Taxes, H(e)avens and Development

Grace Perez-Navarro
Deputy Director
OECD Centre for Tax Policy and Administration
"Taxation is the lifeblood of development. Effective, efficient and capable tax authorities able to mobilise domestic fiscal resources are essential if they are to provide governments with sustainable, domestically generated revenue."

(Oupa Magashula, President, African Tax Administration Forum)
The Global Agenda

- What is at stake?
- What we do
- The range of initiatives undertaken

... But first a number...
USD
??,000,000,000,000,000
What’s at stake?

- Governments need revenue
- G20 has made tax transparency key component of global financial stability
- Latest communiqué from Cannes urges countries to tackle the deficiencies identified in the course of the reviews by the Global Forum
What we do

The Global Forum standards on transparency and exchange of information can be conceived of as a triangle or pyramid:

**Exchange** of information *on request* with safeguards to protect taxpayers’ rights and confidentiality.

**Availability** of information particularly accounting, bank and ownership information.

**Access** to information and powers to obtain it.
Exchange of Information

- The Internationally Agreed Standard: “EOI on request where the information is foreseeably relevant”:
  - On request
  - No fishing expeditions
  - No restrictions caused by bank secrecy or domestic tax interest requirements
  - Respect for taxpayers’ rights

- Confidentiality assured

- Since January 2009: around 700 agreements (DTCs + TIEAs) signed to exchange tax information to the standard.
The sources of the Standards

Primary authoritative sources

• Article 26 of the OECD and UN Model Conventions
• The 2002 Model TIEA

Secondary sources

• The 2005 JAHGA Report on Accounting practices
• The 2006 OECD Manual on Information Exchange
• 2004 Guidance Notes on Harmful Tax Practices
• FATF Standards
• The 2008 and 2009 “framework” notes
• Global Forum Annual assessments
Implementing the Standards

✔ Two phase peer review
  ➢ Phase 1 on legislative and regulatory framework;
  ➢ Phase 2 on actual practice.

✔ Based on peer involvement:
  ➢ Drafted by the assessment team with peer input (first layer);
  ➢ Endorsed by the PRG (second layer);
  ➢ Adopted by the whole GF (third layer).
Ratings

- Phase 1 reviews will lead to a determination in respect of each element:
  - The element is in place
  - The element is in place, but certain aspects of the legal implementation of the element need improvement
  - The element is not in place

- In Phase 2 each element will be rated:
  - Compliant: The essential element is, in practice, fully implemented.
  - Largely compliant: There are only minor shortcomings in the implementation of the essential element.
  - Partially compliant: The essential element is only partly implemented.
  - Non-compliant: There are substantial shortcomings in the implementation of the essential element.
Panama signed 12th EOI agreement and 1st TIEA (with the US), making substantial progress since Phase 1 report;

Panama recently requested a supplementary report to take into account the changes to its legal framework since its Phase 1 review;

Uruguay recently signed 10th EOI agreement, but needs to expand network, particularly with main economic partners;

Uruguay announced during Paris GF meeting in October 2011 its intention to sign EOI agreements with Brazil and Argentina;

Uruguay’s position will be reviewed in six months time.
Phase 1 Recommendations and determinations

- A1 – Ownership: 104
- A2 – Accounting: 58
- A3 – Bank: 4
- B1 – Access Power: 53
- B2 – Rights and Safeguards: 22
- C1 – EOI instruments: 64
- C2 – Network of Agreements: 62
- C3 – Confidentiality: 3
- C4 – Rights and Safeguards: 8
- C5 – Timely EOI: 1
Peer Review Trusts

- 35 of 59 jurisdictions reviewed have trust laws?

- Issues that have arisen include:
  - scope of common law duties
  - scope of requirements in civil law jurisdictions
  - non-professional and non-business trustees

- Further analysis of trusts to be undertaken in consultation with experts.
## Schedule of Peer Reviews

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- Phase 1 review
- Phase 2 review
- Combined reviews
Global Forum: Who we are

- 105 members to date
- G20, all OECD, offshore financial centres and expanding membership of developing countries (20 recently invited to join)
- All members equal – consensus decision making
- Relevant international organisations are observers (includes Commonwealth, IMF, World Bank, UN)
- Dedicated Secretariat
EoI Portal – Membership

http://eoi-tax.org/

This map is for illustrative purposes and is without prejudice to the status of or sovereignty over any territory covered by this map.
What’s next ?

- The 2009 “Sea Change”: April 2009 G20 announces that
  
  “The era of bank secrecy is over”

- But the era of bearer shares is also over and the era of domestic tax interest and the era of insisting on DTCs before exchanging information and......
G20 underlined “the importance of comprehensive tax information exchange”

All jurisdictions should “adhere to the international standards”

All jurisdictions should “take the necessary actions to tackle the deficiencies identified in the course of the reviews by the Global Forum”, in particular the 11 jurisdictions that do not move to Phase 2

G20 signed and encouraged others to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters
G20 “will consider exchanging information automatically on a voluntary basis” as provided for in multilateral Convention

G20 encourages FATF, Global Forum and other international organizations to “work closely together to enhance transparency and facilitate cooperation between tax and law enforcement agencies”

G20 calls “on FATF and OECD to do further work to prevent misuse of corporate vehicles”
The Multilateral Convention

- More forms of cooperation
  - automatic exchange
  - Simultaneous examinations
  - Collection assistance
- Open to all countries
- Can use to fight other serious crimes
A global dialogue on fighting tax and other financial crimes that finds ways to:

- **Strengthen** inter-agency cooperation among tax administrations, law enforcement and other gov’t agencies
- **Improve** understanding and use of mechanisms to fight financial crime
- **Respond** to developing countries’ challenges in tackling illicit financial flows
Multistakeholder Task Force works on:
1. Statebuilding, Taxation and Aid
2. Effective transfer pricing
3. Increased Transparency in Reporting of Relevant Financial Data by MNEs
4. Supporting Global Forum on transparency and eoi agenda
Questions?

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Thank you!