Corporate Loss Utilisation through Aggressive Tax Planning
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Corporate Loss Utilisation through Aggressive Tax Planning

Due to the recent financial and economic crisis, the amount of global corporate losses has grown significantly. Over and above the immediate tax revenue impact of these losses as a result of the normal operation of countries' loss relief rules, these losses also raise tax compliance risks, in particular if companies turn to aggressive tax planning as a means of increasing and/or accelerating tax relief on their losses.

Corporate Loss Utilisation through Aggressive Tax Planning looks at a number of aggressive tax planning schemes on losses and identifies three key risk areas: corporate reorganisations, financial instruments and non-arm's length transfer pricing. Though these are generally used for sound business and economic reasons, some taxpayers use them to obtain undue tax advantages. For example, countries have identified financial instruments that create artificial losses or obtain multiple deductions for the same loss. They have also seen loss-making companies acquired solely to be merged with profit-making companies and loss-making financial assets artificially allocated to high-tax jurisdictions through non arm's length transactions.

The report outlines strategies to detect and respond to these aggressive tax planning schemes. Detection usually takes place through audits, special reporting obligations on losses, mandatory disclosure rules, rulings, and co-operative compliance programmes. Responses require a comprehensive approach focusing on the schemes, as well as on their promoters and users. Early engagement between taxpayers and tax authorities in the framework of disclosure initiatives and co-operative compliance programmes also have had positive effects, persuading some tax payers not to use or promote certain schemes.

DID YOU KNOW?

Global corporate losses are enormous, with tax loss carry-forwards as high as 25% of GDP in some countries.

SELECTED RECOMMENDATIONS

- Improving data collection on losses
- Introducing or revising restrictions on use of losses
- Introducing restrictions on the multiple use of the same loss
- Evaluating temporary measures on the use of losses for tax purposes
- Analysing the policy and compliance issues of after-tax hedging
- Sharing relevant intelligence on strategies to counter aggressive tax planning, and measuring their effectiveness

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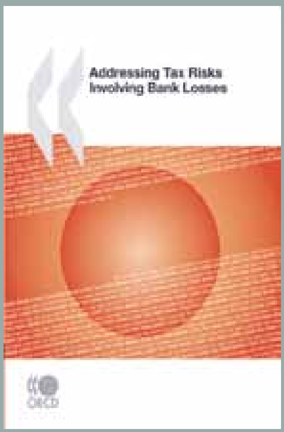

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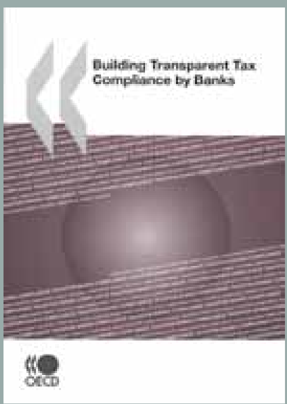
Addressing Tax Risks involving Bank Losses

The financial and economic crisis had a devastating impact on bank profits, with loss-making banks reporting global commercial losses of around USD 400 billion in 2008. This level of commercial losses has brought tax risks for both banks and revenue bodies. These risks affect banks' profits, their capital base, and their level of certainty. For revenue bodies, the concern is that aggressive tax planning involving losses will further reduce already depleted tax revenues as a result of the crisis.

This comprehensive report:

- Sets the market context for bank losses and provides an overview of the tax treatment of such losses in 17 OECD countries;
- Describes the tax risks that arise in relation to bank losses from the perspective of both banks and revenue bodies;
- Outlines the incentives that give rise to those risks, including incentives related to the regulatory capital treatment of accumulated tax losses accounted for as deferred tax assets;
- Describes the tools revenue bodies have to manage these potential compliance risks; and
- Concludes with recommendations for revenue bodies and for banks on how risks involving bank losses can best be managed and reduced.



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Building Transparent Tax Comliance by Banks

What role do banks play in the provision of aggressive tax planning arrangements? This book analyses the nature of banking, the complex structured financing transactions developed by banks and how they are then used by both banks and their clients. It also explores the internal governance processes that banks use to manage tax risk and the prevention, detection and response strategies applied by different revenue bodies in responding to the challenges that banks pose.

The book makes a number of recommendations for revenue bodies and identifies best practices for consideration by banks. For example, revenue bodies should gain an understanding of how individual banks manage tax risks, as robust risk management processes can provide them with greater assurance of a bank's tax compliance. In turn, banks are encouraged, in setting their business strategy, to consider the benefits of an enhanced relationship with revenue bodies, including early certainty, reduced compliance costs and reduced reputational risks.