出國報告(出國類別：國際會議)

參加亞太稅務論壇(APTF)「第15屆年度會議」報告

服務機關：財政部賦稅署

姓名職稱：稽核劉青峰

派赴國家：馬來西亞

出國期間：113年7月15日至18日

報告日期：113年10月17日

摘要

馬來西亞稅務會計師協會(Malaysian Association of Tax Accountants, MATA)與印尼經濟及財政發展研究院(Institute for Development of Economics and Finance, INDEF)於本(113)年7月16日至17日假馬來西亞吉隆坡Sheraton Imperial Hotel聯合舉辦亞太稅務論壇(APTF)「第15屆年度會議」。

本次年度會議探討議題涵蓋多元面向，包括「亞太地區稅制改革措施」、「租稅政策與亞太地區之區域合作」、「全球公司所得稅之發展」、「伊斯蘭金融交易之稅務及天課(Zakat)議題」、「全球直接稅政策發展——以聯合國國際租稅合作框架公約研議進展及經濟合作暨發展組織(Organisation for Economic Co-operation and Development, OECD) 包容性架構(inclusive framework, IF)論壇為中心」、「間接稅政策與管理機制」、「區域一體化及間接稅(關稅)協調之必要性」、「亞太地區採礦業之租稅議題」、「電子發票系統之實施」、及「加值稅之全球發展」等。

本論壇年度會議之與會人員係世界各國之政府部門、學術單位及企業界代表，除分享各國政府於租稅之政策與實務經驗，深入探討國際租稅制度發展趨勢及各國政府因應作為外，同時藉由年度會議之機會，由各國政府代表與專家及業者間能就彼此意見進行交流，使各國稅務機關能獲得學界及業界完整、客觀及實務之建議，俾利制定更加務實之租稅政策。本署由消費稅組劉稽核青峰奉派代表與會，透過參與本次會議，有助我國瞭解最新國際租稅發展與亞太鄰近國家就國際及OECD稅基侵蝕與利潤移轉(Base Erosion and Profit Shifting, BEPS)稅制改革之具體因應作為，藉由他國分享之稅務經驗，可瞭解各國實務執行經驗，並作為我國所得稅與消費稅稅制改革及稽徵實務改進之參考。

關鍵詞：BEPS、包容性架構、移轉訂價、所得稅、加值稅、電子發票

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壹、緣起及目的

亞太稅務論壇(Asia Pacific Tax Forum, APTF)前身為2005年於新加坡首次舉行之「亞洲特種銷售稅會議」，自第2屆起更名為「亞洲稅務論壇」，議題擴大至涵蓋所得稅及消費稅相關議題。2010年舉行第7屆時，因大會指導委員會考量會議規模持續擴大，與會國家除我國、柬埔寨、印度、印尼、韓國、寮國、馬來西亞、菲律賓、泰國等亞洲地區代表外，尚包括英國、澳洲、紐西蘭等非亞洲地區代表，爰決議自該屆起更名為APTF。

上開會議自2005年至2016年係由國際租稅及投資中心(International Tax and Investment Center, ITIC)主辦，並與亞太地區各國財政部合作每年定期舉辦共13屆之研討。嗣為強調在地觀點(包含開發中國家觀點、亞太地區特殊國情等)，配合進行組織及論壇定位調整，而暫停舉辦。自2023年起，改由印尼經濟與財政發展研究院(Institute for Development of Economics and Finance, INDEF)與馬來西亞稅務會計師協會(Malaysian Association of Tax Accountants, MATA)接手主辦 。

APTF「第15屆年度會議」於本年7月16日至17日假馬來西亞吉隆坡Sheraton Imperial Hotel舉行，會議之主要目標如下：

一、**知識分享**：提供亞太地區國家交流稅務知識、最佳實踐及創新解決方案之平臺，以促進稅務領域之進步。

二、**政策發展**：促進相關租稅政策改革，並探討其對經濟發展及財政永續性之影響。

三、**建立網路與合作**：促進稅務專業人士、政府官員及行業領導人間之關係及合作。

四、**能力建構**：通過工作坊、研討會及專家會議等方式，提升參與者之技能及專業知識。

五、**解決挑戰**：識別及討論亞太地區稅務行政管理及法規遵循面之機會及挑戰。

六、**促進租稅公平與效率**：倡導促進公平、高效率且簡明之稅制。

貳、議程及與會人員

APTF「第15屆年度會議」於本年7月16日至17日假馬來西亞吉隆坡Sheraton Imperial Hotel舉行，由馬來西亞MATA與印尼INDEF聯合舉辦。

第1日會議係以所得稅為主軸，就「亞太地區稅制改革措施」、「租稅政策與亞太地區之區域合作」、「全球公司所得稅之發展」、「伊斯蘭金融交易之稅務及天課(Zakat)議題」、「全球直接稅政策發展——以聯合國公約研議進展及經濟合作暨發展組織(Organisation for Economic Co-operation and Development, OECD)包容性架構(inclusive framework, IF)論壇為中心」等議題，以亞太地區在地觀點(包含伊斯蘭教金融及開發中國家立場)進行深入研討。

第2日會議則就消費稅及所得稅議題綜合研討，就「間接稅政策與管理機制」、「區域一體化及間接稅(關稅)協調之必要性」、「亞太地區採礦業之租稅議題」、「電子發票系統之實施」及「加值稅之全球發展」等議題分享各國稅務行政之經驗。

主辦單位就上開議題邀請1位主講人與數位與談人，期藉由公部門、私部門與專家學者多元面向之分享及研討，提供與會人員作為政策擬議參考，會議除分享各國政府對租稅政策之規劃與實務經驗，深入探討國際租稅制度發展趨勢及各國政府因應作為外，同時藉由年度會議之機會，由各國政府代表與專家及業者間就彼此意見進行交流，使各國稅務機關獲得學界及業界完整、客觀及實務之建議，俾利制定更貼近實務之租稅政策。

本次會議與會人員包含地主國馬來西亞、印尼、泰國、越南、菲律賓、新加坡、汶萊、越南、寮國、緬甸及柬埔寨等國之官方代表及學界、業界或國際組織代表 ；我國與會代表為財政部賦稅署消費稅組劉稽核青峰，透過參與本次會議，有助我國瞭解最新國際租稅發展及亞太鄰近國家就國際及OECD稅基侵蝕與利潤移轉(Base Erosion and Profit Shifting, BEPS)稅制改革之具體因應作為，藉由他國分享之稅務經驗，可瞭解各國實務執行經驗，並作為我國所得稅與消費稅稅制改革及稽徵實務改進之參考。

叁、會議議題

議題一、亞太地區稅制改革措施

主持人：

International Tax & Investment Center(ITIC) 總裁：Daniel Witt先生

報告人：

印尼財政部：Bapak Unfranks Wira Sakti先生

與談人：

馬來西亞財政部：Hon. John Patrick Antonysamy先生

菲律賓參議院財政委員會主席：Sherwin Gatchalian參議員

斯里蘭卡財政經濟及國家政策部(Ministry of Finance, Economic Stabilization & National Policies)：MKC Senanayake博士

一、背景說明

全球化、數位化及綠色經濟轉型之交互作用已重新塑造全球商業模式，從而衍生租稅體系架構多元化之需求，各國政府除需要採取新的全球措施來應對新出現之租稅規避風險外，並應進行國內租稅改革，以因應不斷變化之經濟需求，爰亞太地區國家倘需要重新設計其稅制框架，宜自決策者、管理者、立法者及納稅義務人之角度考慮租稅改革之不同面向，探討靈活財政策略，以促進綠色經濟復甦及成長，並為未來綠色經濟永續發展奠定穩固基礎。

二、印尼稅制改革經驗分享

報告人以印尼近年稅制改革為例，分享其相關措施，作為亞太鄰近國家政策擬議參考。印尼國家之基本資料如表1。

表1：印尼基本資料表

項目	相關資訊
經濟成長率	平均5.31%(截至2022年)
經濟體規模	東南亞最大；全球前20大
人均所得	4,783美元(截至2022年)

項目	相關資訊
通貨膨脹率	5.51% (截至2021年12月)
人口	超過2.7億人(截至2021年)
稅收占歲入結構比率	86.7%(截至2020年)
納稅義務人	超過6,000萬人(截至2022年)
賦稅負擔率	10.138%(截至2022年)
稅務人員	約4.5萬人(截至2023年)
展望	
經濟成長潛力	受惠於龐大人口、中產階級之崛起及基礎設施之推動，快速發展
數位經濟發展	數位經濟快速成長，2020年電商銷售額達440億美元
主要投資機會	製造業、基礎設施、再生能源及旅遊業

資料來源：APTF簡報

(一)1980年代及1990年代

1.**1983年稅制改革**：將租稅徵課制度由官方核定制(official assessment system)，改制為自動報繳制(self-assessment system)。

2.**1990年代稅制改革**：制定租稅基本原則及簡化稅目。

(二)2000年代官僚系統改革

1.**2000年至2001年**：設定稅務官僚系統遠景(vision)、近期使命(mission)及藍圖(blueprint)。

2.**2002年至2008年**：稅務行政組織現代化及修正稅法。

(三)2010年代迄今

1.**2009年至2014年**：強化內部控制及修正稅法。

2.**2014年至2016年**：藉由稅務行政組織轉型，強化組織及人力資源管理。

3.**2016年**：官僚改革及制度轉型(Bureaucratic reform and institutional transformation)。

4.2017年至2018年：鞏固、加速與延續稅制改革方案。

5.2018年至2024年：革新稅務管理系統(Renewal of the Tax Administration System, PSAP)，包含組織、人力資源、資訊科技與資料庫(Information Technology and Database)、業務流程管理及法規5個面向之改革。

(1)組織改革

印尼係群島國家，藉由通盤考量地理覆蓋範圍、組織特徵、經濟狀況、地方智慧(local wisdom)、潛在接受度及適當之控制範圍，建立有效且高效之稅務組織架構，以支持稅務服務範圍之擴展，同時強化對納稅義務人之監督，確保任務之及時完成。

(2)人力資源

培養堅韌、負責且具誠信之人力資源，以有效執行稅務管理，實現稅收目標及其他戰略性策略。

A.專業

培養稅務人員之專業知識及技能，應能有效應對經濟環境變革之挑戰及提供高質、量之服務。

B.稱職(competent)

具備必要的能力及工作經驗，能夠獨立完成工作，並實現組織目標。

C.可信任

建立可信任之夥伴關係，讓長官、同事及納稅義務人得信任稅務人員之判斷及決策。

D.誠信

堅守道德標準及價值觀，以透明及負責之方式執行稅務工作，增強組織之聲譽及信任度。

(3)資訊科技與資料庫

建立可靠的稅務管理資訊系統，並與稅務管理之核心業務流程整合，且由準確的數據庫支持，俾利確保數據之可靠性。此外，該系統應作為單一真實數據源(Single Source of Truth)，以提高決策之準確性及效率。

(4)業務流程管理

有效、高效且負責之稅務管理核心業務流程作為確保稅務系統順利運行的關鍵。這些流程應具備以下特點：

A.有效性

流程必須能達成既定稅政目標，確保資源之合理利用及法規遵循需求。

B.高效性

藉由簡化程序及自動化資訊科技，減少不必要之步驟，從而加快稅務申報及審核之速度，提升稅務服務品質。

C.課責性

明確劃分各層稅務人員之角色及責任，確保每個環節都能接受監督及審查，增強租稅透明度及信任。

(5)法規

制定和諧、簡潔之法規，以支持稅務服務範圍之擴展，提升稅務服務品質及提供納稅義務人適當之指引，俾利增加經商便利性，促進經濟發展及賦稅收入；稅務法規應符合各方利益相關者之需求，適應經濟發展趨勢，並隨著資訊技術之進步而不斷調整。

法律之確定性、適應經濟動態、降低法規遵循成本、擴大稅基等因素，共同為有效之稅務體系基石。

A.法律之確定性

穩定且清晰的法律框架，能為納稅義務人提供明確之指引，降低

法律風險，增強投資信心。

B.適應經濟動態

稅制設計應能有效支持經濟成長及新興行業之發展，並靈活應對經濟環境之變化。

C.降低法規遵循成本

藉由簡化申報流程及提供納稅義務人數位化工具，減少納稅義務人於租稅法規遵循過程耗費之時間及金錢支出。

D.擴大稅基

藉由擴大稅基，納入更多經濟活動及納稅義務人，可提升租稅之公平性及租稅收入之可持續性。

(四)小結

藉由上開印尼之租稅制度改革措施，提高稅務法規遵循率及租稅稽徵效率，最終實現政府財政收入成長，促進經濟穩定發展，增進財政健全，造福整體社會。

議題二、租稅政策與亞太地區之區域合作

主持人：

ITIC總裁：Daniel Witt先生

報告人：

亞洲開發銀行(Asian Development Bank, ADB)公共部門管理與治理組資深公共管理專家(稅務)：Sandeep Bhattacharya博士

與談人：

東帝汶財政部：Jacinto Alves Brito先生

亞馬遜公司稅務公共政策負責人：Stephanie Sweet博士

中華人民共和國一帶一路秘書處(BRITACOM Secretariat)：XI Qinghua女士

一、亞太地區國內資源調配(domestic resource mobilization, DRM)之挑戰

(一)債務比率高且仍繼續上升[1](High and rising debt-to-GDP ratios)

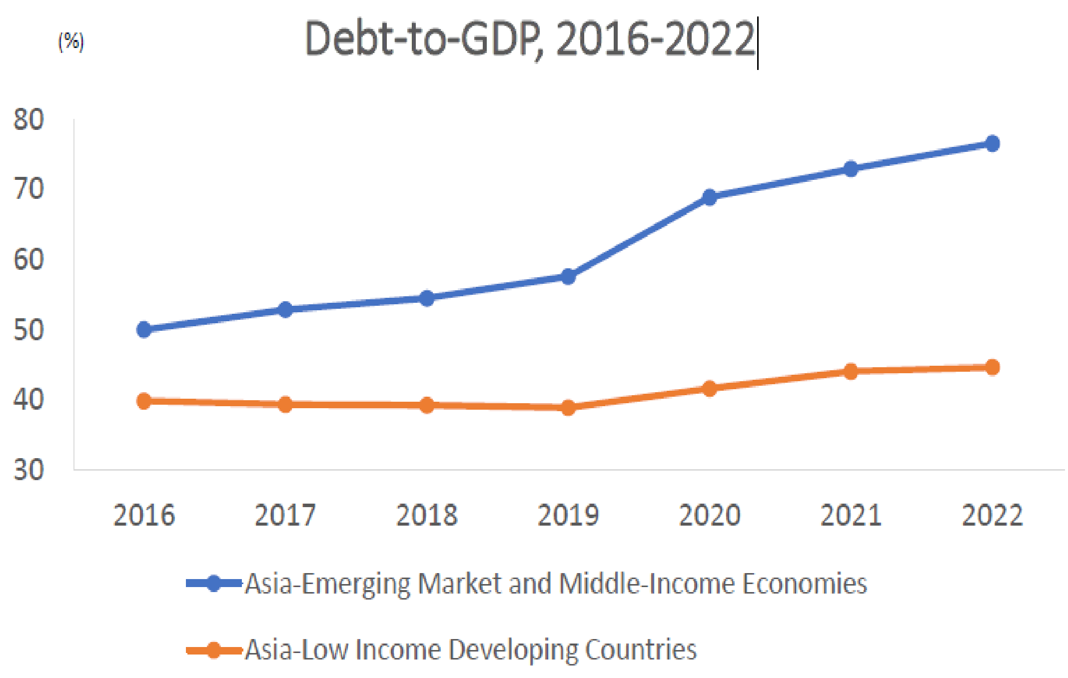

圖1：亞太地區國家債務比率圖

DRM係指國家取得自有資金收入，並提供服務予其國民之過程[2]，由圖1可知

[1] 指該國債務未償餘額占 GDP(國內生產毛額)的比率，參見：https://www.mof.gov.tw/debt/multiplehtml/f65f4fbbfd8a42679251f9047be20528

[2] 參見：https://www.usaid.gov/domestic-resource-mobilization

，近年亞太地區國家，無論屬於新興及中等所得國家(藍線)，抑或低所得及開發中國家(橘線)，其債務比率均屬偏高，且有持續上升之趨勢，爰債務比率節節高升，已形成對亞太地區經濟及財政永續發展之重要議題。

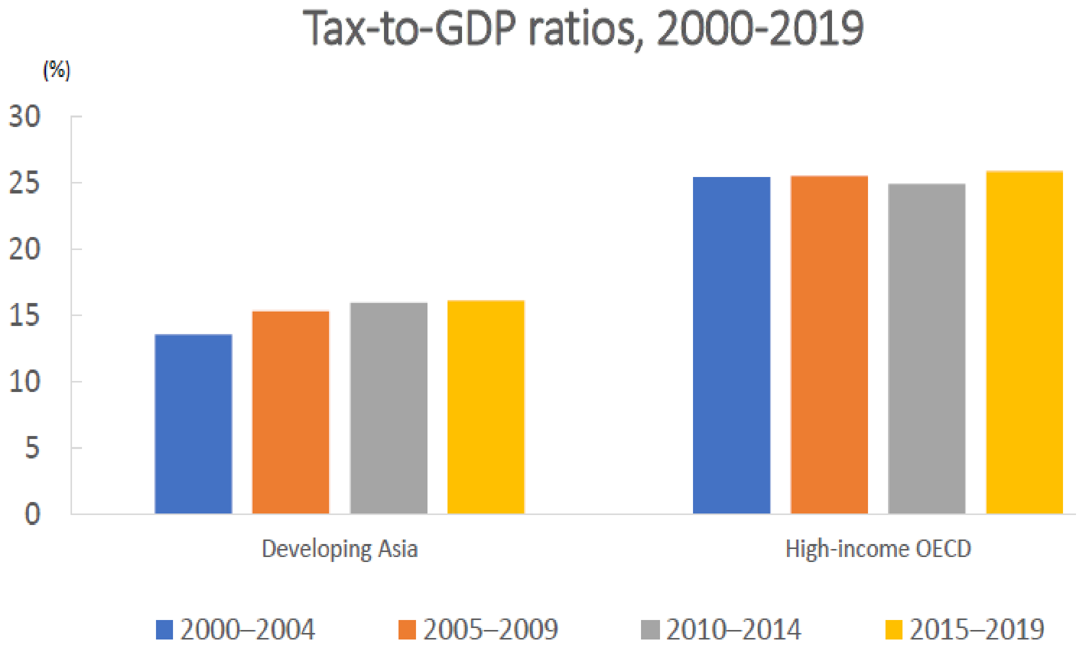

圖2：亞太地區開發中國家與OECD高所得國家租稅負擔率比較圖

由圖2可知，相較於OECD高所得國家，亞太地區開發中國家租稅負擔率較低，影響財政健全，不利國家基礎建設，爰擴張稅基及增加賦稅收入，係亞太地區開發中國家進行稅制改革首要之務。

(二)在不危及債務可持續性情況下滿足經濟發展支出

1.租稅優惠須在過早落日及不斷延長間尋求平衡

幾乎在所有經濟體中，經濟刺激方案都包括政府支出措施及租稅優惠，找出租稅優惠之退場策略(含租稅優惠措施落日之最佳時機及落日條件)並非易事，政策制定者必須在避免過早落日(因此未能滿足國家當下經濟發展需要)及不斷延長租稅優惠(因影響財政健全而影響國家基礎建設，致經濟未能永續發展)之間尋求平衡。

2.亞太地區之租稅優惠

就類型而言，租稅假期是亞太地區最常見之租稅優惠措施，基於出口導向之貿易政策，製造業是亞太地區租稅優惠主要受益者。

就產業而言，亞太地區之租稅優惠主要係提供予製造業、知識外溢效應高的行業、出口導向產業、新創或先驅產業及特定發展地區(例如：經貿特區、自由貿易港區等)。同時，區域內各國亦會規劃進一步發展較具國際貿易利益及預期獲益於規模經濟之特定領域(例如：科技產業)，並提供進一步之租稅優惠。(提供該等租稅優惠時，應避免有害租稅競爭)

在另一方面，基於社會、政治或經濟面向考量，租稅優惠亦被用於鼓勵企業在政治較不安定或發展較遲緩之地區進行投資。

(三)在實現永續發展目標(Sustainable Development Goals, SDGs)方面表現不佳

2019年，全球約50%之二氧化碳排放來自於亞太地區化石燃料燃燒，爰亞太地區是氣候變遷之最前線，限制化石燃料之使用並促進再生能源之發展，為亞太地區永續發展重要議題。

二、ADB之亞太稅務中心已建構開放、具包容性且跨區域之稅務平臺，俾利進行DRM及國際租稅合作

(一)戰略性稅務政策對話

ADB舉辦進行戰略性稅務政策對話，促進跨國稅務機關相互協議及建構能力發展，並藉由ADB之開發中國家會員國(developing member countries, DMCs)間對話，進行資訊及思想交流。

(二)協助會員國整合國際租稅資訊及協調意見

ADB亞太稅務中心與合作夥伴、國際金融機構、雙邊稅務機關及亞太地區之DMCs分享稅務知識；另衡酌OECD全球論壇(Global Forum, GF)及BEPS包容性架構(Inclusive Framework, IF)論壇實務上存在經常忽略DMCs意見之情況(截至本年3月止，亞太地區計17 DMCs非OECD GF成員國，22 DMCs未能參與BEPS IF)，爰ADB就國際租稅合作與發展之角色更形重要，並積極協助會員國整合相關資訊及協調意見[3]。

[3] 目前由於開發中國家對 OECD BEPS 及兩支柱之稅務政策，尚有不同意見，而尋求以聯合國機制另訂國際租稅合作框架公約。(詳後介紹)

議題三、全球公司所得稅之發展[4]

主持人：

馬來西亞財政部：Mohd Nakhafi Hassan先生

演講人：

雪梨大學教授、ITIC資深稅務顧問、印尼大學兼任教授：Lee Burns教授

與談人：

印度中央直接稅委員會委員：Sanjay Kumar先生

越南稅務總局：Phung Thu Hang女士

泰國稅務局：Akkaraj Boonyasiri先生

一、第二支柱：全球最低稅負制(global minimum tax, GMT)

(一)實施對跨國企業集團(Multinational enterprises, MNEs)之GMT

1.全球反稅基侵蝕(Global anti Base Erosion, GloBE)規則背景

為解決全球經濟數位化發展趨勢下，跨國企業集團利用租稅規劃侵蝕各國稅基問題，OECD BEPS IF於2019年5月發布工作計畫，對經濟數位化之租稅挑戰引入兩支柱概念，提出國際一致之解決方案。其中，第二支柱(Pillar Two)旨在建立公平合理之國際租稅環境，防止各租稅管轄區進行「race to the bottom」之有害租稅競爭，並確保跨國企業集團公平地承擔所得稅基本稅額。

在亞太開發中租稅管轄區，稅收高度依賴營利事業所得稅，並大量提供租稅優惠以吸引外資，鑑於該等租稅管轄區極易暴露於利潤移轉風險而侵蝕稅基，導致跨國企業集團在這些轄區之實質稅率(Effective Tax Rate, ETR)可能低於15%。依據第二支柱GloBE規則，跨國企業集團在其營運所在之租稅管轄區，應至少承擔15%之ETR[5]，此措施有助於減輕各租稅管轄區因吸引外資而進行租稅競爭之壓力，並強化之DRM 能力，落實政府欲推行之政策及投資

[4] 本節僅擇要報告，OECD 兩支柱相關措施及計算細節詳參附錄。
[5] 按租稅管轄區基準而非公司基準計算[Calculated on a jurisdictional (not entity) basis]。

基礎建設。世界各地區之所得稅名目稅率如表2。

表2：世界各地區2022年所得稅名目稅率表

地區	平均所得稅名目稅率
亞洲	19.52%
大洋洲	23.75%
歐洲	19.74%
北美洲	25.33%
南美洲	28.38%
非洲	27.60%
OECD國家	23.57%
G20國家	26.77%
世界平均	23.37%

資料來源：Tax Foundation

說明：全球公司所得稅(CIT)以名目稅率介於20%至25%間最為常見。

2.第二支柱之適用對象：適格跨國企業集團(In-scope MNEs)

GloBE規則適用對象為案關會計年度之前4個會計年度中，至少2個會計年度合併年收入包含「排除實體」之收入達7.5億歐元之跨國企業集團，該標準與國別報告(Country by Country Report, CbCR)之適用門檻相同。

所稱排除實體，係指政府實體(Government Entity)、國際組織(International Organization)、非營利組織(Non-Profit Organization, NPO)、退休基金(Pension Fund)、具最終母公司(Ultimate Parent Entity, UPE)身分之投資基金、具UPE身分之房地產投資工具，以及由前揭6種當然排除實體持有之特定實體[6]。

[6] 所有權權益價值之 95%，須由當然排除實體(除退休服務實體)直接或透過其他排除實體間接持有，且主要係為排除實體之利益，持有資產或投資基金，或僅從事對排除實體活動有輔助效果之活動；
或所有權權益價值之 85%由當然排除實體直接或透過其他排除實體間接持有，且收入主要係不計入 GloBE 損益之排除股利(Excluded Dividends)或排除權益損益(Excluded Equity Gain or Loss)。

(二)GMT 15% ETR之計算方法與課稅權之優先順序

1.轄區ETR之計算方法

轄區ETR = 涵蓋稅 ÷ 超額利潤(Excess profit)。

其中，

超額利潤 = GloBE income(按UPE編製合併財務報表之財務會計準則編製之各集團成員個體綜合損益表淨損益，再進行特定項目調整後之財務會計淨損益)－實質性排除所得(Substance Based Income Exclusions, SBIE)金額[7]

SBIE金額並非按實際營運收入為基礎計算，而係考量來自實質商業活動之所得，爰依跨國企業集團之成員，其有形資產帳面價值[8]及薪資費用，按一定利潤率設算之金額。其計算式如下：

SBIE金額 = 有形資產利潤率 × 適格有形資產帳面價值 + 薪資成本利潤率 × 適格員工薪資成本

上開薪資成本及有形資產利潤率，實施之第1年分別為10%及8%，並逐漸遞減，於2033年度以後，統一為5%。

2.轄區補充稅稅額

倘MNEs在該租稅管轄區之ETR小於15%，租稅管轄區應對其差額徵收補充稅(top-up tax)，補充稅係指按租稅管轄區分別計算，將補充稅稅率及超額利潤相乘，加上當期增額補充稅稅額後，再減除於合格當地補充稅制(Qualified Domestic Minimum Top-up Tax, QDMTT)之餘額。

轄區補充稅稅額 = 轄區補充稅稅率 × 轄區超額利潤 + 當期增額補充稅 － 合格當地補充稅

QDMTT應採取與GloBE規則實質相同(Functionally equivalence)之架構及機制，且計算結果須與GloBE規則一致；各租稅管轄區可對依當地稅法

[7] 實質性排除所得金額按跨國企業集團之集團成員有形資產帳面價值、薪資費用及一定利潤率設算。
[8] 無形資產由於其具有高度流動性，爰不適用之。

進行調整，例如：租稅管轄區得擴大適用對象至一般國內企業，或對位於其轄區內之UPE，降低適用QDMTT之門檻金額。

當地補充稅制是否「**合格**」(符合GloBE規則相關規範)，須交由BEPS IF成員同儕審查(Peer review)，對於在非合格之當地補充稅制下繳納之稅款，將無法抵免補充稅稅款。

依QDMTT計算之補充稅稅額倘不低於GloBE規則計算之補充稅稅額，該租稅管轄區之QDMTT原則上可被認為與GloBE規則實質相同。

3.課稅權之優先順序(QDMTT > IIR > UTPR)

倘跨國企業集團成員所在之租稅管轄區已實施QDMTT，則由該轄區優先課徵補充稅。

倘未實施QDMTT，原則上係由母公司所在租稅管轄區依**所得涵蓋原則**(Income Inclusion Rule, IIR)對跨國企業集團課徵補充稅，按由上到下方法(top-down approach)辨認UPE、中間母公司(Intermediate Parent Entity)或部分控股母公司(Partially-Owned Parent Entity)擔任該補充稅之納稅義務人，跨國企業集團之母公司得以其已繳之QDMTT抵免補充稅義務(QDMTT credit)。

當母公司所在租稅管轄區未依**IIR**對跨國企業集團課徵補充稅時，其他租稅管轄區，得依**徵稅不足原則**(UTPR)課徵剩餘之補充稅。**UTPR**為IIR之備援課稅權分配機制，各國得自行決定是否導入**UPTR**。

二、GMT後之租稅優惠

考量GloBE規則具全球性，未進行相關租稅改革之租稅管轄區將會面臨嚴重稅收流失。倘特定租稅優惠使轄區企業之ETR低於15%，其他租稅管轄區得依GloBE規則之IIR或UTPR原則，計算課徵補充稅，這使得租稅管轄區之租稅優惠措施無法為跨國企業集團帶來利益，並且該租稅管轄區將失去補充稅之稅收，無法從事基礎建設或推行相關經濟政策。

(一)所得基礎型租稅優惠(Income-based tax incentives)

所得基礎型租稅優惠，例如提供免稅優惠(Exemption)、租稅假期(tax

holidays)及優惠稅率(reduced rates)。

由於所得基礎型租稅優惠創設了**永久性財稅差異**，GloBE規則(特別是IIR及UTPR)對所得基礎型租稅優惠衝擊巨大，爰租稅管轄區進行稅制規劃時，應審慎評估其轄區涉及之跨國企業集團成員、SBIE之應用、轄區內跨國集團企業總財務會計所得及所得稅稅收之綜合影響(QDMTT是否僅設定稅率15%之最低標準，以吸引跨國企業集團投資，抑或是轉向以其綜合性經濟政策吸引投資)等。

值得注意的是，受益於SBIE規定，具有經濟實質之實體投資誘因措施，將可以自超額利潤中設算扣除；惟因相關規定係考量有形資產及員工薪資費用，而未包含無形資產，爰涉及智慧財產權及科技發展等無形資產之投資租稅優惠措施，將無法比照設算無形資產帳面價值之一定比例自超額利潤中扣除，可能潛在不利於亞太開發中國家之產業升級。

(二)成本基礎型租稅優惠(Cost-based Incentives)

成本基礎型租稅優惠，例如：加速折舊(含立即扣抵)、投資抵減(Investment tax credits)及加倍扣除(Double deductions)等類型。

由於上開措施多屬對有形資產投資及薪資給予租稅優惠，涉及一定程度經濟實質，於計算補充稅稅基時，得依SBIE規定自GloBE損益中扣除相當金額，爰受GloBE規則影響較小。

其中，屬暫時性差異之租稅優惠，例如：特定資產加速折舊或延長企業之虧損後抵年限等，受GloBE規則影響更小。

(三)重新設計吸引外國投資之租稅及非租稅誘因

1.用成本基礎型租稅優惠取代所得基礎型租稅優惠。

2.運用適格可退還租稅抵減(Qualified Refundable tax credits)。

3.於當地補充稅制區分適用範圍。例如：愛爾蘭適用GloBE規則之公司所得稅稅率為15%；其他公司之公司所得稅稅率12.5%。

4.提供外籍員工個人所得稅誘因。

5.提供非企業所得稅租稅誘因。例如：關稅、薪資稅、財產稅租稅誘因。

6.提供非租稅誘因。例如：補助、獲取基礎設施或取得不動產之相應權利。

三、數位經濟之所得稅徵收

(一)背景說明

所得稅之來源地課稅原則，要求在租稅管轄區內應有實體存在(例如：常設機構)，惟數位公司能夠在沒有實體存在之情況下，與租稅管轄區內之客戶及用戶進行重大業務往來。考量數位公司價值創造逾40%來自北美，惟全球網際網路用戶40%位於東亞及東南亞，爰數位公司應該在何處，繳納多少所得稅，以及對數位公司課徵所得稅之單邊及多邊機制，成為數位經濟時代之重要議題。

(二)單邊措施

1.數位服務稅(Digital services tax, DST)

DST係屬單邊措施，由租稅管轄區依數位服務之供應商或中介平臺業者之營業收入課徵，稅率較低，通常為1%至3%，各國課徵範圍存在相當大的差異。

2.虛擬常設機構(Virtual PEs)

倘一數位服務之供應商或中介平臺業者在該租稅管轄區具備數位存在(例如：網站或銷售量)，則視為具備常設機構。

3.就源扣繳

目前就源扣繳機制侷限於B2B交易，倘須就消費者與數位服務供應商或中介平台業者之B2C交易，設計就源扣繳機制尚有困難。

4.對DST機制之批評

(1)DST是否屬於所得稅

DST屬於所得稅，採來源地課稅原則，爰參與創造價值之各租稅管轄區均具課稅權，衍生之重複課徵議題，通常以所得稅租稅協定處理；消費稅採用目的地課稅原則，僅最終消費地之租稅管轄區取得課稅權，

爰無重複課徵議題。惟事實上之DST稅制設計，常以營業收入為課徵基礎，爰可能由消費者，而非由數位服務之供應商或中介平臺業者之股東承擔租稅負擔，衍生相關批評。

(2)政治上具爭議性

北美國家，特別是美國長期持反對DST之立場。

(三)第一支柱－多邊方法

金額A(Amount A)是對跨國企業集團主張之新稅，將大型跨國企業集團之部分剩餘利潤重新分配予市場租稅管轄區，賦予該市場租稅管轄區新的課稅權，解決其無法公平獲得課稅權的問題。其要點如下：

1.金額A

對年合併營業收入超過200億歐元之跨國企業集團，於特定租稅管轄區之營業收入課徵。

金額A = 在轄區內之跨國企業集團超額利潤之25%

其中，超額利潤係指調整後稅前淨利率超過10%之部分。

2.分配方式

第一支柱以類似來源地課稅原則之公式，分配予市場租稅管轄區。

合格之市場租稅管轄區，係指轄區內之跨國企業集團於該租稅管轄區之營業收入超過100萬歐元；對於GDP低於400億歐元之租稅管轄區，則設定更低的門檻，為25萬歐元，並希望藉由通過多邊公約(MLC)於2025年開始實施；多邊公約之締約國需撤回其國內DST或類似措施(對數位供應商課徵之加值稅，非屬DST或類似措施)。

3.最新進展

BEPS IF成員國已承諾在2024年底之前不引入DST或類似措施。第一支柱原要求至少30個租稅管轄區於2023年底前簽署MLC，該期限已屆期且未能達成簽署。

考量MLC生效要件係締約之租稅管轄區內，其跨國企業集團最終母公司

之數位經濟營業收入須達全體之60%，由於位於美國之最終母公司已占有全球約48%之營業收入，形同單獨具有否決權，故須尊重美國意見。

在另一方面，開發中國家則尋求以聯合國機制，繞過OECD稅約範本規定，另行規劃簽署多邊公約。

議題四A、伊斯蘭金融交易之稅務及天課(Zakat)議題

主持人：

MATA委員會委員：Hj Taqiyuddin Amini bin Abd Satar先生

演講人：

印尼Tazkia伊斯蘭大學教授：Murniati Mukhlisin博士

與談人：

巴基斯坦內地稅務政策首席秘書：Muhamad Sajid Ahmad先生

資深經濟學家暨INDEF創辦人：Didik J. Rachbini教授

一、伊斯蘭金融於亞太地區之重要性

伊斯蘭銀行在東南亞及東南亞國協(Association of Southeast Asian Nations, ASEAN)經濟一體化過程中，為東協國家提供金融部門之平臺，促進東協市場產品及服務之自由流動，並為零售及批發業務打開成長機會。東協國家伊斯蘭銀行近期發展如表3。

表3：東協國家伊斯蘭銀行近期發展概況表

國家	發展概況
汶萊*	2008年發布《伊斯蘭銀行令》(Islamic Banking Order 2008)，預計伊斯蘭銀行將獲得該國以銀行資產計算，55%至60%之市場占有率。
印尼	依《伊斯蘭銀行發展藍圖》，通過《2008年第21號國家法案》(National Act No.21/2008)，為伊斯蘭銀行之發展提供法律基礎。
馬來西亞*	2013年6月公布施行《伊斯蘭金融服務法》(Islamic Financial Services Act) 。
菲律賓	菲律賓中央銀行已推動多項重要之立法、監督管理及租稅措施，以促進伊斯蘭銀行業。
新加坡	新加坡已修正現有法規及相關指導方針，對伊斯蘭銀行監管。
泰國	2002年根據銀行法成立國營伊斯蘭銀行。

資料來源：自會議資料自行整理

說明：*表示伊斯蘭教國家(伊斯蘭教在該國具有法律上優先地位)。

二、伊斯蘭銀行融資交易[9]

伊斯蘭教法(Sharia)禁止任何收取利息(Riba)及從事投機風險(Gharar)交易，爰伊斯蘭商業合約，通常以無利息之融資交易、風險共享及道德投資原則作為基礎。

法規遵循方面，伊斯蘭融資交易須確保其合約同時符合當地稅法及伊斯蘭教法之規定，在伊斯蘭融資及投資項目中(特別是涉及國際交易時)，如何辨認交易性質、計算資本利得及其納稅義務均甚為複雜，因此，性質高度類似，惟屬伊斯蘭教法上不同類型之伊斯蘭金融產品(例如：同屬融資交易性質之伊斯蘭銀行貸款及伊斯蘭債券)，其租稅處理方式可能不一致。

伊斯蘭銀行之投、融資交易，主要為下列法律形式：

(一)Mur ā baḥah(資產之附買回交易)

Mur ā baḥah係指資產之附買回交易，旨在促進透明及道德之商業實務，資產賣出時，該契約已與購買方約定購回價格(含原始售價、加價及購回期間)，以符合無利息融通之伊斯蘭原則。

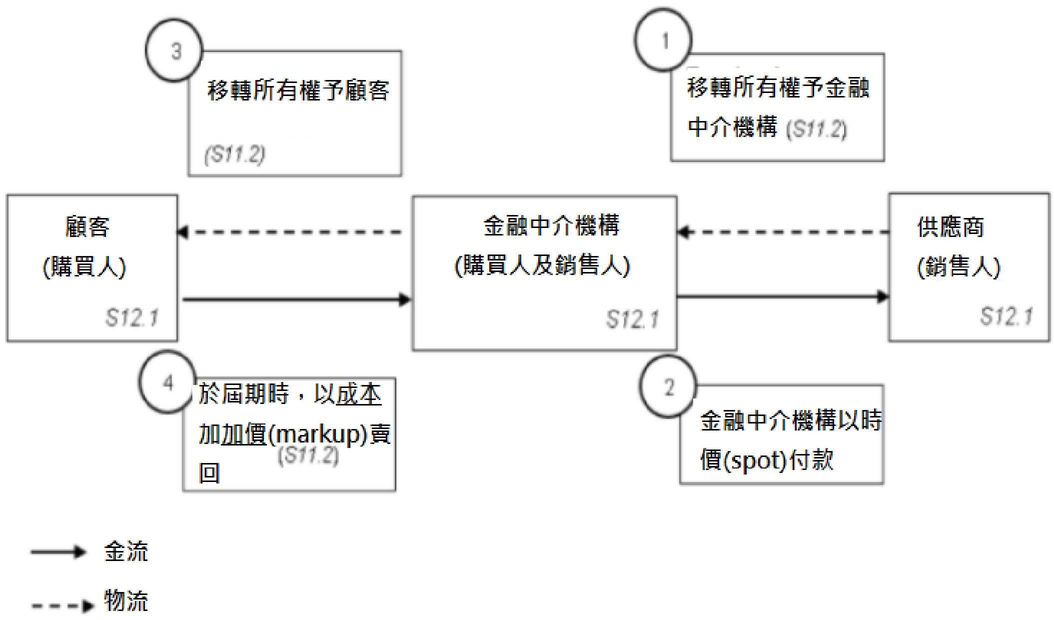

圖3：Mur ā baḥah交易流程圖

[9] 為集中討論伊斯蘭銀行之稅務議題，本報告省略本次會議有關伊斯蘭證券(Sukuk)、伊斯蘭保險(Takaful)、伊斯蘭 P2P 金融科技之所得稅稅務議題討論。

Murābaḥah特點如下：

1.**透明性**：所有成本(原始售價)及加價均需完整揭露，以確保交易之公平性。

2.**合規性**：符合伊斯蘭教法規定，不得收取利息。

3.**應用範圍**：常用於購買房屋或購買汽車之融資交易。

(二)Mudarabah (盈利分享型；基金)

Mudarabah係指涉及rabbul mal(資本提供者)與mudarib(企業家)間交易之伊斯蘭合約，是伊斯蘭金融中之重要融資模式，強調合夥關係及責任之公平分配，rabbul mal依合約提供資本，並由mudarib進行經營管理，所產生之所得，按雙方約定之比例分享；而財務損失僅於mudarib之不當行為(ta`addi)、疏忽(taqsir)或違反約定條款(mukhalafah al-shurut)所造成時由mudarib負責，餘皆由rabbul mal承擔。

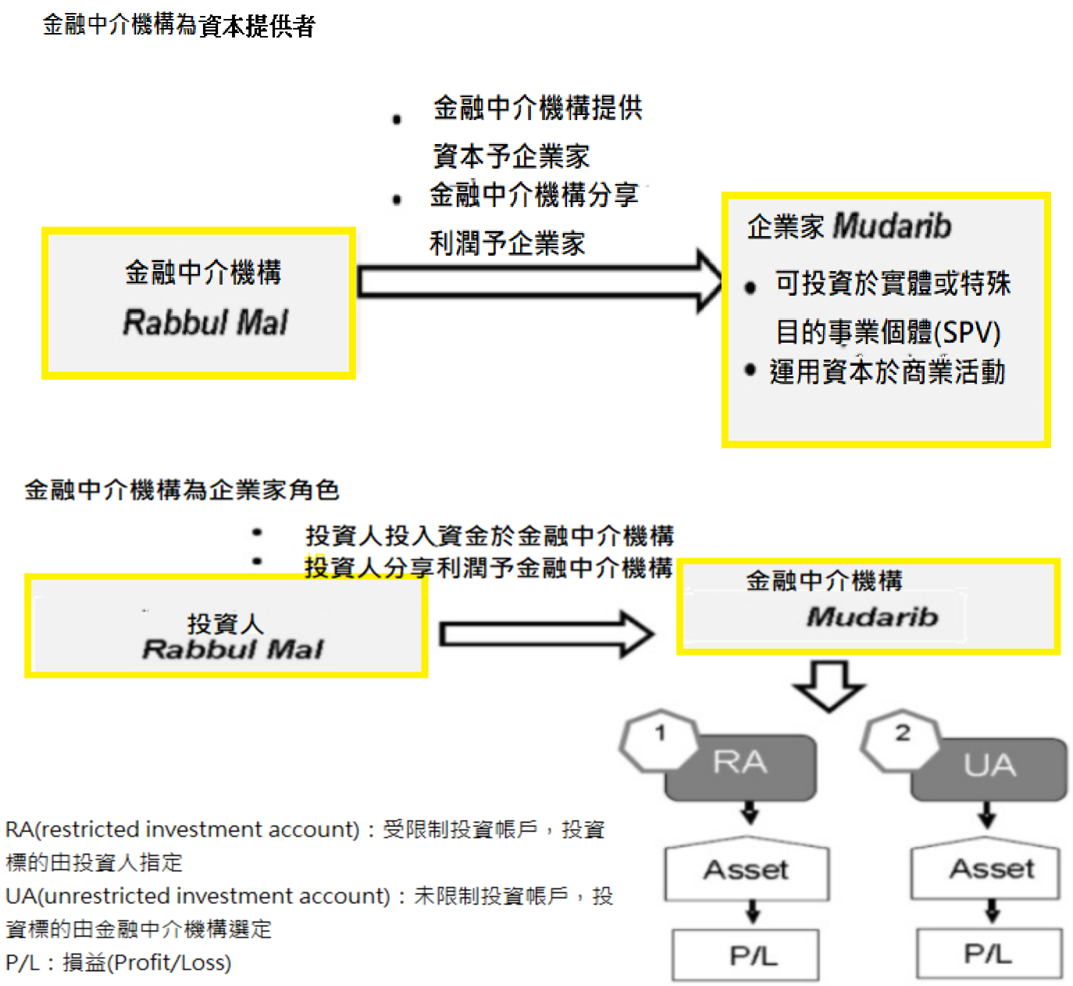

圖4：Mudarabah交易流程圖

Mudarabah特點如下：

1.**資本與管理分離**：rabbul mal提供資本，mudarib負責管理及營運。

2.**利潤共享**：利潤按雙方約定的比例進行分配，促進合作。

3.**風險分擔**：損失原則上由rabbul mal承擔，以鼓勵創新。

三、亞太地區伊斯蘭金融之稅務議題

彙整亞太國家伊斯蘭金融之稅務議題如表4。

表4：伊斯蘭銀行投融資交易之稅務議題表

國家	稅務議題
印尼	1.2009年修正加值稅法，將伊斯蘭銀行進行之murābaḥah交易比照融資交易，免徵加值稅；該規定與伊斯蘭教法之規範衝突，因依據印尼伊斯蘭教理事會規定(DSN-MUI Fatwa)，銀行必須先自供應商購買且擁有商品，始能再轉售給顧客。 2.上開規定使murābaḥah交易，稅法認定上自貨物貿易系統轉向金融服務系統，並視為由伊斯蘭銀行直接將資金轉貸與顧客購買商品。表面上解決了伊斯蘭銀行之加值稅課稅問題，惟犧牲了對伊斯蘭教法之遵從[10]。
英國、澳洲	強調伊斯蘭金融之租稅及監督管理規定，應依本國稅法及金融監督管理法規之規定，確保宗教信條不違反本國法律。
新加坡	新加坡對伊斯蘭金融採平等待遇，俾利建構傳統金融及伊斯蘭金融之公平競爭環境，伊斯蘭銀行及非伊斯蘭銀行受到相同之銀行法規範；另為促進伊斯蘭金融，對符合條件的伊斯蘭貸款(Murābaḥah)、基金管理(Mudarabah)及伊斯蘭保險(Takaful)適用5%之所得稅優惠稅率。

資料來源：APTF簡報

[10] 印尼為全球穆斯林人口最多之國家，惟尚非伊斯蘭教國家。

四、天課(Zakat)

天課為一種伊斯蘭教特有之宗教稅，為伊斯蘭教五功[11]之一，天課與租稅之最終目標相同，都是為了促進人民及國家福祉。依伊斯蘭教法規定，當穆斯林之個人或法人資產超過一定限額，就應按伊斯蘭教法規定之比率繳納天課予政府或其指定之伊斯蘭教團體，爰天課兼具所得稅及財富稅之特性。

天課係對所有具有價值之物品徵收，其徵收之意旨(illah)是富裕，當穆斯林財富超過 1 nisab(1 nisab係指85公克黃金之貨幣價值[12])門檻，即自動成為天課繳納義務人，每年應至少支付2.5%之天課。穆斯林公司亦有義務支付天課，以作為對社會福祉之奉獻，並履行其社會責任及最終對真主之責任。穆斯林公司簡易天課之計算實例如表5，另彙整選樣國家天課主管機關如表6。

表5：印尼伊斯蘭銀行天課計算實例

印尼伊斯蘭銀行 2023年12月31日 (單位：百萬盧比)	
項目	**金額**
稅前淨利	7.591.358
天課：稅前淨利×2.5%	189.730

資料來源：APTF簡報(Tax issues in Islamic finance transaction and addressing zakat rules in wealth taxation，第39頁)

表6：選樣國家天課主管機關表

國家	**主管機關**
印尼	1.印尼天課由國家天課委員會(BAZNAS)管理。 2.近年來，印尼天課之支付方式已依科技變革創新設計(例如：以電子申報天課)。民眾亦從直接服務(如親自前往機構辦公

[11] 念清真言、禮拜、天課、齋戒及朝覲。

[12] 約新臺幣 23 萬元。

國家	主管機關
	室、天課服務點等)轉向使用網路銀行服務及ATM進行天課支付。
馬來西亞*	1.馬來西亞政府使用網際網路之e-Zakat軟體徵收天課。 2.受到憲政架構影響，因各州之蘇丹在宗教事務上具有憲法權限，其天課係於州級管理，不同州之天課管理制度存在差異。
巴基斯坦*	1.巴基斯坦天課由財政部授權之非營利機構監督管理。 2.各省均有自己的天課機構，並從銀行存款、股票、證券產品、保險及農產品中徵收天課，來自牲畜、黃金、白銀及現金的天課則由天課繳納義務人(muzakki)直接分配；部分收入用於符合伊斯蘭教法之非利息基礎投資，爰尚非所有的天課收入均由中央天課基金分配。
埃及*	1.埃及擁有最廣泛之天課徵收及分配網絡，主要由四個部分組成： (1)自願天課委員會。 (2)宗教信託部(Ministry of Waqf)及其附屬之非營利組織。 (3)國營納瑟社會銀行集團(Nasir Social Bank Group)。 (4)埃及費薩爾伊斯蘭銀行集團(Egyptian Faisal Islamic Bank Group)。 2.銀行須按其資本、股東利潤及銀行之自由資金中繳納天課。
沙烏地阿拉伯*	1.沙烏地阿拉伯天課由財政部天課及稅務局(Agency of Zakat and Taxes)徵收。 2.徵收對象包括農產品、牲畜、貿易存貨與其他流動商業資產，及某些專業人士與個體經營者之收入。 3.除投資人需對其報酬繳納天課外，未使用之存款或資產也是

國家	主管機關
	天課課徵對象，虧損資本(Loss-making capital)亦被視為天課課徵對象。
新加坡	1.新加坡之天課管理係由政府授權穆斯林宗教理事會(MUIS)進行。 2.天課類型包括黃金天課、股票天課、商業天課、儲蓄天課、中央公積金(CPF)天課、保險天課及開齋天課(Zakat al-Fitr)[13]。天課繳納義務人(muzakki)可藉由電子支付方式繳納天課。
汶萊*	1.汶萊由宗教事務部之伊斯蘭宗教理事會(MUIB)負責天課管理。 2.MUIB代表國王依據伊斯蘭教法徵收及分配天課基金，目前正在實施電子化之天課徵收系統。
泰國	1.泰國為非穆斯林國家，爰其天課管理機構獨立於政府組織。 2.依據1997年伊斯蘭組織管理法，省級伊斯蘭委員會(PIC)在社區及政府中被法律認可；惟實務上，PIC 在天課運作上未能完全發揮功能，每年僅收到相當少數之天課，多數泰國穆斯林係私下捐贈天課。

資料來源：自會議資料自行整理

說明：*表示伊斯蘭教國家(伊斯蘭教在該國具有法律上優先地位)。

[13] 伊斯蘭曆每年 10 月 1 日為開齋節，慶祝「齋戒月」(Ramadan，9 月)之結束。

議題四B、全球直接稅政策發展——以聯合國國際租稅合作框架公約(UN Framework Convention on international tax cooperation)研議進展及OECD IF為中心

主持人：

INDEF及印尼農業大學(IPB)經濟系講師：Eisha Rachbini博士

演講人：

聯合國國際稅務專家委員會成員、前印度中央直接稅務局(CBDT)國際部門首席專員：Rajat Bansal先生

與談人：

雪梨大學教授、ITIC資深稅務顧問、印尼大學兼任教授：Lee Burns教授

ICC 稅務委員會副主席：Veerinderjeet Singh博士

一、國際租稅合作之多邊溝通

(一)核心理念：避免重複課稅

1.分配課稅權之機制。

2.移轉訂價實務指引。

3.資訊交換(Exchange of Information, EOI)與透明度。

4.建立爭議及解決機制。

5.防止稅基侵蝕及利潤轉移。

(二)OECD架構及聯合國國際租稅合作框架公約比較

OECD架構及國際租稅合作框架公約比較如表7。

表7：OECD架構及聯合國國際租稅合作框架公約比較表

OECD	聯合國
1.OECD稅約範本	1.聯合國稅約範本
2.OECD移轉訂價指引	2.聯合國移轉訂價指引
3.全球稅務透明度與資訊交換論壇	3.聯合國爭議解決手冊
4.有害租稅實務論壇	4.聯合國租稅協定談判手冊
5.BEPS行動計畫	5.採礦業之租稅議題

資料來源：APTF簡報

二、OECD 包容性架構(IF)

OECD IF藉由同儕審查機制監測BEPS行動計畫之有害租稅慣例、防止協定濫用、移轉訂價文據及爭端解決機制4項最低標準。

上開最低標準，在締約國及締約之租稅管轄區，將由包容性架構成員進行同儕審查；全球透明度與信息交換論壇(Global Forum on Transparency and EOI)也有相同之作法，以持續策進精進相關方案，OECD將持續為各租稅管轄區提供實施BEPS措施之指引，及持續制定相關標準(包括兩支柱之相關作業機制)。

對OECD包容性架構(IF)之批評，主要集中在於BEPS相關方案均係於在建立包容性架構(IF)前制定的，僅符合OECD國家及參與制定國之利益，且預計於未來加入全球論壇(GF)或包容性架構(IF)之國家及租稅管轄區，僅能被迫接受渠等先前制定的要求，此舉與普遍參與之原則及所有國家均應平等參與制定國際標準之的理念不符，使得大量非OECD國家(特別是開發中國家)之實際參與及影響力均非常有限，因此興起以國際租稅合作框架公約為基礎進行後續反避稅措施之國際聲浪。

三、聯合國國際租稅合作框架公約(草案)

(一)目標

1.國際租稅合作，不僅在實質上，其過程亦應重視開發中國家意見，俾達到全面之包容性及有效性。

2.建立一個能持續應對現有及未來租稅收及相關挑戰之國際租稅合作治理體系，同時尊重每個成員國之租稅主權。

3.建立一個包容、公平、透明、高效(efficient)、公正且有效(effective)之國際租稅體系，以促進永續發展。

(二)優先領域

1.數位及全球經濟之租稅。

2.跨境服務所得之租稅。

3.與租稅相關之非法金融流動及稅務爭端之預防及解決。

4.高財富淨值個人之租稅。

(三)額外領域

1.環境及氣候之租稅措施。

2.稅務目的之資訊交換。

3.有害租稅慣例。

四、聯合國國際租稅合作框架公約(草案)參與國對OECD兩支柱之批評

第一支柱旨在加強市場租稅管轄區之課稅權，立意良善，惟國際對於第一支柱如何實施尚無具體共識；此外，第二支柱旨在實現全球最低稅負，惟其稅務行政成本相對較高，實務上尚有窒礙，且妨礙開發中國家藉由稅制設計，給予特定產業或地區實施有效之刺激經濟措施。

五、聯合國國際租稅合作框架公約研議之進展

(一)2023年12月發布解決方案UN Resolution 78/230。

(二)2024年4月26日至5月16日首次會議。

(三)預計2026年提出國際租稅合作框架公約(草案)及議定書(草案)之最終文本。

議題五、間接稅政策與管理機制

主持人：

前馬來西亞財政部稅務司副司長(Under-Secretary, Tax Division)：Dato' Khodijah bte Abdullah

演講人：

英國艾塞克斯大學：Yikai Wang

與談人：

馬來西亞皇家關稅局：Roszita Dim女士

ICC 稅務委員會副主席：Veerinderjeet Singh博士

巴基斯坦內地稅務政策首席秘書：Muhamad Sajid Ahmad先生

ADB公共部門管理與治理組資深公共管理專家(稅務)：Sandeep Bhattacharya博士

柬埔寨法務、稅務政策與國際租稅合作部：Lamy Mong博士

一、間接稅

間接稅係指由中介者(例如：零售商)向最終經濟負擔之人(例如消費者)收取代價，並由該中介者負責納稅義務，提交申報書表並將稅款繳交予政府之租稅。例如：加值稅、銷售稅、特種消費稅及關稅。

二、特種消費稅

特種消費稅係對特種貨物或勞務課徵之間接稅，其課徵目的除財政目的以外，通常尚包含抑制不健康之行為及外部成本內部化。常見被課徵特種消費稅之貨物，例如：化石燃料、糖、菸、酒及奢侈品。

三、間接稅稅制

(一)間接稅稅制之二大目標：效率及財政收入

1.**效率**：間接稅稅制設計時，應最小化經濟扭曲及法規遵循成本。

2.**財政收入**：提供穩定及可預測之政府財政收入來源。

(二)間接稅稅制之設計原則

間接稅稅制之設計應予盡量「簡便」，使納稅義務人易於理解且使稅捐稽

徵機關易於管理，並適度引導市場預期/反應，並提供市場及財政收入穩定性。

1.外部成本內部化

間接稅稅制得以外部成本內部化方式建構其稅率結構，例如：對影響健康、造成環境損害及產生社會成本之化石燃料(環境面)、糖(健康面)、菸(健康面)及酒(健康及社會面)加重課徵間接稅(加值稅及特種消費稅)。

倘基於外部成本內部化方式設計間接稅稅制，則應將應稅貨物或勞務予以分類，分類時，應特別注意相同外部成本之貨物或勞務，應分為同一類，並承擔相同租稅負擔。至於外部成本較低之貨物或勞務，稅制結構設計上應適度減輕租稅負擔。

2.反彈性需求原則

在間接稅稅制係以取得財政收入為其主要目標時，其稅制結構應以反彈性需求原則方式設計，亦即，價格彈性小之貨物(例如：生活必需品)，應課徵較高間接稅稅率。

間接稅之轉嫁機制除可能為前轉予消費者負擔外，亦有可能後轉由生產要素提供者負擔，爰價格彈性大之貨物(例如：奢侈品)，稅制設計時應審慎考量其生產要素及轉嫁機制，避免出現非預期之政策效果。例如:美國曾於1990年開徵遊艇奢侈稅，惟該稅並未發揮平衡貧富差距之預期政策效果，反因生產要素轉嫁緣故，致打擊遊艇產業員工就業，旋於1993年廢止。

3.小結

上述間接稅之稅制設計原則，可能隨著時空背景變動，而有不同之取捨及價值判斷。例如：原本該間接稅稅制係基於外部成本內部化之目標而對奢侈性貨物課徵，惟隨著時空背景變更，原本的奢侈性貨物可能已轉變為生活必需品，此時，取得財政收入可能反而變成其主要政策目的。政策制定者在制定或修正間接稅稅制時，宜通盤審慎評估政策影響之各層面及相關因素，俾利確保財政收入穩定及促進經濟成長。

(三)單一稅率及複式稅率

1.單一稅率

單一稅率係指間接稅稅制對所有貨物適用相同之稅率，具有以下特點：

(1)**簡明**：由於稅制結構僅有單一稅率，稅務管理及執行較為容易。

(2)**清晰**：單一稅率之稅制結構透明且易於企業及消費者理解，有利爭取民眾支持。

(3)**效率**：單一稅率之稅制結構，有助降低行政成本及法規遵循負擔。

(4)**缺乏政策靈活性**：單一稅率之稅制結構，政策上通常無法輕易針對特定貨物進行稅率調整，爰政府較缺乏政策靈活性，惟亦因如此，單一稅率之稅制結構對於企業及消費者之租稅負擔較能合理評估，且調整機制(含法制機制及調整時機)較為透明且穩定，較為有利吸引企業投資及經濟成長。

2.複式稅率

複式稅率係指間接稅稅制對不同類別貨物適用不同的稅率，具有以下特點：

(1)**靈活**：稅制結構可依據貨物之特性、潛在危害程度、價格(按價值)及生產量設計及調整稅率。

(2)**複雜**：由於對不同類別貨物適用不同稅率，稅務管理上較為困難。

(3)**政治操控及制度漏洞(Gaming the System)**：由於實務上之政治運作結果，政府有潛在下調(down-shifting)間接稅租稅負擔之壓力，致部分有害之貨物，其租稅負擔反而較低。

四、實務探討——以菸品之間接稅稅制規劃為例

(一)設計原則：外部成本內部化

對菸品課徵間接稅，主要係基於健康觀點，故與其價格無關，每一單位之菸品消費，其對人體健康之危害性均為相同。

(二)稅制設計

對菸品課徵之間接稅，稅制結構建議使用單一稅率(額)之從量稅[14]，理由如下：

1.衡平外部成本

單一稅率之從量稅，可合理考量使其租稅負擔與菸品危害一致，適度衡平吸食菸品之社會成本。

2.簡單性

依據世界衛生組織研究報告指出，菸品稅制設計上應使用簡單消費稅稅制結構，主要係因為單一稅率之稅制結構，對菸品產業之價格操控或避稅，以及消費者品牌/產品轉換之空間最小。

[14] 臺灣菸品菸酒稅稅制即採單一稅率(額)之從量稅

議題六A、區域一體化及間接稅(關稅)協調之必要性

主持人：

前馬來西亞皇家海關總署署長：Dato’ Sri Subromaniam Tholasy

小組成員：

泰國財政部：Maneekwan Chandarasorn博士

柬埔寨財政部：Kimson SOT先生

Authentix公司科技長：Tim Driscoll博士

一、背景說明

東協自由貿易區2021-2025年藍圖要求更好地協調間接稅政策(註：本場次之「間接稅」政策協調部分由泰國報告，係指東協國家關稅及通關措施之協調，不含內地稅相關措施，爰本報告予以省略)，爰本次會議探討如何協調租稅及貿易政策，以及從其他區域經濟合作努力中學到經驗，如一帶一路(BRITACOM)倡議及歐盟之案例。

二、區域一體化政策

(一)租稅合作為東協自由貿易區之區域競爭力關鍵要素

租稅合作作為支持東協自由貿易區之區域競爭力關鍵要素之一，旨在解決財政障礙問題，目前東協各國已承諾採取多項正在進行及未來的措施，包括：

1. 協同努力完善與改進雙邊租稅協定網絡，俾利解決雙重課稅問題，並盡可能地推動提升東協國家債券扣繳稅款結構，以增進投資東協國家債券意願。
2. 依據國際標準，進行稅務資訊自動交換。
3. 討論解決稅基侵蝕及利潤移轉問題之措施，以確保財政健全。
4. 探索區域/全球納稅義務人識別號碼之可能性，以改善並增強交易監控程序。
5. 探索在東協成員國之間對共同消費品(例如：菸品)之消費稅稅務資訊交換之合作可能性。

(二)歐盟碳邊境調整政策(Carbon Border Adjustment Mechanism, CBAM)之衝擊因應

1.歐盟CBAM之政策目的，係對歐盟管轄範圍外之碳排放課徵碳關稅，經檢視相關規定，尚不違反關稅暨貿易總協定(General Agreement on Tariffs and Trade, GATT)、WTO貿易規定及自由貿易協定[15]。

2.目前，歐盟CBAM證書係免費核發，惟自2026年起，進口特定貨物(水泥、電力、肥料、鋼鐵、鋁及氫)至歐盟國家，須按歐盟碳排放交易系統之碳價格，購買CBAM證書，為CO2排放支付價格。

3.東協國家應團結一致，開啟雙邊或多邊談判及合作，以對CBAM之實施做好準備。另就馬來西亞等國之棕櫚油可能被歐盟納入下一階段CBAM課徵對象，允宜密切觀察歐盟政策動向。

[15] 本節報告人係回應在歐盟 CBAM 草案發布之初，多國政府曾要求應依照 GATT 及 WTO 貿易規定詳加檢視，以作為因應對策。由於歐盟 ETS 尚有免費核發配額，為與 GATT 及 WTO 貿易規定相容，相關國家已爭取到歐盟承諾於適用 CBAM 時，進口人應取具之 CBAM 證書數量，比照歐盟 ETS 之免費核發配額數量比例予以核減。

議題六B、亞太地區採礦業之租稅議題

主席：

M Group負責人：Mr. Hafiz Choudhury先生

演講者：

泰國Grant Thornton會計師事務所稅務合夥人： Paul Cornelius先生

小組成員：

菲律賓参議院稅務研究辦公室：Ms. Vivian Cabiling女士

馬來西亞財政部：Ezleezan Othman先生

Freeport-McMoRan副總裁(稅務)：Mukhlis Murtadlo Ishak先生

一、東協各國按採礦或石油相關法律結構決定其稅制結構

(一)資源擁有權

有別於美國等國之地下資源通常屬於私人產業，在亞洲地區，地下資源通常歸國家所有，礦區經營者並未具有礦區之所有權，而僅有該礦區之採礦權及經營權。

(二)特許經營

東協各國通常允許特許經營者可擁有石油及天然氣之油氣井。

(三)生產分潤合約(Production Sharing Contract, PSC)

在特許經營者已回收其探勘及開發成本之情形下，油氣井產出之石油及天然氣，依生產分潤合約(PSC)約定之比例，於特許經營者及政府間分享利潤，有別於國家擁有全部產出石油及天然氣之所有權之服務合約(Service Contract)。

二、東協各國採礦業之租稅政策

(一)所得稅法之規定，通常與資源之擁有權一致

在生產分潤合約(PSC)制度下，其所得稅計算可以在所得稅法中規定，或部分以生產分潤合約之法制形式，包含在生產分潤合約中。

舉例而言，稅務政策制定者，如欲對石油業者課徵20%之所得稅，有以下兩

種法制形式可供選擇，兩者政策效果相同：

1.所得稅法規定石油業之所得稅稅率為20%。

2.所得稅法免稅，惟在特許經營之生產分潤合約，約定石油業者淨利之20%須繳納給政府。

(1)已投入惟無法回收之成本

在某些租稅管轄區，採礦業已投入惟無法回收之成本仍然可以抵稅，此類成本包括：利息、保證金支付、無息貸款及一般管理費用等。

(2)環境復原成本

各國制度不同，可能得依公司帳上已認列之環境負債準備予以扣抵，或僅限於已將現金存入政府指定之信託帳戶時，始得扣抵。

(二)東協國家之油氣產業所得稅稅制

1.依所得稅法或石油所得稅法規定辦理，例如：泰國、柬埔寨、馬來西亞及菲律賓等國。

2.依生產分潤合約方式辦理，例如：泰國[16]、緬甸(實際上)、印尼(法律上按毛利而非淨利分配)、汶萊、寮國及越南等國。

(三)小結

在部分國家，依生產分潤合約方式辦理，可能存在潛在法律問題，例如：緬甸石油業法律上適用所得稅法，惟實際上採用生產分潤合約方式辦理，爰其採礦行業之環境復原問題與採礦探勘費用之處理，以及所得稅法與生產分潤合約間欠缺明確區別，其規定不明，造成投資障礙。

[16] 泰國按各案之採礦權合約區分，可能適用所得稅法規定或適用生產分潤合約制度。

議題七、電子發票系統之實施

主席：

M Group負責人：Mr. Hafiz Choudhury先生

小組成員：

亞馬遜公司亞太區資深稅務經理：Greta Chan女士

菲律賓財政部：Wenceslao Christian B. Fernandez,先生

MATA技術顧問：Chow Kuo Seng先生

中華人民共和國國家稅務總局：ZHENG Jieyan先生

馬來西亞營利事業所得稅電子發票實施現況[17]

一、法據

依據馬來西亞所得稅法第82條C款(Section 82C of the Income Tax Act 1967)規定，符合財政部規定之營利事業所得稅納稅義務人，應使用電子發票；電子發票應行記載事項，亦由財政部定之。

二、適用之交易範圍

馬來西亞實施營利事業所得稅電子發票之關鍵，係要求營利事業開立經國稅局驗證之電子發票，以記錄所有下列交易：

(一)收入證明

當銷售或其他交易發生時，納稅義務人需開立電子發票以確認收入。

(二)費用證明

取得自供應商開立之電子發票，得用於證明納稅義務人支付之費用，以便進行所得稅費用扣除。

(三)自開發票 (Self-billed e-invoices)

某些費用之交易將要求付款方代表供應商開立自付費用發票，以記錄稅務上之費用。包含但不限於對代理商、經銷商、分銷商之支付、個人之支付與商

[17] 本場次會議與談者報告之中國大陸增值稅(VAT)電子發票制度與臺灣電子發票制度類同，爰本報告予以省略。

品及服務之進口交易。

(四)對原始交易之調整

納稅義務人需依所得稅法規定，開立經國稅局驗證之電子折讓及退回單據(e-credit notes, e-debit nots and e-refund notes)，以記錄相關會計調整事項。

三、成效

馬來西亞國稅局藉由電子發票系統，審查下列事項：

(一)審查所有營利事業支付給其員工及約僱員工之款項，以確保該等支出在稅務申報上，已正確申報為員工之所得或公司之福利費用。

(二)審查獨立合約人員之申報及扣繳稅款是否正確。

(三)審查營利事業提供員工之非現金福利(例如：公司提供在職員工學費補助)，確保營利事業正確申報。

四、小結

馬來西亞營利事業所得稅電子發票制度，係依該國所得稅法規定施行，其範圍含所有營利事業支付款項之交易(含員工薪資及福利)及會計調整項目，並用於報繳所得稅之用。

議題八、加值稅之全球發展[18]

主持人：

INDEF執行董事：Esther Sri Augustin博士

演講人：

雪梨大學教授、ITIC資深稅務顧問、印尼大學兼任教授：Lee Burns教授

小組成員：

菲律賓参議院稅務研究辦公室：Atty. Rodelio T Dascil

馬來西亞財政部：Md Taufiq Bin Mohd Ralip先生

印度間接稅及關稅委員會副主任委員(Deputy Commissioner, GST Policy Wing, Central Board of Indirect Taxes & Customs)：Soumya Ammaiappan女士

一、加值稅稅制設計之原則

(一)稅基廣泛

加值稅通常同時適用於大多數貨物及服務，其稅基廣泛，因此有別於屬於稅基較狹隘之特種消費稅。

(二)加值稅屬消費稅，適用目的地原則

1.加值稅依循目的地課稅原則，由消費地租稅管轄區取得課稅權。

2.進口貨物於進口時由海關徵收，而出口貨物則為零稅率。

(三)加值稅是一種多階段消費稅

加值稅儘管在法律上係自生產及銷售之每一階段徵收，惟亦將運用進項稅額扣抵機制避免重複課稅，亦即，加值稅事實上係以國內最終消費為其稅基，其淨效果與零售商稅(Retail Sales Tax, RST)相同。

二、加值稅之優點

(一)經濟中立性

[18] 議題 7B「移轉定價爭議議題及機會」，其內容主要為移轉訂價調整、適用所得稅協定相互協議程序、預先訂價協議(Advance Pricing Agreement, APA)等，與臺灣現行之制度「營利事業所得稅不合常規移轉訂價查核準則」、「適用所得稅協定相互協議程序作業要點」及「財政部各地區國稅局處理預先訂價協議案件作業要點」尚無明顯差異，爰本報告不予贅述。

1.加值稅稅基廣泛，爰經濟扭曲較少。

2.加值稅採進項稅額扣抵機制，係對消費而非投資課徵，有助資本形成。

3.依循目的地課稅原則，出口可適用零稅率，爰屬具備國際競爭力之稅制體系[19]。

(二)比其他消費稅更難規避稅負

加值稅在每一階段之交易徵收，從而有別於僅對零售商及最終服務提供者課徵之零售商稅，由於中間商比小型零售商之監管成本較低，且交易間形成「審計軌跡」(audit trail)，藉由追捕效果，加值稅比其他消費稅較難規避稅負。

(三)小結

加值稅稅制稅基廣泛，且透過進項稅額扣抵機制之勾稽效果，能產生顯著且可靠之政府財政收入，為各國兼顧財政收入及促進經濟成長之重要租稅工具。

三、加值稅之缺點

(一)累退性

與其他消費稅相同，加值稅具有累退性，對中、低收入者之租稅負擔較重，於稅制調整時經常形成政治爭議，惟自稅制改革層面而言，一個國家之稅制究係累進或累退，應自整體稅制綜合觀察。加值稅稅制之累退性，不應成為該稅制調整之障礙，為使高所得者之整體租稅負擔較重，促進整體稅制之累進性，允宜選用其他適宜之租稅工具(例如：個人所得稅)作為配套措施通盤處理。

(二)退稅

退稅機制為加值稅稅制之最大弱點，存在大量詐欺及腐敗之機會，例如：旋轉木馬詐欺(carousel fraud)[20]，即營業人利用出口貨物可申請退還加值稅之機制，持虛假交易資料，向稽徵機關申報退還加值稅。

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[19] 國際租稅方面，消費稅係依目的地課稅原則分配課稅權，而與所得稅採來源地國課稅原則尚有不同，爰消費稅不屬於有害租稅慣例之檢視範圍。
[20] 案情部分類似臺灣之假出口真退稅案例。

(三)免稅

免稅為加值稅稅制近年新興弱點，通常係基於特定社會政策之考量，而對特定貨物或勞務免徵加值稅。然而，實證資料上，幾乎沒有任何證據足資證明加值稅免稅政策能達到其預期之社會及分配目標。

在加值稅免稅之絕對金額上，往往更有利於富裕階層而非政策目標之貧困階層，爰加值稅免稅政策，除造成顯著之稅收損失外，亦創造了避稅之機會，產生嚴重之經濟扭曲。爰政策上，較佳之作法是在加值稅稅制上，維持對廣泛之稅基徵收，取得之財政收入，向貧困群體提供直接之移轉性支付，例如：中低收入補助、女性衛生用品補助等。

四、數位經濟對加值稅稅制之潛在影響

數位經濟對加值稅稅制之風險，主要與企業對消費者(B2C)之服務交易有關，數位產品，例如：下載之電子書籍、音樂、電影及軟體，在加值稅法下被視為服務，而B2C進口服務，在來源地國(服務提供國)被視為零稅率出口，在消費地國因缺乏海關控管而不易課到稅。

為解決該項雙重不課稅之租稅漏洞，按交易雙方係屬B2B交易及B2C交易，進口勞務之消費地國可採下列方式設計其加值稅稅制：

(一)B2B交易，採逆向課稅機制

B2B進口勞務係指business-to-business之商務交易，通常採逆向課稅機制課徵加值稅。逆向課稅機制係指反轉加值稅稅制之正常運作方式，由消費地國之勞務買受人對進口勞務負責加值稅報繳義務，其目的在於維護租稅公平，並確保國外勞務之提供者與市場競爭地位相同之國內勞務供應商得以公平競爭。在沒有逆向課稅機制之情況下，由於勞務出口國加值稅適用零稅率，而勞務進口國尚乏課稅機制，勞務買受人有誘因與國外勞務提供者進行交易。

無論勞務買受人為加值稅營業人或非加值稅營業人(例如：金融機構)，勞務買受人均應自行申報繳納該進口勞務之加值稅，近年來，該措施並延伸到免

辦加值稅稅籍登記之團體[21]及政府機關(構)。

(二)B2C交易，採境外電商登記制

B2C進口勞務係指由境外電商直接提供給境內最終消費者之勞務，境外電商必須依法向消費地國賦稅主管機關辦理登記，並負責報繳加值稅。相對於本國電商，通常境外電商得適用簡化之申報及繳納程序。

[21] 例如：學校、事務所等。

肆、心得及建議

一、賡續關注國際發展趨勢，研議臺灣因應對策

(一)OECD第二支柱部分

OECD之包容性架構成員國刻透過國內法立法之方式推動全球最低稅負制度，GloBE規則要求跨國企業集團在其營運所在之租稅管轄區內，有效稅率必須達到15%，此舉將削弱各個租稅管轄區利用租稅優惠措施吸引投資之效果，而不同之租稅優惠措施，受到GloBE規則之影響程度尚有不同，政府應該謹慎評估各租稅優惠政策之有效性，進行成本效益分析，以確認提供租稅優惠措施受GloBE規則衝擊之程度及維持該等租稅優惠之必要性。

OECD之包容性架構成員國已持續就法制程序、成立專家團隊及能力建構面向等分享相關經驗，臺灣應持續研究GloBE規則之立法範本、註釋及執行架構，俾利評估該規則對臺灣大型企業之影響，及提出我國營利事業所得稅基本稅額課徵規定之相關解決方案。

(二)聯合國國際租稅合作框架公約部分

OECD/G20 BEPS包容性框架(Inclusive Framework)成員國於2023年12月就國際租稅合作已發布聲明文件，惟部分開發中國家仍質疑OECD體制之功能，並要求改於聯合國討論，致所得稅之國際租稅規範已形成兩套平行系統，各有其優先關注領域。

就聯合國國際租稅合作框架公約部分，目前預計2024年11月間進行投票，倘該公約與OECD規劃之國際租稅合作機制內容不同，將影響OECD之國際租稅協商功能，且不利於國際租稅體系調和，允宜賡續關注國際發展趨勢，俾利研議臺灣因應對策。

二、積極參與國際租稅相關會議，掌握國際趨勢並推動稅務合作

藉由參加本次會議，與會各國代表分享其稅制及稅務行政之經驗，有助於增進對國際租稅制度之理解及爭取國際合作之機會。爰建議應持續積極參與國際組織舉辦的會議，汲取各國之實務執行經驗及對國際租稅制度改革之因應對策，俾利作為

精進我國稅制及稅政相關措施之參考，促進納稅義務人之法規遵循，維護租稅公平。

伍、附件：會議資料

15TH ANNUAL ASIA-PACIFIC TAX FORUM

Asia-Pacific Tax Forum

16-17 July 2024

Kuala Lumpur, Malaysia

PROGRAM AGENDA

Asia-Pacific Tax Forum Secretariat

INDEF Institute for Development of Economics and Finance

Indonesia

Jl. Batu Merah No.45, RT.3/RW.2,
Pejaten Timur, Kec. Ps. Minggu, Kota Jakarta Selatan,
Daerah Khusus Ibukota, Jakarta 12510, Indonesia
Email: indef@indef.or.id

Malaysian Association of Tax Accountants

27-1, Blok 1D, Jalan Wangsa Delima 12
Wangsa Link, Pusat Bandar Wangsa Maju,
Kuala Lumpur, 53300, Malaysia
Email: mata@mata.org.my

Day One – Tuesday, 16th July 2024

All meeting sessions will be held at the [Sheraton Imperial Kuala Lumpur Hotel]

8:00-8:45 AM	Registration and morning coffee
8:45-9:00 AM	Delegates asked to take seats
9:00-9:45 AM	**Opening Ceremony** Dua Recites for opening **Welcome Speech**: Dato' Hj. Abd Aziz Bin Abu Bakar, President, MATA **Opening Remarks: Hon. John Patrick Antonysamy, Under Secretary, Tax Division** **Ministry of Finance, Malaysia**
9:45-10.00 AM	**Group Photo**
10:00-10:30 AM	**Coffee Break**
10:30-11:30 AM (D1: SESSION 1)	**HIGH-LEVEL PANEL DISCUSSION ON TAX REFORMS IN THE ASIA PACIFIC REGION** The complex interaction of globalisation, digitalisation, and the need to move to a green economy has reengineered traditional business models, creating the need to diversify tax systems' architecture. At the same time, global measures are needed to combat emerging tax risks and domestic tax reforms to respond to changing economic needs, requiring Asia Pacific jurisdictions to redesign their tax frameworks. This panel considers the different aspects of reforms from the standpoint of policymakers, administrators, lawmakers and taxpayers. **Moderator**: Mr. Daniel Witt, President, ITIC **Panel**: • Hon. John Patrick Antonysamy, Under-Secretary, Tax Division, Ministry of Finance, Malaysia • Senator Sherwin Gatchalian, Chairman, Ways and Means Committee, Senate of the Philippines • Bapak Nufransa Wira Sakti, Assistant Minister of Finance for Tax Supervisory at Ministry of Finance, Indonesia • Dr. MKC Senanayake, Director General, Department of Fiscal Policy, Ministry of Finance,Economic Stabilization & National Policies, Sri Lanka

11:30 AM-12:30 PM (D1: SESSION 2)	**TAX POLICY AND REGIONAL COOPERATION IN THE ASIA-PACIFIC REGION** Recent years have brought challenges for countries in the region seeking sustainable growth. This panel will consider broader economic issues and how they impact tax policy. It will cover in particular: **Themes**: • How can countries build longer-term cooperation in fiscal policy that fosters innovation, helps make the most of digitalisation, and supports the transition towards a green economy? • And as many countries in the region "graduate" to middle-income status, what concerns andchallenges should fiscal policy address? • What future challenges should be recognised with policy response available for countries onthe path to middle-income status? • How do countries improve tax: GDP ratios while retaining a pro-growth fiscal policy? • How does the evolving global tax policy landscape, especially the Pillar 2 rules, impact theuse of tax incentives in attracting investment? **Moderator**: Mr. Daniel Witt, President, ITIC **Speaker**: Dr. Sandeep Bhattacharya, Senior Public Management Specialist (Tax), Public Sector Management & Governance Group, Asian Development Bank **Panel**: • Mr. Jacinto Alves Brito, National Director of Domestic Revenue, Tax Authority, Ministry of Finance, Timor-Leste • Dr. Stephanie Sweet, Tax Public Policy Lead, Amazon • Ms. XI Qinghua; BRITACOM Secretariat, People's Republic of China
12:30-1:45 PM	**Networking Lunch**
1:45-3:15 PM (D1: SESSION 3)	**GLOBAL DEVELOPMENTS IN CORPORATE TAXATION** Current developments in global guidance, the evolving minimum tax requirements under Pillar Twoof GloBE (BEPS 2.0), and other trends, e.g., taxation of the digitised economy in the Asia Pacific region. **Moderator**: Mr. Mohd Nakhafi Hassan, Head of International I Section, Tax Division Ministry of Finance,Malaysia **Speaker**: Prof. Lee Burns, University of Sydney; Senior Tax Adviser, International Tax and Investment Center; Adjunct Professor, University of Indonesia **Panel**: • Mr. Sanjay Kumar, Member, Central Board of Direct Taxes, India • Ms. Phung Thu Hang, Tax Specialist, General Department of Taxation, Vietnam • Mr. Akkaraj Boonyasiri, Head of Tax Policy Unit, The Revenue Department, Thailand
3:15-3:45 PM	**Coffee Break**

<table>
<tr><td>3:45-5:00 PM</td><td colspan="2">BREAKOUT SESSIONS</td></tr>
<tr><td>(D1: SESSION 4)</td><td>TAX ISSUES IN ISLAMIC FINANCE AND USE OF ZAKAT AS A TAXATION FORM (Elevating Zakat as a significant Economic Instrument)
<u>Moderator</u>: Hj Taqiyuddin Amini bin Abd Satar, MATA Council Member
<u>Speaker</u>: Prof. Dr. Murniati Mukhlisin, Tazkia Islamic University College
<u>Panel</u>:
• Mr. Muhamad Sajid Ahmad, First Secretary,Inland Revenue Tax Policy, Pakistan
• Prof. Didik J. Rachbini, Senior Economist and Founder, Institute for Development of Economics and Finance (INDEF)</td><td>GLOBAL DIRECT TAX POLICY DEVELOPMENTS - THE UN PROCESS AND OECD INCLUSIVE FORUM
<u>Moderator</u>: Dr. Eisha Rachbini, Program Director, Institute for Development of Economics and Finance (INDEF) and Lecturer of Economics Department, IPB University
<u>Speaker</u>: Mr. Rajat Bansal, former Principal Chief Commissioner (International), CBDT India andmember of the UN Committee of Experts on International Taxation
<u>Panel</u>:
• Prof. Lee Burns, University of Sydney; Senior Tax Adviser, International Tax and Investment Center; Adjunct Professor, University of Indonesia
• Dr. Veerinderjeet Singh, Vice Chair, ICC Tax Committee</td></tr>
<tr><td>8:00-10:00 PM</td><td colspan="2">GALA DINNER
• Welcome Speech
• Dinner and Cultural Dance</td></tr>
</table>

Day Two – Wednesday, 17th July 2024

All meeting sessions will be held at the Sheraton Imperial Kuala Lumpur Hotel

9:00-10:30 AM (D2: SESSION 5)	**INDIRECT TAX POLICY AND ADMINISTRATION** This session deeply examines the design of excise taxes to balance governments' revenue and policy objectives appropriately, recognising the relevant level of harm caused by excisable goods. **Themes**: • Design principles of indirect taxes • Ensuring stability and growth in indirect tax revenues in the context of current global economic trends • Approaches to identifying and defining the products and product categories by relative degree of harm caused. • Identifying and defining the tax base options • Examples of good practices across different countries in the sector and consideration of such principles in the case of other harmful goods. • Examples of good practices across different countries in the sector of excisable products and consideration of such practices in the countries of the region – multi-year tax calendars, fighting illegal trade, minimum retail selling price **Moderator**: Dato' Khodijah bte Abdullah, former Under-Secretary of Tax Division, Ministry of Finance, Malaysia **Speaker**: Dr. Yikai Wang, University of Essex, United Kingdom **Panel**: • Ms. Roszita Dim, Deputy Director, Royal Malaysia Customs Department • Mr. Muhamad Sajid Ahmad, First Secretary, Inland Revenue Tax Policy, Pakistan • Dr. Sandeep Bhattacharya, Senior Public Management Specialist (Tax), Public Sector Management & Governance Group, Asian Development Bank • Dr. Lamy Mong, Chief of Tax Policy Bureau, Department of Law, Tax Policy and International Tax Cooperation, Cambodia
10:30-11:00 AM	**Coffee Break**

<table>
<tr><td>11:00 AM-12:30 PM</td><td colspan="2">BREAKOUT WORKSHOPS</td></tr>
<tr><td>(D2: SESSION 6)</td><td>
REGIONAL INTEGRATION AND THE NEED FORCOORDINATION IN INDIRECT TAXES
The ASEAN Free Trade Area Blueprint 2021-2025 requires better coordination of the indirect tax policy approach. This session considers how tax and trade policies can be coordinated and whatlessons can be learned from other efforts for regional economic cooperation, such as through the BRITACOM initiative and the European Union.
Key issues to be covered are:

Coordinate policies to deter and reduce illicit trade in contraband andcounterfeit goods.
Use technology to reduce compliance costs and improve trade, including implementing digital volume/tax verification systems for excisable goodsto ensure that codes cannot be copied and fake products are detected quickly.
Sharing of peer experiences in cooperation in tax administration with regional trade and investment partners
How secure digital systems can helpprovide consumer protections whileproviding tax assurance.

<u>Chair</u>: Dato' Sri Subromaniam Tholasy, former Director General of Royal Malaysian Customs Department
<u>Panel</u>

Dr. Maneekwan Chandarasorn, Director of Customs Policy Division, Fiscal Policy Office, Ministry of Finance, Thailand
Mr. Kimson SOT, Public Finance PolicyDivision Chief, Ministry of Finance,Cambodia
Dr. Tim Driscoll, Chief Technology Officer, Authentix

</td><td>
TAX ISSUES IN THE EXTRACTIVE SECTOR IN THE ASIA-PACIFIC REGION
This session will consider pertinent tax issues in the extractive sector, covering hydrocarbons and mining in the Asia Pacific region. It will primarily look at tax issues in the context of the potential for the energy transition in light of the growing demand for energy in the area and the need to take urgent action to combat climate change.
Key issues to be covered are:

The potential for carbon capture and storage in the region.
There are tax incentives in the sector, especially after Pillar 2 implementation.
Current challenges in the sector's taxation, especially PE issues, are in light of new guidance emerging from the UN and the OECD.
Balancing fiscal stability with changing needs.

<u>Chair</u>: Mr. Hafiz Choudhury, Principal, The MGroup, Inc.
<u>Speaker</u>: Mr. Paul Cornelius, Tax Partner, Grant Thornton Thailand
<u>Panel</u>:

Ms. Vivian Cabiling, Director Indirect TaxServices, STSRO, The Philippines
Mr. Ezleezan Othman, Head of Direct Taxes Section, Tax Division, Ministry of Finance, Malaysia
Mr. Mukhlis Murtadlo Ishak, Vice President,Tax, Freeport-McMoRan Inc.

</td></tr>
<tr><td>12:30-1:45 PM</td><td colspan="2">Networking Lunch</td></tr>
</table>

1:45-3:00 PM	**BREAKOUT WORKSHOPS**	
(D2: SESSION 7)	**IMPLEMENTATION OF E-INVOICING SYSTEMS** Implementing E-invoicing systems can deliver essential gains in efficiency and revenue collection and offer gains for taxpayers and tax authorities. Several countries in the region, such as Malaysia. The Philippines and Indonesia have announced plans or are in the process of implementing such systems. This panel discussion looks at global good practices in introducing invoicing, some common issues that arise andpotential solutions. **Moderator**: Mr. Hafiz Choudhury, Principal, The M Group, Inc. **Panel**: • Ms. Greta Chan, Senior Tax Manager, AsiaPacific (AWS), Amazon • Mr. Wenceslao Christian B. Fernandez, Department of Finance, The Philippines • Mr. Chow Kuo Seng, MATA Technical Advisor • Mr. ZHENG Jieyan, Deputy Group Leader,Office of the Leading Group For E-Invoicing Reform, State Taxation Administration of China	**TRANSFER PRICING CONTROVERSY ISSUES AND OPPORTUNITIES** **Themes**: • Rules, regulations and other developments creating controversy • Transfer pricing audits: common focus areas • Mutual Agreement Procedures: use of MAP • Advance Pricing Arrangements: Available tools to mitigate transfer pricing risk • Approaches to valuation for customsduty and transfer pricing purposes • Upcoming areas: Arbitration, joint audits **Moderator**: Mr. Mohameed Faisal Bin Syed Ibrahim,Secretary General, MATA **Speaker**: Ms. Suhani Anuar, Director of Transfer Pricing and International Taxation, Inland Revenue Board of Malaysia **Panel**: • Mr. Rajat Bansal, former Principal Chief Commissioner (International), CBDT India • Dr. Kasapon Singprasert, Senior Tax Economist, International Tax Division, The Revenue Department, Thailand
3:00-3:30 PM	**Coffee Break**	
3:30-5:00 PM (D2: SESSION 8)	**DEVELOPMENTS IN GST/VAT WORLDWIDE** **Themes**: • A comparison of GST/VAT systems in the region • Challenges and opportunities of the GST and a comparison with the new SST regime in Malaysia • Policy developments in GST/VAT **Moderator**: Dr. Esther Sri Augustin, Executive Director, Institute for Development of Economics and Finance (INDEF) **Speaker**: Prof. Lee Burns, University of Sydney; Senior Tax Adviser, International Tax and Investment Center; Adjunct Professor, University of Indonesia **Panel**: • Atty. Rodelio T Dascil, Director General, General Senate Tax Study and Research Office (STSRO),Senate of The Philippines • Mr. Md Taufiq Bin Mohd Ralip, Deputy Head of MyCT Unit, Ministry of Finance, Malaysia • Ms. Soumya Ammaiappan, Deputy Commissioner, GST Policy Wing, Central Board of IndirectTaxes & Customs, India	

5:00-5:30 PM	**Closing Session** • Prof. Didik J. Rachbini, Senior Economist and Founder, Institute for Development of Economics and Finance (INDEF) • Dr. Mohd Fairuz Bin A Razak, Deputy President, MATA Photo session with the Delegates

BACKGROUND NOTE

The International Tax & Investment Center (ITIC), based in Washington, DC, co-founded the Asia-Pacific Tax Forum (APTF) with the Public Finance Institute of the Philippines (PFIP) in 2005. From 2020 onwards,the Malaysian Association of Tax Accountants (MATA), based in Kuala Lumpur, Malaysia and the Institute for Development of Economic and Finance (INDEF), based in Jakarta, Indonesia, have taken over primary organisation responsibility for APTF. The scope of APTF extends from Pakistan in the west to the Pacific states in the east and includes all ASEAN countries.

APTF annually brings together leading tax policy officials from the public sector, academic experts, and industry representatives. APTF has commissioned high-quality studies on tax issues in the extractive industry,excise taxation, earmarked taxes, tax expenditures analysis for indirect taxation policy, and VAT on financial supplies for countries throughout the Asia-Pacific region. The combination of research and strong partnershipswith partners and participating governments have established the forum as the region's premier event on tax policy. APTF meets annually, and a Ministry of Finance or Tax Administration hosts the event, usually with a local partner institution or association. Since the founding meeting in 2005, the following have hostedthe annual meeting: Bangkok, Thailand (2006 and 2013); Hanoi, Vietnam (2007 and 2014); New Delhi, India (2008 and 2015); Sydney, Australia (2009); Siem Reap, Cambodia (2010); Bali, Indonesia (2011); Manila, the Philippines (2005, 2012); and Jakarta, Indonesia (2016 and 2023).

APTF is more than an annual meeting. Its work is guided throughout the year by a Steering Committee that includes representatives from participating countries, Ministries of Finance/Tax Administrations, ITIC advisors, and representatives from partner organisations. Research and publication projects and study/working groups have been created under the auspices of the Asia-Pacific Tax Forum. APTF has evolved into a continuous engagement program between public, private and academic stakeholders.

The 14th APTF was held in Jakarta, Indonesia, in May 2023 with 125 participants. Public sector representatives from Bangladesh, Cambodia, Cook Islands, Indonesia, Malaysia, Myanmar, Pakistan, Philippines, Taiwan, Thailand, Timor-Leste and Vietnam participated in the meeting along with representatives from the Asian Development Bank and the World Bank. The 15th APTF KL-2024 will officially be the first APTF to be held in Malaysia, and we expect about 180 participants. The 15th APTF is jointly organised by MATA and INDEF.

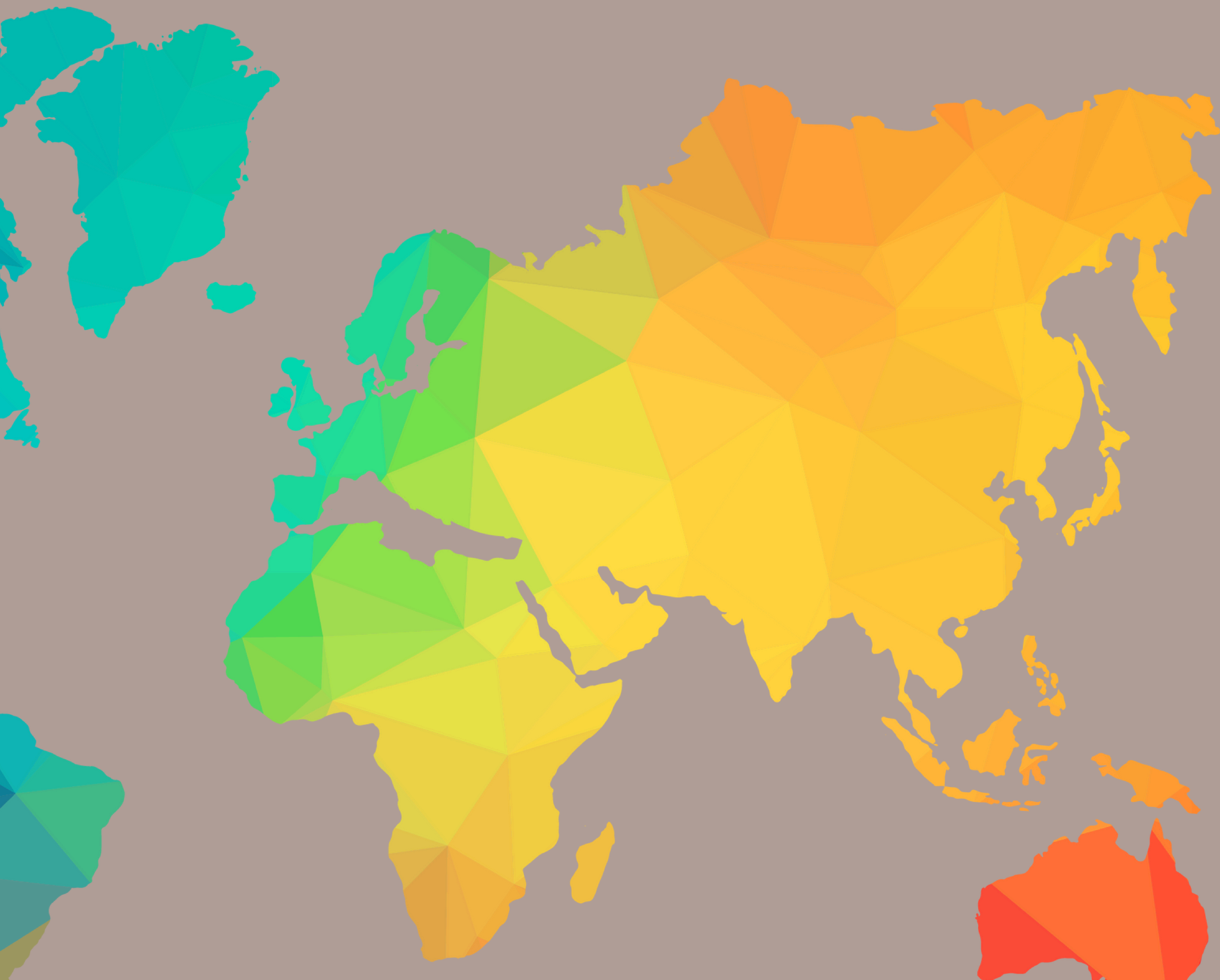
Institute for Development of Economics and Finance (INDEF)
The Institute for Development of Economics and Finance (INDEF) is an independent and autonomous research and policy studies institution established in August 1995 in Jakarta. Its main activities are undertaking research and policy studies on a wide range of economic and finance issues, generating policy debates and public participation, and enhancing public awareness in the decision-making process to search for viable solutions to Indonesia's complex social and economic problems.

Malaysian Association of Tax Accountants (MATA)
MATA was established on 7 July 1988 as a Professional Association recognised by the Ministry of Finance Malaysia to govern Tax Practitioners in Malaysia. MATA regularly participates in dialogues/discussions with the Ministry of Finance Malaysia, the Inland Revenue Board of Malaysia, and the Royal Malaysian Customs Department on economic and tax issues. It proposes recommendations to resolve direct and indirect tax issues. MATA has been organising events, mainly Tax Workshops, Seminars and Conferences, for the past 35years as tax education initiatives for Tax Professionals, business communities and the public.

15th Annual

ASIA-PACIFIC TAX FORUM

Kuala Lumpur | 16 - 17 July 2024



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Welcome Remarks

Dear Delegates and Esteemed Guests,

Welcome to Kuala Lumpur, Malaysia

It is with great pleasure that we welcome you to the 15th Asia Pacific Tax Forum. As we gather here at Sheraton Imperial Kuala Lumpur Hotel, we are reminded of the crucial role that tax systems play in the fabric of our society. Our collective goal is to foster dialogue, share knowledge, and drive forward-thinking solutions in the realm of taxation.

This conference brings together a diverse group of professionals, including policymakers, academics, practitioners, and industry leaders, all united by a common interest in advancing our understanding and application of tax laws and policies. Over the next two days, you will have the opportunity to engage with thought-provoking presentations, interactive workshops, and insightful panel discussions. These sessions are designed to challenge our perspectives, inspire innovation, and ultimately contribute to more effective and equitable tax systems.

We are honoured to have a distinguished lineup of speakers from Asia Pacific Region who will share their expertise on a wide range of topics, from the latest tax reforms, international tax challenges and compliance strategies. Their insights will not only enhance our knowledge but also provide practical guidance that can be applied in our respective fields.

As you navigate through the forum, we encourage you to take full advantage of the networking opportunities available. Connect with your peers, exchange ideas, and build relationships that will last beyond this event. It is through these connections that we can collaboratively address the challenges and opportunities that lie ahead.

We extend our deepest gratitude to our sponsors, partners, and organizing committee for their unwavering support and dedication. Their contributions have been instrumental in making this conference a reality.

Thank you for your participation and commitment to advancing the field of taxation. We wish you a productive and enjoyable forum.

Warm regards,

Dato' Haji Abd Aziz Bin Abu Bakar
President
Malaysian Association of Tax Accountants

About the Forum

Overview

The 15th Asia Pacific Tax Forum is a premier annual event that brings together tax professionals, policymakers, academics, and industry leaders from across the region. This forum serves as a dynamic platform for discussing the latest developments, trends, and challenges in the field of taxation. With a focus on fostering dialogue and collaboration, the Asia Pacific Tax Forum aims to enhance understanding and innovation in tax policy and administration, contributing to the economic growth and stability of the Asia-Pacific region.

Objectives

The primary objectives of the Asia Pacific Tax Forum are:

1. **Knowledge Sharing:** To provide a platform for the exchange of knowledge, best practices, and innovative solutions in the field of taxation.

2. **Policy Development:** To facilitate discussions on tax policy reforms and their implications for economic development and fiscal sustainability.

3. **Networking and Collaboration:** To foster relationships and collaborations among tax professionals, government officials, and industry leaders.

4. **Capacity Building:** To enhance the skills and expertise of participants through workshops, seminars, and expert sessions.

5. **Addressing Challenges:** To identify and discuss the challenges and opportunities in tax administration and compliance in the Asia-Pacific region.

6. **Promoting Fairness and Efficiency**: To advocate for tax systems that promote fairness, e iciency, and simplicity.

This Forum aims to provide a comprehensive understanding of the future of taxation and to equip participants with the knowledge and tools needed to navigate this rapidly evolving landscape.

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Asia-Pacific Tax Forum

16-17 July 2024
Kuala Lumpur, Malaysia

SCHEDULE AT A GLANCE

<table>
<tr><td colspan="3">DAY 1 – TUESDAY, 16th July 2024
SHERATON IMPERIAL HOTEL KUALA LUMPUR, MALAYSIA</td></tr>
<tr><td>8:00 – 8:45 AM</td><td colspan="2">Registration and morning coffee</td></tr>
<tr><td>8:45 – 9:00 AM</td><td colspan="2">Delegates asked to take seats.</td></tr>
<tr><td>9:00 – 9:45 AM</td><td colspan="2">OPENING CEREMONY</td></tr>
<tr><td>9:45 –10:00 AM</td><td colspan="2">Group Photo</td></tr>
<tr><td>10:00 – 10:30 AM</td><td colspan="2">COFFEE BREAK</td></tr>
<tr><td>10:30 – 11:30 AM</td><td colspan="2">HIGH-LEVEL PANEL DISCUSSION ON TAX REFORMS IN THE ASIA PACIFIC REGION</td></tr>
<tr><td>11:30 AM –12:30 PM</td><td colspan="2">TAX POLICY AND REGIONAL COOPERATION IN THE ASIA-PACIFIC REGION</td></tr>
<tr><td>12:30 – 1:45 PM</td><td colspan="2">NETWORKING LUNCH</td></tr>
<tr><td>1:45 – 3:00 PM</td><td colspan="2">GLOBAL DEVELOPMENTS IN CORPORATE TAXATION</td></tr>
<tr><td>3:00 – 3:30 PM</td><td colspan="2">COFFEE BREAK</td></tr>
<tr><td rowspan="2">3:30 – 5:00 PM</td><td colspan="2">BREAKOUT SESSIONS</td></tr>
<tr><td>TAX ISSUES IN ISLAMIC FINANCE AND USE OF ZAKAT AS A TAXATION FORM (Elevating Zakat as a significant Economic Instrument)</td><td>GLOBAL DIRECT TAX POLICY DEVELOPMENTS – THE UN PROCESS AND OECD INCLUSIVE FORUM</td></tr>
<tr><td>8:00–10:00 PM</td><td colspan="2">GALA DINNER</td></tr>
</table>

Asia-Pacific Tax Forum

16-17 July 2024
Kuala Lumpur, Malaysia

SCHEDULE AT A GLANCE

DAY 2 - WEDNESDAY, 17th JULY 2024 SHERATON IMPERIAL HOTEL KUALA LUMPUR, MALAYSIA		
9:00 – 10.30 AM	INDIRECT TAX POLICY AND ADMINISTRATION	
10:30 – 11:00 AM	COFFEE BREAK	
11:00 AM – 12:30 PM	BREAKOUT WORKSHOPS	
	REGIONAL INTEGRATION AND THE NEED FOR COORDINATION IN INDIRECT TAXES	TAX ISSUES IN THE EXTRACTIVE SECTOR IN THE ASIA-PACIFIC REGION
12:30 – 1:45 PM	NETWORKING LUNCH	
1:45 – 3:00 PM	BREAKOUT WORKSHOPS	
	IMPLEMENTATION OF E-INVOICING SYSTEMS	TRANSFER PRICING CONTROVERSY ISSUES AND OPPORTUNITIES
3:00 – 3:30 PM	COFFEE BREAK	
3:30 – 5:00 PM	DEVELOPMENTS IN GST/VAT WORLDWIDE	
5:00 – 5:30 PM	CLOSING SESSION	

Please scan the barcode below:

Detailed Schedule:

Evaluation Form

EVENTS HIGHLIGHT

We are thrilled to present a series of special events that will add excitement and memorable experiences to our Forum. This Forum has been meticulously planned to ensure a delightful and enriching experience for all our participants.

Welcome Reception – Tuesday 16th July 8.00 a.m.

Kick off the program with a warm and inviting Welcome Reception. This event is designed to provide attendees with the opportunity to meet and greet fellow participants, speakers, and organizers in a relaxed and friendly atmosphere. Enjoy a selection of refreshments and light hors d'oeuvres while making new connections and setting the stage for the days ahead. The Welcome Reception promises to be an excellent start to our program, fostering a sense of community and camaraderie among all attendees.

Networking Events – The Forum

Our Networking Events are designed to facilitate meaningful interactions and professional connections among participants. These sessions will provide a structured environment for attendees to engage in discussions, share ideas, and explore potential collaborations. Whether you are looking to expand your professional network, seek advice from industry experts, or simply exchange insights with peers, these events offer a valuable platform for growth and engagement. Be prepared to connect, collaborate, and cultivate relationships that could lead to exciting opportunities.

Gala Dinner – Tuesday 16th July 8.00 p.m.

Join us for an elegant and unforgettable Gala Dinner, the highlight of our special Forum. This formal evening will feature a sumptuous multi-course meal. The Gala Dinner provides a wonderful opportunity to celebrate the achievements and milestones of our forum in the company of distinguished guests and esteemed colleagues. Dress to impress and prepare for an evening of fine dining, inspiring speeches, and delightful performances that will create lasting memories.

Cultural Event – Tuesday 16th July 8.00pm

Experience the rich cultural heritage of our host location through a vibrant and captivating Cultural Event by Kuala Lumpur City Hall cultural performance Group. This special occasion will showcase traditional music, dance, and art, providing a unique insight into the local culture and customs. Attendees will have the chance to immerse themselves in the beauty and diversity of the region, enjoying performances by talented artists and performers. The Cultural Event is a celebration of creativity and tradition, offering a delightful and educational experience that adds a special touch to our program.

Busker Performance by Gfadz Busker – Tuesday 16th July 8.00pm

We are excited to feature a captivating busker performance by Gfadz Busker, renowned for their dynamic and engaging street performances. Join us for an evening filled with live music, vibrant rhythms, and an unforgettable atmosphere. Gfadz Busker's unique style and energetic presence will surely entertain and delight all attendees. Don't miss this opportunity to experience the magic of live street music up close!

These special events have been thoughtfully curated to enhance your overall experience, providing a perfect blend of professional, social, and cultural engagement. We look forward to your participation and hope you enjoy these memorable occasions as much as we have enjoyed planning them for you.

Sheraton Imperial Kuala Lumpur Hotel Info

HOTEL LOCATION

Next to The Row where the heritage shop houses transformed into stylish pubs, bistros, restaurants,
1-hour drive from KLIA airport.
10-min drive to Kuala Lumpur Convention Centre.
15-min drive to MITEC and World Trade Centre Kuala Lumpur.
2-min walk to Medan Tuanku Monorail station to Bukit Bintang (3 stops).
5-min walk to Dang Wangi LRT station to KLCC (2 stops).

Main Conference at Nusantara Ballroom located at **Level 2**

For in-house guest **breakfast** will be serve at Essence Restaurant, Level 1 from 6.30AM - 10.30AM

Lunch venue at Essence Restaurant, **Level 1 from 12PM - 2PM**

CASHLESS PARKING via Touch & Go or Credit/Debit Card

For in-house guest parking chargeable at MYR 5.00nett per entry per day
For guest attending event parking chargeable at MYR 10.00nett per entry per day
To validate the Touch & Go or Credit/Debit Card at Concierge counter at Level G, 15 minutes before

SURAU located at Level G

Guest parking at Basement 1, 2 & 3

F&B OUTLET

<u>Essence Restaurant</u>
Operation Hours (Daily):
6.30am – 10.30am (Breakfast),
12.00pm – 2.30pm (Lunch)
6.30pm – 10.00pm (Dinner)

<u>Celestial Court Chinese Restaurant</u>
Operation Hours (Tue-Sun):
12.00pm – 2.30pm
6.30pm – 10.00pm

<u>Pavilions Lounge</u>
Operation Hours (Daily):
9.00am – 11.00pm

HOTEL FACILITIES

Outdoor Swimming Pool (Level 5)
Operation Hours: 7.00am – 7.00pm

Sheraton Fitness (Level 5)
Operation Hours: 24-hours

ACKNOWLEDGEMENTS

We are deeply grateful for the unwavering support and contributions from various esteemed organizations and individuals who have played a crucial role in the success of this forum. It is with great pleasure and heartfelt appreciation that we acknowledge their invaluable assistance.

Ministry of Finance, Malaysia

First and foremost, we extend our profound gratitude to the Ministry of Finance, Malaysia. Your steadfast support and generous contributions have been instrumental in enabling us to realize our vision for this forum. Your dedication to fostering growth and development within our community is truly commendable. The resources and guidance provided by the Ministry of Finance, Malaysia have been pivotal in ensuring the seamless execution of our plans. We are honoured to have such a distinguished partner in our endeavours.

Royal Malaysian Customs Department

We would like to express our sincere appreciation to the Royal Malaysian Customs Department. Your cooperation and assistance have been vital in facilitating our efforts. The smooth and efficient coordination provided by the Royal Malaysian Customs Department has greatly contributed to the successful organization of this forum. Your commitment to excellence and your proactive approach have set a high standard for all involved. We are grateful for your continued support and look forward to future collaborations.

Inland Revenue Board, Malaysia

Our heartfelt thanks go to the Inland Revenue Board, Malaysia. Your generous contributions and ongoing partnership have significantly enhanced the scope and impact of our forum. The technical support provided by the Inland Revenue Board of Malaysia have been crucial in helping us achieve our objectives. Your dedication to community welfare and development is evident in your actions, and we are privileged to have your backing. Your involvement has made a substantial difference, and we are deeply appreciative of your support.

Our Sponsors

We extend our deepest gratitude to our esteemed sponsors for their invaluable support in making this tax forum a success. Their generous contributions have been instrumental in bringing this event to life.

APPRECIATIONS

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MNZWAJA PLT
CHARTERED ACCOUNTANTS

Supporting Organisations:

We invite all attendees to join us in recognizing and celebrating the vital role our sponsors play in fostering dialogue and innovation within the tax community. Thank you for your commitment and dedication.

The Secretariat

We are immensely thankful to our dedicated committee members. Your tireless dedication, hard work, and meticulous planning have been the backbone of this program. The countless hours you have invested in organizing, coordinating, and executing various tasks have not gone unnoticed. Your passion and commitment to excellence have ensured the smooth running and overall success of this event. Each of you has played a vital role, and your collective efforts have brought our vision to fruition. We are proud to have such a dynamic and capable team.

Volunteers

Last but certainly not least, we extend our deepest gratitude to the volunteers. Your selfless service, enthusiasm, and invaluable assistance throughout the event have been truly inspiring. You have gone above and beyond in your efforts to support this program, and your contributions have been instrumental in its success. From the initial planning stages to the final execution, your dedication and hard work have been remarkable. Your willingness to give your time and energy to this cause is deeply appreciated, and we are incredibly grateful for your support.

In conclusion, we are profoundly thankful to all the individuals and organizations mentioned above. Your efforts and contributions have been instrumental in making this program a success. Your unwavering support and dedication have not only enabled us to achieve our goals but have also inspired us to strive for greater heights. Thank you for being an integral part of our journey and for helping us make a positive impact on our community. We look forward to continuing this partnership and achieving even greater success together in the future.

Contact Information – Secretariat

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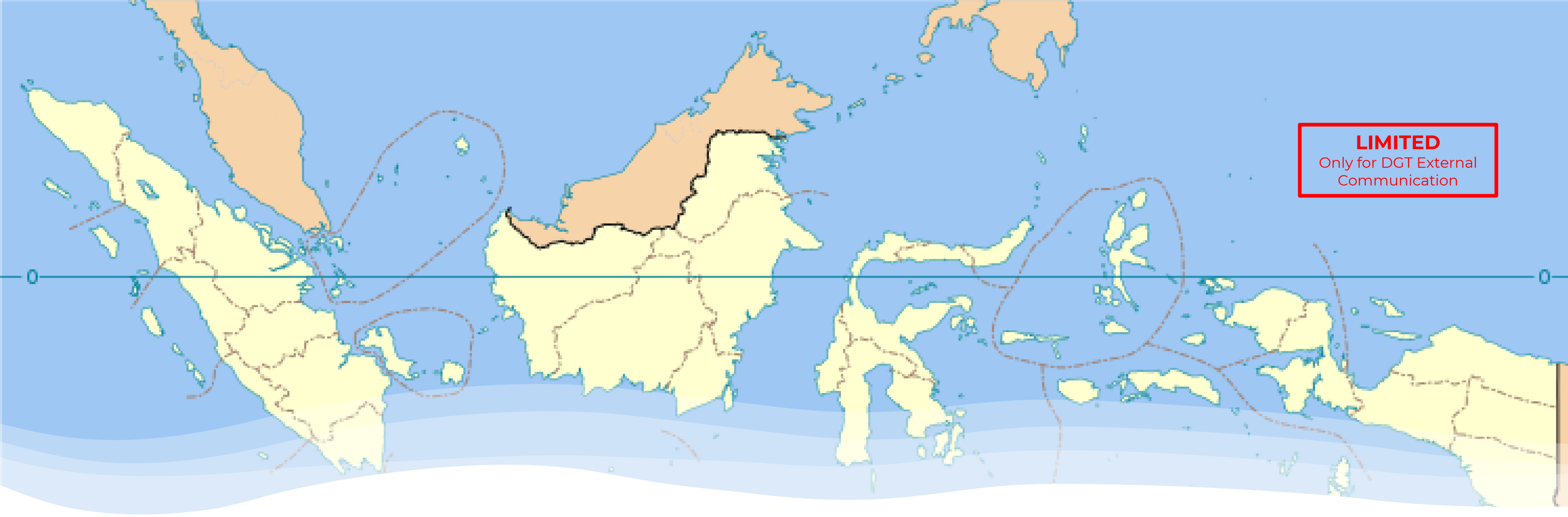
Indonesian Tax Administration Reform

Directorate General of Taxes
Republic of Indonesia

Jakarta, 2024



Tax Reform

Continuous effort to achieve the best fit of the organization to serve the country and taxpayer for the benefit of Indonesia

Snapshot of Indonesia

Category	Information
GDP Growth	Average annual growth rate of around 5,31% (as of 2022)
GDP	Largest economy in Southeast Asia, top 20 globally
GDP per capita	4,783 USD (as of 2022)
Inflation Rate	YoY 5.51% (as of December 2021)
Population	Over 270 million people (as of 2021)
Internet Users	Over 196 million internet users (as of January 2022)
Tax Revenue	Contribution of tax revenue reached 86.7% of total government revenue (as of 2020)
Number of Taxpayers	Over 60 million registered taxpayers (as of 2022)
Tax-to-GDP Ratio	Tax-to-GDP ratio of 10.138% (as of 2022)
Number of Tax Officials	Approximately 45,000 tax officials (as of 2023)
Prospects	
Economic Growth Potential	Driven by large population, rising middle class, and infrastructure development
Digital Economy	Rapid growth in the digital economy, with e-commerce sales reaching $44 billion in 2020
Investment Opportunities	Manufacturing, infrastructure, renewable energy, and tourism sectors

Reformasi Journey

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1980s – 1990s

- 1983
- **Tax Law Reform**
- Change from official assessment system to self assessment system

- 1991-2000
- **Taxes Law Reform**
- Setting the basic principles of taxation and
simplification of types of taxes

2000s

- 2000-2001
- **Bureaucratic Reform**
- Setting the vision, mission, and
- blueprint

- 2002-2008
- Tax Administration Modernization
- and tax law amendment

2010s – 2020s

2009 - 2014
Internal Control Improvement
and tax law amendment

2014-2016
Organizational Transformation
Organizational and human resources arrangement

2016
Bureaucratic reform and institutional transformation

2017-2018
Tax Reform Programme
Consolidation, acceleration, and continuity of tax reform

2018-2024
Renewal of the Tax Administration System (PSAP)
Comprehensive reform in 5 themes: Organization, Human Resources, Information Technology and Database, Business Processes, and Regulations

New CTAS (PSIAP)
Part of PSAP was built based on 10 business directions of the DG

The Need for Tax Reform

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Current Condition of Core Tax System

- Numerous processes are still performed **manually**
- **Not well integrated**
- **Unable to consolidat**e payment, reporting, billing and other tax core business data through an integrated accounting system
- **Outdated system**

Future Challenges and Opportunity

- **Increased Workload** due to the size of taxpayers, employees, work units' number
- **The Need for Information Exchange** that guarantees the validity, confidentiality and speed of data exchange
- **Development of information technology** (example: Artificial Intelligence) and **anticipating changes** in financial and business engineering

IT system and business processes reform toward **Digitalization** are very important and crucial in achieving the goal of Reforming the Tax Administration System

Before CTAS

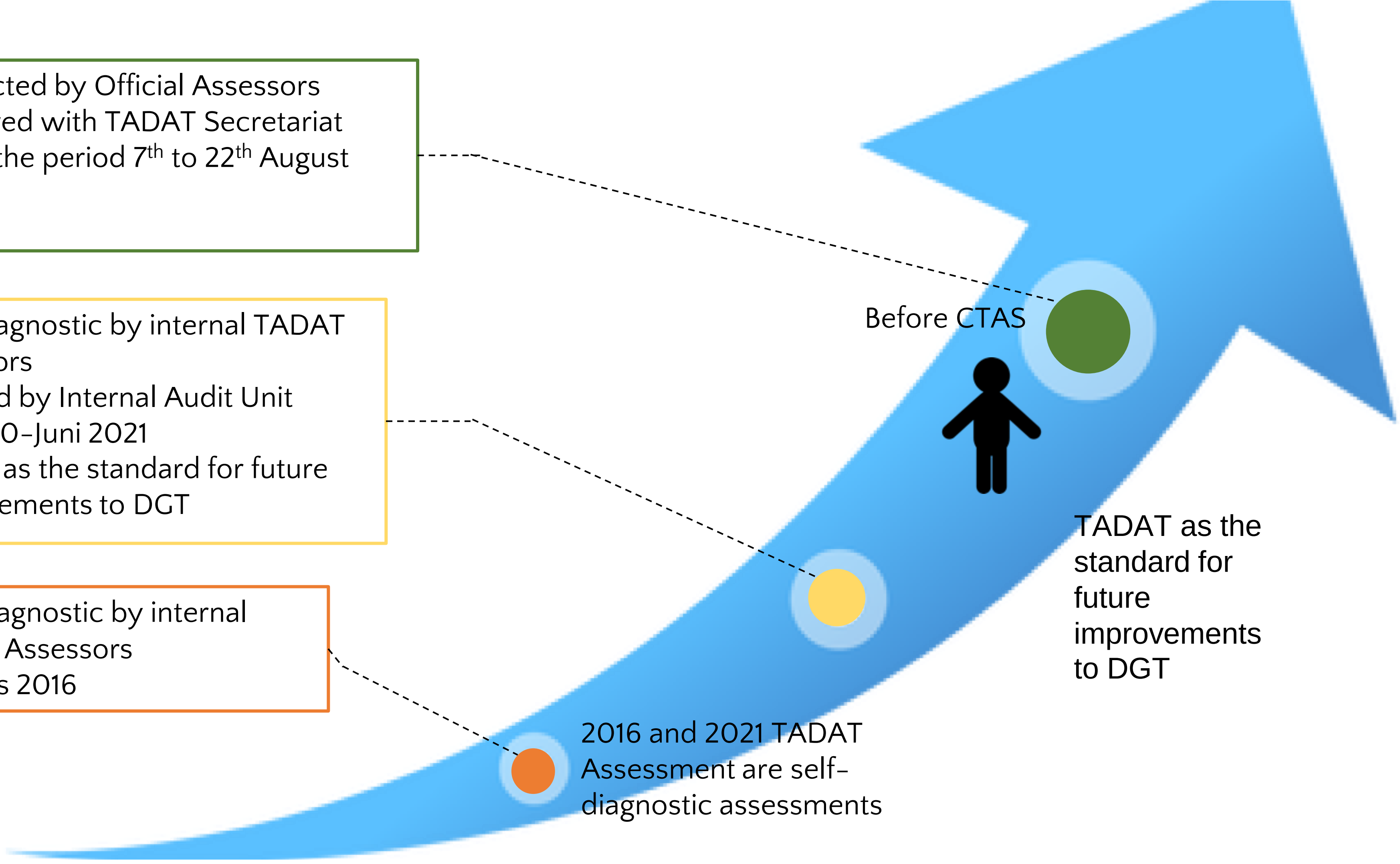
- Conducted by Official Assessors registered with TADAT Secretariat during the period 7th to 22th August 2023

2021

- Self-Diagnostic by internal TADAT Assessors
- Assisted by Internal Audit Unit
- Juli 2020-Juni 2021
- TADAT as the standard for future improvements to DGT

2016

- Self-Diagnostic by internal TADAT Assessors
- Jan-Des 2016



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Using the TADAT Assessment as one of the guidelines for change

What to reform (Initiative Strategy)

effective and efficient organizational structure by taking into account geographical coverage, organizational characteristics, economy, local wisdom, potential acceptance and adequate span of control, supporting the expansion of the range of services and supervision of taxpayers and the timely completion of tasks

laws and regulations that are harmonious, simple, support the expansion of service coverage, improve the quality of service and guidance of taxpayers, increase ease of doing business, improve the economy and tax revenues, as well as in accordance with the needs of stakeholders, economic development, and information technology

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- Tax Reform
  - Organization
  - Human Resource
  - Business Process
  - Information Technology and Database
  - Regulation

human resources who are resilient, accountable and have integrity in order to carry out tax administration in order to achieve tax revenue targets and other strategic strategies;

a reliable tax administration information system integrated with the core business processes of tax administration and supported by an accurate database (reliable) and can be used as a Single Source of Truth

effective, efficient, and accountable core business processes of tax administration

Pillars of Tax Reform

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Voluntary Compliance
in order to optimize
tax revenue

Strong, Credible, and Accountable Tax Institutions

Organization

Ideal organizational structure (best fit)

HR

Professional, competent, credible, with integrity

IT & Databases and Business Processes

- Reliable and reliable IT and Databases
Business Processes that are simple, effective, efficient, accountable, IT-based, and comprehensive

Legacy ***Coretax***

Regulation

Legal certainty, accommodating economic dynamics, reducing compliance costs, expanding the tax base, and increasing tax revenues

Facilities and Infrastructure

Budget

Synergy of Other Parties

PRACTICALITY OF TO-BE BUSINESS PROCESSES FOR TAXPAYERS

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Taxpayer Portal

Taxpayer Account is a space for recording, storing and submitting data and/or information, including documents, related to the implementation of the taxpayer's tax rights and obligations as well as the implementation of the duties and functions of the DGT, which are identified using the Taxpayer Identification Number.

Registration

Easier registration, borderless, multi-channel, and validated through single source of truth. Individuals can register as taxpayer by activating/matching/updating Tax Identification Number (TIN).

Payment

Easier payment process through multi account billing code and automation for overbooking and preliminary refund of tax overpayment.

Taxpayer Acct Mgmt

Comprehensive Taxpayer profile makes it easier for Taxpayers to know the condition of their tax balances and transactions. It is also supported by automation of the accounting system in accordance with the tax accounting regulations and standards.

Tax Returns Submission

Easier tax return submission, supported by integrated process from preparation (utilizing e-Faktur, e-Bupot, and e-Statement), submission, processing, to payment in a single application. Aside from that prepopulated and validation data will reduce error in tax return submission.

Tax Services

Ease of interaction between Taxpayers and DGT through expanding integrated channels, simplifying application requirements and providing e-tracking features to find out the status of taxpayer applications.

DGT Business Direction for the Core Tax Development

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1. Streamlined Process

- Simplification of business processes to be more effective and efficient through streamlining and subtraction of manual steps in the process (e.g. pre-populated data)
Utilization of technology to eliminate duplication and unnecessary processes without compromising the quality of work results

2. Customer-Centric Approach based on User Experience

- Ease-of-use process for users (Taxpayers/ DGT internals) optimized based on user experience
Creation of a positive experience for users (Taxpayers / DGT internals) by understanding convenience, maximizing service and building relationships

3. Open and Integrated System

- Core Tax System must be a system that is able to integrate all business processes in one information system and create connectedness with surrounding information systems
Integrated processes and systems can provide superior capabilities in the analysis and reporting process

4. Data and Knowledge Driven

- Optimization of service delivery and process completion based on data and knowledge by utilizing BI and KM
The use of an integrated data-driven system can provide the ability in a quality and credible analysis and support process, both to support internal and external needs

5. Digitized and Automated Process

- Development of business processes that utilize the use of digitalization for process automation such as: paperless processing, reduction of manual data entry, workflow automation, electronic approval, monitoring aging and anomaly detection

6. Enterprise Wide – Integrated View of Taxpayer

- Comprehensive Taxpayer Information and can display taxpayer-related information integrated in one system

7. Prudent and Accountable

- A more reliable process is organized with the principle of prudence and can be accounted for, through strict authentication, segregation of duties and authorities, an auditable system, reduction of transaction errors, data protection/security and defense against threats (fraud detection)

8. Risk based Compliance Approach

- Utilization of a risk approach to assist decision making, determine feasible follow-ups, and allocate available resources by determining work priorities

9. Omni Channels and Borderless Services

- Optimization of omni-channel utilization by adding access to services so as to expand the reach of Taxpayers and Users in accessing services and information

10. Centralized Key Capabilities in Center of Excellence

- Optimal utilization of key centralized abilities and skills, to provide the best service for all parts of DGT
Facilitating new roles and enhancing existing roles through changes made possible by technology (ex: Big Data, Analytics, Artificial Intelligence, Shared Services)

Expected Benefit/Outcome

First, taxpayers' activities can be captured thoroughly through electronic systems

Second, supporting a digital auto-regulated ecosystem that utilizes unique digital ID

Third, the system is targeted to run an interactive method of data collection

Finally, the Core Tax System serves as a support measure for increasing the tax ratio

Rahasia
Hanya Untuk Internal DJP

Timeframe Rencana Strategis DJP 2025-2029

Pilar Reformasi	Histori <2024	2024	Ekspektasi 2025-2029	Kondisi yang diharapkan
Sistem Informasi	Persiapan dan pembangunan *Core Tax*	Implementasi CTAS	Menjaga dan menguatkan *Core Tax*	Tax Ratio 11-12 %
			Menyiapkan *surrounding* yang diperlukan	Bouyancy > 1
Basis Data	Pembenahan Tata Kelola Data	Pengumpulan data ILAP		Menjaga sistem berjalan sesuai kebutuhan dan interoperable
	Pemadanan NIK dan NPWP	Pengumpulan data aktivitas DJP		Tersedianya data yang cukup untuk mendukung target penerimaan
	Program PPS	Penjaminan kualitas data		
Proses Bisnis	Pengawasan Strategis dan Kewilayahan	Perbaikan probis core (Pelayanan, Pengawasan, Pemeriksaan, Penegakan Hukum, Penagihan, Keberatan, dll)		• Mempermudah layanan kepada masyarakat • Aktivitas core lebih efektif dan efisien
	Inisiasi Komite Kepatuhan	Implementasi Komite Kepatuhan		
Organisasi	Penambahan KPP Madya	Penataan Ulang KPDJP, Kantor Wilayah dan KPP Penataan Ulang KP2KP dan UPT Delayering		Organisasi yang sesuai dengan kebutuhan untuk menjalankan core tax
SDM	Pegawai Core (49%) dan Non Core (51%)	• Fungsionalisasi • Penambahan Pegawai • Pegawai Core (80%) dan Non Core (20%)		SDM yang sesuai kebutuhan untuk meningkatkan penerimaan s.d. 2029
Peraturan	UU No.10/2020, UU No.7/2021, UU No.6/2023	• Regulasi Meningkatkan Ekonomi • Regulasi Meningkatkan Penerimaan • Regulasi Memudahkan Investasi		Peraturan yang mendukung ekonomi, penerimaan, dan kepatuhan WP

Thank You
Terima kasih

Pajak Kita, Untuk Kita

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PAJAK KUAT

INDONESIA MAJU

ADB

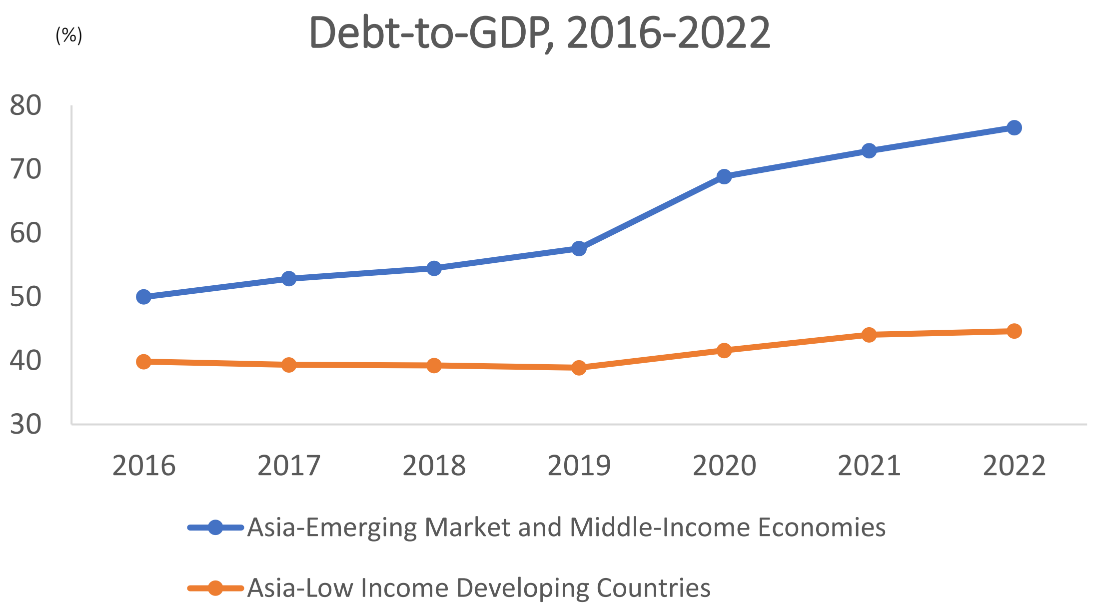
DRM and the Asia Pacific Tax Hub (APTH)

Dr. Sandeep Bhattacharya

Senior Public Management Specialist (Tax)

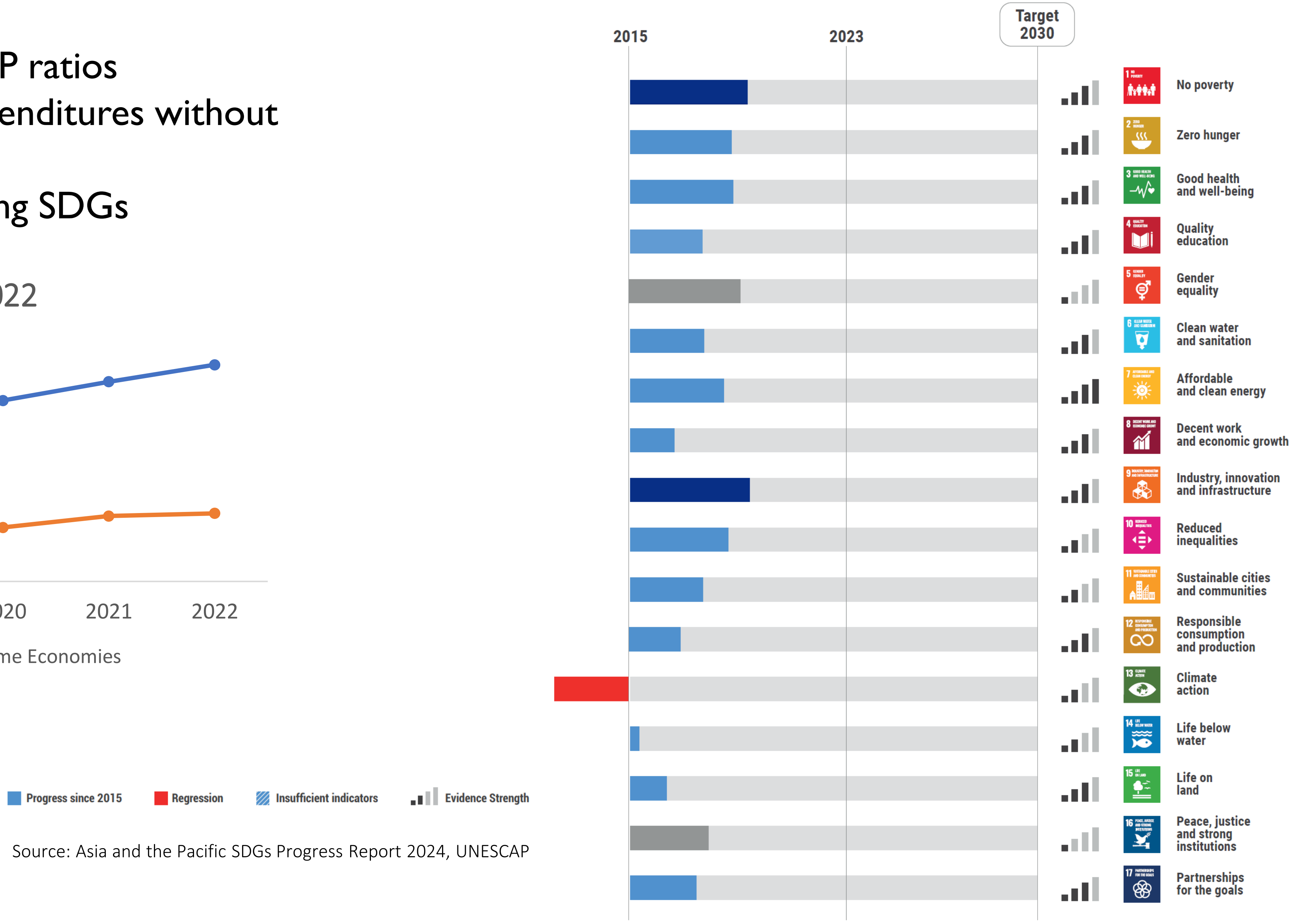
The DRM Challenge in the AP Region

- ❑ High and rising debt-to-GDP ratios
- ❑ Meeting developmental expenditures without risking debt sustainability
- ❑ Poor performance in meeting SDGs



Source: IMF Fiscal Monitor April 2022

Snapshot of SDG progress in Asia and the Pacific, 2023

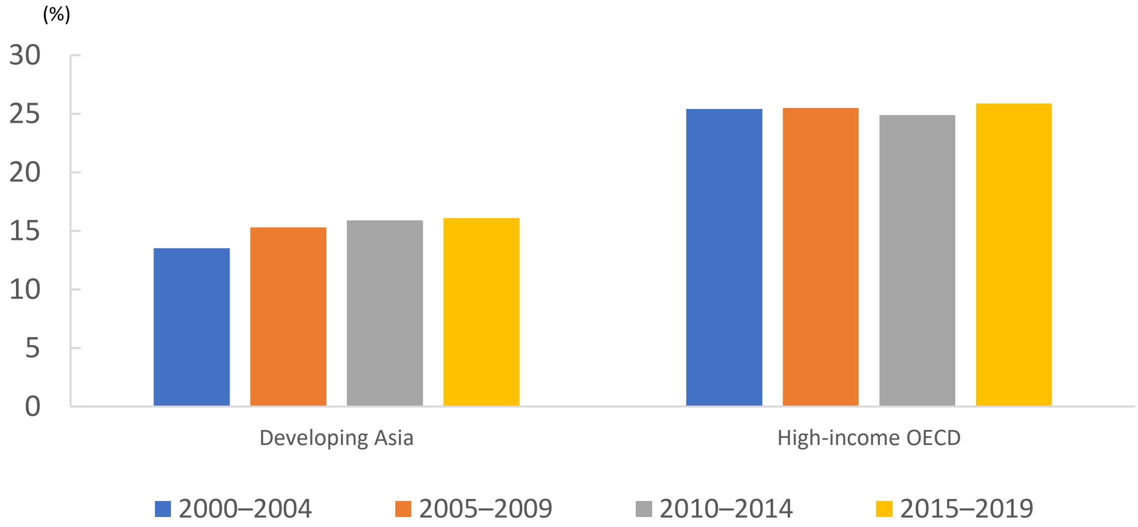


Source: Asia and the Pacific SDGs Progress Report 2024, UNESCAP

The DRM Challenge in the AP Region

Generally low tax-to-GDP ratios

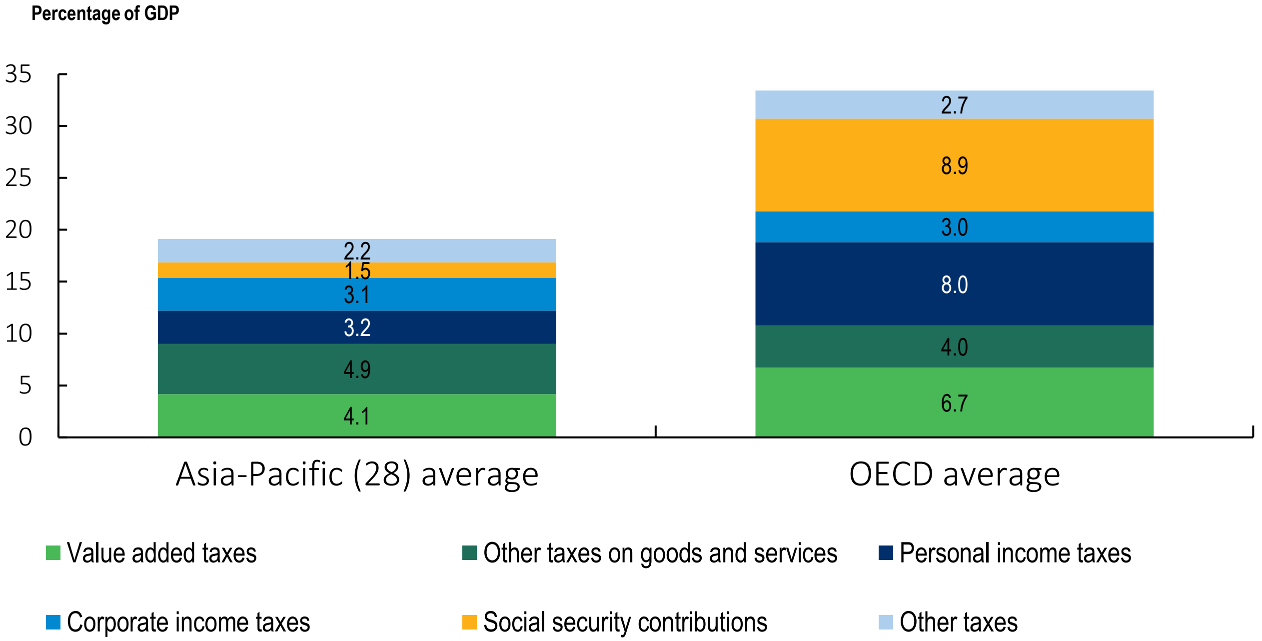
Tax-to-GDP ratios, 2000-2019



Note： Twenty-six economies in developing Asia and 33 among high-income OECD members. Data do not include social security contributions.
Sources: Asian Development Outlook 2022, Theme Chapter, Figure 2.1.3

Need to improve revenue effort

Tax Structure as a Percentage of GDP in 2020

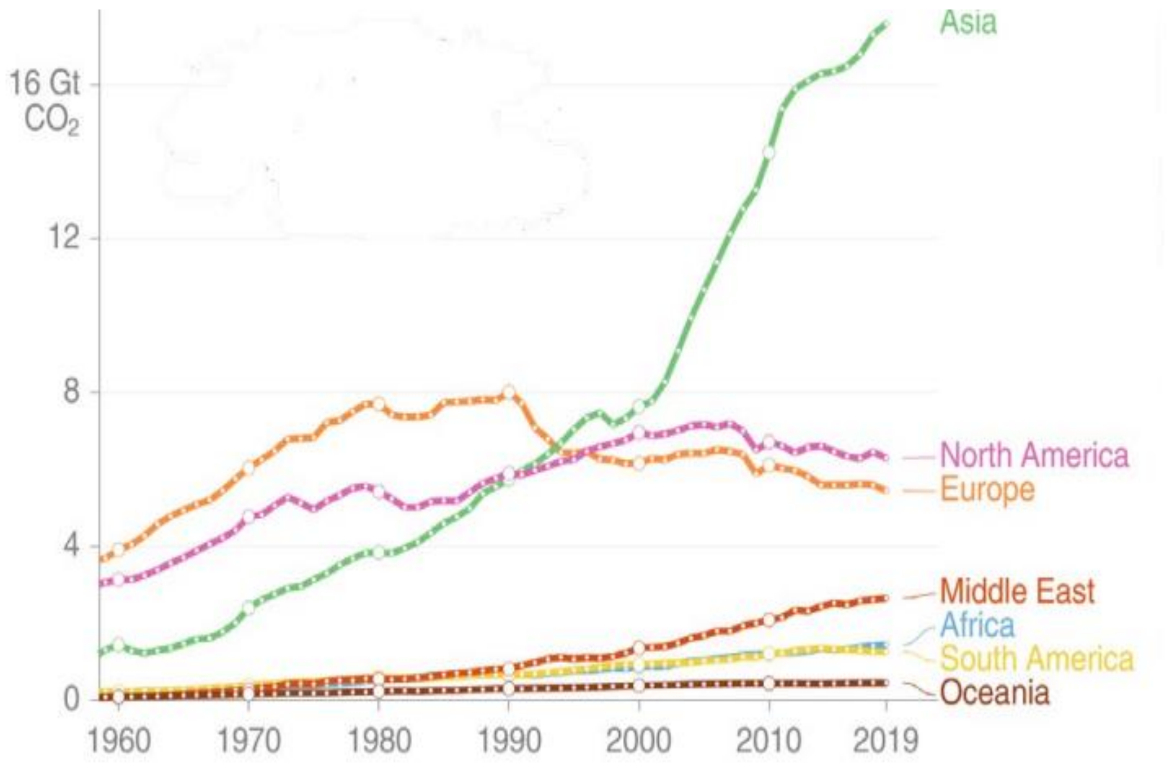


Notes: The averages for Asia and the Pacific (28 economies) and the OECD (38 countries) are unweighted. 2019 data are used for OECD average.
Source: (OECD, 2022), "Revenue Statistics - Asian and Pacific Economies: Comparative tables", OECD Tax Statistics (database).

Addressing Climate Change

- In 2019, about 50% of global CO_2 emissions from fossil fuel combustion were from Asia and the Pacific
- Asia and the Pacific is the frontline of climate change.
- The battle against climate change will be won or lost in Asia and the Pacific
- Discouraging the use of fossil fuels and promoting renewable sources of energy is crucial.

Annual Fossil CO2 Emission by Continent

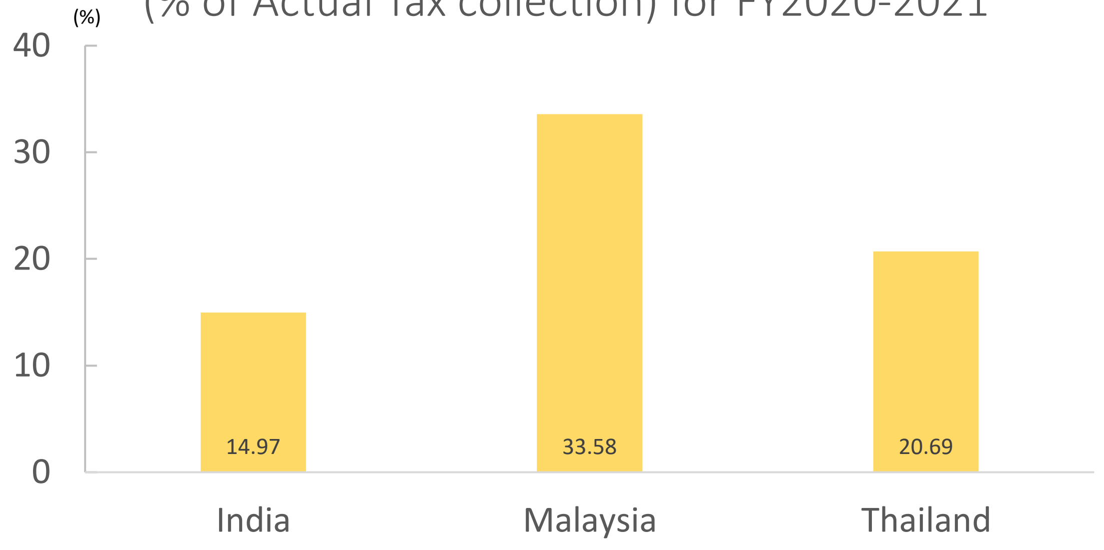


Source: ADB support for Action on Climate Change, 2011-2020; Global Carbon Project.

Widespread Use of Tax Incentives During the Pandemic

- In almost all economies, fiscal stimulus packages comprised both spending measures, and tax concessions.
- Exit Strategy (the optimal timing) for the removal of the tax measures is never easy.
- Emphasis to be placed on a fine balance to avoid premature exit and prolonged extension of tax concessions.

Revenue Loss On Account of Tax Concessions
(% of Actual Tax collection) for FY2020-2021

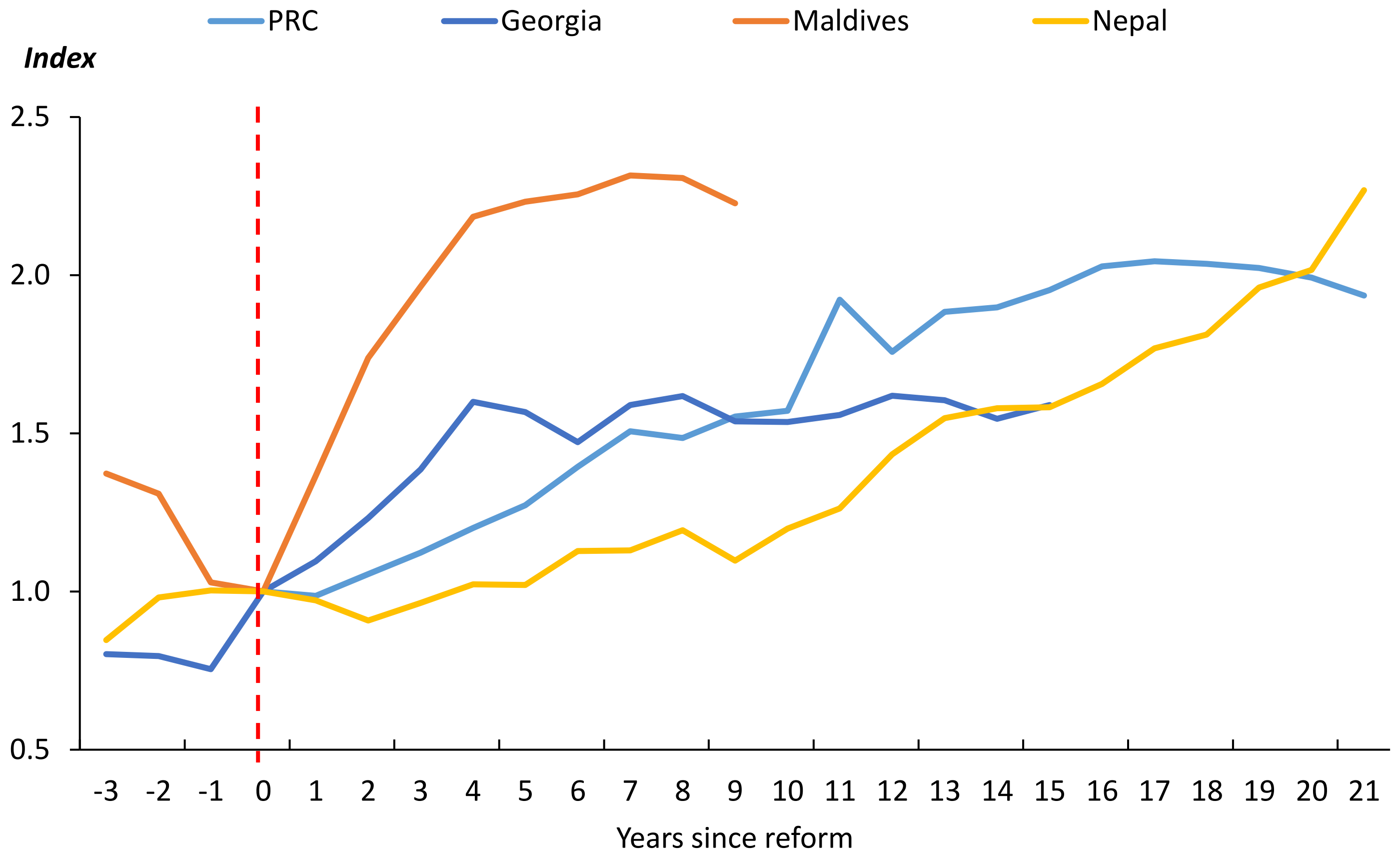


Note: This figure represents Q1 for India, and Q2 for Malaysia and Thailand.
Source: ADB Governance Brief, 2021, tables 6-8, Exit Strategy to Ease or Eliminate

Reform to mobilize tax revenues is difficult but feasible

Some developing economies have substantially increased tax revenue.

Index of tax revenue as a share of GDP before and after reform

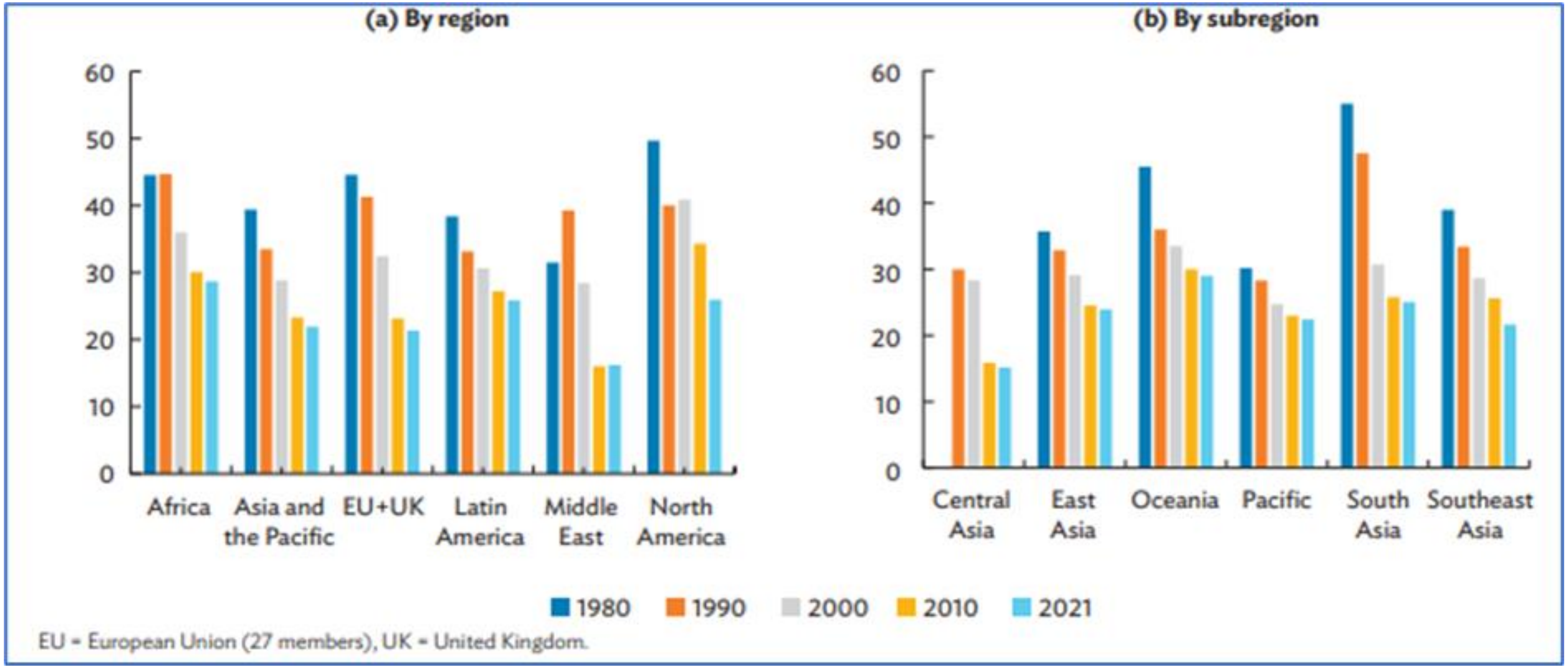


PRC = People's Republic of China
Source: International Monetary Fund Government Finance Statistics (accessed 31 January 2022); World Revenue Longitudinal Data (accessed 22 October 2021); ADB staff estimate.
Notes: Tax to GDP ratios are indexed to the year of reform for each economy. Reform years are as follows: PRC (1995), Georgia (2004), Maldives (2010), and Nepal (1997).

ADB and tax expenditures and incentives

Trends in Tax Incentives

Average Statutory Corporate Income Tax Rate by Region and Subregion, 1980–2021 (percent)



Source: ADB (2023, Figure 3.12, p. 72).

Trends in generosity and sectoral composition of tax incentives

- Tax incentives have become more generous, including those applicable to both domestic and foreign investors (UNCTAD, 2022, p. 77)

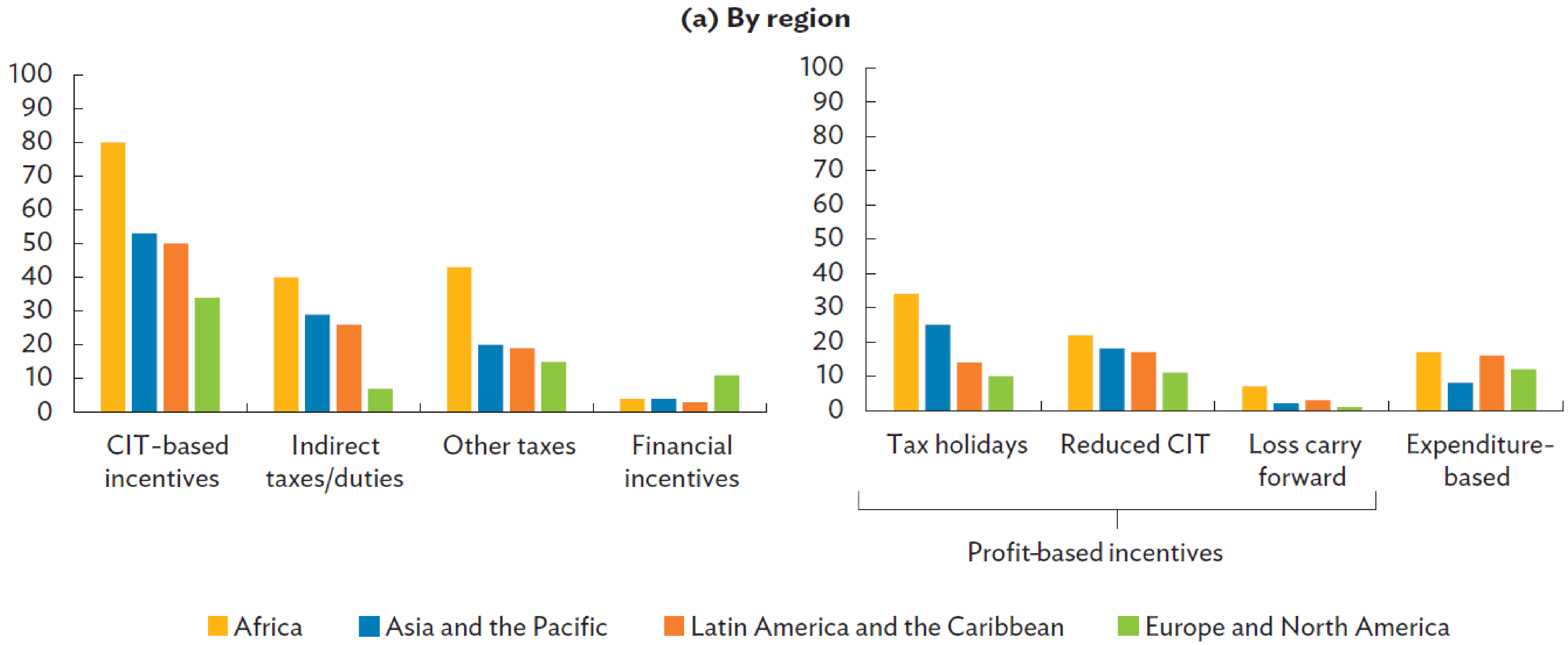
- Typically, incentives target manufacturing, industries where knowledge spillovers will be high, export-oriented industries, infant or pioneer industries or activities, and specific regions.

- Countries also target areas in which they wish to further develop a comparative advantage and benefit from agglomeration economies.

- Another motivation for incentives is to encourage investment in restive or less developed regions. Reasons could be social, political or economic

- Tax holidays are the most common incentive and manufacturing is the main beneficiary of tax incentives

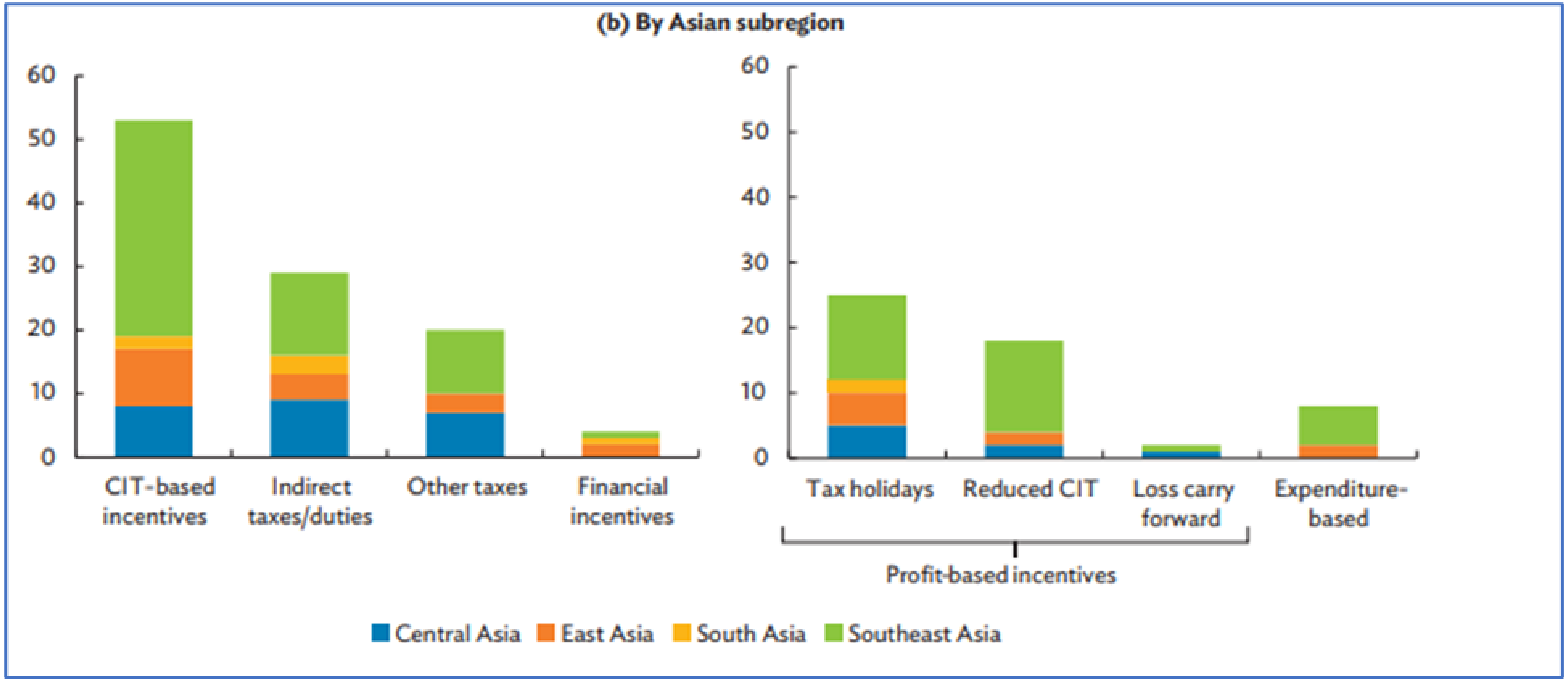
Investment Incentives By Type, 2011–2021 (count)



Source: ADB (2023, Figure 3.16, p. 75).

ADB

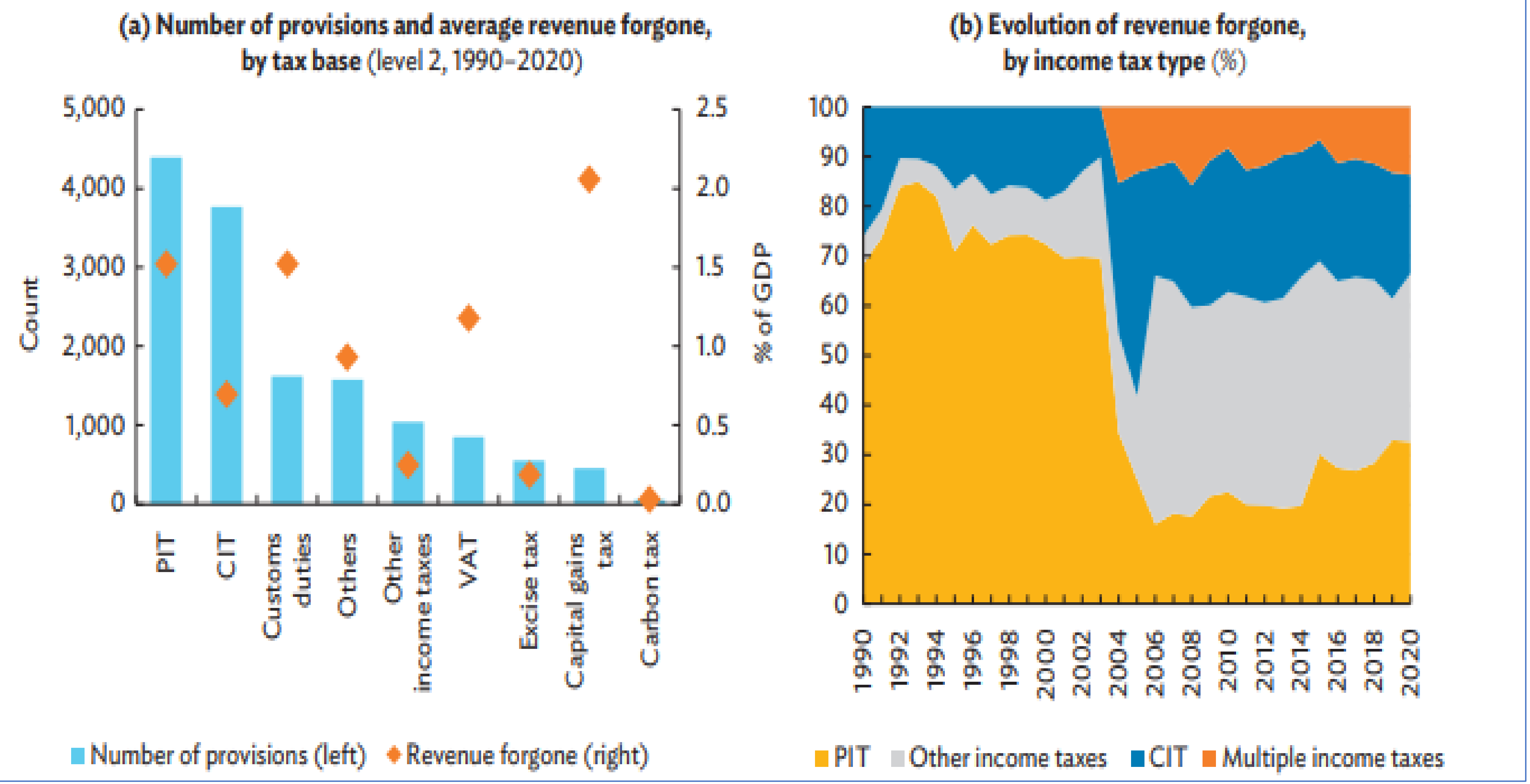
Investment Incentives by Type-Subregion of Asia (2011-2021)



Source: ADB (2023, Figure 3.16, p. 75).

Empirical Findings

Average Revenue Forgone by Tax Type—Selected Asia and Pacific Economies
Source: ADB (2023, Figure 3.15, p. 74).



ADB

Asia Pacific Tax Hub

https://www.adb.org/what-we-do/asia-pacific-tax-hub

Purpose of the Tax Hub

Open and inclusive platform
Strategic policy dialogue
Knowledge sharing Development coordination

Background

First proposed in Sep 2020 at 53rd Annual Meeting
Launched in May 2021 at ADB's 54th AM

Key building blocks

Medium-term Revenue Strategy (MTRS)
Digital transformation of Tax Administrations
International Tax Cooperation (ITC)

Tax Hub Secretariat

ADB staff, secondees and consultants

TA Activities (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

9	66	13	8
TADAT* and/or MTRS** Training	AEOI, BEPS and EOIR related training	Tax Expenditure analysis, VAT Audit, Others	Support to DRM PBLs, Environmental Taxation and DRM

*Tax Administration Diagnostic Assessment Tool (TADAT)
** Medium-term Revenue Strategy

TA activities in 21 DMCs

- Armenia
- Azerbaijan
- Bangladesh
- Bhutan
- Cambodia
- Fiji
- Indonesia
- Kazakhstan
- Kyrgyz Republic
- Maldives
- Mongolia
- Nepal
- Palau
- Papua New Guinea
- Philippines
- Sri Lanka
- Tajikistan
- Thailand
- Uzbekistan
- Viet Nam
- Cook Islands

ADB

TA Activities (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Armenia

- TA on Automatic Exchange of Information (AEOI)
- BEPS Action 6 Prevention of Tax Treaties (TT) Abuse
- BEPS Action 1 Pillar 2

Azerbaijan

- Trainings on BEPS Actions 8-10 Transfer Pricing (TP)
- BEPS Action 7 Permanent Establishment (PE)
- BEPS capacity building on TP
- Tax auditing

Bangladesh

- Tax Expenditure Analysis capacity building
- VAT audit training
- Support to climate budget tagging project

Bhutan

- Tax expenditure analysis
- TADAT assessment and training
- Digital transformation of tax administration roadmap
- Support for MTRS

Cambodia

- TA on EOIR, BEPS Action 14 Mutual Agreement Procedure
- BEPS Action 1 Pillar 2
- Diagnostic Analysis on property tax management

Fiji

- Self-assessment exercises (EOI and BEPS)
- Membership application to Global Forum and BEPS IF

Cook Islands

- TA on EOIR and AEOI

Indonesia

- TADAT training and self-assessment support
- WBG-led TADAT joined by ADB
- BEPS Action 1 Pillar 2

Kazakhstan

- WBG-led TADAT joined by ADB

Kyrgyz Republic

- Self-assessment exercises (EOI and BEPS)
- Workshop on EOIR Tax Treaty Training

Maldives

- IMF - Led MTRS joined by ADB
- IMF - Led TADAT joined by ADB
- Digital transformation of tax administration roadmap
- TA on AEOI and BEPS Action 1 provided

TA Activities (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Mongolia

- TA on EOI, study on tax expenditures

Nepal

- IMF-led TADAT joined by ADB, Study on ETRs
- Diagnostic analysis on property tax management

Palau

- TA on EOI

Papua New Guinea

- TA on BEPS Action 14 Mutual Agreement Procedure
- BEPS Action 1 Pillar 2 provided

Philippines

- New DRM TA Project led by SERD with PSMG, OAI on TA for EOI and BEPS
- Workshops on EOI, TP, BEPS and Gender, IMF led TADAT joined by ADB

Sri Lanka

- Indirect taxes review
- IMF-led TADAT joined by ADB
- CRM pilot program

Tajikistan

- TA on BEPS Action 1 Pillar 2

Thailand

- Workshops on BEPS Action 6 Prevention of TT Abuse and Two-Pillar Solution
- TA on BEPS Action 15 Multilateral Instrument
- New DRM TA Project led by SERD w/ PSMG, OAI on TA for EOI and BEPS
- BEPS capacity building on TP and tax auditing

Uzbekistan

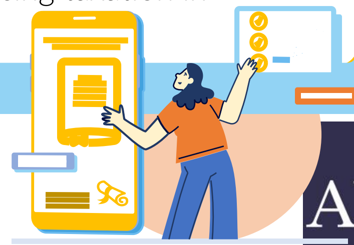
- TADAT training and assessment

Viet Nam

- AEOI and MAAC Training
- AEOI Workshop (w/ Global Forum)
- TA on TP and BEPS

Support to DRM PBLs, Environmental Taxation and DRM TA

- ✓ Support to DRM PBL in Philippines
- ✓ Support to DRM PBL in Bangladesh
- ✓ Support to DRM PBL in Indonesia
- ✓ Support to PBL in Sri Lanka
- ✓ Support to PBL in Pakistan
- ✓ Support to TA proposals for Bangladesh, Sri Lanka & 5 SE economies
- ✓ Support for environmentally related taxation in Thailand, Uzbekistan, C& W Asia region
- ✓ Support for carbon pricing taxation in Indonesia



ADB

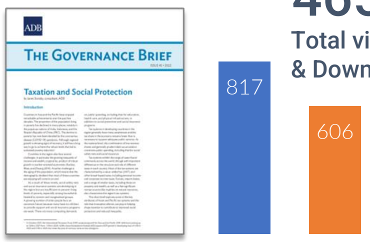
Knowledge Products (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Taxation of Robots (2022)

1,110
Total views & Downloads

Tax and Social Protection (2022)



465
Total views & Downloads

Tax Debt Compliance (2023)

1,663
Total views & Downloads

Large Taxpayer Administration (2022)

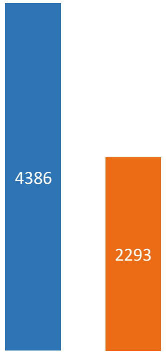
865
Total views & Downloads

Comparative Analysis of Tax Administration in APAC (2023, 2024)

854
Total views & Downloads

Seventh Edition

Launching a Digital Tax Administration Transformation: What You Need to Know (2022)

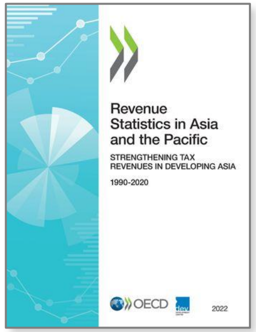


ADB

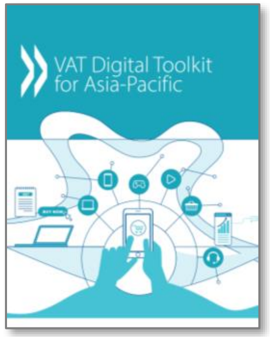
Knowledge Products (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Co-publications with OECD/World Bank (2021-2022)

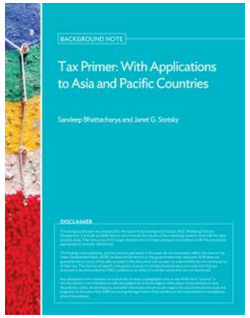


Revenue Statistics in APAC



The VAT Digital Toolkit

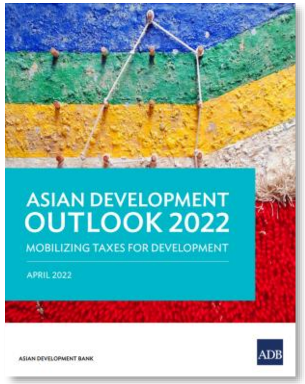
Tax Primer: With Applications to APAC (2022)



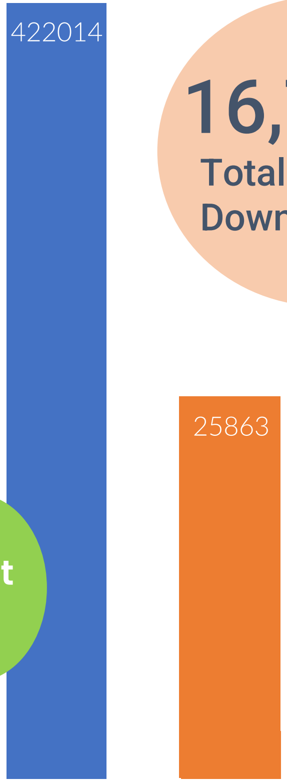
1,482
Total views

Background Note to ADO 2022

Asian Development Outlook (ADO) 2022: Mobilizing Taxes for Development



"Taxes must be mobilized to support sustainable development"

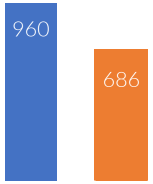


16,753
Total views & Downloads

With substantial contribution to the theme chapter

Carbon Pricing and Fossil Fuel Subsidy Rationalization Toolkit (2023)

2,027
Total views & Downloads



Knowledge Products (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Excise Tax Policy and Cigarette Use in High-burden Asian Countries (2023)

Fiscal Risks of Climate Change: Sources and Practical Solutions (2023)

Tax Incentives and Investment (2023)

Digital Transformation of Tax Administration in the Republic of Korea: (2023)

Tax Expenditure Estimation Toolkit (2023)

Coming soon

- Interaction of Carbon Prices and Fossil Fuel Subsidy
- Personal Income Taxation, Progressivity and Equity
- Tax and Informality

Digital Transformation of Revenue Administration in Singapore (2024)

Leveraging Technology for Property Tax Management in Asia and Pacific (2024)

Knowledge Products (2021 to 2024)

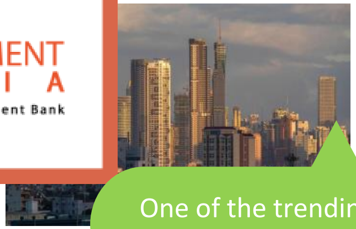
Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Revamping Tobacco Taxation Strategies for High-Burden Asian Countries, Development Asia (2023)

DEVELOPMENT ASIA
An initiative of Asian Development Bank

A Guide on Estimating the Revenue Losses from Various Tax Concessions, Development Asia (2024)

DEVELOPMENT ASIA
An initiative of Asian Development Bank



One of the trending topics in DevAsia site

A Guide on Using Tax Incentives for Optimal Investment Returns, Development Asia (2024)

DEVELOPMENT ASIA
An initiative of Asian Development Bank

Three Tools for Taking on Climate-Induced Fiscal Risk, Asian Development Blog (2024)

Asian Development Blog
Straight Talk from Development Experts

ADB

Events and Communication (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

11,472	50	94
Participants	DMCs and Jurisdictions	Capacity Building Events (2021-2024)

ADB-WB Tax and Digital Transformation (2021)

233 Attendees
Partners: WB

PCT-ADB Joint Virtual Seminar 1: Medium-Term Revenue (MTRS) Recovery and Development in Asia (2021)

199 attendees

PCT-ADB Joint Virtual Seminar 2: Medium-Taerm Revenue Support (MTRS) Recovery and Development for Small States in AP (2021)

269 Atteendees

First High-Level Regional Tax Conference (2021)

420 Registered attendees (31 DMCs)

Events and Communication (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Participants at the Strategic Workshop: Innovative Tax Administration (March 2023)

Workshops on Property Tax Management (2022)

Webinar: 31 Jurisdictions (26 DMCs)
Japan: 10 DMCs

Joint Event with WBG on Tax and Digital Transformation (2022)

127 Attendees

Webinars on Carbon Pricing and Fossil Fuel Subsidies Reduction (2022, 2023)

200 + Attendees (35 DMCs)

Workshop on Strengthening Property Tax Management (2023)

41 Attendees (33 DMCs)

Speakers at the Carbon Pricing and Fossil Fuel Subsidies Reduction Webinar

The APTH is supporting policymakers in DMCs to effectively design, implement, and manage the interplay of carbon taxes, emission trading systems, and fossil fuel subsidies reduction programs.

Events and Communication (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

150 Registered attendees (44 Economies)

Workshop on Digital Transformation Maturity Model (2023)

76 attendees

Training Workshop on International Taxation and Extractive Sector (2023)

60 Attendees (38 DMCs)
Partners: OECD, IGF

Strategic Workshop: Innovative Tax Administration (2023)

90 Attendees (25 DMCs)
Partners: NTA, ADBI, IMF, OECD, WBG, KDI, JICA, SGATAR

TADAT Workshop for SGATAR and ADB Members (2024)

54 attendees (33 DMCs)
Partners: NTA, IMF, the TADAT Secretariat, WBG

Workshop on Digital Transformation of Tax Administration (2023)

63 attendees (13 DMCs)
Partners: PRC, SGATAR

Digital Transformation of Tax Administration (2024)

63 Attendees (13 DMCs)
Partners: OECD, STA

Events and Communication (2021 to 2024)

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

1,135
Newsletters subscriptions from DMCs and development partners

148
Accredited tax officials on APTH Web Portal

14
Regional and development partnerships*

*ATO, Bloomberg Philanthropies, Global Forum, IMF/TADAT, Japan NTA, NZ IRD, OECD, PITAA, SGATAR, WBG, WHO, Leiden University, PCT, CATA,

Three newsletters distributed to over 1,000 tax officials and partners

APTH Newsletter and Communication Strategy

Three editions of APTH newsletter have been issued

Enhanced APTH Web Portal

Live 24 July 2023

Training workshop on International Taxation and Extractive Sector

91 Attendees (19 DMCs)
Partners: IGF, OECD

Participation in Commissioner-level Symposium on Digitalization of Tax Administration

ITC HELPDESK

In July 2023, an ITC Helpdesk was launched together with the APTH web portal. This Helpdesk provides participants with regular information sessions, guidance notes and toolkits on relevant ITC matters. It further provides for south-south cooperation among peers.

The Helpdesk contains the following features:

- **Regional Consultations**–Regular regional consultations to share the latest updates on the Two-Pillar Solution and understand the challenges faced by DMCs.
- **Bespoke Induction Programs**–For selected DMCs, a needs assessment will be conducted and a roadmap prepared for the implementation of the Two-Pillar Solution. ADB and the OECD will also support the implementation of the DMC's roadmap.
- **Collaboration Portal**–Using the online portal, DMCs will be able to collaborate and engage in knowledge sharing. There will also be regular information sessions on the "building blocks" of the Two-Pillar Solution

The APTH, with the support of the Domestic Resource Mobilization Trust Fund, has launched a web portal where accredited tax officials from ADB's developing members can interact with peers and experts on various domestic resource mobilization and international tax cooperation matters.

ADB

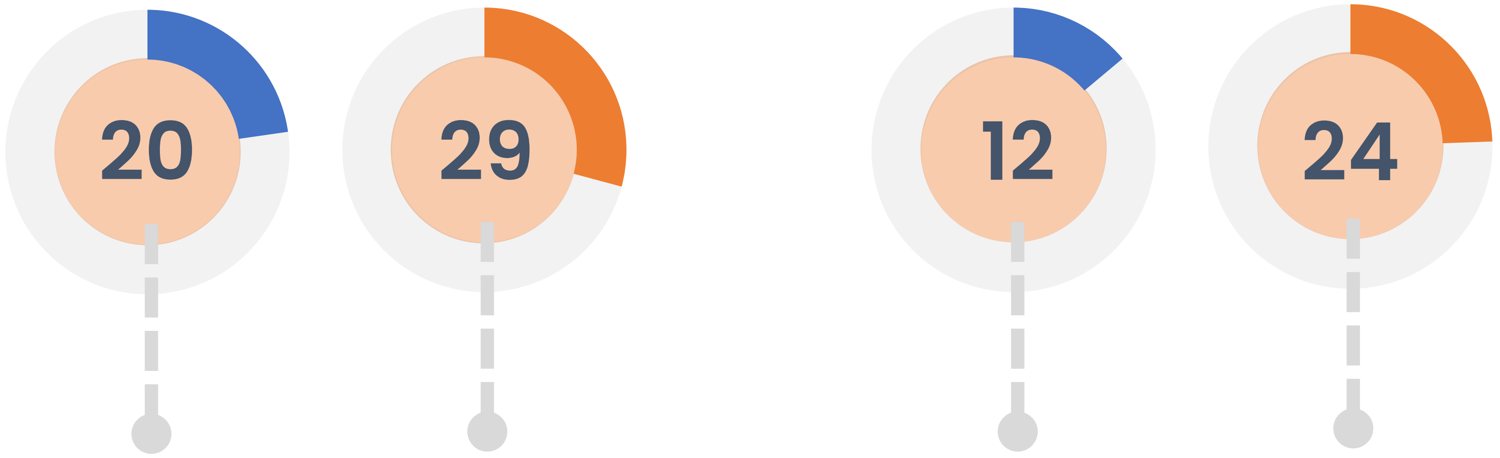
Implementation of Tax Integrity Standards

Progress Update (as of March 2024 on ADB DMCs

17 DMCs are not GF members

22 DMCs have not joined BEPS IF

Global Forum Members | **BEPS IF Members**



OCT 2016
Only 20 members out of 46 DMCs

MAR 2024
Increase of 9 members

OCT 2016
Only 12 members out of 46 DMCs

MAR 2024
Increase of 12 members

ADB

ITC Activities of the Tax Hub

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

Participants and experts (31 senior officials from 18 jurisdictions, including 14 DMCs) attending the Beneficial Ownership and Exchange of Information on Request training at ADB HQ in July 2023.

Six Meetings of the Asia Initiative

With Global Forum

Six BEPS Regional Consultations / virtual and in-person (HQ)

With OECD, CATA, PITAA, SGATAR

5 Meetings of the International Tax Pacific Initiative

Global Forum, OECD, PITAA, WBG, Australian Taxation Office, New Zealand Inland Revenue Department

Two Workshops on Tax Treaties: Permanent Establishment, Services, Royalties and the Prevention of Treaty Abuse

With OECD

Two Workshops on Tax Challenges and Opportunities Arising from Digitalisation / virtual

With OECD

Three Beneficial Ownership and EOIR Assessors Trainings

With Global Forum (Denmark and ADB HQ)

Four Brown Bag Sessions on BEPS Two-Pillar Solution / virtual

24 jurisdictions (21 DMCs)

ADB

ITC Activities of the Tax Hub

Knowledge sharing with partners, international finance institutions, bilateral revenue organizations, and DMCs in Asia and the Pacific

34 tax officials from 32 DMCs participated in the 5-day Practical Workshop on the Negotiation of Tax Treaties in Seoul, Korea on 27-31 May 2024. The workshop is usually organized annually in Vienna, the partners conducted it for the first time at the regional level to support DMCs in concluding tax treaties.

Practical Workshop on the Negotiation of Tax Treaties

With OECD and UNDESA

Tax Integrity Learning Webinar on Impact of Pillar Two on Tax Incentives

AEOI Experience Sharing Workshop

With Global Forum

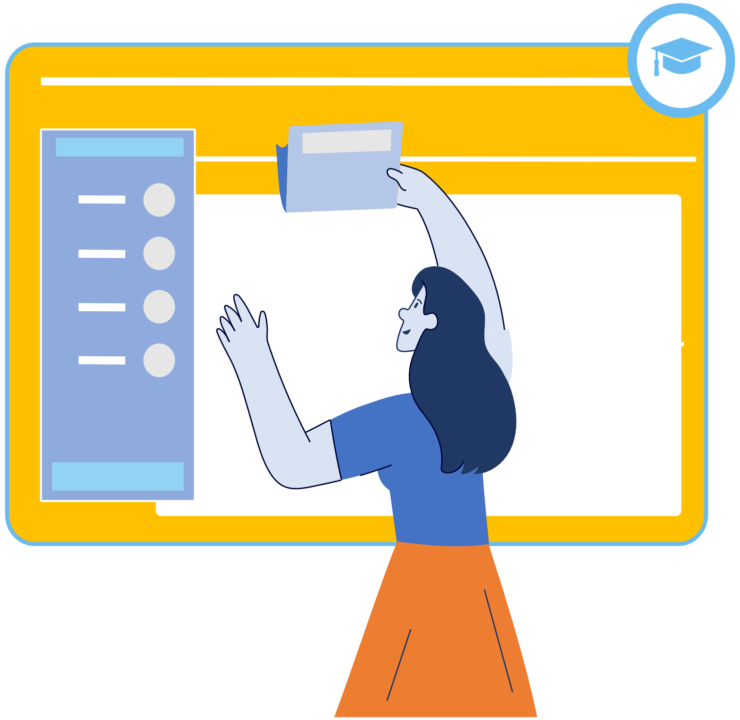
Constituency Building and Partnerships

- Continued partnership in the **Asia Initiative** supported by the **Global Forum**
- Enhanced collaboration with OECD on **Revenue Statistics,** and with IMF/TADAT Secretariat on **MTRS and TADAT,** and on the **International Survey of Revenue Administration** with IMF, OECD, IOTA and CIAT
- Continued cooperation with ATI/CEP on **Tax Expenditure Analysis** capacity building
- Continued cooperation with IGF and OECD on **international taxation of the Extractive Sector**

- New collaboration in **digital transformation** of tax administrations with PFTAC and PITAA
- Continued cooperation in the **Pacific Initiative** with the Global Forum, OECD, PITAA, SGATAR, WBG, ATO, NZ IRD
- Continued cooperation in **digital transformation** of tax administrations with NTA, SGATAR, OECD, WBG
- Enhanced collaboration with The Coalition of Finance Ministers for Climate Action, IMF, OECD, UN DESA, NTA & STA on **Carbon Pricing**
- Collaboration with Bloomberg Philanthropies, WHO, JHU & ASEAN Secretariat on **Tobacco & Alcohol Taxation**
- MOU with Leiden University on **Knowledge Sharing**

Strategic Future Directions

- ✓ **Maintain momentum and focus on the priority areas**
- ✓ **Gradual expansion of current APTH activities**
  - Tax Expenditure Estimation and Tax Policy Analysis Support
  - Tax Administration Diagnostic Assessment Tool (TADAT)
  - Carbon Pricing & Subsidy Rationalization
  - Digital Transformation of Tax Administration
  - International Tax Cooperation
  - Compliance Risk Management, Data Analytics, Audit
- ✓ **Feedback loop to ensure refinement of strategic direction**
- ✓ **Increase collaborative efforts with partners and regional tax organizations**
- ✓ **Broadening our focus:**
  - Carbon pricing and climate related fiscal risks
  - Social aspects, equity, gender, health



ADB

Thank you.

Questions?

sabhattacharya@adb.org

Global Developments in Corporate Income Tax

Lee Burns
Senior Tax Adviser, ITIC
Adjunct Professor, University of Indonesia

Overview

- Pillar Two: global minimum tax (GMT)
- Tax concessions after GMT
- Income taxation of digital economy

PILLAR TWO
GLOBAL MINIMUM TAX

Purpose of Global Minimum Tax (GMT)

- Implementation of a GMT applicable to large multinational enterprises (MNEs)
  - Global Anti-base Erosion (GloBE) rules
  - Main component of Pillar Two
- GMT set at an **effective** tax rate (ETR) of 15%
- In-scope MNEs pay an ETR of 15% in every jurisdiction they have operations
- Puts a floor on tax competition and counters tax avoidance arrangements (tax havens, low tax jurisdictions, and harmful preferential regimes)

High-Level Observations

- GloBE rules not a BEPS minimum standard – Inclusive Framework (IF) member may choose not to implement
- Important implications for tax concessions
- BEPS Action 5 (minimum standard) vs. GloBE rules
  - Action 5 is concerned with whether a preferential regime is harmful
    - Substantial economic presence (SEP) an important factor
    - IF undertakes a peer review of tax concessions of member countries
    - Harmful regimes must be removed or modified
  - GMT is concerned with ETRs of in-scope MNEs
    - Not limited to preferential regimes
    - Can apply if the general CIT rate is below 15%

GloBE Rules

- GloBE rules will be implemented on a “common approach” basis
  - Rules implemented and administered locally (not by multilateral convention)
- OECD has prepared model GloBE rules
- IF members expected to closely follow the model rules
  - Ensure global consistency in implementation
  - Top-up taxes implemented by a jurisdiction must be “qualified” under peer review process
- GloBE model rules are complex
  - Rules, commentary, and interpretations run to hundreds of pages
- It will likely take some years before these rules are properly bedded down

GMT Based on 15% ETR

- Comparison with regional average **nominal** rates (2022)
  - Asia – 19.52%
  - Oceania – 23.75%
  - Europe – 19.74%
  - North America – 25.33%
  - South America – 28.38%
  - Africa – 27.60%
  - OECD – 23.57%
  - G20 – 26.77%
  - World – 23.37%

  (Tax Foundation)
- Nominal CIT rates between 20% - 25% are most common globally

Overview of GloBE Rules

- Apply to MNEs with a global annual turnover of €750 million or more in consolidated accounts of ultimate parent entity (UPE)
- In-scope MNE must pay an ETR of 15% in every jurisdiction that it has operations (subsidiaries or PEs – “constituent entity” or “CE”)
  - Calculated on a jurisdictional (not entity) basis
- ETR calculated as $^{\text{tax}}/_{\text{Excess profit}}$
- If the jurisdictional ETR is less than 15%, a top-up tax applies to ensure that the ETR is 15%

GloBE Income and Excess Profit

- Excess profit is the base for the GMT calculation
- Excess profit = GloBE income – SBIE amount
- GloBE income = Financial accounting profit of CE(s) based on International Financial Reporting Standards (IFRS) or United States Generally Accepted Accounting Principles (US GAAP)
  - Some adjustments
- Financial account profit ensures a consistent tax base for the GMT

Substance-based Income Exclusion (SBIE)

- Carve out for income derived from substantive business activities
  - These not considered to be associated with profit shifting or harmful tax competition
  - Similar policy to active income exemption under CFC rules but different design
- SBIE is calculated as 5% of the carrying value of **tangible** assets plus 5% of total payroll costs of **in-country** employees of CE
  - Not actually calculating active income but based on tangible assets and payroll in the jurisdiction
    - Reflect substantive operations (SEP) – linkage with Action 5
    - Intangible assets do not count because of mobility
  - First year - 8% for tangible assets and 10% for payroll; gradually reducing to 5% and 5% over ten years

Top-up Taxes

- Income Inclusion Rule (IIR) (commence from 1/1/2024)
  - Residence country of UPE
  - Top-down approach
  - Top-up tax calculation under the IIR
- Qualified Domestic Minimum Top-up Tax (QDMTT) (commence from 1/1/2024)
  - Source country
- Undertaxed profits rule (UTPR) (commence from 1/1/2025)
  - Residual top-up tax applicable where the top-up tax is not wholly collected under the IIR and/or QDMTT
  - Based on employees and tangible assets in jurisdiction
  - Has been controversial – liability not based on control or ownership, or payment

QDMTT

- A domestic minimum top-up tax (DMTT) must be based on the IIR calculation to be a **Qualified** DMTT
  - Peer review process
  - Important that a DMTT is "qualified"
  - No credit against IIR for tax paid under a non-qualified DMTT
- QDMTT does not change the amount of top-up tax just the jurisdiction to which it is paid
- Incentive for source countries to implement QDMTT to ensure that any top-up tax is imposed in the source country
  - Priority as many OECD countries have implemented the IIR from 1/1/2024

Order of Application

- QDMTT - if implemented by source country
- IIR
    - QDMTT credited against the IIR
- UTPR
    - Residual application
    - Not all countries will implement

TAX INCENTIVES AFTER THE GMT

Tax Incentives

- Income-based tax incentives
  - Exemption, tax holidays, and reduced rates
- Cost-based tax incentives
  - Accelerated depreciation
    - Including immediate write off
  - Initial allowance
  - Investment tax credits
  - Double deductions (or similar)

Income-based Incentives

- Permanent difference between tax and financial accounting
- Vulnerable to the application of the IIR
- **BUT** depends on:
  - In-scope MNE
  - Application SBIE
    - "Bricks and mortar" incentives will benefit from SBIE
    - IP and technology park incentives may not benefit from SBIE as intangible assets ignored
  - Impact of jurisdictional blending of income and taxes
  - Implementation of QDMTT

Cost-based Incentives

- ETR based on financial accounting profit
- Cost-based incentives (such as accelerated depreciation) may reduce the ETR below 15%
  - Taxable profit lower than financial accounting profit
- **But** a timing difference only – recognised in the financial accounts as a deferred tax liability (i.e., higher future tax liability)
- Deferred tax liability added to the the actual ETR to determine whether ETR below 15%
  - Cost-based incentives preserved under the GloBE Rules

Rethinking Incentives to Attract Foreign Investment

- Replace income-based incentives with cost-based incentives
- Refundable tax credits
- Distinguish between in-scope and other MNEs
  - Ireland CIT rate – in-scope 15%; other 12.5%
- PIT incentives for expatriate employees
- Non-income tax incentives
  - Customs duty
  - Payroll tax
  - Property tax
- Non-tax incentives
  - Subsidies and grants
    - Income??
  - Access to infrastructure or immovable property

Tax Credits

- Tax credit is an amount applied against a tax liability to reduce the amount of tax payable
  - Affects the **numerator** in the ETR calculation
- Refundable or transferable tax credit
  - Results in a payment to the taxpayer
  - **May** be treated as income
  - If income, affects the **denominator** in the ETR calculation
- Treating a tax credit as income has less impact on the ETR

Refundable or Transferable Tax Credits

- Refundable tax credits
  - Qualified refundable tax credit – refundable in 4 years
    - Treated as income
  - Non-qualified refundable tax credit – refundable after 4 years
    - Treated as a tax reduction
- Transferable tax credits – tax credits that can be transferred to an unrelated party
  - Marketable transferable tax credit - transferable for a price exceeding 80% of the net present value of the credit
    - Treated as income
  - Non-marketable tax credit
    - Treated as a tax reduction

INCOME TAXATION OF THE DIGITAL ECONOMY

Taxing Problem

- Longstanding norm: source taxation of business income requires a physical presence (permanent establishment) in the jurisdiction
- Digital companies can do significant business with customers and users in a jurisdiction without a physical presence
  - 2020 (Tax Foundation)
    - 40% of value created by digital companies originated in North America
    - **But** 40% of global internet users located in East and Southeast Asia
- Issue: what income taxes should digital companies pay and where should they pay them?
- Unilateral vs. multilateral mechanisms to tax digital companies

Unilateral Measures

- Digital services tax (DST)
  - Tax on turnover at low rate (commonly 1% - 3%) collected from the supplier or intermediary (platform operator)
  - Scope varies
  - Recognised under Article 12B of UN Model
- Virtual PEs
  - Digital presence in the jurisdiction (website or sales volume)
  - Also recognised under Article 12B of UN Model
- Withholding taxes
  - B2B transactions
    - Some possible coverage under Article 12A of the UN Model
  - Not feasible for B2C transactions

Criticisms of DSTs

- Is it an income tax?
  - Double tax relief available in the residence country limited to income taxes
- In design and application, a DST is closer to a consumption tax
  - Likely to be borne by consumers than shareholders
  - Additional 1% - 3% on the cost of digital products and services
- Politically controversial
  - US is opposed to DSTs

Pillar One – Multilateral Approach

- Amount A is a new source taxing right asserted over the largest MNEs
  - Consolidated annual turnover in excess of €20 billion
- Based on revenues derived in a jurisdiction
- Amount A = 25% of an in-scope MNEs excess profit
  - Broadly, excess profit is economic rent based on a 10% rate of return calculated by reference to financial accounts
- Allocated to market jurisdictions based on formulary apportionment – rules similar to source rules apply
- Eligible market jurisdictions – in-scope MNE derives more than €1 million in revenues in jurisdiction
  - Lower threshold of €250,000 for jurisdictions with a GDP less than €40 billion
- Implemented by a multilateral convention (MLC) - targeted to start in 2025

Pillar One and DST

- Signatories of MLC required to repeal DST or similar measures
  - Applies for all taxpayers not just in-scope MNEs
  - Not relevant to VAT taxation of inbound digital supplies
- IF members have agreed not to introduce a DST or a relevant similar measure before end 2024
- This was dependent on at least 30 jurisdictions accounting for 60% of UPEs of in-scope MNEs signing the MLC before end 2023
  - Deadline passed
  - Requires US support
  - MLC not yet open for signing
- What happens if Amount A is not implemented???

Tax issues in Islamic finance transaction and addressing zakat rules in wealth taxation

Presenter: Prof. Dr. Murniati Mukhlisin

Tazkia University, Indonesia/Founder, Sakinah Finance

Thursday, 16th July 2024/9 Muharram 1446H

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- Affiliate Staff, Adam Smith Business School, University of Glasgow (2014-2015)
- Asst. to Finance Manager, ANSI Technology Sdn. Bhd., Selangor, Malaysia (1998-2001)
- Junior Auditor, Ernst & Young, Kuala Lumpur, Malaysia (1998)
- PT. Unibank, Jakarta, Indonesia (1991-1993)

Community Engagement

- Founder/Board Member/Motivational Speaker, Sakinah Finance (2008-present); Training more than 70,000 participants in 22 countries (www.sakinahfinance.com)
- Board Member, Yayasan Andalusia Islamic Centre (2005-present)
- Board Member, Baitut Tamkin Tazkia Madani (2005-present); supervising more than 10,000 female members of Islamic micro finance in Jawa Barat and Nusa Tenggara Barat

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Islamic Finance Growth

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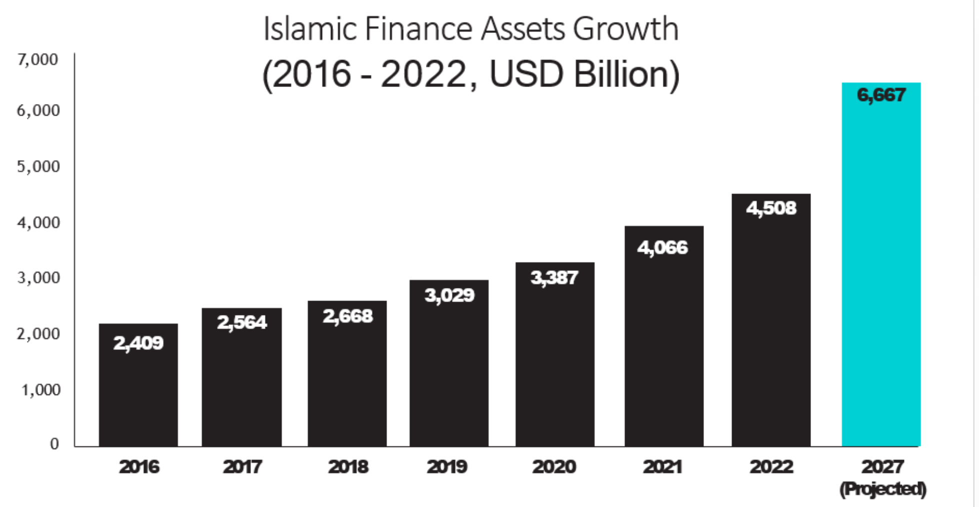
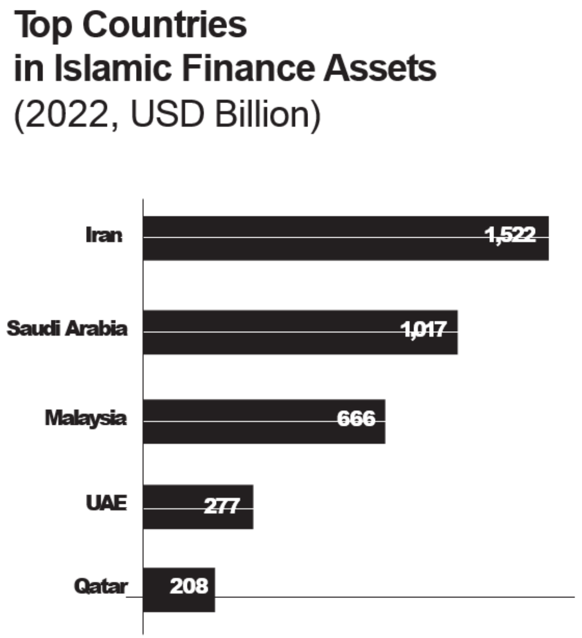
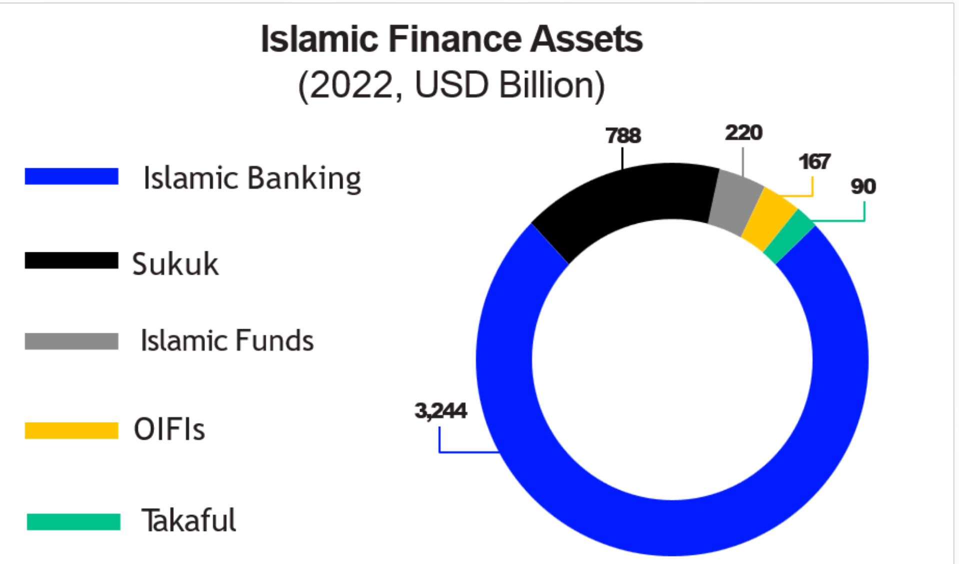
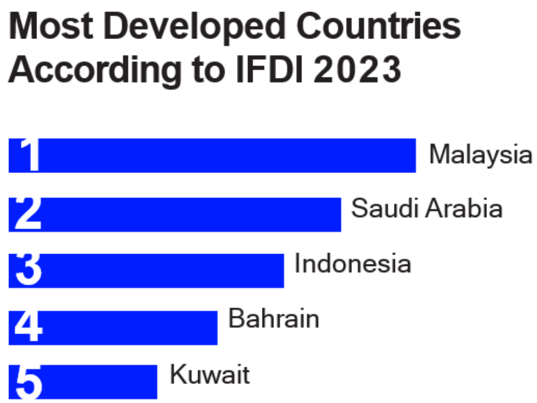
TAX AND ZAKAT









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TAX AND ZAKAT

Global Islamic Finance Landscape

Total Islamic Finance Assets in 2022
US$ 4.5 Trillion

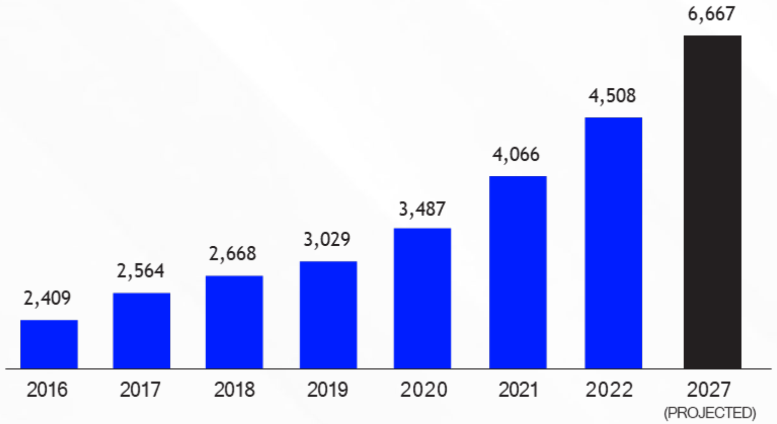
Growth of IF Assets in 2022
11%

Total IF Institutions
1,871

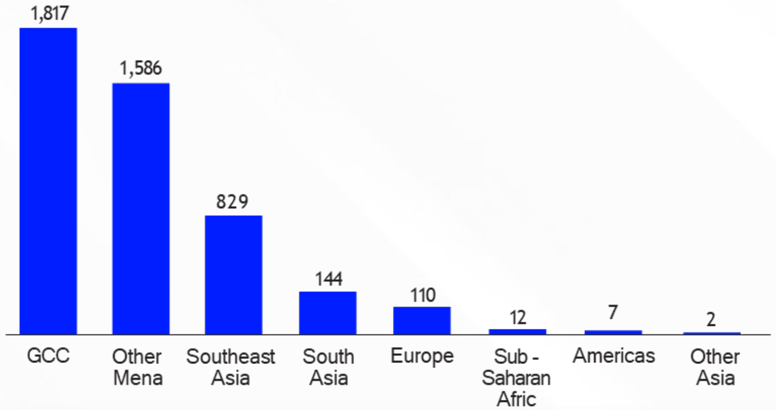
Islamic Finance Assets Breakdown (2022)

Sector / Asset Class	Total Assets (US$ Billion)	Share (%)	Number of Institutions / Instruments
Islamic Banking	3,244	72%	610
Takaful	90	2%	344
OIFIs	167	4%	917
Sukuk	788	17%	4,806
Islamic Funds	220	5%	2,233

Islamic Finance Assets Growth
(2016 - 2022, USD Billion)



Islamic Banking Assets by Region
(2022, USD Billion)



Islamic Bank in South East Asia

- ASEAN Economic Integration has provided the platform for ASEAN countries to restructure their finance sectors and move forward to better cooperation among economies (Haqqi, 2017).
- In banking, the ASEAN market's increasingly free flow of products and services will open up growth opportunities in both retail and wholesale.
- Brunei with its Islamic Banking Order 2008 expected to gain a 55%-60% share of all banking assets in the country; in Indonesia, after a developmental plan namely the Blueprint of Islamic Banking Development, the country's commitment was followed by the enactment of the National Act No.21/2008, ratified in July 2008, which provides an adequate legal foundation for the development of Islamic banking;
- In Malaysia, to further improve the banking legislation of the industry, It has enacted a new comprehensive Act, the Islamic Financial Services Act that has come into effect in June 2013;
- The Philippines' central bank, on the other hand, is pushing several important initiatives in legislation, regulation and taxation to promote Islamic banking in the country;
- Singapore Islamic banking institutions are regulated through a number of amendments to existing regulations and several related guidelines;
- Thailand today there is only one Islamic bank operating in the country: the state-owned Islamic Bank of Thailand, established in 2002 under its own banking regulation.

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Tax Issues

(Islamic Banking, Islamic Insurance, Islamic Capital Market)

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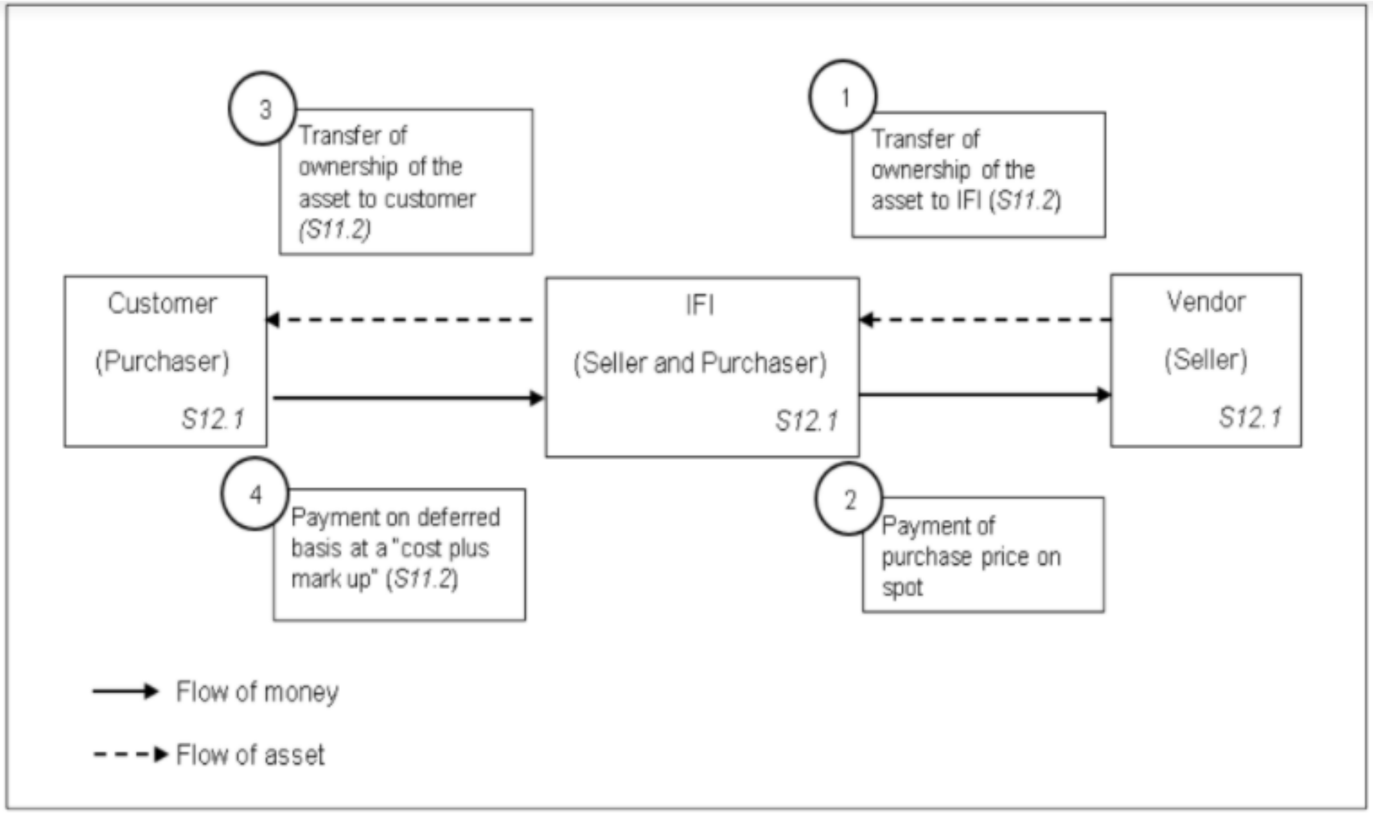
Islamic Contracts
(brief definition and tax issue)

Murābaḥah

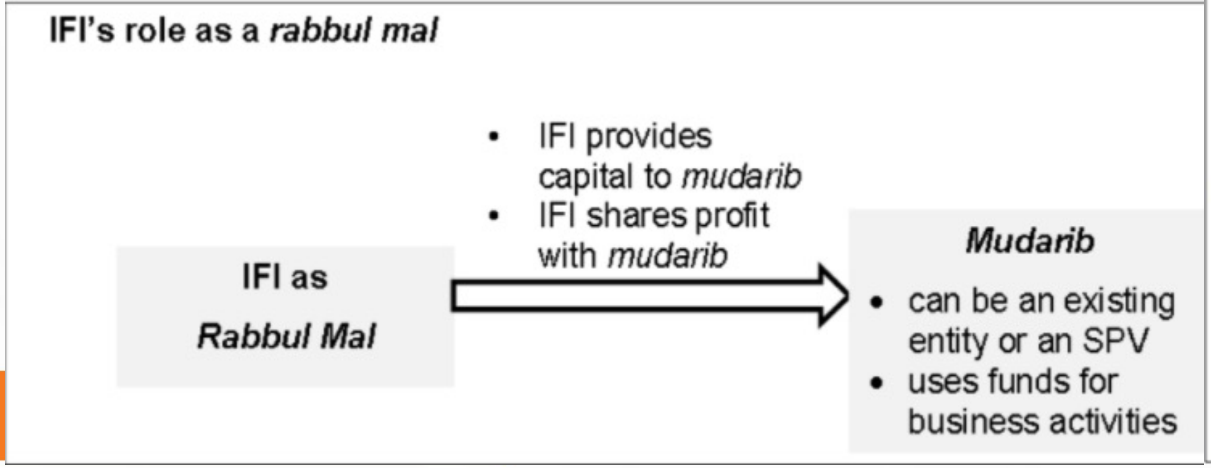
"*Murābaḥah* refers to a sale and purchase of an asset where the acquisition cost and the mark-up are disclosed to the purchaser".

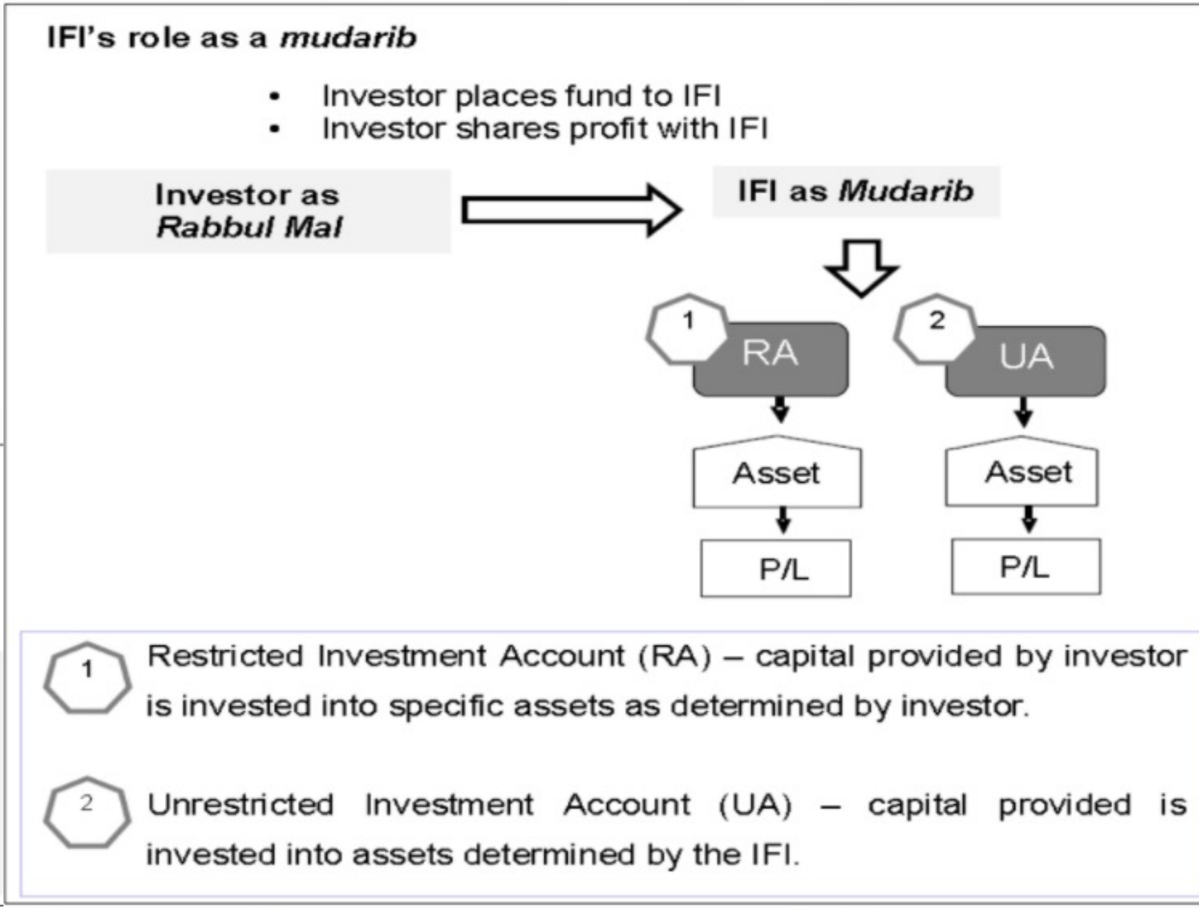


Islamic Contracts
(brief definition and tax issue)

Mudharabah

"Mudarabah is a contract between a capital provider (rabbul mal) and an entrepreneur *(mudarib)* under which the *rabbul mal* provides capital to be managed by the *mudarib* and any profit generated from the capital is shared between the *rabbul mal* and the *mudarib* according to a mutually agreed profit-sharing ratio (PSR) whilst financial losses are borne by the *rabbul mal* provided that such losses are not due to the *mudarib's* misconduct *(ta`addi)*, negligence *(taqsir)* or breach of specified terms *(mukhalafah al-shurut)*."





Tax issues in Islamic Bank (Indonesia)

- Law number 42/2009 on Value Added Tax and some subsequent amendments have exempted Islamic banks from the VAT on their *murābaḥah* transactions. This provision raises the sharia issue because the goods are delivered directly from the supplier to the customer.
- DSN-MUI Fatwa on *murābaḥah* contract sets that banks must first buy and own the goods from the suppliers before selling them back to the customers.
- With this tax provision, *murābaḥah* transactions have shifted from trade systems to service ones because banks directly transfer funds to customers to purchase goods.
- Yes, the tax policy has dealt with the so-called double taxation issue of Islamic banks but sacrificed the compliance of Islamic principles (Hidayah et al., 2022)

Tax issues in Islamic Bank (United Kingdom and Australia)

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- The introduction of faith-based equity funds in the UK and the South African High Court case demonstrate the importance of having a comprehensive set of laws for regulatory authorities to govern faith-based financial transactions, and that religious tenets cannot override the law.
- The evolution of faith-based equity funds in the UK also shows that changes in the market can re-characterize faith-based investments.
- These lessons can inform tax and regulatory reform in relation to Islamic finance, highlighting the necessity for binding and comprehensive tax and regulatory reform for Islamic finance, while also ensuring that religious tenets do not override Australian law.
- Therefore, any tax and regulatory reforms should be implemented in a manner consistent with Australia's constitutional provisions dealing with religion, and without an establishment of religion by the state.
- There is potential benefits to Australia in becoming hub of Islamic finance in the South East Asian region, particularly given the low penetration levels to date.
- The historical relationship between religion and law was then considered, with a particular emphasis on Australia. This included consideration of the special tax treatment afforded to different religious groups, as well as the Abrahamic faiths’ views towards taxation (Freudenberg and Nathi (2011).

Tax issues in Islamic Bank (Singapore)

- Monetary Authority of Singapore seeks to ensure that Shariah compliant products are not disadvantaged in respect of conventional products in terms of taxes.
- In addition, to help offset the higher start up costs and facilitate the growth of Islamic finance, a 5% concessionary tax rate has been introduced for qualifying Shariah compliant lending, fund management, Takaful and re-Takaful activities.
- Singapore's approach differs from neighbouring Malaysia in that it applies non-preferential treatment to create a level-playing field for both conventional and Islamic finance rather than providing tax advantages as practiced by the latter.
- Islamic finance and banking are governed under the same regulation, the Banking Act, which treats Shariah compliant finance within a secular legal structure, with no reference to Arabic names (Haqqi, 2017).

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Tax issues in Islamic Insurance (Indonesia)

- The Issues in Takaful are the contract based on tabarru' where Tabarru' fund is showing mutual help as encouraged in Islam. Different from conventional insurance, Islamic insurance operators can not withdraw these funds. In Indonesia, tabarru' funds are invested like an investment fund, and the profit will be distributed to the policyholders.
- Secondly, the investment does not invest in the transaction or instrument related to riba, maysir, gharar, and other haram things.
- The surplus from the investment will be distributed based on a specific contract among the policyholders and operator as the fund manager is also alongside with spirit of mutual help.
- The insurance company does not own any policyholder's funds, and the insurance company will act as the fund manager, including the contribution fund.
- Therefore, the contribution fund (premium) is not imposed with any tax and is not included as taxable goods.
- The tax will be imposed on dividends on investment funds as stipulated in the Act of Income Tax Number 36 of 2008. The amount depends on the subject of the policyholder, whether personal or institution (Maf'ula and Mi'raj, 2022).

Tax issues in Islamic FinTech (Indonesia)

- P2P Fintech is one of the newest business models in finance that take advantage of technological advances. One form of fintech in Indonesia is peer-to-peer lending.
- Based on the 1984 VAT Law, one service not subject to value-added tax is financial services.
- The reason globally for this is the difficulty in determining the tax base.
- Hence, that the government needs to (1) encourage the formation of laws and regulations at the level of the law on fintech to include criminal provisions such as laws in other financial institutions; (2) imposing a value-added tax on peer-to-peer lending, and (3) We encourage tax authorities to issue implementing regulations related to the imposition of value-added tax on peer-to-peer lending in Indonesia (Kartiko and Rachmi, 2021).

Tax issues in Islamic FinTech (Indonesia)

- Islamic Crowdfunding potentials in Indonesia have just been explored. There are three companied that have been licensed since 2022.
- The regulatory body that regulates Islamic crowdfunding activities using an investment-based model is the OJK (Otoritas Jasa Keuangan/Financial Services Authority) as regulated in Law Number 21 of 2011 concerning the Financial Services Authority.
- Meanwhile, the types of donations and rewards are regulated in Law Number 9 of 1961 concerning the Collection of Money or Goods.
- Regulations:
    - Payment: PBI No.: 23/6/PBI/2021 PBI No. 19/12/2017, PBI No. 20/6/PBI/2018, Fatwa No. 116/DSN-MUI/IX/2017
    - P2P: POJK No. 77/POJK.01/2016, Fatwa No. 117/DSN-MUI/II/2018
    - SCF: POJK No. 16/POJK.04/2021, Fatwa No. 140/DSN-MUI/VII/2021
    - Innovation: POJK No. 13/POJK.02//2018, POJK No. 3/2024, relevant fatwa available

Tax issues in Sukuk (Indonesia)

- Three types of Sukuk: Government (G2G, Retail), Corporate, Savings
- Sukuk Retail Seri 018: 3 and 5 years, with return 6,25%, and 6,40% respectively
- Tax implication:

  1. If sold at a premium price, then subject to capital gains tax and accrued return of 10% each (Non-Final Income Tax).

  2. If it is sold at par, then it will be subject to an accrued return tax of 10% (Non-Final Income Tax).

  3. If it is sold at a discounted price, it is subject to tax on the difference between the current coupon (accrued return) and a total capital loss of 10% (Non-Final Income Tax).

  4. The tax is calculated on the Annual SPT.

Zakat in Islamic Finance Industry

Zakat in Islamic Bank (Indonesia, Malaysia, Pakistan)

- Zakat in Indonesia

Zakat in Indonesia is managed by The Nasional Zakat Board based on law No. 23/2011 article 1 BAZNAS is an institution that manages zakat nationally, and LAZ is a community established institution that has the task of assisting the collection, distributing, and utilizing the zakat. Zakat Payment Method in Indonesia has been creatively designed in order of technological changes.

- Zakat in Malaysia

The political structure of Malaysia has its stamp on the administration of zakat in the country. Zakat management in Malaysia is centralizing at the state level due to each state ruler‘s authoritative power on the religious matter, including zakat. Zakat management in various states of Malaysia is different. Malaysia uses e-Zakat internet-based applications. The collection of zakat in Malaysia is under the authority of the government. For example, Lembaga Zakat Selangor, a zakat institution for Selangor‘s state in Malaysia, has its own Department of Asnaf Development, responsible for capital assistance. This amount is combined with the budgets by other departments invested.

- Zakat in Pakistan

Management of zakat in Pakistan is managed by a non-profit institution affiliated with the Ministry of Finance, where every province has a zakat body with fiqh experts. The government collects zakat from deposits in banks, stock, securities products, insurance, and agricultural products. Meanwhile, zakat, which comes from livestock, gold, silver, and cash, is distributed directly by muzakki. In Pakistan, not all of the zakat revenue is distributed by the Central zakat fund. Some portion of the zakat proceeds is retained for investment in non-interest basis investment (Clark, 2000).

Zakat in Islamic Bank (Egypt and Saudi Arabia)

- Zakat in Egypt

In terms of zakat management, Egypt is the country with the most extensive collection and distribution network. The zakat management network in Egypt consists of four main elements: 1) voluntary zakat committees that are not affiliated with the institutions, 2) Ministry of Waqf, and a network of registered non-profit organizations, 3) The Nasir Social Bank Group, 3) The Egyptian Faisal Islamic Bank Group. According to Act No. 48 of 1977, banks take zakat from the capital, shareholders profits, and free funds from within the bank. Meanwhile, The Nasir Social Bank Group, owned by the government, established zakat directorates in its branch offices.

- Zakat in Saudi Arabia

Zakat in Saudi Arabia collected on an agricultural product, livestock, stock of trade and other mobile business assets, and certain professionals and individual proprietors‘ income. The collecting agency in Saudi Arabia is an administration within the finance ministry called the Agency of Zakat and Taxes. In Saudi Arabia, investors pay zakat on investment returns. Deposited funds or assets that are not used are zakat objects. Loss-making capital is also an object of contemporary fiqh zakat not yet explained in detail about zakat in welfare and investment.

Zakat in Islamic Bank
(Singapore, Brunei Darussalam, Thailand)

- Zakat in Singapore

The management of zakat in Singapore is carried out under the coordination of the Government through MUIS. Thus, MUIS has issued what types of zakat to give: gold zakat, share zakat, commercial zakat, savings zakat, CPF zakat or workers savings, insurance zakat, and zakat al-Fitr. Muzakki can make payments online such as via eNETS, PayNOW, AXS Islandwide, DBS / POSB iBanking, DBS / POSB (ATM transfer), Checks, and CIMB Clicks.

- Zakat in Brunei Darussalam

The management of zakat is governed by the Islamic Religious Council of Brunei Darussalam (MUIB), under the Ministry of Religious Affairs. MUIB is given the authority by the Laws of Brunei, 1/1984, Religious Council and Kadi Courts, Chapter 77, Section 114, to collect and distribute the zakat fund on behalf of His Majesty according to Shariah. This role of managing the zakat fund is the responsibility of the Division of Zakat Collection and Disbursement under MUIB. MUIB is in the process of implementing the computerized zakat collection system (Abdullah, 2009)

- Zakat in Thailand

Thailand as a non-Muslim country established zakat management organization separately from government organization. But by the Islamic Organization Management Act 1997, Provincial Islamic Committee is legally and recognized to community and government. However, for 22 years of development, PIC operation on zakat is not fully functioned. Most of Thai Muslim solely gave zakat privately. PIC only received a few portions of zakat yearly.

Bank as Recipient (Indonesia)

- M-Banking and ATM are one of the means and alternatives used by Islamic banks in serving zakat payments. Some research findings conclude that most Amil Zakat Institutions (LAZ) us e Islamic banking M - Banking services in collecting zakat funds (Fauzi et al., 2020; Hayati et al., 2021; Yuliar, 2021; Zetira & Fatwa, 2021)
- In other words, people have switched from direct services (directly coming to institutional offices, zakat outlets and others) to digital bank services and through ATMs in paying zakat (Kharisma & Jayanto, 2021).
- In short, digital zakat payments are getting more and more public attention. Hidayat & Mukhlisin (2020) stated that although there was an increase, the payment of zakat was still low. Even though there are digital zakat payment technology devices, more people still do it in a direct way.
- This is caused by low digital zakat literacy and public trust in zakat institutions (Lutfiyanto, 2020; Sisdianto et al., 2021).
- In fact, digital payments have an impact on increasing convenience, efficiency, security, and ease of use (Mukhtisar et al., 2021; Tazkiyyaturrohmah, 2018).

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Bank as Payee (Malaysia)

- In the context of corporate wealth, Abdul Rahman points out that Muslim companies are obliged to pay zakat as a contribution to social well-being and to fulfill their social accountability and ultimate accountability to Allah.
- Bakar states that zakat is due on all valuable items and that the `illah for zakatability is the richness. The basic principle of zakat on corporate wealth is based on merchandise goods (`urud al-tijarah), namely, anything obtained for the purpose of trading to gain a profit.
- The wealth becomes zakatable once it exceeds the nisab, which is calculated as the equivalent monetary value of 85 grams of gold. Once this requirement is met, zakat needs to be paid each year at the rate of 2.5 percent.
- Based on an exploratory study conducted through interviews by Nasir and Hassan, with zakat officers working at two zakat centers in Malaysia, zakat centers were found to have recommended at least five assessment methods for companies to calculate the amount of their corporate zakat: the net assets (or working capital), net equity (growth model), net profit after tax, combined methods, and dividend methods.
- These methods have been derived mainly from different interpretations of the relevant Shari`ah provisions. To help them assess this amount, most companies that want to pay it seek advice from the state zakat officers to help them calculate it based on their disclosed financial information

Bank as Payee (Indonesia)

- In the Indonesian context, the practice of corporate zakat is carried out voluntarily by Islamic banks, although classical Islamic fiqh and state law do not force them to do so. Basically, Islamic banks in Indonesia view that corporate zakat is part of Islamic business principles and corporate social responsibility in Islam. Zakat for legal entities (or companies) is a contemporary phenomenon in Islamic countries such as Saudi Arabia and Malaysia. Interestingly, Indonesia - neither an Islamic nor a secular state - has been implementing it since the early 2000s. Islamic banks in Indonesia voluntarily pay corporate zakat (Alfitri, 2022)
- In practice, corporate zakat in Indonesia is regulated through Zakat Law no. 38 of 1999 and its amendments (No. 23 of 2011), as well as the 2008 Compilation of Sharia Economic Law. The Indonesian Ulema Council (MUI) as the institution most authorized to issue fatwas, formed the Fatwa Commission as a legislative body tasked with reviewing the resolutions of the Ijtima Ulama on 2009 regarding corporate zakat. Corporate zakat in Indonesia is collected through the National Amil Zakat Agency (BAZNAS) and managed by a registered Amil Zakat Institution (LAZ). BAZNAS is responsible for managing zakat funds for social and economic programs related to the welfare of Muslims (Alfitri, 2022).
- However until 2018, overall, corporate zakat paid by Islamic banks in Indonesia is still 6% of total zakat potential, calculation of corporate zakat using “net asset” method results in the most outstanding value of zakat potential-approximately 711 billion Rupiah or ten times of the amount of zakat that Islamic banks have paid in Indonesia (Indah and Zainuddin, 2021).

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Zakat in Islamic Insurance

- Islamic insurance has several provisions that do not exist in conventional insurance, which is the payment of zakat (alms).
- Zakat on Insurance is obligatory to be fulfilled when the insurance policy's surrender value meets the Nisab. Depending on individual policies, the surrender value may meet the Nisab between the 6th – 11th year. Once the surrender value meets the Nisab, Zakat has to be paid then and for subsequent years henceforth.
- Zakat is only applicable to savings endowment policies – where the intention is to grow one's wealth.
- The amount of Zakat that have to fulfil is 2.5% of the surrender value.
- For the insurance institution, they pay zakat as corporate zakat

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Zakat in Islamic Capital Market
(Indonesia, Malaysia, Pakistan, Saudi Arabia)

- In Indonesia. One of the new approaches to fund collection has incorporated many modern transactions, such as internet banking and other financial facilities. The new practice's approach is that the zakat center needs to collaborate and have a corporate link with many financial institutions (Suhaili et al., 2009).
- Issues in modern zakat management are the investment of the zakat fund. Fiqh scholars have various arguments on the issues. Modification of investment zakat fund is zakat in the form of marketable securities carried out by The National Zakat Board of Indonesia to fulfil the muzakki willingness. The zakat payment using marketable securities that are still traded in Indonesia Stock Exchange, especially in Jakarta Islamic Index (JII).
- In Malaysia, Various methods have been planned and arranged by the zakat center in Malaysia to manage and increase existing zakat funds. One of them is by doubling the zakat fund through investment activities (Embong et al., 2013). Selangor Model and CZM (Uddin, 2016)
- In Pakistan, not all of the zakat revenue is distributed by the Central zakat fund. Some portion of the zakat proceeds is retained for investment in non-interest basis investment (Clark, 2000).
- In Saudi Arabia, investors pay zakat on investment returns. Deposited funds or assets that are not used are zakat objects. Lossmaking capital is also an object of zakat. For Maslahah, it is permissible to invest in surplus zakat funds by depositing it in Islamic banking, saving account products (Shah, 2013).

Zakat in Islamic Non-Bank (Sukuk)

- Sukuk Al Ijarah (Lease): The ‘Zakah’ is not due on the principal value of the certificates. However, it is due on the rental proceeds at the rate of 2.5% for a lunar year or 2.577% for a solar/Gregorian year once the rental proceeds reach the minimum threshold and complete the one year cycle in possession.
- Sukuk Al Musharakah (Partnership): ‘Zakah’ depends on the type of the underlying assets in the partnership based Sukuk. If the partnership is in traded assets, ‘Zakah’ is due on the market value of the certificates as well as on the return on those certificates if reaches the threshold and complete one year ownership cycle. If the underlying assets are leased assets, ‘Zakah’ is due only on the return of the certificates. The rate of ‘Zakah’ is 2.5% of market value on the day of paying ‘Zakah’ for a lunar year or 2.577% for a solar/Gregorian year.
- Sukuk Al Mudarabah: ‘Zakah’ is due on the market value and the return of the Sukuk Al Mudarabah if the underlying assets are traded (bought and sold) and their market value plus return reach the threshold and complete one year ownership cycle. It is only due on the return amount if the underlying assets are leased and the return amount reaches the threshold and completes one year ownership cycle. The rate of ‘Zakah’ is 2.5% of the market value for a lunar year or 2.577% for a solar/Gregorian year.
- Concession and rights based Sukuk: If the Sukuk certificates represent rights, they are considered as Investment in the Usufruct. The ‘Zakah’ is due only on the annually distributed return of rights. The rate of ‘Zakah’ is 2.5% for a lunar year or 2.577% for a solar/Gregorian year.

Zakat in Mutual Fund (Indonesia)

- The mutual funds that are paid zakat are sharia mutual funds whose management is based on sharia principles and overseen by the Sharia Supervisory Board and the Financial Services Authority so as to avoid non-halal elements (Hanim and Dewi, 2019).
- Zakat mutual fund payment is in accordance with zakat law because the zakat mandatory requirements have been fulfilled both in terms of the object and subject of zakat.
- The reason is because of two things. First, the zakat mutual fund is a type of sharia mutual fund that has clear halal status. Secondly, mutual funds which are subject to zakat are fully the responsibility of investors so that investors who have reached nisab and haul can pay their zakat mutual funds.

Wealth Management

Individual Tax Structure For Individuals (Malaysia)

- Individual, whether tax resident or non-resident in Malaysia, is taxed on any income accruing in or derived from Malaysia.

- A graduated scale of rates of tax is applied to chargeable income of resident individual taxpayers, starting from 0% (on the first RM5,000) to a maximum of 30% on chargeable income exceeding RM2,000,000 with effect from YA 2020.

- Non-resident individuals pay tax at a flat rate of 30% with effect from YA 2020. Other rates are applicable to special classes of income, e.g., interest or royalties.

Source: IBFIM (2022)

Individual Tax Structure For Individuals (Malaysia)

In general, a taxpayer is required to pay tax on all kind of earnings, including incomes from:

- Business
- Employment
- Dividends
- Interest
- Rent
- Royalties
- Premiums
- Pensions
- Annuities
- Others

Source: IBFIM (2022)

Individual Tax Structure For Individuals (Malaysia)

- Resident Individual is entitled for income tax relief.
- Resident Individual is entitled for income tax rebates if chargeable income less than RM35,000.
- Other tax rebates are zakat payment and fees/levy on foreign workers – subject to the maximum of tax charged.

Source: IBFIM (2022)

Tax Resident Issues (Indonesia)

- A tax resident is generally taxed on worldwide income, although this may be mitigated by the application of Double Taxation Agreements (DTAs).
- However, the new Omnibus Law has added a provision to the Income Tax Law stipulating that foreigners who have become domestic tax subjects by reason of becoming tax resident in Indonesia can be taxed only on Indonesian-sourced income (including if paid offshore) if they meet certain skill requirements.
- This will only be available for the first four years they become tax resident. This territorial taxation system may not be applicable when the foreigner receives income from overseas and utilizes the applicable tax treaty between Indonesia and the source country.
- Indonesian citizens that are living outside of Indonesia for more than 183 days in 12 months and meet certain requirements can also be considered as foreign tax subjects.

Tax & Zakat Issues (Indonesia)

- Although *zakat* and taxation have some different points, but both the same end goal, namely the welfare of the people and the nation in many areas of life, such as economics, education, health and so forth.

- Implementing zakat and tax well is evidence of submission and obedience to the teachings of religion and state rules, which do not necessarily to be opposed to one another.

- Either zakat or taxation should be managed by an institution that has the authority and who have a duty of state / government / society.

Individual Tax Structure For Individuals (Indonesia)

Single Man/Woman	Married Man	Married, husband-wife combined NPWP
Single/0 Rp. 54.000.000	Married/0 Rp. 58.500.000	M/1/0 Rp. 112.500.000
Single/1 Rp. 58.500.000	Married/1 Rp. 63.000.000	M/1/1 Rp. 117.000.000
Single/2 Rp. 63.000.000	Married/2 Rp. 67.500.000	M/1/2 Rp. 121.000.000
Single/3 Rp. 67.500.000	Married/3 Rp. 72.000.000	M/1/3 Rp. 126.000.000

Remarks

- Single = not married
- M = Married
- K/I = Married, combined income between husband and wife
- 1, 2, 3 = number of dependants, maximum of 3 persons
- If wife has an employment, income, and separate NPWP, her Non-Taxable Income (*Pendapatan Tidak Kena Pajak/PTKP)* will refer her as TK/0. For husband, his PTKP remains as K/0 – K/3.

Source: Author

Tax Rate and Zakat Rate (Indonesia)

1. According to Law Number 36 of 2008, the tax rate for those who have income:
   - Up to Rp. 50 million per year, subject to 5 percent;
   - Above 50 million – 250 million per year, the rate is 15 percent;
   - Above Rp. 250 million – 500 million per year, the rate is 25 percent;
   - Above Rp. 500 million per year, the rate is 30 percent.
   - Income holder above Rp. 5 billion per year, 35 percent.

2. Zakat on Income is the accumulated income per year equivalent to 85 grams of gold, with a zakat rate of 2.5 percent per year paid monthly. Thus, the nishab is Rp. 79,738,415 or Rp. 6,644,868. per month.

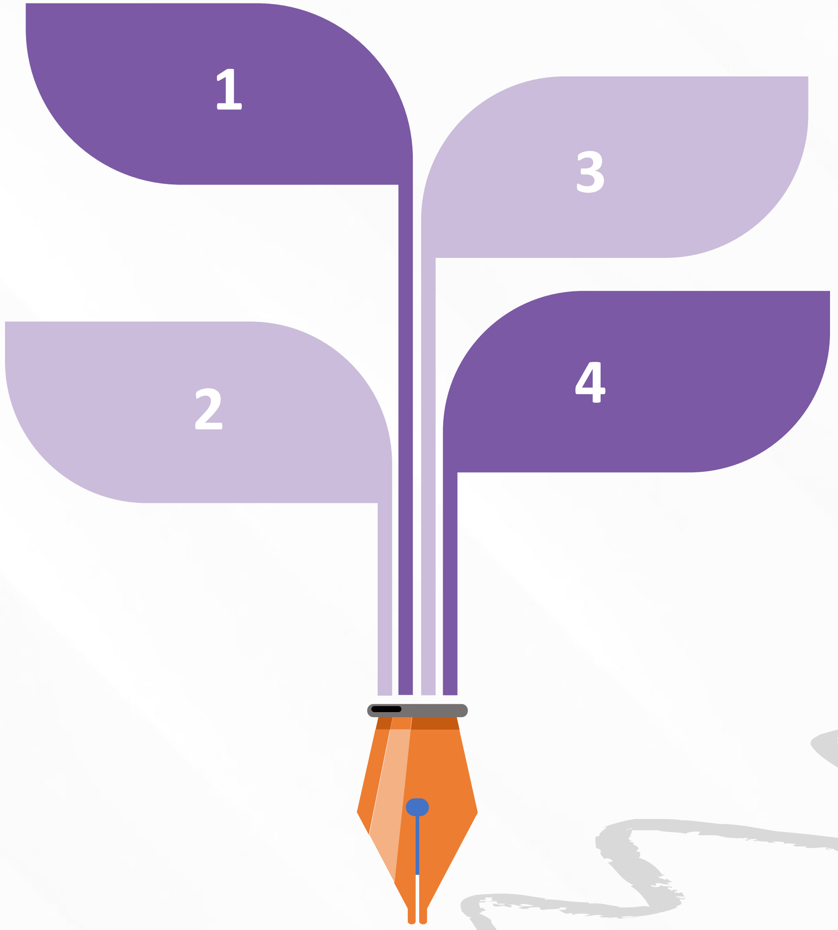
3. Other Zakat types, refers to Ministry of Religious Affairs Regulation 2014 and 2015

Source: Author

Tax Planning

Tax planning, as one of crucial subjects in financial planning, is about strategising to achieve legitimate tax savings.

Tax planning is not about tax evasion or tax avoidance. Tax savings may arise from a timing advantage or a permanent advantage.



A timing advantage involves the postponement of a tax liability to a subsequent year, with savings resulting from having the use of money now that would otherwise have been paid in tax.

The deferral may also be result in the taxpayer being assessed on income in a year in which a different rate of tax is being paid.

Source: IBFIM (2022)

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Issues in Tax Planning

- Ensuring all reliefs and rebates are claimed
- Deferral of disposal of real property to take advantage of reducing tax rates
- Planning for allowable tax deductions
- Planning to take advantage of investment incentives
- Structuring of retirement gratuities
- Income splitting (via partnership, joint or separate ownership)
- Assignment of income and/or property
- Dividend imputation
- Maintenance of a negatively geared position
- Depreciation allowance
- Prepaid expenses

Source: IBFIM (2022)

Practical Issues
(Bank Deposit; Tax and Zakat in Indonesia)

- Tax implication to Mudharabah Profit Sharing: 20% Final on the profit sharing received
- Zakat 2.5% /2.577% yearly both on principal amount and fee
- Inflation 2.75%

How much will you get from Mudharabah Deposit?

Practical Issues
(Corporate Zakat in Indonesia, Case Study: Bank Syariah Indonesia)

PT Bank Syariah Indonesia Tbk 31/12/2023 (In million rupiah)	
Description	**Total**
A. Net Profit Before Tax	7.591.358
B. Zakat amount; 2,5% x Net Profit Before Tax	189.730

Source: BSI

Zakat and SDGs

Source: UNDP and BAZNAS (2017)

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Thank You
Jazaakumullah Khair

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GLOBAL DIRECT TAX POLICY DEVELOPMENTS – THE UN PROCESS AND OECD INCLUSIVE FORUM

15th Asia-Pacific Tax Forum
Kuala Lumpur, Malaysia
16TH JULY,2024

SPEAKER: RAJAT BANSAL

FORMER PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX (INTERNATIONAL TAXATION), CBDT INDIA

FORMER INDIAN COMPETENT AUTHORITY

FORMER MEMBER OF THE UN COMMITTEE OF EXPERTS ON INTERNATIONAL TAXATION

International Tax Cooperation

Norms and Standard Setting

Multilateral Communication

❖Avoidance of double taxation
- Allocation of taxing rights
- Transfer pricing guidelines
- Exchange of information and transparency
- Dispute Avoidance and Resolution
- Preventing Base Erosion and Profit Shifting

Role played by OECD & United Nations

OECD	United Nations Tax Committee of Experts
• OECD Model Tax Convention • TP Guidelines • Global Forum on Tax Transparency & EOI • Forum for Harmful Tax Practices • BEPS Project	• UN Model tax Convention • UN Practical TP Manual • UN Dispute Resolution Manual • UN Manual for negotiation of Tax Treaties • Taxation of Extractive Industries

Inclusive Framework

- In response to the call of G20 Leaders in Nov 2015, OECD and G20 members established an inclusive framework which allows interested countries and jurisdictions to work on an equal footing with OECD and G20 members in the next phase of the BEPS Project.
- Membership has grown from 82 to over 145 countries and jurisdictions including 14 observer organisations.
- Ongoing work led by 24- country Steering Group.
- Countries participate on equal footing and commit to implement the comprehensive BEPS package.

Inclusive Framework

- Monitoring implementation of 4 BEPS minimum standards through Peer Reviews
- Reforming harmful tax practices
- Reducing treaty abuse
- Improving dispute resolution
- Increasing tax transparency through the exchange of country-by-country reporting on the largest multinationals
- Guidance to jurisdictions on implementation of BEPS measures
- Ongoing Standard Setting Work including Pillar 1 and Pillar 2 work

Inclusive Framework- Countries of Relevance

Countries and jurisdictions of relevance will be identified by the inclusive framework as part of its mentoring process and reviewed.

Countries and jurisdictions of relevance are those whose adherence to the minimum standards will be necessary to ensure that a level playing field is achieved.

Jurisdictions of relevance will be informed about the minimum standards and invited to commit to the BEPS package and participate in the review process.

Global Forum on Transparency and EOI also has similar practice of identifying jurisdictions of relevance

Dissatisfaction of developing countries with current system of intergovernmental international cooperation in field of taxation

- Their influence on the agenda.
- The extent to which they can make their voices heard in the discussion.
- Their influence on the decisions, partly due to late involvement.
- The content of the decisions and the resulting international standards.

Grievances

- BEPS measures were established before the establishment of the Inclusive Framework (IF) and may serve the interest of participant countries only.
- States that want to join the Global Forum or the IF (at a later date) must meet the previously formulated requirements conflicts with the principle of universal participation and with the procedural criterion that all states must be involved in drawing up the agenda.
- Actual participation and thus the influence of a large number of non-OECD member countries is very limited.

Developments in United Nations

- UN Tax Committee or Ad Hoc Group of Experts -members acting in personal capacity-Upgradation of Ad Hoc Group of Experts-2005
- Call for an intergovernmental tax negotiation process at UN allowing all countries to participate in discussions and decision making on an equal footing
- Addis Ababa Action Agenda –third International Conference on Financing for Development 2015
- Measures announced to make UNTC more effective
- Two meetings every year
- Participation in ECOSOC Special Session
- Voluntary Fund to support developing country member participation
- Geographical distribution of membership made more equitable

Developments in United Nations

- Africa Group Resolution on Promotion of effective and inclusive international cooperation at the UN-Nov 2022
- UN Secretary General's Report July 2023
  - All countries if they decide to participate in standard setting must be able to play meaningful role
  - Decision making process must be transparent
  - Countries should be allowed enough time to consider proposals and form a view
  - Strengthening role of UN in designing tax standards best way to increase inclusiveness and this could be done through an international cooperation framework

Developments in United Nations

- UN Resolution 78/230 of December 2023
- Establish legal basis for fully inclusive and more effective international tax cooperation in terms of substance and process
- Ad hoc Intergovernmental Committee
- To draft terms of reference for a UN framework convention on international tax cooperation and early protocols for priority issues
- Three sessions of Ad Hoc Committee
- Organisational Session (20-22 February 2024)
- First Session (26th April to 16th May 2024)
- Second Session (29th July to 16th August 2024)

Zero Draft-Terms of Reference for a United Nations Framework Convention on International Tax Cooperation

Objectives

- Full inclusiveness and effectiveness of international tax cooperation in terms of substance and process
- System of governance for international tax cooperation capable of responding to existing and future tax and tax-related challenges on an ongoing basis, while respecting the tax sovereignty of each Member State
- Establish an inclusive, fair, transparent, efficient, equitable, and effective international tax system for sustainable development

Zero Draft-Priority Areas and Additional Areas for Early Protocols

Priority Areas

- Taxation of the digitalized and globalized economy
- Taxation of income derived from cross-border services
- Tax-related illicit financial flows
  Prevention and resolution of tax disputes
- Taxation of high-net worth individuals

Additional Areas

- Tax measures on environmental and climate challenges
- Exchange of information for tax purposes
  Mutual administrative assistance on tax matters
- Harmful tax practices

Zero Draft-Proposed Time frame for Negotiations

- Intergovernmental Negotiating Committee
- Meetings in New York in 2025 and 2026
- Final text of framework convention and early Protocols to be submitted to General Assembly in its 81^{st} Session

What UN Intergovernmental Process is to achieve that IF has not

- Inclusiveness in true sense?
- Role in Agenda Setting
- Role in decision making
- Transparency in agenda setting and decision making
- Sufficient time to be allowed for positions to be taken
- Countries should be able to decide whether to participate or not
- Language will not be English alone

What UN Intergovernmental Process is to achieve that IF has not

- Consensus on Pillar 1, which strengthens taxing rights of market jurisdictions is uncertain.
- Relatively high administrative costs of Pillar 2 aimed at minimum level of taxation are a concern.
- Pillar 2 hinders targeted stimulus through taxes.

Assessment of functioning of the UN Tax Committee

In favour	Against
• Transparent Proceedings • Participation of country observers and civil society members in Committee meetings • Easier and faster decision making due to members acting in personal capacity, not needing their Government's approval • Easier decision making due to manageable size • Faster decision making-Majority view • Respect for minority view	• Does not represent governments' view. Members act in personal capacity. • Seamless continuity like intergovernmental bodies absent • Limited term of the Committee • Represents views of only 25 members albeit from equitable geographical distribution • Majority view not consensus view. • Strong minority views may leave users confused.

Assessment of functioning of the UN Tax Committee

- Number of achievements in last few years-12A, 12B, Capital gains on Indirect Transfers
- Since last Committee's term, meetings of subcommittees and participation by developing country members has tremendously increased
- Till last Committee's term, agenda setting cannot be said to be entirely inclusive
- Extremely difficult to get proposals on allocation of taxing rights through- Examples of Article 12B, Indirect transfers and Software Royalty
- Stalling measures
  - More time is needed
  - Next membership will consider
  - Wider consultation is needed

UN Intergovernmental process- an interim evaluation

- The aspirations regarding inclusiveness in norm setting may be achieved through the process of intergovernmental discussions under UN umbrella.
- The Agenda i.e. which topics to be discussed on priority will not be prerogative of OECD alone but all countries who are members of UN will have a say.
- Less developed countries will be able to better cope up with pace of discussions and have better say and participation than in IF process. The discussions in Organisational Session and First Session do indicate this to be the case.

UN Intergovernmental process- an interim evaluation

- Norm setting and actual implementation on topics of crucial interest , i.e. allocation of taxing rights through consensus-whether it's going to happen.
- Even if norm setting on a topic relating to allocation of taxing rights is achieved due to say procedure being majority decision, how likely is its actual implementation.
- Limited success of Multilateral Convention to Implement tax Treaty related Measures to prevent base Erosion and Profit Shifting (MLI) except minimum standards. Difficult to have minimum standards without consensus. Sovereignty of countries to be respected.
- Treaty negotiations are package deals. Whether the Framework Convention will be versatile enough to result into intended amendments. UNTC's Fast Track Instrument being ahead may act as an example.

Questions

- Do you think redistribution of existing tax cake is justified or focus should only be on increasing the size of the cake
- What do you think will be the likelihood of UN Framework Convention making significant difference in allocation of taxing rights and adoption of such provisions in bilateral tax treaties. Do you think the system of a Framework Convention or a fast Track Instrument along-with Protocols or Schedules is workable.
- What do you think would be future of global tax system due to co existence of UN Framework Convention, Inclusive Framework and UN tax Committee
- What do you think would be impact on taxpayers

Thanks

Indirect Tax Policy and Administration

Design Principles and Best Practices

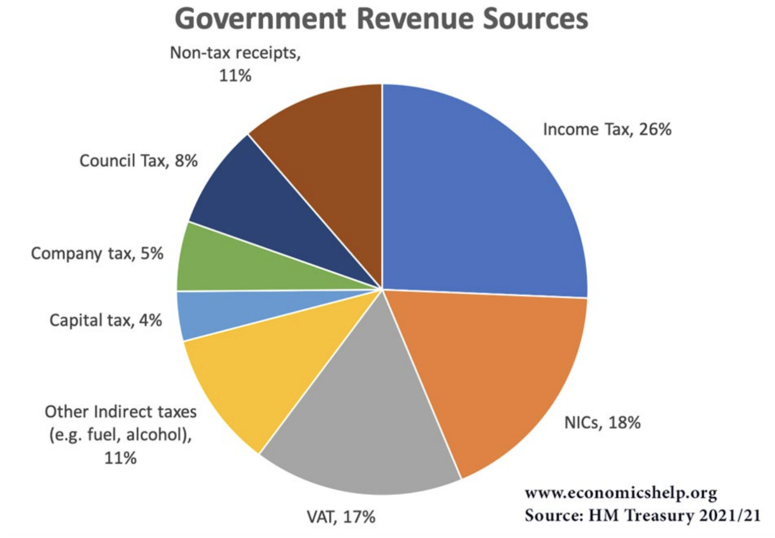
Yikai Wang

July 17, 2024

Introduction to Indirect Tax

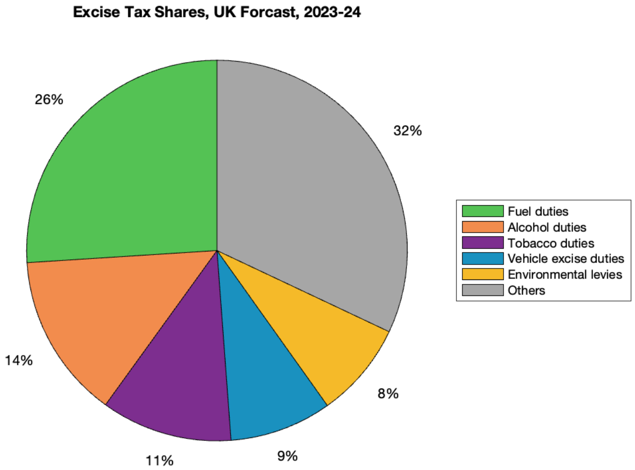
- **Definition**: An indirect tax is a tax collected by an intermediary (such as a retailer) from the person who bears the ultimate economic burden of the tax (such as the consumer). The intermediary later files a tax return and forwards the tax proceeds to the government with the return.
- **Examples**: VAT, sales tax, excise tax, customs duties.

Tax Revenues in the UK



Introduction to Excise Tax

- **Definition**: Excise tax is a tax on specific goods, services, or activities.
  - Typically included in the price of the product.
- **Purpose**
  - generate revenues
  - discourage harmful behaviors
  - address externalities.
- **Examples**: Fuel, sugar, tobacco, alcohol, and luxury goods.


Excise Tax Shares, UK Forcast, 2023-24
26%
32%
14%
11%
9%
8%
Fuel duties
Alcohol duties
Tobacco duties
Vehicle excise duties
Environmental levies
Others

Design Principles of Indirect and Excise Taxes

- **Efficiency**: Minimizing economic distortions, harms, and compliance costs. (Objective 1)
- **Revenue Generation**: Providing a stable and predictable source of government revenue. (Objective 2)
- **Simplicity**: Easy for taxpayers to understand and for authorities to administer.
- **Plan:** Guide market expectation/response and provide market/revenue stability

Approaches to Identifying and Defining Harmful Products

- **Criteria**: Health impacts, environmental damage, and social costs.
- **Stakeholder Input**: Involving public health experts, environmental scientists, public policy experts, and the public.
- **Examples**: Fossil fuels (environment), sugar (health), tobacco (health), and alcohol (health and social).

Tax Design Principles and Implementation Options

Principles: Developing a structured approach to categorize and tax products according to

1. Harm/risk level (Objective 1: minimizing harms)
   - Higher (same) level of harm/risk: higher (same) tax
2. Elasticity (Objective 2: stable government revenue)
   - Higher elasticity (self and cross elasticities): lower tax rate

Roadmap

- **Implementation Options**
  - Tax base: Specific vs Ad-valorem
  - Single-tier vs Multi-tier tax systems
- **Examples:** Europe and ASEAN countries
- **Quantitative Analysis**
  - Predict market response, harm and tax revenue given tax reforms and plans

Tax Base Options for Excise Taxes

- **Specific Tax (Volume-Based)**
  - Tax per unit of product such as alcohol units (ABV), per pack of cigarettes, etc.
- **Ad Valorem (Value-Based)**
  - Tax as a percentage of product price, aligning tax with value.

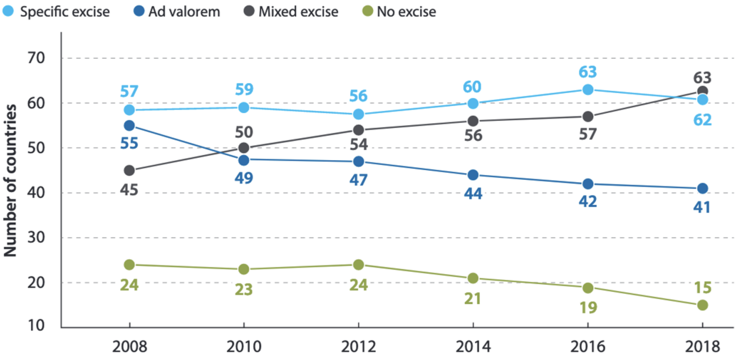
Volume-Based Taxation

- **Advantages**
  - Directly linked to harm/externalities
  - Provides predictable revenue
  - Simple to administer and understand
- **Disadvantage (Advantage for Health)**
  - Doesn't align tax with price difference across products/producers
    - Can align with price change over time through indexation or multi-year tax plans
- **Examples**
  - Fixed amount per liter of gasoline, alcohol units (ABV) or per pack of cigarettes.

Value-Based Taxation

- **Advantages**
  - Aligns tax with product price, potentially progressive.
- **Disadvantages**
  - Industry manipulation or tax avoidance
  - Revenue fluctuations with price changes
  - complexity in administration
- **Examples**
  - Percentage of the retail price of luxury goods

Global Trend of Excise Tax Structure



Single-Tier Tax System

- **Definition**: A unitary tax system applies a single, uniform tax rate across all products or categories.
- **Simplicity**: Easier to administer and enforce due to a single rate.
- **Clarity**: Transparent and easy for businesses and consumers to understand.
- **Efficiency**: Reduces administrative costs and compliance burdens.
- **Inflexibility**: Cannot easily target specific products for higher taxation based on, e.g., prices.

Multi-Tier Tax System

- **Definition**: Different tax rates for different categories of products.
- **Flexibility**: Adjust rates based on product characteristics, harm, price (ad valorem), and production volume.
- **Complexity**: More difficult to administer.
- **Gaming the System**: Potential for down-shifting, i.e., pricing harmful products in the lower tiers.

Single- vs Multi-Tier Tax System

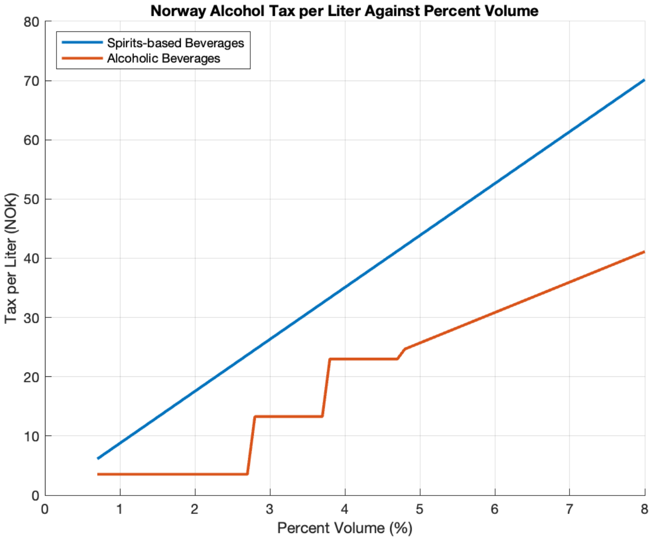
- **Health Perspective**: Every unit, independent of its price, is equally harmful.
- **Simplicity**: Simpler excise tax structures, utilized in all high-income countries, leave the least room for industry manipulation or tax avoidance.
- WHO, July 2015: "... evidence demonstrates that simpler excise tax structures – utilized in all high-income countries – leave the least room for industry manipulation or tax avoidance and brand/product switching by consumers."
- **Consistent taxation with harm**: A single-tier, specific tax system

Example: Fuel Excise Tax in Germany

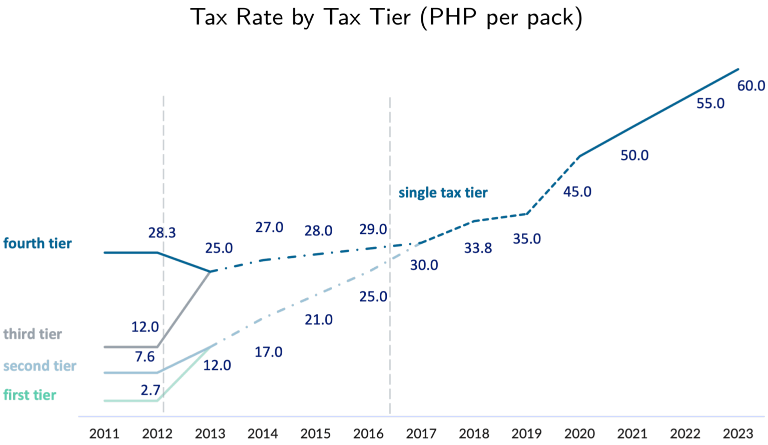
- **Policy Design**: Taxes on gasoline and diesel to reduce emissions and fund infrastructure.
- **Examples**: Germany (eco-tax on fuels),
  - Gasoline: € 0.67 per liter
  - Diesel: € 0.49 per liter
  - Lower CO2 emission per liter for diesel
- **Impact**: Encourages fuel efficiency, reduces emissions, and generates significant revenue.

Example: Alcohol Excise Tax in Norway

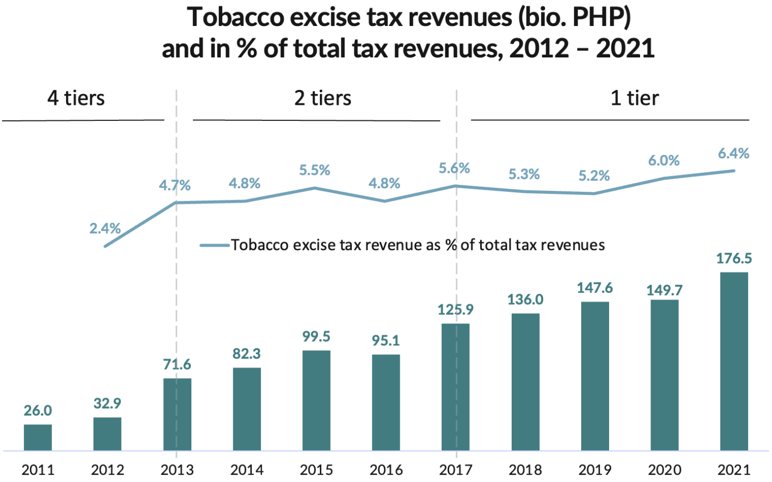
- **Policy Design**: High taxes based on alcohol units (ABV).
- **Examples**: Norway
  - Spirits-based beverages: NOK 8.77 per volume percent per liter
  - Alcoholic beverages
    - 0.7~2.7%: NOK 3.53 per liter
    - 2.7~3.7%: NOK 13.28 per liter
    - 3.7~4.7%: NOK 22.99 per liter
    - 4.7~22%: NOK 5.14 per volume percent per liter
- **Benefits**: Reduced alcohol consumption, lower health and social costs, and higher revenues.


Norway Alcohol Tax per Liter Against Percent Volume
Spirits-based Beverages
Alcoholic Beverages
Tax per Liter (NOK)
Percent Volume (%)
0
10
20
30
40
50
60
70
80
0
1
2
3
4
5
6
7
8

Example: Tobacco Excise Tax in the Philippines



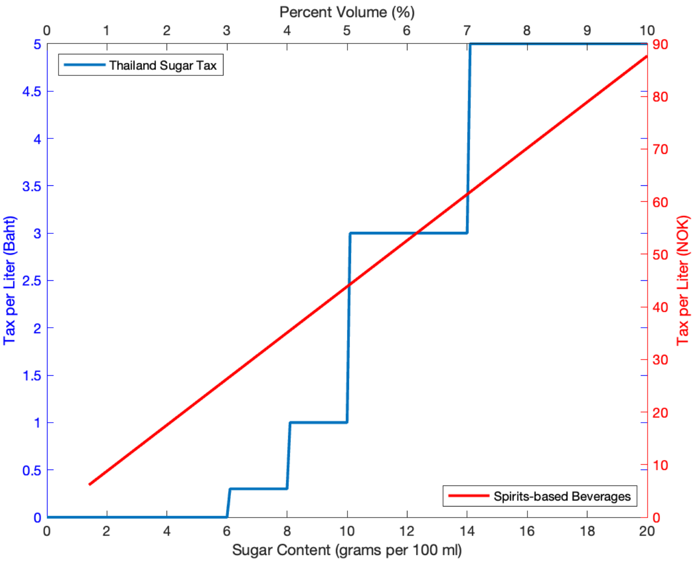
Sin tax reform from 2012: four-tier -> two tiers -> one tier; tax increase; gradual harmonization within five years.



Reforms to tax structure alongside regular tax increases lead to large and consistent revenue increases.

Example: Sugar Tax in Thailand

- Higher tax rates based on sugar content, effective from April 1, 2023.
- Rates:
  - 0-6 grams: 0 baht per liter.
  - 6-8 grams: 0.3 baht per liter.
  - 8-10 grams: 1 baht per liter.
  - 10-14 grams: 3 baht per liter.
  - 14-18 grams: 5 baht per liter.
  - Above 18 grams: 5 baht per liter.
- Essentially based on the volume of harmful contents
  - Similar to alcohol tax in Norway
  - Tax is directly linked to the units of harmful contents (sugar/alcohol) but not other factors unrelated to harm (value, firm characteristics)


Percent Volume (%)
0
1
2
3
4
5
6
7
8
9
10
Thailand Sugar Tax
Spirits-based Beverages
Tax per Liter (Baht)
5
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
Tax per Liter (NOK)
90
80
70
60
50
40
30
20
10
0
0
2
4
6
8
10
12
14
16
18
20
Sugar Content (grams per 100 ml)

Quantitative Tax Analysis: Tax Reform

- EU Tobacco Market, status quo

	Current Year	Year 1	Year 2	Year 3	Year 4	Year 5
	(Status Quo)	Future Years				
Billion sticks : FMC	386	378	369	359	348	336
Billion sticks : FC	128	125	122	119	115	111
Billion sticks : NP	54	59	65	72	79	87

- Quantities in the status quo (current year) and in the following five years without a tax reform.

- FMC: Factory-Made Cigarettes; FC: Fine Cut; NP: New Products.

Tax Reform: Maintain Revenue, Reduce Harm

	Current Year	Year 1	Year 2	Year 3	Year 4	Year 5
	(Status Quo)	Optimized				
Tax FMC	17.0	18.6	21.3	23.0	26.4	30.1
Tax FC	10.9	10.8	10.7	11.2	12.1	13.4
Tax NP	0.0	0.0	0.0	0.0	0.0	0.0

- Tobacco tax revenue attains a certain level in all years: Same as the current year
- Minimize tobacco harm: Reduce FMC and FC
- Increase tax per unit for FMC and FC: higher harm, lower elasticity
- Zero tax for NP in this experiment
- Alternative reform: increase tax for all products to increase tax revenue, while maintaining tax difference to minimize harm

Quantities with Tax Reform

	Current Year	Year 1	Year 2	Year 3	Year 4	Year 5
	(Status Quo)	Optimized				
Billion sticks : FMC	386.0	350.1	298.0	273.3	232.8	198.2
Billion sticks : FC	127.5	136.0	149.9	148.6	150.8	148.5
Billion sticks : NP	54.0	62.2	73.6	85.3	102.3	122.3

- Fast decreasing quantities of FMC
- Stable quantities of FC
- Increasing quantities of NP

Tax Revenues with Tax Reform

	Current Year	Year 1	Year 2	Year 3	Year 4	Year 5
	(Status Quo)	Optimized				
Billion Euros : FMC	65.7	65.0	63.4	62.8	61.4	59.7
Billion Euros : FC	13.9	14.7	16.0	16.7	18.2	19.9
Billion Euros : NP	0.0	0.0	0.0	0.0	0.0	0.0
Billion Euros : Total	79.6	79.6	79.6	79.6	79.6	79.6

- Stable revenues from FMC and FC, and in total

Good Practices in Excise Taxation

- **Examples and Lessons Learned**
  - Clear objectives: taxing harm, stable revenue
  - Single-tier specific tax vs Multi-tier Ad Valorem tax: the former is more efficient for the objectives
- **Recommendations**
  - Multi-year plan (German eco-tax, Philippine tobacco tax reform, 5 years)
  - Transparency
  - Flexibility to adapt to new challenges

Considerations for Other Harm Goods

- **Policy Adaptation**: Applying excise tax principles to other harmful goods.
- **Examples**: Potential future categories like digital products with negative social impacts.
- **Future Trends**: Anticipating and preparing for emerging harmful products.

Challenges and Opportunities

- **Implementation Challenges**: Administrative complexity, compliance issues, and potential for evasion.
- **Opportunities for Improvement**: Leveraging technology for better enforcement, international cooperation, and continuous policy refinement.
- **Innovative Approaches**: Exploring new tax mechanisms and incentives to address emerging issues.

Conclusion

- **Objectives**
  1. Minimizing harm
  2. Providing stable and predictable government revenue
- **Design principles**
  1. Higher level of harm: higher tax
  2. Lower elasticity (including self and cross elasticities): higher tax rate
- **Implementation Options**
  - Single-tier specific tax vs Multi-tier Ad Valorem tax
  - The former is more efficient for the objectives

15TH ANNUAL ASIA-PACIFIC TAX FORUM
K.L 2024

REGIONAL INTEGRATION AND THE NEED FOR COORDINATION IN INDIRECT TAXES

16-17 JULY 2023

DATO SRI SUBROMANIAM THOLASY
FORMER DIRECTOR GENERAL OF CUSTOMS, MALAYSIA
NON-RESIDENT SENIOR RESEARCH FELLOW, MIER

Extract from ASEAN Economic Community Blueprint 2025

B.5. Taxation Cooperation within ASEAN

35. Tax cooperation serves as one of the key elements to support regional competitiveness in ASEAN by addressing the issue of fiscal barriers. Several ongoing and future measures have been committed to be undertaken, including:

i. Concerted efforts to support the completion and improvement of network of bilateral tax agreements to address the issues of double taxation, and work towards the enhancement of withholding tax structure, where possible, to promote the broadening of investor base in ASEAN debt issuance;

ii. Improve the implementation of exchange of information in accordance with international standards;

iii. Discuss measures to address the issue of base erosion and profit shifting to ensure fiscal health;

iv. Explore the possibility of global taxpayers' identification number to improve tax collection and enhance monitoring of transactions; and

v. Explore the possibility of collaboration in excise taxation and information sharing among ASEAN Member States on common excisable products.

Cigarette tax system in ASEAN

Country	Type of Tax Applied			
	Excise Rate	VAT/GST	Import Tariffs	Others
Specific Tax				
Brunei Darussalam	BND 0.50/stick	N/A	N/A	
Indonesia	IDR 110-865/stick (10 tiers)	9.10%	0% from ASEAN plus China; 40% from outside ASEAN plus China	Local cigarette tax at 10% of excise tariff
Malaysia	MYR 0.40/stick	10%*	MYR 0.20/stick	
Myanmar	MMK 9-26/stick (4 tiers)	N/A	30% on CIF	5% commercial tax for import, 1% special excise duty, income tax and import duties are also charged on raw tobacco and materials for cigarettes.
Philippines	PHP 50/pack; PHP 55/pack on 1 January 2022; PHP 60/pack on 1 January 2023; and 5% annual increase beginning on 1 January 2024	12%	3% - 10%	
Singapore	SGD 0.427/stick	7%	N/A	
Ad Valorem Tax				
Cambodia	20% of 90% of invoice price	10%	7% - 35% plus 10% import VAT	Public lighting tax 3% of invoice value, Profit tax 20% of profit, Turnover tax 2% of invoice value
Vietnam	75% ex-factory price	10%	30 - 135% 30% applies on tobacco materials including tobacco leaves and other materials 135% applies on cigarettes and cigars	Compulsory contribution to Vietnam Tobacco Control Fund: 2% of taxable price (1 May 2019 onwards)
Mixed Tax				
Lao PDR	15 - 30% of production cost plus LAK 600/pack additional specific tax (in practice) 50% of wholesale price plus LAK 600/pack additional specific tax (by law)	10%	Flat rate USD 0.40/pack	Royalty fee 5% of production cost Compulsory contribution to Lao PDR Tobacco Control Fund: 2% of profit tax and LAK 200/pack
Thailand	20% of suggested retail price (SRP) (if SRP is less than/equal to THB 60/pack) and THB 1.2/stick** 40% of SRP (if SRP is more than THB 60/pack) and THB 1.2/stick**	7%	Exempted but other local taxes are applied	Provincial Administration Organization tax of THB 1.86/pack, ThaiHealth tax at 2% of excise, TV tax at 1.5% of excise, sport tax at 2% of excise, interior tax at 10% of excise and senior citizen fund tax at 2% of excise

*GST was removed beginning 1 June 2018, however, cigarette prices remain the same. The new tax rate of 10% sales and services tax (SST) was applied in September 2018.
** These rates have been applied from 16 September 2017 to present. A single rate of 40% of SRP and THB 1.2/stick was scheduled to be applied from 1 October 2019 onwards; however, because of tobacco industry opposition, enforcement was postponed indefinitely.

Current challenges in Tobacco & Alcohol Taxation & smuggling

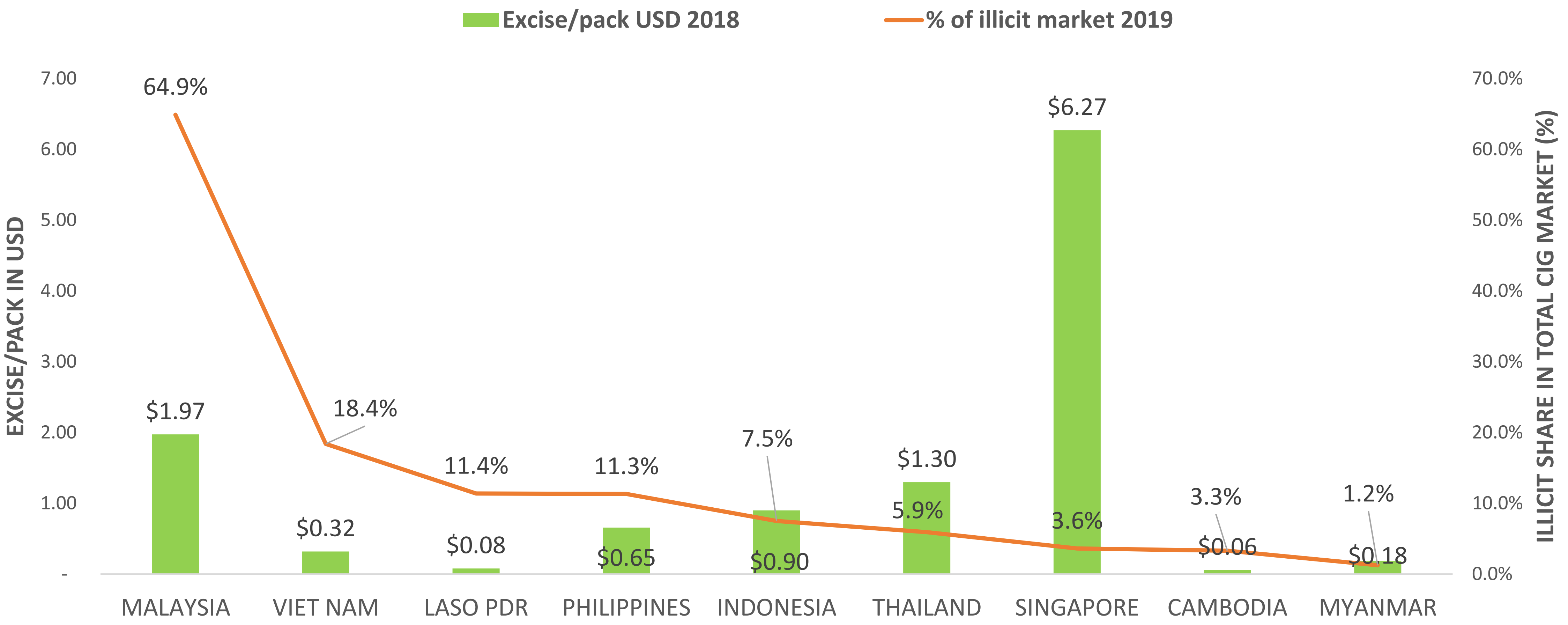
Enforcement Gaps

- Fiscal marking enforcement
- Administration of private Jetties/ licensing/permits
- Transit / Transshipment Fraud
- Movement under suspension procedures
- Reconciliation of inputs/outputs
- Lack of Audit Based Control (ABC)
- Lack of money laundering investigations on illicit trade
- Abuse of Free Zones/Misdeclaration

Policy Gaps

- Lack of technological tools to track and trace – ex. Fiscal stamps, block chain technology
- Excise tax policy/different rates in ASEAN
- Tax policy offend- Pigouvian principle
- Economy- Tobacco & Alcohol taxes becomes easy pick to generate higher revenue
- Lack of scientific research on Excise policy - Public health should discourage demand for harmful goods
- Excise tax policy should encourage consumers to switch less risky products eg. e-cigarettes, HnBs vs combustible tobacco products

Excise difference provides financial incentive for smuggling – Possible to harmonize the rates in ASEAN?



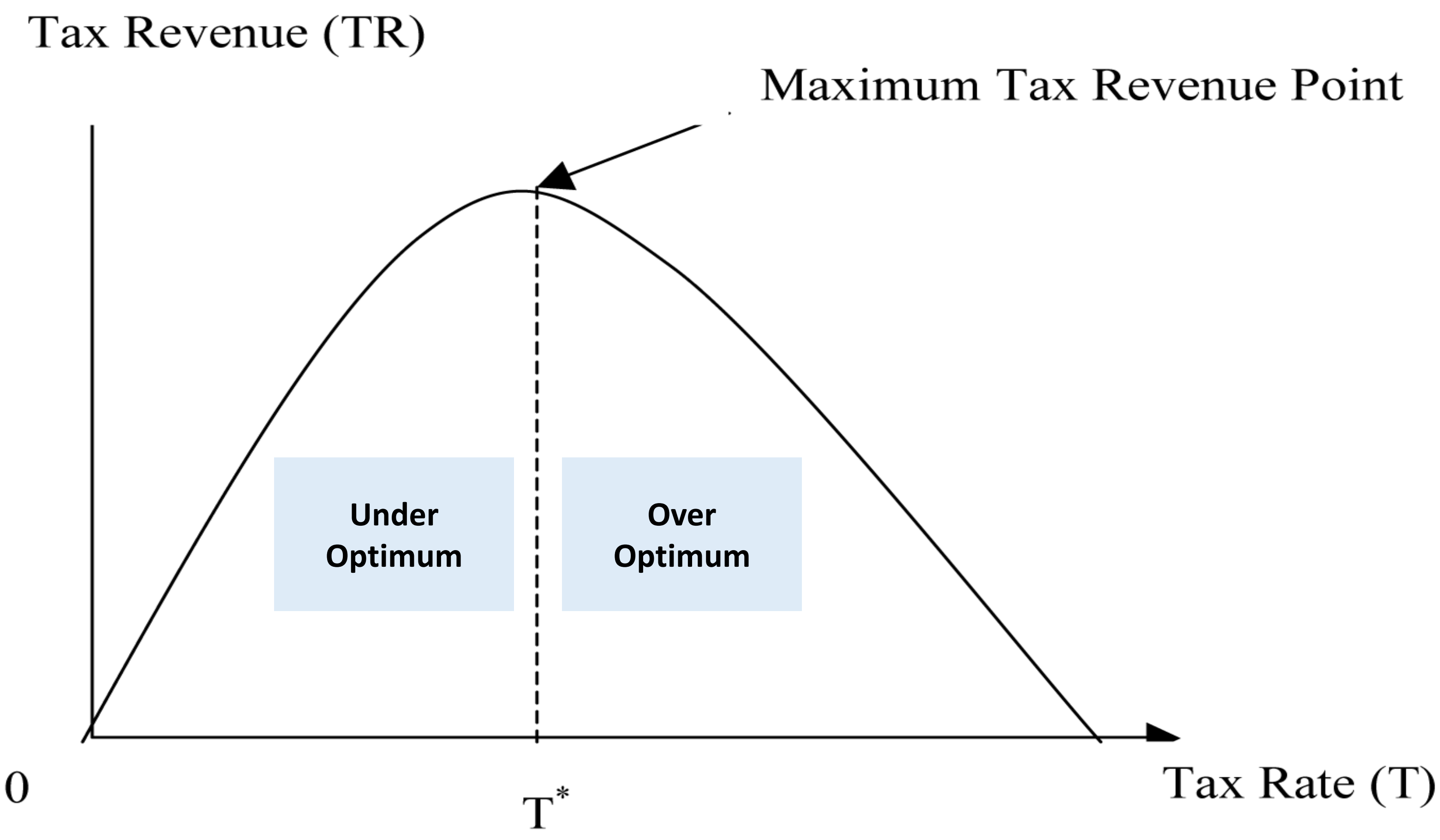
Source: WHO 2019, Euromonitor 2020

EXCISE DIFFRENTIAL BETWEEN CIGARETTES AND E-CIGARETTES

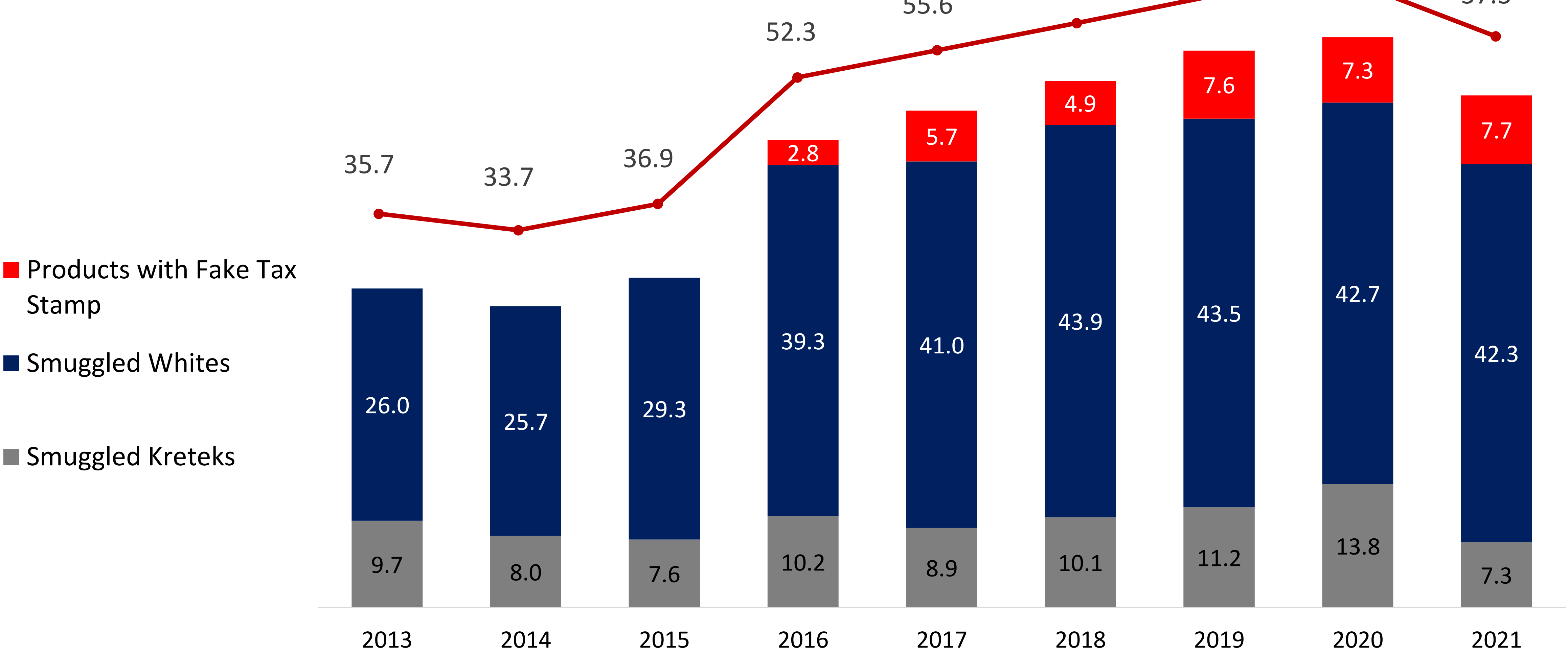
	CIGARETTES	HNB	EXCISE DIFF. FROM CIGS	E-CIGS	EXCISE DIFF. FROM CIGS
MALAYSIA	RM 0.40/stick	RM778/kg = RM0.28/equivalent stick	30%	RM0.40/ml	~ 90%
UK	£ 294.72 plus 16.5% of retail price , with a min £ 393.45	£ 302.93/kg	60%	Not excisable	100%
INDONESIA	IDR 110 TO 865/stick (10 tiers)	IDR 2886/g = 1041/stick	10% to 90%	Open liquid IDR532/ml Sealed liquid IDR 6392/ml	Very significant

OPTIMAL EXCISE RATE FOR CIGARETTE IN MALAYSIA

The Laffer Curve



Malaysia’s illicit Incidence (%)



<u>Volume (Billions sticks)</u>									
Illegal Cigarettes	7.9	7.0	7.1	10.1	11.1	12	12.2	11.7	9.1
Estimated Total Industry	22.1	20.8	19.2	19.3	20.0	20.4	19.5	18.4	16.0
Incidence	35.7%	33.7%	36.9%	52.3%	55.6%	58.9%	62.3%	63.8%	57.3%

CBAM
new regulation creating incentives for non EU producers to reduce emissions

A tool to counter carbon emission outside of the EU jurisdiction with lower climate policy standards.

This is the European instrument to help reduce emissions globally.

Does not infringe WTO free trade rules and FTAs

Principle EU-ETS / CBAM

› Production of goods energy-intensive.

› For the production of goods, a price must be paid in Europe on CO_2 emissions under the EU ETS (Emission Trading System) from 2026 onwards.

› Currently, certificates are issued free of charge, but this is changing.

› With the pricing of CO_2 emissions, goods from third countries should also become more expensive.

➢ Is Malaysia and other ASEAN countries ready for carbon tax and CBAM? Palm oil could potentially be in the EU list of goods under CBAM

List of goods and greenhouse gases

- Cement (HS 2507 00 80, 2523 10/21/29/30/90)
- Electricity (2716)
- Fertilisers (HS 2808, 2814, 2834 21, 3102, 3105)
- Iron and steel (HS 2601 12 00, 72, 73 up to e.g. screws, bolts, nuts, constructions, prefabricated houses)
  - Aluminium (HS 76 e.g. foils, bars, rods, aluminium powder,)
- Hydrogen HS 2804 10 00

Thank you

TAX AND TRADE POLICY COORDINATION

Maneekwan Chandarasorn, Ph.D.

DIRECTOR OF CUSTOMS POLICY DIVISION

Fiscal Policy Office, Ministry of Finance of Thailand.

Asia Pacific Tax Forum
16 - 17 July 2024
Kuala Lumpur, Malaysia

WHY WE NEED TO COORDINATE ?

Border Control & Enforcement

With porous borders and varied levels of governance in neighboring regions, Thailand faces significant hurdles in preventing the influx of contraband and counterfeit goods. Effective border control is critical to safeguarding our economy and protecting our citizens from potentially harmful products.

Revenue Loss

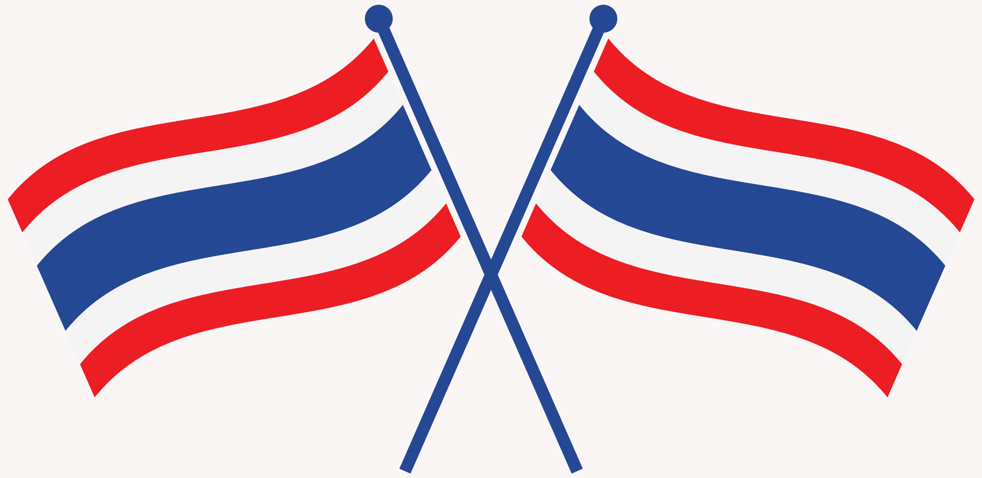
The trade in illegal goods leads to substantial revenue losses for the government. These losses not only affect our fiscal health but also undermine the effectiveness of our public services.

Public Health and Safety

Counterfeit goods, especially pharmaceuticals and food products, pose severe risks to public health and safety. Ensuring that only legitimate, safe products enter our market is a priority.

Economic Impact

The presence of counterfeit goods can distort market competition, affecting legitimate businesses and damaging our economic growth.



Thailand's Cases

30,000+

Smuggling Seizure
Cases

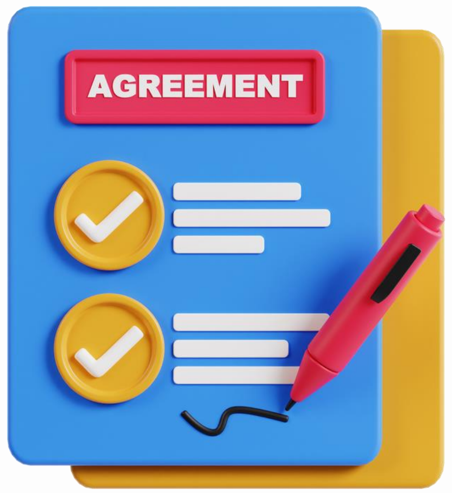
100+ m$

Smuggling Seizure
Values

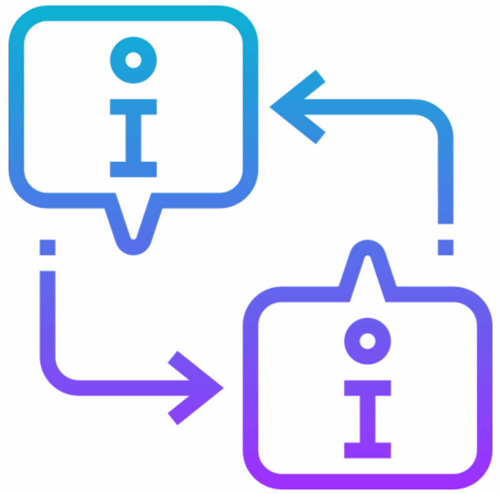
N/A

Real Smuggling
Contraband/Counterfeit
goods

HOW CAN WE COORDINATE?



Framework & Agreements



Information Exchange

Capacity Building & Training

Policy Dialogue & Advocacy

Technological Advancements

Policy Harmonization & Best Practices

WHAT WILL WE GET FROM ENHANCED TAX COORDINATION?

Increased Tax Revenue

Economic Stability

Regional Integration

Anti-Evasion Measures

THANK YOU!

Maneekwan Chandarasorn, Ph.D.

Director of Customs Policy Division
Fiscal Policy Office, Thailand's Ministry of Finance

maneekwan@gmail.com
maneekwan@fpo.go.th

PHILIPPINE EXTRACTIVES

LARGE SCALE MINING

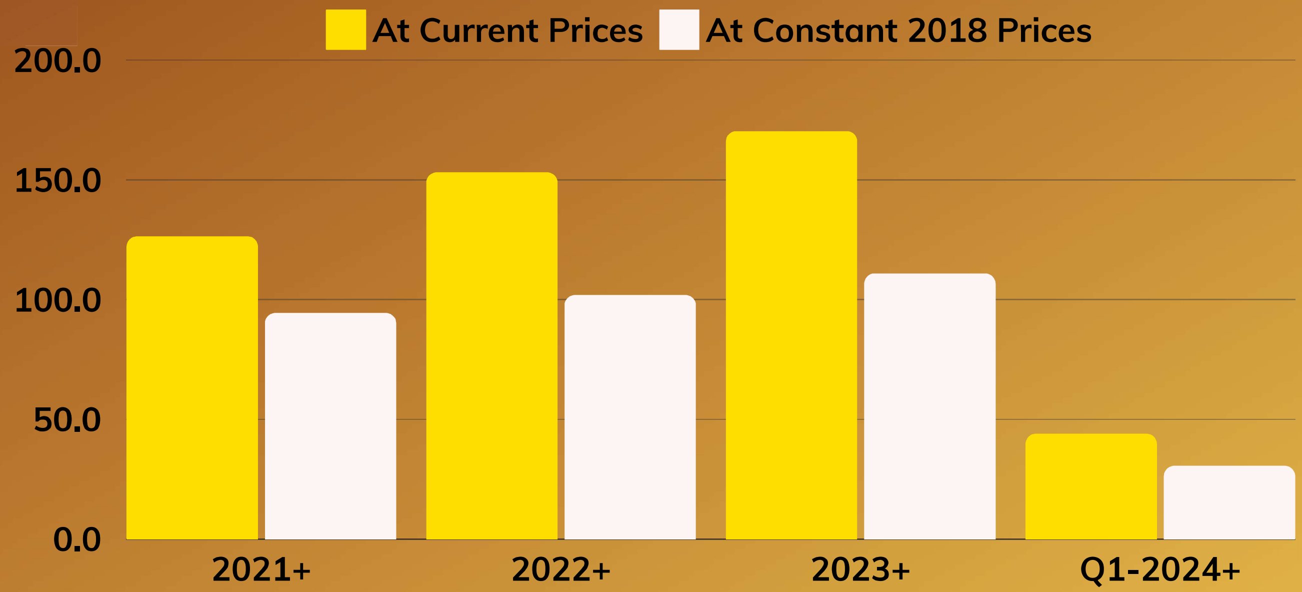
17 JULY 2024

15TH ASIA-PACIFIC TAX FORUM (APTF)

SHERATON IMPERIAL KUALA LUMPUR HOTEL

GROSS VALUE ADDED

MINING CONTRIBUTION TO GDP (IN BILLLION PESOS)



1970s mining and quarrying sector - 1.4 % of Gross Domestic Product (GDP)
At present - < 1% of the country's GDP (PSA 2021).

Source: Mines and Geosciences Bureau (MGB), 2024

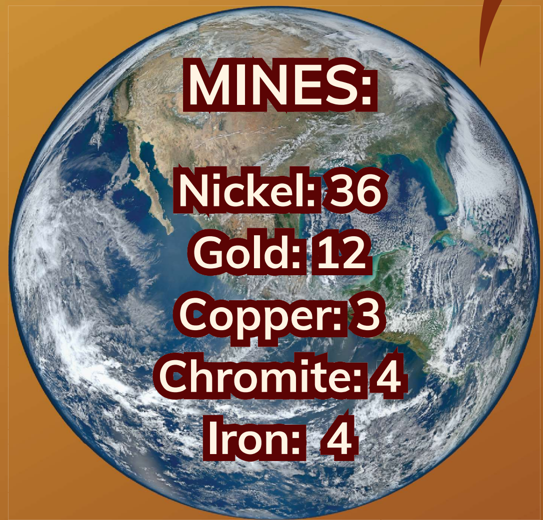
STATE OF THE PHILIPPINE MINING INDUSTRY

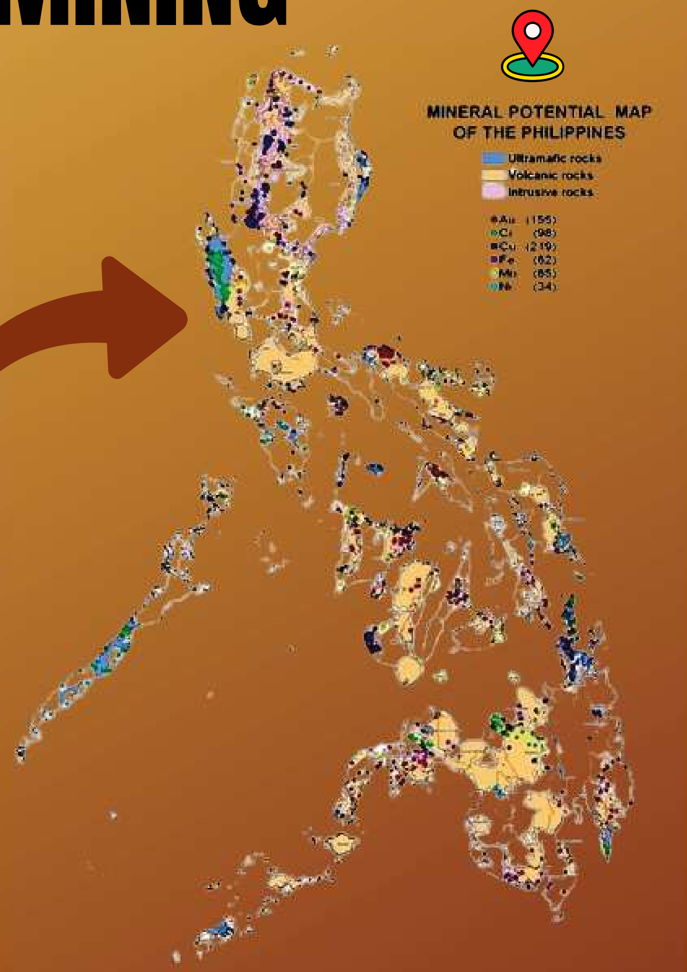
- **9M hectares** identified as having high mineral potential
- **755,960.10 hectares (2.52%)** is covered by mining tenements (MGB, 2024)
- Leading producer of **nickel** and a significant producer of **gold** and **copper**.
- Also exports **iron ore, chromium, zinc** and **silver** (PH-EITI).

OVERVIEW OF PHILIPPINE MINING

59 OPERATING LARGE SCALE METALLIC MINING PROJECTS

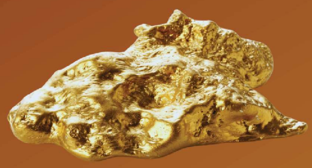
occupy **less than 10,000 hectares** of the country's 30 million hectare land area (0.03%);





Source: Chamber of Mines of the Philippines

ESTIMATED VOLUME PRODUCED IN 2023



GOLD

31,046 kgs.

NICKEL AND NICKEL PRODUCTS

35,144,306 dmt

COPPER

266,532 dmt

CHROMITE

101,960 dmt

Source: Mines and Geosciences Bureau (MGB)

PH-EXTRACTIVES INDUSTRIES TRANSPARENCY INITIATIVE (PH-EITI)

- EITI is a global standard for transparency in the extractives sector that involves the reconciliation of company payments with government receipts.

1. Ensures that accurate figures about revenues are publicly available;
2. Identifies any potential discrepancies between payments and receipts; and,
3. Investigates and address the underlying causes.

THE PHILIPPINES

Became a member of the Extractive Industries Transparency Initiative (EITI) in 2013.

Source: PH-EITI

MINING LEGAL FRAMEWORK

- Presidential Decree 1586 (Environmental Impact Statement System, 1978)
- 1987 Philippine Constitution
- Republic Act No. 7160 (Local Government Code of 1991)
- RA 7942 (The Philippine Mining Act of 1995)
- R A 8371 (The Indigenous Peoples' Rights Act of 1997)
- Executive Order (EO) 79, s. 2012
- EO 130, s. 2021

KEY FEATURES OF THE PROPOSED BILL ON MINING FISCAL REGIME

1. Simplification of the mining fiscal regime
2. Imposition of a royalty tax outside mineral reservation
3. Introduction of a windfall profit tax mechanism
4. Provisions on thin-capitalization, ring-fencing, transparency and accountability

Source: Department of Finance, 2024

CURRENT VS PROPOSED MINING FISCAL REGIMES

CURRENT	PROPOSED REGIME
Mineral Production Sharing Agreement (MPSA)	The tax structure of the MPSA will now apply to both MPSA and FTAA
MPSA in Ancestral Domain	
MPSA in Ancestral Domain and in Mineral Reservation	
Financial and Technical Assistance Agreement (FTAA) in Ancestral Domain	
FTAA in Ancestral Domain with cost recovery (with accelerated depreciation)	

The MPSA is the mining permit used by Philippine mining companies where no more than 40% foreign equity is allowed.
The FTAA is the mining permit used by foreign companies that desire to own 100% of its mining operation.

CURRENT VS PROPOSED MEASURE

PROVISION	CURRENT	PROPOSED REGIME
Royalty within mineral reservations	5% of gross output	5% of the gross output of the minerals or mineral products extracted or produced.
Thin capitalization	Without	2:1 debt-to-equity ratio Disallowance of excess interest expense
Ring fencing	Without	Each mining operation is a separate taxable entity.
Transparency	Without	Fiscal transparency and compliance with EITI requirements; Exemption from confidentiality of the NIRC of 1997, as amended
Collecting agency (royalty)	MGB	BIR

CURRENT VS PROPOSED MEASURE

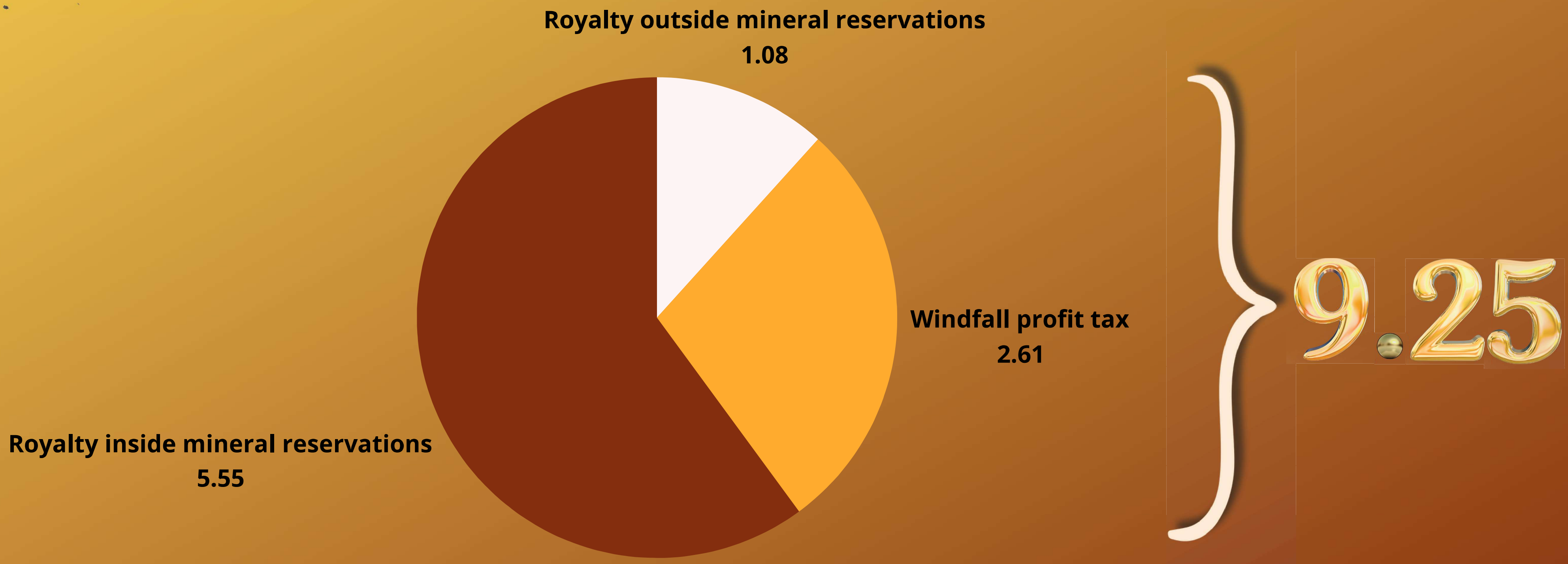
Royalty Outside Mineral Reservation

CURRENT	PROPOSED
NONE	Large-Scale Metallic Mining Operations: 1% to 5% on gross income (5 tiers)

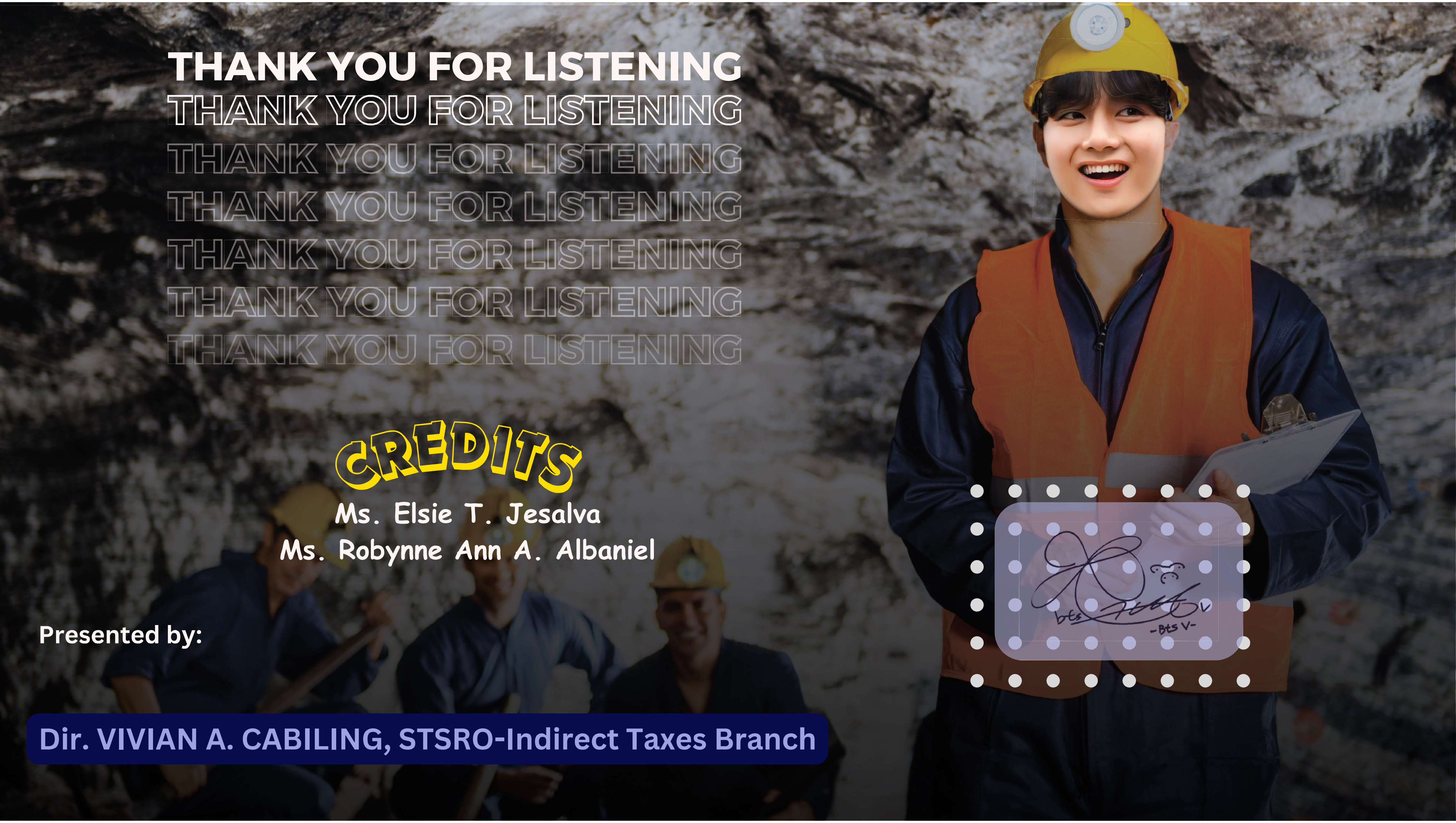
Windfall Profit Tax

CURRENT	PROPOSED
FTAA: AGS is the difference of the 50% of net mining revenue (NMR) and Basic Government Share (BGS), if BGS < 50% of NMR	1% to 10% of the margin i.e., the ratio of net income to gross output (5 tiers) Optional Standard Deduction under Sec. 34(L) of the NIRC of 1997, as amended, shall not apply.

ESTIMATED REVENUE IMPACT
(In Billion Pesos)



Source: Department of Finance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Grant Thornton

ASEAN Resources Tax Discussion

Paul Cornelius

Grant Thornton Thailand

July 2024

Content

Grant Thornton

01 Tax Issues – Resources Sector

Tax Issues in the Resources Sector

The structure of the mining or petroleum law in each country drives the tax structure and outcomes

- Ownership of Resources – Generally in Asia owned by the State when in the ground (by contrast to the US for example)
- Concessionaire – generally concessionaires own oil and gas at the wellhead
- Production Sharing Contract – Production is shared between contractors and government based on a ratio in the PSC after contractors have recovered exploration and development costs
- Service Contract – the state owns all of the oil and gas produced

Tax compliance is critical in today's world - maintaining strong relationships with all stakeholders including revenue authorities

Income Tax Laws generally align with the ownership of the resources

- Income Tax Calculations under a PSC Regime can be provided in Income Tax Law or be contained in part in the PSC.

Upstream Oil and Gas Tax Regimes in ASEAN

- PSC – Thailand, Myanmar (in practice), Indonesia (gross split), Brunei, Laos, Vietnam
- Income Tax Law or Petroleum Income Tax Law – Thailand, Cambodia, Malaysia, Philippines

Tax Issues in the Resources Sector

Ringfencing

- Usually well defined in upstream oil and gas but problems can arise on relinquishment of exploration permits
- Lack of group relief in many jurisdictions

PSC's – Non Recoverable Costs Can Still be Tax Deductible in Some Jurisdictions

- Interest, guarantee payments, interest free loans, sole costs, general administration costs

Rehabilitation Costs – Deductible on a provision basis or only if cash is deposited in a trust account over the life of the project

Disposal of an Interest in a Petroleum Project

- Capital v Revenue gains
- Uplift in cost base for the purchaser?
- Farm in – in particular the treatment of the promote

Tax Stabilization

Tax Issues in the Resources Sector

Lack of Tax Law

Myanmar – many examples including issues such as removal of overburden in the mining sector, treatment of mining exploration expenses and clear distinction between income tax law and PSC (eg tax on profit petroleum)

Laos – government negotiation

Indirect Tax Burden

Indirect taxes on exports such as SGT in Myanmar

Exemption or recoverability of customs duties where goods are stored for use in multiple projects

Transfer pricing

Internal as well as international

Different tax regimes for upstream vs midstream vs downstream lead to TP disputes

Withholding tax

Payments for use of equipment v services

Obtaining tax treaty benefits – some revenue authorities are difficult to handle

Permanent Establishment

The hope is that the UN/OECD rules on treaty interpretation are consistently applied but this is not always the case.

Leasing – New emerging guidance IFRS 16 and Tax Law

Embedded leases – severe impact in Thailand for example

02 Carbon Tax – A Brief Overview

Carbon Taxes – Brief Update

Carbon Tax Examples

1. A straight Carbon Tax on annual greenhouse gas emissions (x$ per tonne of CO2equivalent emitted in a year).

A carbon tax will cover many different types of greenhouse gas emissions not just CO2

Measurement criteria used to determine emissions can be:

- Direct emissions (scope 1),
- Indirect input emissions (scope2) incurred by the business itself including items such as electricity used in the production process.
- Indirect 3rd party input emissions (scope 3) incurred by 3rd parties down the full supply chain are far harder to measure.

Carbon credits may be available to offset carbon emissions – for example carbon sequestration and storage and forestry projects

Carbon pricing has been implemented in at least 39 national and 33 subnational jurisdictions

Carbon Taxes – Brief Update

Carbon Tax Examples

2. An emissions trading scheme.

- Emissions are capped at x number of tonnes of CO_2 equivalent p/a.
- To the extent that a business exceeds its cap it is required to buy credits to bring its emission level back down to the cap.
- The credits can be purchased from a government or from a market exchange
- They can also be generated from the activities carried on by a business itself (eg reforestation expenditure or carbon sequestration and storage activities) or activities carried on by a carbon offset project developer.
- The market exchange allows for the sale of excess credits and sets a market price

Carbon Taxes – Brief Update

Carbon Tax Examples

3. EU Carbon Border Tax

- Transitional application from 1 October 2023 for goods imported into the EU in the cement, iron and steel, aluminium, fertilizer, electricity and hydrogen industries.
- Full implementation in 2026
- Covers direct and indirect emissions measurement but this seems to still lack some clarity
- Expected rate is around $90/tCO2
- Any carbon tax paid in the country of origin can be offset against the border tax.

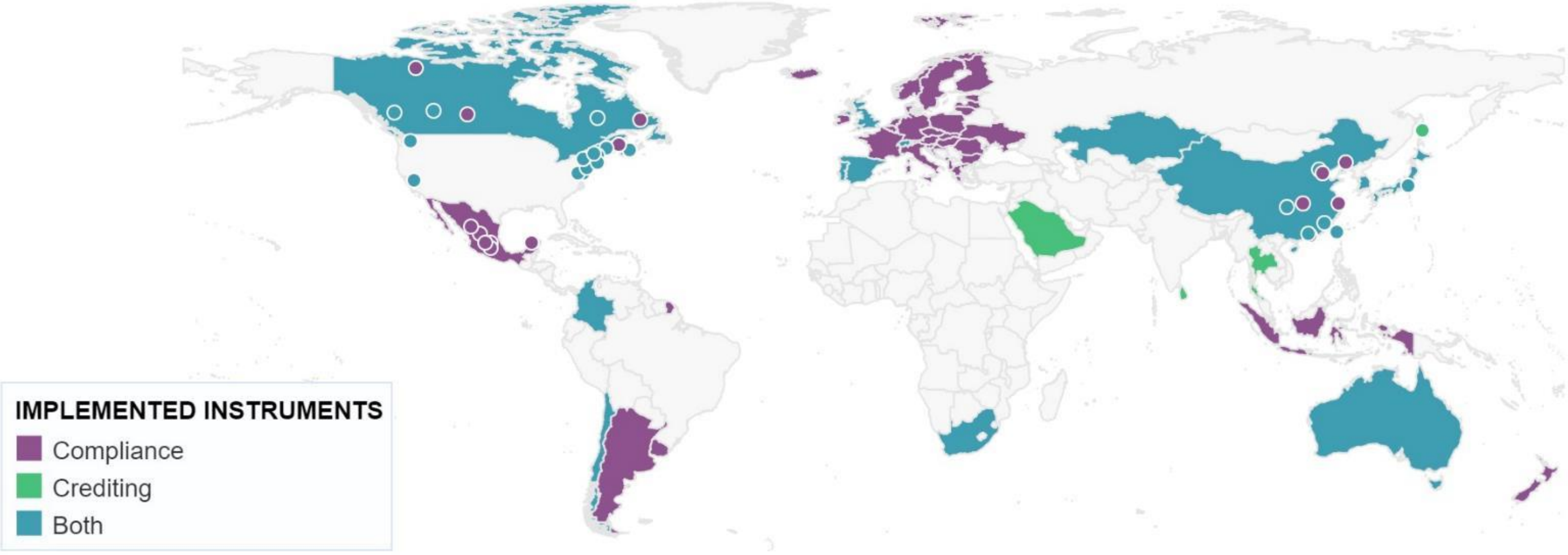
Measurement of greenhouse gases is critical – calculations will need to be checked by accredited advisers

- The Verified Carbon Standard and the Gold Standard provide measurement guidance
- The Greenhouse Gas Standard provides accounting guidance

Carbon Pricing

Carbon pricing instruments around the world, 2024

Map shows jurisdictions that have implemented Direct Carbon Pricing Instruments - Compliance instruments (Emissions Trading Systems (ETS) and Carbon taxes) and/or domestic carbon crediting mechanisms, subject to any filters applied. The year can be adjusted using the slider below the map.



Reference: https://carbonpricingdashboard.worldbank.org/

ASEAN Update

Increasing adoption of carbon taxes and green policies across the region, with a focus on achieving net-zero targets. Indonesia leads the way with its CCS/ CCUS regulations while Malaysia and Thailand are likely to follow, creating regional environment conducive and innovative investments in the oil and gas sector.

Singapore

- Carbon tax rate to increase from S\$5/tCO2 to S\$25/tCO2 in 2024 increasing to S\$80/tCO2 by 2030
- Carbon credits can be used to offset up to 5% of their carbon emissions
- Levied on facilities that directly emit at least 25,000tCO2e of greenhouse gases annually
- Covers around 80% of Singapore GHG emissions
- Main industries are power, manufacturing including chemicals, waste and water sectors
- Transitional measures for emissions intensive trade exposed sectors, these are mainly export focussed businesses wher increased costs cannot be passed on in a global market
- Singapore government estimates a S\$5tCO2 tax rise will increase domestic energy costs by 1%
- Indirect emissions under scope 2 and 3 are excluded from the carbon pricing act.

ASEAN Update

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Indonesia

- Introduction of CCS and CCUS policies (MEMR Regulation No. 2/2023) to support carbon capture and storage.
- Indonesia's carbon tax framework aims to price carbon emissions effectively to encourage reduction strategies.
- Major projects incorporating carbon capture technologies to mitigate emissions.
- An IDR30,000/tCO2 tax has been proposed

Malaysia

- Focus on regulatory updates for CCS projects, emphasizing environmental compliance and technological advancements.

Vietnam

- Vietnam: Enhanced fiscal terms under new Petroleum Law promoting greener practices in the oil and gas sector.

Thailand

. Will introduce a carbon tax from 2025 at around 200B/tCO2 focussing on source emissions (eg poer stations and oil refineries)

03 OECD BEPS – Pillar 2

BEPS – What is it?

An OECD Inclusive Framework on Base Erosion and Profit Shifting

- International collaboration to end tax avoidance
- 140 countries are signed up to implement the BEPS process (or at least parts of it)

BEPS Actions 2015/2016

- Tax challenges arising from digitalization
- Neutralizing the effects of hybrid
- mismatch arrangements
- Controlled foreign companies
- Limitation on interest deductions
- Harmful tax practices
- Prevention of tax treaty abuse
- Permanent establishment status

Transfer pricing (3 actions)
BEPS data analysis
Mandatory disclosure rules
Country by country reporting
Mutual agreement procedure
Multilateral Instrument

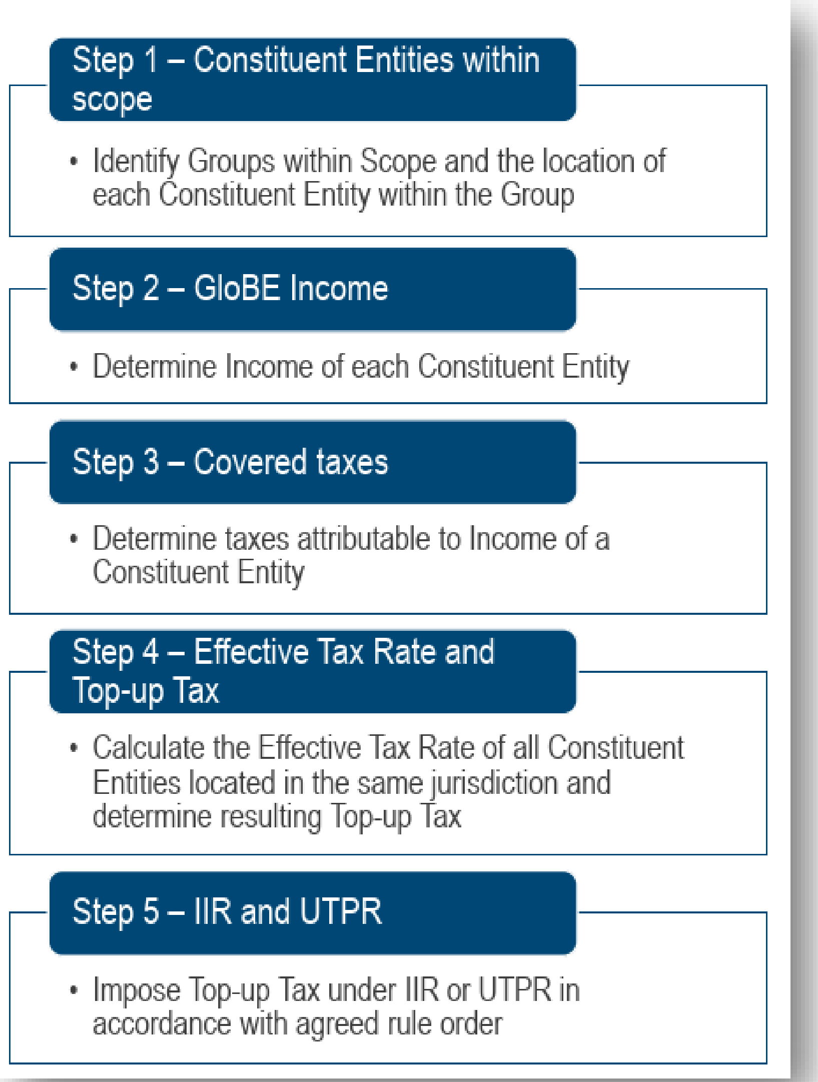
- In 2021 the OECD issued its rules for BEPS 2.0 Pillars 1 and 2 Aimed at Action 1 – Tax challenges arising from digitalization.

BEPS 2.0 Pillar 2

- The Global Anti-Base Erosion Model rules (Pillar 2) (Globe Rules") were originally published by the OECD in December 2021 as part of the inclusive framework on BEPS
- The intention is to implement a minimum effective tax rate of 15% for each country in which a multinational enterprise ("MNE") has a controlled entity or permanent establishment.
- They apply to any MNE group consolidated revenues of Euro750million or more in at least 2 of the previous 4 fiscal years preceding the tested year
- There are some exclusions including government entities, not for profit entities, international organisations, pension funds, investment funds and real estate investment vehicles

Key Operating Provisions of the GloBE Rules

- Under the GloBE Rules, the levied tax is characterized as a "top-up tax" and is computed and administered at a jurisdictional level.
- These rules employ a standardized base and a defined set of covered taxes to ascertain jurisdictions wherein a Multinational Enterprise (MNE) is subjected to an effective tax rate below 15%.
- Subsequently, the GloBE Rules institute a synchronized tax charge to elevate the MNE's effective tax rate on the specified income to the stipulated minimum rate, accounting for a carve-out based on substance.
- The structuring of the GloBE Rules as a top-up tax facilitates the systematic enforcement of these regulations.



Pillar 2 – Top Up Tax Calculation

Covered taxes calculated on a

Jurisdiction basis

--------------------------------------- = Jurisdictional Effective Tax Rate (ETR)

Globe Income calculated on a

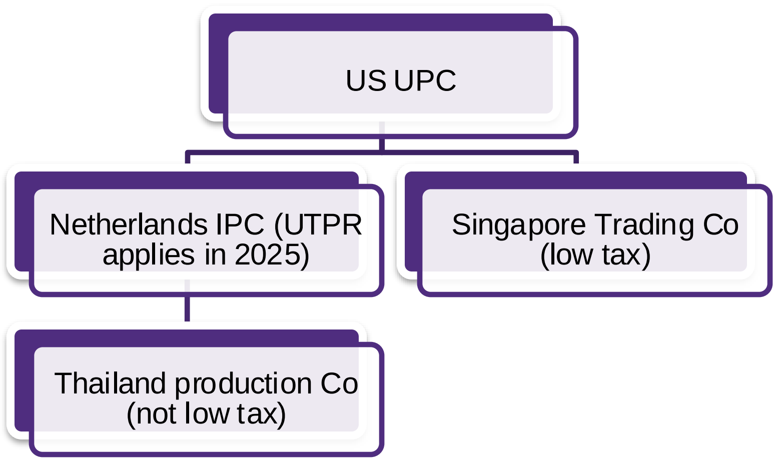
Jurisdiction Basis

Jurisdiction Excess profit = Globe Income – Substance based Income Exclusion

Top Up Tax % = Minimum rate (15%) – Jurisdictional ETR

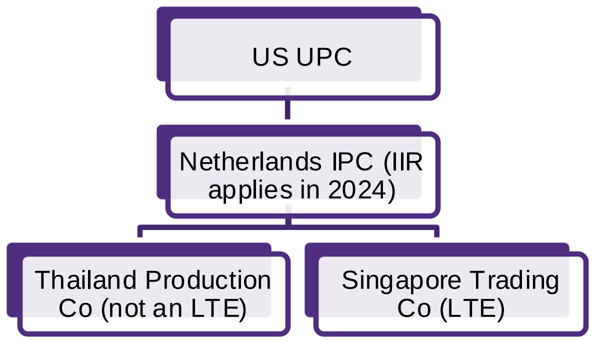
Jurisdictional Top Up Tax = (Top Up Tax % x Jurisdiction excess profit) – Jurisdictional Minimum Top Up Tax

Pillar Two Example



2024 – No top up tax

2025 – DMT paid in Singapore



2024 – Top up tax for Singapore paid in Netherlands

2025 – DMT paid in Singapore

Example – Qualifying refundable tax credit

Covered taxes pre credit/ exemption = 16

Exemption/ tax credit = 6

GloBE Income = 100

1.Tax exemption on non-qualifying tax credit

$$\frac{Covered\ taxes\ - credit}{GloBE\ Income} = \frac{16\ - 6}{100} = 10\%\ ETR$$

2. Qualifying tax credit

$$\frac{Covered\ taxes}{GloBE\ Income + credit} = \frac{16}{100 + 6} = 15.1\%\ ETR$$

Transitional Safe Harbours

- Apply to fiscal years ending on or before 21/12/2026
- Safe harbour:

1. De minimis test
   - Revenue in jurisdiction < EUR 10 million and profit before tax in jurisdiction < EUR 1 million
2. Simplified ETR test
   - 15% for periods starting in 2023 & 2024
   - 16% for periods starting in 2025
   - 17% for periods starting in 2026
3. Routine profit test
   - Profit before tax < substance-based income exclusion

- Calculations use CbCR data
- Resulting jurisdiction top-up tax = zero

Grant Thornton

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