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Tax Incentives Challenges in the Mining Sector

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Study Outline

- Introduction
- Main Policy Challenges to Mining Revenue Collections
- Main tax base erosion and profit shifting challenges
- Tax Incentives and Revenue Implications
- Typical Tax Incentives in the Mining Sector
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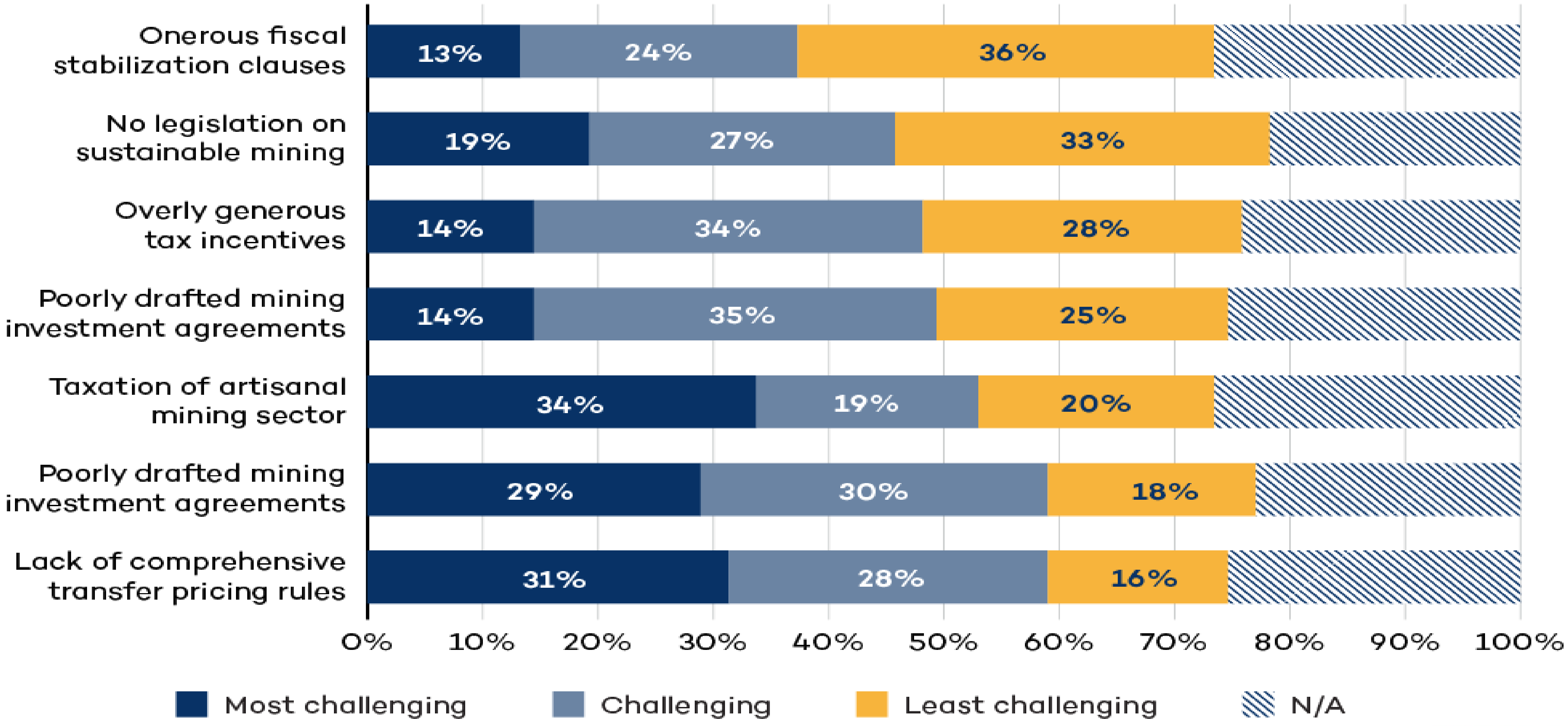
Introduction

- Around September 2021, ATAF and IGF conducted a survey of government officials working on the mining sector.
- 97 officials of 49 countries (Africa, Asia, and S. America responded).
- Among the key findings of the study was the negative impact of the overly generous tax incentives in the mining sector.
- The African Tax Outlook platform revealed that countries couldn’t classify revenue collections per sector, especially for Mining.
- Where classification was possible, the revenue from mining was significantly low, for many jurisdictions.
- Below we present survey results, followed by revenue implications and then an analysis of tax incentives in the mining sector.

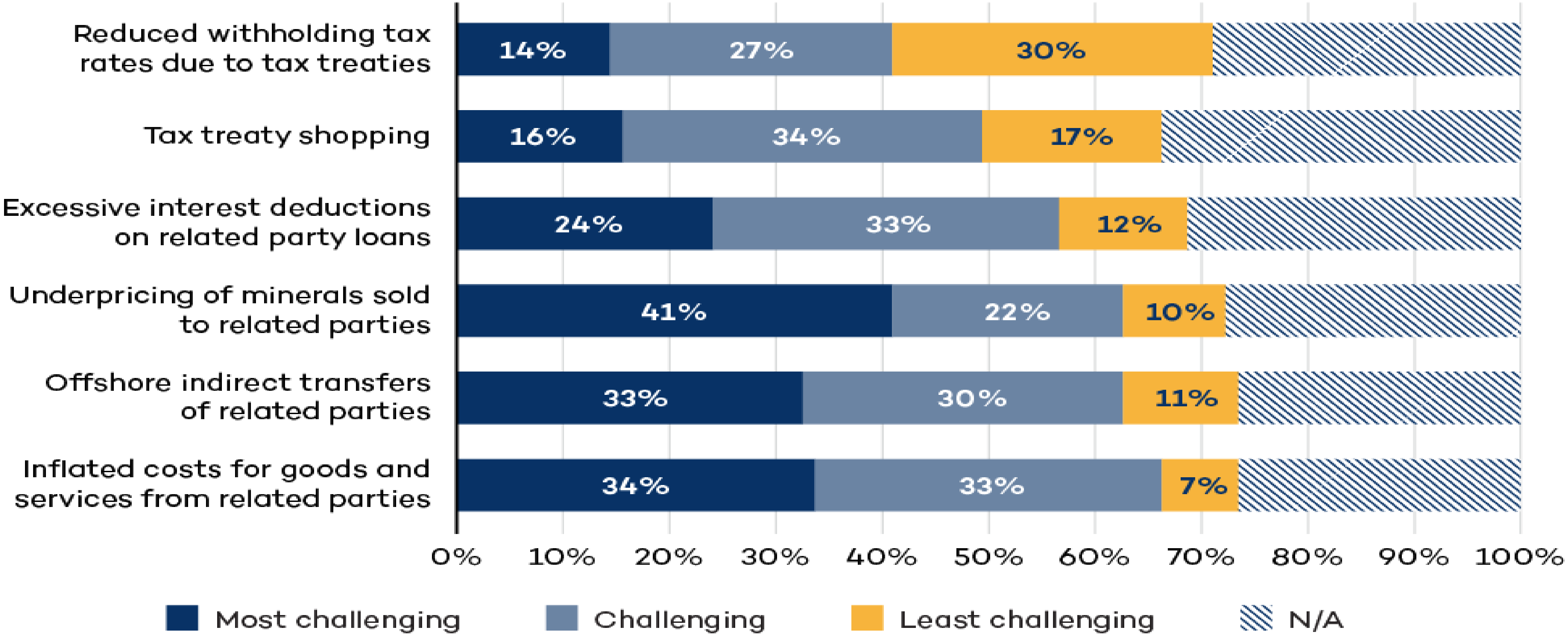
Main policy challenges to mining revenue collection



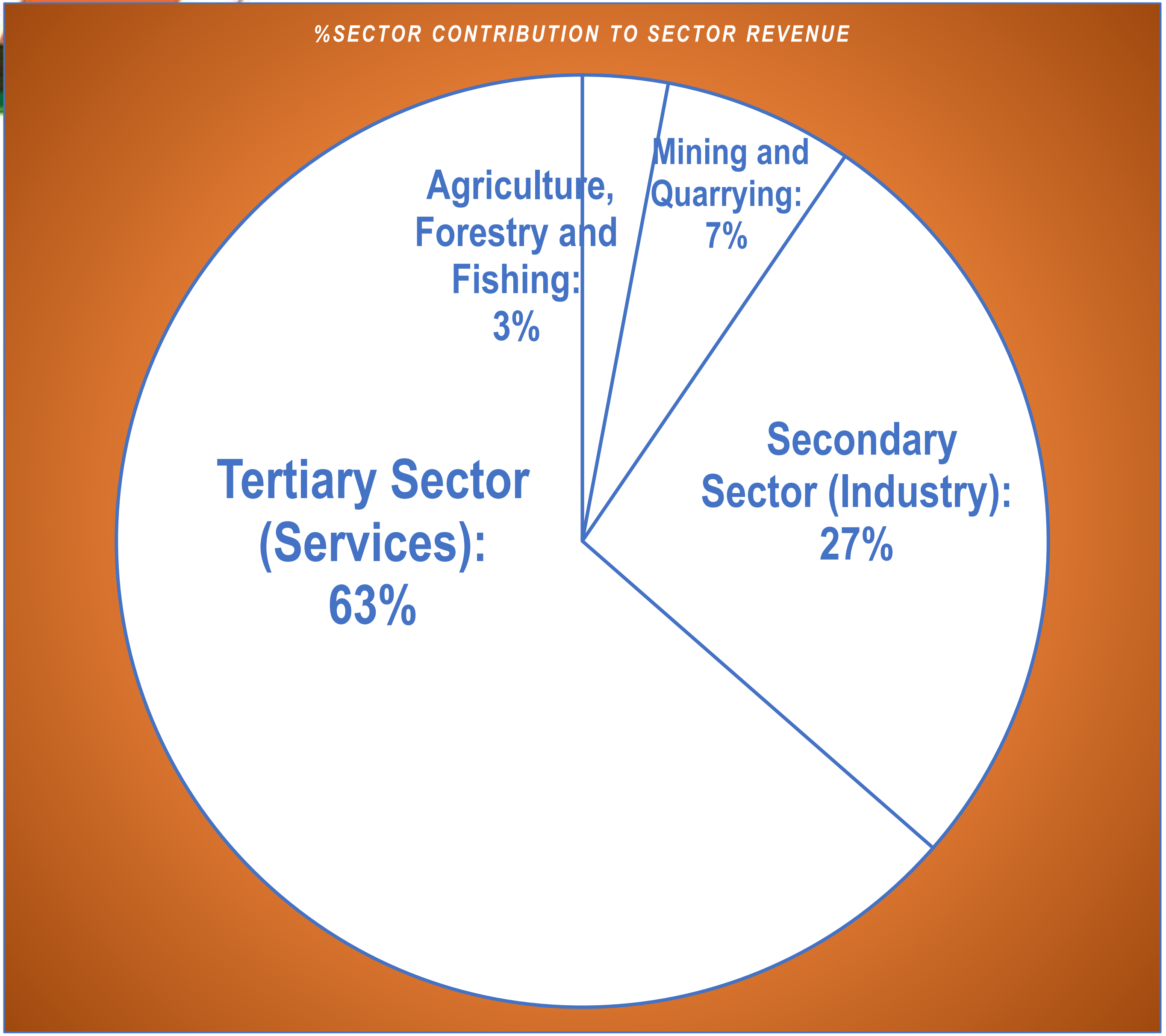
Main Policy Challenges to Revenue Collections

- More than half of the participants indicated they are working under poorly crafted or outdated regimes/laws.
- Survey participants highlighted problems with fiscal incentives that are commonly extended to attract mining investment and that are rarely shown to be worth the corollary loss of government revenue.
- Fiscal stabilization clauses can lock in bad decisions, making it difficult for countries to correct any poorly drafted contacts or legislation.

Main tax base erosion and profit shifting challenges



Tax Incentives & Implications to Revenue Collections



Country	Agric	Mining	Secondar	Tertiary
CMR	0,83%	9,40%	46,54%	43,23%
GHA	0,34%	18,21%	30,59%	50,85%
LSO	0,20%	1,24%	18,37%	80,19%
MDG	0,87%	1,74%	45,47%	51,91%
MUR	0,35%	0,10%	14,99%	84,56%
NGA	0,46%	36,94%	19,85%	42,75%
RWA	0,70%	0,00%	25,20%	74,10%
SWZ	2,96%	0,35%	25,90%	70,79%
TGO	0,00%	0,00%	47,62%	52,38%
TZA	26,33%	8,26%	18,07%	47,34%
UGA	0,92%	0,68%	20,43%	77,97%
ZAF	1,53%	2,06%	9,72%	86,69%

Typical Tax Incentives in the Mining Sector

Tax Incentive	Nature of Tax Incentive	Effect	Recommendations
Assessed Loss Carryovers/ Carry forwards	In some jurisdictions, assessed losses are carried forward indefinitely.	The incentive has a positive effect on investment but a negative effect on tax revenues	• Introduce a cap on the number of years assessed losses are carried forward • Consider shifting from profit tax to pure royalties.
Capital Redemption Allowances	Granted on capital expenditure incurred for exploration, or mining operations., claimable in full within one year.	The incentive increases investment in fixed assets but reduces revenue collections from Corporate Income Tax.	• Spread them over a long period of time, to enable rates on annual allowances to be narrower, thereby reducing expenditure.

Typical Tax Incentives in the Mining Sector

Tax Incentive	Nature of Tax Incentive	Effect	Recommendations
Reduced Corporate Income Tax Rate under BOOT or BOT Arrangements	Build-Own-Transfer (BOT) or Build-Own-Operate and Transfer (BOOT) are arrangements where companies enjoys tax holiday for a specified no. years and then progressively at a reduced rate.	A reduction of the rate of corporate income tax positively affects investment levels, although it has a negative effect on revenue collections.	• Instead of favouring particular sub-sectors with lower rates of corporate income tax, a reduction of the general statutory rate of corporate income tax is recommended on equity grounds. • It is also important to track the directorship of FDIs to ensure that treaty shoppers are captured in the next investment phase.

Typical Tax Incentives in the Mining Sector

Tax Incentive	Nature of Tax Incentive	Effect	Recommendations
Reduced Corporate Income Tax Rates under Special Mining Lease Agreements	Taxable income of a holder of a special mining lease is taxed at a special rate	A reduction of the rate of corporate income tax positively affects investment levels, but has a negative effect on revenue collections	• A reduction of the general statutory rate of corporate income tax is recommended on equity grounds.
VAT zero rates	Goods and services supplied locally and internationally are zero-rated for VAT purposes.	Since most of the products of the mining sector are exported, hence zero-rated, some jurisdictions experience high levels of refunds from the mining sector.	• Streamline the list of zero-rated goods. • Consider crediting input tax to future periods, as is happening in other jurisdictions This is however against the principles of the VAT.

Typical Tax Incentives in the Mining Sector

Tax Incentive	Nature of Tax Incentive	Effect	Recommendations
VAT Exemptions	Some mining related good are exempted, implying that vendors dealing in these goods neither pay VAT nor claim input tax on them.	Exemptions add to compliance burden and add complexity to the tax code by increasing the costs of collection.	The list of exempt goods should be streamlined and they ought to be granted based on the cost-and–benefit analysis.
VAT deferment	This is postponement of VAT for a specified period on importation of capital equipment.	Temporary relief that positively impacts on business cash flow. However, some of the firms end up not complying after the deferment period.	• Need for vigilance in follow-ups and post clearance audits. • Heavy penalties ought to be imposed on non-compliers. • Consider post rebate for the importation of capital equipment.

Typical Tax Incentives in the Mining Sector

Tax Incentive	Nature of Tax Incentive	Effect	Recommendations
Customs Duty Reliefs (Trade Agreements and Mining Sector Specific Rebates)	Preferential rates of duty are granted in the context of bilateral and regional trade agreements, whereas a rebate of duty is a waiver of the duty payable.	To the tax administration these have negative effects on revenue mobilisation as well as adding to the costs of administration. However, to the business these incentives positively impact on investment levels.	• Cost-and–benefit analysis is necessary before granting this incentive. • There is also need for intensified post clearance audits on beneficiaries of these tax incentives.

Conclusion

- Tax incentives are not always necessary hence care must be taken when offering them. They are not among the top investment decisions.
- There is need for proper cost-and-benefit analysis before granting them.
- African governments should consider budgeting for tax incentives and reporting them.
- Where necessary other direct expenditure measures such as subsidies may be considered instead of using the tax system.

More Information

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