadas con todo tipo de impuestos y regímenes tributarios y ayudar a analizar la transparencia, especialmente la de los informes de subvención.

Tras el seminario y después de discutir a profundidad este asunto, el grupo de trabajo decidió utilizar una definición amplia de las subvenciones fiscales que abarcaba todo tipo de gasto fiscal. Los participantes adoptaron la definición de las *Directrices para la mejor práctica – gastos extrapresupuestarios y gastos fiscales*, emitidas por la OCDE¹. Según este documento, un gasto fiscal puede ser definido como transferencia de recursos públicos

¹ Directrices para la mejor práctica – gastos extrapresupuestarios y gastos fiscales, OCDE, GOV/PGC/SBO(2004) 6, 19 de mayo de 2004.

conseguido por la reducción de obligaciones tributarias, efectuada más bien con respecto a un sistema fiscal de referencia que por gastos directos. De acuerdo al documento, los gastos fiscales pueden tener formas diferentes:

- exenciones: montos excluidos de la base imponible;
- deducciones: montos deducidos que reducen la base imponible;
- créditos: montos deducidos del impuesto a pagar;
- tipos reducidos: se aplica un tipo impositivo reducido a una categoría de contribuyentes o transacciones imponibles;
- retrasar el pago de impuestos: la reducción del impuesto por el pago aplazado.

El grupo de trabajo acordó que las fiscalizaciones a emprender por las EFS deberían abarcar todas las clases de subvenciones arriba mencionadas.

3.2 Informes sobre las misiones nacionales

No existe una definición internacionalmente reconocida del término “subvención fiscal” y tampoco, a escala nacional, una definición legal en los países participantes. Por este motivo, las EFS estudiaron las disposiciones legales clasificadas como subvención fiscal por el gobierno nacional. En el transcurso de las fiscalizaciones, las EFS trabajaban también con definiciones alternativas, discutidas a escala nacional e internacional en las ciencias económicas. Subrayaron sobre todo variantes nacionales que impactaban en las informaciones rendidas por parte de los gobiernos nacionales sobre el volumen y la importancia de las subvenciones fiscales.

3.3 Relevancia de la definición

Las definiciones de *subvención fiscal*, *privilegio fiscal*, *régimen fiscal derogatorio* o de términos similares utilizados en los contextos nacionales poseían una importancia diferente en cada subgrupo.

Los dos subgrupos impuesto sobre la renta de las sociedades e IVA estudiaron los regímenes fiscales derogatorios que podrían ser considerados, a nivel nacional, como subvención fiscal. El subgrupo del impuesto sobre la renta de las sociedades se concentró en subvenciones otorgadas de manera más o menos similar en los países participantes. Acordó fiscalizar el asunto de las reducciones fiscales para microempresas, pequeñas y medianas empresas así como, cuando era relevante, las reducciones fiscales para el desarrollo regional. El subgrupo IVA se dedicó a los problemas vinculados al tipo reducido del IVA. En casi todos los países, algunos bienes y servicios no están sometidos al tipo general sino a un tipo reducido del IVA. Las EFS consideraban la concesión del tipo reducido un privilegio fiscal que podía tener las características de una subvención fiscal. Las EFS individuales disponían pues de toda la libertad para decidir cuáles regímenes fiscales derogatorios irían a fiscalizar.

El subgrupo sobre la transparencia e informes de subvención trató las subvenciones fiscales

desde la perspectiva de su introducción, modificación y gestión, asimismo analizó la información rendida. En los contextos de la legislación y de la rendición de informes, la relevancia de la definición de las subvenciones fiscales es diferente.

En todos los países, se requiere una ley para introducir, modificar o abolir una subvención fiscal. Esta ley tiene que cumplir los mismos requisitos que el resto de las leyes nacionales.

La situación es otra cuando se trata de los informes. En este ámbito, es de importancia fundamental saber si una determinada disposición es considerada *una subvención fiscal*, *privilegio fiscal*, etc. Cuando las disposiciones nacionales prevén la rendición de informes, incumbe al gobierno respectivo definir el concepto de subvención fiscal en el contexto nacional. En la práctica, esto crea un margen discrecional de decisión en el que los gobiernos nacionales pueden determinar el alcance y la naturaleza de la información rendida. Teniendo en cuenta la cuestión de la transparencia, esto representa el punto de partida para las actividades emprendidas por el subgrupo.

4 Auditorías

4.1 Contexto

En el transcurso de la auditoría coordinada, cada EFS realizó sus propias auditorías en su respectivo territorio nacional. Teniendo en cuenta los acuerdos adoptados por los subgrupos, correspondía a cada EFS decidir sobre el contenido, el alcance, la metodología y la implantación de la labor fiscalizadora. Cada entidad designó a su propio equipo de auditores para que fiscalizara el mismo asunto desde la perspectiva particular de cada EFS, respetando su mandato legal. En las reuniones mantenidas se intercambiaron experiencias que servían para enriquecer la labor de cada EFS. Las EFS participantes someterán independientemente, o ya lo han hecho, su informe final al Parlamento respectivo o ministerio competente.

4.2 Síntesis de los mandatos de auditoría

Los mandatos de auditoría de las EFS participantes se rigen por la legislación nacional respectiva.

En general, las EFS están facultadas para fiscalizar los gastos e ingresos del presupuesto público. En el caso de las subvenciones fiscales, que normalmente implican renunciar a ingresos públicos, las EFS controlan aquellas entidades públicas que son responsables de elaborar los proyectos de ley, gestionar el impuesto correspondiente y otorgar la reducción fiscal. En la mayoría de los casos, la concesión de subvenciones fiscales ha de ser solicitada a través de formularios de declaración tributaria. Hasta este grado, las EFS están facultadas para realizar comprobaciones relacionadas con las subvenciones fiscales a escala de las entidades públicas.

Como norma general, las EFS no poseen un mandato de auditoría especial para las subvenciones fiscales.

Sin embargo, la elección política entre subvenciones directas y subvenciones fiscales repercute en los mandatos de auditoría de las EFS. La legislación nacional suele determinar

que el uso apropiado de subvenciones directas puede ser controlado, cuando sea considerado necesario, a escala de los beneficiarios de la subvención. En el caso de las subvenciones fiscales, es al revés. Casi ninguna EFS tiene la posibilidad de verificar la eficiencia y eficacia de las subvenciones fiscales con la ayuda de comprobaciones realizadas a nivel de los beneficiarios. Así, la fiscalización de las subvenciones fiscales se verá siempre limitada a la escala de las entidades públicas.

4.3 Subgrupo de trabajo 1 - Transparencia e informes de subvención

Once EFS de los países Alemania, Dinamarca, Finlandia, Francia, Islandia, Lituania, Polonia, Rumania, Federación Rusa, República Eslovaca y Suecia acordaron comprobar, en el marco de la auditoría coordinada, la transparencia y la información.

El cuestionario adoptado por el grupo de trabajo se basa esencialmente en un borrador elaborado por la EFS de Polonia. Los cuestionarios y propuestas de modificación sometidos por los países de Alemania, Dinamarca, Finlandia, Rumania, Suecia y la República Eslovaca al grupo de trabajo contenían sugerencias esenciales.

4.3.1 Tipo de comprobaciones realizadas

Llevando a cabo las labores fiscalizadoras, las EFS examinaron la legislación, la ejecución de las leyes y la información rendida.

En todos los países, las subvenciones fiscales, o sea las disposiciones fiscales derogatorias, deben ser introducidas a través de una ley. Por este motivo, estas disposiciones legales deben cumplir los mismos requisitos que el resto de la legislación nacional.

Como norma general, la implantación de las subvenciones fiscales incumbe a las autoridades tributarias nacionales, que, en algunos casos, son también responsables de vigilar el impacto producido por ellas.

No todos los países tienen disposiciones sobre la rendición de informes. Además, se distingue entre la información rendida en el marco del presupuesto público nacional y los informes separados que tienen la forma de informes de subvención.

El marco legal y el alcance de las auditorías efectuadas por las EFS participantes son determinados en gran parte por las peculiaridades de cada país. Las EFS analizaron la responsabilidad de los gobiernos por las subvenciones y la manera en la que los gobiernos la cumplían.

Dado que corresponde normalmente a los ministerios nacionales de Hacienda preparar y dirigir las labores legislativas relacionadas con las subvenciones fiscales, éstos constituían, en la mayoría de los casos, los organismos de enlace apropiados para las EFS.

4.3.2 Resultados

En el ámbito de las subvenciones fiscales no está garantizado el nivel de transparencia adecuado.

Algunas leyes nacionales sobre subvenciones fiscales destacan por deficiencias considerables si se les compara con los estándares existentes para el resto de la legislación nacional. Frecuentemente se documentan de forma inadecuada los objetivos cualitativos y cuantitativos perseguidos con las subvenciones fiscales. Las descripciones de los objetivos muchas veces están caracterizadas por términos generales, así que resulta imposible basarse en ellas para medir la consecución de los objetivos. Existen grandes diferencias en cuanto a la información proporcionada sobre costes y beneficios generados. También se presentan de forma inadecuada las declaraciones acerca de la evaluación, particularmente en lo referente al calendario, contenido y objetivos.

Es evidente la carencia de una base que permita vigilar, analizar y evaluar las subvenciones fiscales. En una larga serie de casos, no se informaba sobre las opciones para establecer un plazo de caducidad y/o ir reduciendo el monto de la subvención a lo largo del tiempo.

En la fase de la concesión de las subvenciones fiscales existe una carencia obvia de vigilancia, análisis y evaluación realizados de forma sistemática. Faltan conceptos estratégicos apropiados. En la mayoría de los casos, no están disponibles datos actuales sobre los costes y beneficios. Tampoco se llevan a cabo evaluaciones sistemáticas, lo que se debe, en parte, a la carencia de datos adecuados.

Las informaciones rendidas acerca de las subvenciones fiscales, y que figuran en el presupuesto o en informes separados, son inadecuadas. Frecuentemente, no está disponible una síntesis de las subvenciones fiscales. Los recursos públicos perdidos son calculados y/o estimados de manera incompleta. Tampoco se proporciona información sobre lo que sirve de base para las previsiones. Además, las informaciones sometidas por los gobiernos nacionales son, en la mayoría de los casos, demasiado escasas en lo que se refiere a los objetivos perseguidos, su consecución, los resultados efectivos y la evaluación de las subvenciones fiscales.

4.3.3 Recomendaciones

En general, las EFS participantes consideraron imprescindible que se mejorara la legislación referente a la información rendida a fin de poder llegar al nivel de transparencia necesario para el legislador y la sociedad civil.

Apoyándose en su labor fiscalizadora, las EFS desarrollaron las siguientes recomendaciones dirigidas a los gobiernos y/o Parlamentos nacionales.

Legislación

Es preciso que, en el futuro, las leyes fijen, para las subvenciones fiscales, objetivos inequívocos, claramente establecidos y verificables. Los análisis realizados por el gobierno durante la fase legislativa deberían ser documentados de forma exhaustiva. Cuando sea aplicable, las EFS recomiendan que se establezcan plazos de caducidad para las subvenciones fiscales.

Evaluaciones realizadas regularmente

Deben desarrollarse e implantarse estrategias nacionales que permitan vigilar, analizar y evaluar sistemáticamente las subvenciones. A fin de poder comprobar la eficiencia y eficacia de las subvenciones fiscales deberían efectuarse regularmente las evaluaciones pertinentes.

Información

La información rendida debería abarcar todas las subvenciones fiscales. Por este motivo, se recomienda que los gobiernos expliquen claramente lo que es considerado una subvención fiscal y lo que no se incluirá en los informes. Es necesario que la información proporcionada sobre los ingresos públicos perdidos a causa de las subvenciones sea exhaustiva y completa. En general, se considera imprescindible una información regular, actualizada y completa.

Dado que se trata sólo de un número reducido de beneficiarios y teniendo en cuenta que los fondos necesarios para este tipo de subvención provienen de la totalidad de los contribuyentes, la carga soportada por los ciudadanos tan sólo puede considerarse justificada si las entidades competentes aumentan la transparencia sobre la aplicación eficiente y eficaz de las disposiciones fiscales derogatorias.

4.4 Subgrupo 2 - Impuesto sobre la renta de las sociedades

El subgrupo del impuesto sobre la renta de las sociedades estaba integrado por las EFS de Alemania, Letonia, República Eslovaca, Federación Rusa y Hungría (presidencia). Las EFS enfocaron la eficiencia y eficacia de las subvenciones concedidas a PYMES o, si este tipo de subvenciones no existía en el país respectivo, de las subvenciones fiscales para el desarrollo regional. La EFS de Letonia auditó el sistema de subvenciones fiscales concedidas a empresas en su conjunto.

4.4.1 Resultados de Auditoría

En todos los países participantes, la imposición se rige por las leyes pertinentes. En cuatro países, el impuesto sobre la renta de sociedades se rige por leyes separadas, mientras que en la Federación Rusa, las normas relevantes están integradas en el Código Fiscal bajo el capítulo "Impuesto sobre la renta de las sociedades". En tres países, (Hungría, Letonia y República Eslovaca), todos los ingresos provenientes de este impuesto son integrados al presupuesto general, mientras que en Alemania y en la Federación Rusa, el monto se divide entre el presupuesto central y el de los Estados Federados alemanes y entidades territoriales de la Federación Rusa.

En tres países (Alemania, Hungría y República Eslovaca), todas las subvenciones fiscales para empresas se rigen por la Ley sobre el impuesto sobre la renta de las sociedades. En Letonia y en la Federación Rusa, la concesión de algunas subvenciones se apoya en otras leyes.

En los países participantes existe una gran variedad de disposiciones sobre la concesión de subvenciones fiscales para PYMES:

- en cuatro países (Alemania, Letonia, Federación Rusa y República Eslovaca) no existen deducciones especiales para las PYMES (en la República Eslovaca, las subvenciones fiscales para empresas solo son otorgadas para fines de desarrollo regional);
- en Hungría, una deducción especial es otorgada a las PYMES según la Ley sobre el impuesto sobre la renta de las sociedades.

Esto significa que en la mayoría de los países participantes no existe una subvención fiscal que puede ser exclusivamente utilizada por PYMES. Sin embargo, las PYMES tienen el derecho de percibir las subvenciones destinadas a empresas en general.

La definición de PYMES es diferente en los países participantes. En los Estados Miembros de la UE, la definición se apoya en la recomendación de la Comisión. Como resultado de la recomendación de 1996, la Comisión estableció por primera vez una definición común para las PYMES. El 6 de mayo de 2003, la Comisión Europea adoptó una nueva definición de las PYMES que entró en vigor el 1 de enero de 2005. La Federación Rusa aplica normas diferentes, la categoría de las empresas medianas solamente existe desde hace el 1 de enero de 2008.

En todos los países participantes, es obligatorio que se realicen evaluaciones preliminares a lo largo del procedimiento legislativo. Esto incluye estudios de viabilidad, así como la evaluación de los impactos financieros, económicos y sociales previsiblemente producidos por la ley a adoptar o por otro tipo de reglamento. Sin embargo, los ministerios de Hacienda no suelen cumplir estos requisitos, o los cumplen sólo en parte. El hecho de no se lleve a cabo una profunda evaluación preliminar de las subvenciones fiscales contribuye a que *a posteriori* tampoco se evalúan la consecución de los objetivos previstos ni, por consiguiente, la eficacia.

Durante la auditoría, las normas sobre las subvenciones fiscales a empresas fueron varias veces modificadas en todos los países participantes. No obstante, el impacto ejercido por estas modificaciones en el conjunto de las normas es limitado. La razón por la modificación fue la armonización europea en los países de Hungría y Eslovaquia.

En general, no se abolió ningún conjunto normativo, pero en Letonia y en la Federación Rusa fueron eliminadas algunas disposiciones legales.

La práctica de definir los objetivos de las subvenciones fiscales concedidas a empresas se distingue en los países participantes, lo que no permite realizar una evaluación general. En Alemania y en la República Eslovaca, las auditorías revelaron que los objetivos estaban definidos y bien documentados, mientras que en Letonia y en la Federación Rusa, los objetivos de las subvenciones fiscales para empresas no estaban definidos en las normas legales. En Hungría, los objetivos estaban indirectamente definidos a través de las condiciones para la utilización de las subvenciones.

La posibilidad de sustituir las subvenciones fiscales para empresas por ayudas financieras directas no fue evaluada por ningún ministerio de Hacienda de los países participantes. Además, los ministerios de Hacienda no realizaron ninguna evaluación exhaustiva de los

objetivos conseguidos a través de las disposiciones legales en vigor. Por este motivo, es imposible evaluar si existen opciones para conseguir los mismos objetivos con una legislación optimizada. Sin embargo, es evidente que las ayudas financieras directas repercuten de otra manera en los contribuyentes que las subvenciones fiscales. Sustituir las subvenciones fiscales por ayudas financieras directas provocaría costes administrativos adicionales.

En todos los países participantes, la utilización de las subvenciones fiscales se ve restringida por normas que contienen diferentes tipos de límites (plazos, cantidad, etc.). En general, se pueden pedir subvenciones fiscales para empresas sin certificar las condiciones. Las autoridades tributarias llevan a cabo inspecciones para comprobar *a posteriori* el cumplimiento de los requisitos.

Los ministerios de Hacienda de todos los países participantes aplican métodos diferentes para estimar el monto de subvenciones fiscales en el marco del presupuesto general. Los ministerios de Hacienda de Letonia y de la República Eslovaca estiman, aparte del importe total, el número de contribuyentes beneficiarios. El ministerio de Hacienda alemán calcula el monto de subvenciones y el número de contribuyentes beneficiarios. Sin embargo, el cálculo no se apoya siempre en datos actuales, ya que las cifras de las estadísticas oficiales provienen, en algunos casos, de pruebas realizadas hace cinco años o más. En Hungría y en la Federación Rusa, Hacienda estima el monto de subvenciones fiscales para poder elaborar el presupuesto general.

En general, los datos proporcionados son insuficientes para comparar y evaluar el impacto de las subvenciones, incluidas aquellas otorgadas a las PYMES. Los datos disponibles acerca de los países participantes no permiten comparar la relación entre el número total de contribuyentes y los contribuyentes beneficiarios de subvenciones fiscales para empresas. Tampoco es posible calcular este ratio para las PYMES. Esto se debe a que los datos sobre PYMES y el número total de contribuyentes sólo están disponibles en Hungría. En Alemania, Letonia, la Federación Rusa y la República Eslovaca no existen subvenciones fiscales destinadas exclusivamente a PYMES.

El importe medio de subvenciones fiscales concedidas a contribuyentes no puede ser comparado con los datos suministrados. Este ratio tampoco puede ser analizado para el caso de las PYMES.

Los ingresos provenientes del impuesto sobre la renta de sociedades representan entre un 3,1 y 26,3% del importe total de ingresos fiscales de los presupuestos generales de los países participantes. La relación de subvenciones fiscales para empresas y los ingresos fiscales totales se sitúa entre el 0,7% y 3,3%. El porcentaje de subvenciones fiscales para empresas comparado con los ingresos provenientes del impuesto sobre la renta de sociedades es el más bajo en la Federación Rusa (2,75 - 3,79%), mientras que en la República Eslovaca fue el más alto en 2004 (20,23%) y en 2005 y 2006 en Hungría (28,26% y 24,09%). No es posible calcular estos porcentajes para las PYMES.

Los ministerios de Hacienda de los países participantes observan el desarrollo de las subvenciones fiscales concedidas a empresas. Las informaciones así obtenidas les sirven de base para elaborar el proyecto de presupuestos generales. Los ministerios de Hacienda, con excepción del ministerio eslovaco, no evalúan el desarrollo de las subvenciones fiscales

para empresas. Esto vale sobre todo para la evaluación de los contribuyentes beneficiarios de subvenciones fiscales.

En todos los países participantes, las autoridades tributarias han desarrollado y aplicado sistemas informáticos para tramitar las solicitudes tributarias y para asegurar que la inspección fiscal se realice según procedimientos comunes en todas las autoridades tributarias locales. Estos sistemas abarcan todas las fases de la inspección fiscal; los datos memorizados son fiables. Los derechos de acceso y el almacenamiento de datos sobre modificaciones procedimentales están sujetos a las disposiciones pertinentes. En tres países se detectaron algunas deficiencias relacionadas con la aplicación de los sistemas informáticos, sin embargo, estos problemas fueron resueltos.

En todos los países participantes, los sistemas informáticos de las autoridades tributarias están dotados de módulos de gestión de riesgos para apoyar la labor de los inspectores fiscales. A causa de las particularidades nacionales, el número y el enfoque de los riesgos tenidos en cuenta así como la calidad de las aplicaciones son diferentes. Sin embargo, cada autoridad tributaria clasifica a los contribuyentes apoyándose en los datos proporcionados en las declaraciones tributarias y en otra información pertinente, como por ejemplo la conciencia fiscal. En Alemania, Hungría y en la Federación Rusa se tiene también en cuenta la coherencia de los datos tributarios.

En todos los países participantes, menos Letonia, los objetivos de las subvenciones fiscales para empresas están claramente definidos y pueden ser medidos.

En todos los países existen también disposiciones que establecen que los impactos producidos por las subvenciones fiscales y la consecución de los objetivos han de ser evaluados. No obstante, el alcance de los objetivos no suele ser suficientemente vigilado. Ningún ministerio de Hacienda, menos el alemán, estableció un sistema de seguimiento y evaluación. Tampoco se desarrollaron métodos para evaluar la consecución de los objetivos fijados. A pesar de que en Alemania se desarrollaron estos métodos, la mayor parte de los ministerios no utiliza ni un enfoque bien estructurado ni una metodología generalmente aceptada.

Los costes administrativos causados por la recaudación de los diferentes tipos de impuestos, incluidas las subvenciones fiscales, no son separadamente registrados, ni por los ministerios de Hacienda ni por las autoridades fiscales. Por consiguiente, no es posible estimar el rendimiento de las subvenciones fiscales.

En general, las disposiciones no prevén la realización obligatoria de inspecciones. Está claro que las inspecciones tributarias abarcan también el control de las subvenciones fiscales otorgadas a empresas. Sin embargo, los tipos y los métodos de control aplicados son variados.

Las autoridades tributarias proceden de forma distinta a la hora de registrar los datos tributarios y los resultados de las inspecciones fiscales. Por ello, resulta imposible compararlos. Sólo las autoridades fiscales de Alemania, Hungría y Eslovaquia proporcionan informaciones acerca de irregularidades detectadas a través de la inspección fiscal y relevantes desde el punto de vista de derecho penal tributario o de posibles sanciones administrativas. Sin embargo, las autoridades eslovacas no identificaron ninguna irregularidad. En Alemania, no existe ningún sistema central para registrar este tipo de información.

4.4.2 Recomendaciones

Apoyándose en los resultados obtenidos a través de la auditoría coordinada, el subgrupo de trabajo desarrolló las recomendaciones siguientes:

1 Propuestas sobre el procedimiento legislativo	documentar sistemáticamente los objetivos de las subvenciones analizar, tanto de forma preliminar como concomitante, el impacto regulatorio, y considerar opciones alternativas, como por ejemplo ayudas financieras directas
2 Desarrollar criterios para la concesión	evaluar la posibilidad de aplicar leyes con plazo temporal concesión temporalmente limitada a los contribuyentes beneficiarios individuales
3 Obligación de publicar la información relevante	indicar cada año los ingresos fiscales perdidos por la concesión de subvenciones, comparando los costes efectivos con los costes previstos y teniendo en cuenta otros impuestos y ejercicios presupuestarios en la medidas de lo posible, los costes administrativos en la medida de lo posible, los costes burocráticos de los beneficiarios cantidad y estructura de los beneficiarios
4 Evaluaciones periódicas de los resultados obtenidos	evaluar la consecución de los objetivos evaluar la eficacia evaluar la eficiencia
5 Uso de sistemas informáticos	aplicar sistemas completamente informatizados con unas bases de datos compatibles utilizar sistemas de gestión de riesgo apoyados en datos fiables establecer redes informáticos de intercambio establecer un registro de subvenciones

4.5 Subgrupo 3 - Impuesto sobre el valor añadido

El subgrupo IVA estaba integrado por las EFS de Letonia, Lituania, Suiza y Alemania (presidencia). Los participantes examinaron las subvenciones relacionadas con el tipo reducido del IVA. Entre febrero de 2006 y enero de 2008 se celebraron tres reuniones.

4.5.1 Enfoque de la labor fiscalizadora

De acuerdo con las decisiones adoptadas, los miembros del subgrupo de trabajo realizaron comprobaciones del tipo reducido del IVA en sus respectivos países. Deliberaron sobre el enfoque y los métodos de auditoría. Acordaron que correspondía a cada EFS decidir libremente sobre las subvenciones fiscales a controlar y los objetivos de auditoría a perseguir.

Las EFS examinaron si los tipos individuales reducidos del IVA en los diferentes Estados miembros seguían siendo justificados y si se producían efectos secundarios no deseados. Verificaron también cuáles personas o grupos se beneficiaban de los tipos reducidos y si el privilegio impositivo era un instrumento apropiado para apoyar determinadas actividades. Además, las EFS reunieron informaciones sobre problemas relacionados con la aplicación de tipos reducidos del IVA, la pérdida total de ingresos provenientes del IVA causada por los tipos reducidos, la eficacia de la subvención y los procedimientos para evaluar la eficacia de los tipos reducidos.

Tras concluir la labor fiscalizadora, los miembros del subgrupo presentaron sus resultados en los informes nacionales de auditoría.

4.5.2 Resultados de auditoría

Una EFS llevó a cabo un estudio detallado sobre la aplicación e implantación del tipo reducido del IVA en los sectores “restaurantes de comida rápida”, “obras de arte y piezas de colección” así como “artículos combinados”. Los auditores constataron que la aplicación de los tipos reducidos producía, a causa de las considerables dificultades de definición, sobreganancias inesperadas para las empresas y procedimientos abusivos que únicamente pueden ser evitados a través del aumento de los recursos humanos. Por este motivo, la EFS recomendó abolir el tipo reducido en estos sectores.

El objetivo de otra EFS fue verificar si se llevaba a cabo el control de la justificada aplicación de tipos reducidos del IVA y si este control está bien organizado y si se contabilizan los ingresos provenientes del tipo de IVA reducido. Además comprobó si se calculaban los ingresos impositivos perdidos, que resultaron de la aplicación del tipo reducido y que el Estado hubiera posiblemente recibido si se hubiera aplicado el tipo general. Controló también si se evaluaban la eficiencia y el beneficio para la sociedad civil. Según las pruebas aportadas por la EFS, no se evaluaba el beneficio conseguido por la implantación del tipo reducido para la sociedad civil.

Una EFS encargó la realización de un estudio económico con la finalidad de que se comprobara el impacto del tipo reducido en los precios, la oferta, la demanda, etc. Los resultados demostraron que el tipo reducido no tenía ningún impacto directo en los precios de productos y servicios y que no se generaba ningún beneficio directo para los consumidores.

En otro caso, una EFS decidió evaluar los tipos del IVA reducidos debido a que éstos representaban una forma de subvención en gran parte poco transparente y además porque se estaba reformando la legislación sobre el IVA con el objetivo de simplificar la estructura de los tipos impositivos y de llegar a un tipo uniforme del IVA.

4.5.3 Conclusiones

Como resultado de las auditorías y de los informes nacionales, los miembros del subgrupo elaboraron conclusiones conjuntas sobre el impacto y la eficacia de los tipos del IVA reducidos:

- El establecimiento de un tipo del IVA reducido debería llevar a reducir los precios de bienes y servicios y generar así un beneficio directo para los consumidores.

- Según el subgrupo, los tipos reducidos no sirven para reducir los precios de bienes y servicios, estimular la oferta y la demanda o reforzar el empleo en sectores sometidos a los tipos reducidos. Allí donde se puede medir algún efecto causado por los tipos reducidos, éstos podrían haberse conseguido de forma más económica con medidas alternativas.
- En algunos casos, los tipos reducidos favorecen a los empresarios y no a los clientes. Así, los empresarios pueden maximizar sus ganancias. Las subvenciones fiscales tienen pues un impacto no deseado en las operaciones comerciales.
- En relación con la aplicación de los tipos reducidos se han constatado casos no deseados de falsa clasificación y abuso que ocasionaron considerables pérdidas en los ingresos provenientes del IVA.
- Además, las subvenciones fiscales mal asignadas no sólo infringen la política nacional de subvención, también pueden resultar problemáticos desde la perspectiva del derecho europeo.
- Existe una relación desproporcionada entre, por un lado, las normas detalladas que sirven para distinguir los diferentes tipos y, por otro, los instrumentos con que cuentan las autoridades tributarias para su aplicación. Es preocupante que los tipos reducidos frecuentemente sean concedidos de manera indebida.
- Los miembros del subgrupo han constatado que ciertos tipos reducidos para bienes y servicios particulares son a menudo anticuados y, por ello, no son conforme a la intención legislativa original. Se carece de disposiciones legales que prescriben la evaluación regular de las subvenciones.
- No se presta la suficiente atención a la vigilancia del impacto producido por las subvenciones, como por ejemplo al efecto del tipo reducido del IVA. No se evalúan con regularidad la eficiencia de los privilegios fiscales, su impacto en los precios al consumo, el cambio de los hábitos de consumo y los costes administrativos adicionales.
- Vale la pena que los países examinen si los objetivos previstos por el (los) tipo(s) del IVA reducido(s) podrían lograrse de mejor forma si se modifican instrumentos ya existentes de la política social, fiscal o económica.

4.5.4 Recomendaciones

Los miembros del subgrupo IVA recomiendan que se analicen las siguientes opciones:

- vigilar y evaluar sistemáticamente la aplicación y los impactos de los tipos del IVA reducidos;
- publicar anualmente el monto de los recursos presupuestarios efectivamente perdidos por la concesión de privilegios fiscales;
- evaluar si los privilegios fiscales concedidos a través de los tipos reducidos del IVA para bienes y servicios específicos pueden ser reducidos y reemplazados por instrumentos alternativos.

4.6 Recomendaciones generales

A pesar de que los tres subgrupos de trabajo estudiaban las subvenciones fiscales desde perspectivas distintas, los resultados de auditoría obtenidos fueron similares. Apoyándose en estos resultados, el grupo de trabajo elaboró las siguientes recomendaciones de relevancia general:

Legislación

Los objetivos previstos por la introducción de las subvenciones fiscales deben ser documentados de forma clara y bien estructurada. Tras el debido examen deberían establecerse en las leyes a adoptar, en todos los casos considerados adecuados, plazos límites para las subvenciones. Se recomienda que las entidades competentes consideren medidas alternativas, como por ejemplo la concesión de subvenciones financieras, y evalúen el impacto regulatorio.

Información

Los informes sobre subvenciones fiscales deberían incluir datos acerca de las pérdidas fiscales generadas. Es recomendable que los informes sean emitidos con regularidad, preferentemente cada año, y que se rinda información adicional acerca de los costes administrativos y los costes efectivos/previstos. Las EFS consideran necesario que se establezca un registro completo de todas las subvenciones fiscales, el cual debe ser accesible al público y estar basado en una versión nacional indiscutible de las definiciones internacionales.

Evaluación

Las evoluciones deberían realizarse con regularidad, su finalidad es garantizar la eficacia, eficiencia y la consecución de los objetivos previstos por las subvenciones fiscales.

Sistemas informáticos

El grupo de trabajo recomienda que se mejoren los procedimientos informáticos relacionados con las subvenciones fiscales y que se creen redes de enlace con otros sistemas de procesamiento informático para conseguir la armonización de los datos.

5 Actividades emprendidas por los Gobiernos y Parlamentos Nacionales

5.1 Contexto

No existe un reglamento de la EUROSAI que rijan la realización de auditorías coordinadas. Para las auditorías nacionales y el tratamiento de los resultados fiscalizadores se aplicaban pues las respectivas disposiciones nacionales.

5.2 Actividades nacionales

En el marco de los procedimientos aplicados por las EFS participantes, los resultados y recomendaciones de auditoría fueron contrastados con las entidades nacionales competentes, o sea, generalmente, con los gobiernos o ministerios competentes. Después, la mayoría de las EFS pusieron los informes de auditoría a disposición del público. En los casos en los que los informes fueron sometidos al Parlamento, se realizaron audiencias o debates en las comisiones parlamentarias competentes. Durante estas audiencias y debates, las EFS nacionales tuvieron la oportunidad de presentar sus puntos de vista y explicarlos detalladamente. En un número reducido de casos, las entidades fiscalizadas afirmaron que irían a implantar, en el futuro, las recomendaciones de las EFS. Sin embargo, las auditorías no han llevado, hasta ahora, a modificaciones concretas en la legislación, gestión de subvenciones y rendición de informes.

6 Conclusiones

Teniendo en cuenta los sistemas impositivos divergentes, las EFS involucradas en la auditoría coordinada han sido capaces de descubrir problemas y deficiencias comparables en los regímenes de subvenciones fiscales. El esfuerzo conjunto desplegado por las EFS puede abrir nuevas perspectivas más amplias y generar nuevos impulsos para los resultados fiscalizadores nacionales sobre todo si las disposiciones legales aplicables se apoyan en una base común.

Además, las EFS perseguían objetivos secundarios, como por ejemplo el de intercambiar experiencias, extender una red de relaciones informales y mejorar la comunicación externa. El grupo de trabajo espera que las EFS miembros de EUROSAI continúen avanzando en el proyecto y realizando nuevas actividades conjuntas para consolidar lo conseguido hasta ahora.

Lista de los Miembros y Participantes

(En orden alfabético)

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Seminario sobre “Beneficios Fiscales”

Organizado por el Presidente de EUROSAI

Bonn, 21 y 22 de Febrero de 2006

- Resultados del Taller -

“Control de las subvenciones en el caso de los gastos fiscales”

Dr. Michael Thöne, Instituto de Investigación de Finanzas Públicas de la Universidad de Colonia

En primer lugar, el Dr. Thöne señaló que, si las EFS se apoyaran en sus resultados fiscalizadores, podrían convencer al legislador para que se modificaran las leyes tributarias con respecto a las subvenciones fiscales. Sin embargo, no sería realista pensar que el legislador hiciera el primer paso.

En cuanto al análisis comparativo (comparación con un sistema tributario sin subvenciones), era preciso distinguir entre privilegios fiscales y subvenciones. Basándose en una interpretación amplia, el Dr. Thöne definió los privilegios fiscales como cualquier derogación fiscal que podría provocar pérdidas fiscales y estimular un cambio en el comportamiento de los contribuyentes.

Según él, se sobreestimaban los efectos de las leyes con plazo temporal. El Dr. Thöne dijo que era recomendable establecer una ley de subvenciones que se orientara por el modelo suizo, pero siempre vigilando que esta ley fuera generalmente conocida y que se impidiera cualquier modificación que pudiera efectuarse de forma desapercibida.

Los participantes discutieron sobre el benchmarking. Consideraron necesario que se aclararan los objetivos perseguidos, como por ejemplo la eficiencia, equidad, conveniencia administrativa, ingresos fiscales estimados, etc. Además, cada Estado debería primero establecer sus propios criterios de comparación (sistema fiscal de referencia, estructura orgánica del Estado, etc.); de lo contrario, una comparación internacional de los benchmarks no sería posible.

Abolir todos los reglamentos fiscales derogatorios podría, en general, aumentar considerablemente la equidad impositiva. Así lo demostraron por ejemplo las experiencias de Nueva Zelanda, que, reformando el sistema fiscal y económico a mediados de los años 80, abolió casi todas las subvenciones fiscales. Los participantes expresaron su esperanza de que por lo menos se abolieran los privilegios fiscales más antiguos.

“Informe de subvención y eficacia de las subvenciones fiscales”

Christian Valenduc, OCDE

Según el señor Christian Valenduc, la información sobre las subvenciones fiscales representaba, en términos generales, un paso importante hacia la transparencia. Además, los informes deberían rendirse de manera proactiva y su integración en el procedimiento presupuestario debería mejorarse. El experto mencionó la posibilidad de comisionar a expertos económicos para que éstos analizaran la eficacia. Sin embargo, la decisión final

sobre las ventajas e inconvenientes de cualquier privilegio fiscal correspondía, al fin y al cabo, a los políticos responsables.

Los participantes se plantearon la pregunta, relacionada con los análisis de eficacia, en qué medida estos análisis podrían ser verificados por las EFS.

Otra pregunta era si existía ya un acuerdo común sobre lo que se consideraba privilegio fiscal en un sistema tributario. Sería difícil poder desarrollar un concepto uniforme del término “subvención” a través de la auditoría coordinada. De hecho, se trataba, según el experto, de unas de las definiciones más difíciles. Como regla general se podría decir: entre más amplia la definición, mejor. Además, el concepto del término “subvención” debería ser revisado y actualizado con regularidad.

El señor Valenduc explicó que resultaba también complicado discutir, en este contexto, sobre los benchmarks. Sería necesario diseñar un sistema fiscal de referencia de tal modo que los países en desarrollo quedaran fuera de este benchmark. Para los participantes, las cuestiones relacionadas con la competencia internacional iban demasiado lejos. Tampoco debería incluirse en el análisis comparativo el tipo del IVA reducido, aunque éste podía ser justificado en el caso de ciertos bienes básicos. Sin embargo, los participantes compartieron la opinión de que aplicar el tipo reducido del IVA a ciertos productos ya no representaba una medida apropiada.

Sin embargo, deberían evaluarse los impactos (de las subvenciones) generados por la competencia tributaria internacional, así como el grado de consecución de los objetivos perseguidos con el tipo reducido en la redistribución de la renta nacional, independientemente de si formaban parte del benchmark o no.

Un objetivo de largo plazo podía ser el de incluir, en el presupuesto anual, las subvenciones fiscales que podían ser identificadas, y cuantificarlas. Al mismo tiempo, podrían establecerse prioridades, subrayando por ejemplo privilegios fiscales que en los últimos diez años no fueron sometidos a ninguna evaluación.

“Los Impuestos como instrumento político”

Jan H. Velthoven, Algemene Rekenkamer, Países Bajos

En los años 90, la EFS de los Países Bajos auditó a escala nacional el tema de los “impuestos como instrumento político”. En 2003 se realizó la primera auditoría de seguimiento, la segunda estaba prevista para 2007.

En 1998 fueron seleccionados, para la auditoría, 28 incentivos positivos y “fiables” con un volumen total de 6,6 mil millones de NLG. La EFS de los Países Bajos controló la elaboración, implantación y los resultados conseguidos con estos incentivos. Además, se verificó hasta qué grado los ministerios conocían los resultados de las medidas aplicadas.

La EFS de los Países Bajos detectó una serie de deficiencias en la elaboración, fase considerada extremadamente importante. Los responsables no fijaban, por ejemplo, las razones que habían determinado la selección de las medidas. Se trataba, pues, de un procedimiento poco transparente. Los responsables también describían de forma inadecuada el impacto conseguido a través de las medidas implantadas, y cuando lo hacían, los términos utilizados no podían ser medidos. Según Jan H. Velthoven, otros aspectos que

deberían ser tenidos en cuenta en la fase de elaboración son los siguientes:

- formulación precisa de los objetivos perseguidos con la medida;
- estimación de los costes generados por la medida, incluidos los costes de implantación y gestión;
- decisión sobre un plazo de caducidad para la medida;
- verificación de la factibilidad y comparabilidad con el derecho europeo.

En cuanto a la implantación de las medidas individuales, la EFS de los Países Bajos constató que los conocimientos disponibles para el gobierno sobre el impacto causado en los ingresos fiscales, los costes de implantación y gestión, así como el grado de cumplimiento de los objetivos están limitados. Además, los ministerios solían carecer de la suficiente información sobre los resultados obtenidos a través de las medidas. Cuando se trataba de medidas fiscales negativas, el número de controles de seguimiento era más alto que en el caso de las medidas fiscales positivas.

En sus recomendaciones la EFS exigía por ejemplo:

- que se llegara a un consenso más amplio sobre la definición del término “incentivo fiscal positivo/negativo”;
- que se describiera de forma clara la situación;
- que se formularan objetivos que pudieran ser medidos;
- que se prestara más atención a los costes;
- que se determinaran, desde una fase temprana, los criterios y el calendario de la evaluación;
- que se mejoraran las posibilidades para evaluar la eficacia de una medida a fin de poder decidir sobre su continuación.

En conjunto, la auditoría fue bien acogida. Los ministerios se dedicaron a implantar las recomendaciones. Sin embargo, el ministerio de Hacienda solo quiso asegurar que se mejorara la documentación a realizar en la fase de elaboración, por lo demás, hizo observaciones críticas con respecto al informe sometido por la EFS.

Durante la auditoría de seguimiento realizada en el año 2003, la EFS constató que el ministerio de Hacienda había empezado a elaborar listas de control para los ámbitos del impuesto sobre la renta, el impuesto sobre el salario y el impuesto sobre el consumo. Desde 1999 fue obligatorio presentar las subvenciones fiscales en un anexo del presupuesto anual. Desde 2001, las subvenciones fiscales estuvieron sujetas también a las normas relativas a la elaboración del presupuesto. Además, se iba prestando más atención a la determinación de pérdidas fiscales así como a la eficacia y a los resultados de las medidas.

Según los participantes, el éxito particular de la auditoría fue el de contribuir a mejorar la transparencia de las subvenciones fiscales en los Países Bajos, y el de la elaboración de las listas de control por parte del ministerio y, por ello, al aumento de informaciones disponibles para el ministerio. Los participantes discutieron sobre cuestiones relacionadas con la responsabilidad de ministerios técnicos en el ámbito de las subvenciones fiscales, a

diferencia de la responsabilidad a asumir por el ministerio de Hacienda, y debatieron sobre los criterios para la evaluación. Según ellos, la única manera de excluir todos los riesgos imprevisibles eran las auditorías llevadas a cabo por las EFS.

También discutieron la cuestión de tener en cuenta los costes vinculados al cumplimiento de las normas fiscales. Verificar este cumplimiento era considerado particularmente difícil en el caso de las empresas pequeñas y medianas, lo que dependía, sin embargo, de la complejidad de las disposiciones vigentes. Estos costes deberían tenerse en cuenta, aunque no poseían, según los participantes, relevancia central. No obstante, era preciso destacar que el asunto no quedaba limitado a los costes causados por la recaudación de los tributos.

“Incentivos fiscales en países emergentes y en desarrollo”

Dr. David Nguyen-Thanh, Cooperación Técnica Alemana (GTZ)

En opinión del Dr. Nguyen-Thanh, resultaba igualmente necesario definir el término de las “subvenciones fiscales” para los países emergentes y en desarrollo. El objetivo de los privilegios fiscales era, en primer lugar, aumentar el atractivo de estos países para inversores extranjeros. Dijo que estas medidas fiscales tenían la intención de contribuir al desarrollo de determinadas regiones, sobre todo en el sector formal, y a la reducción del desempleo.

El experto de la GTZ explicó que los privilegios fiscales eran un asunto controvertido en los países emergentes y en desarrollo. En caso de que los privilegios fueran bien concebidos, podrían resultar eficaces e impulsar la competencia fiscal. Por otro lado, existían consecuencias negativas, como por ejemplo ingresos perdidos (en parte causados por el efecto de peso muerto), tratamiento desigual y corrupción. Frecuentemente, las decisiones sobre la concesión de privilegios fiscales eran poco transparentes. Según el Dr. Nguyen-Thanh era recomendable ignorar los costes administrativos así generados, ya que los recursos administrativos disponibles en estos países solían ser bastante escasos.

El experto explicó que el buen gobierno y un sistema fiscal consistente se habían revelado como factores importantes para cualquier proceso de reforma. Los privilegios fiscales solos, concedidos normalmente a través de un decreto expedido por el ministerio de Hacienda, no eran un factor decisivo para los inversores extranjeros. Para la mayoría de las empresas eran más importantes los factores no-fiscales, como por ejemplo el entorno político, la infraestructura, la disponibilidad de recursos humanos especializados, el grado de legalidad y la protección jurídica.

En el futuro, también revestirían importancia el cumplimiento y el desarrollo del control externo. Una mayor transparencia abriría amplias posibilidades para las EFS. Sería provechoso que las demás EFS pusieran a disposición sus directrices y recomendaciones y que se realizara un benchmarking en el ámbito de la administración fiscal.

Los participantes discutieron sobre las dificultades vinculadas con las subvenciones fiscales otorgadas en países industrializados. Según ellos, el ministerio de Hacienda suele estar mejor organizado que las direcciones encargadas de este asunto en los demás ministerios técnicos. Sería conveniente que se creara, en el seno de Hacienda, una dirección especializada para el asunto de las subvenciones.

Lectura adicional

Referencias para la realización del proyecto de EUROSAL

Las siguientes referencias no cubren la totalidad del tema, pero se refieren a publicaciones recientes, estrechamente relacionadas con el proyecto emprendido por EUROSAL. Por ello, la lista presentada puede servir de punto de partida para los miembros del grupo de trabajo. Los comentarios expuestos por la Oficina Federal de Auditoría de Suiza se apoyan esencialmente en los resúmenes, las cubiertas o las introducciones de los libros o artículos mencionados.

MEJORANDO LA TRANSPARENCIA EN EL ÁMBITO DE LAS SUBVENCIONES FISCALES

Bojje Robert: Should Tax Expenditures be integrated into the Budget Process? (¿Es recomendable integrar los gastos fiscales en el procedimiento presupuestario?), En: Economic Review, 2/2002 (14 páginas).

El autor de este artículo trabajó como asesor de política fiscal para el Swedish Riksbank. Según el autor, la concesión generosa de subvenciones fiscales conlleva el riesgo de que se incumpla el límite de gastos existente en Suecia. En caso de que se integren los gastos fiscales en el procedimiento presupuestario, podría ser eliminado el incentivo para evitar el límite de gastos a través de la aplicación de reducciones tributarias. El artículo explica el funcionamiento y el objetivo de la información rendida sobre las subvenciones fiscales y expone una serie de problemas prácticos que podrían surgir si, en el futuro, todos los gastos fiscales fueran integrados en el procedimiento presupuestario. Si los gastos fiscales fueran completamente integrados, sería importante que existiera un amplio consenso político en el Parlamento sobre la interpretación del principio de uniformidad del presupuesto. Los problemas descritos por el autor señalan también que el cálculo actual de los gastos fiscales es incompleto y se caracteriza por varios defectos técnicos. Por este motivo, el autor deduce que, en el presente, no es posible integrar completamente los gastos fiscales en el procedimiento presupuestario. A pesar de esto, los informes sobre los gastos fiscales son importantes porque proporcionan un cálculo aproximado de los beneficios fiscales dentro del sistema tributario y, por ello, ayudan a identificar los intentos de eludir el límite establecido para los gastos.

http://www.riksbank.com/upload/Dokument_riksbank/Kat_publicerat/Artiklar_PV/er02_2_artikel4.pdf

Forman Jonathan Barry: Would a Social Security Tax Expenditure Budget Make Sense? (¿Es recomendable establecer un presupuesto propio para las subvenciones fiscales en el ámbito de la Seguridad Social?), En: Public budgeting and financial management, 1993, vol. 5, n° 2 (14 páginas).

IMF: Manual on Fiscal Transparency, (Manual de Transparencia fiscal, FMI) En: IMF – Fiscal Affair Department, Washington DC, 2001. <http://www.imf.org/external/np/fad/trans/manual/>.

OECD: Best Practice Guidelines - Off Budget and Tax Expenditures (Guía para las mejores prácticas – gastos extrapresupuestarios y fiscales, OCDE), OECD, 19 de mayo de 2004 (19 páginas).

El objetivo de este documento es representar una guía de las mejores prácticas para asegurar que los gastos extrapresupuestarios y fiscales no perjudiquen la buena ejecución presupuestaria. El documento contiene sobre todo directrices para identificar gastos fiscales, para realizar el control presupuestario y el cálculo de los gastos fiscales.

[http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/\\$FILE/JT00164525.PDF](http://appli1.oecd.org/olis/2004doc.nsf/43bb6130e5e86e5fc12569fa005d004c/e0ecb0e1073e2677c1256e99003a75f2/$FILE/JT00164525.PDF)

OECD: Tax Expenditures. Recent Experiences, (Gastos fiscales. Experiencias recientes, OCDE) OECD, Paris, 1996 (118 páginas).

Esta publicación ofrece una vista general de los informes rendidos sobre los gastos fiscales, destacando una serie de diferencias en la práctica y analizando las razones de estas mismas. Contiene un estudio estandarizado de cada país: el contexto y la introducción de los informes sobre gastos fiscales, estructura de los informes, definición de gastos fiscales, el método de cálculo y el uso de los informes.

United States General Accounting Office: Tax Policy. Tax Expenditures Deserve More Scrutiny, (Política fiscal. Necesidad de aumentar el control sobre los gastos fiscales, EFS los EEUU) GAO/GGD/AIMD-94-122 Tax Expenditures, Junio de 1994 (135 páginas).

En este informe, la Oficina General de Auditoría de los EEUU desarrolla tres opciones para aumentar la vigilancia sobre los gastos fiscales y reducir las pérdidas de ingresos. Primero, sería posible optimizar el control si se modificaran de forma mínima o si no hubiera ninguna modificación de los trámites en el Congreso y de los procedimientos jurisdiccionales y si se aplicaran las medidas siguientes: reforzar o ampliar los métodos de control ya existentes, cambiar los límites máximos o mínimos, destacar mejor determinadas informaciones o establecer un plan de trabajo para el control periódico de los gastos fiscales. La segunda opción consiste en aumentar la integración de los gastos fiscales en el procedimiento presupuestario. Una posibilidad sería que el Congreso decidiera sobre la conveniencia de reducir los gastos fiscales y, dado el caso, fijara en el presupuesto anual los objetivos de ahorro correspondiente. Los ahorros previstos podrían ser alcanzados a través de procedimientos de concertación ya existentes. La tercera opción es la de interconectar el control de los gastos fiscales con programas de gasto similares desde el punto de vista funcional. De esta forma, la actividad general de financiamiento por parte del gobierno podría resultar más eficaz. Estos controles interconectados pueden ser efectuados por los Poderes ejecutivo o legislativo, o por ambos.

<http://www.unclefed.com/GAORports/ggd94-122.pdf>

FISCALIZAR, EVALUAR Y/O COMPARAR SUBVENCIONES FISCALES SELECCIONADOS

Datta Lois-Ellin & Grasso Patrick G.: Evaluating Tax Expenditures: Tools and Techniques for Assessing Outcomes: New Direction for Evaluation, (Evaluación de gastos fiscales: Instrumentos y Técnicas para evaluar los Resultados de Programas – Tendencias nuevas de evaluación) n° 79, Jossey-Mass, septiembre de 1998 (150 páginas).

Para obtener justicia social y practicar un buen gobierno es necesario controlar, en el marco de la legislación vigente, si es posible lograr los objetivos previstos con los gastos fiscales existentes y si el éxito de estos gastos es similar o más alto que el de programas políticos alternativos con medidas de gasto directo. En los seis casos analizados, los autores examinan una serie de diferentes subvenciones fiscales. Aplicando técnicas de evaluación, investigación y análisis, los autores demuestran cómo los datos disponibles al público y los instrumentos de evaluación conocidos pueden ser útiles para examinar exitosamente la eficacia, los resultados y los impactos de los gastos fiscales.

Eade Deborah: Bad Breaks all Around: the Report of the Century Foundation Working Group on Tax Expenditures (Subvenciones fiscales excesivas: Informe sobre gastos fiscales presentado por el grupo de trabajo Century Foundation), Century Foundation Press, New York, 2002 (200 páginas).

Esta obra contiene el informe elaborado por el grupo de trabajo *Century Foundation* así como tres documentos de fondo en los que se basaba la labor realizada por el grupo. Los documentos ofrecen una vista analítica y fáctica de los gastos fiscales. Eric Toder explica que la importancia de los privilegios fiscales, como instrumento político, va aumentando y describe tanto los problemas causados como las circunstancias para que la ley tributaria pueda ser un instrumento útil en la prestación de servicios públicos. Bernard Wasow señala que, tanto desde el punto de vista práctico como teórico, es muy difícil demostrar que los privilegios fiscales tengan los efectos deseados por sus defensores. El tercer documento es un estudio profundo de los privilegios fiscales elaborado por Michael Ettlinger que proporciona informaciones detalladas sobre los innumerables privilegios fiscales para la economía y los hogares estadounidenses y contiene una evaluación prudente de los beneficiarios de privilegios fiscales.

Howard Christopher: The Hidden Welfare State. Tax Expenditures and Social Policy in the United States, (El Estado de bienestar escondido: gastos fiscales y política social en los Estados Unidos); Princeton University Press, Princeton, 1997 (272 páginas).

Este libro enfoca cuatro tipos de gastos fiscales existentes en EEUU y relacionados con la política social: la deducción por intereses hipotecarios, las pensiones empresariales, el crédito fiscal sobre la renta del trabajo y el crédito fiscal para empleos seleccionados. El estudio analiza particularmente el desarrollo a largo plazo de los programas sociales que se rigen por la ley tributaria. Se trata sin dudas de un enfoque histórico, ya que para el autor la

historia representa un instrumento útil para analizar los gastos fiscales. Según él, las afirmaciones que se refieren a un sólo año o a un período determinado sólo sirven de pruebas de muestreo. Las subvenciones fiscales se revelan como medidas que pueden ser fácilmente dictadas y cuyo número va aumentando en tiempos de unos déficits públicos cada vez más elevados y de unas voces cada vez más críticas a los programas tradicionales de bienestar social. El autor afirma que es difícil influir políticamente en el volumen y la distribución de las subvenciones fiscales.

Algemene Rekenkamer: Taxes as a policy instrument (EFS de los Países Bajos: Impuestos como instrumento político); resumen publicado el 18 de marzo de 1999, 5 páginas.

La EFS de los Países Bajos elaboró un estudio sobre los incentivos y desincentivos introducidos o modificados entre 1988 y 1998. Seleccionó 28 incentivos fiscales y examinó su elaboración, implantación y los resultados conseguidos. En el Memorando del Presupuesto de 1999 se estimó que el volumen total de las pérdidas tributarias provocadas por estos 28 instrumentos era de unos 6,6 mil millones de NLG en 1998. En el caso de los 6 grupos de desincentivos fiscales, la EFS de los Países Bajos controló si los ministerios eran conscientes de los resultados obtenidos con estos instrumentos de política fiscal.

http://www.rekenkamer.nl/9282000/d/q179_summary.pdf

Polackova Bixi Hana, Valenduc Christian M.A. & Li Swift Zhicheng: Tax Expenditures – Shedding Light on Government Spending through the Tax System. Lessons from Developed and Transition Economies (Gastos fiscales – aumentar su Transparencia. Aprender de las experiencias vividas en los países desarrollados y en situación de transición), The International Bank for Reconstruction and Development, Washington, 2004 (233 páginas).

En este libro se discuten los conceptos y métodos relacionados con los gastos fiscales. Además, los autores ofrecen un marco para la evaluación de los gastos fiscales, presentan estudios de casos concretos que demuestran cómo los gobiernos de países desarrollados y en transición manejan este tipo de gastos y describen marcos de actuación política generalmente aplicables. La obra contiene asimismo capítulos individuales con estudios sobre el manejo de los gastos fiscales en Australia, Bélgica, Canadá, China, los Países Bajos, Polonia y los Estados Unidos. En cada capítulo se explica cómo las naciones definen los gastos fiscales y el sistema fiscal de referencia. En algunos capítulos se examinan también asuntos específicos, como por ejemplo los métodos de cálculo y evaluación de los gastos fiscales para el análisis político, la forma en la que este análisis puede contribuir al debate político y la presupuestación de los costes generados por los gastos fiscales. La experiencia práctica de dos economías de transición, Polonia y China, ilustra los impactos causados por una política de gasto fiscal que carece de un marco institucional y analítico adecuado.

Weisbach David A. & Nussim Jacob: The Integration of Tax and Spending Programs (Integración de los gastos fiscales en el procedimiento presupuestario), en: John M. Olin

Program in Law & Economics Working Paper, n° 194 (2d series), University of Chicago, septiembre de 2003 (74 páginas).

En este documento, los autores desarrollan una teoría que ayuda a determinar cuándo un programa de gastos debería ser implantado a través del sistema fiscal. Se supone que esta decisión se apoya tradicionalmente en reflexiones sobre la política fiscal. Las teorías más comunes son la de la base imponible y la de los gastos fiscales, las dos dependen de la decisión de política fiscal tomada. Según los autores, es recomendable que la decisión entre programas de gasto y de política fiscal se rija exclusivamente por motivos de diseño organizativo. Tras presentar esta teoría, los autores analizan si los cupones alimenticios y el crédito fiscal sobre la renta del trabajo deberían ser implantados a través del sistema fiscal o no. Se trata de un documento importante para los que quieren comparar los gastos fiscales con los demás instrumentos de política.

<http://www.yalelawjournal.org/pdf/113-5/WeisbachFINAL.pdf>

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- **Transparencia**

Fondo Monetario Internacional - Manual de Transparencia fiscal,
<http://www.imf.org/external/np/fad/trans/manual/index.htm>

- **Tipos de IVA reducidos**

Comisión Europea - Fiscalidad: Indicadores del IVA,
http://ec.europa.eu/taxation_customs/resources/documents/vat_indicators.pdf

Comisión Europea – Tipos de IVA en los Estados miembros de la UE,
http://ec.europa.eu/taxation_customs/taxation/IVA/consumers/IVA_rates/index_en.htm

- **Dialogo internacional sobre Fiscalidad**

ITDweb – compartir buenas prácticas y analizar la política fiscal y cuestiones de gestión fiscal,
<http://www.itdweb.org/Pages/Home.aspx>

- **Gastos fiscales**

Rigsrevisionen, EFS de Dinamarca, Informe sobre la transparencia de los gastos fiscales (exenciones fiscales, deducciones, etc.), [http://www.rigsrevisionen.dk/media\(461,1033\)/Transparency_of_Tax_Expenditures.pdf](http://www.rigsrevisionen.dk/media(461,1033)/Transparency_of_Tax_Expenditures.pdf)

Riksrevisionen, EFS de Suecia, Informe sobre los gastos fiscales: preparación e información por parte del gobierno, http://www.riksrevisionen.se/templib/pages/NormalPage_1646.aspx

Valtiontalouden tarkastusvirasto, EFS de Finlandia, Informe sobre las subvenciones fiscales: consecución de objetivos y rendición de cuentas, http://www.vtv.fi/chapter_images/8108_Tax_subsidies_netti.pdf

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Vigésimo Informe del Gobierno Federal sobre Subvenciones fiscales,
http://www.bundesfinanzministerium.de/lang_de/DE/Service/Downloads/Abt_I/0603151a1002.templateId=raw.property=publicationFile.pdf (sólo en alemán),

Vigésimo primero Informe del Gobierno Federal sobre Subvenciones fiscales,
http://www.bundesfinanzministerium.de/cln_01/lang_de/nr_4542/DE/Aktuelles/Pressemitteilungen/2007/08/20071508_PM092a.templateId=raw.property=publicationFile.pdf (sólo en alemán)

- **Evaluación**

Evaluación, <http://www.staat-modern.de/Modernes-Verwaltungsmanagement/-,11751/Effektivitaet.htm>, (sólo en alemán)

Evaluación del impacto regulatorio en la Unión Europea http://www.staat-modern.de/sm_artikel_staat_modern,-802673/Gesetzesfolgenabschaetzung-bei.htm (página Web en alemán, documentos disponibles en inglés)

Documentos de la UE sobre la evaluación del impacto regulatorio,
http://ec.europa.eu/governance/impact/key_en.htm

Report

of the

Working Sub-Group 1

Transparency and Subsidy Report

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1 Introduction

In the course of the coordinated audit of tax subsidies, the Working Sub-Group 1 dealt with the theme 'Transparency and Subsidy Reports'. The German SAI took the chair of this Working Sub-Group. On the whole, the SAIs of eleven countries¹ participated in the activities of the Working Sub-Group.

The members of the Working Sub-Group met at five meetings of the overall Working Group that took place between November 2005 and January 2007 (cf. table 1). The meetings of the Working Sub-Group placed focus on reaching agreement about themes and time schedules for the national audits and continuous information about their results. In particular, the Working Sub-Group members agreed on the contents of a checklist. The questions included in the checklist were not binding for the audits of the individual SAIs, i.e. these were permitted to add further questions or omit some questions on the checklist for purposes of their national audits. Nevertheless, the checklist was to provide a framework in line with which the national SAIs were to report the results of their national audits.

Table 1

Date	Place	Participating SAI (Sub-working Group 1)		
10-11 November 2005	Bonn	Denmark Poland Sweden	Germany Romania	Lithuania Slovak Republic
22 February 2006	Bonn	Denmark Germany Romania Sweden	Finland Lithuania Russian Federation	France Poland Slovak Republic
28 August 2006	Copenhagen	Denmark Germany Poland Sweden	Finland Iceland Romania	France Lithuania Slovak Republic
16 February 2007	Warsaw	Denmark Lithuania Russian Federation	Finland Poland Slovak Republic	Germany Romania
12 September 2007	Bratislava	Denmark Germany Poland	Finland Latvia Romania	France Lithuania Slovak Republic
30-31 January 2008	Bonn	Denmark Germany Poland Slovak Republic	Finland Iceland Romania Sweden	France Lithuania Russian Federation

Up to year-end 2007, six SAIs had completed their national audits and summarised their results in national reports (cf. table 2). In accordance with their respective national legislation, they reported the findings, appraisals and recommendations concerning the transparency of tax subsidies to their national parliaments and/or governments.

Furthermore, five SAIs furnished a checklist answered on the basis of their audit results which especially facilitates a structured comparison among the national situations (cf. table 2).

¹ Denmark, Finland, France, Germany, Iceland, Lithuania, Poland, Romania, Russian Federation, Slovak Republic, Sweden had committed themselves to participate.

Table 2

SAI	National Report	Addressee	Publication	Checklist
Denmark	Report on Transparency of Tax Expenditures (Tax Exemptions, Allowances, etc.)	Parliament	www.rigsrevisionen.dk/media(461,1033)/Transparency_of_Tax_Expenditures.pdf	yes
Finland	"Tax Subsidies - Achievement of Accountability"	Parliament	www.vtv.fi/chapter_images/8108_Tax_subsidies_netli.pdf	yes
France				yes
Germany	"Transparency of Tax Subsidies"	Parliament		yes
Iceland				yes
Latvia				yes
Lithuania				yes
Netherlands				yes
Poland	"The Process of creating law in the area of tax reliefs and exemptions"	Parliament		yes
Romania	"Transparency and Reporting of Tax Subsidies"	Government		yes
Russian Federation				yes
Slovak Republic				yes
Sweden	"The Government's Preparation and Statement of Tax Expenditure"	Government	www.riksrevisionen.se/templib/pages/NormalPage____1646.aspx	yes

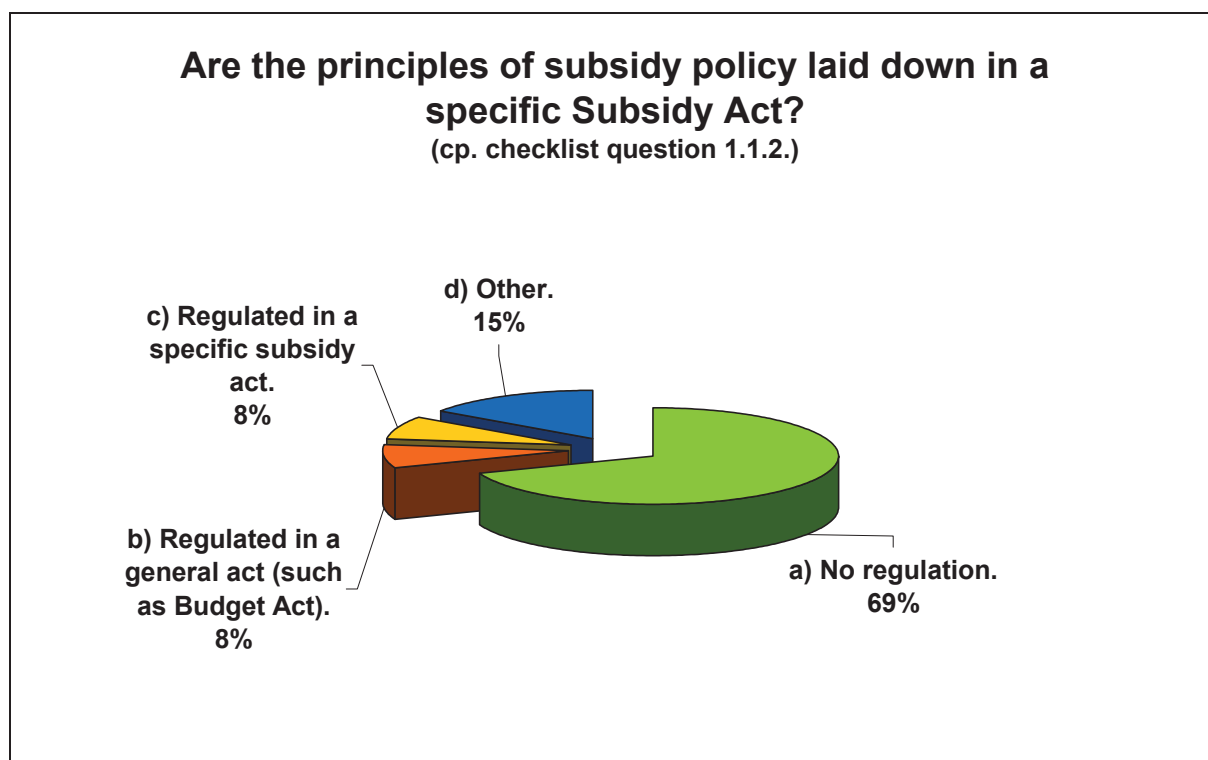
Contributions to this were also made by SAIs from other countries that had participated in the audits of Working Sub-Groups 2 ('VAT') and 3 ('Corporate Income Tax') without being members in Working Sub-Group 1. Their answers to the questions set forth in the checklist were used as input for analysis although they were not given further consideration in the form of national reports on the transparency of tax subsidies. On the whole, the report of this Working Sub-Group is based on the audit findings and conclusions developed by the SAIs of thirteen countries.

2 Relevance of Definition

The definition of the terms 'tax subsidies', 'tax privilege', 'exceptional provision of tax law' or similar terms in the respective national context differs in the framework of legislation and reporting. In all countries, legislation is required to introduce, modify or abolish a tax subsidy. Such legislation must essentially meet the same national requirements as any other legislation. There are no peculiarities that could be associated with the concept of tax subsidies.

The situation is different where reporting is concerned. In this field, the question whether a certain provision of tax law is described as 'tax subsidy', 'tax privilege' or with a similar term is of central importance. Where national provisions call for reporting, it is incumbent on the respective governments to define the term 'tax subsidy' in their respective national context. In most countries, the fundamental principles of national subsidy policies have not been determined by legislation (cf. diagram 1).

Diagram 1



In practice, this leads to a scope for discretionary decisions by which the national governments can determine the extent and content of reporting on tax subsidies. With transparency in mind, the audit activities of the SAls focus on this issue.

3 Audit Missions

3.1 Background

The context and scopes of the audit carried out by the participating SAls were determined by the prevailing national situation. One common objective of the audits was to answer the question about what responsibilities the national governments have with respect to tax subsidies and how they meet these responsibilities. This concerned the legislative procedure and the implementation of the legislative provisions as well as reporting on exceptional provisions of tax law. Most of the relevant audits focused on legislation (cf. item 3.2.1 below). To the extent that the audits generated findings on the implementation of tax subsidies, these were essentially restricted to monitoring the impact of tax subsidies (cf. item 3.2.2 below). Where reporting is concerned, the audits showed rather strong national differences. In a number of countries, reporting on tax subsidies is connected exclusively with the annual budget process. In other countries, there is an obligation to issue a separate subsidy report that also covers exceptional provisions of tax law. On the other hand in some countries there was no overall report on tax subsidies. In so far, the audits by the SAls revealed clear differences with respect to the contents and scope of the information, which nevertheless permit a comparison (cf. item 3.2.3 below).

3.2 Findings

3.2.1 Legislation

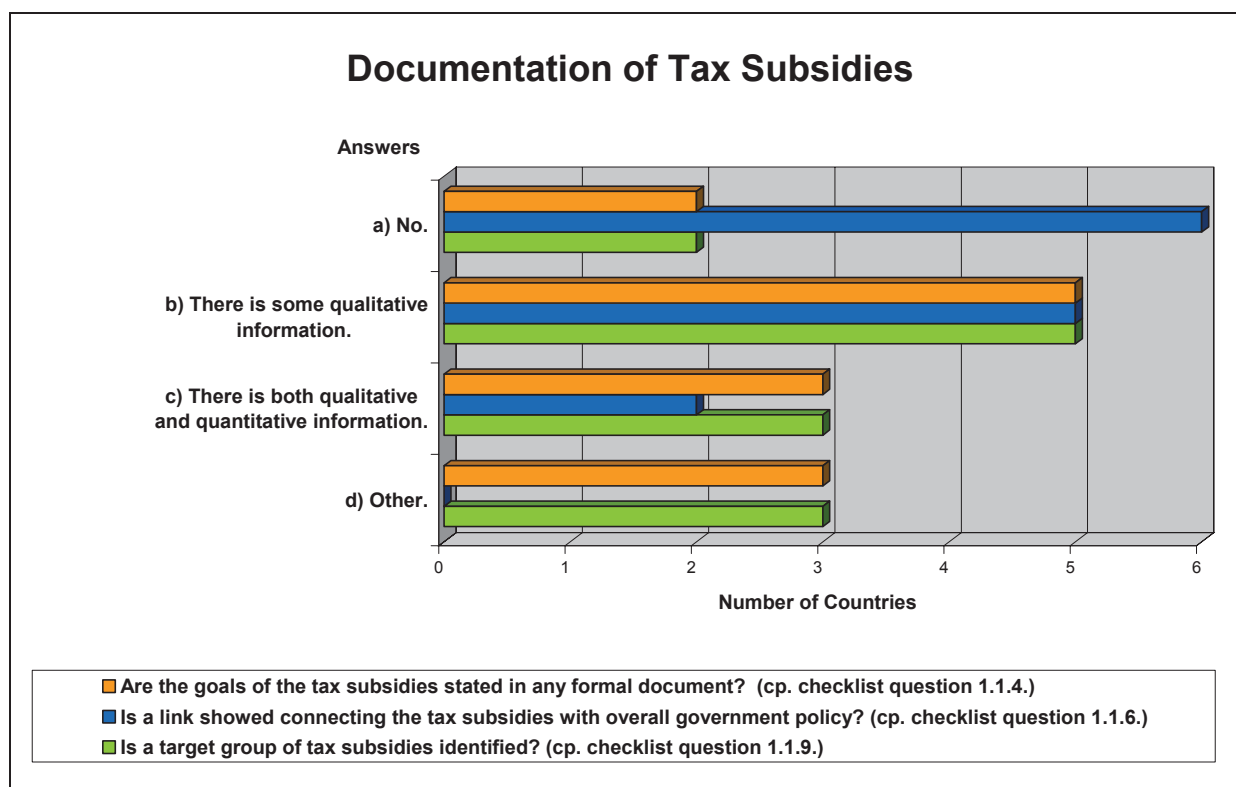
In all participating countries, legislation is required to determine the circumstances which give rise to a tax subsidy, i.e. that waive the levying of a tax altogether or favour certain transactions. The requirements to be imposed as to the content of such draft legislation and its justification are laid down in different types of legal norms. In most cases, these norms are government regulations such as rules of procedure or similar instructions.

The results developed by the participating SAIs have identified three major requirements to be met by draft legislation:

- The objectives and the need for the measures shall be described in a plausible way.
- The impact of the measures, especially the cost and benefit for the State needs to be estimated.
- Arrangements should be made to ensure target achievement and the evaluation of the impact of the measure.

The participating SAIs have found that, in many cases, even the description of the objective pursued by means of draft legislation is inadequate. There are only two countries in which the objectives are documented in both qualitative and quantitative terms (cf. diagram 2).

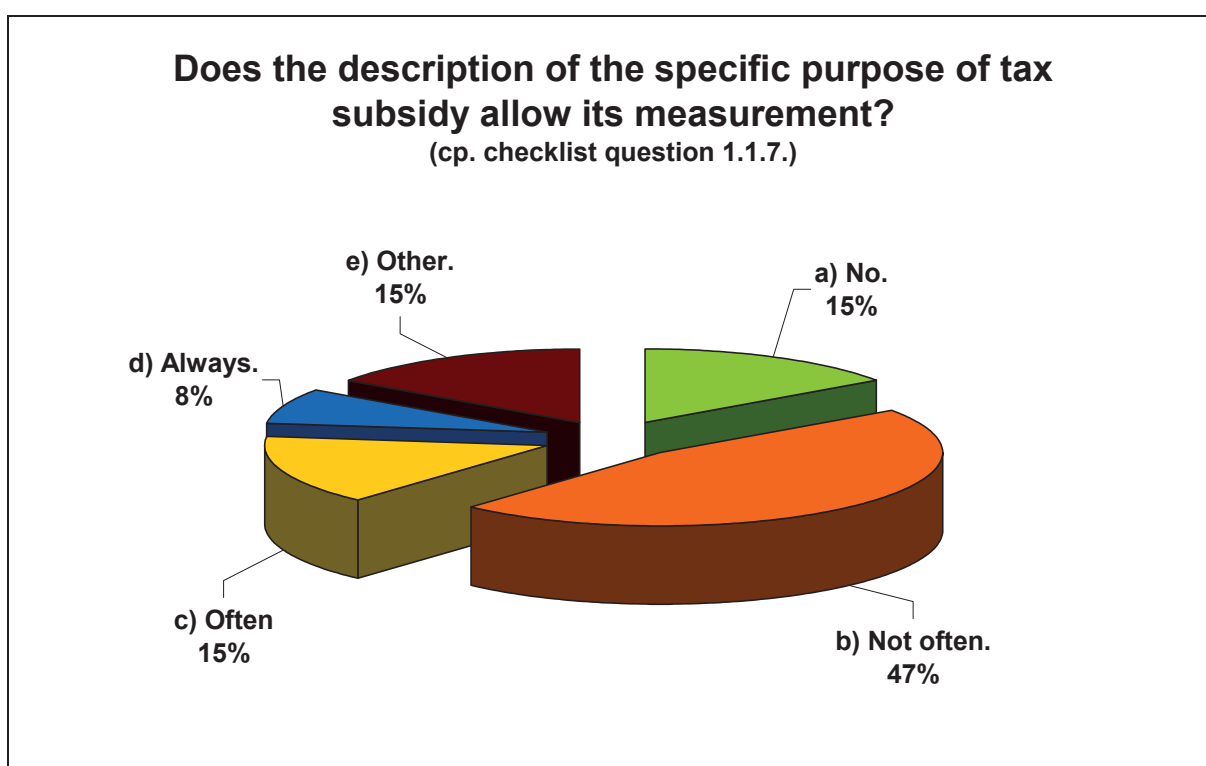
Diagram 2



The objective is often described in very general terms, impeding a measurement of target achievement (diagram 3).

The situation is different when it comes to determining the target group which is to benefit from the tax subsidy. Usually, the beneficiaries are mentioned in the underlying draft legislation; however, the quality of documentation varies from country to country (cf. diagram 2). In contrast, in the overwhelming majority of the countries, no link is shown connecting the tax subsidies with overall government policy. In general, there is no documentation as to how the tax subsidy is integrated into the fundamental policy objectives of the national governments (cf. diagram 2). According to the findings generated by some SAIs, a comparison with other fiscal policy tools that may be viable alternative options for accomplishing the objectives set is not made.

Diagram 3

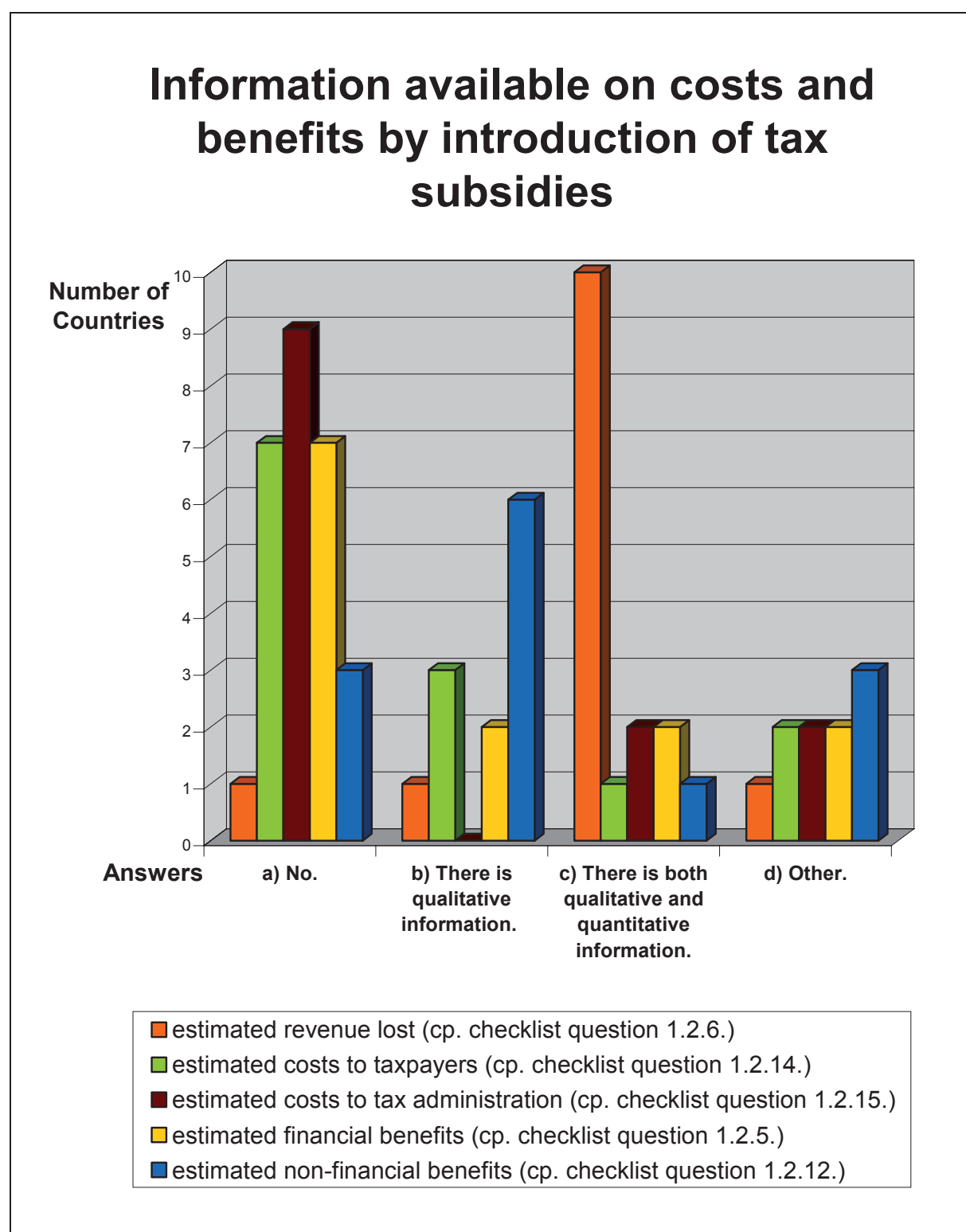


The information about the costs and benefits of a tax subsidy furnished in draft legislation differs widely as to its quality. In general, the costs are estimated and documented better than the expected benefits (cf. diagram 4).

In all countries involved, information is provided especially about losses of tax revenue including estimates of the amount of such losses. Nevertheless, some SAIs found that estimates had not always been made – e.g. in the case of small tax subsidies – and that they were partly based on insufficient and/or incomplete data. Information about the costs incurred by taxpayers and the tax administration on account of the granting of the tax subsidy were often not documented in the same quality. In the vast majority of the countries covered, no or only qualitative information about these costs was given without providing a detailed description and estimates of these costs. The participating SAIs generated similar findings

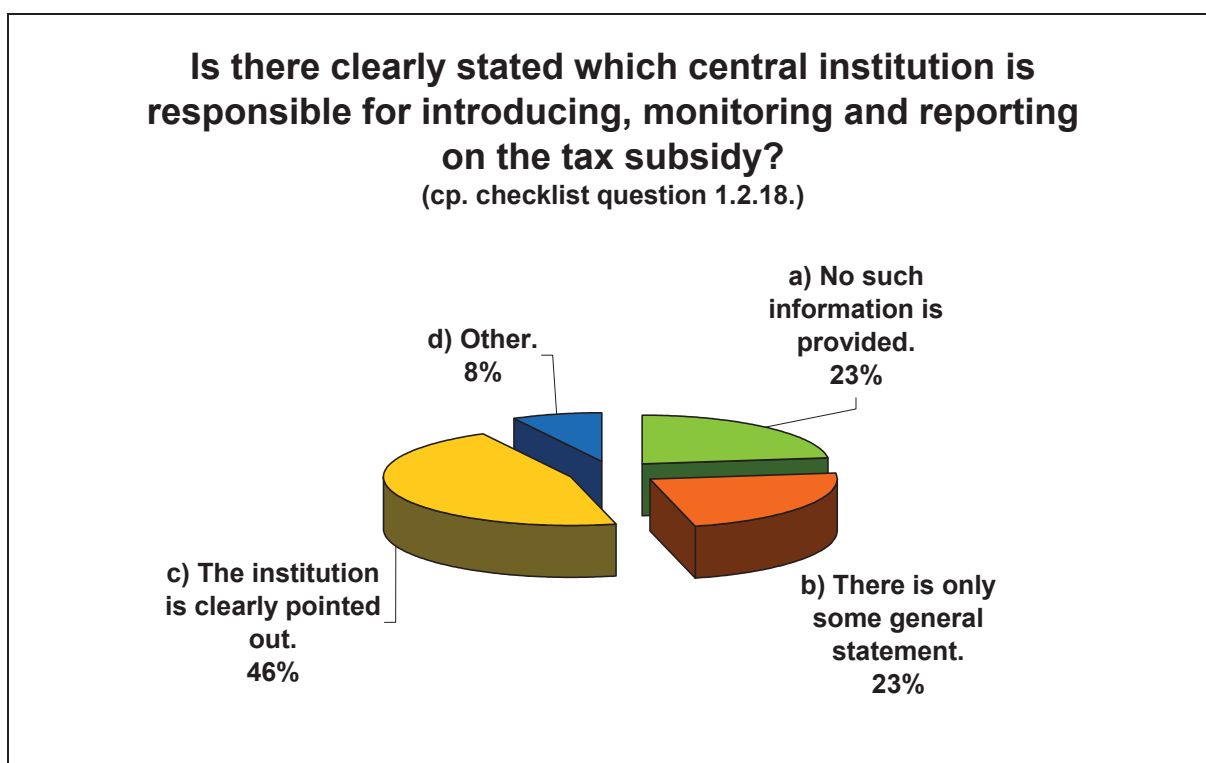
about the documentation of the benefit of tax subsidies. With respect to the non-pecuniary advantages of tax subsidies, the draft legislation in the majority of the participating countries contained at least qualitative statements. In contrast, estimates of pecuniary benefit were made only in a minority of the countries covered. In the other countries, no statements on this issue were made.

Diagram 4



The third major issue addressed by the audits of the SAIs concerned statements about the evaluation of tax subsidies. It was found that there are clear rules as to which institution is responsible for the introduction and monitoring of as well as reporting on tax subsidies (cf. diagram 5). On the other hand, the participating SAIs arrived at the result that fundamental statements about subsequent evaluations, especially the timing, contents and objectives of such evaluations were documented inadequately or not at all. This means that the necessary bases for monitoring, analysing and evaluating tax subsidies during the period in which they are granted.

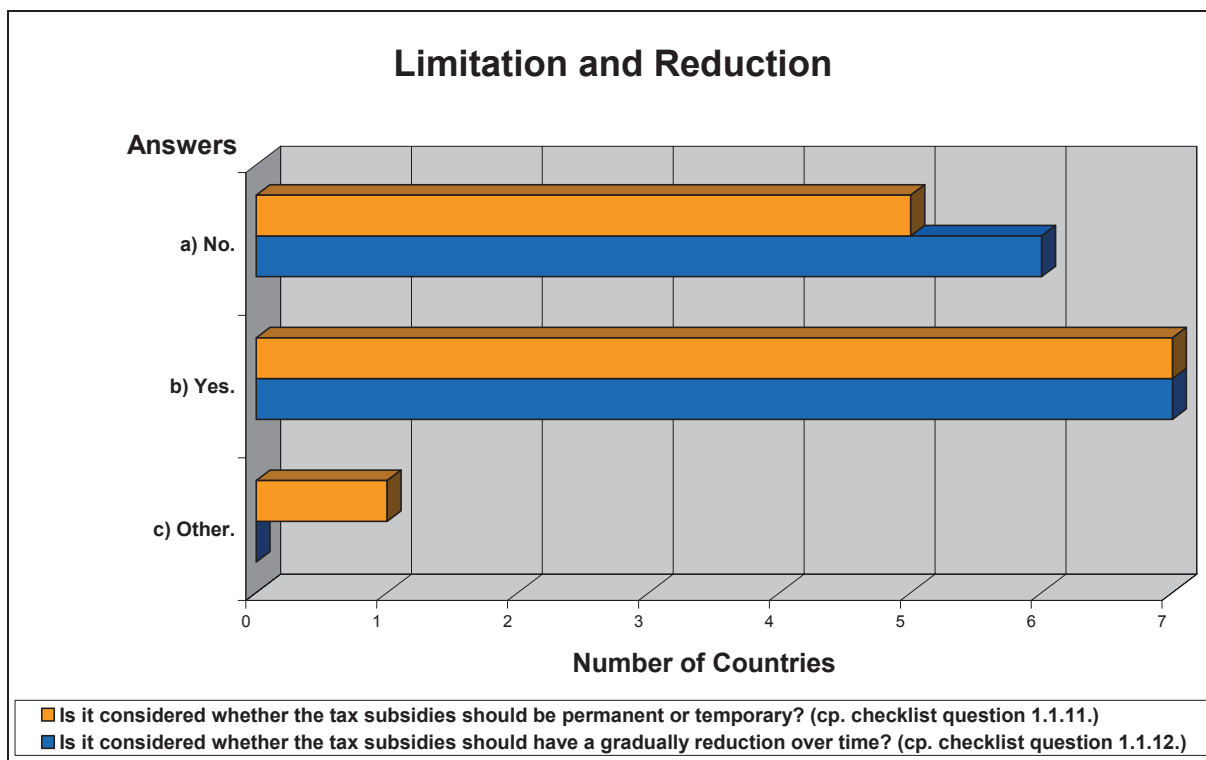
Diagram 5



Apart from these major issues concerning the documentation of tax subsidies, the participating SAIs also addressed the issues of imposing a time limit for the validity of tax subsidies ('sunset legislation') and of arranging for the gradual reduction of tax subsidies (cf. diagram 6).

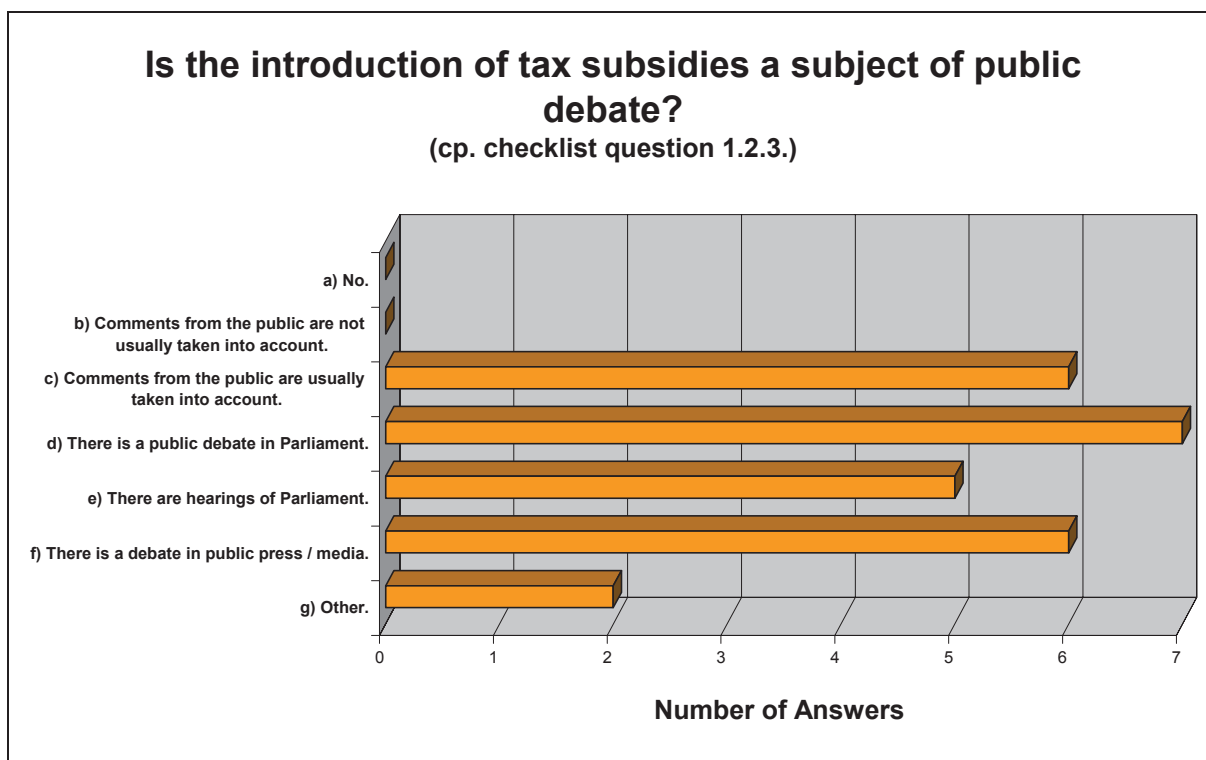
In the course of their audits, several participating SAIs were able to identify tax subsidies that had been granted over a considerable period of time, sometimes of several decades. Even in some of the countries whose rules of legislative procedure require that the issue of a time limit or gradual reduction be addressed, all or at least the vast majority of tax subsidies are neither made subject to a time limit nor to a regime of gradual reduction. Although a time limit on the applicability of tax subsidies is a suitable tool for preventing a 'have-and-hold attitude' and to make sure that the Legislature decides about retaining a tax subsidy at regular intervals, this tool is hardly ever used.

Diagram 6



Under the aspect of transparency, audit evidence was gathered as to the extent to which the introduction of tax subsidies is a subject of public discussion (cf. diagram 7).

Diagram 7

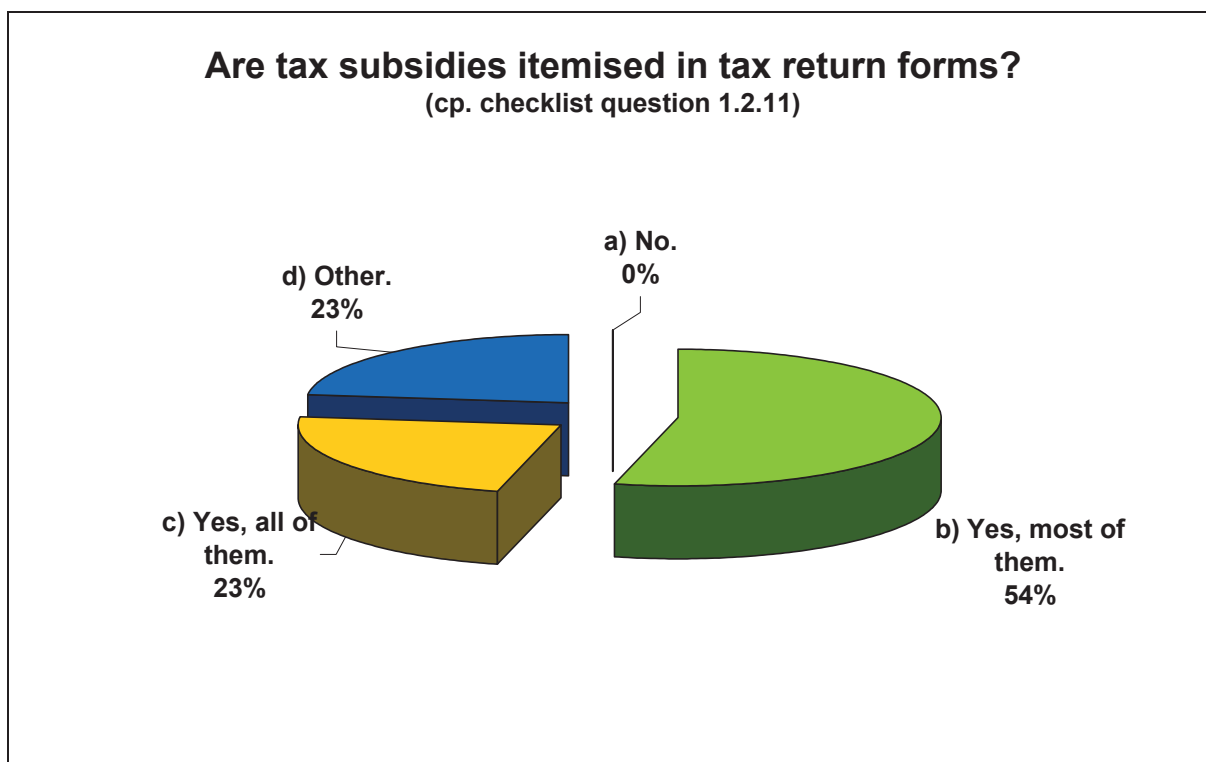


The introduction of a subsidy follows the usual parliamentary procedure. In the course of such procedure, public debates are held in the parliaments of the countries concerned. As a rule, these debates are reported and continued in the press and other media. In the majority of the countries covered, the parliaments also conduct public hearings at which experts or groups of stakeholders may express their opinions. As a matter of principle, the procedures for introducing tax subsidies are not subject to any rules differing from those that apply to other legislative processes.

3.2.2 Execution

Exceptional provisions of tax law usually make the administration of taxes more difficult. In most countries covered, tax subsidies are itemised in the tax return forms (cf. diagram 8). This applies to the tax returns of natural persons while in some countries tax subsidies for companies are not itemised in such forms.

Diagram 8

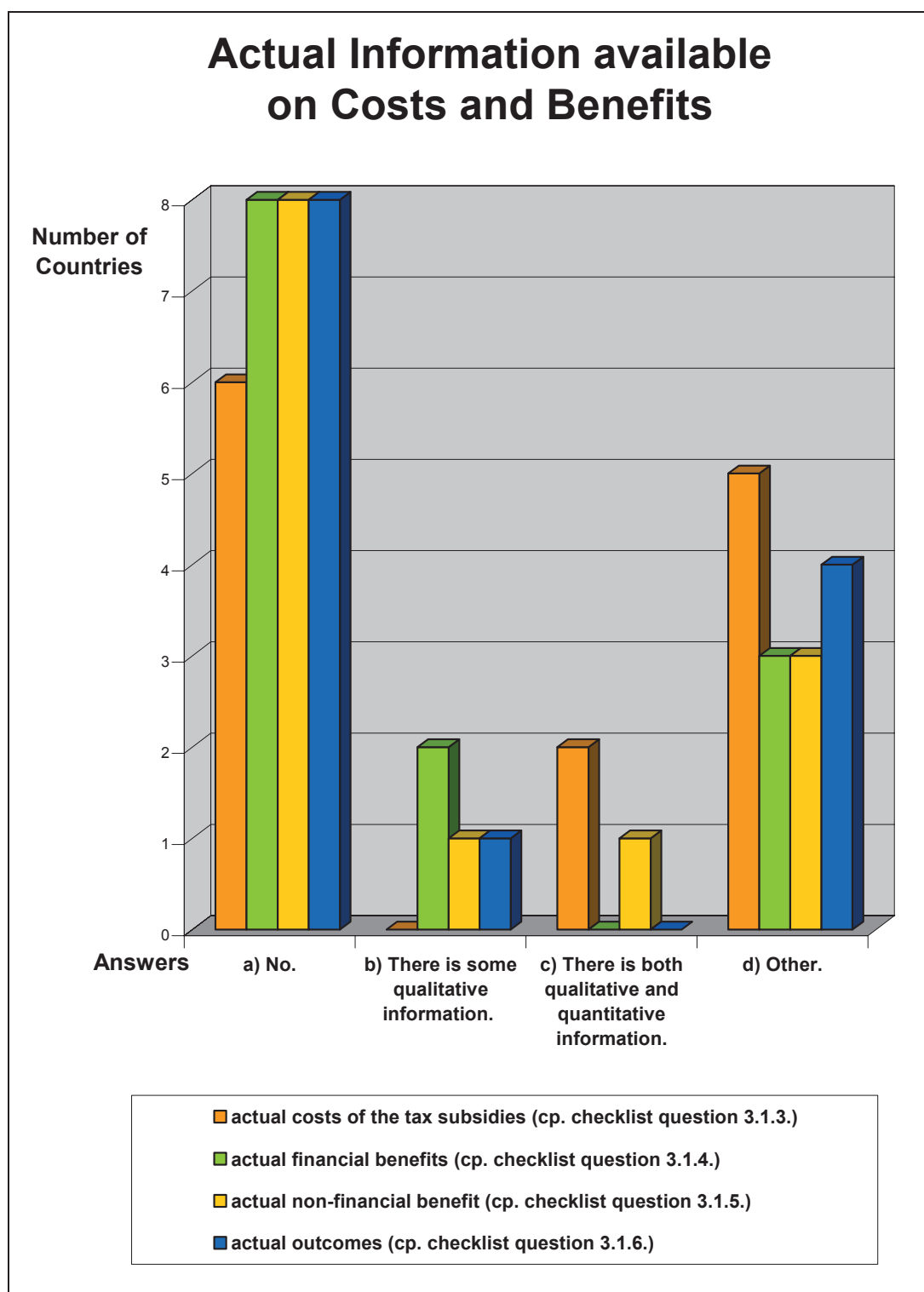


Although information about the extent of tax subsidies granted and claimed is thus collected by the tax authorities, most participating SAs have found that no systematic monitoring, analysis and evaluation is carried out. Thus, the tax authorities including the responsible ministry usually have no strategy for the continuous monitoring of a tax subsidy. Rather than that, information about tax subsidies is rather a by-product of the general tax inspection function in most of the countries covered. This is also demonstrated by the fact that current data on the costs and benefits of tax subsidies to be identified during the time in which they

are in force is not available in most cases (cf. diagram 9).

In most countries, even the costs caused by the tax subsidies are identified not at all or only occasionally. Separate studies are conducted in isolated cases. Most of the responsible bodies do not seek to identify the benefit and/or outcome of tax subsidies. Relevant data is not collected.

Diagram 9

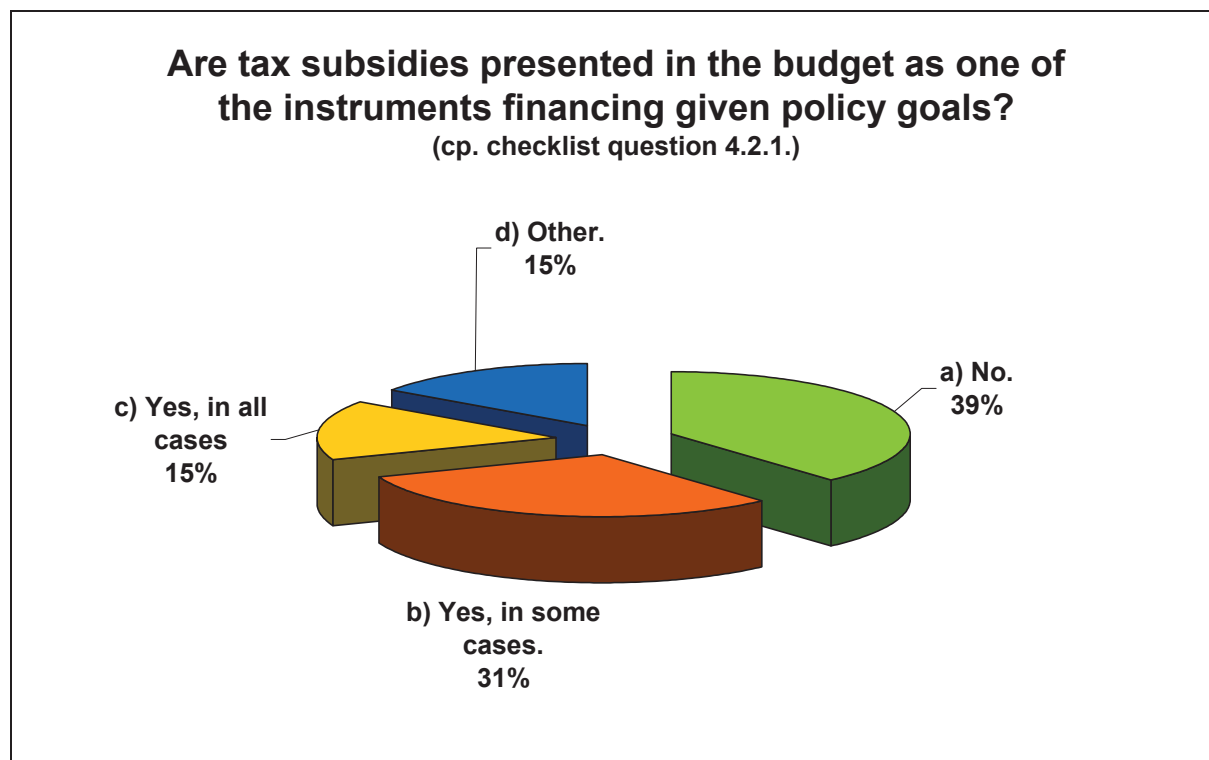


However, without such data, an evaluation of tax subsidies is hardly possible. The audits of the participating SAs usually revealed that no systematic evaluation of tax subsidies is carried out. Furthermore, an analysis of effectiveness is hardly possible because the objectives pursued by means of the tax subsidy have not been stated at all or only insufficiently. The corresponding deficiencies in legislation – together with the lack of data – make it impossible to measure the success or failure of a tax subsidy. All participating SAs consider this as an essential weakness of any measures designed to support certain sectors of the economy by means of exceptional provisions of tax law.

3.2.3 Reporting

As a third major issue, the participating SAs looked into the reporting about tax subsidies. In some countries, there were no rules about annual reporting. In most countries, the respective national governments were obliged to submit information on tax subsidies together with the annual budgets. According to the findings generated by the participating SAs, most of the information thus provided was not linked to the other information given in the respective budget (cf. diagram 10). As a rule, it was impossible to evaluate how the objectives of the tax subsidies fitted in with the overall policy of the respective government as documented in its budget. Apart from the information furnished in the respective national budget, some countries provide for separate reporting on tax subsidies at regular intervals usually varying between one and three years.

Diagram 10



The participating SAIs found that, on the whole, reporting by the competent national bodies – no matter whether provided as part of budgets or as separate reports – furnished insufficient information about the exceptional provisions of tax law.

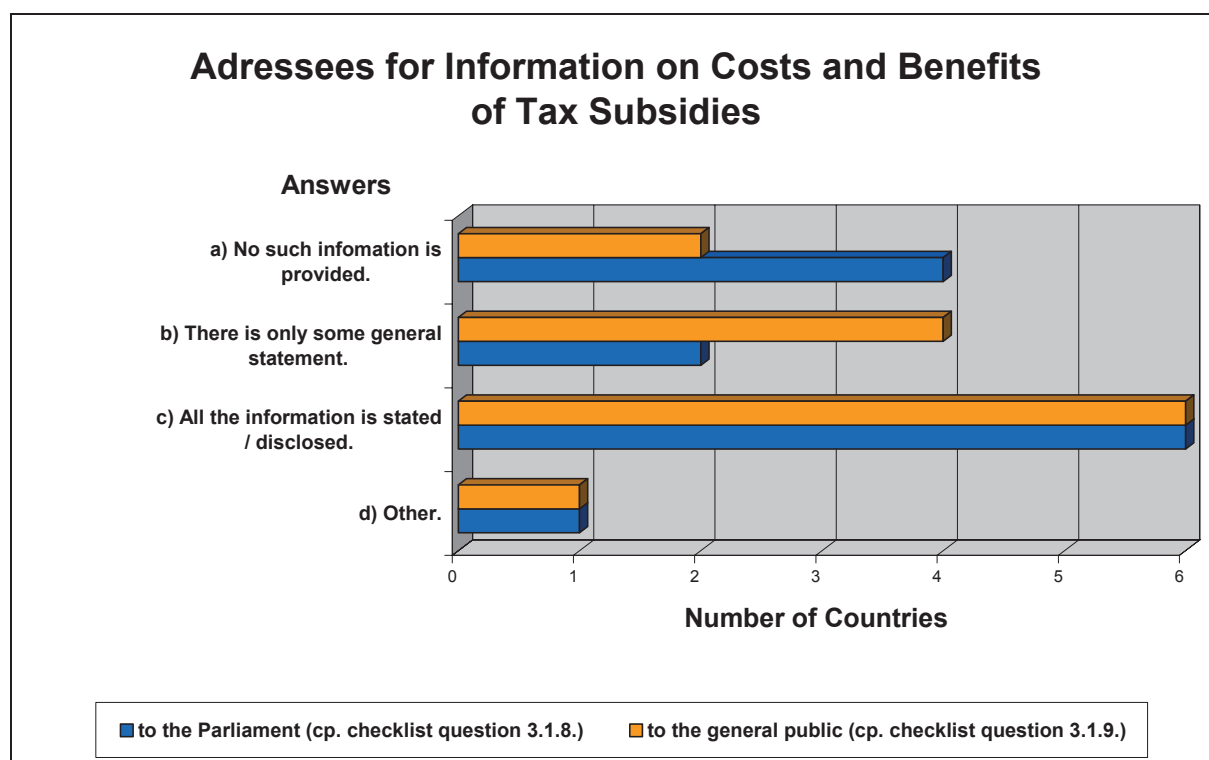
On one hand, the SAIs were not able to develop findings as to whether all tax subsidies had been included in reporting. In most countries, an overview was lacking which would have allowed – similar to an inventory – to verify the completeness of reporting about all tax subsidies. In any event, the problem of finding a precise definition of what constitutes tax subsidies remains unsolved. This makes it difficult to establish the scope of tax subsidies.

On the other hand, the information published is insufficient for proving the effectiveness and efficiency of the promotion by tax subsidies in a transparent way. According to the results developed by several SAIs, the losses of tax revenue caused by special provisions of tax law were investigated only incompletely. In some cases, it is impossible to say whether the amounts of revenue lost are actual results or only estimates. Moreover, where estimates have been given, information is lacking about the bases and the methods used to forecast losses of tax revenue.

On the whole, the participating SAIs feel that reporting on tax subsidies was rather technical in nature. Concerning the objectives, the target achievement degree, the actual outcomes and the evaluation of tax subsidies were described too concisely by the national governments. In all countries involved, reporting was inadequate for ensuring that the tax system is transparent and may, in particular, generate data about the benefit of tax subsidies.

Reporting by the national governments is addressed both to the respective parliaments and the general public (cf. diagram 11).

Diagram 11



However, the national SAIs were not able to ascertain whether the deficiencies in reporting they had pointed out were also seen as such by the parliaments. In one country, the government defended itself against the criticism of the SAI by arguing that the parliament so far had not criticised the government's information on tax subsidies and that therefore there was no need for change.

3.3 Recommendations

In those sectors which their audits had in common, the participating SAIs arrived at similar recommendations to the respective national parliaments and governments. Concerning legislation, they asked the governments to define unambiguous, clearly stated and verifiable objectives of tax subsidies in the future. Reasons must also be given to demonstrate the necessity of the subsidy. As a contribution to this, standardised questionnaires may be used that must be answered during the process of drafting legislation, thereby showing measurable reasons for the introduction or modification of any exceptional provision of tax law. Furthermore, the participating SAIs recommended that the analyses produced by government during the legislative process should be comprehensively documented. It was also suggested that time limits be imposed for the validity of tax subsidies. It was also suggested to set time limits for tax subsidies. Some of the SAIs considered such time limits as indispensable.

The participating SAIs perceived the need to monitor tax subsidies during their implementation by the tax authorities. They recommended that national strategies should be developed and implemented to permit systematic monitoring, analysis and evaluation of the tax subsidies. In particular, government were asked to conduct regular evaluations, since such *ex post* analyses were the only way to prove the effectiveness and efficiency of the tax subsidies. The participating SAIs considered such proof as necessary in order to justify the continuation in force of any exceptional provisions of tax law that favour individuals at the expense of all taxpayers collectively.

In the opinion of the participating SAIs, the national governments should regularly and fully report on the results of monitoring and evaluation. These publications should cover all tax subsidies. Furthermore, participating SAI recommended that comprehensive and complete information should be furnished about the losses of revenue caused by the tax subsidies. This recommendation also referred to explaining the bases and assumptions underlying the estimates in order to permit checking their plausibility and quality. Uncertainty in the estimation of the size of tax subsidies should be stated explicitly. On the whole, the participating SAIs considered up-to-date, comprehensive reporting on tax subsidies at regular intervals as imperative.

In some countries the government gives decision on the ceiling for the budget expenditures over a certain period of time, e.g. the entire electoral period. Tax subsidies should be taken more explicitly into account in budget process and as part of state revenues and expenditures. They should not lead to exceed spending limits. The decision either to apply tax subsidy or direct financial aid should be based on their effectiveness in order to achieve the objective. This will improve the effectiveness of the subsidy policy.

4 Activities by national governments and parliaments

4.1 Background

Based on individual audit exercises, common findings on tax subsidies were to be developed. The audits and the handling of audit results were subject to the respective national legal provisions that govern the activities of the participating SAIs.

4.2 National activities

In the course of their procedures, the national SAIs had discussed the audit results and recommendations with the competent national bodies – as a rule, the governments and several ministries. Subsequently, most of the audit reports were made available to the public (cf. table 2).

Where the reports became objects of parliamentary deliberations, hearings and discussion were held by relevant committees. This gave the respective national SAIs the opportunity of stating their points of view and of explaining them in detail. Nevertheless, the audits have not yet led to definite amendments of legislations or modifications in tax administration and reporting.

In Finland the Parliamentary Audit Committee used its right to report on the Tax Subsidy Audit of National Audit Office to the plenary session of the Parliament. The plenary session of the Parliament made the decision on the Audit Committee's report in December 2007. The Parliament requires the Government to undertake those measures the Parliamentary Audit Committee had suggested. The Audit Committee suggested in its report that the Government should improve the contents of data relating to tax subsidy policy and the Government should renew its tax subsidy study which is made annually since the year 1989. It should specially focus on the neutrality principle of taxation and on tax subsidies as an element of the spending limits process and the budget process itself. The Parliament required that the Government should report of its measures undertaken in the next report on the Final Central Government Accounts in summer 2008.

5 Conclusions

On the whole, the audits of the participating SAIs showed that, despite national differences, there are generally similar weaknesses in the field of tax subsidies. Thus, the comparison of international audit results may support the national discussions in the parliaments and with the governments. In the participating SAIs' view, Governments should take tax subsidies into account as part of the state's financial management much more decisively than currently. By following the recommendations made in this report concerning the choice of the form of subsidy, the regular ex ante and ex post evaluation and reporting of tax subsidies, Governments can improve significantly the transparency of their subsidy policy. It remains to be seen whether the comparable recommendations made by the participating SAIs will lead to similar modifications.

Checklist

The following checklist of audit questions was developed on the basis of:

- the initial version of audit questions prepared by the SCC and presented to members of Working Group before the seminar on tax subsidies in Bonn
- audit questions prepared by NAO of Denmark, the Court of Accounts Romania and Bundesrechnungshof
- papers / presentations delivered at the February seminar on tax subsidies in Bonn.

We understand tax subsidies in a broad sense covering all kind of tax expenditures. Definition of the latter is taken from Best Practice Guidelines – Off Budgets and Tax Expenditures published by OECD². According to this paper:

Tax expenditure can be defined as a transfer of public resources that is achieved by reducing tax obligations with respect to a benchmark tax, rather than by a direct expenditure.

Further in the paper, the following classification of tax subsidies is stated:

Tax expenditures may take a number of different forms:

- exemptions: amounts excluded from the tax base;
- allowances: amounts deducted from the benchmark to arrive at the tax base;
- credits: amounts deducted from tax liability;
- rate relief: a reduced rate of tax applied to a class of tax payers or taxable transactions;
- tax deferral: a relief that takes the form of a delay in paying tax.

Any other forms of subsidies (e.g. progressive tax rate) are included in benchmark tax.

Costs of tax subsidies include three categories:

- revenue lost
- administration costs related to new tasks assigned to fiscal administration
- costs for taxpayers (resulting from complication of a tax system)

Following the IMF's definition of transparency as "...being open to the public about the structure and functions of government, fiscal policy intentions, public sector accounts, and

² Best Practice Guidelines – Off Budgets and Tax Expenditures, OECD, GOV/PGC/SBO(2004)6, 19-May-2004

fiscal projections...”³ we understand transparency of tax subsidies as being open to the public about intentions, implementation and effects of tax subsidies.

Availability of information – in this case we assume when the specified document is produced for internal purposes it cannot be described as a publicly available one. In order to be publicly available, information has to be easily available (via internet, free of charge). Each time we ask in the questionnaire if there is some specified information published we actually ask if it is publicly available.

For the purpose of the audit questionnaire we should decide if audit questions should stay open or if the questionnaire should include a closed set of answers. If a closed set of answers is chosen (in our opinion it helps comparing results) answers should be sorted from the most “transparent” to the least “transparent” one. In this case we propose to have an option “not applicable”, whose selection requires comment from a respondent. The answer “not applicable” is proposed since invented questions are usually designed to describe a system in the country of an inventor.

As it was agreed during the meeting in Bonn, the questions will be structured as set out below

1. Preparation of tax subsidies.
2. Execution stage.
3. Reporting.

Additionally, there will be a set of questions on the integration of tax subsidies in the budget process.

We suggest that – as far as it is possible – the questionnaire should address a total population of tax subsidies. It means that before approaching the questionnaire it should be established if the Ministry of Finance or equivalent body is a holder of complete list of tax subsidies within the country’s tax system.

3 The definition can be found in the introduction to the IMF’s Manual on fiscal transparency (<http://www.imf.org/external/np/fad/trans/manual/index.htm>). This approach follows the concept presented by George Kopits, John Craig in Transparency in Government Operations, IMF Occasional Paper No. 158 (Washington: International Monetary Fund) - 1998.

1. Preparation

1.1. Purpose of tax subsidy – according to transparency standards, goals of policy should be clearly stated, and there should be a legal basis for every tax regulation.

1.1.1. Are tax subsidies regulated by law?

- a. No.
- b. Most of them have a clear legal basis.
- c. All have to possess a clear legal basis.
- d. Other. (Please give details).

1.1.2. Are the principles of subsidy policy laid down in a specific Subsidy Act and what does it cover?

- a. No regulation.
- b. Regulated in a general act (such as Budget Code).
- c. Regulated in a specific Subsidy Act.
- d. Other. (Please give details).

1.1.3. Are the principles of regulatory impact assessment for tax subsidies laid down in specific subsidy act?

- a. No regulation.
- b. Regulated in a general act (as budget law).
- c. Regulated in a specific subsidy act.
- d. Other. (Please give details).

1.1.4. Are the goals of the tax subsidies stated in any formal document?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.1.5. Are the tax subsidy goals defined in the same document which regulates its introduction?

- a. Yes.
- b. No, in different ones.
- c. Other. (Please give details).

1.1.6. Is a link showed connecting the tax subsidies with overall government policy?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.1.7. Does the description of the specific purpose of tax subsidy allow its measurement?

- a. No.
- b. Not often.
- c. Often.
- d. Always.
- e. Other. (Please give details).

1.1.8. Is the possibility considered of applying relevant controls in connection with the subsidy?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.1.9. Is a target group of tax subsidies identified?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.1.10. In the case of EU members/Acceding Countries: Is it specified if tax subsidies are in line with EU regulations?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).
- e.

1.1.11. Is it considered whether the tax subsidies should be permanent or temporary?

- a. No.
- b. Yes.
- c. Other. (Please give details).

1.1.12. Is it considered whether the tax subsidies should have a gradually reduction over time?

- a. No.
- b. Yes.
- c. Other. (Please give details).

1.1.13. Is it considered whether it is possible to avoid overlaps, duplication of subsidies and subsidy schemes with conflicting targets?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.1.14. Is there a cooperation process in place between the body which grants the tax subsidy and other central and local authorities having the same role in order to avoid overlaps and duplications of subsidies?

- a. No.
- b. Yes
- c. Other. (Please give details).

1.2. *Tax subsidy consequences* – transparency requires that information on the costs and benefits of policies is available. This information should be guaranteed by law and the timetable for revealing information should exist.

1.2.1. Is there any legal requirement for presenting cost and benefits analysis when introducing a tax subsidy?

- a. No.
- b. Only costs have to be presented.
- c. Both cost and benefits are required.
- d. Other. (Please give details).

1.2.2. When is such an analysis disclosed to the public?

- a. It is not disclosed.
- b. Analysis is presented when the law introducing the tax subsidy is accepted.
- c. Analysis is presented together with the law draft introducing the tax subsidy.
- d. Analysis is presented together with the law draft introducing the tax subsidy and there is a legal regulation for that.
- e. Other. (Please give details).

1.2.3. Is the introduction of tax subsidies a subject of public debate? Please give some details as to the situation in your country.

- a. No.
- b. Comments from the public are not usually taken into account.
- c. Comments from the public are usually taken into account.
- d. There is a public debate in Parliament.
- e. There are hearings of Parliament.
- f. There is a debate in public press / media.
- g. Other. (Please give details).

1.2.4. Is there a risk analysis (also for risk of abuse) included in the calculations?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.2.5. Is there any information available on estimated financial benefits resulting from the tax subsidy?

- a. No.
- b. There is qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.2.6. Is there any information on estimated revenue lost from the tax subsidies?

- a. No.
- b. There is qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.2.7. Are the tax forecasts precise (last fiscal year)?

- a. Majority of tax items differ from the forecast more than $\pm 5\%$.
- b. Majority of tax items differ from the forecast less than $\pm 5\%$.
- c. Other. (Please give details).

1.2.8. Is the methodology for the estimation publicly available?

- a. No.
- b. There is some basic information.
- c. There is very detailed description.
- d. Other. (Please give details).

1.2.9. Is the methodology for the estimation scrutinized by public?

- a. No.
- b. There are some standard techniques used.
- c. Independent experts have reviewed the methodology.
- d. Other. (Please give details).

1.2.10. Does the tax administration calculate revenue lost from tax subsidies using benchmark tax concept?

- a. No.
- b. Tax benchmark is estimated.
- c. Tax benchmark is estimated and the list of revenue lost from tax subsidies in the specified tax is presented.
- d. Other. (Please give details).

1.2.11. Transparency of tax return forms – clear tax return forms in respect to tax subsidies promote accountability in the area. (PL) Are tax subsidies itemised in tax return forms?

- a. No.
- b. Yes, most of them.
- c. Yes, all of them.
- d. Other. (Please give details).

1.2.12. Is there any information on estimated non-financial benefits (such as macroeconomic and/or social policy outcome) from introducing the tax subsidy?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.2.13. Are the tax subsidy's consequences compared to the possible effect of applying other alternative instruments (in particular alternative fiscal instruments)?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.2.14. Is there any information available on estimated costs to taxpayers resulting from the tax subsidies?

- a. No.
- b. There is qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.2.15. Is there any information available on estimated costs to tax administration resulting from the tax subsidies?

- a. No.
- b. There is qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

1.2.16. What is the time-horizon of the analysis?

- a. Only the closest fiscal year.
- b. Two to five-year effects are presented.
- c. Short, medium and long-term results of tax subsidy are presented.
- d. Other. (Please give details).

1.2.17. Where is the calculation conducted? Which institution (authority or private-sector auditor) is responsible for introducing, monitoring and reporting on the tax subsidy?

- a. There is only one organism/body in charge (name of the body).
- b. In the institution proposing the tax subsidy.
- c. In the institution responsible for evaluation of all tax subsidies in the central administration.
- d. There are different organisms/bodies in charge (please give details).
- e. Contracts for evaluation work are awarded to independent experts.
- f. Contracts for evaluation work are awarded to independent experts on the basis of competitive bidding.
- g. The results are examined for quality
- h. Other. (Please give details).

1.2.18. Is there clearly stated which central institution is responsible for introducing, monitoring and reporting on the tax subsidy?

- a. No such information is provided.
- b. There is only some general statement.
- c. The institution is clearly pointed out.
- d. Other. (Please give details).

2. Execution

2.1. *Tax subsidy management* – strategy for tax subsidy implementation should point out main assumption for efficient and effective implementation of tax subsidy.

2.1.1. Does the body responsible for implementation of tax subsidy publish a strategy of tax subsidy management?

- a. No.
- b. There are only some general guidelines.
- c. The strategy covers plan of implementation and monitoring process.
- d. Other. (Please give details).

2.1.2. What kinds of objectives are defined in the strategy?

- a. Qualitative objectives (improvement, increase etc.).
- b. Quantitative objectives (indicators).
- c. Other. (Please give details).

2.1.3. Is a timeframe for execution of objectives specified?

- a. No.
- b. Yes, but in general terms.
- c. Yes in a very detailed way.
- d. Other. (Please give details).

2.1.4. Are there specific instructions issued on the basis of a strategy aimed at organizing the work of regional tax assessing bodies?

- a. No.
- b. Yes, but they are very general.
- c. Yes, specific criteria for assessment are set up.
- d. Other. (Please give details).

2.2. *Tax subsidy monitoring and evaluation* – information on implementation should be provided to the public; this section covers reporting during a fiscal year and corrective actions undertaken by corresponding body.

2.2.1. Has the tax authority set up a monitoring strategy for the specific tax subsidy?

- a. No, it is the side-effect of a more general control activity.
- b. Yes.
- c. Other. (Please give details).

2.2.2. Has the tax authority analyzed the inherent risk for abuse in connection with the different tax subsidies?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

2.2.3. Does the body responsible for implementation of tax subsidy report on tax subsidies during the fiscal year?

- a. No.
- b. Every half of a year.
- c. Every quarter of a year.
- d. On a monthly basis.
- e. Other. (Please give details).

2.2.4. What scope of information is revealed during a fiscal year?

- a. Costs (revenue lost, administration and taxpayers' costs).
- b. Costs (revenue lost, administration and taxpayers' costs) and financial benefits.
- c. Costs (revenue lost, administration and taxpayers' costs) and benefits (both financial and non-financial).
- d. Other. (Please give details).

2.2.5. Does the body responsible for implementation of tax subsidy adjust tax subsidy policy after verification of tax subsidy's effectiveness?

- a. No.
- b. There are some minor changes in the tax subsidy granting system.
- c. Tax subsidy is replaced by an alternative (e.g. fiscal) instrument.
- d. Other. (Please give details).

2.2.6. Are the reasons behind possible proposals for improvements analysed, discussed and presented to parliament?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

2.2.7. Are there evaluations at regular intervals?

- a. No.
- b. Yes (every ... years)
- c. Other. (Please give details).

3. Reporting

3.1. Results of tax subsidies – information on the effects of tax subsidy should be comprehensive and easily available to the public.

3.1.1. Is there a legal requirement for reporting on the effect of tax subsidies?

- a. No.
- b. Only the obligation for the publication of such information is provided.
- c. There is a legal provision for the scope of information.
- d. There is a legal provision for the scope of information and the dates of its disclosure.
- e. Other. (Please give details).

3.1.2. Is there an annual report on tax subsidies?

- a. No.
- b. There is only general information on tax subsidies in budgetary reports.
- c. There is a special report devoted to one tax which includes information on tax subsidies related to this tax.
- d. There is a special report devoted to a specified tax subsidy.
- e. Other. (Please give details).

3.1.3. Is there any information on actual cost of the tax subsidies (revenue lost, administration and taxpayers' costs) available for public?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

3.1.4. Is there any information on actual financial benefits from introducing the tax subsidy?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

3.1.5. Is there any information on actual non-financial benefits (such as macroeconomic and/or social policy outcome) from introducing the tax subsidy?

- a. No.
- b. There is some qualitative information.
- c. There is both qualitative and quantitative information.
- d. Other. (Please give details).

3.1.6. Are actual outcomes compared to planned cost and benefits of introducing tax subsidy?

- a. No.
- b. There is some general analysis.
- c. There is very detailed analysis.
- d. Other. (Please give details).

3.1.7. Are the reports easy-to-understand and do they include clear recommendations?

- a. No.
- b. They are easy-to-understand but there is a lack of clear recommendations.
- c. They are both easy-to-understand and they include clear recommendations.
- d. Other. (Please give details).

3.1.8. Is this information stated to the Parliament?

- a. No such information is provided.
- b. There is only some general statement.
- c. All the information is stated to the Parliament.
- d. Other. (Please give details).

3.1.9. Is this information disclosed to the general public?

- a. No such information is provided.
- b. There is only some general statement.
- c. All the information is stated to the general public.
- d. Other. (Please give details).

3.2. *Integrity* – information on the effects of tax subsidies should be subject to the independent review.

3.2.1. Who announces annual information on the costs and benefits of tax subsidies?

- a. Central Office responsible for introducing tax subsidy.
- b. Ministry of Finance (or other main tax authority in the country).
- c. Another specialised agency.
- d. Other. (Please give details).

3.2.2. Is information on the costs and benefits of tax subsidies audited externally?

- a. No.
- b. Not on a regular basis.
- c. It is audited on a regular basis.
- d. Other. (Please give details).

3.2.3. Is information on the costs and benefits of tax subsidies a subject of public debate?

- a. No.
- b. There are only some comments in the media.
- c. Information is a subject of research conducted by independent institutions.
- d. Other. (Please give details).

4. Budgeting

4.1. *Integration* – tax subsidies could be integrated into budget process, i.e. at the preparation, execution and reporting stage.

4.1.1. Is information on tax subsidies integrated into the budget process?

- a. No.
- b. Yes, it is a separate document.
- c. Yes, it is an appendix to a report on revenue.
- d. Yes, it is an annex to specified budget documents.
- e. Other. (Please give details).

4.2. *Coordination* – tax subsidies should be coordinated within the budget with other fiscal instruments.

4.2.1. Are tax subsidies presented in the budget as one of the instruments financing given policy goals?

- a. No.
- b. Yes, in some cases.
- c. Yes, in all cases.
- d. Other. (Please give details).

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Tax

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PART I: Presentation of facts and figures

1 Audit subject and reason for audit

1.1 The significance of the audit of public revenue

In recent years, the audit of public revenue has acquired special significance throughout Europe. Almost all European countries have a budget deficit. Given the shortage of public funds, the collection of public revenues is of major public interest. In other words, the fiscal authorities are under particular pressure to exercise their functions efficiently and effectively. It is the SAls' responsibility vis-à-vis the general public to ensure that continuous efforts are made to accomplish the objectives.

1.2 The audit of corporate income tax subsidies

In May 2005, the VI EUROSAl Congress decided that a coordinated audit open to all EUROSAl members should take place in the field of tax subsidies. For this purpose, the participating SAls formed three Working Sub-Groups (WSGs); from which WSG II had the task of auditing tax subsidies in the field of corporate income tax. The members of WSG – Germany, Hungary (chair of WSG), the Republic of Latvia, the Russian Federation, the Slovak Republic – agreed on coordinated audits on individual tax relief schemes. The first task was to identify an audit theme in the field of corporate income tax suitable for coordinated audit in all five countries. The most suitable audit subjects are tax relief schemes in the field of corporate income tax that are granted by all five participating states along identical or similar lines. Given the lack of a Europe – wide harmonisation of corporate income tax it was difficult to identify a common audit theme. Eventually, the members of the WSG decided during their meeting held in Bratislava on 3 May 2006 to look into the efficiency and effectiveness of corporate income tax subsidies granted to micro-enterprises, small and medium-sized enterprises (SME).

2 Scope and objective of audit

2.1 Evaluation of legal environment of corporate income tax subsidies

The EU did not develop a harmonised system on corporate income tax. The regulation of the tax belongs to national legislations. This also applies to corporate income tax subsidies, therefore the member states of the WSG developed different regulations for subsidies. These differences determined the scope of the audits of the participating SAls.

The German SAl audited the corporation tax subsidy, especially their efficiency and effectiveness for SMEs taking special regard to the tax allowance (deductible from the tax base) pursuant to Art. 24 Corporation Tax Act.

The Hungarian SAl audited the effectiveness and efficiency of all types of corporate income tax subsidies, with special regard to tax subsidies for SMEs.

In the Republic of Latvia, there is no corporate income tax subsidy for SMEs since 2004, therefore the SAl audited the whole system of corporate income tax subsidies.

In the Russian Federation, there is no corporate income tax subsidy for SMEs in federal level, therefore the SAI audited the whole system of corporate income tax subsidies. The constituent entities of the Russian Federation have a right to grant different corporate income tax subsidies for enterprises.

In the Slovak Republic, there are no specific tax relief schemes in the field of corporate income tax. Therefore the audit addressed general tax relief schemes in connection with the development of regional economic structure.

In all participating countries, an important question is the legal regulation of making data on tax subsidies available for public. This sub-group report may enforce the SAIs to recommend for the authorities to take measures in order to achieve further improvements in this field.

2.2 Key questions

A uniform catalogue of questions was adopted during the meeting of the WSG held in Bratislava on 3 May 2006. This catalogue of 14 questions was designed as the basis for the audit of one tax subsidy in the participating countries with a view to audit the questions in all participating countries and thus in a coordinated way:

- 1 What is the legal basis for the subsidies?
- 2 How much is the amount and rate of subsidies out of budget expenditures?
- 3 How much is the percentage of total budget?
- 4 How is the data-basis (including software, security, effectiveness)?
- 5 Was the objective of the tax subsidy defined?
- 6 Are costs of administration attributable to the subsidy separated and are they measurable?
- 7 How does the government measure the effectiveness of the subsidies?
- 8 Could the subsidies be replaced by direct financial assistance?
- 9 Are there limitations for the subsidies (time, amount, legal conditions)?
- 10 How many companies and employees are affected?
- 11 What are the control mechanisms? Are fraud cases detected?
- 12 Is the subsidy effective, i.e. is the subsidy's goal actually being achieved?
- 13 Is continuous and sufficient monitoring of goal achievement ensured?
- 14 Is the subsidy efficient, i.e. are costs and benefits in an appropriate relationship to each other?

Based on the above 14 audit questions, the Hungarian SAI forwarded to the members of the WSG a list with 70 detailed audit questions and performance indicators which was approved by the WSG's members during the Budapest meeting in November 2006. The national audit reports took into consideration the structure of these 70 questions.

3 Execution of Audits

The WSG organised the following meetings in order to prepare and coordinate the parallel audits of the member countries, as well as to inform on audit results.

Table 1

Date of meeting	Place of meeting	Main Agenda
3 May 2006	Bratislava	<ul style="list-style-type: none"> Preparation of time-schedule Determination of methodology Approval of the 14 audit questions
15 November 2006	Budapest	<ul style="list-style-type: none"> Approval of the detailed audit questions and performance indicators
22 May 2007	Riga	<ul style="list-style-type: none"> Agreement on the structure of national audit reports
30 October 2007	Moscow	<ul style="list-style-type: none"> Presentations of the most important expected findings by SAIs

The participating SAIs have performed their audits as follows:

Table 2

Country	Preparation	Field Work	Reporting
Germany	July 2006 — September 2006	October 2006 — December 2006	May 2007
Hungary	15 March 2007 – 20 July 2007	23 July 2007 – 20 September 2007	21 September 2007 – 20 December 2007
Republic of Latvia	15 March 2007 – 15 June 2007	15 June 2007 – 15 August 2007	1 October 2007 – 20 December 2007
Russian Federation	September 2006 – December 2006	March 2007 – June 2007	September 2007
Slovak Republic	May 2006 – 31 July 2006	August 2006 – October 2006	February 2007

The participating SAIs conducted their audits at the Ministries of Finance, other Ministries and tax authorities, but other institutions (Statistical Offices, taxpayers, Chambers, scientific institutions) were also involved. The applied audit methods contained data collection, questionnaires, interviews and samples.

As a chair of the WSG, the Hungarian SAI elaborated the present report on the basis of the national audit reports.

4 Business taxes in Europe

The tax burden to which an enterprise is exposed is a key competitive factor in connection with a company's choice of location. In the face of increasing globalisation, countries cannot shirk competition in the field of corporate taxation and have to make sure that their rates are competitive, if they do not want to end up as losers and to induce enterprises to relocate to other countries.

In 1984, the average statutory corporate income tax rate in the EU was 47%. In recent years, some EU Member States have significantly reduced their corporate income tax rates. In Germany, the corporation tax rate has been reduced to 15%. More recently, the accession countries have followed this example, often undercutting the rates of the previous Member States. E.g., in 2004 Hungary reduced its statutory corporate income tax rate from 18% to 16% and Slovakia reduced its respective rate from 25% to 19%. In the Republic of Latvia corporate income tax has been gradually decreased from 25% to 15%.

In several countries in addition to central government, regional or local governments also raise corporate income taxes or similar taxes; e.g., in Germany, local authorities levy trade tax. The aggregate tax rate thus needs to be calculated by adding up the percentage points of the rates of corporate income tax, trade tax on business profits and similar taxes levied by central government, regional and local government.

The tax burden for enterprises in different countries is not only determined by the rate of the corporate income tax, but also by the rules on calculating tax base, scope of the items increasing/decreasing tax base and the impacts of corporate income tax subsidies.

PART II: Audit findings

1 Legislation

1.1 Legal basis of the subsidies

1.1.1 Regulation of corporate tax subsidies

In all participant countries, each tax must be based on legislation. In 4 countries, rules of corporate income tax are regulated in separate laws, while the Tax Code of the Russian Federation contains these rules in the chapter 'Corporate Income Tax'.

In 3 countries (Hungary, the Republic of Latvia and the Slovak Republic) the total amounts of corporate income tax are paid to the central budget, while in Germany and the Russian Federation the amounts are divided between the central budget and the budget of German states and the constituent entities of the Russian Federation.

Corporate tax subsidies are regulated in all participant countries by laws. In 3 countries (Germany, Hungary and the Slovak Republic), all corporate income tax subsidies are regulated by the Law on Corporate Income Tax, in the Republic of Latvia and the Russian Federation some of them are regulated by other laws.

Germany

All special circumstances that restrict the collection of a particular tax, waive such collection altogether or lead to tax privileges for certain activities must be determined by legislation. This also applies to corporation tax subsidies. The tax subsidies specific of corporation tax are laid down in the Corporation Tax Act. The domestic corporation tax privileges can be

classified in three types:

- Tax exemptions pursuant to Art. 5.1 Corporation Tax Act
- Allowances (tax-free amounts) pursuant to Arts. 24, 25 Corporation Tax Act
- Deductible expenditure pursuant to Arts. 9.1 item 2 and 22 Corporation Tax Act

Hungary

The income type tax of companies is the corporate tax, the rules of which are contained in Act LXXXI of 1996 on corporate tax and dividend tax¹ (hereinafter Corporate Tax Act). The corporate tax rate was 18% in 2002 and 2003, 16% from 2004, and since 2006 (based on certain conditions) it has been 10% on the amount of the positive tax base equal to or less than HUF 5 million (20,000 EUR), and 16% on the amount above that sum.

The Corporate Tax Act divides the tax subsidies into four categories:

- The investment tax subsidy can be used in case of investments worth at least HUF 3 billion (12 million EUR), or investments worth at least HUF 10 billion (40 million EUR) serving the manufacturing of products.
- Regional and other tax subsidies can be claimed under various legal titles. These include tax subsidies related to film production; the tax subsidy available to cooperatives and their legal successors; tax subsidy on research, experimental development and software development.
- Tax subsidies available to small and medium-sized companies (hereinafter SMEs) on the interest of loans taken for the procurement and production of tangible assets.
- Tax subsidies on development particularly foster investments related to job creation, environmental protection, wide-band internet access, research, and film production.

Upon authorisation by the Corporate Tax Act, the Government regulated in the form of a decree² the detailed rules of claiming tax subsidy on development, the rules and procedure of authorisation, as well as the detailed rules pertaining to compliance with the data supply obligation related to the tax subsidy.

Republic of Latvia

Law on Taxes and Fees determines the types of taxes and fees. A specific tax or fee is levied in accordance with a specific tax or fee law, and in the cases set out in Law on Taxes and Fees in accordance with Cabinet of Ministers regulations or binding regulations issued by local government city councils. Law on Corporate Income Tax determines taxpayers, object upon which tax is imposed, tax rates and taxation periods, calculation of taxable income, tax rebates and subsidies and tax payment procedures. There are some corporate income tax subsidies that are determined in other laws, e.g., Law on the application of taxes in Freeports and Special Economic Zones.

¹ The dividend tax was repealed on 1 January 2006 due to the amendment of the Corporate Tax Act.

² Government Decree 275/2003. (XII.24.) on development tax subsidies, and Government Decree 206/2006. (X. 16.) on development tax subsidy repealing the former as of 1 January 2007.

Russian Federation

The legislation of the Russian Federation on taxes and levies consists of the Tax Code of the Russian Federation and federal laws on taxes and levies adopted in compliance therewith. The legislations of constituent entities of the Russian Federation on taxes and levies consist of federal laws on taxes and dues adopted in compliance with the Tax Code of the Russian Federation.

The basis of tax regulation in the Russian Federation is the Tax Code of the Russian Federation which was put into effect on the 1st of January, 1999, and one of its chapters is titled “Corporate Income Tax”.

The taxation system of the Russian Federation established by the Tax Code of the Russian Federation currently consists of nine federal, three regional and two local taxes. Besides, the Code has established four special tax regimes that involve a special order of determining taxable elements and exemptions from certain federal, regional and local taxes.

The Tax Code of the Russian Federation gives the definition of the term “tax allowances”. Tax allowances are privileges granted to certain categories of tax and levy payers provided for by the taxes and levies legislation giving such tax and levy payers more rights than those of other tax and levy payers, including the possibility not to pay a tax or to pay reduced tax amount. It is also set that the standards of the legislation on taxes and levies that determine the basis, procedure and terms of tax allowances cannot be individual.

As a certain contradiction with the provision of the Tax Code of the Russian Federation that tax allowances can be granted only pursuant to the legislation on taxes and levies, such privileges are also introduced by certain non-taxation laws (laws on special economic zones).

Chapter “Corporate Income Tax” of the Tax Code of the Russian Federation does not contain any special article and standard regarding tax allowances. At the same time, provisions of the Code that regulate the tax base calculation and tax payment include norms that, while not distinguished as tax credit norms, are the same in essence, for they provide benefits for certain categories of taxpayers as compared to other taxpayers:

- article 283: carry-forwards (a taxpayer is entitled to carry the loss forward to the future within ten years following the taxation period when the loss was incurred);
- article 284: the rate of the tax to be credited to the budgets of constituent entities of the Russian Federation can be reduced for certain categories of taxpayers by 4 percentage points by laws of constituent entities of the Russian Federation;
- article 284: for special economic zones, laws can establish a reduced rate of the income tax (but not be lower than 13.5%);
- article 288.1: with certain conditions, special benefits are provided for residents of the Special Economic Zone in Kaliningrad Region

Special corporate income tax rates are established for agricultural producers, in relation to the sales of their agricultural production, on the following scale: 0 per cent for 2004 – 2007; 6% for 2008 – 2009; 12% for 2010 – 2011; and 18% for 2012 – 2014.

Chapter “Corporate Income Tax” of the Tax Code of the Russian Federation also contains

the norms, that reduce the tax burden both for all the payers of the tax and for certain categories of payers (e.g.: reduced tax rates are established for the tax paid on certain types of income, non-taxable gains, for certain categories of organizations, a special procedure is established to determine the tax base and to calculate the tax, accelerated depreciation of fixed assets).

Slovak Republic

According to the Slovak legislation, every tax must be based on the relevant law. Corporate income tax subsidies are regulated by the following two income tax acts:

- Income Tax Act No 366/1999 Coll.
- Income Tax Act No 595/2003 Coll.

1.1.2 Regulation concerning corporate tax subsidies for small and medium-sized enterprises

The regulation on tax subsidies granted for SMEs shows a great variation in the participating countries:

- in four countries (Germany, the Republic of Latvia, the Russian Federation, the Slovak Republic), there are no special corporate tax allowances for SMEs, (in the Slovak Republic corporate income tax subsidies are granted only for the purpose of regional development);
- in Hungary a special allowance is granted for SMEs in the Corporate Tax Act.

This means that in the majority of participating countries there is no corporate income tax subsidy which can be utilized solely by SMEs. However, in all participating countries, SMEs – according to general conditions – have the right to take advantage of corporate tax subsidies.

The definitions of SMEs are different in the participating countries.

In member states of the European Union, it is based on the recommendation of the Commission. As a result of a recommendation in 1996, the Commission established for the first time a common definition for SMEs. On 6 May 2003, the European Commission adopted a new definition for micro-enterprises, small and medium-sized enterprises (SMEs) to be effective from 1st of January 2005. This definition covers all Community policies in favour of SMEs within the European Economic Area and addresses the Member States, the European Investment Bank and the European Investment Fund. It will be adopted in a number of Community acts and programmes and, with respect to government aids, will be integrated into the SME Block Exemption Regulation and the regulation on aids for occupational training.

The Russian Federation applies different rules, where the category of medium sized enterprises exists only from the 1st of January 2008.

Table 3**SME thresholds³**

Category	No. of employees	Turnover total	Balance sheet total
Medium sized enterprises	Under 250	€50 million	€43 million
Small enterprises	Under 50	€10 million	€10 million
Micro enterprises#	Under 10	€2 million	€2 million

Germany

The legal prerequisites for granting the corporation tax subsidies listed in item 1.1.1 are not identical with the prerequisites laid down in the definition formulated by the European Commission of the term SME. There are no specific subsidies in connection with German corporation tax that would be contingent upon meeting the criteria of the European definition of SMEs. This also applies to the subsidy pursuant to Art. 24 Corporation Tax Act reviewed by the German SAI. However, this subsidy is designed to benefit mainly small bodies corporate and thus comes closest to the common theme of the EUROSAL audit.

Hungary

The conditions for the use of corporate tax subsidies by SMEs are regulated by the Corporate Tax Act. It is Act XXXIV of 2004 on small and medium-sized companies and the fostering of their development that stipulate what companies are considered SMEs. In accordance with this, in SMEs

- the total number of employees is less than 250, and
- the annual net sales revenue equals the Forint amount of maximum EUR 50 million, or the general ledger balance equals the Forint amount of maximum EUR 43 million.

According to the Act, companies in which the direct or indirect stakes of the state or local governments – based on capital or voting right – exceed 25% separately or jointly.

Republic of Latvia

Since 2004, there is no tax subsidy for small and medium-sized enterprises.

In the past, the tax subsidy for small enterprises was 20 per cent of the assessed corporate income tax. Since 2001, corporate income tax rate has decreased gradually from 25 to 15 per cent. Therefore tax subsidy for small enterprises has become not relevant.

³ The thresholds for the number of employees are strictly obligatory for the classification while, apart from this, it is sufficient to comply with either the turnover threshold or the balance-sheet total threshold. In other words, SMEs need not comply with both thresholds and where they exceed only one of the thresholds, they do not lose SME status (source: The new SME definition; user guide and model declaration, 2006; p. 13).

At present, other corporate income tax allowances exist. These are generally determined by the Law on the Corporate Income Tax, applied to small and medium-sized enterprises as well.

Russian Federation

After the chapter “Corporate Income Tax” of the Tax Code of the Russian Federation was put in effect on January 1, 2002, the said tax credit for small enterprises was cancelled. At the same time, a step-by-step cancellation of the tax credits previously granted to small enterprises was contemplated: it was established that tax allowances with the effective term not expired should be applied by small enterprises until the expiration of the period for which such tax allowances have been granted. From 2006, the said privilege ceased to have effect in connection with the expiration of the four-year period for which it had been granted.

The right to reduce the income tax rate by 4 percentage points for certain categories of taxpayers was applied in relation to small businesses in 2005-2006 in two constituent entities of the Russian Federation. However, small business enterprises can utilize other types of tax rate reductions in many constituent entities. But in connection with the fact that small businesses are not identified as such in tax reports, no information is accumulated regarding the amount of tax allowances in the form of tax rate reduction, that have been actually used by small business enterprises.

The Tax Code of the Russian Federation established 3 types of special tax regimes which can be applied by small businesses. These regimes are the followings:

- the single agricultural tax (exemption from the obligation to pay the corporate income tax, the corporate property tax, the single social tax, the value added tax);
- the simplified taxation system (exemption from the corporate income tax, property tax and single social tax);
- the taxation system in the form of a single tax on imputed income for specific scopes of activities (exemption from the duty to pay the individual income tax, tax on property used for their business activities that is subject to the single tax, the uniform social tax).

Slovak Republic

Apart from the corporate income tax acts the corporate income tax subsidies can be also regulated by the other legal regulations concerning state aid:

- Act on State Aid No 231/1999 Coll.,
- Investment Motives Act No 565/2001 Coll.

In the European Association Agreement, the Slovak Republic obliged itself to follow the procedure for the provision and control of state aid, as it is regulated by Articles 87 and 88 of the Treaty establishing the European Community.

The Act on State Aid in compliance with the relevant EU directives defines the fields and activities, for the development to which state aid can be granted, as well as the purposes, to which state aid can be granted, including the determination of limit.

1.1.3 Preliminary evaluations for the legal regulations

In all participating countries, preliminary evaluations are required in the course of the legislative procedure. This includes feasibility studies, the assessment of the expected financial, economic and social impacts of the proposed law or other type of regulation. However, in general, these requirements were not or were just partially fulfilled by the Ministries of Finance in the participating countries. The lack of thorough preliminary assessment of tax subsidies makes it difficult to evaluate the effectiveness of these subsidies later.

Germany

Pursuant to Art. 10.1 of the German Federal Budget Code, the Federal Government is obliged to enclose with each of its Bills a legislative impact report on the budget and the financial planning of the Federal Government, the states and local authorities (so-called financial table). On the basis of the report, the legislative bodies can take informed decisions about proposed legislation having a financial effect. This necessarily implies that they are fully aware of the impact on public budgets.

In a sub-legislative provision incorporated into the Joint Rules of Procedure of the Federal Ministries effective from 1 September 2000, the Federal Government specified the requirements of Art. 10.1 Federal Budget Code and committed itself to comprehensive regulatory impact assessment. This provision lays down some obligatory questions that need to be addressed when preparing and justifying Bills (proposed legislation). According to Art. 43.1 item 5 of the Joint Rules of Procedure, statements of legislative intent need to describe regulatory impact in line with the requirements of Art. 44 Joint Rules of Procedure. According to this, regulatory impact is to be understood as “the essential repercussions” of the proposed enactment. They include the intended effects and unintended side-effects. Concerning financial impact, the Bills need to show on what factors the calculations are based (Art. 44.1 sentence 1-3 Joint Rules of Procedure).

The objectives of proposed legislation are usually well-documented in the statements of legislative intent. However, the quality of the further criteria information including the likely regulatory impact differs and the descriptions are not always complete. Especially, there is a lack of transparent methods for identifying the intended and unintended effects of legislation. The Bills and accompanying statements of legislative intent usually do not show any clear system or methodology.

A sample audit carried out by the German SAI of 25 statements of legislative intent from the years 2001 and 2002 showed that the requirements of the Joint Rules of Procedure were not adequately met. In his capacity as Federal Performance Commissioner, the German SAI's President was motivated by the results of this audit to become involved in proposed legislation at an early stage to a longer extent. For this purpose, a service unit of the Federal Performance Commissioner was established in the German SAI's Presidential Division. Its function includes regulatory impact assessment.

On 15 January 2007, the Federal Ministry of Finance, in coordination with the Federal Ministry of

the Interior issued guidance on how to assess the impact of proposed legislation on the revenue and expenditure of public budgets. This is to improve the assessment of financial repercussions.

Hungary

In the audited time period, the Ministry of Finance did not have a comprehensive strategy supporting medium and long-term economic development and social objectives, which strategy would extend to the structure and rate of taxation, the scheduling of the tax rates, as well as the specification of the group and conditions of the tax subsidies⁴. The lack of tax strategy is indicated by the frequent modification of the tax legislation, which the SAI has already revealed during its former audits⁵.

The Ministry of Finance based the amendments of regulations by calculations focussing mainly on the impacts on the budget revenues, but did not conduct preliminary surveys on the whole scale of corporate tax subsidies regarding the draft legal regulations on tax subsidies. By this it violated the Act XI of 1987 on legislation, which stipulates that before developing a legal regulation, the expected impacts thereof must be assessed.

Republic of Latvia

Main statement on system of taxes and fees determines basic principles and requirements for evaluation of effectiveness of implementation of a new legal regulation on taxes. There must be evaluated costs of implementation of a new legal regulation and whether equal treatment of all kind of businesses and fair competition is secured.

Objectives of corporate income tax subsidies and measurable indices of objectives as well as unified monitoring and control measures over tax subsidies are not stated in laws and regulations.

One new corporate income tax subsidy was implemented during the audited period – for new production technology equipment.

When preparing statement of legislative intent of a new corporate income tax subsidy during the audited period MF hadn't analyzed benefits of implementation of a new corporate income tax subsidy for taxpayers, state budget and what impact it would have on other social and economic indices. Objective of corporate income tax subsidy and measurable indices of the objective were not mentioned in the statement of legislative intent. The MF had not calculated costs of implementation and administration of the tax subsidy. The evaluation of simultaneous amendments in the other regulation that determines form of corporate income tax declaration was not performed. As a result a new corporate income tax subsidy for new production technology equipment is not showed in any column of the form of corporate income tax declaration and there is no information whether taxpayers have applied this tax subsidy.

⁴ According to the Ministry of Finance, a tax strategy can only be developed in case the entire tax system is restructured, however this move was not on the agenda in the audited time period.

⁵ The detailed findings are contained in the SAI reports on the audit of the operation of the Hungarian Tax and Financial Control Administration (0616), and on the audit of the operation of the system developed for the collection of the corporate tax (0549).

Russian Federation

The Constitution of the Russian Federation stipulates that draft bills on the implementation or cancellation of taxes, on exemption from their payment, on national bonds issue, on changes to the national financial obligations, and other draft bills that provide for expenses covered from the federal budget, may be introduced to the State Duma only in case there is an opinion of the Government of the Russian Federation.

The Regulation of the Government of the Russian Federation No. 185 dated April 7, 2004 “The Terms of Reference of the Ministry of Finance of the Russian Federation” includes into the Ministry’s main functions the development and submission to the Government of the Russian Federation of draft federal laws, decrees of the President of the Russian Federation and the Government of the Russian Federation on tax matters, inspections of draft feasibility studies and draft Government opinions on the draft bills on the implementation or cancellation of taxes, exemption from their payment, and draft bills that provide costs to be covered from the Federal budget.

While reducing the budget revenue, tax allowances are not transparent enough at the same time, are not reflected in the budget approved, and therefore their performance audit is complicated.

Slovak Republic

There is the clause of financial, economical and environmental impacts, as well as impacts on employment and business environment as the part of each legal regulation proposal. In case of legal regulations related to the corporate income tax subsidies the following impacts are mainly evaluated:

- public finance
- state budget
- employment
- environment
- business environment.

1.1.4 Modification and abolishment of regulations

The regulations concerning corporate tax subsidies have been modified during the audited period several times in all participant countries, but these changes had only limited effect on the entire regulations. The reason of modifications was the EU harmonisation in 2 countries (Hungary and the Slovak Republic).

In the participating countries, no entire legal regulation was abolished; however, in 2 countries (the Republic of Latvia, the Russian Federation) some clauses of laws were repealed.

Germany

The German SAI looked into the development of the legislation about the corporation tax subsidies listed in item 1.1.1:

- The legal bases of the subsidies have been changed only slightly with respect to case type 1 under the tax exemptions pursuant to Art. 5.1 Corporation Tax Act. These changes addressed the establishment, mergers and splits in the field of financial institutions with special tasks, moreover an amendment with respect to the tax exemption of deposit insurance corporations of financial institutions.
- The corporation tax privileges in case type 3 have not been changed with respect to the deductible expenditure during the period under review.
- Concerning the further tax allowances pursuant to Art. 25 Corporation Tax Act, the tax-free amount has been reduced. However, the prerequisites for claiming the tax allowance pursuant to Art. 24 Corporation Tax Act have not been changed during the period under review.

None of the relevant provisions were abolished during the period under review.

Hungary

The amendment of the Corporate Tax Act in 2006 was explained by the directives for national regional subsidies issued by the EU Commission for the years 2007 through 2013. The objective of the amendment was to adjust the national requirements for the use of development tax subsidies to the community support requirements.

Before the amendment of the legal regulations, the Ministry of Finance assessed the possibilities of simplifying the corporate tax, as well as those of restricting or expanding tax subsidies. It analysed how often and to what extent the tax subsidies were used by the taxpayers. Consequently, it abolished the possibility of claiming tax subsidies with decreasing tax-basis under two legal titles.

The upper limit of tax subsidy granted for SMEs was raised from HUF 5 million (20,000 EUR) to HUF 6 million (24,000 EUR) in 2004.

In the audited time period no legal regulation on corporate tax subsidies was abolished.

Republic of Latvia

In 2005 there were two regulatory amendments connected with corporate income tax subsidies: 1) specification of 85% rebate for those donating to budget institutions and public benefit organizations and 2) implementation of a new corporate income tax subsidy for new production technology equipment. In 2006 there was one regulatory amendment connected with corporate income tax subsidies that defined some limits for application of 85% rebate for those donating to budget institutions and public benefit organizations.

From 1st of January, 2006 two corporate income tax rebates were abolished:

- 1) for companies employing convicted persons and
- 2) for investments made within the scope of supported investment projects.

Russian Federation

In 2003 to 2006 and in the passed period of 2007, changes in the chapters of the Tax Code of Russian Federation that regulate the application of special taxation regimes were made under federal laws dated November 11, 2003; July 29, 2004; June 18 and July 21, 2005; March 13, July 27 and December 30, 2006; and May 17, 2007.

Within the framework of the simplified taxation system:

- the maximum limit of corporate income that limits the right of the organization to migrate to a simplified taxation system (with an annual adjustment of the named maximum revenue amount to a deflator factor based on changes in consumer prices for goods, works, and services, was increased from 11 million roubles to 15 million roubles;
- the list of costs by which a taxpayer may reduce the income received when determining the taxation object has been extended considerably;
- the prohibition to change the taxation objects was cancelled. Previously taxpayers could choose only once whether they will pay a tax on income or on income less the amount of costs; the current revision of this norm allows to change the taxation object in three years after beginning to apply the simplified taxation system;
- the application of the simplified taxation system by individual businessmen was allowed, for those individuals who do not engage to their business activities salaried employees, based on the patent.

From January 1, 2006 there came into effect the changes in the taxation system in the form of a single tax on the imputed income. The application of the said taxation regime has been transferred from the legislative bodies of constituent entities of the Russian Federation to representative bodies of municipal districts, city areas, the cities of Moscow and Saint-Petersburg; and the list of the types of business activities was extended to which the named taxation regime can be applied.

The Federal Laws of March 13, 2006, and May 17, 2007 mentioned in 1.1.4. hereof recognized inefficient some clauses of the chapters of the Tax Code of the Russian Federation that regulated the payment of a uniform agricultural tax, uniform tax on the imputed income, and the application of a simplified taxation system.

Slovak Republic

Effective from January 1st, 2004, the Income Tax Act No. 595/2003 Coll. revoked the Income Tax Act No. 366/1999 Coll.

Provisions of § 52 section 3 and 4 of Income Tax Act No. 595/2003 Coll. allow the drawings of corporate income tax subsidies in compliance with the § 35, 35a, 35b and 35c of Income Tax Act No. 366/1999 Coll. even after the abolition of this act.

Provisions of § 52 section 3 and 4 of Income Tax Act No. 595/2003 Coll. meant also changes with the intention to harmonise tax subsidies granting with EU legislation as well as gradually tax subsidies termination granted according to the provisions § 35, 35a, 35b and 35c of Income Tax Act No. 366/1999 Coll.

Stated regulations were not abolished. But there is an intention to gradually cancel the tax subsidies granted according to the provisions § 35, 35a, 35b and 35c of Income Tax Act No. 366/1999 Coll.

1.2 Objectives of tax subsidies

1.2.1 Definition of the objectives in legal regulations

The practice of defining the objectives of the corporate income tax subsidies is different in the participating countries, so it is not possible to evaluate it generally. In two countries (Germany, the Slovak Republic), the audits found that the objectives were defined and well documented, in the Republic of Latvia and the Russian Federation the objectives of corporate income tax subsidies were not defined in the legal regulations. In Hungary, the objectives were defined indirectly through the requirements for utilizing the subsidies.

Germany

On the whole, the objectives of corporation tax subsidies have been well documented in the statements of legislative intent (cf. answer to item 1.1.3).

The objectives of the allowance pursuant to Art. 24 Corporation Tax Act also were defined during the legislative process and the objectives were specified as follows (parliamentary paper 7/1470):

- relief for certain smaller bodies corporate in order to avoid problems that may be caused by the proportional tax rate in the case of small incomes.
- simplification of administrative processes to reduce the workload of the fiscal administration, taking regard to the fact that the input of work will be disproportionate to the tax revenue likely to be generated in the case of small bodies corporate.

Hungary

The Corporate Tax Act specifies the objectives of the tax subsidies in general, in an indirect manner by specifying the requirements for the use of the tax subsidies. The conditions specified for the use of the investment and development tax subsidies serve the achievement of the following objectives: improvement of competitiveness by the implementation of investment projects, the enhancement of employment, especially in disadvantaged areas. Tax subsidies that can be claimed on R + D activities, as well as on the basis of the salary of software developers are also designed to improve competitiveness and innovation. The objective of the provision of tax subsidies to SMEs is to improve the quality of technical tools used for production.

Republic of Latvia

Objectives of corporate income tax subsidies that are determined by the Law on Corporate Income Tax are not defined in the legal regulations. Overall objectives of corporate income tax subsidies for those performing economic activities in special economic zones and free ports of the Republic of Latvia are defined in Law on the Application of Taxes in Freeports and Special Economic zones. Measurable indices of objectives of corporate income tax subsidies are not defined in any legal regulation.

Russian Federation

In the chapters and articles of the Tax Code of the Russian Federation that provide for the general provisions regarding the system of taxes and levies in the Russian Federation, there is a definition of the term “tax allowances”, but in the chapters of the Code dedicated to specific taxes, levies and special taxation regimes the purposes of tax credits are not determined.

The Tax Code of the Russian Federation does not determine the purposes of the privileges on the corporate income tax. The laws of constituent entities of the Russian Federation that reduce the tax rate to be credited to the budgets of constituent entities of the Russian Federation by 4 percentage points for certain categories of taxpayers specify and do not specify the purposes of the said preference at the same time.

Slovak Republic

Objectives of corporate income tax subsidies for regional development were defined in the Reason Reports to the relevant regulations (Reason Report is an obligatory part of a regulation draft in Slovak legislative process).

Objectives of corporate income tax subsidies for regional development were also defined in the Rules in Area of providing Regional Aid for Investors that were approved by the Government of the SR.

1.2.2 Monitoring of the objectives

In the participating countries – except for the Republic of Latvia – the objectives of the corporate income tax subsidies were defined clearly and measurably. The importance of well-defined and measurable objectives is that they are necessary for the evaluation of the effectiveness of tax subsidies. However, in generally, there is no sufficient monitoring of the achievement of these objectives in the participating countries. The Ministries of Finance of the participating countries with the exception of Germany have not built up any follow-up and assessment system for the tax subsidies. It makes difficult or impossible the evaluation of the impacts of these subsidies.

Germany

On the whole, the objectives of corporation tax subsidies have been described clearly and precisely in the statements of legislative intent (cf. also the answer to questions 1.1.3). There are still qualitative differences as to the measurability of the objectives. On the one hand, there is a partial lack of meaningful objectives that allow verification as to whether the regulation is suitable, necessary and adequate for accomplishing the objective pursued. On the other hand, there is also a lack of transparent methods for identifying and measuring the intended and unintended effects of legislation. In the majority of cases, the ministries do not follow a clear system or recognised methodology.

Hungary

In the Corporate Tax Act the determination of the conditions for the use of the tax subsidies also means the stipulation of the objective, and the formulation thereof is clear. The conditions contain quantified requirements for each type of tax subsidies (e.g. staff increment, minimum value of investments). This makes it possible to check the lawfulness of the use of tax subsidies.

The Ministry of Finance – additionally to the macro-level evaluations – does not evaluate the extent to which the enterprises using the tax subsidies contributed to the achievement of the set objectives. Nor did it develop the set of criteria for evaluation. It did not determine the indicators with which the different objectives (e.g. improvement of competitiveness, or the convergence of underdeveloped regions) could be measured. Nor did it determine under what values the legal institution of tax subsidies can and must be considered effective.

Republic of Latvia

Objectives of corporate income tax subsidies and measurable indices of objectives are not stated in laws and regulations. There is a risk that the perception of purpose and application of tax subsidy is impeded and as a result the effectiveness of tax subsidy decreases. In our audit we couldn't get assurance that MF evaluates it on a systematic basis whether each of corporate income tax subsidies reaches certain objective and whether these subsidies are useful and effective.

Russian Federation

According to the laws of Russian Federation that reduce, for certain categories of taxpayers, the rate of the income tax to be credited to the budgets of constituent entities of the Russian Federation, the purposes of granting this tax preference, as a rule, is to attract organizations to participation in investments in local economy and social sector. This purpose remains as the basic one even after changes to the said laws. Thus, amendments to the law of the Republic of Kalmykiya were made seven times, whereas the purpose of granting tax privileges – to encourage investments to the Republic's economy – has not changed.

Slovak Republic

The regional development encouragement was the main objective of the corporate income tax subsidies especially in the form of the sophisticated projects and projects with higher value added support as well as the support of the research and development centres construction. Abovementioned objectives can be considered as clear and measurable.

1.3 Possibility of replacing tax subsidies by direct financial assistance

The possibility of replacing corporate tax subsidies by direct financial aids was not evaluated in the participating countries by the financial governments except for Germany. The Ministries of Finance have not prepared any comprehensive evaluation on the target achievement of the legal provisions. Therefore, it is impossible to assess if alternatives exist for better legislation to achieve the same objectives.

However, it can be stated that direct financial aids have different impacts on taxpayers than tax subsidies. Replacing tax subsidies by direct financial assistance would have additional administrative costs as accompanying effects.

Germany

The Federal Government defines financial assistance as payments by the Federal Government to non-federal entities. If tax subsidies were to be replaced, this would amount to first assessing the tax payers on the basis of the generally applicable tax base and in accordance with the general corporation tax rate and that, subsequently, they would receive a money payment with the effect of exempting them partly or wholly from this tax.

The bulk of corporation tax privileges, about 80%, are partial or complete tax exemptions. Replacing the exemptions by direct financial assistance would cause additional administrative costs. These would be incurred for such activities as making new or extended tax assessments and for monitoring the implementation of direct financial assistance. Additional administrative costs would also be incurred by the relevant tax payers.

In the case of the allowance pursuant to Art. 24 Corporation Tax Act, replacing it by direct financial assistance would actually counteract one of the objectives of its original introduction, i.e. to avoid corporation tax assessment in cases where only minor amounts are involved.

Pursuant to Art. 44.6 of the Joint Rules of Procedure of the Federal Ministry, the statement of legislative intent must determine whether and when target achievement of the legal provision is to be evaluated. None of the tax-related statements of legislative intent included in a sample reviewed by the German SAI contained such determination. With one exception, the Federal Ministry of Finance so far has not monitored, in the form of any ex-post evaluation of target achievement of tax legislation that would have addressed either the merits of changed substantive law or its impact on tax revenue. A section within the Federal Ministry of Finance is responsible for regulatory impact assessment. At the same time, a similar unit exists in a superior federal authority subordinate to the Ministry. This unit also does work for the Federal Ministry of Finance.

The omission by the Federal Ministry of Finance of any evaluations or comparative calculations also applies to Art. 24 Corporation Tax Act. Simplifying administrative processes is one objective of that Article. If direct financial assistance had been granted, this would have increased administrative costs and thus would have counteracted one of the essential objectives of the tax subsidy.

Hungary

The Ministry of Finance did not prepare analyses to assess how the tax subsidies contributed to the achievement of the economic development policy objectives. Nor did it assess what budget revenue (contributions, taxes, etc.) may be yielded in the longer run from public funds (expenditure) left at the enterprises in the form of tax subsidies, or transferred to them in the form of direct financial aid.

Republic of Latvia

If MF proposes a new tax subsidy, it is evaluated whether it is possible to replace the subsidy with any other State support. Although the competence of MF is to form the policy of taxes and to initiate proposals for the changes of the Law on Taxes and Fees, however, MF executes also the tasks given by the Cabinet of Ministers in the sphere of policy of taxes that follows from legal regulations of other institutions. So, some proposals for amendments in the Law on Taxes are political decisions.

Some types of businesses have a possibility to get grants from the State budget, as well as tax subsidies. For example, in accordance with the State Agriculture Program in 2005 farmers were granted subsidies in the amount of 33 324 711 EUR, in 2006 – 53 840 986 EUR. And as a result of applying corporate income tax rebate for those who do agricultural activities the State budget didn't receive 745 720 EUR in 2005, and 691 418 EUR in 2006. Thereby some types of businesses get both direct and indirect support from the state budget.

The normative act⁶ defines that State support is also measures taken into tax field. When summarizing information about State support MF includes into the information only corporate income tax subsidy for enterprises operating in Special Economic Zones and Freeports. Thereby there isn't complete information about direct and indirect State support.

Because of the lack of complete accounting of the amount not collected by the state budget as a result of all corporate income tax subsidies and the lack of evaluation of the total State support, there is a risk that State co-financing as direct and indirect support is not completely calculated and evaluated as well as the necessity, usefulness and efficiency of the co-financing. Thereby the growth of the national economy is affected negatively.

Russian Federation

Replacement of the right to tax credits or to the application of any special taxation regime reducing the tax burden through direct help from the budget is not provided for by the laws of

⁶ Law on Control of Aid for Commercial Activity.

the Russian Federation on taxes and levies and by the budget laws of the Russian Federation.

The Ministry of Finance of the Russian Federation has prepared and submitted to the Government of the Russian Federation a report on the basic trends of the tax policy in 2008 – 2010. The report gives an analysis of the tax reform under way in the Russian Federation, the strategy of a reform implemented for certain taxes; it also suggests the directions of improving the tax system of the Russian Federation in the medium term.

Slovak Republic

The change from indirect corporate income tax subsidies to the direct financial assistance has not been assumed so far.

1.4 Restrictions for taking advantage of the subsidies

In all participating countries, the utilization of tax subsidies is restricted by legal regulations. Modifications have been occurred concerning these restrictions during the audited period in the following participant countries: Hungary (the upper limit of the tax subsidy for SMEs was raised from 20,000 EUR to 24,000 EUR), Germany (the only modification was the reduction of allowances of case-type 2 pursuant to Art. 25 Corporation Tax Act from €15.339 to €13.498) and the Slovak Republic (the requirement pay of the share of investment on the basic capital from the outland source was abolished).

Table 4 shows which types of restrictions exist for taking advantage of corporate tax subsidies in the participating countries.

In the participating countries – with some exceptions mentioned hereinafter – corporate tax subsidies can be claimed without certifying the conditions. The control of the compliance with these requirements is assured by the posterior controls of the tax authorities.

However, in Germany, for the deduction of donations pursuant to Art. 9.1 item 2 Corporation Tax Act, it is always necessary that the donee certifies the receipt of the donations.

In the Republic of Latvia, other institutions are involved in administration of corporate income tax subsidies, e.g. Freeports' and Special Economic Zones' Authorities, State Regional Development Agency. The audit of the SAI of the Republic of Latvia revealed that the exchange of information between Special Economic Zones, Freeport Authorities, State Revenue Service and MF doesn't comply with the deadline and procedure determined by the law and that no interagency contract has been concluded between the State Revenue Service and State Regional Development Agency about exchange of additional information regarding offences that are detected in control measures.

Table 4

Limitations for corporate income tax subsidies in the participating countries

	Germany	Hungary	Republic of Latvia	Russian Federation	Slovak Republic
Time limits	Only for one type (Art. 25 Corp. Tax Act) ⁷	Yes, for all subsidies	Yes, for example for tax subsidies for new technology	Yes, different time limitations for transition to special tax regimes	Yes, for entrepreneurs granting subsidies
Limits of amount	Yes, all types of corporate income tax privileges taken together may amount to a maximum of taxable income of 0.	Yes, for all types of tax subsidies	Yes, for example for subsidies to cover costs of passenger transport	No.	Yes, state aid may be extended up to 50% of justified costs of fixed assets
Limit of taking financial assistance over corporate tax subsidies	No information	Yes, in case of de minimis subsidies	No information	No	Yes
Other limitations	Yes, for deduction of donations (receipt)	Yes, for SMEs (loans taken from financial institutions used for the procurement or manufacturing of tangible assets)	Yes, depreciation of new production technology	Yes, for special taxation regimes	Yes, different types of other limitations

2 Amount of corporate tax subsidies and number of companies affected

2.1 Estimation of tax subsidies

The Ministries of Finance of all the participating countries estimate the amount of the tax subsidies within the central budget, the methodology of their estimation is at the same time different. The Ministry of Finance in the Republic of Latvia and the Slovak Republic estimates the number of taxpayers utilising tax subsidies additionally to the amount. The German Ministry of Finance prepares estimation on the amount of subsidies and the taxpayers utilising them; however it is not always based on up-to-date data, because the data from

⁷ However, no limitation of the legislative bases

official statistics may in individual cases be founded on evidence collected five or more years ago. The Ministry of Finance in Hungary and in the Russian Federation estimates the amount of tax subsidies for the proposal of the central budget.

Germany

In the annual draft federal budget, only the target amount of corporation tax revenue for the current and the subsequent fiscal year and the actual amount of such revenue during the previous fiscal year are stated. These amounts are net amounts, i.e. they have already been reduced by the losses of tax revenue ensuing from corporation tax subsidies. The corporation tax is a 'common tax' whose revenue is shared between the Federal Government and the states on a 50:50 basis. Hence, the Federal Budget's departmental plan states only 50% of the target net revenue and of the actual revenue.

The Federal Ministry of Finance relies on statistical data for estimating the volume of corporation tax subsidies. These are official statistics of the Federal Government and the states as well as other sources of information, such as reports of the Bundesbank (the German central bank), expert opinions and research in the Internet. One factor causing difficulty is the age of the data from the official statistics which may in individual cases be based on evidence collected five or more years ago.

When introducing the respective tax privilege, the Federal Ministry of Finance assessed the financial impact of the individual subsidies in money terms and, where appropriate, on the basis of estimates. One factor on which this impact assessment was based, was the estimated number of taxpayers that were likely to claim the tax subsidy.

Where the computerised assessment system does not attach a code number to the subsidy, and where the statistical office have only inadequate data – or none at all – no later estimate is made after the introduction of the tax subsidy. This currently applies to about 80% of all corporation tax subsidies.

Given the inadequate data base, the expected total amount claimed under the tax subsidies concerned is not estimated either. The Federal Ministry of Finance adjusts the estimates of the corporation tax subsidies for each subsequent Subsidy Report of the Federal Government, if the data available have revealed changes.

Hungary

The Ministry of Finance prepared preliminary estimates by titles of the expected amount of tax subsidies to be claimed in each year as part of the preparations of the proposal on the budget act, but these estimations did not cover the number of taxpayers that are expected to claim tax subsidies.

After processing the corporate tax returns (approximately in August following the tax year) the Tax Authority provides the Ministry of Finance with annual data on the amount of declared tax and that of the tax subsidy used, as well as about the number of taxpayers claiming tax subsidies. The Ministry of Finance uses such data only for planning the budget

revenue appropriation of the corporate tax with a base of data of previous year. However, the figures pertain to the year preceding the year of planning, therefore their applicability is rather limited. Regarding that the Ministry of Finance had not made preliminary estimates, it did not evaluate the correctness of the estimates ex post either.

In relation to the development tax subsidy, the Ministry of Finance possesses data based on the development programmes announced by the taxpayers on the implementation schedule of the development projects, as well as the scheduled use and amount of the tax subsidies. However, there are no documents justifying whether these figures have been utilised during the planning process, or not.

Republic of Latvia

When preparing annual budget proposal, the Ministry of Finance makes a forecast for the amount of corporate income tax on the basis of the Forecast model of tax revenue using standard rates and assumptions about possible changes of indices of macroeconomics. According to this forecast model MF doesn't plan and forecast the amount of non-received corporate income tax resulting from tax rebates.

Cabinet of Ministers has approved instruction on procedure of preparing the statement of legislative intent. The procedure involves assessment of regulatory impact on state and local government budget, economics, society, as well as evaluation of a problem that could be solved by implementation of a new regulation. When implementing a new corporate income tax subsidy the Ministry of Finance doesn't calculate the number of taxpayers who would apply particular corporate income tax subsidy as well as doesn't calculate the amount of corporate income tax subsidy, impact on budget is assessed roughly.

As it is determined by Law on Budget and Financial Management, MF once a year sums up information about the amounts of tax subsidies provided by State Revenue Service. This information is included in explanations of a State Budget Law, but the total number of taxpayers who have applied tax subsidies is not included in this information as well as information about all amounts not collected by the state budget as a result of corporate income tax subsidies.

Russian Federation

The Federal Tax Service system develops statistical tax returns regarding the payment of taxes to the budgetary system of the Russian Federation, the tax base for various taxes, inspection work of tax authorities and other indices related to taxation and tax authorities' activity. The report including the above data is formed in local tax agencies based on the tax returns of taxpayers. The consolidated report for the Russian Federation is developed by the Service based on the annual results.

Slovak Republic

The Ministry of Finance prepares – as part of the state budget proposal – the estimation of the corporate income tax revenue within it takes into account also the estimated number of

taxpayers that could use the corporate income tax subsidy and based on these facts also estimates the consequential amount of corporate income tax subsidy granted.

The real drawing of state aid in form of corporate income tax subsidies is also evaluated regularly when the annual report of state aid granted is being processed.

2.2 Tendency of tax subsidies

2.2.1 Number of taxpayers and taxpayers taking corporate tax subsidies

The ratio between the total number of taxpayers and the taxpayers utilised corporate tax subsidies can not be compared according to the data of the participating countries. This ratio can neither be analysed for SMEs, too. The reason is that data of SMEs and the total number of taxpayers utilising subsidies are available only in Hungary. There are no subsidies separated for SMEs in Germany, the Republic of Latvia, the Russian Federation and the Slovak Republic.

The data of all the participating countries are demonstrated in Table 5.

Germany

The Federal Ministry of Finance does not have consistent figures about the number of businesses that have claimed one of the 21 corporation tax subsidies and of the aggregate number of the employees. Since tax subsidy schemes in Germany do not distinguish between SMEs according to the European definition and other enterprises, the number of SMEs concerned and the aggregate number of their staff cannot be given.

No statement can be made as to the tendency in the number of enterprises that benefit from corporation tax subsidies, especially not with respect to SMEs. However, information can be furnished on the allowance pursuant to Art. 24 Corporation Tax Act. The German SAI reviewed the assessment years 2003 and 2004. It found that, on average, there were 45,000 cases during the period under review in which corporation tax payers could have become eligible for being awarded the tax subsidy under the computerised assessment procedure.

Hungary

In the audited time period the number of corporate taxpayers, and within it the number of SMEs was continuously rising. The growth was first of all attributed to the increasing number of SMEs. Nearly 99% of the taxpayers were SMEs.

Tax subsidies were accounted by nearly 2% of all corporate taxpayers (309,444 – 316,498). As much as 92 to 95% of this 2% were SMEs, while only 2.1 to 5.1% of the accounted tax subsidies were used by SMEs. In the audited time period, on average 2% of SMEs, too used tax subsidies (2.1% in 2004, 1.9% in 2005 and 1.5% in 2006).

While in the audited time period the number of taxpayers grew by 2.3%, and within that figure, the number of SMEs rose by 2.2%, the number of taxpayers claiming tax subsidies

Table 5**Number of taxpayers and taxpayers taking corporate tax subsidies**

Year		Country	Number of taxpayers	Number of taxpayers taking corporate tax subsidies	Ratio of taxpayers taking subsidies/ taxpayers
2004	Total	Germany	795682*	Unknown	
		Hungary	309.444	6.637	2,14%
		Latvia			
		Russian Federation	4.052.300	Unknown	
		Slovak Republic**	128.497	33	0,03%
	SMEs from total	Germany	Unknown	Unknown	
		Hungary	305.599	6.333	2,07%
		Latvia			
		Russian Federation	953.100	Unknown	
		Slovak Republic**			
2005	Total	Germany	795682*	Unknown	
		Hungary	314.565	6.163	1,96%
		Latvia	58.075	2.247	3,87%
		Russian Federation	4.461.300	Unknown	
		Slovak Republic**	142.169	37	0,03%
	SMEs from total	Germany	Unknown	Unknown	
		Hungary	310.587	5.839	1,88%
		Latvia			
		Russian Federation	979.300	Unknown	
		Slovak Republic**			
2006	Total	Germany	795682*	Unknown	
		Hungary	316.498	5.201	1,64%
		Latvia	64.256	2.406	3,74%
		Russian Federation	4.599.400	Unknown	
		Slovak Republic**	155.969	39	0,03%
	SMEs from total	Germany	Unknown	Unknown	
		Hungary	312.374	818	0,26%
		Latvia			
		Russian Federation	1.032.800	Unknown	
		Slovak Republic**			

* DESTATIS publishes such statistics on corporation tax every three years. The most recent statistics of this kind available on corporation tax are those relating to 2001 which were published in 2005. According to these statistics, Germany had 789 971 entities with unrestricted corporation tax liability and 5 711 entities with restricted tax liability.

** In the Slovak Republic corporate income tax subsidies are granted only for the purpose of regional development

gradually decreased. The number of taxpayers using tax subsidies fell by 22%, and within that figure, the number of SMEs dropped by 24%.

The Tax Authority does not have records about the number of employees at companies claiming tax subsidies. The reason of this fact is that the Ministry of Finance did not specify a requirement for the supply of such data, and since the Tax Authority does not check the number of employees given by the taxpayers on their tax returns, it does not consider these data reliable.

Republic of Latvia

The total number of companies who applied corporate income tax rebates was 2245 in 2005 and 2402 in 2006. The total number of companies who applied corporate income rebates was 157 companies in 2006 or by 7% more than in year 2005.

Russian Federation

The statistical tax reports do not contain any data regarding the number of organizations that applied the corporate income tax credits, and the number of their employees. The Ministry of Finance has not provided any information regarding these matters.

Slovak Republic

The number of companies that benefited from corporate income tax subsidies increased from 33 in 2004 to 39 in 2006. The rate of the taxpayers utilised tax subsidies was only 0.025% of the total number of tax payers.

2.2.2 Amount of tax subsidies

The average amount of the tax subsidies for taxpayers – because of the reasons mentioned in the section 6.2.1 – can not be compared according to the data of the participating countries. This ratio can neither be analysed for SMEs, too.

The data of all the participating countries are demonstrated in Table 6.

The rate of the corporate tax revenues within the total tax revenues of the central budgets of the participating countries is very different. The rate of the corporate tax revenues is the lowest in Germany (3.10-4.91%), meanwhile it surpasses the 20% in the Russian Federation and in the Slovak Republic. The rate of the corporate tax subsidies compared to the total tax revenues of the central budget does not reach 1% in the Republic of Latvia and the Russian Federation, meanwhile it surpassed the 2% in Hungary in 2005 and 2006. The rate of the corporate tax subsidies compared to the corporate tax revenues is the lowest in the Russian Federation (2.75-3.79%), meanwhile it was the highest in 2004 in the Slovak Republic (20.23%) and in 2005 and 2006 in Hungary (28.26% and 24.09%). These rates can not be calculated only for SMEs because of the reasons mentioned in the section 6.2.1.

Germany

Only with respect to 5 of the 21 case types of corporation tax subsidies provided for in the legislation according to the Federal Government's 20th Subsidy Report was it possible to quantify the resulting reduction of corporation tax revenue. In these five case types alone, the related losses of tax revenue amounted to about € 200 million each in financial years 2003 and 2004. Concerning the other 16 case types, the Subsidy Report notes that calculating the amount of tax revenue loss had been impossible due to insufficient data and / or special difficulties in estimating the amounts. This applies especially to tax exemptions which account

for about 80% of all case types in which bodies corporate become eligible for a subsidy.

It is currently not possible to make representative statements about the losses of tax revenue because of the inadequacy of the available data.

Table 6

Tax subsidies utilised

Year		Country	Number of taxpayers taking corporate tax subsidies	Amount of corporate tax subsidies (Million EUR)	Corporate tax subsidies / taxpayers taking subsidies (Million EUR)
2004	Total	Germany	Unknown	Unknown	
		Hungary	6.637	201,6	0,030
		Latvia			
		Russian Federation	Unknown	878,4	
		Slovak Republic	33	161,0	4,879
	SMEs from total	Germany	Unknown	Unknown	
		Hungary	6.333	10,3	0,002
		Latvia			
		Russian Federation	Unknown	37,4	
		Slovak Republic			
2005	Total	Germany	Unknown	Unknown	
		Hungary	6.163	485,9	0,079
		Latvia	2.247	25,0	0,011
		Russian Federation	Unknown	1.016,3	
		Slovak Republic	37	159,7	4,316
	SMEs from total	Germany	Unknown	Unknown	
		Hungary	5.839	9,7	0,002
		Latvia			
		Russian Federation	Unknown	5,6	
		Slovak Republic			
2006	Total	Germany	Unknown	Unknown	
		Hungary	5.201	451,5	0,087
		Latvia	2.406	33,0	0,014
		Russian Federation	Unknown	1.680,4	
		Slovak Republic	39	75,5	1,936
	SMEs from total	Germany	Unknown	Unknown	
		Hungary	818	9,7	0,012
		Latvia			
		Russian Federation	Unknown		
		Slovak Republic			

Remark: in the Slovak Republic corporate income tax subsidies are granted only for the purpose of regional development

Hungary

The amount of the total tax subsidies grew by nearly two and a half times from 2004 to 2005. This is due to the fact that after the EU accession, accounted investment tax subsidies grew by nearly two and a half times, while accounted development tax subsidies increased by almost 40 times. The amount of tax subsidies in the table above are summary data obtained from the corporate tax returns (data calculated by the taxpayers). The Tax Authority does not

have summary records as per the amount of corporate tax paid by SMEs. Therefore, either the ratio of the amount of corporate tax paid by SMEs and the amount of the total corporate tax paid, or the ratio of corporate tax paid by and tax subsidies used by SMEs cannot be calculated.

Tax subsidies used by SMEs remained nearly constant in the audited time period both in terms of amount and relative to the revenues of the central budget and corporate tax revenues. Within total amount of tax subsidies used, the ratio of tax subsidies accounted by SMEs dropped to less than half from 2004 to 2005, and remained almost at the same level in 2006. The reason behind the change in ratio is that the amount of total tax subsidies used grew by 2.5 times.

Table 7

Ratio of central budget and tax subsidies

		1	2	3	4	5	6
		Total amount of tax revenues (Million EUR)	Total amount of budget revenue of corporate tax (Million EUR)	Ratio 2/1	Total corp. tax subsidies (Million EUR)	Rate of 4/1	Rate of 4/2
2004	Germany	423.200	13.100	3,10%	Unknown		
	Hungary	15.870	1.796	11,32%	202	1,27%	11,25%
	Latvia						
	Russian Federation	108.997	23.164	21,25%	878	0,81%	3,79%
	Slovak Republic	4.876	796	16,32%	161	3,30%	20,23%
2005	Germany	430.300	16.300	3,79%	Unknown		
	Hungary	16.754	1.720	10,27%	486	2,90%	28,26%
	Latvia	3.622	257	7,10%	25	0,69%	9,73%
	Russian Federation	149.132	37.012	24,82%	1.016	0,68%	2,75%
	Slovak Republic	5.234	1.106	21,13%	160	3,06%	14,47%
2006	Germany	466.300	22.900	4,91%	Unknown		
	Hungary	17.533	1.876	10,70%	452	2,58%	24,09%
	Latvia	4.694	361	7,69%	33	0,70%	9,14%
	Russian Federation	183.947	48.401	26,31%	1.680	0,91%	3,47%
	Slovak Republic	5.790	1.290	22,28%	76	1,31%	5,89%

Republic of Latvia

Ministry of Finance doesn't measure the total amount of all types of tax subsidies. Therefore it is not possible to identify the total amount of tax revenue lost by State budget through corporate income tax subsidies.

Russian Federation

In 2003, due to the application by enterprises and organizations of corporate income tax credits, 89.0 billion roubles were underpaid to the budgetary system of the Russian Federation, which made 16.9% of the tax amount credited to the budgets.

In 2004 the amount of tax credits decreased to 32.9 billion roubles (3.8% of the tax amount) due to the fact that starting from January 1, 2004, there have been no additional tax credits related to certain categories of taxpayers that implement investment projects in accordance with the agreements on investment activities.

In 2005 the amount of corporate income tax credits made 36.6 billion roubles (2.7% of the tax amount). The year 2005 saw the expiration of the term of tax credits in the form of reductions in the tax rate for small enterprises.

In 2006 the volume of corporate income tax credits made 58.0 billion roubles (3.5% of the tax amount). Distinguishing the sum relating to small enterprises from the total amount of privileges is not provided by the statistic tax report that contains data on tax credits.

Slovak Republic

The total amount of the corporate income tax subsidies remained almost at the same level in 2005 and in 2004, but it decreased by 53% in 2006 compared to 2005. The amount of corporate tax subsidies was the same as the amount of tax subsidies for regional development, because this type of subsidy is the only granted for the regional development purpose.

2.3 Evaluation of the tendency of tax subsidies

The Ministries of Finance of the participating countries follow up the tendency of the corporate tax subsidies. The data on subsidies are utilised to base the central budget proposal, and they are analysed first of all in the Republic of Latvia and the Russian Federation. The reason of the difference between the planned and the utilised tax subsidies are regularly evaluated only in Hungary and the Slovak Republic. In Germany the discrepancies between the forecast and the actual corporate tax revenue are primarily checked when preparing the Federal Government's periodical Subsidy Report. The tendency of corporate tax subsidies – except the Slovak Republic – is not evaluated by the Ministries of Finance of the participating countries; this is particularly true for the evaluation of the taxpayers utilising tax subsidies.

Germany

After budget execution, the Federal Ministry of Finance compares the target revenue and the actual revenue generated by corporation tax for the financial year concerned. Actual revenue is equivalent to net revenue, i.e. the revenue resulting after deduction of the losses of tax revenues caused by subsidies. The losses of tax revenue caused by subsidies are not stated separately. When preparing the Federal Government's periodical Subsidy Report, the

Federal Ministry of Finance checks the discrepancies between the forecast and the actual revenue on the basis of data generated by the German Statistical Office.

Hungary

The Ministry of Finance requires data from the Tax Authority on a regular basis – weekly or monthly depending on the nature of the statements – on the achievement of the budget revenue appropriations, including that of corporate tax revenues. In case the prorated achievement is different from the plans, it examines the underlying causes. The Tax Authority provides annual data to the Ministry of Finance on the use of tax subsidies.

As to the number of taxpayers utilised tax subsidies, the Ministry of Finance neither inspected, nor evaluated the reasons behind the change in a documented manner despite the fact that this was justified by the decreasing number of enterprises using tax subsidies.

Republic of Latvia

The Ministry of Finance once a year summarizes information about the amounts of tax subsidies (rebates), inter alia about the amounts of corporate income tax subsidies. It – by 1 November of the financial year following the reporting year – submits information regarding the amount of non-received taxes, which have occurred as a result of the application of tax rebates specified by law disclosing to the taxpayers tendencies of this information. The Ministry doesn't evaluate information about the number of companies that have applied corporate income tax subsidies.

Russian Federation

The Budget Code of the Russian Federation stipulates that the draft federal law on the federal budget for the next fiscal year and planning period shall be introduced simultaneously with a set of documents and materials including the main budget and tax policies, the estimation of the main parameters of the budgetary system of the Russian Federation, an explanatory note to the draft federal law on the federal budget, and calculations for the income classification items of the federal budget. Planning for the fiscal revenues is based on the economic essence of taxes, its dependency on the forecasted macroeconomic indices, volumes of production and product sales, export and import of goods, other areas of activities, and the accepted methods of calculating the aggregate values of the tax base for the main taxes and levies.

The calculation of the budget revenues from the corporate income tax is carried out based on the income forecast of the income reported by taxpayers for the taxation purposes, the amounts excluded from the income in accordance with the laws and other indices forecasted basing on the data of statistical tax reports of the Federal Tax Service for the preceding fiscal year.

Slovak Republic

The Ministry of Finance evaluates and follows up the tendency in corporate income tax revenue including taking into account the number of taxpayers that used the corporate income tax subsidy. In the frame of it the Ministry regularly evaluates the differences between estimations and actual figures. Concretely, these differences are evaluated within the proposal of the Slovak Republic State Budget Proposal, mainly as far as the influences of economic development and relevant legislative changes concerns.

While the annual report of state aid granted in the form of corporate income tax subsidies is being processed, the tax offices refer to the Tax Directorate of the Slovak Republic submit the detail information about the amount of corporate income tax subsidy related to the particular recipients. Tax offices provide the information about the amount of corporate income tax subsidy used in corporate income tax return. They also provide the information about possible changes.

The Ministry of Finance elaborates the final annual report of state aid granted based on the records submitted by the Tax Directorate.

3 Data-basis, costs of tax administration concerning corporate tax subsidies

3.1 Data-basis used in the participating countries

In all the participating countries, the tax authorities developed and apply IT systems to process corporate tax returns' data and to assist tax controls by the common procedure in all local tax authorities. The systems cover all the phases of the control procedure – including the cross-controls of data in the tax returns – and the stored data are reliable. The access rights and the storing of records about changes made in systems are also regulated.

Some kinds of deficiencies had been revealed in three countries in connection with the application of IT systems, however these problems were solved. In some cases the system was not updated in time (the Republic of Latvia). All phases of the control procedure were not cover by IT systems, i.e. some kind of labour or time consuming routine work was performed manually by the tax officers (Russian Federation, Hungary). Data generated during the processing of other tax types (VAT, contributions) are stored in separate database instead of a single integrated one. Data available in these databases are not used on a systemic manner as control data for the tax control (Hungary).

Germany

Corporation tax is always assessed by means of a computerised procedure. All corporation tax subsidies are taken into account in the relevant procedure. The software is identical throughout Germany. This makes sure that corporation tax is consistently assessed in all 16 German states and the principle of equitable taxation is complied with. However, there are differences among the German states as to the platforms on which the assessment programme runs.

The German SAI has not become aware of any problems with the databases and computer programmes used for the assessment of corporation tax.

The IT procedure used for assessing corporation tax furnishes relevant reliable data for surveys. In this field, the data needed are coded and can be retrieved from the fiscal computer centres of the German states. However, linking the data thus generated with information from other sources than corporation tax assessment is technically impossible in some states. This applies especially to the data from wage-tax returns. In this field, some German states collect the data from wage-tax assessments in a separate assessment memory. The bases of the assessments (e.g. the amount of wages etc.) are then not stored permanently. Furthermore, fiscal audit services used the computerised systems for selecting audit relevant tax cases.

Hungary

The IT support provided for the specific tasks of the Tax Authority meets the needs of the respective fields in whole level, consequently the all phases of control procedure are supported by IT systems. During its former audits the SAI examined the field of IT applications and revealed deficiencies in cooperation between the IT applications, and the quality of the services supporting day-to-day task performance. Furthermore it revealed that on one hand the IT system did not cover all stages of processing, while on the other, certain stages enjoyed IT support, yet certain partial tasks were performed manually. The deficiencies revealed by the SAI were eliminated by the Tax Authority through the further development of its IT systems after the SAI audits.

In order to simplify the submission and processing of the tax returns, improve the quality thereof and reduce the costs, the Tax Authority continuously developed the possibility of submitting the tax returns electronically on one hand, and assisted taxpayers in completing their tax returns with a form completion program on the other. From 1st January 2007 all taxpayers must submit the corporate tax returns electronically.

Republic of Latvia

There is specific Information system of taxes developed for tax administration. It provides information about taxpayers, tax payments as well as various analysis tools to control the accuracy of tax (fee) assessment and payments, as well as reliable data for evaluation of requests for tax returns. A data analysis tool applied in the system provides data credibility evaluation of annual corporate income tax reports submitted by taxpayers. This tool uses information from a range of data-basis stored in the Information system of taxes (registration information of taxpayer, submitted reports of taxpayer etc.) as well as in other official state data basis and sources of information.

There haven't arisen substantial problems in connection with this system, however in some cases it was not updated in time. This problem didn't affect the basic functions of tax administration.

Russian Federation

The Federal Tax Service system have developed and keeps the software-maintained Uniform State Register of Legal Entities, Uniform State Register of Taxpayers, Uniform State Register of Individual Entrepreneurs, "Tax" automated information systems for accepting tax returns, receiving and transmitting statistic tax reports, etc. The Federal Tax Service has adopted the Format of Electronic Transmission of the data of tax returns, accounting reports and other documents that serve for the calculation and payment of taxes and levies.

Previously, the operation of the tax administration system was complicated by a great amount of labour consuming manual routine work performed by officers of tax authorities of all levels. These problems were consistently solved in the course of the implementation of development programs of tax authorities of the Russian Federation and plans of their information support. In the conditions of the changing legislation on taxes and levies, the increasing volume of the information to be processed in the tax authorities of the Russian Federation, a stable functioning of automated information systems and electronic interaction between tax authorities and federal treasury bodies is ensured; the work to prepare and train the officers of tax authorities for working with modern information and telecommunication technologies and data protection technologies is underway.

Slovak Republic

The Slovak Tax Authority developed and applies a uniformed IT system, which meets with the requirements of processing data of corporate tax returns and conducting controls. IT system provides reliable data for evaluation. The SAI did not reveal any problems in connection with computerised processing of the tax administration data-basis.

3.2 Risk factors implied in IT systems

In all the participating countries the IT systems of the tax authorities include risk management modules to assist controls. The number and scope of the risk factors built into these modules, as well as the quality of their applications are different because of the specialities of the countries. However, each tax authority qualifies the taxpayers based on the data of the tax returns and other fiscal information, as willingness to fulfil payments. In Germany, Hungary and in the Russian Federation the inherency of data in tax returns is taken into consideration, as well.

Germany

Where corporation tax subsidies are recorded in the computerised assessment procedure by coding one or several key figures there are validity checks. In some German states, desk work includes the collection of data on the basis of a 'personal fiscal risk flag'. Cases that seem to merit an audit are selected on the basis of an additional criterion, i.e. a taxpayer's fiscal antecedents. If, in the estimate of the responsible processing officer, a taxpayer was reliable in the past, that case is less 'audit-worthy' than the case of a taxpayer who was unreliable in tax matters in the past. In the computerised process, such a case is 'flagged'.

As mentioned above, the field audit units of the fiscal administration use the tax assessment programmes for selecting audit-relevant cases also for purposes of corporation tax. Queries for certain case constellations are made via the fiscal computer centres of the states.

Hungary

In line with its audit strategy, and taking into account the obligations prescribed by law, as well as the audit experience of the former years – Tax Authority laid down the annual audit priorities in directives. These directives include the selection of those companies for audit that claim tax subsidies or financial aids, loss-making companies, as well as companies in which the accounted costs represent a high portion of the sales revenues.

The IT system makes it possible for the Tax Authority to determine the audit risks as selection parameters. The system considers the most important risk factors – such as public debts, large amounts requested as tax refund, objectionable taxpayer behaviour – as mandatory selection criteria.

Republic of Latvia

State Revenue Service uses specific audit risk assessment IT programme for selecting audit-relevant cases also for purposes of audits on corporate income tax. This programme uses Information system of taxes as data source for risk assessment. Application of corporate income tax subsidy is just one of many audit risk criterions; therefore it is not priority case to check taxpayers who apply corporate income tax subsidies.

Russian Federation

The tax authorities create indices which serve as the basis for cameral tax inspections and a component of information on taxpayers when selecting taxpayers for field tax inspections. These indices allow revealing the following risk criteria to determine the necessary measures of tax control over the corporate income tax:

- the tax burden of a given taxpayer is below its average level for an economic entity in a specific industry (scope of economic activities);
- losses are reflected in tax statements for several taxation periods;
- an outrunning expenses growth rate as compared to the revenues growth rate from the sales of goods (works, services);
- a significant deviation of the profitability level from the profitability level for the said scope of activities.

Slovak Republic

The IT system evaluates the amount of tax in the corporate income tax return and amount of granted corporate income tax subsidies related to the taxpayers that utilised corporate income tax subsidies.

3.3 Cost of administration

The administrative costs of collecting the different types of taxes – including tax subsidies – are separated neither in the Ministry of Finance nor in tax authorities of each participating countries.

4 Effectiveness, efficiency

4.1 Evaluation of the objectives of tax subsidies

There are regulations in all the participating countries to determine that the impacts of tax subsidies and the achievement of the objectives have to be evaluated. However, in the period covered by the audit mission, neither the Ministries of Finance nor the tax authorities of the countries – except in the Slovak Republic – carried out any analysis or evaluation whether the targets of corporate tax subsidies had been achieved. As to the Russian Federation – based on their regulations – these evaluations have to be prepared in the level of states. In Germany, this task is incumbent on the Federal Ministry of Finance.

The institutions (except for those in Germany) acknowledged that the achievements and effects of objectives can be evaluated only at taxpayer's level. None of the countries with the exception of Germany developed a methodology for evaluating target achievement. It is only the Slovak Republic where the drawing of corporate tax subsidies is regularly monitored.

The German Federal Ministry of Finance has not carried out any program evaluations of the corporate tax subsidies covered by the audit mission. Against the background of the findings made in the course of field work, the German SAI examined this area as an example of Art. 24 of the German Corporation Tax Act. In its audit report the SAI stated the one target has been fully achieved, the other was not reached.

Germany

In 1997, the German Legislature changed the legal regulations for monitoring. Since then, legislative provisions are in place that call for efficiency appraisals with respect to all measures having a financial effect. The aim of this change in legislation is to determine the objectives of any measures before their implementation.

The above examination conducted by the German SAI on the tax exempt amount provided for by Art. 24 of the Corporation Tax Act generated the following findings.

Objectives of the regulation laid down in Art. 24 Corporation Tax Act were in one hand the arrangement for mitigating the tax burden of smaller bodies corporate in order to avoid difficulties that may otherwise arise in cases of low income due to the proportional corporation tax rate and on the other hand simplification of administrative processes to reduce the workload of the fiscal administration since, in the case of small bodies corporate, the input of administrative work is disproportionate to the tax revenue to be expected. The first target has been fully achieved, the other was not reached.

Hungary

The Ministry of Finance does not measure the effectiveness of the use of the corporate tax subsidies. It does not show whether the use of tax subsidies resulted a higher rate of employment, or how many investment or development projects were realised in underdeveloped regions. This practice contradicts § 44 of Act XI of 1987 on legislation, which stipulates that after the introduction of a rule of law, the legislator and the entity applying the law must follow the impacts of the application of such legal regulations, they must reveal the conditions that obstruct enforcement, and the experiences must also be utilised in the legislative process. The SAI revealed this deficiency in an earlier audit, and made a relevant recommendation. However, the Ministry of Finance has failed to take any measure since then.

Republic of Latvia

Cabinet of Ministers has approved order on Main statement on system of taxes and fees that contains basic principles of forming system of tax subsidies as well. This main statement determines basic principles and requirements for evaluation of effectiveness of implementation of a new legal regulation on taxes. There must be evaluated costs of implementation of a new legal regulation and whether equal treatment of all kind of businesses and fair competition is secured.

Objectives of corporate income tax subsidies and measurable indices of objectives as well as unified monitoring and control measures over tax subsidies are not stated in laws and regulations. As a result there is no point of reference for evaluation of effectiveness of corporate income tax subsidies.

During the audited period MF had not carried out analysis or evaluation of corporate income tax subsidies.

Russian Federation

The legality of the application and the efficiency of a tax credit in the form of reduction, according to the laws of constituent entities of the Russian Federation, of the corporate income tax rate to be credited to the budgets of constituent entities of the Russian Federation for certain categories of taxpayers, must be controlled and assessed by the authorities of the constituent entities of the Russian Federation, that have granted the tax credit and determined its purposes (investments to the region's economy and social sector, investments in enterprises' production development). There is no uniform methodology for determining the efficiency of these tax credits.

The statistical tax report of the Federal Tax Service on the tax base and the structure of corporate income tax accruals that contains data regarding the underpaid amounts of the corporate income tax to the budget due to the application of corporate income tax credits, does not provide possibilities for assessing the efficiency of these credits. The Ministry of Finance has not provided any information on these issues.

Slovak Republic

Effectiveness and efficiency of the utilisation of corporate income tax subsidies is evaluated indirectly through the effect of granted corporate income tax subsidies on the amount of corporate income tax within the proposal of the Slovak Republic Final State Account and the Slovak Republic State Budget Proposal. Currently a complex methodical instruction to monitor and evaluate the corporate income tax subsidies effects is being prepared.

4.2 Effectiveness of subsidies

In the period covered by the audit mission, neither the Ministries of Finance nor tax authorities of the participating countries – except in the Slovak Republic – prepared evaluations on whether the targets of corporate tax subsidies had been achieved. Therefore these institutions are not in the position to evaluate how this tool of economic development is effective.

Germany

The Federal Ministry of Finance has not carried out any programme results evaluations in the field under review. Generally, the organisation and procedures related to effectiveness evaluations and the implementation of their results differs between government departments. There are no special regulations applying to all departments. The measurability of the objectives must be studied for each individual case. The same applies to the effects. Given the lack of evaluations in the field of tax regulation within the remit of the Federal Ministry of Finance, no general statements can be made as to the methodology for evaluating target achievement.

Hungary

The Ministry of Finance neither measures, nor evaluates the achievement of the objectives of the tax subsidies. The scale of the realisation of all the objectives of tax subsidies could be measured, however such data registration – except the field of employment – is not prepared. Data on employment are provided both by the Hungarian Central Statistical Office (HCSO) and Tax Authority. Employment grew between 2004 and 2006 according to both sources (by 0.81% and 0.53%, respectively). The usability of the data to measure the impact of growth is limited from several aspects, and it cannot be shown what percentage of the increment can be attributed to the use of tax subsidies.

Slovak Republic

The drawing of corporate income tax subsidies is regularly monitored. Objectives and effects of the corporate income tax subsidies are only able to be definitively evaluated with a concrete taxpayer after the subsidy is ended through the amount of investments, growth of employment or the amount of tax liability. The results of audits executed until know results that suggest the subsidy's objectives were achieved.

4.3 Efficiency of tax subsidies

The efficiency of tax subsidies can not be estimated in the participating countries, the reason of which is that the administrative costs are not and can not be separated into tax subsidies level. Such data are not available either in the Ministries of Finance or in tax authorities of the countries.

Germany

No statement can be made in this respect since figures on the administrative costs attributable to corporation tax subsidies are not available.

Hungary

No data are available about the resources used for the administration related to the tax subsidies, since this administration is performed by the Ministry of Finance and Tax Authority as part of their taxation related tasks. These organisations do not record the administrative costs of tax subsidies separately. Therefore, it cannot be presented how efficiently tax subsidies contribute to the achievement of economic development objectives at macroeconomic level.

Russian Federation

The costs related to administrating specific costs and preferential taxation are not distinguished in the accounting data and reports.

Slovak Republic

The Tax Directorate of SR does not monitor the administrative costs of corporate income tax subsidies.

5 Control mechanisms of tax authorities

5.1 Features of the controls

The regulations do not prescribe compulsory controls for the tax authorities in the participating countries, except Hungary and Germany. Tax inspections on the spot carried out by the German fiscal administration provide for continuous and full coverage of large enterprises and companies. Other enterprises are covered at specific regular intervals that may vary across the German federal states. Apart from this, in Germany, automated control systems are provided for as part of the tax filing and assessment procedure. In the Republic of Latvia and in the Russian Federation applicable regulations determine the data on which a field audit must be focused. The Hungarian regulation determines the scope and ratio of the taxpayers to be involved into compulsory controls: an average 2% of taxpayers submitting corporate tax returns should be audited, and at the same time, within this ratio 3,000

taxpayers having the greatest tax performance it had to be controlled every two years until 2006, and every three years from 2006 on.

The tax authorities' controls on corporate tax in each participating countries include the audit of corporate tax subsidies, as well. However, the types and method of the control mechanisms are different:

Germany

Bodies corporate are classified into four categories for purposes of the computerised tax assessment procedure according to the different articles of the Tax Act. These categories are differed by using category codes (30-33). The tax offices deliver a computerised plausibility check whether the tax exemption is to be granted to a body corporate e.g. according to the Act or in case of tax allowance (pursuant to Articles 5., 24. and 25. Corporation Tax Act) the legal requirements for granting it are met as well as the legal maximum of 3,385 EUR is not exceeded.

The decision about granting the substantive and personal tax exemptions, the deduction of patronage dividends as operating expenditure and the deduction of donations are always taken by the staff members in charge of processing the corporation tax cases. Depending on the arrangements determining the authority to sign or depending on the importance of a tax case, several persons are involved in the decision, in some cases up to the head of the relevant local tax office.

Taxpayers that are subject to field audits are classified according to their size. The size applied to business in Germany for purposes of field tax audits are not geared to the Commission's definition of SME. Groups of companies and large businesses are subject to regular field audits. The intervals for the tax audits of medium-sized, small and micro-enterprises are determined by supreme fiscal authorities of the German states.

A general principle of taxation is that the fiscal authorities assess and collect taxes equally in accordance with the provisions of the law. Especially, they have to make sure that no tax evasion takes place and that tax refunds and other tax relief are not granted without legal justification. The Fiscal Code demands that the fiscal authorities should explore ex officio the circumstances on which tax liability depends. That means that they need to rely on the legally required cooperation of the parties concerned.

After due assessment of the circumstances, the fiscal authority has to decide at it sees fit which businesses it audits and what the scope (contents and focus) of the field audit will be. In field audits conducted by the field audit units of local tax offices (which address all relevant taxes), the tax audit may also cover corporation tax subsidies.

Hungary

Tax Authority should audit on average 2% of taxpayers that submit corporate tax returns. Within this, it must audit 3,000 taxpayers having the greatest tax performance every two years until 2006, and every three years from 2006 on. Consequently, taxpayers claiming large amounts of tax subsidies are regularly audited by Tax Authority.

In the case of development tax subsidies, in pursuance of the relevant government decree, Tax Authority must check compliance with the eligibility conditions of the subsidies at least once by the end of the fourth tax year following the first use of tax subsidies. The Tax Authority may conduct audits before the expiration of the four years, too, but the earliest mandatory control should be performed in 2008.

Taking into account the priorities specified in the Tax Authority's directives, during the tax audits the Tax Authority paid special attention to the audit of the accounting of tax subsidies used under the different legal titles, and that of the tax base adjusting items. The Tax Authority does not keep records about the number of tax audits at taxpayers using tax subsidies, and the size of tax revenue not realised due to the unlawful use of tax subsidies.

Republic of Latvia

Law on Taxes and Fees determines that tax administration has to ensure that this Law and other tax (fee) laws are observed by both taxpayers and the tax administration, to control the accuracy of tax (fee) assessment and payments and to control the accuracy of the application of tax (fee) rebates.

State Revenue Service has audited 1% of corporate income tax payers in 2005 and 0.8% of corporate income tax payers in 2006. In 2005 State Revenue Service has performed 590 tax audits on the accuracy of corporate income tax calculation and payments, additionally assessing corporate income tax in the amount of 9.1 million EUR. In 2006 State Revenue Service has performed 517 tax audits on the accuracy of corporate income tax calculation and payments, additionally assessing corporate income tax in the amount of 7.5 million EUR

Russian Federation

The Tax Code of the Russian Federation provides the possibility of cameral and field inspections by tax authorities and also cross inspections and repeated field tax inspections.

Cameral tax inspections are carried out within three months after a taxpayer submits a tax statement and documents at the location of the tax authorities. When conducting cameral tax inspections, tax authorities are entitled to request from the taxpayers that apply tax privileges, the documents confirming the right of these taxpayers for these tax privileges.

A field tax inspection – which directs to one or several taxes – is conducted at the territory of a taxpayer, basing on a decision of the head of the specific local tax authority in charge of the organization. The subject of a field tax inspection is the accuracy of calculation and timeliness of payment of taxes.

Slovak Republic

The audits on corporate income tax subsidies are regulated by the Act on Financial and Internal Audit that is based on EU legislation. The compliance audits to conditions of granting state aid in form of corporate income tax subsidy drawings are performed by the related tax offices.

The purpose of the audits in general was to verify the justification of the spent costs, to observe the approved amount of state aid in form of corporate income tax subsidy, to verify real use of the investment according to the defined conditions etc. Furthermore, the corporate income tax base or other facts determining a proper tax assessment are verified by a tax audit.

5.2 Results of the controls

The data on the controls and their results are registered differently by the tax authorities of the participating countries. Therefore, there is no possibility to compare them. The availability of information is shown in Table 8.

Information on the irregularities as results of the controls – especially on tax-related criminal offences and/or administrative offences – is provided only by the Tax Authorities of Hungary and the Slovak Republic, in latter one no irregularities were identified. In Germany, at federal government level and at the level of the federal states there is no central register in place for collecting data on any irregularities stated in the course of corporate tax subsidy controls.

Table 8

	Germany	Hungary	Rep. of Latvia	Russian Fed.	Slovak Rep.
Information on controls					
Number of controls on corporate tax	No info.	Data	Data	Data	Data
Number of controls on corporate tax subsidies	No info.	No info.	Data	No info.	Data
Number of controlled tax-payers paying corporate tax	No info.	Data	Data	No info.	Data
Number of controlled tax-payers utilising corporate tax subsidies	No info.	No info.	Data	No info.	Data

During the audit of investment tax subsidies, the directorates of the Hungarian Tax Authority found that some enterprises claimed tax subsidies for investment projects that were not implemented according to the conditions specified in the legal regulations. In these cases, the Tax Authority made the necessary measures to have the amount of the utilised subsidy paid back.

Germany

The German SAI only looked into irregularities related to Articles 24 and 25 Corporation Tax Act. The German states declared that they had no information about non-compliance with these articles. This information concurs with the findings developed by the German SAI during its field work in three German states.

Table 9

	Germany ⁸	Hungary	Rep. of Latvia	Russian Fed.	Slovak Rep.
Information on the results of controls					
Number of revealed irregularities on corporate tax	No info.	Data	No info.	Data	Data
Number of revealed irregularities on corporate tax subsidies	No info.	No info.	No info.	No info.	Data
Number of taxpayers paying corporate tax and revealed irregularities	No info.	Data	No info.	No info.	Data
Number of taxpayers utilising corporate tax subsidies and revealed irregularities	No info.	No info.		No info.	Data

Hungary

The Tax Authority revealed violations of law during the audits of corporate tax subsidies, but none of them were ruled to be criminal acts or abuses of administrative authority.

During the audit of investment tax subsidies the directorates of Tax Authority found that some enterprises claimed tax subsidies for investment projects that were not implemented according to the conditions specified in the legal regulations. In these cases the Tax Authority made the necessary measures to have the amount of the utilised subsidy paid back.

In the case of regional tax subsidies three typical errors could be observed: the investment project was carried out not in the preferred region (enterprise zone, priority region); the taxpayer accounted depreciation not according to the act on corporate taxes; and in the taxpayers' interpretation the legal text "assets not used earlier" also pertained to not newly purchased assets that have not yet been used by these taxpayers.

During the use of the tax subsidies of SMEs it was a typical mistake that taxpayers used tax subsidies on the interest of the overdraft facility on one hand, and the possibility to reduce the tax base on the basis of the same facility on the other, plus they also accounted the tax subsidies on the interests of the credit.

During corporate tax audits, the Tax Authority also inspects the lawfulness of using the tax subsidies, however, within the tax difference found it does not separate the portion affecting tax subsidies. As a result, Tax Authority does not show how much tax the taxpayers must pay due to the wrong accounting of tax subsidies.

Republic of Latvia

State Revenue Service doesn't summarize information about offences in calculation and payment of corporate income tax subsidies detected in tax control measures.

⁸ Data on any irregularities stated is not collected centrally

Russian Federation

4,522.7 thousand cameral and 70.8 thousand field tax inspections were conducted in relation to the income tax. Violations were revealed in the course of 265.3 thousand (5,8%) cameral and 37.4 thousand (52,8%) field tax inspections, respectively. The data regarding the number of organizations audited that received benefits from corporate income tax credits, regarding the number of income tax control measures that revealed violations and regarding the illegally claimed tax credits are not specified in the reports on the audit activity of tax authorities.

Slovak Republic

In connection with the corporate income tax subsidies no irregularities were detected that would have a status of tax-related criminal offences and/or administrative offences.

Report

of the

Working Sub-Group 3

Value Added Tax

(VAT)

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1 Introduction

At the VI EUROSAI Congress¹ it was decided to carry out a coordinated audit, open to all EUROSAI member SAIs in the field of tax subsidies. For this purpose, three working sub-groups were set up to deal with the issues 'transparency of tax subsidies', 'subsidies on corporate income tax' and 'subsidies on VAT'. The objectives of the coordinated audit are:

- to enhance the exchange of knowledge;
- to improve communication among EUROSAI's members in fields particularly important for the members;
- to obtain best practice information;
- to strengthen informal networks and
- to improve cooperation with the academic community.

The working sub-group on VAT consists of the SAIs of Latvia, Lithuania, Switzerland and Germany. The German SAI took the chair of this sub-group.

The participants of the sub-working-group on VAT met at three meetings between February 2006 and January 2008.

VAT sub-group meetings

Date	Place	Participating SAI
22 February 2006	Bonn	Germany, Latvia, Lithuania, Switzerland
24 – 25 July 2007	Berne	Germany, Latvia, Switzerland
30 – 31 January 2008	Bonn	Germany, Latvia, Lithuania, Switzerland

2 Scope of audit

The VAT Working Sub-Group has been tasked to address tax subsidies in the field of VAT. At the meeting in February 2006, the members of the Working Sub-Group decided to carry out a detailed study of reduced VAT rates as a type of subsidy. In the participant countries a reduced VAT rate is applied to some supplies and services instead of the normal tax rate. These tax reductions will be considered as tax benefits which could have the character of subsidies. The Working Sub-Group members were to collect audit evidence in their respective countries. The representatives of the participating SAIs deliberated on the audit scope and the audit methods to be used. Each SAI was free to choose the tax subsidies and audit objectives it wished to cover in its national audit work. After concluding audit work, the sub-group members prepared a national audit report each.

¹ EUROSAI is the European Organisation of Supreme Audit Institutions. The VI EUROSAI Congress took place in Bonn in the period 30 May-2 June 2005.

National reports by the participants of the working sub-group on VAT

<u>Member</u>	<u>National Audit</u>	<u>National Report</u>	<u>Addressee of the national report</u>
Germany	September 2005 – May 2007	Dated: 27.11.2007 “Subsidies under VAT – Application of the reduced VAT rate in selected areas“	German Federal Ministry of Finance
Latvia	March 2007 – September 2007	Dated: 27.12.2007 “On administration of reduced rates of VAT”	Ministry of Finance
Lithuania	May – December 2006	Dated: 19.12.2006 “The application of reduced VAT rates”	Ministry of Finance, Parliamentary Audit Committee, Government and Presidential Office
Switzerland	April 2006 – July 2007	Dated: 20.10.2007 “Lower VAT rates as a tax subsidy – Evaluation of the reduced rate for food and related sectors“	Ministry of Finance, Parliamentary Financial Delegation

At their second meeting held in Berne from 24 to 25 July 2007 sub-group members presented the initial national audit findings they had produced and agreed on the contents of the joint report to be submitted by the EUROSAI sub-group on VAT. Apart from that, they developed generally applicable audit conclusions and adopted joint recommendations. After that, the Bundesrechnungshof prepared the draft of the present report of the working sub-group based on the results achieved at the meeting and the national reports.

The Bundesrechnungshof communicated the draft overall report to all members of the sub-group by the end of September 2007. The members again provided their ideas, comments and proposals via email in order to refine that draft, particularly the leading pages. Further agreement on the draft report was reached by email correspondence. The final version of the draft report of the VAT Working Sub-Group will have to be ready by the end of December 2007 in order to permit its timely inclusion into the framework report of the Working Sub-Group on the coordinated audit of tax subsidies. The report was finished at 21 January 2008 and sent to the overall Working Sub-Group afterwards.

3 Audit objectives

The audit by the Working Sub-Group should establish for example whether individual VAT rate reductions in the member states covered are still justified, comply with EC-law or generate unintended side-effects (e.g. abusive business arrangements). The audit was also designed to address the question as to who or what target group benefits from the tax rate

reduction in question and whether this tax privilege is a suitable tool for supporting specified activities.

Furthermore, the Working Sub-Group members are requested to compile information about the problems existing in their respective countries in connection with the application of reduced VAT rates as well as information and lessons learnt from previous audits about the abusive application of such reduced rates and to communicate this information.

Finally the Working Sub-Group members were supposed to comment on the following nine issues:

- the aggregate loss of VAT revenue caused by the application of a reduced VAT rate in their respective country
- the reduced VAT rate in per cent
- to what areas the reduced VAT rate applies
- the relevant legal bases for applying the reduced VAT rate in their respective country
- the amount of tax revenue lost by abusive practices
- the category of persons subsidised by the reduced VAT rate
- the effects on competition
- the effectiveness of the subsidy
- are there established procedures to assess the effectiveness of reduced VAT rates?

4 Legal bases and statistics

4.1 VAT rates in the EU Member States and in Switzerland

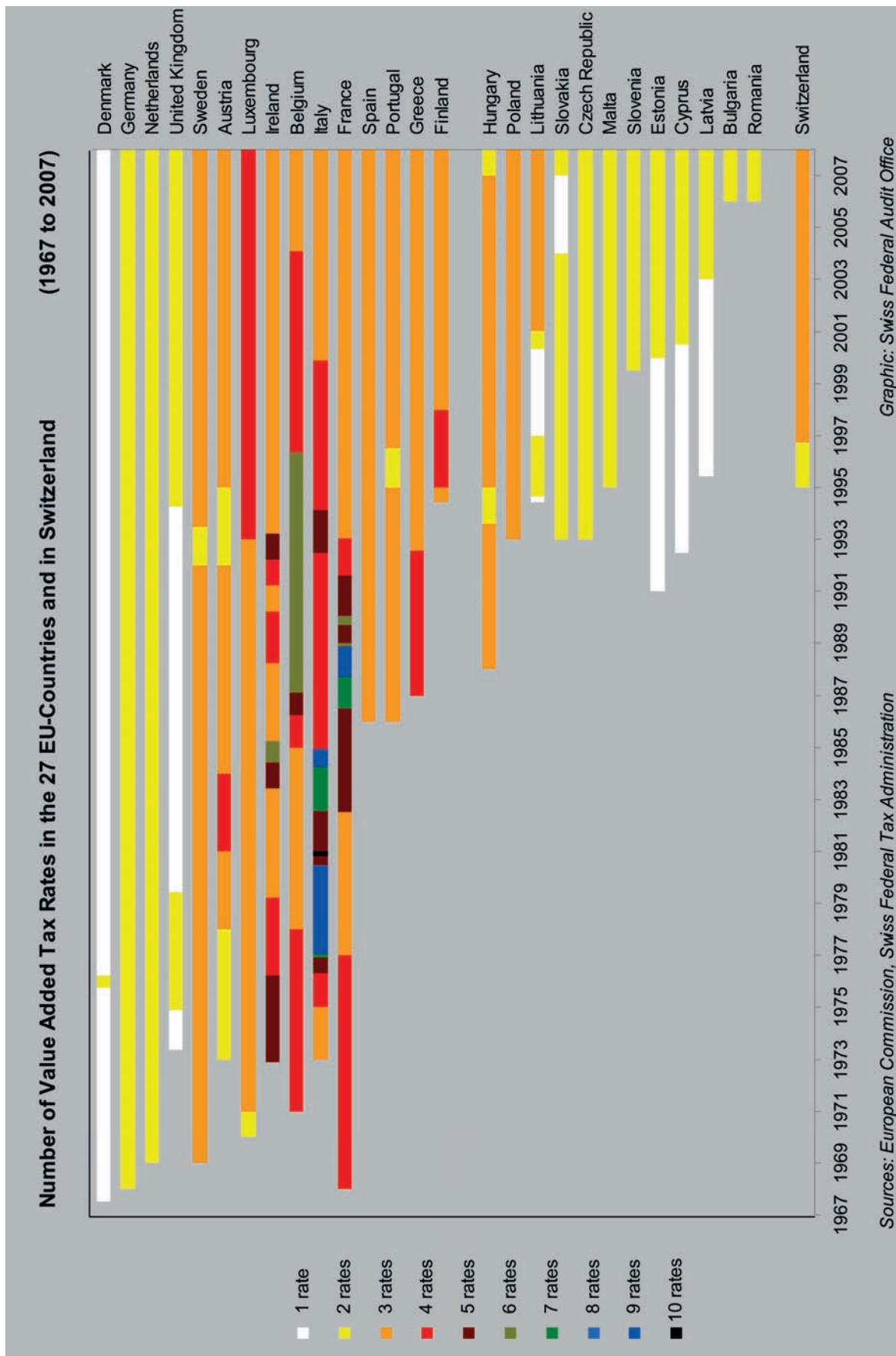
4.1.1 List of VAT rates (situation at 1 May 2007)

Member States	Standard rate	Reduced rate	Super reduced rate	Parking rate
Belgium	21	6	-	12
Bulgaria	20	7		-
Czech Republic	19	5	-	-
Denmark	25	-	-	-
Germany	19	7	-	-
Estonia	18	5	-	-
Greece	19	9	4.5	-
Spain	16	7	4	-
France	19.6	5.5	2.1	-
Ireland	21	13.5	4.8	13,5
Italy	20	10	4	-
Cyprus	15	5 / 8	-	-
Latvia	18	5	-	-
Lithuania	18	5 / 9	-	-
Luxembourg	15	6	3	12
Hungary	20	5	-	-
Malta	18	5	-	-
Netherlands	19	6	-	-
Austria	20	10	-	12
Poland	22	7	3	-
Portugal	21	5 / 12	-	12
Romania	19	9		-
Slovenia	20	8.5	-	-
Slovakia	19	10	-	-
Finland	22	8 / 17	-	-
Sweden	25	6 / 12	-	-
United Kingdom	17.5	5	-	-
Switzerland	7.6	2.4 / 3.6		-

Sources: European Commission, German Federal Ministry of Finance

Graphic: German Bundesrechnungshof

4.1.3 Number of VAT rates from 1967 to 2007



4.2 European legal bases for applying reduced VAT rates

In its Arts. 93-130 and annexes III and IV, European Council VAT Directive 2006/112/EC of 28 November 2006² describes the legal framework for applying the VAT rates in the Member States. Furthermore, the Member States make ample use of the possibilities given by that legal framework so that, in practice, the situation shows a complex picture. The fundamental rules are:

- In principle, the supplies of goods and services are subject to a standard tax rate of at least 15%.
- Pursuant to Arts. 98.1, 2 and 99.1 VAT Directive the Member States may apply one or two reduced VAT rates of at least 5% to the goods and services listed in annex III of the said Council Directive. The categories for the application of the reduced VAT rate can be defined according to the combined nomenclature (Art. 98.3 VAT Directive).
- Moreover, it is possible to apply the reduced VAT rate to the supplies of natural gas, electricity and district heating (Art. 103 VAT Directive).
- Under certain conditions, the Member States may apply a reduced VAT rate to labour intensive services up to year-end 2010 (Article 106 seq. VAT Directive).

In addition, there is a large number of exceptional provisions granted to individual Member States (cf. Art. 109 seq. VAT Directive).

In January 2006, the Council of the European Union gave a mandate to the Commission to present to the European Parliament and to the Council, by the end of June 2007, an overall assessment report on the impact of reduced rates applying to locally supplied services, including restaurant services, notably in terms of job creation, economic growth and the proper functioning of the internal market. The report was to be based on a study carried out by an independent economic think-tank (see Contract Award notices, Specifications and annex to the invitation to tender). The study (and its appendices) was finalised in May 2007. It mainly examined the impact of reduced VAT rates and of derogations, not only for locally supplied services, but also more globally. The effects on income distribution, the informal economy and compliance costs for businesses were also taken into consideration.

The main conclusion of this study is that from an economic perspective a single uniform VAT rate (per Member State) is the best policy choice. It would slightly improve consumer welfare in comparison with the current situation, reduce distortions in the functioning of the Internal Market, simplify the rules and thus reduce compliance costs for business.

However, there may be specific economic benefits from operating a reduced rate in carefully targeted sectors. According to the study, lower VAT rates could contribute to economic growth if they can induce consumers to spend more on purchasing goods and services. Such a change in consumption habits often also leaves more time for leisure activities which in turn is associated with an increase in expenditure.

For (certain) locally supplied services – notably those usually referred to as "do-it-yourself" – such a shift could take place. There are also arguments for introducing VAT reduced rates in

² Official Journal of the European Communities Nr. L 347.

sectors employing many low skilled workers in order to permanently create new jobs. However, overall net gains seem to be minor.

The study also stresses the fact that other economic instruments (such as subsidies) might often be more efficient than reduced VAT rates to achieve the objectives of environmental, social, cultural and economical policies.

On 5 July 2007, the Commission launched a political debate on how to simplify current EU legislation (cf. press release IP/07/1017 in Annex 1).

4.3 National legal bases for applying reduced VAT rates

Germany

Art. 12 of the German VAT Act provides for two different VAT rates: the general or regular rate and a reduced rate. Pursuant to Art. 12.1 VAT Act, the general VAT rate on each taxable turnover is 19% of the tax base. Pursuant to Art. 12.2 items 1-10 VAT Act in connection with annex 2 to the VAT Act, certain types of turnovers are subject to the reduced VAT rate of 7%. The application of either the reduced VAT rate or the general VAT rate is governed by the provisions of the Tariff and Statistical Nomenclature.

The VAT rates in Germany have developed as follows:

	General VAT rate (per cent)	Reduced VAT rate (per cent)
1 January 1968-30 June 1968	10	5
1 July 1968-31 December 1977	11	5.5
1 January 1978-30 June 1979	12	6
1 July 1979-30 June 1983	13	6.5
1 July 1983-31 December 1992	14	7
1 January 1993-31 March 1998	15	7
1 April 1998-31 December 2006	16	7
as from 1 January 2007	19	7

Latvia

The VAT Act has been developed in compliance with the European Council Directive Nr. 6 (77/388/EEC), dated May 17, 1977 and European Council Directive 2006/112/EC dated November 28, 2006. Section 5 of the VAT Act provides for three VAT rates in Latvia. The standard VAT rate amounts to 18%, a reduced rate of 5%, and a zero rate.

There are four regulations issued by the Cabinet of Ministers in reduced rate area:

- 13.04.2004. Regulations issued by the Cabinet of Ministers Nr. 278 "Regulations on infant food";
- 06.09.2005. Regulations issued by the Cabinet of Ministers Nr. 680 "Regulations on medical goods applied with 5% VAT rate";

- 08.04.2004. Regulations issued by the Cabinet of Ministers Nr. 271 “Regulations on medicine applied with 5% VAT rate”;
- 20.04.2004. Regulations issued by the Cabinet of Ministers Nr. 337 “Regulations on veterinary medicine applied with 5% VAT rate”.

Laws and regulations do not define reduced VAT rates as tax subsidy in Latvia.

Lithuania

The relevant VAT Act was adopted on 5 March 2002 and came into force on 1 July 2006. New provisions on reduced VAT rate came into force on 1 of January, 2003. Standard VAT rate is 18%; reduced VAT rates are 5 and 9% (Article 19 Lithuanian VAT Act).

Switzerland

Art. 36 of the Swiss VAT Act provides for three different tax rates:

- the normal rate of 7.6%,
- the reduced rate of 2.4%,
- the special rate for lodging services of 3.6%

The reduced rate of 2.4% for certain goods is primarily intended to lessen the tax burden of households and individuals with a low income, since they spend a higher share of their budget on these goods than households or individuals with a higher income.

The normal rate of 7.6% applies to all taxable turnovers that are not covered by one of the two lower rates. 77% of all taxable turnovers are subject to the normal rate.

4.4 Application of reduced VAT rates

In **Germany** the reduced VAT rate (7%) is applied to the following supplies and services, such as

- a) supplies of staple foods,
- b) take-away sale of food and beverages in gastronomic establishments,
- c) supplies of so-called ‘combined articles’,
- d) supplies of horticultural products (e.g. flowers, ornamental plants),
- e) supplies of agricultural primary products (e.g. live animals, seeds, fruits, straw and forage crops, residues and waste from the food industry, feedstuff preparations, fertiliser, fuel wood and wood residues),
- f) supplies of works of art and collectors’ items,
- g) supplies of books and periodicals,

- h) animal breeding, animal-rearing, stock farming and plant rearing,
- i) supplies of dog and cat fodder,
- j) supplies and services of dental technicians and certain services of dentists,
- k) admission fees for theatres, concerts and museums and of artists' performances similar to theatre plays and concerts,
- l) distribution of films for commercialisation and presentation,
- m) the granting, assignment and exercise of copyrights,
- n) circus performances and services of showmen,
- o) services of non-profit corporations,
- p) the turnovers of swimming baths and balneological therapy.

In **Latvia** the following transactions benefit from the VAT rate reduction (5%):

- a) supplies of medical drugs in accordance with a list approved by the Cabinet of Ministers;
- b) the supply of medical devices and medical goods (also assembly parts, reserve parts and accessories) in accordance with a list approved by the Cabinet of Ministers;
- c) supplies of veterinary medical drugs in accordance with a list approved by the Cabinet of Ministers;
- d) supplies of specialised products intended for infants in accordance with a list approved by the Cabinet of Ministers;
- e) the supply of books and cartographic publications;
- f) the following mass media or the subscription there of:
 - newspapers, journals, bulletins and other periodicals, which are published not less than once every three months and the once-only edition of which exceeds 100 copies, except publications of an erotic and pornographic nature, as well as publications the direction of the contents and task is the publication of advertisements and commercial advertisements, and
 - subscriptions to commercial television and radio;
- g) guest accommodation services in guest accommodation establishments (hotels, motels, guesthouses, houses utilised for rural tourism, camping sites and tourism establishments);
- h) supplies of water in a centralised water supply system;
- i) sewerage services;
- j) collection, conveyance and disposal services for municipal waste;
- k) funeral services;
- l) entry fees to sports events;

- m) entry fees to film shows, except for film shows of an erotic and pornographic nature;
- n) inland public transport services (carriage of passengers and luggage in trams, trolley busses, city, district and long-distance busses, and inland and international trains, as well as inland flights);
- o) supply of heating to inhabitants.
- p) the supply of electricity to inhabitants;
- q) the supply of natural gas to inhabitants, except for natural gas motor vehicles;
- r) hairdressing services to final consumers (natural persons);
- s) services supplied to inhabitants, which are performed for the indoor simplified renovation of those dwelling houses (apartments), which are or will be utilised for living;
- t) the supply of firewood to inhabitants.

In **Lithuania** the following transactions benefit from the VAT rate reduction (5%):

The reduced rate of VAT of 5% shall be applied to:

- a) passenger transport by regular routes determined by the Ministry of Transport and Communications or an institution authorised by it, passenger transport by passenger trains as well as transportation of passenger luggage referred to in this subparagraph;
- b) books (including brochures, leaflets and similar printed matter, children's picture, drawing or colouring books, music printed or in manuscript, maps and hydrographic and similar charts, excluding globes, calendars, note books and other similar printed matter), newspapers and periodicals, except for publications publicising eroticism and violence, which have been recognised as such by an institution authorised by legal acts and printed matter 4/5 of which is devoted to paid advertising;
- c) pharmaceuticals (including pharmaceutical products for veterinary purposes), products used for contraception and sanitary protection (personal hygiene) for women, special purpose food products for children, special medicinal purpose food products and special medicinal body and dental care products, also medical equipment, aids and other appliances normally intended to alleviate or treat disability. The groups of medicinal products indicated in this subparagraph, on which VAT is chargeable at the reduced rate shall be approved by the Government of the Republic of Lithuania (from 1st of May, 2004);
- d) accommodation at hotels and other special accommodation services supplied according to the procedure laid down in the legal acts regulating tourist activities;
- e) organic food products if they meet the requirements of legal acts in force in the Republic of Lithuania (from 1st of January, 2006);
- f) chilled meat and edible offal (with the exception of meat and edible offal of poultry) if it meets the requirements of legal acts in force in the Republic of Lithuania and conforms to the Lithuanian standards if such standards have been approved;

- g) chilled, frozen and deep frozen meat and edible offal of poultry if it conforms to the requirements of the legal acts in force in the Republic of Lithuania and Lithuanian standards if such standards have been approved;
- h) services to agriculture supplied by agricultural companies and co-operative societies – agricultural entities to their members (according to the list of agricultural services approved in Annex 1 to this Law) (from 1st of February, 2004);
- i) live, fresh and frozen fish if it conforms to the requirements of the legal acts in force in the Republic of Lithuania and Lithuanian standards if such standards have been approved (from 1st of February, 2004);
- j) attendance of various artistic and cultural as well as sporting events with respect to which provisions of Article 23 of this Law shall not be applied (from 17th of January, 2006);
- k) creative or performing services provided by writers, composers or performers and services for which such persons are paid royalties (from 27th of July, 2006);
- l) fruits and vegetables eligible to the standards of the Lithuanian Republic (from 1st of January, 2009).

Reduced 9% rate of VAT shall be applied to

supplies of services relating to construction, renovation and insulation of residential houses which are financed with state and municipal budget resources as well as with soft credits granted by the state and resources of state special funds (from 1st of May, 2004).

In Switzerland the following transactions benefit from the VAT rate reduction (2.4%):
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- a) Deliveries and own consumption of the following objects:
 - Tap water,
 - Food and beverages (without alcoholic beverages, hotels and restaurant services),
 - Cattle, poultry, fish,
 - Grain,
 - Seeds, setting tubers and – bulbs, living plants, scions, cut flowers and bough, also when refined to arrangements, wreaths/rings and the like,
 - Fodder, silage-acids, strew materials for animals, fertilisers,
 - Pesticides, natural cover materials,
 - Pharmaceuticals,
 - Newspapers, magazines, books and other printed products without an advertisement character,
- b) Services of the radio and television companies, with exception of the services with a commercial character;

- c) Admission to cultural services and shows that are directly featured to the audience; admission to sporting events, including entry fees and all additional services; use of sporting facilities; cultural services and objects provided by their authors, publishers and collecting societies for their distributional services for these works;
- d) Agricultural inputs that are in direct context with the treatment of the soil, or that are in direct context with initial production.

4.5 Aggregate loss of VAT revenue caused by the application of a reduced VAT rate

Germany

Judged by the total revenue it generates, VAT is one of the most important taxes in the Federal Republic of Germany. In 2005 VAT revenues from supplies and services prior to deduction of input VAT amounted to 517 billion Euros. Based on its economic effect, VAT is categorised as a general excise tax which imposes a general burden on all private and public consumption. The turnovers subject to the reduced VAT rate (7%) have meanwhile (in the year 2005) soared to more than 400 billion Euros. This implies a tax relief in the total amount of 52 billion Euros.³

Latvia

In 2005, the amount of 5% VAT receipts were 36 909 536 Lats (53 474 362 Euros⁴), and in 2006 – 5% VAT 46 440 323 Lats (67 282 522 Euros). As the full VAT rate is 18%, the aggregate loss of VAT revenue caused by the application of a reduced rate in 2005 were 95 964 794 Lats (139 033 343 Euros), in 2006 – 120 744 840 Lats (174 934 557 Euros).

Lithuania

Revenue from VAT amounts from 3512 million Litass (1017 million Euros) in 2001 to 4842 million Litass (1402 million Euros) in 2005 and makes up about 40% of state budget of Lithuania. According to Ministry of Finance of Republic of Lithuania, loss of VAT revenue caused by the application of a reduced VAT rate amounts from 139 million Litass (40,3 million Euros) in 2003 to 215 million Litass (62,3 million Euros) in 2005.

Switzerland

In Switzerland, the aggregate loss of VAT revenue amounts to
2.4% to 7.6%: 2.4 Billion Swiss Francs (1.5 billion Euros)
2.4% to 6.5%: 1.9 Billion Swiss Francs (1.2 billion Euros)

³ The amount of the tax relief is calculated as the difference between the regular VAT rate and the reduced VAT rate (19% - 7% = 12%) applied to the total of turnovers to which the reduced rate is applied (12% multiplied by 436 billion Euros = 52 billion Euros).

⁴ Currency exchange rate for Lat to Euro from January 15th 2008: 1 Lat = 1.420227 Euro.

(deviation of reduced rate from the normal rate of 7.6%, or the benchmark rate of 6.5% that would generate the same total tax revenue when applied to all taxable turnover)

5 National audits

5.1 Germany

5.1.1 Type of survey

As early as in 2005, the German Bundesrechnungshof was in possession of evidence suggesting that

- VAT rate reductions in some sectors can no longer be justified, if considered in line with the original legislative intent;
- in a number of cases, the application of the reduced VAT rates involves considerable difficulties connected with the definition of types of goods and services;
- in some business sectors, the reduced VAT rate even help traders obtain windfall profits or abuse the rules;
- application of reduced VAT rates partly contravenes Community law.

This evidence prompted the German SAI to take a closer look at the application and implementation of the reduced VAT rate in some sectors. In doing so, it also addressed the questions about who or which target group really benefits from the reduced VAT rate and whether this form of VAT relief is an appropriate tool for targeting relief.⁵ The German SAI started to conduct field work at the Federal Ministry of Finance in September 2005. Subsequently, it carried out further field work at the fiscal authorities of Germany's constituent states (regional finance directorates and local tax offices). This field work initially focused on the following issues:

- sales of fast food restaurants
- sales of works of art and collectors' items and
- sales of combined articles.

The German SAI reported its audit findings to the Federal Ministry of Finance in various management letters and in the report pursuant to Art. 88.2 Federal Budget Code of 27 November 2007 and raised these issues in its 2006 and 2007 annual reports.

5.1.2 Findings and appraisal

The initial assumptions of the German SAI have largely been confirmed in the course of the audits. According to its findings

- individual tax relief provisions are no longer justified in terms of the original legislative intent;

⁵ Cf. also the study of the Centre of European Economic Research on 'Allocative and distributive effects of an abolition of the reduced VAT tax rate', October 2004, summary to be found under www.zew.de.

- application of the reduced VAT rates partly involves considerable difficulties of definition and can be enforced only with a vast input of staff resources;
- windfall profits and abusive arrangements occur in the application of individual VAT relief provisions;
- application of the reduced VAT rate is partly incompatible with Community law.

Fast food restaurants

Considerable losses of VAT revenue are caused by the practice of fast food restaurants to deliberately apply to sales of food and beverages on their premises, for which the regular rate of 19% should apply, the rate of 7% corresponding to take-away sales for consumption off the premises. The German SAI assumes that this type of tax fraud also occurs in other sectors of the restaurant and catering industry, involving VAT fraud on a large scale.

The sale of food to be consumed on the premises is subject to the general VAT rate of 19%. If the same food is sold for take-away, i.e. for consumption off the premises, the reduced VAT rate of 7% applies.

The tax advantage from the inaccurate recording of turnovers exclusively benefits the trader supplying the food and increases in proportion to the share of sales for consumption off the premises. The customer who buys food for consumption off the premises does not benefit from the reduced VAT rate because he or she has to pay the same gross price for the individual product independent of whether it is consumed on or off the premises.

Based on its findings, the German SAI estimates annual losses of VAT revenue in the fast food sector alone to be in the range of tens of millions of euros.

Art objects and collectors' items

In many cases, works of art and collectors' items are subject to the reduced VAT rate of 7% (Art. 12 item 1 VAT Act in connection with item 49 seq., item 53 and item 54 annex 2 VAT Act). Certain conditions must be met in order to obtain this tax relief. E.g. works of art must be originals or must have been completely hand-crafted. Collectors' items need to be rare and valuable. Due to numerous questions of definition, it is difficult for the tax offices to establish whether objects actually meet these requirements. Furthermore, Community law prescribes the general VAT rate for works of art and collectors' items already since 1995.

From 1999 to 2006 alone, works of art and collectors' items were subsidised in an amount estimated at 500 million Euros. In 2004, the Federal Government stated that, in its view, an abolition of the tax relief for works of art would not have any significant influence either on purchasing patterns or on the market for visual arts.

When reviewing 400 tax cases in the years 2006-2007, the German SAI found that local tax offices failed to verify adequately or at all compliance with the requirements for the reduced VAT rate. The tax inspectors in charge of desk work usually accepted the information in the tax returns without any further proof. The tax inspectors in charge of field work often did not

review adequately or at all even risk cases in which the circumstances suggested that a tax audit would be appropriate.

Owing to inadequate monitoring by the tax offices, the German SAI furthermore concluded that the reduced VAT rate is applied wrongfully in many cases. It argued that the tax offices must adequately verify eligibility for the tax relief provisions as long as they are in force. However, such verifications would involve a considerable input of administrative resources. In contrast, an abolition of the tax relief provisions would avoid complex issues of definition and would considerably simplify tax law.

Combined Articles

Combined articles are combinations of goods consisting e.g. of sweets or printed matter and so-called non-food articles (especially children's toys) which, considered individually, are subject to different VAT rates. This always means that the total price of these articles must be divided, for purposes of VAT, into a share subject to the reduced VAT rate of 7% and another share subject to the general VAT rate of 19%.

To simplify the taxation process, the Federal Ministry of Finance published a simplification regulation in 2006. According to that regulation, the uniform application of the reduced VAT rate to combined articles is unobjectionable, if

- the selling price does not exceed 20 Euros and
- the value of the item to which the reduced VAT rate applies accounts for at least 90% of the total value of the combined article.

The German SAI generated audit evidence on tax field audits that revealed that traders often applied the reduced VAT rate to the total price of a combined article although the value of the item eligible for the reduced tax rate was less than 90% of the value of the combined article, which ruled out the application of the simplification regulation.

In the audited sectors of the German SAI, the application of the reduced VAT rate has led to large losses of tax revenue, resulted in subsidies that contravene Community law and that do not benefit the intended target group (benefiting traders rather than final consumers) and eventually led to distortions of competition.

The tax authorities are fully aware of the problems connected with the application of reduced VAT rates but, in most cases, are not in a position to take effective remedial action, since adequate checks would involve a vast administrative burden. However, the tax authorities do not have the necessary staff resources. Anyway, the German SAI thinks that additional investigations would not make sense. Rather than that the abolition of the tax relief in question should be considered in these and comparable cases. This would avoid complex issues of definition right from the start and moreover simplify tax law considerably.

The Federal Ministry of Finance has so far not carried out any evaluations on the application and impact of individual VAT relief provisions.

5.1.3 Key recommendations

The German SAI recommends that the reduced VAT rate should be abolished as soon as possible in the audited sectors of fast food restaurants, works of art and collectors' items and combined articles.

Furthermore, the German SAI perceives a need for remedial action in other sectors where the reduced VAT rate has been applied so far. It reserves the option to do further action work on these sectors and to separately report the results to the Federal Ministry of Finance.

The German SAI suggests that, in response to the results of the study carried out by the Centre of European Economic Research on commission from the Federal Ministry of Finance about the allocative and distributive effects of an abolition of the reduced VAT rate, the Ministry should evaluate the objective, efficiency and effectiveness of the reduced VAT rate in selected sectors.

Finally, with respect to the policy discussion launched by the European Commission in July 2007 about a uniform VAT rate in Europe (**cf. attachment**), the German SAI holds that it is appropriate to look into the arguments and proposals put forth at an early stage and to consider alternative options of support to replace the reduced VAT rate.

5.2 Latvia

5.2.1 Type of survey

Within the framework of the audit:

1. The interviews regarding the reduced VAT rate administration system were conducted at the Ministry of Finance, the State Revenue Service, the Health Statistics and Medical Technologies State Agency and the State Agency of Medicines.
2. Tests were carried out on administration of VAT rates in 2005 and 2006, including:
Compliance of activity of the Ministry of Finance (development and implementation of tax policy, development of draft legal enactments, budget revenue forecast, supervision in the tax field) regarding introduction and supervision of reduced VAT rates, with the regulatory enactments.
Compliance of activity of the State Revenue Service (activities performed by the State Revenue Service – accounting and control of reduced VAT rate, rendering consultations to tax payers on application of reduced VAT rate, ensuring justified application of reduced VAT rate, activities performed by the State Revenue Service – administration of compensations paid to agricultural produce manufacturers) regarding introduction and supervision of reduced VAT rates, with the regulatory enactments.
3. Information was acquired regarding activities of institutions involved with administration of reduced VAT rates:
Activities of the Health Statistics and Medical Technologies State Agency maintaining register of medical goods and medical devices, to which reduced VAT rate is applied.
Activities of the State Agency of Medicines, maintaining and updating the Drug Register of the Republic of Latvia on medicinal products and veterinary medicinal products, which reduced

VAT rate is applied.

Activities of the Ministry of Health regarding legislation development process regulating VAT 5% rate applicable to medical goods and medicinal products, as well as regarding analysis of reduced VAT rates introduction impact on consumption of medicinal products and medical devices and on alteration of prices.

Activities of the State Pharmaceutical Inspection regarding medicinal products market supervision.

Data regarding impact of reduced VAT rate on State economical processes available from the Central Statistical Bureau.

4. Tax payer survey was conducted in order to obtain information on expediency of reduced VAT rates and assess if reduced rates reach the target audience. Tax payers, whose supplies of goods and services are applied reduced VAT rate, were selected at random for the survey.

5.2.2 Findings and appraisal

The following main discrepancies were disclosed in the activity of the Ministry of Finance, developing and implementing tax policy, and in the activity of the State Revenue Service, ensuring administration of reduced VAT rate:

1. Although the Ministry of Finance is responsible for development of fiscal policy and State budget, the Ministry has not established performance indicators targeted at achievement of certain goals and unified supervision of their achievement in the regulatory enactments regarding reduced VAT rates. Thus the benefit of the public from implementation of reduced VAT rates policy is not assessed.
2. As the regulatory enactments do not stipulate that the reduced VAT rate is considered as tax rebate or relief, information on possibly receivable VAT amounts that are not received as a result of applying the reduced rates is not calculated. The Ministry of Finance does not submit this information to the Cabinet of Ministers as it submits information on the amount of uncollected taxes, which has occurred as a result of the application of tax relief in accordance with regulatory enactment.⁶
3. The audit disclosed discrepancies of the regulatory enactment of the Republic of Latvia⁷ with Council Directive.⁸ Tax payers in Latvia are granted rights to apply reduced VAT rates to a broader range of goods than the Council Directive allows.
4. Discrepancies were detected in the internal control system of the State Revenue Service, ensuring administration of reduced VAT rates and VAT 12% compensations paid to agricultural produce manufacturers:
 - Exact steps how to examine and document justification of VAT 12% compensation payments are not specified in the methodology developed by the State Revenue

⁶ Section 31 of the Law "On Budget and Financial Management".

⁷ Section 6, Clause 2 of the Law "On Value Added Tax".

⁸ Council Directive 77/388/EEC on the harmonization of the laws of the member states relating to turnover taxes – common system of value added tax: uniform basis of assessment (valid until 31 December 2006) and Council Directive 2006/112/EC on the common system of value added tax (in force from 1. January 2007).

Service, thus adequate implementation of requirements specified by regulatory enactment⁹ is not provided;

- Although the regulatory enactment¹⁰ specifies the criteria for receipt of VAT 12% compensations, the audit disclosed certain case, when the State Revenue Service does not verify if compensation recipient has registered the farm or submitted confirmation of local government regarding land ownership rights or right to use the land in accordance with the requirements of regulatory enactment.¹¹
- During the audit, institution, indirectly involved with administration of reduced VAT rates, provided information on disclosed occasions, when reduced VAT rate is applied to medical devices, which do not comply with the criteria of medical device status, thus the reduced rate shall not be applied. As the State Revenue Service and institutions, indirectly involved with administration of reduced VAT rates, do not have sufficient cooperation and information exchange on occasions, when reduced VAT rate was applied without justification, the audit did not obtain assurance that the State Revenue Service is able to provide sufficient control of justified application of reduced VAT rate.

The amount of tax revenue lost by abusive practices

Data about tax revenue lost by incorrect use of reduced VAT rate have not been collected in Latvia. As the amount of 5% VAT receipts is less than 1% of total VAT receipts, there is very little attention paid to reduced VAT rate correct applying controls. Although the results of survey show that 98% of tax payer have not any disagreements with the Ministry of Finance and the State Revenue Service about application of reduced VAT rate.

The category of persons subsidised by the reduced VAT rate

In most cases the inhabitants have been subsidised by the reduced VAT rate, but the legislation does not determine strictly the target audience of reduced VAT rate beneficiaries.

The effects on competition

Data about reduced VAT rate effects on competition have not been collected in Latvia.

The effectiveness of the subsidy

Data about effectiveness of the subsidy have not been collected in Latvia.

⁹ Section 13, Paragraphs eight and nine of the Law "On Value Added Tax".

¹⁰ Section 13, Paragraph five of the Law "On Value Added Tax".

¹¹ Section 13, Paragraph five of the Law "On Value Added Tax".

Are there established procedures to assess the effectiveness of reduced VAT rates?

The legislation in Latvia does not obligate to assess the effectiveness of reduced VAT rates, therefore procedures for assessing reduced VAT rates is not established.

5.2.3 Key recommendations

1. When developing new tax policy documents the Ministry of Finance should incorporate indicators to assess the impact of reduced rates.
2. The Ministry of Finance together with the Ministry of Health must ensure national law compliance with the Community law.
3. The State Revenue Service in corporation with institutions indirectly involved in administration of reduced VAT rate should ensure control of justified application of reduced VAT rate.

5.3 Lithuania

5.3.1 Type of survey

Up to now, no detailed assessment of the economic impact of reduced VAT rates on goods and services has been done in Lithuania, i.e. there is no collection of objective and factual data that would enable an assessment of whether the VAT concessions have achieved the intended objectives and whether there has been a long-term impact upon the market. The public audit was aimed at evaluating the efficiency of the application of reduced VAT rates and the monitoring of impact of these rates. The assessment covered those groups of goods/services which had been taxed at a standard 18% VAT rate before the reduced 5% VAT rate was established

1. hotel and special accommodation services;
2. freshly chilled meat and edible sub-products;
3. freshly chilled, frozen, deep-frozen poultry and edible sub-products;
4. live, fresh and chilled fish;
5. admission to art, culture and sporting events.

The audit purpose was to assess the efficiency of applying the reduced VAT rate and the mechanism of assessing the effects of VAT concessions.

Audit evidence has been obtained through the use of check (examination of documents), interview (conversations with employees) and analytical procedures, legal analysis, and analysis of statistical and economic data published on the Internet. An economic study has been carried out upon procurement of the service through open tendering procedure. The purpose of the economic study was to determine the effect of the reduced VAT upon prices, demand etc. as well as sustainability of the changes.

Audit procedures have been carried out in the Tax Department and Fiscal Policy Department of the Ministry of Finance of the Republic of Lithuania; data have been obtained from the

State Tourism Department under the Ministry of Economy, the Ministry of Agriculture, the State Tax Inspectorate under the Ministry of Finance, and the Department of Statistics under the Government of the Republic of Lithuania.

The data and information collected during the audit have been evaluated from the following aspects:

- Have VAT concessions achieved the objectives pursued?
- Is the efficiency of VAT concessions assessed?
- Is the introduction of VAT concessions linked to any additional measures (legal, financial, human)?

5.3.2 Findings and appraisal

The number of groups of goods/services on which reduced VAT rates are applied has been increasing: at the beginning of 2003, a reduced VAT rate was applied to five groups of goods/services, whereas by mid-2006 the number reached twelve. The introduction of new tax concessions encourages proposals for applying reduced VAT rates to groups of goods/services that at present are subject to standard 18% VAT.

Explanatory notes to draft proposals for new laws establishing reduced VAT rates do not always contain clearly defined objectives of the concessions proposed. Insufficiently specific formulation of the objectives is an obstacle to evaluating the target achievement degree.

Application of reduced VAT rates should be of direct benefit to consumers. An economic study has shown that the reduced 5% VAT rate did not produce effect, or had only indirect insignificant effect upon prices, supply, demand and employment. As a result of introducing the reduced 5% rate businesses supplying goods and providing services subject to such rate could increase their production volumes and allot more funds for material investments. The reduction of VAT rate was of greatest benefit to such producers and service providers and not to consumers of the goods/services.

Monitoring of the effects of the reduced VAT rates was insufficient in the audited period. Monitoring of application and efficiency of reduced VAT rates lacks regulation: intervals at which and methods by which the effect of tax concessions is to be assessed have not been set and institutions responsible for the monitoring and evaluation of trends in this area have not been appointed.

5.3.3 Key recommendations

To the Government

Considering that the introduction of the reduced VAT rate has not had any direct long-term impact upon prices for the goods and services subject to such rate and covered by the audit of the Lithuanian SAI, i.e. there has been no direct benefit for consumers, and has created exceptional conditions for providers/suppliers of such services/goods, the Lithuanian SAI propose to examine these opportunities: to abandon the reduced VAT rates; not to introduce

new reduced VAT rates; apply uniform tax rate to all goods and services in accordance with the provisions of the EU legal acts. Amendments to legal acts should be initiated as necessary.

Efficiency of tax concessions should be assessed on a systematic basis. If a tax concession does not achieve objectives that have been set for it, abandoning the tax concession or replacement with alternative measures should be considered.

To the Ministry of Finance

Develop a procedure for assessing the target achievement degree of tax concessions and the actual effect upon national budget revenues and the environment.

Calculate and publish, on an annual basis, current public or budgetary cost of tax concessions.

5.4 Switzerland

5.4.1 Type of survey

The Swiss Federal Audit Office (SFAO) chose the reduced VAT rates as the subject of an evaluation, since they represent a largely untransparent form of subsidisation, and since a reform of the VAT Act is currently underway that aims at simplifying the rate structure all the way toward a uniform tax rate.

As part of the evaluation, the SFAO conducted a series of guided interviews and document analyses. It also evaluated VAT data of the Swiss Federal Tax Administration. The SFAO was primarily interested in the turnover recorded in the food sector and the number of businesses subject to VAT which must apply different tax rates. The SFAO analysis also included data on the long-term development of the tax subsidy, on consumption patterns, and on family forms. Finally, the Swiss Federal Audit Office undertook a comparison of the administrative costs and the distribution effect with respect to the reduced VAT rates and reductions of health insurance premiums, by means of which the burden of lower-income households is also relieved.

5.4.2 Findings and appraisal

The tax subsidy for some basic foodstuffs was introduced by the government in 1941 in the context of the turnover tax, when expenditures for foodstuffs amounted to more than 35% of all household expenditures and large families with many children were the norm. This measure relieved the tax burden of households with lower incomes, since such households spent a higher share of their income on basic foodstuffs than wealthy households. The tax subsidy was expanded to include all foodstuffs by 1959 and was continued with the transition to the VAT in 1995 in the form of the reduced tax rate for foodstuffs.

Today, the average household only spends 8% of its expenditures on foodstuffs. Accordingly, this form of tax subsidy has lost three quarters of its significance. The remaining

social equalisation effect of the tax subsidy can be achieved more economically by way of subsidies to reduce health insurance premiums, which were introduced in 1996 and also relieve the financial burden of lower-income households.

Efficiency comparison of reduced VAT rates / Reduction of health insurance premiums:

The differing tax rates create problems in delimiting various taxable goods and services subject to different rates. Such delimitation problems invite taxpayers to misclassify turnover. The Swiss Federal Tax Administration suffers a revenue loss of approximately 30 million Euros per year due to such misclassifications of turnover. Added to this are 5 to 8 million Euros for additional staff expenses in the Tax Administration, since 10% to 15% of its staffing needs for VAT are due to the additional effort required to administer the different tax rates and exceptions. The differing rates cause an estimated 40 million Euros per year in additional administrative costs for the businesses subject to VAT.

By comparison, targeted payments to persons in need in the framework of Individual Premium Reductions generate additional administrative costs of at most 2 million Euros for cantons and health insurers, provided that cantons take the same approach as with existing reductions of health insurance premiums.

Effectiveness comparison of reduced VAT rates / Reduction of health insurance premiums:

The reduction of health insurance premiums is more targeted oriented than the reduced VAT rates. While in some cantons, the premiums of children are reduced without taking account of the income of parents, and the cantons determine beneficiaries according to different income categories, these differences in the consideration of the economic situation are insignificant compared with the reduced VAT rates, where only statistical average values of consumption patterns are considered. Consumption tax subsidies benefit both wealthy households and people with lower incomes.

Moreover, effectively passing on the tax benefit from businesses to consumers depends on the supply and demand situation. Various case examples show that the businesses subject to VAT only partially pass on or are able to pass on the reduced rates and the tax itself to consumers by way of the final price. In this case of reduction of health insurance premiums, this problem of effectively passing on the benefit to the beneficiaries does not exist, since neither cantons nor health insurers have the possibility of retaining the money of the beneficiaries.

5.4.3 Key recommendations

For these reasons, the SFAO recommends that politically undesired burdens entailed by VAT should no longer be compensated by way of the tax subsidy for food. The additional burden for low-income households associated with a uniform tax rate can be compensated more economically by way of additional reductions in health insurance premiums. The Swiss Federal Audit Office believes the reason why this has not already happened is that, at the

time the reduced tax rate for foodstuffs was introduced, no alternative instrument existed at the federal level with which the undesired burden for the lowest-income households could have been compensated.

In the view of the SFAO, it is worthwhile for a country to examine in general whether the goals envisaged by reduced VAT rates might be achieved more economically by means of existing social welfare and economic policy instruments.

6 Activities by national governments and parliaments

6.1 Germany

In the past, the Federal Ministry of Finance had repeatedly proposed the abolition of reduced rates for certain categories of products and services, e.g. for works of art and collectors' items, combined articles, dog and cat feeds, cut flowers and other agricultural products, agricultural primary products and supplies and services of dental laboratory technicians. This was to reduce tax relief, to abrogate provisions that contravene Community law, to simplify the tax system and to avoid contradictory objectives.

Moreover, the Federal Ministry of Finance had expressed the opinion that the reduced VAT rates were scarcely suitable as a tool for implementing policy objectives, especially since there was no way to ensure that traders passed on the tax relief to consumers by means of corresponding price cuts. This could be inferred especially, the Ministry went on to say, from the European Commission's report about the impact of the experiment 'Introduction of a reduced VAT rate on labour intensive services'.

However, the Legislature then did not take up the proposals made by the Federal Ministry of Finance for abolishing individual tax relief provisions. Accordingly, the range of application of the reduced VAT rate has essentially remained unchanged so far.

The Federal Ministry of Finance did not raise any objections against the current audit findings of the German SAI, but neither did it state that it would follow the current recommendations nor take action to abolish the reduced VAT rate.

In a report dated 30 October 2007 to the Parliamentary Appropriations Committee about the application of the reduced VAT rate¹², the Federal Ministry of Finance comes to the conclusions that

- a reduction of the VAT rate is not a suitable means to accomplish price cuts and thus relieve the burden on consumers;
- only few relief provisions, e.g. the application of the reduced VAT rate on food, are designed to protect the socio-cultural minimum subsistence level from any tax burden;
- many of the relief provisions have definitely the nature of subsidies;

¹² Letter of the Federal Ministry of Finance 8 November 2007 to the Chairman of the Parliamentary Appropriations Committee, Mr. Otto Frick, Member of the German Bundestag, *BT HHA* printed paper 16/3595.

- changed needs of the population and changed economic conditions let many of the relief provisions appear obsolete;
- in many cases there is no longer a convincing reason for upholding the relief provisions;
- a considerable number of the VAT relief provisions is problematic in terms of Community law.

At the same time, the Federal Ministry of Finance recommends a responsible attitude to any ideas about changing the reduced VAT rate or its field of application. The Ministry does not see any immediate need for action owing to the existing policy agreements.

6.2 Latvia

Latvian SAI developed recommendations. The Ministry of Finance and the State Revenue Service accepted them and agreed on due data considering that Community is working at new VAT system.

6.3 Lithuania

The Parliamentary Audit Committee¹³ considered the audit report “The application of reduced VAT rates” of the National Audit Office of Lithuania and decided to approve audit recommendations and to recommend to the Government to take the following actions:

- assess goals of reduced VAT rates which are currently in force;
- revise quality requirements to the legislation in purpose to assure that juridical procedures ensure detailed and clear presentation of goals of VAT subsidies and their needs;
- together with the account on the State Budget Execution to present information on revenue losses caused by VAT subsidies.
- The Ministry of Finance
 - initiated assessment of efficiency of all tax concessions, not only VAT – the Working Sub-Group was created in 14 May 2007
 - procured an economic study “The evaluation of tax concessions effects on national budget revenue and social – economic environment.”

The Parliament did not take up adequate attention to the proposal of the National Audit Office of Lithuania not to introduce reduced VAT rates in future or apply uniform tax rate to all goods and services in accordance with the provisions of the EU legal acts: in the middle of January 2008 the Parliament adopted the new VAT law amendment which set up reduced VAT rate (5%) to fruits and vegetables.

¹³ Decision Nr. 4 of the Parliamentary Audit Committee of 21 March 2007 on the National Audit Office of Lithuania audit report „On the application of reduced VAT rates“.

6.4 Switzerland

Switzerland introduced the VAT in 1995. Today, the tax is considered too complex and too risk prone, both for the taxpayer and the Administration. For this reason, the Swiss Federal Department of Finance has drafted a new VAT Act, which was circulated for consultations from February to the end of July 2007. Consultation procedures are designed to include the cantons, the political parties, and interested circles in the opinion-forming and decision-making processes of the Confederation. Due to its sheer size, the draft law consists primarily of the following modules:

- The Uniform Rate module envisages that, instead of the three existing tax rates, a budget-neutral uniform rate of 6% will be introduced and 20 of 25 exceptions will be eliminated, thereby removing many problems of delimitation and reducing the administrative burden. Under this new rate, goods previously taxed under the existing normal rate of 7.6% would be taxed somewhat less heavily, while goods subject to lower rates or exempt goods (especially in the areas of food and health) would be taxed more heavily. The social consequences of the uniform rate would be compensated for by additional reductions of health insurance premiums for basic insurance.
- As an alternative, another module envisages replacing the two lower rates by a single reduced rate. This two-rate system would accept more complexity and a higher rate relative to the Uniform Rate module, so that certain products and services could be taxed at a reduced rate.
- Under the Tax Law module, the VAT Act would undergo revisions with respect to more than 50 substantive points, and its systematic structure would be simplified. This is intended to improve legal certainty and reduce formalism.

Once the evaluation of the consultation results is completed in the second half of 2007, the government will decide on the next steps and submit a draft law to Parliament.

7 Conclusions by the working sub-group on VAT

As the result of the national audits and the national reports, the members of the VAT working sub-group arrived at the following common conclusions about the effect and the effectiveness of lower VAT rates.

- 7.1 The imposition of a lower VAT rate should be of direct benefit to consumers by lowering the prices for goods and services and by stimulating growth in demand and supply. Otherwise, a tax concession becomes a direct support for and a means of subsidising business.
- 7.2 The results of the national reports are broadly in line with existing studies on lower VAT rates. The working sub-group confirms that lower VAT rates are inappropriate to reduce prices for goods and services, to stimulate supply and demand or to increase the workforce in sectors with lower rates. Where some effect of lower rates can be measured, that effect could have been achieved more economically by other means, e.g. by reducing the standard VAT rate, increasing the real residents income by means of existing welfare payments, etc.

- 7.3 In some cases it is only the trader and not the customer who benefits from lower tax rates. By availing themselves of this tax privilege, traders obtain an unjustified competitive advantage in comparison to other traders who do not make sales at the lower VAT rate in addition to their sales to which the general VAT rate is applicable. This enables traders to maximise profits. The tax subsidy thus has an unintended impact on business operations.
- 7.4 In connexion with the application of lower VAT rates, unintended misclassification and abuse exist, that lead to considerable VAT revenue losses.
- 7.5 Furthermore, misallocation of a tax subsidy does not only infringe the national policy on subsidies but is also likely to be a problem for Community law.
- 7.6 There is a disproportionate relation between detailed regulations for rate differentiation and available resources of tax authorities to enforce them. The sub-group is concerned that the lower VAT rates are often unduly granted.
- 7.7 The members of the sub-group found out that VAT rate reductions for particular goods and services are often outdated and therefore not in line with the original legislative intent. Legal provisions for a regular evaluation of such subsidies are missing.
- 7.8 Monitoring of effects of subsidies such as lower VAT rates does not receive sufficient attention. Efficiency of tax concessions, their effects on consumer prices, changing consumption patterns and additional administrative costs are not regularly assessed.
- 7.9 It is worthwhile for a country to examine whether the goals envisaged by its lower VAT rate(s) might be achieved better by modifying existing instruments of social, fiscal or economic policy.

8 Overall Recommendations

The members of VAT sub-group recommend that the following options are explored:

- Monitoring and evaluation of the application and effects of lower VAT rates on a systematic basis, for instance as an element of a report on tax expenditures or on subsidies.
- Annual publication of the actual amount of state budget revenue lost as a result of VAT concessions.
- Assessment as to whether the number of VAT concessions by reduced tax rates on specific goods and services could be decreased and alternative instruments could be chosen if available.

Annex 1

Press release IP/07/1017 of the European Commission of 5 July 2007

IP/07/1017

Brussels, 5 July 2007

VAT reduced rates: Commission launches a political debate on how to simplify current EU legislation (see also MEMO/07/277)

The European Commission, in its Communication adopted today, considers that there is a real need for a simplification and rationalisation of the current VAT rates structure, in particular the reduced VAT rates. It believes that there is a place for more flexibility which would allow Member States to apply VAT reduced rates to local supplies. However, this flexibility needs to be balanced to ensure the proper functioning of the Internal Market and to avoid disproportionate compliance costs for business. To this extent, possible ways are put forward but no concrete proposal is made for new categories of products or services, given the need for prior political consideration by Member States. At the same time, the Commission proposes to extend, until the end 2010, most of the derogations coming to an end soon.

"The application of VAT reduced rates is a very sensitive issue in an area where the unanimity principle forces all stakeholders to be inclined to compromise. Today I am very happy to launch a broad political debate between Member States; we need their views before defining a coherent and achievable long term policy.", said László Kovács, the Commissioner for Taxation and Customs Union. "We consider that a new framework for reduced rates is needed, more rational, more transparent and more flexible for the Member States".

The Communication is based on, and presents the results of, an economic study conducted by an independent think-tank, as well as on other reflections on the possible way forward in the field of reduced rates.

The main conclusion of this study is that from an economic perspective a single uniform VAT rate (per Member State) is the best policy choice. It would slightly improve consumer welfare in comparison with the current situation, reduce distortions in the functioning of the Internal Market, simplify the rules and thus reduce compliance costs for business.

However, there may be specific economic benefits from operating a reduced rate in carefully targeted sectors. According to the study, lower VAT rates could contribute to economic growth if they can induce consumers to spend more on bought-in goods and services. Such a change in consumption habits often also allows more time to be spent on leisure activities with an associated increase in expenditure. For (certain) locally supplied services – notably those usually referred to as "do-it-yourself" – such a shift could take place. There are also arguments for introducing VAT reduced rates in sectors employing many low skilled workers in order to permanently create new jobs. However, overall net gains seem to be minor.

The study also stresses that other economic instruments (such as subsidies) might often be more efficient than reduced VAT rates to achieve environmental, social, cultural and economical policies.

Flexibility balanced with some imperatives

The Commission considers there is a place for more flexibility to be given to Member States to apply VAT reduced rates. However, the room for manoeuvre is narrow. Indeed, the Internal Market requires that goods and services can be traded within the EU without giving rise to unacceptable distortions of competition for companies or for Member States. These distortions could arise when consumers buy in other Member States in order to benefit from reduced prices. Locally supplied services (which cannot be delivered from a remote location) could be a candidate for reduced rates, as they do not pose any major risk to the internal market. However, political input is required here to determine what distortions can be deemed to be acceptable.

Moreover, there is a danger that introducing additional reduced VAT rates may lead to increased costs, making single market access more difficult for traders. Having to deal with different VAT rates in different Member States clearly creates a cost; which becomes particularly burdensome where the variation of rates concerns not just a few goods or services but hundreds, with different definitions for the scope of each reduced rate. Here again, political input is needed to find the appropriate balance between flexibility and the risk of increasing compliance costs.

Other criteria need to be taken into consideration, such as policy coherence (does it make sense to allow for a reduced rate on gas or electricity if we assume that this would generate more energy consumption?) and sustainability and legal certainty for stakeholders (use of reduced rates for the promotion of certain goods depends largely on political priorities that can evolve over time).

Equal treatment and measured debate

Derogations for reduced rates granted to Member States which joined the EU before 1 January 1995 are valid until the adoption of the definitive VAT system. However, many reduced rate derogations granted to the other Member States expire at the end of 2007 or in 2008. This difference in treatment creates inequality between Member States without any substantial justification. This could prejudice the outcome of the future discussions on the use of reduced rates.

Therefore, the Commission proposes to extend till the end of 2010 these last mentioned derogations providing they do not conflict with a smooth functioning of the Internal Market, with another Community policies or became obsolete. This planned prolongation aims at allowing an in-depth debate, without undue time pressure, in order to design new common rules to apply after 2010.

Further information is available on the following website:

http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/rates/index_en.htm

The study made by an independent think-tank is available at this following link:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/study_reduced_VAT.pdf

