The Role of Technical Assistance: An Industry Perspective

19 April 2011, Washington, DC

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The Role of Technical Assistance: An Industry Perspective

- Investments in natural resources tend to:
  - Be large relative to the economy of the developing country, subject to heavy scrutiny, and may have differing regional and national considerations
  - Have capital invested up front, whereas returns to stakeholders are delivered over a long period
  - Pose particular tax administration challenges
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• Three critical factors for a successful partnership between the taxpayer and the tax authority:
  – Transparency of tax administration process and transparency of taxpayer behaviour
  – Capacity-building in tax administrations
  – Clear process in place for escalation of tax disputes, supporting a route to resolution
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- Transparency
  - Compliance by all parties with any investment stabilisation agreement
  - Compliance by all parties with tax administration rules and regulations
  - Consistent application of law and regulations
  - Changes in law should only be prospective and clear guidelines available in advance
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- Capacity-building in tax administrations
  - Consider practical issues such as:
    - What GAAP?
    - What functional currency?
    - What accounting software system?
    - What language to maintain books and records in?
  - Conduct of tax audits and the issue of tax assessments:
    - Reasonable response times if data maintained overseas or requires translation
    - What checks and balances in place to guard against frivolous tax assessments that then clog up the tax courts?
  - VAT and customs duty exemption certification, rather than pay and reclaim
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• Technical issues around capacity-building in tax administrations:
  – Transfer pricing
  – Application of tax treaties
  – Competent authority processes
  – Fit for purpose tax design with a focus on efficient revenue collection
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• Clear process for elevating and resolving tax issues such as:
  – Conflicts between investment stabilisation agreement and subsequent changes of tax law
  – Application of tax treaties
  – Competent authority processes
  – Timely reimbursement of taxes incorrectly withheld
  – Procedural opportunities for quick dispute resolution without necessarily resorting to litigation
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• How can industry help?
  – Share examples of best practice experiences from other countries
  – Work together to find practical and effective solutions to particular audit or tax administration problems
  – Work together in the design of new tax legislation
  – Technical tax training in specialist areas such as issues relevant to mining taxation, application of tax treaties, permanent establishments, transfer pricing
  – Education about the international mining business, key commercial and operational and financing issues