



**FOURTH MEETING OF THE OECD FORUM ON TAX
ADMINISTRATION**

10-11 January 2008

**Cape Town Communiqué
11 January 2008**

Cape Town Communiqué

11 January 2008

Over the last two days we, the Heads and Deputy Heads of Revenue Bodies from 45 economies, met in Cape Town, South Africa under the auspices of the OECD's Forum on Tax Administration (FTA). The focus of our gathering was threefold:

- Global trends in business and the implications for revenue bodies.
- The conclusions and recommendations of a Study into the Role of Tax Intermediaries which was initiated in Seoul.
- An exploration of concrete ways to assist African revenue bodies in developing their capacity to raise the national revenues required to meet the Millennium Development Goals (<http://www.un.org/millenniumgoals/>).

(i) Global Trends in Business and Wealth Management

We are acutely aware that national revenue bodies increasingly need to consider international trends and developments and new models used by business when determining their priorities and areas of focus. As the corporate world continues to operate more globally and with a workforce ever more internationally mobile, it was timely for us, as Heads of Revenue Bodies, to hear from senior business leaders on significant global trends in business and wealth management. Representing some of the world's largest companies, they were also able to share with us their ideas on what implications these trends could have for revenue bodies and what they saw as the tax challenges emerging in the interaction between business and government. Their contributions gave us greater insight into the approaches they are following to manage their worldwide operations while elaborating on some of their key drivers. We agreed this dialogue should be an ongoing feature of the Forum and we will continue to encourage taxpayers and tax intermediaries to participate in this dialogue.

(ii) The follow up to the Seoul Declaration: Achieving an enhanced relationship

In a declaration issued at the 2006 FTA meeting, "The Seoul Declaration", we recognised that ensuring compliance with the respective tax laws of each country has become more difficult as trade and capital liberalisation and advances in communications technologies have opened the global marketplace to a wider spectrum of taxpayers. While the benefits of a more open economic environment were noted in the Seoul Declaration, we also highlighted some of the challenges revenue bodies face in this more open environment to ensure taxpayers meet their obligations under the laws of each country and that aggressive tax planning was curbed. It was against this background that we initiated an OECD study into the role of tax intermediaries.

The study, led by officials from HM Revenue & Customs in the United Kingdom and the OECD Secretariat (hereafter referred to as the "Study Team"), has been under way for over fifteen months. All FTA participants have been involved in this work and extensive consultations have taken place with the private sector. Various members of the accounting and legal professions as well as business groups, including the Business and Industry Advisory Committee to the OECD (BIAC), have provided valuable feedback and advice as the study has progressed. We wish to acknowledge the importance and usefulness of this dialogue and confirmed our intention to build on it.

The study, which initially focused on the role of tax intermediaries in aggressive tax planning, has evolved by broadening its focus into a wider review of the tripartite relationship between revenue bodies, taxpayers and tax intermediaries.

The report of the Study Team issued today, which focuses on large corporate taxpayers and those providing them with tax advice, acknowledges the diverse experiences of each country and therefore the recommendations set out in the report may be more relevant for some countries than others. The main conclusions which emerge from the report are:

- Tax intermediaries play a vital role in all our tax systems by helping taxpayers understand and comply with their tax obligations in an increasingly complex world. However, some are also designers and promoters of aggressive tax planning.
- Revenue bodies are using various approaches (e.g., registration and regulation of tax intermediaries and advance disclosure of aggressive tax schemes) to respond to the involvement of tax intermediaries in aggressive tax planning and they are continually reviewing their strategies to ensure they are robust and appropriate.
- Tax intermediaries may supply aggressive tax planning options to their clients but taxpayers set their own strategies for tax risk management and determine their own appetites for tax risk. Taxpayers are the ones who decide whether to adopt particular planning opportunities and there is significant scope to influence the demand by taxpayers for aggressive tax planning – at least in relation to large corporate taxpayers, which is the main focus of this report.
- Risk management is an essential tool for revenue bodies to be able to respond quickly to changing circumstances, to ensure that risk treatment strategies are applied to the highest priority areas and overall, to ensure there is an optimal use of a revenue body's resources.
- Current, relevant and reliable information is necessary to achieve effective risk management and clearly the most comprehensive source for this information is the taxpayer. Consequently, the report explored how a relationship between revenue bodies and taxpayers could be developed which would be based upon early disclosure of potential tax issues and transparency.
- Revenue bodies can achieve a more effective and efficient relationship in their dealings with taxpayers and tax intermediaries if their actions are based upon the following attributes:
 - Understanding based on commercial awareness
 - Impartiality
 - Proportionality
 - Openness
 - Responsiveness.

These attributes are fundamental for any revenue body and should underpin all their dealings with taxpayers.

- If revenue bodies demonstrate these five attributes and have effective risk-management processes in place, large corporate taxpayers would be more likely to engage in a relationship with revenue bodies based on co-operation and trust, what is described in the report as an “*enhanced relationship*”.
- An *enhanced relationship* offers benefits for revenue bodies as well as taxpayers. The report notes that taxpayers who behave transparently can expect greater certainty and an earlier resolution of tax issues with less extensive audits and lower compliance costs. An *enhanced relationship* between revenue bodies and tax intermediaries would also yield significant benefits.
- Revenue bodies should consider the value of applying the enhanced relationship approach against traditional domestic enforcement actions when interacting with tax intermediaries and taxpayers.

An appendix to this communiqué provides a summary of the recommendations that were made in the report. The report can be found at <http://www.oecd.org/dataoecd/28/34/39882938.pdf>.

We do not believe that the demand for aggressive tax planning will disappear nor that all tax intermediaries will stop offering aggressive tax planning products. Further, some large corporate taxpayers may choose not to enter into the *enhanced relationship*. It is by continuing to refine our risk management processes to identify these taxpayers and to allocate the necessary level of resources that we can ensure they meet their obligations under the law. Large corporate taxpayers, and their advisers, who are unwilling to embrace transparency must learn they cannot expect to prosper at the expense of others.

During our discussions we also noted that some banks, especially investment banks, play a significant role in developing and implementing aggressive tax planning both for clients and also for banks' inter-bank and proprietary trading. The Study Team was not able to fully develop its understanding of how this sector operates which made it more difficult to explore the benefits of an *enhanced relationship* for these taxpayers. High-net-worth individuals may also participate in aggressive tax planning but time constraints precluded the Study Team from fully considering the most appropriate response strategies in this context. Follow-up studies in both these areas will be undertaken, building on the activities of the working groups of the OECD's Committee on Fiscal Affairs (CFA).

Our discussions over the last two days have shown the increased importance of risk management techniques and the benefits that would likely flow from revenue bodies and taxpayers consistently acting in accordance with the concepts underlying the *enhanced relationship*. As a result, we agreed that revenue bodies may wish to develop their own plans for how to move progressively towards the broad concepts set out in the report. We also agreed to review and share experiences on the issues raised in this report, including the *enhanced relationship*.

We expressed our thanks to Dave Hartnett, Acting Chairman, HM Revenue & Customs, for the significant contribution he has made to the Study into the Role of Tax Intermediaries. We also thanked the Study Team for the very valuable contribution they have made.

(iii) Capacity Building in African Revenue Bodies

We welcomed the participation of several African Tax Commissioners for the first time in our discussions, and were able to exchange experiences on a wide range of issues. We gained valuable insights into the progress made and challenges faced by their respective revenue bodies, some common and some unique to African countries.

We acknowledged that more effective and efficient revenue bodies on the African continent would assist in building more capable and accountable states and governments. We also recognised that, in order to build these revenue bodies, partnerships needed to be developed to effectively build the institutional capability and assist in capacity building. We are well aware that much more work has to be done in this area. We therefore strongly support the proposal to continue this dialogue by holding a conference on *Taxation, Governance and Capacity Building in Africa* in late May 2008.

This conference, to be hosted by the South African Revenue Service, will bring African tax commissioners together with organisations working in the tax and governance area, including the International Monetary Fund (IMF), OECD, World Bank, World Customs Organisation (WCO) and donor agencies. It is envisaged that this conference will, among other issues, elaborate on our discussions here today and explore ways to optimise current efforts to build greater capacity in African revenue bodies. Among these, we propose that the conference in May considers the establishment of an International Tax Centre on the African continent with funding from donors and other interested parties. Overall, the Centre would focus on a more coherent approach to capacity building in the African continent. In doing so, the Centre would ideally work with interested international organisations and other institutions and donors to focus on the development and application of good practices. It would also seek opportunities to develop synergies as well as ensuring that maximum benefit is gained from the use of scarce resources.

(iv) The way forward

We took forward the other issues referred to in the Seoul Declaration and our conclusions were:

- We intend to complete this year the project launched in Seoul to enhance the training of tax officials in the area of international tax.
- We noted the very good progress made to further develop the CFA's directory of aggressive tax planning and we encouraged the continuation of this important work.
- We also noted the work in progress to explore opportunities for the application of the OECD's Principles of Corporate Governance to the area of taxation and will continue to share experiences in undertaking dialogue with the Chairs and Boards of listed companies about the approach they take to managing taxation risks.

We also welcomed the progress being made in the OECD's work on Offshore Financial Centres and felt this initiative complements the work of the FTA on improving tax compliance.

These initiatives, as well as the follow-up work to the Study into the Role of Tax Intermediaries, will be discussed at our next meeting.

In addition, we will continue to encourage a global dialogue with large corporate taxpayers and their advisers. We have seen how, through working together with them, we are able to influence and learn from the global environment within which national tax systems operate. We are pleased at how they responded to our collective concerns, as expressed at Seoul, and hope they benefited as much from the discussions as we have and continue to do so.

We are convinced that as business becomes more global revenue bodies need to improve international co-operation and increasingly share experiences so we can develop a shared understanding of the impact of globalization on tax systems. The success of the FTA demonstrates that we are stronger when working together and we will continue to improve our international co-operation.

Finally, we expressed our appreciation to the South African government and the South African Revenue Service for hosting this fourth meeting of the Forum on Tax Administration and to the leadership that Mark Everson, former Commissioner of the Internal Revenue Service, USA, and Paul Gray, former Chairman of HM Revenue and Customs, United Kingdom, have provided to the FTA since the Seoul meeting. We welcomed the offer of the Mexican Servicio de Administración Tributaria (SAT) to host in 2009 the fifth meeting of the FTA in May 2009. A list of the economies and organisations participating in this meeting is attached.

Appendix

Recommendations made in the Study Team's Report

As noted throughout this report, relationships between revenue bodies, taxpayers and tax intermediaries differ widely between FTA countries. Furthermore these relationships are shaped by different administrative, legal and cultural frameworks. It is therefore for each country to decide how to apply the recommendations in their own context. This is the context in which the following recommendations should be considered.

In relation to risk management, the Study Team recommends that FTA countries:

- use risk management as a tool to allocate resources to address prioritised compliance risks, including aggressive tax planning;
- continue to support the OECD's on-going work on risk management;
- continue to find ways to work together and to improve the exchange of information, particularly in relation to the issues raised in this report;
- formulate their own methods of dealing with tax intermediary risk; and
- ensure those who develop accounting standards are aware of revenue bodies' needs.

To improve their capacity to respond to the needs of taxpayers, the Study Team recommends that revenue bodies continue to improve their capabilities in the following areas:

- understanding based on greater commercial awareness
- impartiality
- proportionality
- openness (disclosure and transparency)
- responsiveness

To develop understanding through commercial awareness, the Study Team recommends that revenue bodies (i) explore opportunities for working in partnership with large corporate taxpayers and tax intermediaries to deliver training on relevant issues and (ii) consider how their organisation and structure can support the development of commercial awareness.

In relation to openness, the Study Team recommends that:

- revenue bodies should consider providing greater transparency on their broad approach to risk management, including types of behaviours or transactions the revenue body sees as risks and how it will respond to them;
- revenue bodies should not publish full details of how taxpayers or issues are selected for enquiry, including the algorithms used in computerised risk engines, since to do so could invite inappropriate behaviour by some taxpayers;

- individual countries decide whether and how to be open with individual taxpayers about their overall assessment of that taxpayer's risk; and
- countries should review their approach to consultation.

In relation to the enhanced relationship, the Study Team recommends that revenue bodies establish a tax environment in which trust and co-operation can develop so that enhanced relationships with large corporate taxpayers and tax advisers can exist.

In relation to taxpayers and tax advisers who are unwilling to offer enhanced disclosure and transparency, the Study Team recommends that:

- revenue bodies should risk assess taxpayers on the basis of the information available and respond accordingly; and
- revenue bodies should use a risk-based approach to direct attention to tax advisers who are unwilling to engage in mutually beneficial relationships with a view to making it apparent that there are consequences.

Appendix

Economies and organisations participating in the fourth meeting of the OECD Forum on Tax Administration

Argentina, Australia, Austria, Belgium, Brazil, Botswana, Canada, Chile, China, Czech Republic, Denmark, Finland, France, Germany, Ghana, Hong Kong China, Hungary, India, Ireland, Italy, Japan, Korea, Malaysia, Mexico, Mozambique, Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, Russian Federation, Rwanda, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Uganda, United Kingdom, United States.

European Commission, Intra-European Organisation of Tax Administrations (IOTA), International Monetary Fund (IMF), World Customs Organisation (WCO)