Cooperative compliance

General Features | Management of taxes



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Jeffrey Owens considers the merits of cooperative programs in improving tax policy

Key Points

What is the issue?

The administration of a tax regime is seen as a key factor in the attractiveness of a country as an investment location. Tax certainty, defined as the stability and predictability of the tax environment, is fundamental to achieving a business-friendly

tax environment.

What does it mean to me?

Cooperative compliance programs promote trust, mutual understanding and transparency in relationship between tax administrations and taxpayers and provide commercial awareness of the tax administration to ensure better services by a timely advice on tax issues.

What can I take away?

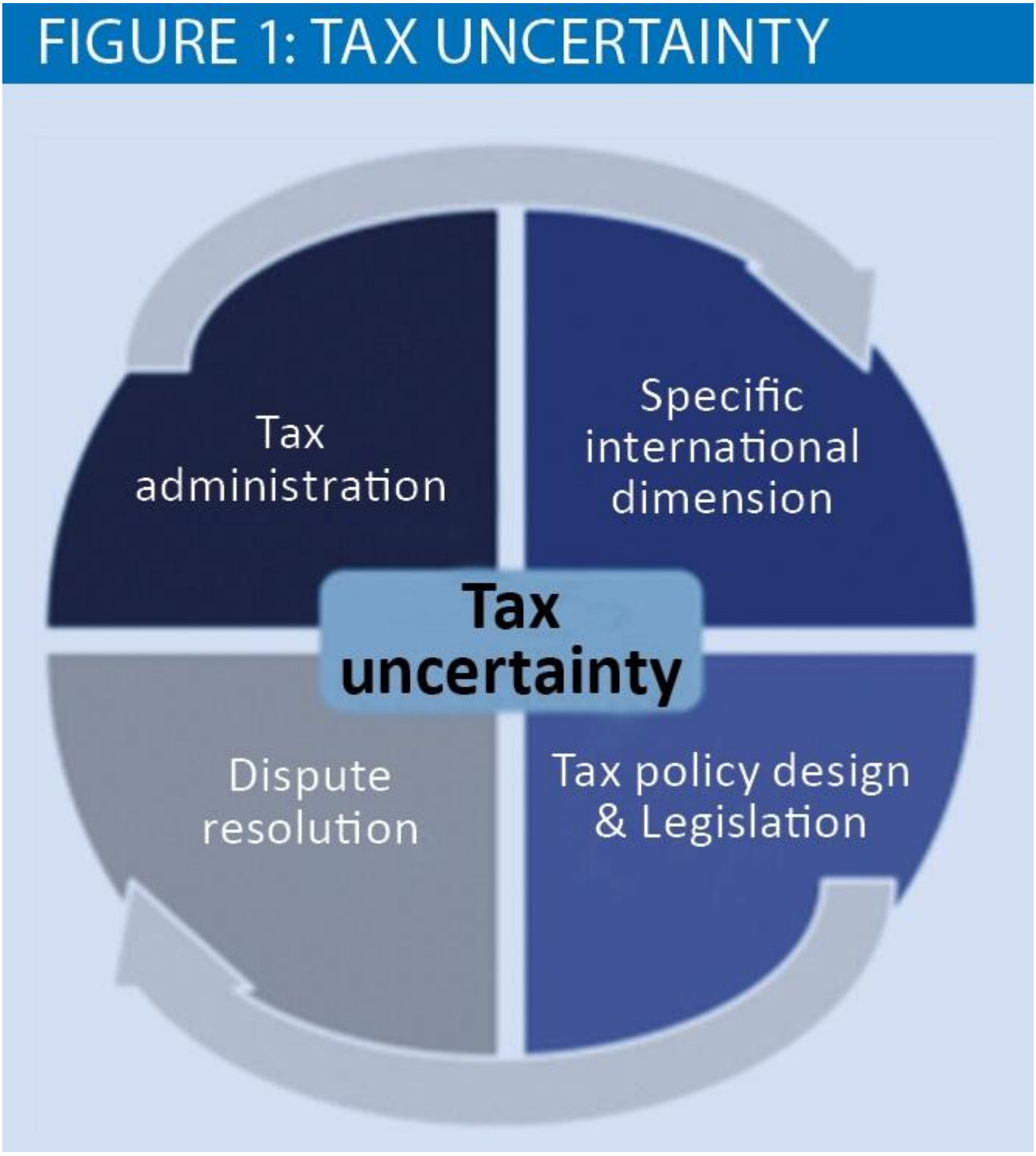
In an environment which is characterized by increasing political and economic uncertainty and where BEPS has increased tax uncertainty, the importance of co-operative compliance programs can only increase.

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Figure 1 shows the different dimensions of this issue. The main sources of tax uncertainty are:

- complexity of tax legislation, including documentation requirements,
- unpredictable or inconsistent treatment by the tax authority,
- inability to achieve early certainty proactively through rulings or similar mechanisms (Source: Tax Certainty. IMF/OECD Report for the G20 Finance Ministers, March 2017).

Image



The main characteristics of co-operative compliance are that it:

- promotes trust, mutual understanding and transparency in relationship between tax administrations and taxpayers.
- aims at providing commercial awareness of the tax administration to ensure better services by a timely advice on tax issues.

- requires participation of the taxpayer by providing disclosure and transparency.

In 2018 the WU Global Tax Policy Center/ICC launched a project which aims to:

- undertake research on legal, institutional and cultural barriers to co-operative compliance which can feed into the discussions between governments and business
- provide a neutral forum to discuss co-operative compliance
- test the relevance of co-operative compliance to the challenges facing tax administration and MNEs
- develop evaluation tools
- launch pilot programmes on co-operative compliance in emerging and developing countries

Further details can be found on the WU website.

The underlying rationale for this project is to demonstrate how the concept of co-operative compliance can help secure the tax base while also creating an environment that encourages economic growth and boosts business development.

The project on co-operative compliance has three pillars:

- Extensive research into current co-operative compliance practice across the world
- Explore the growing interest of many tax administrations around the world
- Initiate pilot studies with selective African countries

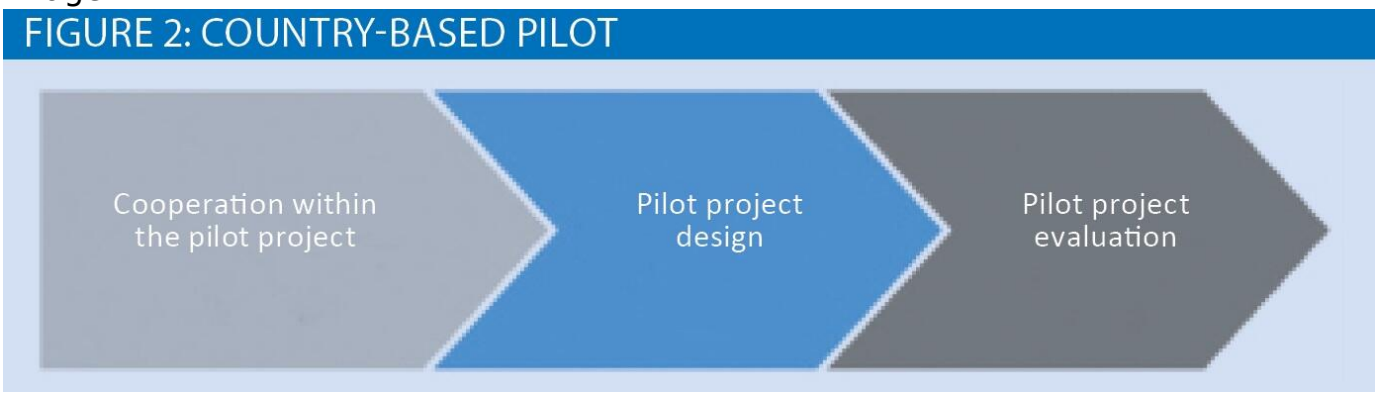
The project will achieve its objectives by:

- Capacity building workshops on co-operative compliance
- Documentation of the pilot projects (a set of documents ranging from draft invitations to draft memoranda of understanding)
- Ongoing assistance in solving any potential contentious issues during the pilot project
- Pilot project evaluation
- Framework for governance

The country based pilot project has three stages, as shown in ***Figure 2***. Each pilot will involve:

- Examination of the current tax strategy to ensure coherence between the co-operative compliance programme and the tax administration's overall compliance strategy
- Baseline assessment of the relationship between the tax administration and large business taxpayers to enable the pilot project evaluation
- Selection of large business taxpayers to the pilot project by the tax administration
- Agreement on the tailored design of the pilot project
- Communication to the internal and external stakeholders to ensure the pilot project transparency

Image



From the perspective of governments co-operative compliance programme are attractive:

- **Improved tax compliance**: Co-operative compliance provides a country with a competitive edge. It facilitates compliance by providing timely advice on tax issues. It affects the behaviour of a broad group of taxpayers for whom tax certainty is a tangible benefit of the programme.
- **Secured revenue base**: As a result of improved tax compliance, in the longer-term the revenues paid voluntarily will increase. In the near term, settlement of legacy disputes, which is a first step in establishing the new relationship, will deliver significant yield.
- **Improved certainty**: Open discussion on tax positions means less risk of incorrect tax assessments and less need to use legal remedies; the number of open years of assessment is kept to a minimum which in turn makes revenue forecasting more reliable.

- **Better compliance risk management**: As part of a risk based compliance strategy, co-operative compliance helps the tax administration to focus its limited resources on high risk cases and taxpayers.
- **Savings in resources by reducing the scope of audits**: Thanks to transparency and full disclosure, the tax administration may get a better understanding of current issues that the taxpayer faces. As a result, the tax administration can reduce the scope of audits and keep the cost down.
- **Improved capabilities**: With co-operative compliance the tax administration may improve its commercial awareness, develop better understanding of how MNEs' manage their business and the control systems they rely on to ensure that their accounts and returns are accurate.

From the perspective of businesses, there are also advantages:

- **Improved tax certainty**: Co-operative compliance provides a platform for discussing any tax issues with the tax administration on a regular basis. It can substantially reduce the need to make provisions for uncertain tax positions and unexpected tax liabilities.
- **Better and easier tax risk management**: Tax issues are better integrated in the taxpayer's process and underpinned by a tax control framework.
- **Lower compliance costs**: The taxpayer is less exposed to administrative penalties, can file and settle tax returns quicker, and may require less help from tax intermediaries. Also the number of disputes that involve extra costs should be lower.
- **Better dialogue**: Tax audits are more focused and carried out in real time or even prospectively. The dialogue with the tax administration is also substantially improved.
- **Corporate Social Responsibility**: Taxpayers may benefit from reputational gains. Company's stakeholders will perceive the enterprise as a more reliable partner and a good corporate citizen. Shareholders and institutional investors will have greater confidence in the returns from investments.
- **Better investment climate**: An improved relationship between large taxpayers and the tax administration will encourage foreign direct investment as MNEs can achieve certainty about the tax treatment of their investments and the rate of after tax returns they will achieve.

Conclusion

In an environment which is characterised by increasing political and economic uncertainty and where BEPS has increased tax uncertainty, the importance of co-operative compliance programmes can only increase. It is hoped that the joint WU/ICC programme can encourage both countries and taxpayers to engage in this process.