

The Tax Expenditures Governance Framework

ATI Tax Expenditures Workshop Nairobi, 18-19 October 2022 Christian von Haldenwang





The Tax Expenditures "Value Chain"



No codified knowledge on how a good TE governance regime should look like

Setting up tax expenditures

- Deciding
- Designing

Running tax expenditures

- Administring
 - Monitoring

Assessing tax expenditures

- Reporting
- Evaluating

- Deciding
- Designing

Running tax expenditures

- Administring
- Monitoring



- Reporting
- Evaluating



Setting up tax expenditures: Deciding

Who decides?

→ Ideally, government (ministries) propose to introduce or amend TEs as part of the budget process, Parliament (budget commission) scrutinises, debates and approves

On what?

- Introduction of new TEs
- Prorogation of existing TEs
- Modification of existing TEs

How is the decision process organised?

- Formal procedural aspects
 - Role of MoF: Technical approval of proposals or real oversight & coordination?
 - Role of Parliament: Initiative or approval of TEs as part of the budget process? Involved in the prorogation or modification of existing TEs?
 - Other government agencies (ministries of trade, tourism, mining, energy, etc.)
- Informal aspects (e.g. consultations with relevant stakeholders & lobby groups)

- Deciding
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Setting up tax expenditures: Deciding

What is the legal basis?

- Individual laws (on taxes, fiscal responsibility, export promotion, sector development, regional development, etc.)
- Executive decrees (on new TEs, prorogation or extension of existing TEs)
- → Consolidation of all provisions in the tax law

What are the formal requirements?

- Statement of motives or policy objective
- Ex-ante assessments (cost-efficiency, necessity, sustainability, revenue forgone forecasts)
- Appraisal of alternative options, potential overlaps with direct spending mechanisms
- Common guidelines
- Embedded in medium-term fiscal frameworks (MTFF)

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Setting up tax expenditures: Designing

Individual TE provisions

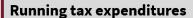
- Rates
- Threshold values
- Allowance & deferral schedules
- Sunset clauses
- Combinations with ordinary (benchmark) tax provisions
- Defining the benchmark

Key role: MoF

- Defining eligibility criteria
 - Economic sector & social group, region
 - Company-specific: investment amounts, firm size, new entrants, ownership, ...
- Application process
 - Data requirements, forms, deadlines...
- Administrative costs
- Control for potential abuse and compliance risks

Deciding

Designing



- Administring
- Monitoring

Assessing tax expenditures

- Reporting
- Evaluating



Running tax expenditures: Administring & monitoring

TEs differ with regard to administrative burden and monitoring requirements

- Type of tax expenditure, for instance tax exemptions vs. deferrals
- Tax base, for instance VAT vs. CIT
- Policy objective, for instance investment promotion vs. employment creation

Higher numbers of TE provisions and / or actors involved increase the burden of administration and monitoring

- Government oversight over TEs more difficult if many different TEs are granted ...
- ... or if many different governmental actors have competencies in the granting of TEs.

Deciding

Designing

Running tax expenditures

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Running tax expenditures: Administring

Key role of the revenue agency (RA)

- Providing information to taxpayers
- Training of revenue agency staff
- Deciding on eligibility, minimising discretion
- Receiving & processing TE-related information
- Detecting and sanctioning abusive behaviour
- Not only domestically, but also with regard to crossborder transactions (transfer pricing regulations, exchange of information)

Other government bodies and powers have relevant functions as well

- Providing information to taxpayers (e.g., incentives inventories) → investment promotion agency
- Deciding on eligibility → sector ministries
- Receiving & processing TE-related information → sector ministries
- Sanctioning abusive behaviour → Judicial system
- Cross-border transactions → MoF, Min. of Trade, Min. of Mining, etc.

Setting up tax expenditures Deciding Running tax expenditures Assessing tax expenditures Reporting

Monitoring

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Running tax expenditures: Monitoring

Evaluating

Monitoring of costs: Revenue forgone estimates

- Different for different kinds of TEs
 - For instance, monitoring of TEs on custom duties and import VAT possible in real time, PIT-related TEs based on annual tax returns
 - For some TEs (e.g. CIT-related allowances) taxpayer data can be sufficient to estimate revenue forgone, for others (e.g. VAT exemptions) additional data from national statistics is required

Performance monitoring

Monitoring of take-up (number of beneficiaries, amounts claimed, etc.) and achievements (e.g., job creation)

Data collection and storing

Costs of data collection, prevent data misreporting by taxpayers, tax secrecy issues, data security issues

Designing

Deciding

Designing

Running tax expenditures

Administring

Monitoring



Reporting

Evaluating



Assessing tax expenditures: Reporting

- Required by law?
- Who reports? MoF, RA other government agencies (e.g. statistical office, other ministries)
- **To whom?** Parliament (budget commission), President, general public
- **How often?** Annually, biennially, longer periods, irregularly
- **How detailed?** Disaggregated information on individual TE provisions (including information on policy objectives, beneficiaries, revenue forgone, etc.)
- How is reporting on TEs integrated in the budget process? Integral part of reporting on the budget / budget proposal?

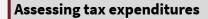
Deciding

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Assessing tax expenditures: Evaluating

Evaluations of TEs currently in use or ex-post

- Regular evaluations of all (major) TEs → required by law? Evaluation schedule?
 - By MoF / RA evaluation units → relying on external consultants?
 - By (independent) commissions of experts
- Additional ad-hoc evaluations
 - By governmental bodies (Auditor-General, etc.)
 - By international organisations
- → Joint framework for ex-ante assessments and ex-post evaluations?