Joint Audit 2019 – Enhancing Tax Co-operation and Improving Tax Certainty

FORUM ON TAX ADMINISTRATION



OECD

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Preface

Businesses increasingly operate on a global basis, producing and selling goods and services in multiple jurisdictions, often using complex supply chains, organisational structures and financing arrangements. Such activity is not confined to the largest businesses anymore, and as opportunities for trade expand, many smaller enterprises are increasingly operating in a cross-border environment.

Tax administrations need to operate effectively in this global environment, co-operating ever more closely and frequently with each other to ensure compliance, tackle base erosion and profit shifting, and to minimise the probability of costly and time-consuming disputes. One form of co-ordinated action undertaken by tax administrations in this regard is conducting audits in close co-operation with other jurisdictions, whether on a simultaneous basis, through the presence of auditors from another jurisdiction or, at the most joined-up end, through the formation of joint audit teams.

Against this background, this report on Joint Audit was initiated by the OECD's Forum on Tax Administration (FTA) in early 2018. The intention of the report is to identify both the benefits that can arise from the greater use of joint audits as well as the challenges that need to be overcome to ensure that those benefits can be realised as effectively and efficiently as possible for both tax administrations and taxpayers. This will help to ensure that this important tool can be leveraged to its full extent.

The report has been prepared by an Expert Group of FTA members from Germany, Italy, the Netherlands, Norway, South Africa, the United Kingdom and the United States. It also drew on the invaluable input of FTA members in Belgium, Canada, Denmark, Finland, France, Greece, Hungary, Ireland, Japan, Portugal, Spain, Russia and Singapore. The report builds on earlier work of the OECD and the FTA and in particular on the FTA's 2010 Joint Audit report where the idea of a "Joint Audit" was first articulated.

It is an honour to have sponsored this work and I would like to express my sincere thanks to everyone that has dedicated their time and expertise, including the Expert Group, other FTA members and business stakeholders. In particular, I would like to thank my own Dutch team and the FTA Secretariat for their efforts in co-ordinating this work and for producing a report that provides a solid basis for the development and greater use of this important tool for both tax compliance and tax certainty.

Jaap Uijlenbroek

Commissioner of the Netherlands Tax and Customs Administration

Foreword

The pace of globalisation and the rapid digitalisation of the economy leave tax administrations with little choice but to engage in ever closer co-operation, including through Joint Audits, to ensure that taxpayers pay the right amount of taxes, to reduce administrative burdens, increase efficiencies, enhance tax certainty and avoid double taxation and double non-taxation to benefit governments and taxpayers alike.

The report "Joint Audit 2019 – enhancing tax co-operation and improving tax certainty" identifies both the benefits that can arise from the greater use of joint audits as well as the challenges that need to be overcome to ensure that those benefits can be realised as effectively and efficiently as possible for both tax administrations and taxpayers.

This report was approved by the Committee on Fiscal Affairs on 18 March 2019 and prepared for publication by the OECD Secretariat.

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Abbreviations and acronyms

ACAP	Accelerated Competent Authority Procedure
AEOI	Automatic exchange of information
APA	Advanced Pricing Agreement
BEPS	Base Erosion and Profit Shifting
CA-EOI	Competent Authority for EOI
CA-MAP	Competent Authority for MAP
CAP	Compliance Assurance Process of the United States
CbC	Country by Country
CRS	Common Reporting Standard
CTS	Common Transmission System
EOI	Exchange of information
EOIR	Exchange of information on request
EU	European Union
ICAP	International Compliance Assurance Programme
IMF	International Monetary Fund
MAP	Mutual Agreement Procedure
MNE	Multinational enterprises
MoU	Memorandum of Understanding
SPOC	Single points of contact
STE	Simultaneous tax examinations
TIEA	Model Tax Information Exchange Agreement
TIWB	Tax Inspectors Without Borders
UN	United Nations

Executive summary

It is the second time the FTA has worked on Joint Audits within the last ten years (OECD, 2010). Against the background of increasing globalisation, including the rapid digitalisation of the economy, tax administrations have little choice but to engage in ever closer co-operation, including through Joint Audits, to ensure that taxpayers pay the right amount of taxes, to reduce administrative burdens, increase efficiencies, enhance tax certainty and avoid double taxation to benefit governments and taxpayers alike.

The purpose of this report is to take stock of enhanced tax co-operation focusing on Joint Audits and to analyse current obstacles, challenges and opportunities. It also provides guidance including best practices for the conduct of Joint Audits and makes recommendations of how and where improvement could be made to further maximise the potential of Joint Audits.

While Joint Audits can be used for different types of taxes, this report focuses on the use of Joint Audits in direct tax purposes. The first chapter outlines the approach of the Project, followed by Chapter 2 that illustrates the role that Joint Audits can play in enhancing tax certainty. Chapter 3 provides an overview of the key benefits and the cost associated with the conduct of Joint Audits. Chapter 4 describes the current international landscape that supports the exchange of information in connection with Joint Audits and suggests work that could be undertaken to further strengthen the legal framework for Joint Audits. The role of the taxpayer during the Joint Audit procedure is discussed in Chapter 5 followed by Chapter 6, which covers issues of capacity building and the importance of relationships and trust. The last chapter, Chapter 7, provides a summary of the Joint Audit process and includes practical guidance and best practices for conducting Joint Audits.

The report is the outcome of a project on "Joint Audits" (hereafter "the Project") that focused on international tax co-operation in the field of tax audits. It examined how collaboration in this field has developed since the term "Joint Audits" was first formally introduced into the FTA's work in the FTA Joint Audit Report, September 2010.

The current Project was led by an expert group from seven jurisdictions (hereafter the "Expert Group Members"[1]) with another 14 jurisdictions providing input.[2] The Project also benefited from input provided by business including at an expert meeting held in the Netherlands.

The report shows that much has been achieved over the last 10 years and Joint Audit have proven to be an effective tool to ensure the right amount of tax is paid while minimising the risk of double taxation. The findings, best practices and recommendations contained in this report should enable all tax administrations to engage successfully in a Joint Audit. Detailed recommendations are contained at the end of each chapter and a high level summary is included below.

Key recommendations

- **Decide on strategic approach:** Determine strategic approach on Joint Audits and implement organisational measures accordingly (see Chapter 7).
- **Use an integrated approach**: Integrate Joint Audits within the tax certainty agenda managing different tools and programmes (e.g. international tax risk assessment, Joint Audits, APAs, MAP) holistically (see Chapter 2).
- **Optimise cost-benefit-ratio**: Measure costs and benefits and optimise their ratio including through case selection and programme evaluation (Chapter 3).
- **Solid legal framework**: Ensure to have a solid legal framework in place, both domestically and internationally, and address any legal uncertainties identified and explore strengthening the rules applicable to the presence of tax officials abroad (see Chapter 4).
- **Role of the taxpayer**: Aim for close co-operation with the concerned taxpayer(s) by engaging and consulting on a regular basis unless the facts and circumstances of the case suggest otherwise, and encourage taxpayers to come forward and suggest cases for Joint Audits themselves (see Chapter 5).
- **Capacity Building**: Engage in training and Joint Audit pilots to gain practical experience in conducting Joint Audits and consider to engage with lower capacity jurisdictions for Joint Audits possibly with the support of Tax Inspectors without Borders (TIWB) (see Chapter 6).
- **Best practices and knowledge sharing**: Build on the experiences made by others and consider best practices and recommendations contained in this report in your Joint Audit practice (see Chapter 7).

Notes

1. Germany, Italy, the Netherlands, Norway, South Africa, the United Kingdom and the United States.
2. Belgium, Canada, Denmark, Finland, France, Greece, Hungary, Ireland, Japan, Portugal, Russia and Singapore and Spain.

Reference

OECD (2010), *Joint Audit Report*, OECD Publishing, Paris, available at www.oecd.org/tax/administration/45988932.pdf.

Introduction

The Project

"Global transparency requires international co-operation to reach cross border solutions in tax matters."

Eveline E. Klein Entink
(Coordinator International Co-operation –
Large Business Segment at NTCA)

"TWO audit teams – ONE common solution – ZERO double or non-taxation. That is what joint audits are about!"

Eva Oertel
(Legal Counsel for International Tax Policy,
Federal Ministry of Finance, Berlin)

The Italian Revenue Agency sees joint audits as a terrific opportunity to work together with other tax administrations in real time and to ensure targeted and balanced approaches, providing taxpayers with advanced certainty and enhanced ways to avoid double taxation."

Chiara Putzolu/Vito Funari
(Agenzia delle Entrate, Roma)

"Unilateral audits of bi- and multilateral tax issues simply do not makes sense. If we are to manage the increasing number of international tax disputes, we need to find better tools to secure timely tax certainty. Correctly designed, joint audits have the potential to be a useful tool in the dispute management toolbox."

Jesper Barenfeld
(Senior Vice President, Head of Group Tax,
Group Reporting, Tax and Control Volvo AB, Gothenburg)

1. These statements are a powerful testimony to the increasing globalisation of business and the need for tax administrations – that remain confined to national borders – to engage in ever more enhanced forms of international tax co-operation. This report focuses on the most advanced form of audit-related tax co-operation with the highest levels of integration and co-ordination under the heading of "Joint Audits".

2. It is the second time the FTA has worked on Joint Audits within the last ten years (OECD, 2010).[1] A quick review of the past and the present and a look into the future of tax co-operation gives ample reason to believe that the work is not only timely, but that the FTA may well return to it rather sooner than later. The pace of globalisation, including the rapid digitalisation of the economy, leaves tax administrations with little choice but to engage in ever closer co-operation, including through Joint Audits, to ensure that taxpayers pay the right amount of taxes, to reduce administrative burdens, increase efficiencies,

enhance tax certainty and avoid double taxation to benefit governments and taxpayers alike. While Joint Audits can be used for different types of taxes, this report will focus on the use of Joint Audits in direct tax purposes.

3. The report is derived from a project on "Joint Audits" (the "Project") that focused on international co-operation in the field of tax audits and collected an overview of experience to date. It examined how collaboration in this field has developed since its first mentioning in the FTA Joint Audit Report, September 2010 (hereafter, the "2010 Report") and where this instrument can be further developed and improved in the future.

4. Information was collected from the 20 participating jurisdictions[2] through questionnaires, interviews via conference calls with "Expert Group Members"[3] and through discussions in an expert meeting where businesses also participated to share their views on the topic.

Background and context

A brief history of international tax co-operation

5. Exchange of information between tax administrations was already part of international tax co-operation nearly 100 years ago, as witnessed by a 1925 League of Nations report, which identified exchange of information as a necessary measure "to secure the effective suppression of tax evasion" (League of Nations, 1925, in Wöhrer, 2018). The "Draft of a Bilateral Convention on Administrative Assistance in Matters of Taxation" of 1927 (1927 Model) already contained a wide personal scope comprising information regarding all natural and legal persons taxable in one of the contracting states[4] and regarding all matters required for tax assessment (League of Nations, 1927, in Wöhrer, 2018). However, the exchange was limited to the information already in the possession of the contracting states and information that could be easily obtained in the normal course of administration.

6. Work on the scope and extent of information that could and should be exchanged between tax administrations was continued by the OECD after the League of Nations was replaced by the United Nations (UN). Even though the scope of the first OECD *Model Tax Convention on Income and on Capital* (Model Tax Convention (OECD, 2017)) of 1963 was rather restricted, the OECD proceeded to broaden the personal and material scope in the updated versions that followed.

7. In the 1970s and 80s, important initiatives took place, at regional and global level, which further strengthened the legal framework for international co-operation in tax matters. Notable examples include the Nordic Multilateral Treaty on Mutual Assistance in Tax Matters (Nordic Convention), signed by Denmark, Finland, Sweden, Norway and Iceland in 1972, the Council Directive 77/799/EEC of 19 December 1977[5] and the Convention on Mutual Administrative Assistance in Tax Matters (the Mutual Assistance Convention, OECD/Council of Europe, 2011), jointly developed by the OECD and the Council of Europe and opened for signature by their respective Member States in 1988.

8. However, wider political momentum only came at the turn of the millennium. The OECD launched its initiative to address harmful tax practices and published a first report on *Harmful Tax Competition* in 1998 (OECD, 1998). The report found that one of the key criteria for harmful tax practices was the lack of effective exchange of information and transparency. In this context, the OECD developed the Model Tax Information Exchange Agreement (TIEA) in 2002 (OECD, 2002) that set the standard for information exchange upon request and subsequently amended Article 26 of the OECD Model Tax Convention

accordingly. In its first years, the model TIEA had a relatively small uptake, with six agreements concluded in 2002 and a total of 44 by 2008. Equally, the number of signatories to the Convention stood at 17 having increased by only five in the five years to 2008. This was also the time where the European Union (EU) moved towards the automatic exchange on certain passive investments, through the introduction of the Savings Directive in 2003.[6]

9. The scene dramatically changed with the financial crisis in 2008, various tax evasion scandals and the advent of the G20. The declaration by the G20 in April 2009 marked the end of bank secrecy. As a reaction, all jurisdictions committed to the new standard for the exchange of information on request.

10. In the wake of these developments, exchange of information expanded with unprecedented speed: whereas the first 30 years of the Mutual Assistance Convention had seen only 17 signatories, the next 10 years brought the total to over 120. At the same time processes became faster, more efficient, more integrated and more electronic with dedicated systems and points of contact such as those within the context of the FTA's JITSIC[7] network. And jurisdictions did not stop at information exchange upon request. Following in the footsteps of FATCA and building on the EU Savings Directive, the OECD working with the G20 countries developed and agreed the first global standard of automatic exchange of information in the area of financial accounts: the Common Reporting Standard (CRS). By 2018 the CRS had become a reality with over 100 jurisdictions committed, over 4 500 bilateral exchanges of CRS information having taken place and the Global Forum with now 154 members.[8]

11. Concurrently with the momentous changes to tax co-operation in relation to the CRS, the OECD/G20 also made significant progress in addressing transparency issues in the corporate tax space. As part of the Base Erosion and Profit Shifting (BEPS) Project, launched in 2013, the mandatory spontaneous exchange of information on rulings was agreed (Action 5). In addition, the BEPS Project delivered the first automatic exchange of information policy in the multinational corporate tax arena through the introduction of country-by-country (CbC) reporting (Action 13). The latter has resulted in a widespread adoption of the automatic exchange framework for CbC reports, often based on the Mutual Assistance Convention, with almost 2 000 bilateral exchange relationships.

12. While exchange of information form part of all international tax co-operation, the needs of tax administrations, in particular in the audit stage, often go beyond a simple request for information. Already decades ago, tax administrations, and in particular those of the Nordic countries, were acutely aware that mere exchanges of information are not always sufficient to achieve optimal tax compliance outcomes if not accompanied by other forms of enhanced co-operation. The Nordic countries, due to traditionally strong commercial links and high migration figures, already had a long history of very extensive regional co-operation (Valkama, 2013) and therefore recognised the importance of enhanced multilateral co-operation decades ago.

13. These forms of enhanced co-operation, beyond exchanges of information can take a wide variety of forms and differing levels of engagement between tax administrations. In many instances, already today, tax officials accompany the exchange of information request with phone calls or personal meetings to explain the case and the information needed in more detail and to address inquiries of the requested tax administration directly.

14. A next logical steps towards deeper co-operation was to have the foreign tax official present at an examination or even to address the taxpayer directly during the procedures in order to facilitate the information gathering process by explaining the reasons for and the scope of the request for information. The possibility for the presence of foreign tax officials was first reflected in the Council Directive 77/799/EEC of 19 December 1977.[9]

The Mutual Assistance Convention and the Nordic Convention, adopted in the late eighties, includes the possibility to execute simultaneous tax examinations and request permission for representatives of one tax administration to be present at tax examinations carried by the other tax administration.[10]

15. Today, Article 26 of the OECD Model Tax Convention, the Nordic Convention, the Council Directive 2011/16/EU of 15 February 2011 on administrative co-operation in the field of taxation and repealing Directive 77/799/EEC (EU-Directive 2011/16) and the Mutual Assistance Convention[11] all acknowledge that enhanced international co-operation plays an important part in facilitating the proper determination of tax liabilities and bring benefits to both tax administrations and taxpayers. These instruments explicitly refer to "tax examinations abroad"[12] and "simultaneous tax examinations"[13] that will be explained further in Chapter 1. More and more use is being made of these possibilities. Within the EU alone, 119 simultaneous tax examinations and 213 tax examinations abroad were initiated in the period between 2013 and 2016.[14]

16. Tax administrations have further combined elements of information exchange, simultaneous tax examinations and tax examinations abroad to form a more advanced and integrated approach, in practice often referred to as "Joint Audits" a term first used in the 2010 Report (OECD, 2010).

Looking into the future

17. Contrasting the continued globalisation of the economy including its rapid digitalisation with the territorial limitations faced by tax administrations clearly suggests that Joint Audit activity is only going to increase.[15] Facilitated by digital technologies and the internet, ever smaller companies are able to transact business globally and may become subject to tax in other jurisdictions. Information relevant for tax purposes may be stored centrally on servers located abroad. Global supply chains may require a better understanding of activities, functions and assets abroad. As the current discussion on the taxation of the digitalising economy shows, tax obligations may arise in jurisdictions where a taxpayer does not have a physical presence and thus there may be nothing to audit within that jurisdiction. In the context of the CRS, correct reporting to the residence tax administration of the account holders relies exclusively on financial institutions based abroad.

18. And these are just some examples where tax administrations may well conclude that merely asking questions through traditional exchange of information pathways is neither sufficient nor necessarily the most efficient and effective route to achieve the best compliance outcomes for administrations and taxpayers. Similarly, acting and auditing unilaterally rather than jointly in such areas as transfer pricing, not only risks missing the whole picture, it also carries the risk of increased double taxation for taxpayers, which may then require an additional time-consuming process through the mutual agreement procedures (MAP) with uncertain outcomes. The MAP statistics released in 2018 show that this is not just an academic risk, with a substantial increase in total new MAP cases. Alongside other dispute prevention mechanisms such as APA's and improved risk assessment strategies, including the current ICAP pilot (OECD, 2018), Joint Audits can therefore play a key role in providing early certainty, reduce cost and accelerate timelines.

19. While most Joint Audits today take place amongst a small group of tax administrations, this is likely to change as the drivers described above become more and more pertinent in an ever larger number of jurisdictions. With the Mutual Assistance Convention now covering over 125 jurisdictions, the basic international legal framework is already in place and ready to be used.

Notes

1. The OECD published a first report on Joint Audit in 2010: OECD (2010).
2. Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, the Netherlands, Portugal, South Africa, Spain, Russia, Singapore, the United Kingdom, the United States.
3. Germany, Italy, the Netherlands, Norway, South Africa, the United Kingdom and the United States were selected to serve as a peer group for feedback on different topics.
4. The scope was not limited to residents – Article 2 of 1927 Model.
5. Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation.
6. Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments.
7. JITSIC brings together 38 of the world's national tax administrations that have committed to more effective and efficient ways to deal with tax avoidance. It offers a platform to enable its members to actively collaborate within the legal framework of effective bilateral and multilateral conventions and tax information exchange agreements – sharing their experience, resources and expertise to tackle the issues they face in common.
8. www.oecd.org/tax/transparency/about-the-global-forum/members.
9. Article 6 of Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation, certain excise duties and taxation of insurance premiums.
10. Articles 8 and 9 of the Mutual Assistance Convention and Articles 12 and 13 of the Nordic Convention.
11. Refer to Paragraph 9.1 of the Commentary to Article 26 Model Tax Convention, Articles 11 and 12, as well as Recitals 13 and 14 of EU-Directive 2011/16, Articles 12 and 13 of the Nordic Convention, as well as to Articles 8 and 9 of the Mutual Assistance Convention and the related Commentary.
12. A tax examination abroad – in this report referred to as foreign tax officials abroad – allows for the possibility to obtain information through the presence of representatives of the competent authority of the requesting tax administration. To the extent allowed by its domestic law, a jurisdiction may permit authorised representatives of the other jurisdiction to enter the first jurisdiction to interview individuals or examine a person's books and records – or to be present at such interviews or examinations carried out by the tax authorities of the first jurisdiction – in accordance with procedures mutually agreed upon by the competent authorities.
13. A simultaneous examination is an arrangement between two or more parties to examine simultaneously each in its own territory, the tax affairs of (a) taxpayer(s) in which they have a common or related interest, with a view of exchanging any relevant information which they so obtain.
14. See Commission Staff Working Document dd. 18.12.2017 on the application of EU-Directive 2011/16.
15. The degree of co-operation might be limited by the domestic legal framework as not all jurisdictions allow the presence of foreign tax officials to participate in an audit or to perform audit activities.

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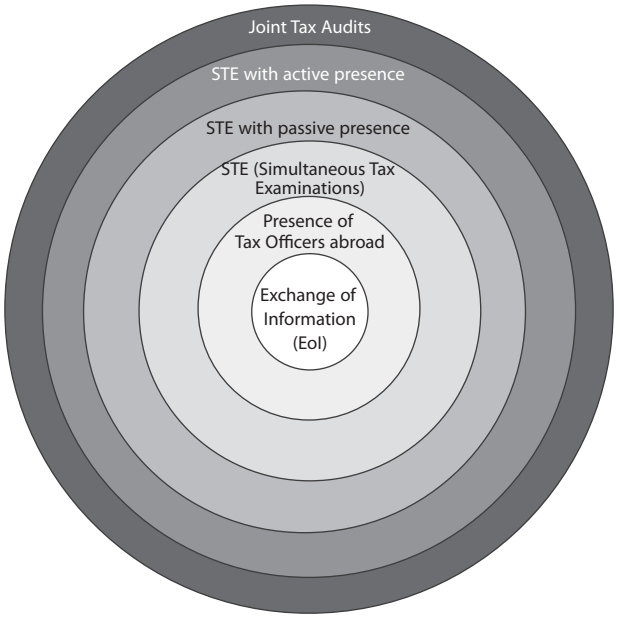
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Chapter 1

Joint Audits within international tax co-operation

20. Mutual administrative assistance covers a wide range of different forms of international tax co-operation ranging from a simple request for information to a Joint Audit as defined in the 2010 Report. Graphically, the degree of enhanced co-operation can be depicted as follows:



1.1. Exchange of information

21. At the core of international tax co-operation is exchange of information (EOI). EOI covers information exchange upon request (EOIR), where a jurisdiction, for instance during the course of an ongoing audit, requests information that is foreseeably relevant for its tax assessment or enforcement of its domestic laws. It also covers spontaneous or automatic information exchange of information (AEOI), such as the exchange of information on rulings under BEPS Action 5 or the exchange of CbC reports under BEPS Action 13, which inform risk assessment and help focus audit resource on particular taxpayers and/or issues. AEOI covers data exchanges on a standardised set of information regarding large numbers of taxpayers, whereas EOIR focusses on exchange of data in specific cases of individual taxpayers or a few related taxpayers.

22. Over the years tax administrations have significantly advanced the practical operation of exchange of information. While traditionally information exchange upon request

was a paper based process often involving several parties and layers within each tax administration, it is now often much more streamlined, using digital means, single points of contact (SPOC), central liaison officers or functional equivalents, and is supplemented by phone calls, videoconferences or face-to-face meetings between the participating tax administrations.

23. While there are many instances where exchange of information is all that is needed, tax administrations have long realised that there are also situations where more enhanced forms of tax co-operation lead to better outcomes and a more efficient process. These additional features of enhanced tax co-operation include the presence of tax officials abroad,[1] simultaneous tax examinations[2] and a combination of both.

1.2. Presence of tax officials abroad

24. Presence of tax officials abroad is a term chosen within the context of this Project to cover similar types of actions that can be arranged under different legal instruments, and involve the presence of tax officials of one jurisdiction in the territory of another jurisdiction to be present at the appropriate part of a tax examination of the host tax administration in that jurisdiction.[3]

25. When a tax official is present abroad as described in para 24 and interacts directly with the taxpayer, in the tax administration's offices or at the premises of the taxpayer, and interviews individuals and examines records this is referred to as "active presence", whereas "passive presence" indicates that a foreign tax official can only be present in the tax office of – or during an enquiry carried out by – the requested tax administration without interacting directly with the taxpayer.[4]

26. The presence of tax officials abroad requires the consent of the requested host jurisdiction as it includes the exercise of governmental functions on foreign territory. Whether this is permissible, and whether passive or active presence will be allowed, depends on the applicable legal framework and typically also on the consent of the hosting tax administration and in some jurisdictions also of the taxpayer concerned. This is further addressed in Chapter 4.

1.3. Simultaneous tax examinations

27. Simultaneous tax examinations (STE) refer to an arrangement between two or more tax administrations to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest,[5] with a view to exchanging any relevant information which they so obtain.[6] The conduct of a simultaneous tax examination means to align domestic audit activities in two or more jurisdictions.

28. Simultaneous tax examinations can also be combined with forms of presence of tax officials abroad, thus having two or more tax administrations examining simultaneously the tax affairs of one or more persons in which they have a common or related interest in the presence of the tax officials of the respective other tax administration. The presence of the tax officials abroad during the conduct of such audits can be either active or passive as outlined above, depending on the applicable law.

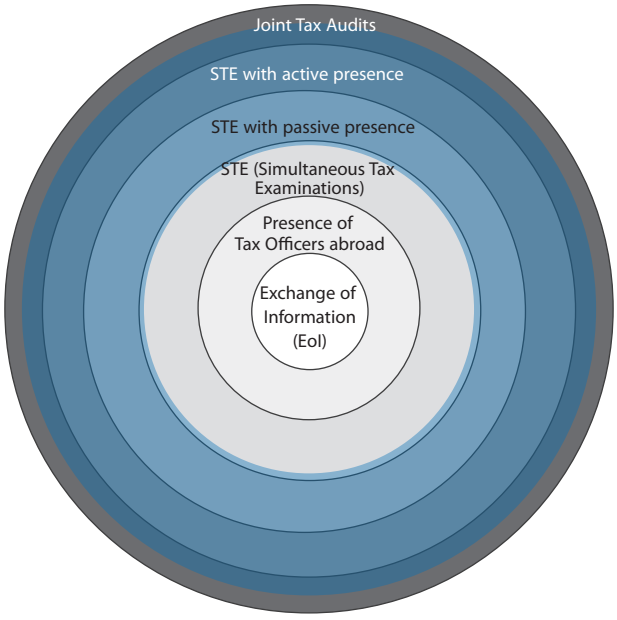
1.4. Joint Audits

29. The conduct of a Joint Audit was first articulated and described in the 2010 Report (OECD, 2010) and was summarised as follows:

- "*two or more countries joining together to form a single audit team*
- *to examine an issue(s)/transaction(s) of one or more related taxable persons (both legal entities and individuals) with cross-border business activities, perhaps including cross-border transactions involving related affiliated companies organised in the participating countries, and in which the countries have a common or complementary interest;*
- *where the taxpayer jointly makes presentations and shares information with the countries,*
- *and the team includes Competent Authority representatives from each country.*"

30. The Project showed that the concept of Joint Audit is interpreted very differently in practice: the term is used for different and more basic tools of mutual assistance yet also for more enhanced forms of co-operation where simultaneous audits are combined with forms of active and passive presence and which came very close to the 2010 Report definition of Joint Audits.

31. This is illustrated below by the blue layer overlapping the different circles.



32. While substantively many international engagements would deserve the classification of "Joint Audits" a close reading of the "2010 definition" raised a number of questions.

33. For instance, read narrowly most jurisdictions would currently be unable to engage in a Joint Audit as defined, because legally they cannot form a "single audit team" if the term is understood to imply the exercise of the same audit powers by all team members throughout the process.

34. The 2010 Report (OECD, 2010) itself already recognised that the term "Joint Audits" was rather a management than a legal term to express the idea that two or more tax

administrations work together. But even if viewed from a management perspective, it may be difficult to decide whether the audit is run by two (or more) highly integrated teams or in fact is run as a single audit team.

35. While the experience from participants in this project shows that tax administrations were, in practically all cases, able to agree on the key conclusions from the audit, they also reported that each audit team will usually also prepare a separate national audit report. Since a final joint audit report has no legal validity in itself, participants also prepare an audit report according to their domestic rules and procedures that serves as a basis for the respective national tax assessment in each participating jurisdiction.

36. In short, from evaluating the experience since 2010, a number of very constructive audits were reported that came very close to the Joint Audit definition of the 2010 Report, operated by a highly integrated team and succeeded in resolving the case even if they may not have fully met this definition.

37. It is for these reasons that this report introduces a slightly amended, broader and more functional definition of Joint Audits that seeks to avoid potential misunderstandings while being fully consistent with the direction and the spirit of the 2010 Report. It allows to capture the most highly integrated forms of co-ordinated audit activity, i.e. those that in substance are rightly classified as "Joint Audits" while leaving room for jurisdiction specific features and case specific variables that should not be seen as affecting the substantive classification of working jointly.

38. Using this approach a Joint Audit for purposes of this report is understood as

- two or more tax administrations joining together to
- examine an issue(s)/transaction(s) of one or more related taxable persons (both legal entities and individuals) with cross-border business activities, perhaps including cross-border transactions involving related affiliated companies organised in the participating jurisdictions, and in which the tax administrations have a common or complementary interest;
- proceeding in a pre-agreed and co-ordinated manner guaranteeing a high level of integration in the process and including the presence of officials from the other tax administration
- where the tax administrations jointly engage with the taxpayer, enabling the taxpayer to share information with them jointly
- and the teams include Competent Authority representatives from each tax administration for the exchange of information.

39. It clarifies that engaging in a Joint Audit does not imply that all those involved have to exercise the same audit powers, but that the tax officials involved are fully co-ordinated and have assigned the audit tasks among them in a manner that increases efficiency and is indicative of a joint approach. They engage jointly with the taxpayer, even though the role of the foreign tax official may be limited during the conduct of the audit activities in the other jurisdiction.

40. Joint Audits can be used in all situations including those that can be characterised as co-operative or as non co-operative. Co-operative situations are those Joint Audits that may have been suggested by the taxpayer and where all parties, including the taxpayer, work together co-operatively with the common objective of reaching the correct tax outcome

without subjecting the taxpayer to double taxation. In co-operative situations Joint Audits can be important in creating early tax certainty, as is further described in Chapter 2.

41. Joint Audits can also be used in situations motivated by tax avoidance or evasion risks, where concerns about double taxation are less in focus and where the engagement between tax administrations and taxpayer is often more antagonistic (non co-operative situations).

42. In current practice, a Joint Audit combines the elements of a simultaneous tax examination with features of presence of tax officials abroad and is run jointly by two or more highly integrated teams that engage jointly with the taxpayer. While such Joint Audits may be performed by combining existing legal instruments, certain challenges exist, especially in non-co-operative situations. Therefore a desire for a more solid legal base was expressed, which will be further addressed in Chapter 4 of this report.

43. The practical input from the 20 tax administrations that participated in the preparation of this report showed that since the publication of the 2010 Report they collectively engaged in almost 500 simultaneous tax examinations, with several coming close to the Joint Audit definition and capturing the elements as introduced in the revised definition above, which is used in this report when reference is made to these cases in practice.

44. It also showed that some jurisdictions are more experienced than others. Those jurisdictions have explored the opportunities and are the driving force to strive for constructive improvements to facilitate future developments. They also provided input for practical guidance and might be able to share knowledge and help build capacity in other less-experienced jurisdictions as further addressed in the Chapters 6 and 7 of this report.

45. While the experience of the participating tax administrations indicate that they realise added value from Joint Audits, it was also clear that tax administrations need to carefully consider the management information substantiating the key benefits foreseen. Therefore, this report also includes Chapter 3 on cost and benefits as well as on practical guidance to facilitate the Joint Audit process.

Notes

1. Reference is made to presence of tax officials abroad in the EU Directive 2011/16 Art. 11 para. 1 and 2, Art 9 of the Mutual Assistance Convention, Article 6 para. 2 TIEA and Paragraph 9.1, 2nd bullet point of the Commentary to Article 26 Model Tax Convention.
2. EU Directive 2011/16 Art. 12, Art. 8 of the Mutual Assistance Convention, para. 35 of the Commentary on Art. 5 TIEA, TIEA and Paragraph 9.1, 2nd bullet point of the Commentary to Article 26 Model Tax Convention.
3. This is more narrow in scope than "Tax Examination Abroad" that is sometimes also used to refer to cases where a tax administration conducts a tax examination of a domestic taxpayer and conducts audit activities abroad, for instance because the taxpayer keeps the administration abroad (Joint Audit report 2010, par. 39). For this type of audit the consent of the taxpayer is always requested and the audit is conducted by using domestic audit powers. This type of action as a unilateral matter is not considered to be part of the spectrum of mutual assistance as described in this chapter.

4. See below para. 162.

5. Common interest should be understood broadly and is not limited to situations where not both tax administrations expect an upward adjustment of their tax assessment.

6. Art. 8 (2) of the Convention; Art. 12 (1) of EU-Directive 2011/16; Art. 12 of the Nordic Convention; para. 9.1, 2nd bullet point of the Commentary to Article 26 Model Tax Convention; Manual on the Implementation of Exchange of Information provisions for tax purposes (2006), Module 5.

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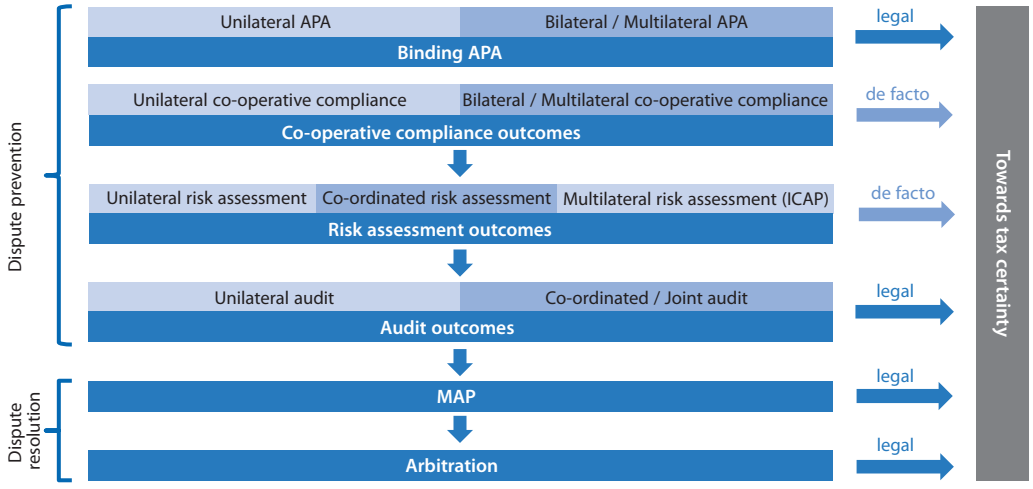
Chapter 2

Joint Audits and the tax certainty agenda

2.1. Introduction

46. Within the wider OECD/G20 tax certainty agenda (IMF/OECD, 2017), improved dispute prevention and dispute resolution is a key concern of business but can equally benefit tax administrations by creating incentives for low risk behaviour among taxpayers and helping tax administrations to better match resources to tax risks. Here, Joint Audits, in particular in co-operative situations can play an important role, thus helping to facilitate international trade and cross-border investment to foster economic growth (IMF/OECD, 2017, 2018).

47. An effective dispute resolution agenda is based on the recognition that prevention is better than cure and that disputes should ideally be resolved at the earliest point in time when information is readily available and positions have not yet become entrenched (OECD, 2018). Conceptually, measures for dispute prevention and dispute resolution can be broken down as follows:



48. No single tool will resolve all cases, but together – building and complementing each other – they significantly advance the tax certainty agenda. This section looks at how to manage effectively different dispute prevention and resolution tools that fall within the competence of tax administrations with a particular focus on Joint Audits. As mandatory binding arbitration depends on decisions of tax policy makers this tool is not further considered in this section.

2.2. Managing Joint Audits effectively within the wider tax certainty context

49. Tax administrations have different tools at their disposal for the prevention or resolution of international tax disputes including co-ordinated or multilateral international tax risk assessments, Joint Audits, MAP and APAs. These tools are complimentary and can inform, influence and impact each other. Not all of the tools will be suitable for every multinational enterprise (MNE) and for every risk. In some cases, a particular approach will not be available in a particular jurisdiction or for certain types of transaction. Where different approaches are possible, tax administration may take into account different factors to determine which is most suitable. An effective management approach understands and builds on these linkages.

2.2.1. Joint or co-ordinated international tax risk assessment

50. The earliest intervention is at the risk assessment stage. Typically, the selection of audit cases results from a risk assessment process. These processes differ in each jurisdiction, but efforts are now underway within the FTA towards better understanding and potentially converging risk assessment processes for corporate income tax within the large business segment.[1] In significant part this work is driven by BEPS Action 13 relating to transfer pricing documentation, including the filing and exchange of CbC reports, which often for the first time has enabled all tax administrations where an MNE has a taxable presence to have a complete overview of the global operations of the MNE. Given that tax administrations now receive the same information, in the same format and around the same time, closer co-operation among tax administrations especially around the assessment of international tax risks is a logical next step. Co-operation ranges from non-taxpayer specific questions relating to the understanding of risks and process design, to selective exchanges relating to specific taxpayers during the risk assessment process to joint risk assessment and assurance within the ICAP pilot.[2]

51. International co-operation may therefore allow, already at the risk assessment stage, to come to a common view on the presence or absence of any particular international tax risks. Where two or more tax administration conclude that there is no material international tax risk, e.g. with respect to transfer pricing of particular transactions, then audit resource is unlikely to be dedicated to the issue and the taxpayers filing position is unlikely to be challenged, preventing any dispute from arising. Where two or more tax administrations conclude that there is a material international tax risk they could then decide to pursue the risks via a Joint Audit rather than via separate unilateral audits to prevent any disputes to arise from conflicting tax assessments.[3]

2.2.2. Joint Audits and MAP

52. A different way into Joint Audits does not derive from risk assessment (i.e. "upstream") but rather results from a review of the MAP inventory (i.e. "downstream"). For instance, the MAP inventory may reveal a persistent issue with a particular treaty partner that repeatedly comes into MAP and where a Joint Audit approach may provide a new and better avenue for resolution. The fact that a Joint Audit starts afresh, involves, from the beginning, a joint fact finding and a joint engagement with the taxpayer directly by the relevant audit functions can create a more trusting and informed environment more susceptible for a successful case resolution. It may also help that the Joint Audit is closer to the respective taxable year, with all key personal still in place and that there is no need to potentially overrule positions taken earlier. The initiation of a Joint Audit programme with another treaty partner, including the

related process for case selection can itself add a positive dimension to the dispute resolution framework.

53. Furthermore, some tax administrations have selected MAP cases where the business model of the taxpayer remained unchanged and proposed a Joint Audit covering the open years following the years subject to MAP. This was done to provide early tax certainty for those years given that the prospective nature of APAs would make them inapplicable for the periods in question. In some cases it was also done to support the resolution of the MAP case in a more timely manner due to the joint fact finding process.[4]

54. Finally, there are cases that have gone into the Joint Audit process, but cannot be resolved at this stage as tax auditors are held to apply domestic law even though that might leave the taxpayer with double taxation. In such circumstances double taxation can only be addressed by making use of the tax treaty based MAP competent authority. It would not be efficient to delay resolution of the case, potentially by several years, to the MAP stage, if a resolution can already be achieved at the Joint Audit stage. Some tax administrations have addressed this issue by including an official from the MAP competent authority (CA-MAP) division in each Joint Audit team.[5] Others have created other mechanisms such as special fast-track procedures to achieve early case resolution.

2.2.3. Joint Audits and APAs

55. There are also linkages between Joint Audits and APAs. Practice shows that there are many situations where bi- or multilateral APA negotiations have taken a long time and/or the tax administrations have difficulties to achieve a common understanding of the criteria to evaluate the transactions to be covered by the APA. There may then be opportunities to break an impasse or accelerate the resolution time via the initiation of a Joint Audit.[6] Unless an APA rollback is available and used, Joint Audits may also be the only route to tax certainty for past years, given that in practice many APA negotiations take several years but only have prospective effect once agreed.[7]

56. However, several members of the Expert Group also noted that taxpayers that had undergone a Joint Audit would often not apply for an APA (with the intention to "roll forward" the results from the Joint Audit) on the understanding that the participating tax administrations would be unlikely to depart from the common understanding reached within the context of the Joint Audit. Taxpayers had therefore concluded that the conclusion of the APA is not strictly necessary as they saw APA as potentially costly and did not consider them to materially improve their position. Nevertheless, APAs provide taxpayers with a legally binding tax certainty and there may therefore still be benefits in seeking to roll forward the Joint Audit resolution into an APA especially where this would not seem very resource intensive.[8]

2.2.4. Conclusion

57. This Chapter shows, an optimal outcome can only be achieved if international tax risk assessment, Joint Audit, MAP and APA function(s) are either managed as a joint operation or otherwise closely co-ordinated. This not only allows a move from one tool to another if that suggests a faster or better chance of a successful resolution of the case, but it also ensures that relevant information including the basis for resolution with other tax administrations is shared. Separately, there is ongoing discussion whether it could be beneficial for tax administrations to make available metrics that have been accepted and used by two or more tax administrations for certain standard situations in particular for

transfer pricing risk assessments, Joint Audits, APAs or MAPs. This provides earlier tax certainty to taxpayers even without needing to resort to any of the tools of the tax certainty agenda.

58. Several tax administrations involved in the preparation of this report have shared examples of how they seek to manage the different tools on an integrated basis, including the use of centres of excellence, joint team meetings and training, and the use of joint databases. The box below gives an instructive example provided by the United States and involving Canada as one of its treaty partners.

Country example – USA and Canada

The case was selected because the taxpayer had already eight years under MAP, was participating in the national Compliance Assurance Programme (CAP) and had not changed the business model in the meantime. The focus of the case was on transfer pricing and therefore the Joint Audit team included specialised personnel such as economists and international tax law experts.

The Joint Audit findings helped to determine a common transfer pricing methodology by having the Joint Audit team agree upon methods used to resolve the Joint Audit tax period, which was the first year still open for an audit in both countries involved and the first tax period after the latest tax period under MAP. As the facts and circumstances of the taxpayers had not changed in the meantime the joint fact finding helped enhance the MAP process and the procedures could be completed shortly after the conduct of the Joint Audit. To ensure tax certainty in the future, the taxpayer applied for an APA to cover the five years following the tax period covered by the Joint Audit which was concluded as a roll-back APA for two years that had already past and three future years. Thus by combining a Joint Audit, MAP and APA each building on each other, the participating tax administrations were able to achieve tax certainty for a total of 14 years.

2.3. Recommendations

1. Manage international tax risk assessment, Joint Audits, APA and MAP holistically.
2. Actively manage across these tools to achieve resolution at the earliest possible point in time.
3. Ensure that MAP competent authority is either available when needed to conclude a Joint Audit case or that an accelerated MAP procedure subsequent to a Joint Audit is carried out where a common view could not be achieved to address double taxation as early as possible.
4. Capture and share information on case resolution across the different functions.

Notes

1. There are currently two works streams within the FTA with a focus on international risk assessment: the International Compliance Assurance Programme Pilot – ICAP and the Comparative risk assessment.
2. Further information regarding the ICAP project can be found at www.oecd.org/tax/forum-on-tax-administration/international-compliance-assurance-programme.htm.
3. Where the Joint Audit successfully addresses the issue, the resolved issue could then for future years potentially be covered by an APA.
4. Where a case under MAP has been resolved successfully between the respective tax administrations, such results can be used for years following the MAP, for instance by way of Accelerated Competent Authority Procedure (ACAP).
5. This does not conflict with the Action 14 minimum standard as the CA-MAP will be present during the audit activity of a Joint Audit together with the auditors and is therefore able to draw its own conclusions from the facts and circumstances.
6. Whether and to which extent the conduct of a Joint Audit provides benefits and facilitates the APA negotiations will depend on the facts and circumstances of the individual case.
7. Under the Action 14 minimum standard rollbacks should be provided if the jurisdiciton has an APA programme.
8. In order to provide similar binding effects for issues other than transfer pricing after a Joint Audit, jurisdictions might consider to introduced further tools with a binding effect.

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Chapter 3

Costs and benefits

59. Whenever an auditor is pursuing an audit that goes beyond a purely domestic context there is the question of whether to use international tax co-operation. The auditor may conclude that no international tax co-operation is necessary because, for instance, the taxpayer has provided all relevant information and there is no reason to believe that any of the information is either incorrect or incomplete or that the case has any other material international ramifications. There are other situations where the auditor requests particular information using information exchange instruments and can complete the audit on the basis of the information obtained. And there are situations where enhanced tax co-operation and in particular Joint Audits may be the best course of action.

60. This chapter first discusses costs and benefits of Joint Audits relative to the alternative course of action – typically a separate domestic audit(s) possibly followed by MAP. Based on this analysis, earlier work of the FTA and the experience of the Expert Group members it then identifies particular situations where the use of Joint Audits should be considered. This chapter ends with an example on how to visualise the benefits of Joint Audits.

3.1. Key benefits

61. The key benefits of Joint Audits include the following:

- a joint approach to fact finding involving the participating tax administrations and the taxpayer, thus
  a. avoiding misunderstandings, different version of reality and ensuring that there is one conversation, rather than several conversations with potentially different outcomes
  b. achieving a holistic overview of taxpayers' business structures as well as cross-border transactions due to a better quality of information that is exchanged during a Joint Audit procedure that allows more targeted examinations in the future
  c. a more efficient and faster process compared to separate audits followed by MAP
  d. reduced burdens for taxpayers and tax administrations compared to separate audits especially where they subsequently result into a MAP case
  e. compared to MAP following unilateral audits, no need to undo decisions that have already been taken, with positions that may have become entrenched and with the difficulties that this may entail

- ability to leverage off the auditing experience and expertise of other tax administrations that can also support the improvement of each tax administrations' own case selection and auditing methods
- a better understanding of the differences in legislation that can subsequently support better risk assessment and a better allocation of resources
- enhancing the compliance of MNEs when early tax certainty can be achieved and a higher tax risk posture becomes increasingly unattractive.

62. The experience of the Expert Group Members also bears this out. In almost 100% of the Joint Audit cases undertaken, participants could achieve common view also accepted by the taxpayer thus closing the case and avoiding further resource and time intensive procedures. Expert Group Members also reported that after the conduct of a Joint Audit they understood particularities of other legislations that had previously caused concerns but could now be placed in the right context, thus streamlining the risk assessment process for the future.

63. Furthermore, internationally operating taxpayers started to approach their tax administrations independently and suggested to be selected for a future Joint Audit. Business representatives consulted during the course of this Project even stated that the value of early tax certainty can sometimes outweigh the cost of a somewhat higher tax burden.

3.2. Costs

64. On the cost side there are mainly the time and resource implications of a Joint Audit. Costs are higher relative to a purely domestic audit and timelines of the audit understood in a narrow sense, i.e. without consideration of any subsequent procedures (litigation/MAP), are typically longer. This is mainly the result of (i) additional time to initiate and conduct the audit as a result of the necessary co-ordination between the participating tax administrations; (ii) costs for travel and accommodation during the conduct of the audit; (iii) the need for language skills, and (iv) the need for experts or an expert team proficient in international tax matters as well as procedural particularities regarding information exchange and audit co-operation.

3.3. Optimising the cost-benefit-ratio

65. In order to optimise the cost-benefit-ratio the right case selection for Joint Audits is key. Drawing on the above, earlier work of the FTA and the experience of the Expert Group Members, cases for which the use of a Joint Audit may be the best course of action include the following:

1. there are reasons to believe that a domestic audit alone even if supplemented by information exchange or other forms of international tax co-operation would be less efficient or less successful in developing a full understanding and appreciation of the facts

   This is not only true for cases that show indications of aggressive tax planning for instance involving double dips, artificial cash movements, or dividend "washing". Joint Audits can also facilitate the analysis of complex tax structures drawing on the expertise of other tax administrations in order to better arrive at a correct assessment, preventing both, double taxation or double-non taxation and is not limited to transfer pricing disputes, but may also be helpful in determining the residence of a taxpayer or the existence of permanent establishments, etc.

Multilateral case example

Members of the Expert Group reported a case where six jurisdictions decided to conduct a multilateral Joint Audit to address a transfer pricing risk that involved a low tax jurisdiction. The Joint Audit was initiated by one jurisdiction that invited a number of jurisdictions to discuss the potential of joining forces on the risks detected and audit the case jointly.

The six jurisdictions agreed on a co-ordinated plan, on collective information requests and a clear timetable. The group appointed a delegation of auditors from three jurisdictions to operate and negotiate with the business on behalf of the group of tax administrations. The collective work of the tax authorities strengthened the negotiation position of the individual jurisdictions and it was efficient from an overall perspective while resources of three tax administrations worked on behalf of the group. They reached an agreement where a substantial part of the profit in the low tax jurisdiction was reallocated to the group of co-operating jurisdictions.

This reallocation caused an adjustment of the tax assessments for the taxpayer in the respective jurisdictions. Yet by one co-ordinated audit, the taxpayer obtained certainty about his tax position in all the jurisdictions involved. So ultimately it brought benefits to all parties involved.

Intra group financing structure – Germany and the Netherlands

Germany as member of the Expert Group reported about an intra-group financing structure that had been analysed in a Joint Audit. The particularity of the case was that the German tax administration had already requested information from the Dutch tax administration to understand the financing structure of the concerned MNE several years before the conduct of the Joint Audit. Both the request and the answers had been prepared diligently and in an exemplary manner. Nevertheless, it was only when the same MNE was selected for a Joint Audit that both audit teams achieved a comprehensive understanding of the facts, which ultimately resulted in an adjustment of the tax on both sides with additional tax being assessed.

Even though they had already received valuable information before, the tax administrations were only able to identify the financing structure correctly after examining the taxpayer jointly.

2. where particular issues, a transaction or series of transactions lead a tax administrations to the view that a tax examination on a unilateral basis may result in double taxation, for example in case of a cross-border business restructuring

Country example – Italy and Germany

Italy shared insights on a Joint Audit that it had conducted with Germany. The Joint Audit was focusing on transfer pricing issues and was selected because of business restructuring activities that led to changes in the transfer pricing methodology between the concerned Italian and the German entities. Italy and Germany agreed to examine the risk allocation, the evaluation of an exit charge for the relocation of functions and certain other transactions.

Country example – Italy and Germany *(continued)*

The Joint Audit showed that the operating margin of the German entity was above the arm's length range of the conducted benchmark analysis. This led to an upward adjustment of the operating margin of the Italian company and to a corresponding downward adjustment of the operating margin of the German company for the years at stake. The Joint Audit took approximately 12 months from the initiation until the re-assessment of the taxes and taxpayers was closely involved during the whole procedure providing information on the background of the re-organisation.

Due to the complexity of the re-organisation and the fact that one tax administrations had to do a corresponding downward adjustment of its tax-assessment, both tax administrations concluded that it would not have been possible to provide the concerned taxpayer with tax certainty within such a short timeframe through a purely unilateral approach. Both tax administrations considered it very likely that this case could otherwise have resulted in double taxation and therefore to a potential MAP. The Joint Audit allowed both tax administrations to understand the business rationale behind the restructuring activities thus allowing them to achieve a common understanding of the correct taxation, which would have been much more challenging had separate position already been adopted, relevant personnel not been available anymore and a tax assessment already finalised after a domestic audit.

3. the case under consideration is similar to types of cases that are already part of the existing MAP pipeline

Country example – US and Canada

The country example already contained in Chapter 2 illustrates the benefits of Joint Audits in cases where the same types of transactions continuously lead to double taxation for the taxpayer.

The taxpayer had already eight years under MAP and not changed his business model and transfer pricing method in the past. Yet there were no signs that the years following the latest year under MAP would stay undisputed. The USA and Canada acknowledged that only the decision to jointly audit the concerned taxpayer and to achieve a common understanding of the relevant transactions could bring an end to further years going into MAP and requiring further resources for many years. With the Joint Audit the USA and Canada were not only able to prevent further years of going into MAP by agreeing on a transfer pricing method for the future but were also able to achieve agreement for the years already under MAP.

4. a treaty partner has requested a Joint Audit, the information contained in the request indicates that a Joint Audit would be an appropriate action and the requested tax administration has a common or complementary interest in conducting a Joint Audit

   Several participants of the Project reported that there were indications that tax administrations sometimes rejected the invitation to participate in the Joint Audit out of concern that the audit may result in the lowering of their tax assessment.

5. the taxpayer has suggested a Joint Audit, the information contained in the suggestion indicates that a Joint Audit would be an appropriate action and the respective tax administrations have a common or complementary interest in conducting a Joint Audit[1]

6. two treaty partners experience an expansion in cross-border trade and investment and a Joint Audit would help build relationships and facilitate a better understanding of each other's auditing rules, practices and procedures.

   All participants in the Project confirmed that good relations with the personnel of the other tax administration and a high level of trust were the key element for the conduct of a successful Joint Audit. In several examples that were made by participants it was highlighted that an agreement was achieved despite several obstacles as a result of good and close relations between the tax administration's personnel in charge. It was also confirmed that the successful engagement via a Joint Audit has wider benefits beyond the particular Joint Audit itself.

7. a case has made no or little progress in MAP and there is reason to believe that a Joint Audit intervention has the potential to unlock the situation

   As outlined in Chapter 2 and in the Example above the conduct of a Joint Audit can not only prevent a case going into MAP but also support the resolution of disputed years that are already under MAP. This is because a Joint Audit allows a joint fact finding procedure that builds the basis for further conclusions, which are not entrenched yet by the time a Joint Audit is conducted. It is therefore imperative that the personnel conducting the Joint Audit is different from those that developed the positions taken in the MAP procedures to allow an unbiased examination of the case.

8. APA negotiations have taken a long time and a Joint Audit would allow to create tax certainty for past years and/or otherwise assist in resolving the issues for future years[2]

9. a joint or separate risk assessment has led two or more tax administrations to the view that a particular issue, transaction or series of transactions presents a material international tax risk.

   This could for instance be the result of a joint tax risk assessment of two or more tax administrations, which may find a series of transaction to be low risk, thus not requiring audit resource, but that conclude that there is one particular transaction where the risk assessment process itself does not give the level of assurance needed and an audit is warranted. To maximise the benefits of the joint risk assessment process and to minimise the risks of divergent tax assessment, resulting in possible double taxation, they decide to take the issue up via a Joint Audit.

66. Where a tax administration decides to pursue the audit as a Joint Audit, it should do so as early as possible in the process to support a common fact finding process and to limit the risks of tax administrations taking different positions. This may also limit the risk that a year may be closed in the other jurisdiction and result in a more real time audit.[3] It also ensures that both jurisdictions co-operate on an equal footing and co-operate with a similar level of engagement thus supporting the creation of a trustful relationship.

3.4. Measuring benefits

67. Alongside the successes shared, Expert Group Members also raised the issue that they are all facing the challenges of capturing the success of Joint Audits in management information.[4] Most tax administrations measure the success of a tax audit in figures covering numbers of audits conducted, additional yield, completion time, and other aspects depending on strategic goals defined.[5] Since the benefits of Joint Audits are not fully captured within this range of metrics or if narrowly applied such metrics might even indicate that Joint Audits are not beneficial, tax administrations are challenged to assess the benefits from a wider perspective. While the costs can be easily measured by an "old school" approach tax administration should also evaluate the Joint Audit programme over the longer term and include criteria like enhanced taxpayer compliance, improvement of risk assessment and streamlined resource allocation.

68. To be able to assess the benefits of a Joint Audit tax administrations should first consider how they want to evaluate the effectiveness of Joint Audit activity. For evaluating the success of an action, there are different phases that can be evaluated:

1. Plan evaluation

A solid plan forms an important precondition for an effective and efficient Joint Audit. The reasons to start a Joint Audit, the description of the goals, and the expected outcome should be clearly defined and be the result of a structured planning process. The plan evaluation allows analysing the quality of the Joint Audit plan, both ex ante and ex post.

2. Process evaluation

A streamlined process is key for an effective and efficient Joint Audit. The evaluation of this part of the Joint Audit supports the analyses whether the process of the conducted Joint Audit went according the initial plan; it bridges the findings of the plan evaluation and outcome evaluation.

3. Outcome evaluation

The outcome evaluation is a synthesis of information about the costs of a Joint Audit in relation to the benefits, and answers to what level the objectives of a Joint Audit are met. There are hard and soft indicators to measure the costs and benefits and it is not always easy to quantify the outcome of an individual Joint Audit, especially potential long-term effects. In the end it involves some level of professional judgment to decide whether a Joint Audit met its objectives.

69. When evaluating a Joint Audit Programme as a whole tax administrations should set clear goals and use concrete short and intermediate goals that are measurable over a shorter time frame. It is also important to distinguish between output (e.g. number of audits) and outcome (e.g. better insight in business structure) and improved co-operation between tax administrations (e.g. better tax compliance, less MAP cases).

70. The matrix below illustrates different perspectives how different benefits of Joint Audits can be evaluated. In the left column, the key benefits of Joint Audits are mentioned and an example of the type of questions a tax administration may want to consider to indicate whether the objectives were met. Some objectives can be considered as benefits for the tax administration whereas others may serve primarily the interest of the taxpayer

and might influence tax compliance. However, it is important to realise that enhancing taxpayer compliance cannot be measured after one audit, but should be assessed over a longer time period.

71. The matrix only illustrates a limited number of examples of soft indicators and can be altered or optimised according to specific needs.

	Stakeholders		Indicator		Evaluation of		
Cost & Benefit Matrix	**Tax Administration**	**Taxpayer**	**Hard Indicator**	**Soft Indicator**	**Plan**	**Process**	**Outcome**
Fact Finding							
better understanding of relevant facts and circumstances	■			■		■	
better understanding of taxpayers' structures and transactions	■			■		■	
uncovering agressive tax planning structures	■			■			■
resolving pending MAP	■	■	■				■
more efficient information gathering process		■		■		■	
Leverage of audit experience and expertise							
increase of knowlegde on other audit approaches, audit cultures and legislation	■			■			■
Enhancing the compliance of MNEs							
indicators that suggest that level of compliance increases	■			■			■

72. The Project showed that the information currently collected to measure the outcomes of Joint Audits varies widely. To facilitate an evaluation of the Joint Audit practice in the future, jurisdictions could therefore collect the same set of information and degree of detail. The information to be gathered would relate to situations where a Joint Audit was conducted and situations where a Joint Audit was proposed but rejected by the requested tax administration.

73. The information in situations where a Joint Audit was conducted could include basic information such as (i) the partner jurisdiction(s), (ii) whether the subject of the audit was on transfer pricing or others), (iii) the duration of the Joint Audit (beginning with the proposal and ending with the conclusion of the Joint Audit with a final report[6]), (iv) whether a common view was achieved.

74. In situations where a Joint Audit proposal was rejected, information could include (i) the requested tax administration, (ii) the reason, why the Joint Audit proposal was rejected, e.g. procedural obstacles (no alignment of audit cycles), no available resources (indication whether it was offered to conduct the Joint Audit at a later time), (iii) whether the case was subject to a subsequent procedure (e.g. a MAP).

75. When discussing and designing the requirements for the evaluation procedure it is important to clearly define the expected results beforehand (i.e. to manage expectations) and to be clear which data is needed, to ensure that these data points are collected during the Joint Audit process. As the full impact of a Joint Audit may not be visible until sometime after the conduct of a Joint Audit, especially when relating to long-term outcomes like taxpayers' behaviour, jurisdictions may want to revisit their assessment of the outcomes of Joint Audit cases after a certain time period. This was a lesson learned by Expert Group Members who reported that it is often difficult to report the results of Joint Audit activity after a period of time from a central level. In practice, there are often several

departments involved (e.g. audit department, local tax inspector, competent authority on central level, analysts from MAP team) and the experience is that it is difficult or takes extra time to trace information of the final outcome, especially the benefits that are labelled as "soft indicator" in the matrix.

3.5. Recommendations

1. Develop guidance to ensure that appropriate cases are considered for Joint Audits including where
   - there are reasons to believe that a domestic audit alone even if supplemented by information exchange or other forms of international tax co-operation would be less efficient or less successful in developing a full understanding and appreciation of the facts
   - particular issues, a transaction or series of transactions lead a tax administration to the view that a tax examination on a unilateral basis may lead to double taxation, for example in case of a cross-border business restructuring
   - the case under consideration is similar to types of cases that are already part of the existing MAP pipeline
   - a treaty partner has requested a Joint Audit, the information contained in the request indicates that a Joint Audit would be an appropriate action and the requested tax administration has a common or complementary interest in conducting a Joint Audit
   - the taxpayer has suggested a Joint Audit, the information contained in the suggestion indicates that a Joint Audit would be an appropriate action and the respective tax administrations have a common or complementary interest in conducting a Joint Audit
   - two treaty partners experience an expansion in cross-border trade and investment and a Joint Audit would help to build relationships and facilitate a better understanding of each other's auditing rules, practices and procedures
   - a case has made no or little progress in MAP and there is reason to believe that a Joint Audit intervention has the potential to unlock the situation
   - APA negotiations have taken a long time and a Joint Audit would allow to create tax certainty for past years and/or otherwise assist in resolving the issues for future years
   - where a joint or separate risk assessment has led two or more tax administrations to the view that a particular issue, transaction or series of transactions presents a material international tax risk.
2. Set clear short, intermediate and long-term objectives and develop an evaluation framework that allows an assessment whether these objectives were met.
3. Collect relevant data to facilitate a full evaluation of the Joint Audit practice and the learning.

Notes

1. See Chapter 5.
2. See Chapter 2.
3. An early engagement in the Joint Audit process might also limit the risk that a certain tax period becomes time barred in the requested jurisdiction and allows the requested tax administration to move a tax period up in the audit timeline in order to make a Joint Audit possible.
4. There is currently no international agreed evaluation criteria in place that allows an evaluation of different Joint Audit Programmes, apart from the FISCALIS Programme that collects certain statistical information from European countries.
5. See Chapter 7.
6. See Chapter 7.

Chapter 4

The legal framework for Joint Audits

76. In order for Joint Audits to be conducted successfully, it is essential that they are based on a solid legal framework, both domestically and internationally. This chapter sets out the current international landscape that supports the exchange of information in connection with Joint Audits and provides an overview of the current domestic legal framework.

77. The chapter then suggests work that could be undertaken to further strengthen the legal framework for Joint Audits, with a view to help streamline the operation of Joint Audits and to further maximise their potential.

4.1. The current international landscape

4.1.1. Overview of the key instruments

78. Since the 2010 Report (OECD, 2010), the international legal framework for exchange of information and administrative co-operation in tax matters, that serves as the legal gateway for the exchange of information aspects of a Joint Audit, has expanded significantly.

79. In particular, the Mutual Assistance Convention (OECD/Council of Europe, 2011), has experienced a very significant increase of the number of participating jurisdictions (to currently over 125) and now is the most widespread and powerful multilateral agreement for administrative co-operation in tax matters. The Mutual Assistance Convention provides the international legal gateway for exchanges of information (on request, automatic and spontaneous – Articles 4 to 7), simultaneous tax examinations (Article 8) and tax examinations abroad (Article 9). The Commentary to Article 4 further explicitly recognises that parties to the Mutual Assistance Convention may, when their domestic laws so permit, make use of joint auditing. At the same time, the Commentary to Article 9 only explicitly refers to a passive presence of tax officials abroad, without providing clarity on the legal qualification of an active involvement of a foreign tax officials in an audit.

80. Similarly, the OECD Model Tax Convention (OECD, 2017) in Article 26, provides an international legal gateway for exchange of information on request, also spontaneous exchange and automatic exchange of information. The Commentary to Article 26 notes "that jurisdictions may use other techniques to obtain information which may be relevant to both Contracting States, including simultaneous examinations and tax examination abroad". The Commentary acknowledges that the role of a foreign tax official during a tax examination abroad can include active presence, such as interviewing individuals or examining a person's books and records, or passive presence, depending on what is allowed by the host jurisdiction's domestic law.[1]

81. Finally, TIEAs can provide an international legal gateway for Joint Audits, although their importance has slightly decreased due to the increased membership of the Mutual Assistance Convention. TIEAs generally only allow for the exchange of information on request, and also explicitly provide for tax examinations abroad.

82. At a regional level, exchanges of information between EU Member States are governed by EU-Directive 2011/16. The EU-Directive 2011/16 regulates administrative co-operation in tax matters between the competent authorities of EU Member States.[2] To a large degree, the EU-Directive 2011/16 contains similar provisions on the exchange of information as the Mutual Assistance Convention. The EU-Directive 2011/16 mentions active presence, in so far as this is permitted under the legislation of the hosting Member State.

83. In addition, the Nordic Convention between Finland, Iceland, Norway, Sweden, Denmark, the Faroe Islands and Greenland, provides for simultaneous examination by the signatory countries and allows agreements to be concluded to permit auditors from one tax administration to participate in investigations in other countries.[3]

4.1.2. Assessment of the current legal landscape

84. The international legal instruments that are currently in place are primarily gateways that allow the exchange of information between jurisdictions in various forms. As such, there is generally a solid legal basis for covering the exchange of information related aspects of a Joint Audit.

85. The exchange of information-related aspects of a Joint Audit, however, are only a part of the co-operation that takes place in the course of a Joint Audit procedure. For instance, the procedural framework for the Joint Audit case selection process, for the Joint Audit specific preparation, for the conduct and the completion of a Joint Audit are not governed by the current international framework but are rather found in domestic law. This leads to a situation where there is a developed framework on the exchange of information aspects but little guidance on how auditors can work together.

86. The experience from the Project showed, that tax administrations largely rely on general domestic procedures to conduct audits, both when going abroad and when acting as the host jurisdiction. There are only very limited instances where jurisdictions have dedicated procedural rules for Joint Audits or more generally for the presence of tax officials abroad. Participants reported that they addressed uncertainties when conducting pilot projects by identifying legal issues and determining mitigating strategies in a separate working agreement, for example a Memorandum of Understanding (MoU).[4]

87. The experiences of Project participants, in particular, the members of the Expert Group, indicated that the interplay of the domestic legal frameworks creates uncertainties as to the application of procedural rules, rights and audit powers of officials of other jurisdictions and the interaction between the domestic legal frameworks of the visiting and hosting jurisdictions. Furthermore, it also became clear that the efficiency of a Joint Audit is adversely impacted where active or passive presence is either not allowed or subject to substantial restrictions or conditions. In addition, the Project identified a number of procedural aspects that could potentially benefit from a greater level of legal clarity and certainty, e.g.:

- the legal position of foreign officials in the jurisdiction, both with respect to domestic officials and in relation to the taxpayer (i.e. do they have the same powers as a domestic official, can the foreign official ask questions and inspect documents etc.)

- the role and legal status of a domestic official that goes abroad for Joint Audit purposes and the information gathered (i.e. do the domestic powers of the auditor also apply abroad, what is the legal nature of any information directly obtained from a taxpayer abroad etc.)
- the procedural rules that have to be respected by the tax officials of all participating jurisdictions in a Joint Audit (i.e. to what extent do domestic tax procedures apply to a Joint Audit, are there any special rules that apply in the context of a Joint Audit, what are the implications on future domestic audits of the taxpayer, the statute of limitations etc.).

4.2. Potential areas of future work

88. Based on the analysis of both the domestic and international legal framework currently in place, there are two main areas of possible future work. First, to address a number of uncertainties in the current framework applicable to Joint Audit identified over the course of the Project. Second, to strengthen the rules on passive and active presence of tax officials abroad, both in the context of Joint Audits and more generally when accompanying tax officials of the host state conducting audit activities.

89. Following further discussions including detailed assessment and scoping of the issues, possible approaches to consider may include the development of model legislation that would ensure a certain degree of harmonisation between jurisdictions. A more comprehensive and standardised approach could be the creation of a dedicated legal basis for Joint Audits that would complement the current international legal framework and that would, at the same time, provide procedural rules that could apply in the context of Joint Audits. These provisions could in particular clarify the investigative powers and the presence of foreign tax officials, as well as create a common procedural framework for conducting the Joint Audit.

4.3. Recommendations

1. For the OECD to consider addressing the uncertainties identified and to explore strengthening the rules applicable to the presence of foreign officials abroad, to streamline the conduct of Joint Audits.
2. For tax administrations to consider providing detailed information on rules and procedures as further described in Chapter 7.[5]

Notes

1. Second bullet point of para. 9.1 of the Commentary to Article 26 Model Tax Convention.
2. The consolidated text of the EU-Directive 2011/16 can be consulted at https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02011L0016-20180101&from=EN.
3. Article 13 of the Nordic Assistance Convention.
4. A template for a MoU is included in a Joint Audit Implementation Package available at www.oecd.org/tax/forum-on-tax-administration/publications-and-products/.

5. A Joint Audit Implementation Package that includes relevant templates and model agreements that can facilitate and streamline any practical aspects of the conduct of a Joint Audit is being developed and kept up to date, available at www.oecd.org/tax/forum-on-tax-administration/publications-and-products/.

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Chapter 5

The role of the taxpayer

5.1. Introduction

90. The joint engagement of the participating tax administrations with the taxpayer is a key element of a Joint Audit compared to the conduct of a purely domestic audit. The experience from tax administrations shows that a close and early involvement of the taxpayer provides for the best outcome of a Joint Audit. The precise involvement of the taxpayer will of course depend on the circumstances and there will be differences between a Joint Audit in a co-operative and in a non-co-operative context, but even in the latter case open engagement by tax administrations can sometimes result in a change of taxpayers' behaviour.

91. This Chapter describes the role of a taxpayer in a Joint Audit procedure and outlines best practice for the case selection phase and the operational phase in which the audit is prepared, conducted and completed.[1] For each phase, the participating tax administration has to decide when and how to include the concerned taxpayer(s).

Taxpayer example – Swedish MNE

During the business consultation the representative of a Swedish MNE described the experience with a Joint Audit.

The German tax administration suggested inviting the Swedish tax administration to an envisaged audit of a MNE as circumstances of the case indicated that the audit would have a focus on transfer pricing issues. The MNE proposed to the Swedish tax administration to join the German audit and Sweden accepted. Both tax administrations therefore engaged in the audit from the very beginning and started on an equal footing.

The MNE reported that after the Joint Audit approach was agreed, they had a meeting together with both tax administrations discussing the relevant tax issues and the envisaged timeframe of the audit. During the conduct of the audit, the MNE was regularly consulted by the tax administrations and was asked for its opinion on difficult topics on which the tax administrations found it challenging to agree. The early and comprehensive engagement helped the MNE to gain an understanding of the perspectives of both tax administrations and to provide explanations with those in mind. Before the Joint Audit was completed, all participants met to discuss the final outcome and after the completion the MNE was provided with a copy of the report summarising the discussed outcome of the Joint Audit.

The MNE stressed that the joint approach had substantially changed the audit dynamic compared to the scenario of two separate domestic transfer pricing audits arriving much faster at a result acceptable to both tax administrations while avoiding double taxation for the taxpayer.

5.2. Case selection phase

92. The involvement of the taxpayer in the case selection process may come about in different ways. It could be that the taxpayer itself has suggested the Joint Audit or, more common, it could be that the tax administrations are considering selecting the taxpayer. In the latter case the taxpayer's involvement may depend on the legal requirements or the domestic practice as well as on the specific facts and circumstances of the case and the objectives of the Joint Audit.

93. Apart from a high-level description on how tax administrations can engage in the case selection process[2], international legal frameworks say little about the relationship between tax administration and taxpayers in Joint Audit procedures, which is left to domestic laws and procedure. In some jurisdictions, domestic law may require a tax administration to notify the taxpayer early in the selection process. For instance, in one jurisdiction, if the tax administration wants to propose a case to another tax administration and the information to be exchanged during the selection process exceeds publically available information, then a hearing or notification procedure[3] is triggered before the tax administration can exchange the relevant information.

94. However, even if a jurisdiction is not subject to a legal requirement to notify the taxpayer before or during the case selection process, the question arises when and how to inform the taxpayer about the process. Tax administrations will adapt their approach depending on whether the Joint Audit was suggested by the taxpayer, is otherwise conducted with a co-operative taxpayer or whether the Joint Audit has the hallmarks of an non-co-operative Joint Audit.

5.2.1. Co-operative and non-co-operative taxpayers

95. The early involvement of the taxpayer has a number of benefits for all parties concerned and should be the guiding principle for participating tax administrations, unless there are reasons to the contrary (e.g. the Joint Audit has the hallmarks of a non-co-operative Joint Audit and there are reasons to believe that the taxpayer may take actions that could compromise the outcome of the audit).

96. Whether to inform the concerned taxpayer about a Joint Audit selection meeting will therefore mainly depend on the facts and circumstances of the specific case and should in any case be the result of a joint consultation of the participating tax administrations, that might have different concerns about an early involvement of the taxpayer(s).

Practice example

A participant reported that its practice was to arrange a brief consultation with the concerned taxpayer before reaching a selection agreement with another tax administration in cases where there were no concerns that the taxpayer will stall the process. This allowed the tax administration to verify their selection process and reduce any litigation risk as the taxpayer might either clarify certain aspects so that the conduct of an audit does not seem appropriate anymore or it helps to focus the attention of the tax administration to certain risk areas. This may be especially helpful in cases where taxpayers may assert trade, business, industrial, commercial or professional secrets may be affected by the joint process. They also found that the concerned taxpayer(s) might have valuable insights to share with the tax administration. The early notification also allowed all parties to embark on an equal footing and therefore strengthen the collaboration during the process.

5.2.2. Request of the taxpayer

97. The experience of several tax administrations shows an increase in the number of instances where a taxpayer requests to be selected for a Joint Audit.

98. While taxpayers are free to suggest a Joint Audit to the tax administration(s) concerned, they have no right to request a Joint Audit under the laws of any of the participating tax administrations of the Project. It is the responsibility of the tax administration to ensure compliance with the tax laws, select cases to be audited based on risk assessment or other domestic selection criteria and to apply resources accordingly. This applies to all audit activities, including Joint Audits. For Joint Audits, there is also no international legal framework that contains an obligation for any contracting jurisdiction to take part in a Joint Audit. This means that even in cases where a tax administration follows the request of a taxpayer it has no means to obligate the other tax administration to participate.[4]

99. However, as taxpayers will be the first ones to notice that tax assessments of different tax administrations may lead to double-taxation or that an audit in one jurisdiction could affect the correct taxation in another jurisdiction, tax administrations may encourage taxpayers to come forward and suggest Joint Audits as a way to address these issues at an early point in time. Encouraging and acting upon such early intelligence may help to reduce instances of double taxation, reduce the MAP pipeline and reduce overall tax administration resources dedicated to the case.

100. If a tax administration comes to the conclusion not to proceed with the suggestion of the taxpayer, it should provide the taxpayer with the relevant reasoning. This allows the tax administration to verify its decision and increases the taxpayer's acceptance of the decision, especially if the envisaged double taxation materialises later on.[5]

Country example

Two tax administrations reported holding annual meetings with taxpayers that have significant cross-border transactions, in which taxpayers provide a summary of tax risks in order to discuss potential issues including a possible identification of transactions that could be examined more closely in a Joint Audit. This approach as part of a bilateral co-operative compliance approach provides the tax administrations with transparency on all cross border tax issues and allows achieving early tax certainty on their tax treatment.

5.3. Operational phase – preparation, conduct and completion

101. Once the participating tax administrations have agreed on a case to be subject of a Joint Audit, the preparation and the operational phase of the audit begins.

102. Again, there are legal aspects and process management aspects relating to the taxpayer's involvement during this phase. With respect to the legal aspects, there may be notification requirements linked to exchange of information[6] and domestic laws may differ on whether they permit an "active presence" of foreign tax officials, whether such presence depends on a consent of the taxpayer and/or other conditions and whether foreign tax officials can be present at the premises of the taxpayer under audit.[7]

103. On the management and process side, tax administration will have to agree on the best approach to take, noting that early consultation with the taxpayer in the preparation

phase of the audit will improve efficiency. It allows the taxpayer to prepare for the envisaged procedure by gathering the relevant information and ensuring that relevant personnel is present when the audit is conducted. The Joint Audit procedure can be further supported throughout the process by scheduling joint fact finding meetings with the taxpayer.

104. The approach in any particular case will depend on the facts and circumstances of the case. Where a case has the hallmarks of a co-operative Joint Audit, participating tax administrations should engage with the concerned taxpayer as closely and as fully as possible. This also includes to manage the expectations if the taxpayer(s) regarding input and roles in the process. Drawing from jurisdictions' experience this includes:

- consulting on the best dates for calls, visits or other face-to face meetings
- engaging with the taxpayer at an early stage on an outline of the audit topics, the necessary documentation, an envisaged timeframe and agreeing on timelines when taxpayers should provide information and answers to all participating tax administrations; if tax administrations have concluded a Joint Audit exam plan this might be shared with the taxpayer
- giving taxpayers the possibility during the conduct of the audit activities to engage with representatives of both tax administrations and be updated on the progress of the audit, remaining areas of concern and to the extent possible interim results
- sharing results with the taxpayer before tax administrations agree on an outcome during the audit, to give the opportunity to correct possible misunderstandings and provide any missing documentation or other evidence.

105. If the case has the hallmarks of a Joint Audit on a non-co-operative taxpayer, the approach of the tax administrations can vary and the level of an engagement of the taxpayer can be limited to what is strictly necessary to conduct the audit. In such cases, a lack of consent by the taxpayer may also have implications for "active presence" and more generally the presence of foreign tax officials at the premises of the taxpayer. The individual approach falls within in the discretion of the participating tax administrations. In general, the involvement allows the taxpayer to understand the approach to the audit and to further engage in the process by providing additional information or clarify areas of uncertainty. A good engagement during the audit will also prepare the taxpayer for the (possible) subsequent adjustment of the tax assessment and therewith increase the acceptance of the outcome.

106. Participants of the survey also reported that the attitude of a taxpayer often changes during the conduct of the audit. This is when taxpayers realise that not consenting to a Joint Audit does not prevent the procedure as such and that tax administrations will in any case draw their conclusion from the gathered facts and exchanged information, whether the taxpayer participates in the procedure or not. Therefore, several taxpayers changed their posture towards the Joint Audit during the conduct of the audit.

107. After the Joint Audit is completed, the agreement that tax administrations achieve on the outcome of a Joint Audit will be the basis for any adjustment of the respective domestic tax assessment. The outcome is therefore of particular importance for the taxpayer and thus tax administrations should ensure that taxpayers are informed about a possible outcome before it becomes final to allow a final consultation on the relevant topics. This allows the taxpayer to understand the reasoning of the tax administration and to provide a final observation, if the taxpayer is of the opinion that the outcome as presented by the tax administrations is not correctly reflecting the taxable status. Furthermore, it enhances the acceptance of a subsequent tax adjustment.

108. The completion of the Joint Audit does not require the consent of the taxpayer and the findings and the outcome of a Joint Audit cannot be contested as such. When the taxpayer disagrees with the Joint Audit outcome reached by the participating tax administrations, the taxpayer can appeal the adjustment of the domestic tax assessment following the conduct of a Joint Audit.

109. To the extent that the tax administrations do not reach a common view on the outcome, a final report might be limited to a summary of the agreed facts and outcomes. A clear description of the facts and circumstances is important to accelerate potential subsequent procedures (e.g. a MAP) and the taxpayer should also be informed about such a disagreement so that the taxpayer can prepare for further procedural steps.

110. When the Joint Audit is completed, tax administrations should also share the outcome of the Joint Audit and the reasons that have led to the outcome with the taxpayer.

5.4. Recommendations

1. Tax administrations should engage with the taxpayer early during the case selection phase unless the facts and circumstances of the case suggest otherwise.
2. The decision when to inform the concerned taxpayer should be the result of a joint consultation of the participating tax administrations that might have different concerns about an early involvement of the taxpayer(s).
3. While taxpayers have no enforceable right to request a Joint Audit, tax administrations may encourage taxpayers to come forward and suggest cases for Joint Audits.
4. If a tax administration rejects the suggestion of a taxpayer to be selected for a Joint Audit, the tax administration should provide the taxpayer with the relevant reasoning of its decision.
5. Taxpayers should co-operate with the participating tax administrations as close as possible and provide requested information in a timely and complete manner.
6. Tax administrations should consult on the best dates for calls, visits or other face-to face meetings.
7. Tax administrations should engage with the taxpayer at an early stage and provide an outline of the audit topics, the required documentation and an envisaged timeframe, unless the facts and circumstances suggest otherwise. If tax administrations have concluded a Joint Audit exam plan this might be shared in a Joint Audit with a co-operative taxpayer.
8. Tax administrations should give taxpayers the possibility during the conduct of the audit activities to engage with representatives of both tax administrations and, if there is a co-operative situation, be updated on the progress of the audit, remaining areas of concern and to the extent possible interim results.
9. Tax administrations should share results with the taxpayer before tax administrations finalise audit, to give the opportunity to correct possible misunderstandings and provide any missing documentation or other evidence.
10. Tax administrations should hear taxpayers before finalising the audit report and provide taxpayers with the final reasoning.

Notes

1. See Chapter 7 for a detailed description of the different audit phases and a more detailed guidance on the selection process.
2. See Commentary to Article 8 para 76 seq. of the Mutual Assistance Convention.
3. Under the Global Forum standards jurisdictions should be able to waive the requirement to notify the taxpayer before exchanging information if such a requirement affects the effectiveness of the exchange of information as rights and safeguards should not unduly prevent or delay effective exchange of information. For a positive assessment the Global Forum expects that exceptions from prior notification should be permitted, notably, in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting tax administration, as well as time-specific post exchange notification, for example when such notification is likely to undermine the chance of success of the investigation conducted by the requesting tax administration.
4. This is different in a subsequent mutual agreement procedure under Article 25 Model Taxation Convention, which obligates contracting states to undertake in good faith to resolve by mutual agreement cases of taxation not in accordance with the Convention.
5. This may also have relevance in cases where taxpayers are subject to fines and penalties that are not discharged even after a positive outcome in MAP.
6. See above para 1.2.
7. Particularities of this kind should be addressed at the beginning of the collaboration. A template of a "Joint Audit profile" that provides an overview about the particularities per jurisdiction is included in a Joint Audit Implementation Package, available at www.oecd.org/tax/forum-on-tax-administration/publications-and-products/. Some jurisdictions limit active presence to cases where taxpayers consent while others forbid active presence as such.

Chapter 6

Building capacity, relationships and trust

111. At a time when good progress is being made in addressing base erosion and profit shifting through the G20/OECD BEPS Project, it is also important to focus on tax certainty. In this context, the importance of providing greater tax certainty to taxpayers to support trade, investment and economic growth has become a shared priority of governments and businesses (IMF/OECD, 2017).

112. As already noted in Chapter 2, a Joint Audit is one of the tools that can be used in providing tax certainty, by helping to manage dispute prevention and resolution more effectively.

113. Tax administrations need to administer different substantive tax rules and often use different approaches to risk assessment and verification including auditing. By collaborating in a Joint Audit it will be possible for tax administrations to detect and address differences or potential disputes at an early stage. A Joint Audit may start as a one off or pilot exercise and, if successful, could then be broadened into a more systemic part of an overall approach to international tax co-operation. Joint Audit co-operation may also form the precursor to broader co-operation, for instance, in co-ordinated risk assessment for international tax risks.

114. For co-operation to be effective and efficient it is important to invest in capacity building in the field of Joint Audit to allow participants to collaborate on an equal footing. The report illustrates the potential of Joint Audit based on practical experience but the Project also shows that not all jurisdictions are yet actively involved in conducting Joint Audits. Capacity building measures could help to support broader engagement in Joint Audit activity.

6.1. Capacity building

115. The Joint Audit lessons learned by the more experienced jurisdictions are captured in this report. One important aspect of the work going forward could be the development and organisation of Joint Audit training events, either on a stand-alone basis or as a module combined with other elements on the dispute prevention and resolution agenda, such as MAP.

116. Vice versa, Joint Audits may help build capacity in international taxation matters, including on transfer pricing. This holds true for both co-operative and non-co-operative Joint Audits. In proceeding with a Joint Audit, a less experienced tax administration can gain a better understanding of the tools and approaches used in tax audits and case selection in more advanced jurisdictions, including the use of CbC reports and other risk assessment tools. They can gain from the experience of seasoned auditors in issue spotting,

developing the case, through to taxpayer engagement and issue resolution. Joint Audits also ensure that there is no information asymmetry as by definition the engagement is joint. This means that representatives of less experienced jurisdictions will not only interface with the local tax function of the taxpayer, but could be present at the tax examination at e.g. the headquarter location. Thus, the benefits of leveraging off the expertise and experience of other tax administrations – a benefit of Joint Audits for all tax administration – is multiplied for those with less experience.

117. In Joint Audits the working language is usually English (except for situations of regional co-operation where jurisdictions share another common language for co-operation). It is therefore essential that tax administrations facilitate the education of international auditors in English language skills to enable them to communicate effectively on tax matters in a Joint Audit team and more broadly in all forms of international tax co-operation. However, language should not be a barrier to conduct a Joint Audit and tax administrations can consider including translators in their Joint Audit team to overcome this problem.

6.2. Relationships and trust

118. Besides knowledge of how to conduct a Joint Audit the Expert Group Members also reported that the success of good co-operation is a matter of building relationships and trust.

119. Most Project participants reported that they have an auditor or, in case of a more comprehensive joint audit programme, a dedicated team of auditors with experience in international audit or specialised in co-ordinating Joint Audits – not only to streamline processes and to provide assistance to auditors – but also to have a dedicated contact person who can develop an international network. This is important as it builds on previous experience in Joint Audits and also helps to create a relationship and a level of trust in a dedicated network for international co-operation in Joint Audits.

6.3. Learning by doing

120. Ultimately the knowledge and training needs to be translated into first-hand experience. The key for tax administrations not yet active in Joint Audits is to start acting and initiate co-operation, in practice, through the commencement of pilot projects supported by this report and any necessary training.

121. Joint Audits could provide important capacity building benefits for developing countries. They would gain from the experiences and audit methods of the other participating jurisdiction(s) when auditing international tax structures of MNEs. The process could be supported by the joint UN/OECD (TIWB) initiative, which provides and finances experienced, independent auditors to developing countries support real time MNE audits and to provide tax administrations with less experience additional comfort in engaging in a Joint Audit with another tax administration. This could be done by providing the designated support in questions relating to international tax structures and be complemented with support on questions relating to exchanging information with the other tax administration(s) during the Joint Audit process. TIWB has also developed tools to protect the confidentiality of taxpayers and the liability of experts.

6.4. Recommendations

- For the FTA to develop a training course on audit co-operation with a focus on Joint Audits based on this Report.
- For the OECD to offer training courses to interested jurisdictions, alongside its training on exchange of information and MAP.
- For TIWB to consider supporting less experienced jurisdictions interested in exploring Joint Audits and requesting assistance.
- For FTA members not yet active in Joint Audits to consider the start of a pilot programme.

Reference

OECD (2017), *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing, Paris, https://doi.org/10.1787/mtc_cond-2017-en.

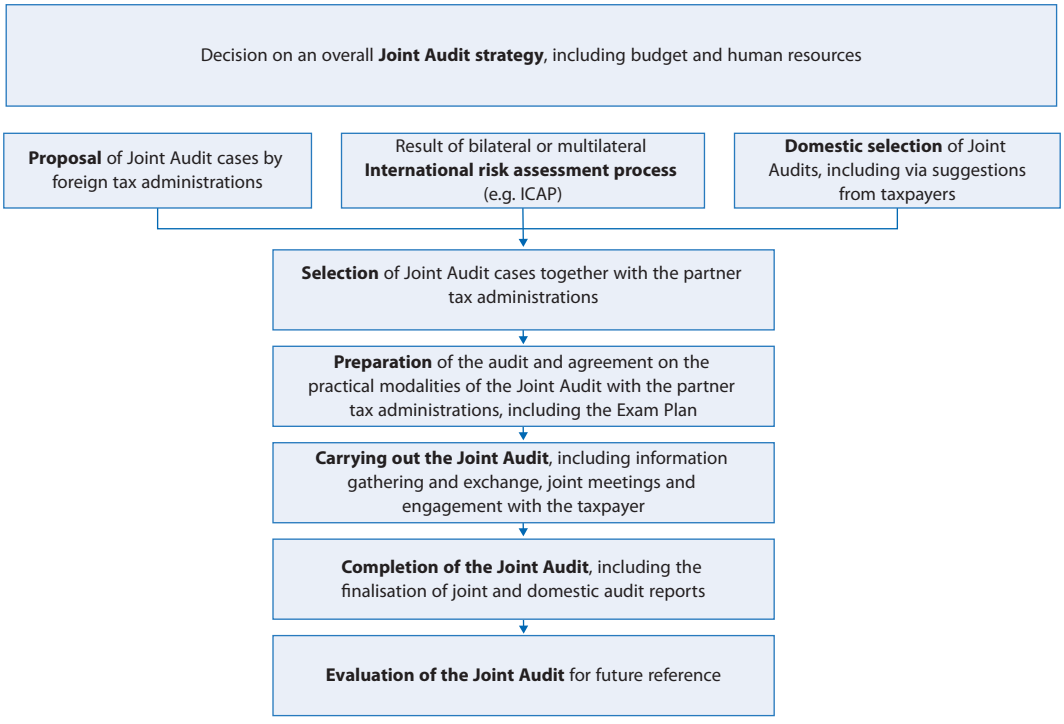
Chapter 7

Joint Audit guidance

122. The previous chapters outlined the role of Joint Audits, summarised the main reasons to engage in this form of international co-operation and provided details on specific topics. This chapter provides practical guidance and related recommendations on how to start, conduct and complete a Joint Audit procedure based on the best practices identified during the Project.[1]

123. This chapter looks first at the overall strategic direction that jurisdictions may take towards Joint Audits, as well as the budgetary, human resource and organisational framework implications. It then sets out the key considerations for the Joint Audit case selection process before turning to the preparation of the Joint Audit, such as the development of a Joint Audit Exam Plan followed by the details on the conduct of the Joint Audit. Finally, the chapter discusses the conclusion of the Joint Audit, including the drafting of a final Joint Audit report.

124. Graphically, the steps of a Joint Audit can be depicted as follows:



7.1. Strategic approach to Joint Audits

125. Joint Audits do not just happen. Tax administrations need to consider their overall approach to international tax co-operation and, within that context, the role they see for Joint Audits in the short, medium and longer term. For instance, tax administrations may decide to take a very proactive approach, which will have implications on resources, the level of outreach and engagement both internally and externally. Such an active approach may also suggest the conclusion of a MoU with key partner tax administrations outlining the framework for their Joint Audit activities.

126. Alternatively, a tax administration may, in light of its particular circumstances, take a less active approach and mainly respond to the Joint Audit requests of others. A tax administration that is interested in exploring the potential of Joint Audits may decide to first engage in a pilot project and then, based on that experience, decide whether to roll out a more extensive Joint Audit programme. For such tax administrations, one or two experienced tax officials conducting the initial Joint Audit pilot should be sufficient and no dedicated Joint Audit team would be needed from the outset.

127. Whatever approach a tax administration decides to take, it will have to be implemented on a consistent basis. International tax co-operation only works if it is based on trust and reciprocity. Joint Audit cases need to be considered objectively and irrespective of whether they may result in an increased or a reduced yield for the tax administration concerned.

128. Where a tax administration decides to take a proactive approach to Joint Audits, it will need to think through the organisational implications and how to best deliver successful outcomes in an efficient manner. The experience from this Project shows that there are several components that can contribute to the success of a Joint Audit in the context of such a proactive approach.

- **Capturing expertise and making it known within the tax administration**. It is essential that all tax auditors that deal with international tax issues are informed about the existence and possibilities of a Joint Audit, which should include awareness sessions and Joint Audit training for all auditors exposed to international tax issues. Such information may include actual experiences with Joint Audits including results, costs and benefits. Several tax administrations involved in the preparation of this report have established centres of excellence and central or expert joint audits teams that every tax auditor can contact and that guide the auditor in determining whether a particular case is suitable for a Joint Audit.
- **Identifying necessary skills**. Given that a Joint Audit will often require language skills, cultural sensitivities and a degree of understanding of foreign laws and practices, it is essential for cases to successfully advance through the Joint Audit stage, that a central or expert team offers support and is involved throughout the Joint Audit process. Of course, the size of any such team will depend on the size of a Joint Audit programme. Where a tax administration wishes to explore Joint Audits, possibly as a pilot programme, it may be enough to use an experienced international auditor with the necessary language skills. If subsequently it then wishes to scale up the Joint Audit work, the size of any team will also depend on the size and organisational structure of the tax administration in question.
- **Reviewing incentives and disincentives**. It may be useful to review the performance targets or metrics of tax auditors to see whether they have the effect of discouraging Joint Audits even in situations where, from an overall perspective, they would be beneficial to all concerned. For instance, a purely domestic audit would typically

be completed more quickly compared to a Joint Audit. If the internal performance evaluation favours audit completion times, irrespective of whether audit results create double taxation and cases return via MAP, then this creates a disincentive for Joint Audits. The same applies if there is little credit for a complete exploration of a complex international case with the participation of other tax administrations via a Joint Audit even where there are pertinent risk indicators.

- **Managing costs**. Joint Audits involve travel and there may be costs related to building up additional expertise, e.g. via the establishment of an expert team. Within the EU and for intra-EU Joint Audits, the FISCALIS programme covers travel costs. However, no such funding is currently available for non-intra EU Joint Audits. Based on the experience of the Expert Group, it would therefore be beneficial if each tax administration with a Joint Audit programme would allocate an appropriate budget to the programme on an annual basis so as to streamline and simplify its practical operation. Special funding arrangements could also be considered for less experienced jurisdictions with lower capacities wishing to participate in Joint Audits.[2]
- **Technical infrastructure**. The conduct of a Joint Audit may also require further technical assistance compared to a domestic audit. This includes the secure exchange of documents during the audit (for example via the Common Transmission System, CTS) and to communicate via international compatible telephone and/or video conferencing systems that allow for a secure information exchange between the team members on a regular basis. This could cause initial investment cost but could in turn reduce travel costs.

Quotes from the Project

"When deciding whether to conduct a Joint Audit, the decision cannot only be based on the available resources. Rather, it has to weigh the available resources against the importance of the specific case." (the Netherlands)

"We decided that international co-operation is an important subject and seek to develop as much experience as possible. We will therefore also take on small cases or cases with jurisdictions we have not yet worked with." (Germany)

"A small case for one jurisdiction may be a big case for the other jurisdiction." (Germany)

7.2. Case selection

7.2.1. Selection process

129. The domestic case selection process will in part be a reflection of the jurisdiction's overall approach to Joint Audits. A jurisdiction pursuing a proactive Joint Audit approach will typically follow a combination of a top down and bottom up selection process. In a **top down** selection process, a jurisdiction defines the criteria a case should meet to be suggested for a Joint Audit. These criteria can be the outcome of criteria developed by reference to domestic objectives and/or the result of close co-operation between two or more jurisdictions to identify suitable cases. A **bottom up** process describes the practice where selection is carried out by the "field" auditors and other tax examiners to identify cases that appear suitable to be suggested as a Joint Audit.

130. A jurisdiction with a less active approach towards Joint Audits will focus more on selection criteria relating to the circumstances, in which to accept a Joint Audit proposal by another jurisdiction. When a jurisdiction is exploring Joint Audits via a Joint Audit pilot, it will typically not yet have any specific case selection process for Joint Audits in place.

131. The international selection process may build on the domestic selection process. It is here that the tax administrations decide, which of the cases proposed will be taken forward as a Joint Audit.

132. Tax administrations with a proactive Joint Audit programme tend to hold selection meetings with their main partner jurisdictions on a regular basis, in which they present cases that meet the joint selection criteria. With parties where Joint Audit activities is less frequent, the scheduling of international selection meetings may be more ad hoc and driven by the number and urgency of cases that the participating tax administrations wish to propose.

133. An international selection meeting helps to discuss a specific proposal and the potential risks at stake before the tax administrations decide to engage in a Joint Audit. The potential benefit of an international risk selection mechanism is that the information available in two or more jurisdictions provides a better basis for risk analysis than a unilateral risk assessment. Furthermore, this selection method allows the involved jurisdictions to jointly engage in the Joint Audit procedure from the beginning on an equal footing and thus prevents disputes from the earliest stage.

134. As more tax administration engage in Joint Audits and as the number of multilateral rather than bilateral Joint Audits increases, the process and logistics of international case selection becomes more challenging. Within the EU, there are currently several Member States organising bilateral selection meetings, but there are at present no such meetings involving tax administrations from non-EU Member States. To fill this gap in a way that is resource effective, the FTA should provide a forum where tax administrations wishing to propose Joint Audit cases to one or more other FTA member tax administrations can meet and schedule case selection meetings with different counterparties on the same day and in the same location. The FTA Secretariat should be supporting the organisation and logistics, without being involved in any of the substantive discussions.

7.2.2. Case selection criteria

135. As outlined in detail in Chapter 3 case selection is decisive to optimise the cost-benefit-ratio of a Joint Audit. While tax administrations will have their own criteria, the experience from this Project shows that a Joint Audit should be considered for example where:

- there are reasons to believe that a domestic audit alone, even if supplemented by information exchange or other forms of international tax co-operation, would be less efficient or less successful in developing a full understanding and appreciation of the facts
- particular issues, a transaction or series of transactions lead a tax administration to the view that a tax examination on a unilateral basis may lead to double taxation, for example because of a cross-border business restructuring
- the case under consideration is similar to types of cases that are already part of the existing MAP pipeline

- a treaty partner has requested a Joint Audit, the information contained in the request indicates that a Joint Audit would be an appropriate action and the requested tax administration has a common or complementary interest in conducting a Joint Audit
- the taxpayer has suggested a Joint Audit, the information contained in the suggestion indicates that a Joint Audit would be an appropriate action and the respective tax administrations have a common or complementary interest in conducting a Joint Audit
- two treaty partners experience an expansion in cross-border trade and investment and a Joint Audit would help build relationships and facilitate a better understanding of each other's auditing rules, practices and procedures
- a case has made no or little progress in MAP, particularly in the absence of arbitration provision in the respective treaties, and there is reason to believe that a Joint Audit intervention has the potential to unlock the situation; or
- APA negotiation have taken a long time and a Joint Audit would allow to create tax certainty for past years and/or otherwise assist in resolving the issues for future years
- a joint or separate risk assessment has led two or more tax administrations to the view that a particular issue, transaction or series of transactions presents a material international tax risk.

7.2.3. Case preparation and initiation

136. When a jurisdiction identifies a case based on its domestic selection criteria, it will need to consider whether there are any obstacles to take it forward. The first question will be whether the international legal framework is in place with the other jurisdiction. Chapter 4 provides details on the available legal frameworks and their scope.

137. If the international legal framework is in place, the legal parameters for conducting the Joint Audit, such as whether the other jurisdiction allows for active or passive presence and whether this is subject to further requirements such as the consent of the concerned taxpayer(s), will need to be analysed as well as any practical obstacles that may exist.[3]

138. A Joint Audit Profile that supports the decision making process in this respect is made available in the Joint Audit Implementation Package.[4] It contains relevant information about the other jurisdiction's audit procedure and allows getting an overview of the other jurisdiction's legal situation and relevant information for conducting a Joint Audit with that jurisdiction. The Joint Audit Profile also contains for example information about the other jurisdiction's audit cycles, statutes of limitations and legal particularities that allow the conduct of Joint Audits or may limit the conduct a particular Joint Audit.

139. Finally, the Joint Audit Profile provides relevant contact details of the respective Competent Authorities in each jurisdiction and the Template for a Proposal/Invitation for a Joint Audit can be used to provide the requested tax administration with all relevant details to be in a position to take a decision.

140. Where after this analysis a tax administration wishes to initiate a Joint Audit it should outline in its Proposal/Invitation the international legal framework that is intended to be used for the international co-operation, the main features of its domestic legal framework (or refer to its Joint Audit Profile) and include an explanation why a Joint Audit is considered the best approach to address the particular case. Possible uncertainties about the legal base can be subject to further discussion during the preparation process.

7.2.4. Reaction to a Joint Audit proposal and decision

141. The requested tax administration should confirm the receipt of a Joint Audit proposal and should provide a response to the proposal as soon as possible within the timeframe set out in the Joint Audit Profile, which should not exceed two months after the receipt of the proposal. The reaction can be an acceptance, a rejection or a deferral to a later stage. Where the requested tax administration requires more time to provide a final response, it is preferable to seek an extension rather than decline the joint audit proposal due to expiration of the two months period. The indicated timeframe in the Joint Audit Profile serves as an orientation and a Joint Audit proposal should not be declined because the requested tax administration requires more time to analyse whether to engage in the Joint Audit procedure. There is currently no legal obligation to accept a proposal for a Joint Audit. However, if the requested tax administration declines a Joint Audit proposal, it should provide the reason for its refusal in writing to the requesting tax administration.[5]

142. In considering whether to accept a case, tax administrations will also review whether a Joint Audit is the best way forward or whether other forms of international tax co-operation may be more appropriate in a particular case. As every Joint Audit also includes exchange of information and tax administrations have the ability to decline a request for information where the other jurisdiction has not yet exhausted all domestic means available to gather the requested information, the question has sometimes arisen whether this principle has any relevance or application in the international case selection process for Joint Audits.

143. This principle should not impact the initiation of a Joint Audit. This is because the international legal framework – unlike for EOIR – do not contain an obligation to enter into a Joint Audit. Tax administrations will therefore always only agree on the conduct of a Joint Audit if they have a common or complementary interest in a case and decide that a Joint Audit is the most efficient and effective way to obtain the information. Furthermore, tax administrations may propose a Joint Audit to reduce risks of possible double taxation, which introduces considerations beyond those relevant for cases limited to exchange of information.

7.2.5. Involvement of taxpayer in selection process

144. It is important that jurisdictions agree on a communication protocol early to address the taxpayer jointly and coherently. Whether to inform the concerned taxpayer about a Joint Audit selection meeting will therefore mainly depend on the facts and circumstances of the specific case and should in any case be the result of a joint consultation of the participating tax administrations, that might have different concerns about an early involvement of the taxpayer(s). This may have particular importance when engaging with jurisdictions that have a legal obligation to notify taxpayers early or that have a culture of procedural transparency. Chapter 5 describes in more detail how tax administrations should engage with the taxpayer during a Joint Audit.

145. Where a taxpayer has suggested a Joint Audit, there will necessarily be taxpayer contact from the very beginning. In other situations, tax administrations should engage with the taxpayer already during the case selection phase, unless the facts and circumstances of the case suggest otherwise. Taxpayers may provide valuable insights for the tax administration before agreeing with the other jurisdiction on an audit. Furthermore, it allows the taxpayer to prepare for the audit, which can make the subsequent audit process more efficient.

7.3. Preparation of the audit process

146. After jurisdictions have agreed to a Joint Audit, the participants have to prepare for the audit procedure, both from a domestic and an international perspective.

147. Domestically, this preparation will be similar to the preparation of a domestic audit and in part may have already been completed as part of the domestic selection process. This can include (1) the collection and review of relevant internal and external information available on the selected taxpayers (e.g. compliance history, MAP/APA history, compliance information, previous audits, registration history, ownership structure, review of tax returns and financial statements, information from publically available sources); (2) identification of the relevant tax issues and risk areas; and (3), if applicable, the identification of any criminal activity and/or ongoing investigations.

148. In addition, the international preparation of the Joint Audit includes (1) the potential conclusion of a MoU, (2) the selection of the Joint Audit team members, (3) the preparation of the initial meeting (including the preparation of presentations and the preparation of a Joint Audit exam plan[6]), and (4) the set-up of communication channels. Each of these points is discussed below.

7.3.1. Conclusion of a MoU or an ad hoc agreement

149. When two or more tax administrations agree to engage in a Joint Audit, they should agree on the governing principles of their intended collaboration (sometimes referred to as a "code of conduct") and the agreed audit approach. This can be done in form of a MoU as outlined above in 7.1. Tax administrations that regularly work together usually decide to conclude an overarching agreement like an MoU that governs the conduct of multiple Joint Audits and outlines the applicable legal framework, the general audit approach relating to the possible levels of presence (passive or active) allowed under the respective domestic laws of all participating jurisdictions, as well as particularities of the domestic legal situation of the participating jurisdictions. The MoU can also contain escalating strategies in case jurisdictions experience difficulties during the conduct of a Joint Audit or when the conduct of a Joint Audit is terminated before it is completed.

150. If jurisdictions are conducting a Joint Audit for the first time it may not be necessary to conclude an MoU and it will be sufficient to incorporate general arrangements in the Joint Audit exam plan.

7.3.2. Selection of the Audit team

151. The tax administrations will select the members of the Joint Audit team based on the needs of each specific case.

152. Every Joint Audit team should include an assigned responsible Joint Audit co-ordinator to manage the procedure and function as SPOC.[7] The Expert Group stressed that the co-ordinator function is also important to build a level of trust between Joint Audit partners. The co-ordinators can participate in an international network and develop close working relations that can be intensified with each case work.

153. Furthermore, every Joint Audit team has to include a (delegated) Competent Authority for Exchange of Information (CA-EOI) to secure the exchange of information during the Joint Audit process. One of the benefits of an international audit is the direct interaction between the audit teams and direct exchange of information to allow auditors

to discuss facts and circumstances and understand differences in legislation, different audit approaches and interpretations. The direct contacts between auditors are governed by the rules of exchange and therefore require the presence of a CA-EOI.

154. Some jurisdictions will include a representative of the central CA-EOI in the team, whereas other jurisdictions have the practice to delegate CA-EOI status to all or some auditors in the team. Jurisdictions are free to choose the method that best fits their circumstances, provided that it is clear to the other Joint Audit partners who has the CA-EOI status. The chosen approach by the participating jurisdictions is then recorded in the MoU or in the ad hoc agreement. This can be supported by exchanging mandate letters that confirm which team members have CA-EOI status.[8]

155. The Joint Audit team should possess detailed knowledge about the taxpayer and the specific case. This can either be done by assigning the local auditor to the Joint Audit team or by otherwise ensuring that all relevant domestic information is available during the audit. The Joint Audit team may be assisted by subject matter experts if necessary (e.g. transfer pricing, financial transactions, relevant industry experience).

156. It is recommended that the team has authorised member(s) who can decide about the domestic tax consequences of the Joint Audit. As outlined in Chapter 2, some jurisdictions also chose to include the MAP Competent Authority in their Joint Audit teams, either from the beginning of the Joint Audit or at a later stage if it becomes clear that a case cannot be resolved without MAP. If jurisdictions chose not to include the MAP Competent Authority in each Joint Audit team, they should consider creating other mechanisms, such as special fast-track procedures, to achieve early dispute resolution if it becomes evident that an agreement cannot be achieved during the Joint Audit procedure.

157. The guiding principle to select the members of the audit team should be to keep the team as small as possible, in order to reduce costs and ensure close working relations between the individual members. Therefore, the audit team, once selected, should remain in place until the Joint Audit is completed.

7.3.3. Preparation of the initial meeting

158. When jurisdictions are starting a Joint Audit, it is recommended to organise an initial **face-to-face meeting** between the tax administrations to ensure that all participants have the same level of knowledge, identify possible audit risks and agree on a (draft) Joint Audit exam plan. The face-to-face meeting is usually organised and hosted by the tax administration that is initiating the audit.

159. The initial meeting is also an occasion for the audit team members to get to know each other and to establish trust. A certain level of trust is the basis for good co-operation and allows an understanding of the other tax system, the audit culture, the legal procedures in the other jurisdiction and the audit actions taken throughout the process. Once jurisdictions have experience in working together, personal meetings might be replaced by telephone and video conferencing to increase efficiency and reduce cost.

160. Tax administrations are expected to prepare presentations for the initial meeting to explain why the initiating tax administration has selected the specific taxpayer and why the requested tax administration accepted the invitation, what their understanding of the issues are and what information is available. Most importantly, the presentation should also outline what the participating tax administrations are expecting to achieve with the Joint Audit. The presentations then serve as a basis for further discussions and to identify

potential risk areas of practical, factual or legal nature that can then be addressed by mitigating strategies.

161. The initiating jurisdiction is expected to prepare a draft Joint Audit exam plan that can be finalised at the initial meeting.[9] A Joint Audit Exam Plan should include the following elements:

a. Case description
b. Participating tax administrations
c. Audit team members with contact details
d. Taxpayers with contact details
e. Audit scope periods
f. Relevant Taxes
g. Objectives/Audit topics
h. Audit approach including specification of level of co-operation and conduct of direct interaction
i. Timeframe and timeline for audit steps
j. Domestic procedural particularities
k. Communication approach and specification of the communication channels
l. Summary of potential audit risks and escalation strategies
m. Finalisation/Report

162. The following forms of presence can be identified:

Form of presence	Yes/No
Passive presence of foreign officials in tax administration offices	
Passive presence of foreign officials during an examination (including at the premises of the taxpayer or the tax advisor)	
Active presence of foreign officials allowed to participate with host jurisdiction officials in interviews of individuals and to examine books and records	

163. If the participating jurisdictions have not already concluded a MoU, the Joint Audit Exam Plan should include the essential elements otherwise included in the MoU.

164. By the end of the meeting, jurisdictions should have agreed on a mandate for the tax officials to be present abroad in the territory of the other jurisdiction.

7.3.4. Agreement on communication channels

165. To ensure smooth co-operation, it is essential that all participating tax administrations of a Joint Audit can communicate with each other through secure channels of communication, such as encrypted emails, secure telephone or video conferencing.

166. Regarding the communication with taxpayers, it is recommended to define a communication protocol with the taxpayer and to inform the taxpayer on a regular basis. This will prepare the taxpayer in case the tax assessment is adjusted based on the information gathered during the Joint Audit.

7.3.5. Involvement of taxpayer

167. If the taxpayer has not already been informed about the Joint Audit during the case selection phase, this should be done in the preparation phase, unless there are particular facts and circumstances that suggest otherwise. Depending on the number of tax administrations and number of taxpayers involved in the Joint Audit, the participating tax administrations can appoint a Joint Audit co-ordinator to be the point of contact for the taxpayers and who would be also responsible to identify the responsible personnel in the structure of the involved taxpayers. The benefits of involving the taxpayer from an early stage on are outlined in Chapter 5. This includes inter alia (1) to consult with the taxpayer about the starting date of the Joint Audit and the dates for calls, visits or other face-to-face meetings; and (2) to provide the taxpayer early on with an outline of the audit topics and an envisaged timeframe in order to ensure that all information required is available. The tax administrations may share the Joint Audit Exam Plan with the taxpayer unless facts and circumstances of the case suggest otherwise.

7.4. Conducting the audit

168. Once the Joint Audit Exam Plan is agreed by all participating tax administrations, the Joint Audit activities can begin. Participants may decide that the Joint Audit officially starts with the signing or the confirmation of the Joint Audit Exam Plan.

7.4.1. Collective information requests

169. To avoid inefficiencies, it is best practice that the Joint Audit team consults internally before requesting information from taxpayers. The collective information requests should seek all information required by the participating tax administrations in accordance with their respective domestic laws and respecting the relevant international legal instruments.

170. The use of collective information requests ensures that taxpayers will only have to answer questions and supply information once and facilitate the verification if and how a specific request was addressed by the taxpayer. The frequencies of such information requests may differ depending on the level of co-operation, the complexity of the case and the domestic practice of the participating tax administrations.[10]

7.4.2. Operational phase

171. In the Joint Audit Exam Plan, tax administrations decide what kind of audit activities they envisage to undertake during the Joint Audit. This will include whether tax administrations plan to visit taxpayers' premises and whether the foreign auditors will actively participate in the audit. As far as possible, tax administrations should strive to gather and to exchange information in form of a "dialogue" between the involved parties to enhance efficiency and to avoid misunderstandings.

172. Before engaging in this form of active presence, it is important that all audit team members have the same understanding of what kind of actions can and will be carried out by the foreign tax officials and whether there are legal particularities that have to be observed during the process.[11] It is therefore good practice to have pre-meetings before jointly visiting the taxpayer to clarify any outstanding questions and legal uncertainties.

173. Some jurisdictions have specific procedural requirements in their domestic legislation, for example, that documents have to be prepared and/or signed or the confirmation of

onsite visits etc.[12] It is important to identify these particularities at an early stage, allowing the participating tax administrations to agree on the practicalities of the examination. The specific domestic requirements will also affect the foreign auditors in situations where active presence is agreed. These issues should be further explored[13] and addressed in the MoU and/or Joint Audit exam plan.

174. After each meeting between the participating audit teams and after each meeting with the taxpayer, the audit teams should prepare minutes to summarise such meetings and if possibly lay down a common understanding of the gathered facts.

7.4.3. Update on audit progress

175. Regular updates on the audit progress are important to keep the audit procedure on track. In a Joint Audit, the team members from the different participating tax administrations should be informed about any relevant developments in a simultaneous manner.

176. To develop and maintain close working relations, jurisdictions should interact with each other on a regular basis. This can be done in person or via telephone or video conferencing. The frequency will be determined by the requirements of the case. The purpose of the meetings or calls is to discuss the status and progress, e.g. findings to date, deviations from the Joint Audit exam plan and to agree on adjustments to the Joint Audit exam plan.

177. It is in the interest of all participants to organise the calls or meetings in the most efficient and effective manner. Depending on the circumstances, Joint Audit participants can limit such meetings to telephone or videoconferencing sessions to ensure regular contact between the Joint Audit teams. However, when working with other jurisdictions for the first time, it can be advisable to schedule several face-to-face meetings. Such an approach can be also chosen when addressing complex cases.

7.4.4. Involvement of taxpayer

178. During the Joint Audit it is equally important to keep the taxpayer involved. Chapter 5 outlines the considerations to be taken into account in this respect.

179. If considered appropriate, a regular consultation with the taxpayer allows:

- the taxpayer the possibility to engage with the tax administrations and remain updated on the progress of the audit, areas of concern and, to the extent possible, interim results
- a possibility to align the flow of information between taxpayer and tax administrations and to maintain the commitment of the taxpayer
- to share results with the taxpayer before tax administrations agree on a final outcome, therewith giving the opportunity to correct possible misunderstandings and provide any missing documentation or other evidence.

7.5. Audit completion

7.5.1. Final audit phase

180. In the final phase of the audit, all information and evidence gathered during the audit is summarised, interpretations shared and conclusions drawn. For this purpose, the participating tax administrations should organise a final meeting to discuss the facts and see whether a common view can be reached. Before the final meeting, tax administrations can share a first draft of the final report to allow comments from all involved tax

administrations. The initiating jurisdiction will usually provide a first draft of the final report unless the parties agree differently. A template for a Final Joint Audit Report that can be used as a reference for drawing up the final report is available in the Joint Audit Implementation Package.[14]

181. It is important to include the taxpayer at this stage, in order to provide clarity about the envisaged outcomes and to allow for a final round of input. This allows taxpayer to understand the perspective of the tax administrations and will hopefully enhance the acceptance of a subsequent tax adjustment.

182. The Joint Audit procedure concludes with the agreement on the Final Joint Audit Report, which should include a summary of the audit findings and should be shared with the taxpayer.

183. Besides the facts and common conclusions, the Final Joint Audit Report should also include the areas where a common understanding could not be achieved, for example, because of deviating interpretations of facts. Even if the Final Joint Audit Report itself does not have a legally binding effect, a full description of the relevant facts and figures and the extent to which the administrations have not reached a common understanding will support and speed up any subsequent procedures such as MAP. It is therefore of particular importance that the report reflects the issues on which views differ, as well as the basis for the differing views.

7.5.2. Domestic audit outcomes

184. The Final Joint Audit Report does not have a legal status as such and therefore will have to be formalised into national tax assessments in the participating jurisdictions. The taxes due and the tax position of the taxable person(s) in the participating jurisdictions are subsequently processed by the respective tax administrations.

7.6. Evaluation

185. When a Joint Audit is finalised, the audit results should be recorded internally within the respective tax administration at case level for future reference. The relevant information to be collected for this purpose is described in Chapter 3.

7.7. Recommendations

1. Strategic approach
    - Decide on the strategic approach on Joint Audits and implement organisational measures and components accordingly.
    - For jurisdictions following a proactive approach this may include:
        - designating experts/create team(s) with specific expertise in international tax co-operation and Joint Audits
        - ensuring that all auditors exposed to international tax issues are aware of the existence and potential of Joint Audits
        - ensuring that the contact details of the expert teams are known to all tax auditors involved in international tax issues and that the expert teams have the skills and resources to guide auditors in the case selection and throughout the Joint Audit 15

- ensuring that there are no constraints or disincentives (e.g. performance evaluation criteria) to start a Joint Audit when the case merits it and consider implementing incentives for using Joint Audits in appropriate circumstances
- implementing a domestic annual budget for the conduct of Joint Audits that are not eligible to be covered by the EU-FISCALIS programme
- providing the necessary technical infrastructure that allows for a secure exchange between the team members on a regular basis, for example by using CTS to allow secure exchange of documents.

2. Case selection
   - Choose case selection process that fits the strategic Joint Audit approach.
   - Conduct due diligence analysis of the international and domestic legal framework to examine audit relevant obstacles with the support of the counterparty's Joint Audit Profile before initiating a Joint Audit.
   - When following a proactive Joint Audit approach, consider determining joint case selection criteria, the participation in joint case selection meetings on a regular basis, or where substantial double taxation is imminent, the possibility to suggest the case for a joint audit without a selection meeting.
   - Consider the key benefits set out in Chapter 3.
   - Use the template for a Joint Audit Proposal when initiating a Joint Audit and include main features of own domestic legal framework (or refer to own Joint Audit Profile).
   - When rejecting a Joint Audit invitation, provide reasons why the invitation is not being accepted.
   - The FTA to provide a forum where tax administrations wishing to propose Joint Audit cases to one or more other FTA member tax administrations can meet and schedule case selection meetings with different counterparties on the same day and in the same location. The FTA Secretariat to support the organisation and logistics, without being involved in any of the substantive discussions.
3. Preparation of the audit process
   - Conclude a working agreement that sets out the governing principles of the intended collaboration (for example in a MoU or in the Joint Audit Exam Plan).
   - When selecting the members for the Joint Audit team,
     - assign a responsible Joint Audit co-ordinator
     - include a CA-EOI in the team
     - ensure that background information on the taxpayer is available during the audit
     - include case specific experts to the team (e.g. a transfer pricing specialist or international law expert, etc.)
     - include a MAP Competent Authority in the team or consider fast-track MAP when required

  - keep the team as small as possible
  - avoid replacing team members in the course of the Joint Audit.
- Organise initial face-to face meeting when engaging in a Joint Audit for the first time.
- Prepare presentations for initial meeting with taxpayer specific background information and agree on a detailed Joint Audit Exam Plan.
- Determine secure communication channels (e.g. CTS) between members of the Joint Audit teams and a communication protocol with the taxpayer.

4. Conducting the audit
   - Agree as early as possible on timelines, dates for meetings, taxpayer visits etc.
   - Agree on communication approach towards taxpayer and prepare collective information requests.
   - Organise pre-meetings before interacting directly with the taxpayer to address any domestic legal procedural particularities and clarify the audit approach.
   - Provide regular updates on the audit progress for all members of the Joint Audit teams via personnel meetings or regular telephone and/or videoconferencing.
5. Audit completion
   - Organise a final meeting between the participating tax administrations and with the taxpayer(s) before completing the audit to allow final input.
   - Complete the Joint Audit with a Final Joint Audit Report that outlines the Joint Audit outcome and also contains a full description of the relevant facts and figures and the extent to which the administrations have not reached a common understanding to support subsequent procedures (e.g. MAP).
6. Evaluation
   - Gather relevant data and evaluate each Joint Audit procedure for future reference.

Notes

1. A Joint Audit Implementation Package that includes relevant templates and model agreements that can facilitate and streamline any practical aspects of the conduct of a Joint Audit is being developed and kept up to date, available at www.oecd.org/tax/forum-on-tax-administration/publications-and-products/.
2. See Chapter 6.
3. Practical obstacles can relate to different statutes of limitations, limitations on re-auditing the same audit cycle or to identify corresponding audit cycles, as well as technical obstacles, such as compatible computer programmes, telephone or video conferencing systems.
4. www.oecd.org/tax/forum-on-tax-administration/publications-and-products/.
5. Under the EU-Directive 2011/16 Art 12 para. 3 foresees that Member States shall confirm their agreement or communicate its reasoned refusal to the authority that proposed a simultaneous control.

6. The Joint Audit Implementation Package includes a template for a Joint Audit exam plan, available at www.oecd.org/tax/forum-on-tax-administration/publications-and-products/.

7. Jurisdictions following a proactive approach can also consider to have specialised SPOCs responsible for certain jurisdictions for bilateral Joint Audits.

8. For EU Member States the written confirmation of the EOI status is mandatory, Art 11. (3) EU Directive 2011/16.

9. The Joint Audit Exam Plan template that is made available in the Joint Audit Implementation Package can be used as an example to go through the different stages of preparation.

10. Participating tax administrations should come to a broad understanding how many requests for information should be sent to the taxpayer in total to avoid misunderstanding about the procedural approach.

11. This is outlined in the respective Joint Audit Profile to support the preparation of a Joint Audit.

12. These particularities should be outlined in the jurisdictions specific Joint Audit Profile.

13. See Chapter 4.

14. www.oecd.org/tax/forum-on-tax-administration/publications-and-products/.

15. Tax administrations may also agree to use a functional email address that is accessible to all members of the Joint Audit team.

Annex A

Summary of recommendations

1. Joint Audits and the Tax Certainty Agenda (Chapter 2)

1. Manage international tax risk assessment, Joint Audits, APA and MAP holistically.
2. Actively manage across these tools to achieve resolution at the earliest possible point in time.
3. Ensure that MAP competent authority is available when needed to conclude a Joint Audit case or ensure an accelerated MAP procedure subsequent to a Joint Audit where a common view could not be achieved to address double taxation as early as possible.
4. Capture and share information on case resolution across the different functions.

2. Costs and benefits (Chapter 3)

1. Develop guidance to ensure that appropriate cases are considered for Joint Audits including where
   - there are reasons to believe that a domestic audit alone even if supplemented by information exchange or other forms of international tax co-operation would be less efficient or less successful in developing a full understanding and appreciation of the facts
   - particular issues, a transaction or series of transactions lead a tax administration to the view that a tax examination on a unilateral basis may lead to double taxation, for example in case of a cross-border business restructuring
   - the case under consideration is similar to types of cases that are already part of the existing MAP pipeline
   - a treaty partner has requested a Joint Audit, the information contained in the request indicates that a Joint Audit would be an appropriate action and the requested tax administration has a common or complementary interest in conducting a Joint Audit
   - the taxpayer has suggested a Joint Audit, the information contained in the suggestion indicates that a Joint Audit would be an appropriate action and the respective tax administrations have a common or complementary interest in conducting a Joint Audit
   - two treaty partners experience an expansion in cross-border trade and investment and a Joint Audit would help to build relationships and facilitate a better understanding of each other's auditing rules, practices and procedures

- a case has made no or little progress in MAP and there is reason to believe that a Joint Audit intervention has the potential to unlock the situation
- APA negotiations have taken a long time and a Joint Audit would allow to create tax certainty for past years and/or otherwise assist in resolving the issues for future years
- where a joint or separate risk assessment has led two or more tax administrations to the view that a particular issue, transaction or series of transactions presents a material international tax risk.

2. Set clear short, intermediate and long-term objectives and develop an evaluation framework that allows an assessment whether these objectives were met.
3. Collect relevant data to facilitate a full evaluation of the Joint Audit practice and the learning.

3. The legal framework for Joint Audits (Chapter 4)

1. 1. For the OECD to consider addressing the uncertainties identified and to explore strengthening the rules applicable to the presence of foreign officials abroad, to streamline the conduct of Joint Audits.
2. 2. For tax administrations to consider providing detailed information on rules and procedures as further described in Chapter 7.

4. Role of the taxpayer (Chapter 5)

1. Tax administrations should engage with the taxpayer early during the case selection phase unless the facts and circumstances of the case suggest otherwise.
2. The decision when to inform the concerned taxpayer should be the result of a joint consultation of the participating tax administrations that might have different concerns about an early involvement of the taxpayer(s).
3. While taxpayers have no enforceable right to request a Joint Audit, tax administrations may encourage taxpayers to come forward and suggest cases for Joint Audits.
4. If a tax administration rejects the suggestion of a taxpayer to be selected for a Joint Audit, the tax administration should provide the taxpayer with the relevant reasoning of its decision.
5. Taxpayers should co-operate with the participating tax administrations as close as possible and provide requested information in a timely and complete manner.
6. Tax administrations should consult on the best dates for calls, visits or other face-to face meetings.
7. Tax administrations should engage with the taxpayer at an early stage and provide an outline of the audit topics, the required documentation and an envisaged timeframe, unless the facts and circumstances suggest otherwise. If tax administrations have concluded a Joint Audit exam plan this might be shared in a Joint Audit with a co-operative taxpayer.
8. Tax administrations should give taxpayers the possibility during the conduct of the audit activities to engage with representatives of both tax administrations and, if there is a co-operative situation, be updated on the progress of the audit, remaining areas of concern and to the extent possible interim results.

9. Tax administrations should share results with the taxpayer before tax administrations finalise audit, to give the opportunity to correct possible misunderstandings and provide any missing documentation or other evidence.
10. Tax administrations should hear taxpayers before finalising the audit report and provide taxpayers with the final reasoning.

5. Building capacity, relationships and trust (Chapter 6)

1. For the FTA to develop a training course on audit co-operation with a focus on Joint Audits based on this Report.
2. For the OECD to offer training courses to interested jurisdictions, alongside its training on exchange of information and MAP.
3. For TIWB to consider supporting less experienced jurisdictions interested in exploring Joint Audits and requesting assistance.
4. For FTA members not yet active in Joint Audits to consider the start of a pilot programme.

6. Joint Audit guidance (Chapter 7)

6.1. Strategic approach

1. Decide on the strategic approach on Joint Audits and implement organisational measures and components accordingly.
2. For jurisdictions following a proactive approach this may include the following:
    - designating experts/create team(s) with specific expertise in international tax co-operation and Joint Audits
    - ensuring that all auditors exposed to international tax issues are aware of the existence and potential of Joint Audits
    - ensuring that the contact details of the expert teams are known to all tax auditors involved in international tax issues and that the expert teams have the skills and resources to guide auditors in the case selection and throughout the Joint Audit[1]
    - ensuring that there are no constraints or disincentives (e.g. performance evaluation criteria) to start a Joint Audit when the case merits it and consider implementing incentives for using Joint Audits in appropriate circumstances
    - implementing a domestic annual budget for the conduct of Joint Audits that are not eligible to be covered by the EU-FISCALIS programme
    - providing the necessary technical infrastructure that allows for a secure exchange between the team members on a regular basis, for example by using CTS to allow secure exchange of documents.

6.2. Case selection

1. Choose case selection process that fits the strategic Joint Audit approach.
2. Conduct due diligence analysis of the international and domestic legal framework to examine audit relevant obstacles with the support of the counterparty's Joint Audit Profile before initiating a Joint Audit.
3. When following a proactive Joint Audit approach, consider determining joint case selection criteria, the participation in joint case selection meetings on a regular basis, or where substantial double taxation is imminent, the possibility to suggest the case for a joint audit without a selection meeting.
4. Consider the key benefits contained in Chapter 3.
5. Use the template for a Joint Audit Proposal when initiating a Joint Audit and include main features of own domestic legal framework (or refer to own Joint Audit Profile).
6. When rejecting a Joint Audit invitation, provide reasons why the invitation is not being accepted.
7. The FTA to provide a forum where tax administrations wishing to propose Joint Audit cases to one or more other FTA member tax administrations can meet and schedule case selection meetings with different counterparties on the same day and in the same location. The FTA Secretariat to support the organisation and logistics, without being involved in any of the substantive discussions.

6.3. Preparation of the audit process

1. Conclude a working agreement that sets out the governing principles of the intended collaboration (for example in a MoU or in the Joint Audit Exam Plan)
2. When selecting the members for the Joint Audit team,
   - assign a responsible Joint Audit co-ordinator
   - include a CA-EOI in the team
   - ensure that background information on the taxpayer is available during the audit
   - include case specific experts to the team (e.g. a transfer pricing specialist or international law expert, etc.)
   - include a MAP Competent Authority in the team or consider fast-track MAP when required
   - keep the team as small as possible
   - avoid replacing team members in the course of the Joint Audit.
3. Organise initial face-to face meeting when engaging in a Joint Audit for the first time.
4. Prepare presentations for initial meeting with taxpayer specific background information and agree on a detailed Joint Audit Exam Plan.
5. Determine secure communication channels (e.g. CTS) between members of the Joint Audit teams and a communication protocol with the taxpayer.

6.4. Conducting the audit

1. Agree as early as possible on timelines, dates for meetings, taxpayer visits etc.
2. Agree on communication approach towards taxpayer and prepare collective information requests.
3. Organise pre-meetings before interacting directly with the taxpayer to address any domestic legal procedural particularities and clarify the audit approach.
4. Provide regular updates on the audit progress for all members of the Joint Audit teams via personnel meetings or regular telephone and/or videoconferencing.

6.5. Audit completion

1. Organise a final meeting between the participating tax administrations and with the taxpayer(s) before completing the audit to allow final input.
2. Complete the Joint Audit with a Final Joint Audit Report that outlines the Joint Audit outcome and also contains a full description of the relevant facts and figures and the extent to which the administrations have not reached a common understanding to support subsequent procedures (e.g. MAP).

6.6. Evaluation

Gather relevant data and evaluate each Joint Audit procedure for future reference.

Note

1. Tax administrations may also agree to use a functional email address that is accessible to all members of the Joint Audit team.

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