ICC Response Public Consultation

“Tax Incentives Principles”

(Platform for Collaboration on Tax)

The International Chamber of Commerce (ICC), as the world business organization representing enterprises from all sectors in every part of the world, welcomes the opportunity to comment on the Platform for Collaboration on Tax’s (PCT) [Tax Incentives Principles](https://www.tax-platform.org/sites/pct/files/publications/Tax%20Incentives%20Principles%20Public%20Consultation.pdf). We understand this paper aims to provide a concise set of six high-level principles related to tax incentives that are easily accessible to policymakers and other stakeholders. These principles and sub-principles are designed to assist in navigating the policy, legislative, and administrative issues related to tax incentives, particularly for developing countries.

ICC appreciates the work of the PCT in developing these principles. We have provided our collective comments and suggestions below based on the questions provided in the public consultation draft.

**1. Do you find the principles and remarks presented in the document appropriate and well-balanced in terms of content and coverage? If so, please explain why. If not, please provide any suggestions you may have for refining the document.**

**ICC members generally find the principles outlined in the document drafted by the Platform for Collaboration on Tax to be reasonable and well-balanced in terms of content and coverage.** They provide a comprehensive overview of tax incentives, encompassing both their benefits and drawbacks. ICC particularly appreciates the emphasis on transparency, accountability, and regular evaluation for effective implementation. However, we do have some comments which we think could better refine the document.

With regards to **Principle 1**, generally, businesses only make use of tax incentives where they align with business and operational objectives. While we agree that foreign investors primarily use other (non-tax) factors to determine where to do business, as discussed under P1.4 – for example, the skills, availability, and cost of labor; number of customers or demand of products/services; raw materials (e.g. oil and gas deposits; agricultural products), shipping time, regulatory environment, stability of political environment, and ability to service customers locally including, for example, a steady supply of electricity, amongst others – ICC member businesses sometimes choose to claim tax incentives that are aligned to the policy objective of the incentive – e.g., perhaps by increasing research and development (R&D) activity, increasing capital (e.g., more property, plant, and equipment), or reducing carbon emissions, in the local jurisdiction in question.

It appears that the PCT concludes in their draft document that market intervention in the form of tax incentives is generally less desirable as compared to other policy instruments without providing quantitative evidence. We would appreciate more empirical evidence is provided, and on a wider range of societal benefits.

ICC members generally see governments from **both developed and developing countries** utilize tax incentives that support investment, employment, and economic development. **We believe incentivizing** **research and development (R&D) is crucial for driving employment, competitiveness, and global economic growth.** We often see governments use tax incentives to encourage businesses to do something that they otherwise may not have done, for example, to invest in a certain way and/or at a certain time to promote a particular economic goal. Tax incentives are also used to encourage businesses to accelerate investment that is perhaps already in the future pipeline – for example, due to impact of Covid19.

We believe innovation provides the foundation for new businesses and new jobs and helps address pressing social and global challenges. The benefits obtained by an undertaking almost always generate benefits to other stakeholders, through investment, job creation and revenue generation. Independently from the stage of a country’s development, a key principle for the design of effective tax incentives is therefore to ensure that they are closely linked to what drives innovation, job creation and growth more generally and this may vary across different industries and countries’ economic and geographical context.

Lastly, we do have some questions in regards to the suggestion under P1.4 that direct spending may be preferable to tax incentives, and think the efficiencies to this argument should be better articulated. We believe that direct spending may not be feasible for many developing countries with limited financial resources, potentially placing them at a disadvantage compared to other countries.

Under **Principle 2**, we believe that while tax incentives may reduce business taxation in the short term, the hope is it will generate more taxes in the long term. As discussed above in regards to our concerns with Principle 1, we believe those incentives increase economic activity in the local jurisdiction, improving employment levels, and creating future streams of taxation (e.g., through increased employment taxes, increased profits on which corporation tax is paid, VAT etc.).

Third, we are aligned with **Principle 3**, which emphasizes the importance of ensuring tax incentives are consistent with international commitments, as this is crucial for achieving international consensus, reducing disputes, and minimizing challenges to incentive regimes.

In line with **Principle 4**, at ICC, we also believe tax exemptions and reliefs should be specified in the law and generally available to all market participants. Furthermore, ICC members often seek to ensure that tax incentives are transparent and consistent with statutory and regulatory frameworks before deciding whether to make use of them.

However, we note that **Principles 4 and 5** appear to suggest a specific administrative structure for granting tax incentives specifically stating that "[...] implementation of tax incentives, including the decision to grant them under the law, should be under the sole authority of the revenue administration.’ While the ministry of finance may be the guardian of public revenues, and should be aware of all tax incentives, we not believe they have the same knowledge and expertise that other ministries may have in certain sectors, industries, or in topics like employment, emissions, trade and investment. Therefore, we think much more flexibility is needed to accommodate different national contexts.

**2. The document references additional material to help apply the principles. Given this, are there areas where you feel more guidance is needed?**  
  
The frameworks provided, like cost-benefit analysis and transparency benchmarks, are well done. However, more detailed guidance could help countries in areas like:

* Implementing the principles in environments with limited administrative capacity, as this is a common challenge for low-income countries.
* Sector-specific applications, particularly for complex sectors, where incentives often face misuse or inefficiencies.

The principles provided in the document seem theoretical by nature and the consultation draft refers to numerous supporting documents that might assist countries applying the principles. We think a concise summary of these resources, highlighting those most relevant for design, would be valuable.

Under **Principles 1 (and 6),** the PCT recommends that countries will also need to measure the potential economic and social impact of the tax incentive proposals in their country such as the potential future economic benefit and the impact on the mobile workforce. We believe practical guidance as to how to measure the impact would be helpful for both governments and businesses alike.

In regards to **Principle 2 (design)**, given the complexities of designing an appropriate incentives system, it would be helpful to point to some real-world examples where the principles have been applied successfully, as this would help countries design an effective tax incentive regime. ICC members also suggest applying scale and ambition to areas of greatest need, designing incentives that are both responsive to urgent needs and sustainable over the long term. Additionally, we think it is important to consult stakeholders in the design of tax incentives, including the international considerations, and evaluation of tax incentives. This would ensure that proposed incentives are well-informed, balanced, and effective, taking into account diverse perspectives and potential cross-border impacts.

Finally, and in practice, many countries are also currently considering qualifying refundable tax credits (QRTCs). It is not clear if and how the principles apply to these incentives. Further guidance in the paper would be beneficial, as QRTCs are becoming increasingly common, and their unclear treatment under the principles could lead to inconsistent application.

We believe the document could benefit from additional information on specific sectors when discussing the design of tax incentives. For example:

* In the context of the green transition, there may be also a time-sensitive need for more ambitious market intervention to accelerate the transition and achieve shared global goals and the fulfilment of the Paris Agreement. The principles should acknowledge the importance of considering the scale and pace of change when designing tax incentives.
* In relation to energy transition, rapid technological innovation should be embraced and energy supply must be secure and affordable for consumers and businesses. In this regard, tax incentive policies should remain technologically neutral, not artificially promoting a specific technological choice above others.

**3. What kind of support might countries require to effectively apply the principles?**

While this question is more targeted towards governments’ responses, we would like to emphasize that as the business community we remain open to engage with governments seeking to understand the commercial principles and effects, including where relevant economic impact assessments.

In addition to the above suggestions, we believe that countries that have already successfully implemented a tax incentives regime could provide peer-to-peer training to other counties on topics such as value creation and specific industry characteristics, so that a country can assess the economic benefit of incentives across different industry sectors. We believe that some countries may also benefit from support with economic impact assessments of tax incentives including using cost-benefit analysis. Lastly, we think training in tax incentive design and administration might be helpful to get the most out of the principles.

**4. Do you have any recommendations to refine the principles and remarks, given your experiences with tax incentives (either positive or negative)?**

It is important to emphasize that, in line with BEPS Action 5, the design principles should focus on promoting **substance-based tax incentives/regimes** to drive R&D activities and economic growth, while discouraging harmful tax practices.

Based on ICC members' experience, the following additional recommendations are provided:

* Clarifying the role/ usefulness of different types of tax incentives (e.g., some discussion on situations affecting the usefulness of tax holidays, tax loss carry forward and investment incentives such as 100% first year allowances could be useful. For example, FDI with a period of initial losses, or rapidly implemented FDI e.g. procurement centers)
* In relation to **Pillar II**, tax incentives should be implemented through refundable or transferable tax credits to align with the Global Minimum Tax (GMT) and ensure effectiveness. This would align to the principle set in the document suggesting that tax incentives should consider international commitments like the GMT and follows the OECD and UN recommendation to use “Qualified Refundable Tax Credits” (QRTCs) or “Marketable Transferable Tax Credits” to maintain the effectiveness of tax incentives under GMT. The GMT will require some countries to reform tax incentives, especially for developing countries. Key points to be taken into consideration, will be the following:
* Design tax incentives through QRTCs and MTTCs to be less affected by GMT.
* Prefer incentives that allow quick recovery of tangible asset costs.
* Expenditure-based incentives targeting payroll or tangible assets are better than income-based incentives.

**5. Do you have any other comments or suggestions?**

Incentives for supply-side may also need demand-side incentives to reduce the investment risk that can otherwise stall progress. The 'Assessment' part of the principles should deal with how to ween off thriving business once market conditions have normalised. Coordinated incentives that consider all aspects of the economic impact from supply to demand and through the relevant business cycle would improve the efficiency and targeted nature of the incentives. The principles may benefit from considering whether supply or demand or a phased combination of both may be most effective for nascent business areas. This is often hampered by limitations in cross-party agreement and changes in policy from one government to another. A national policy framework that has cross-party support may aide the ability of policies to have their intended full impact, whilst retaining the ability of different governments to adjust and fine tune depending on the economic realities of their tenure.

On quantification – ICC members support the points relating to transparency and accountability. However, while the use of economic impact assessments should be considered and creation and design should be evidence-based, benefits are sometimes difficult to quantify and policymakers face competing objectives. For example, society must transition to a low-carbon energy system to manage the risks of climate change, while still providing a secure and affordable supply of energy - society faces a dual and competing challenge. To provide policymakers with much needed guidance on this, incentives should form part of a wider coordinated framework or pathway for change that is responsive to changing market conditions. Currently, incentives are often short term in nature, underpowered and at risk of being immediately overturned by another party. This makes them ineffective in their original policy objectives.

Regarding language, the reference to cosmetic surgery may be interpreted differently depending on whether that surgery is necessary for recovery from illness, disease, or physical trauma. While the statement aims to demonstrate that some cosmetic surgery is purely for personal gain, this example illustrates the broader complexity of defining what constitutes 'worthy' of an incentive or conversely, determining when 'profit is purely for personal benefit.'

Companies reinvest profits and distribute a share of profits to those who risk capital to fund the business. Both these activities have significant socio-economic impacts. From concrete experiences, there have been instances where the design of an incentive, in an attempt to be overly targeted, has become so complex that it becomes uneconomical even for those whose intentions fully align with the policy objective. This creates a problem of scale, where the overall impact of the incentive is undermined by its intricate design. Therefore, there is a need to strike a balance between maintaining a targeted incentive and ensuring its simplicity of administration

Finally, more focus on post-implementation evaluations might be helpful. This would help ensure that tax incentives are delivering long-term benefits and align with developmental goals. The role of digital tools for monitoring and compliance can be also greater and especially helpful for countries with limited resources.

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45 million companies in over 170 countries. ICC’s core mission is to make business work for everyone, every day, everywhere. Through a unique mix of advocacy, solutions and standard setting, we promote international trade, responsible business conduct and a global approach  
 to regulation, in addition to providing market-leading dispute resolution services. Our members include many of the world’s leading companies, SMEs, business associations and local chambers of commerce.

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