**GIFT**

**Public participation in revenue policy design and implementation**

**Concept Note (draft for discussion)**

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1. **Introduction**

Public participation in fiscal policy is receiving increasing attention internationally, but to date most attention has been paid to the expenditure side of the budget. This note provides a short overview of the field of public participation in revenues. It aims to provide some background to the General Stewards Meeting discussion on transparency and public participation in tax policy and administration. The objective is to start a conversation on transparency and public participation in tax policy and administration among the increasing number of stewards that have been working on the matter from different perspectives. A dialogue could certainly help identify gaps and complementarities between the different approaches, emphasizing access to information concerning government revenues, in order to conduct relevant analysis, and address the question of inequality, while keeping in sight the full range of opportunities and trade-offs involved in budget policymaking.

This note therefore defines public participation in fiscal policy, discusses its application to tax policy over the policy cycle, describes relevant international norms, cites some examples of country practices, and concludes by putting forward some issues for further discussion.

1. **What is public participation in tax policy and why is it important?**

Public participation refers to *direct* engagement between public officials in the executive or legislative branches, or in the Supreme Audit Institution, and members of the public - CSOs, business organisations, academics and individual experts, think tanks, the media, and so on, and individual members of the general public.

Public participation includes:

* Public engagement initiated by state actors (‘invited participation’), and engagement initiated by non-state actors such as CSOs (‘invented participation’).
* Both expert-based external engagement, and engagement with the general public.

The GIFT High Level Principles of Fiscal Transparency, Participation and Accountability assert that public participation in fiscal policy is a *citizen right*. This is particularly appropriate with respect to government’s coercive power to tax.

Public participation in tax policy also has instrumental value. It can improve tax equity, and can also increase the tax effort (revenue to GDP ratio) - the fundamental importance of which is recognized for attaining the Sustainable Development Goals. Some preliminary [studies](https://news.boisestate.edu/update/2017/03/06/brian-wampler-22/) have tried to demonstrate that participation can improve tax equity and increase tax efficiency by:

* Providing useful information on public preferences concerning normative issues such as the overall level of taxation, tax progressivity and tax incidence, and other equity issues.
* Providing information and insights from taxpayers and tax experts for more effective tax policy design.
* Facilitating feedback on the quality and integrity of tax administration.
* Reducing tax evasion, aggressive avoidance, and corruption.
* Improving perceived government legitimacy and the public’s willingness to pay taxes.[[1]](#footnote-1)
1. **Public participation and the tax policy cycle**

Figure 1 illustrates the stages in a tax policy cycle and cites examples of public participation at each stage.

**Figure 1: Public Participation and the Tax Policy Cycle**

While the attention to public participation in international fiscal transparency standards is relatively recent, there are some areas where direct public engagement on tax policy has long been the norm. For example:

* At the ‘money bill’ stage, when draft new tax law is being considered in the legislature, it is common practice for the legislature to invite public submissions in an attempt to ensure that tax laws are of sound quality.
* The executive branch in a number of countries has also traditionally consulted external experts and the public from time to time on prospective changes to tax law e.g. through a green and/or white paper process.
* There is a long-standing practice in many countries of providing tax payers with the ability to seek independent administrative review as well as judicial review of tax administration decisions.
* A more recent innovation in resource-revenue dependent countries is ‘social verification’ of revenues paid to and received by governments, in the form of the Extractive Industries Transparency Initiative (EITI).

However, if one considers the full tax policy cycle it appears that, to the extent to which external engagement occurs on tax policy, it has tended to be:

* At the legislative stage.
* If at the executive stage, it has tended to be on matters of tax administration, to reduce taxpayer compliance costs, rather than on tax policy design.
* Where executive branches have engaged on tax policy design, it has tended to be on narrower technical issues and issues of on-going ‘tax system maintenance’ (‘small p’ policy), rather than on the broader strategic issues of tax structure, mix, design, incidence, and equity (‘big p’ policy).
* External engagement has tended to be more common with the domestic community of tax experts, rather than the general public. There is perhaps a trade-off here between expert knowledge of tax law and administration, and the risk of self-interested responses from tax professionals and undue private influence over the tax system.

These statements should be treated as hypotheses, to be tested against the evidence.

One underlying driver of the above posited pattern of public engagement is perhaps the traditional norm of budget secrecy as applied to prospective changes to tax laws. An interesting question is the extent to which potential adverse behavioural responses to transparency of possible tax policy changes constrains the scope for public engagement by the executive during the policy design stage.

1. **International norms on revenue transparency and public participation**

It is helpful to consider the full scope of revenues that are covered by international norms on fiscal transparency. These include taxes, social contributions, and non-tax revenues such as grants (e.g. ODA), property income, and revenues from sales of goods and services (e.g. user-charges for public services). Also covered are tax expenditures – policy decisions not to collect revenues as a departure from the normal tax code to promote a particular activity e.g. tax incentives for foreign direct investment.

Box 1 contains a summary of provisions in the main international fiscal transparency norms covering disclosure of information on revenues, and on public participation with respect to revenue policy design and implementation.

Disclosure of comprehensive, timely and accurate information on revenues, in accessible formats, is a precondition for effective public participation. Detailed data on revenue collections, incidence, and forecasts facilitates public scrutiny and deliberation – as recognized in the first of GIFT’s Ten Principles of Public Participation in Fiscal Policy.[[2]](#footnote-2)

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|  **Box 1: International norms on disclosure and public participation in tax policy** *International norms on revenue transparency (disclosure)** GFSM2014 and the OECD’s annual Revenue Statistics provide (very similar) internationally recognized classifications of government revenues.
* The IMF Fiscal Transparency Code 2014: fiscal reports cover all public revenues; regular disclosure of tax expenditures; budgets present revenues on a gross basis, a medium-term picture of revenues; publication of reconciliations between successive vintages of revenue forecasts, of long term revenue projections, and of fiscal revenues from natural resources.[[3]](#footnote-3)
* The 2002 OECD Best Practices on Budget Transparency: the budget should incorporate all revenues and details of individual revenue programs, recent revenue performance, medium term forecasts, and tax expenditures; revenues incorporated in a pre-budget report, and in periodic pre-election and long term fiscal reports, as well as in in-year, mid-year and annual fiscal reports.
* PEFA: contains indicators on the revenue outturn, revenue classification, revenue information in budget documentation; on unreported revenues; on public access to fiscal information; on estimated fiscal impacts of proposed changes to revenues; on legislative scrutiny of budget revenues; on taxpayer access to information about their rights, obligations, and administrative redress mechanisms; on budget reports/financial statements, and external auditing of revenues.
* TADAT includes performance indicators for supporting voluntary compliance (taxpayers have the necessary information to comply with tax laws), and for accountability and transparency (the tax administration publishes details of its operational and financial performance and its plans).
* The OBS 2017 asks whether the annual budget documents contain details of tax and non-tax revenues by type for the budget, prior years, multi-year estimates, the impacts of new revenue measures, donor assistance, tax expenditures, earmarked revenues,
* The EITI Standard 2016 requires disclosure of the legal and institutional framework; comprehensive disclosure of all revenues and their allocation in budgets; and of transactions involving SOEs.

*International norms on public participation in revenue policy and administration** TADAT: interactions between the tax administration and taxpayers: time taken to respond to requests for information; obtaining taxpayer feedback on products and services; effective tax dispute resolution measures; the mechanism for monitoring public perception of the integrity of the tax administration (independent third-party survey of taxpayers, publication of results, and survey results taken into account by tax administration in reviewing integrity framework).
* IMF FTC 2014 (2.3.3), government provides citizens with a formal voice in budget deliberations (which would include revenue policies) as an advanced practice.
* OECD 2015 Recommendation on Budgetary Governance, Principle 5 states that ‘…parliament and citizens should be able to engage with and influence the discussion about budgetary policy options, according to their democratic mandate, competencies and perspectives.’
* PEFA PI-18.2: the legislature’s procedures for budget scrutiny to include arrangements for public consultation (to score an A);
* The EITI Standard 2016 requires effective multi-stakeholder oversight, including a functioning multi-stakeholder group that involves the government, companies, and the full, independent, active and effective participation of civil society; reconciliation of company payments and government revenues by an Independent Administrator; stakeholders are engaged in dialogue about natural resource revenue management. A supplementary Protocol on the Participation of Civil Society sets out tests to apply in assessing compliance with civil society provisions in the Standard.
* The 2014 IFAC/CIPFA International Framework: Good Governance in the Public Sector: Principle B.2 ‘engaging stakeholders effectively, including individual citizens and service users.’
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An initial cursory assessment of Box 1 suggests the following possible gaps in disclosure standards regarding the revenue side of the budget:

* Routine disclosure of tax burdens in annual budget documents: there has been little focus at the global level on routine transparency within countries around how the tax burden is distributed. On the expenditure side, for example, the OBS asks whether the budget documents contain information on the impact of spending on different groups in society. An equally important public policy question is how the burden of taxation is distributed across different groups in society e.g. across deciles on the income distribution. The IMF FTC stipulates that the government publishes an accessible summary of the implications of the budget for a typical citizen (2.3.3). This probably implies the provision of information on tax incidence, but fiscal transparency assessments since 1998 have paid limited attention to the tax side of the equation. When completed, the IMF’s Fiscal Transparency Manual, explaining in detail the provisions in the 2014 IMF FTC, is an opportunity to describe expectations of what information the budget documents should contain on tax incidence and tax equity.
* The scope for taxing externalities: in the context of mobilising more domestic resources, there may be some scope to avoid the standard trade-off in tax between raising revenue and economic efficiency. Some taxes, by internalising negative externalities – pollution being the classic example – have the potential both to raise revenue and improve efficiency. This would connect with GIFT High Level Principles 4 (governments should endeavour to disclose the anticipated and actual social, economic and environmental impacts of fiscal policies). Policy capture could be one reason that such corrective taxes may be under-utilised, and greater public participation and deliberation could help to promote revenue policies that better promote the public interest.
* Related to the above, the growing area of international transfers of climate finance, and how those revenues are managed at the national level, could be an area where there is a need to pay attention to evolving practices and normative standards around disclosure as well as public engagement over their objectives and how they are spent.

About 45 countries and organizations subscribed to the Addis Tax Initiative (ATI) in 2015, declaring their commitment to “enhance the mobilization and effective use of domestic revenues and to improve the fairness, transparency, efficiency, and effectiveness of their tax systems.” GIFT should work with organizations that seek to facilitate in-country implementation of the ATI and to hold all signatories accountable for their commitments.

**Selected examples of invited public participation in revenue policy**

*The United Kingdom:* the government introduced *Tax Policy Making: A New Approach*, in 2010, in which it committed to consult publicly on all tax changes, even minor ones, and at all stages of the tax policy process.[[4]](#footnote-4) Box 2 sets out the elements of the public consultation framework. ‘This new approach appears to be working well generally, although it has not always been adhered to and some of the departures have arguably served to emphasize its importance.’[[5]](#footnote-5) The government also established a standing Tax Professionals Forum to identify improvements to the way tax policy is developed and implemented, and to review whether the government is following the new approach in practice.[[6]](#footnote-6)

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| **Box 2: The UK Government’s Tax Consultation Framework**The new approach to policy making was set out in March 2011, "The Government's Tax Consultation Framework: Summary of Responses and Finalised Framework." The Framework requires early and continuing engagement on tax changes and the exploration of new ways of broadening public engagement with the development of the tax system. The Framework states that, where possible, the Government will:• engage interested parties on changes to tax policy,• minimise the occasions on which it consults only on a confidential basis,• set out its strategy for consultation (including informal discussions), and• set out clearly at each stage of the consultation:* + the policy objectives,
	+ any relevant broader policy context,
	+ the scope of the consultation,
	+ its current assessment of the impact of the proposed change and
	+ which department and official is leading the consultation.

To enable legislation to be properly scrutinised, draft clauses for the Finance Bill will be published for scrutiny at least three months before the Bill is introduced to Parliament and the period for comment will be at least eight weeks.It was also stated that:"The Government will generally not consult on straightforward rates, allowances and threshold changes or other minor measures. It may also not consult on revenue protection or anti-avoidance measures."The Government has, in addition, published a Protocol on Unscheduled Announcements which deals with changes to tax law outside the framework of the Budget process including retrospective tax legislation. |

Interestingly, the IMF’s 2016 Fiscal Transparency Evaluation of the UK, in its assessment of principle 2.3.3 of the Fiscal Transparency Code – which stipulates, for good and advanced practices, that the government ‘provides citizens with a formal voice in budget deliberations’ – found: ‘That the UK was assessed as only meeting basic practice [in providing citizens with a formal voice in budget deliberations] illustrates that the interpretation of ‘formal voice in budget deliberations’ is being interpreted quite narrowly, to mean opportunity for public input to the content of the next annual budget during the short window of budget preparation by the government. Other opportunities for public input to fiscal policy – such as consultations on proposed new tax or spending policies that take place outside and on a longer time frame than the annual budget cycle – appear not to be included in the assessment.’[[7]](#footnote-7)

*New Zealand:* since the mid-1990s NZ has been systematically following a more consultative approach to proposed changes to the tax system (policy and administration), and to occasional reviews of the tax system. This has included introduction of a *Generic Tax Policy Process* that includes provision for public consultation; a requirement to prepare Regulatory Impact Statements for all tax policy proposals; publication of the annual tax policy work program; scheduling of two tax bills per year outside the annual budget process to avoid the time and budget secrecy constraints of the budget process; frequent public consultations on ‘small p’ policy and on changes to tax administration; and occasional external reviews of tax policy issues or the medium-term direction of the tax system.[[8]](#footnote-8)

*Taxpayer dispute resolution process:* an analysis of 27 TADAT country assessments found that the dispute resolution process – existence of an independent, workable, and graduated dispute resolution process - was an area of relative strength across all the TADAT indicators. The median score for the indicator (P-7-19) was B, with a range of C+ to A.[[9]](#footnote-9)

*EITI:* Fifty-two countries are implementing the EITI 2016 Standard. For country progress in meeting the requirements of the standard and links to individual country reports see <https://eiti.org/explore-data-portal>

*Open Government Partnership commitments:* a number of countries have included commitments on revenue transparency and public participation in their current OGP Action Plans. Commitments include:

* Sierra Leone: publish all tax exemptions in open data format and promote fiscal transparency to promote tax compliance and increase the tax effort, especially by reducing tax expenditures; donors, NGOs, INGOs and CSOs will publish funds meant for the post-Ebola recovery online and in an open data format. Also, annual district meetings will be held for donors, INGO, NGOs and CSOs to disclose funds meant for that particular district and detailed activity level budget shared;
* Ivory Coast: involve local communities in choosing and monitoring the implementation of socioeconomic projects to be funded by mining companies; require each mining company to establish a local mining development committee, and a Fund (0.5% of its turnover).
* Mongolia: ensure transparency of agreements with SOEs to use public resources by identifying what is considered as public resources in mineral, land, water and petroleum category with the engagement of the public identify relevant documents, and develop an information database of these documents that is accessible to the public. Carry out a broad stake-holders’ consultations in the counties concerned to increase citizens’ understanding about issues of land and natural resources;
* Philippines: pursue five main objectives in implementation of EITI, including create opportunities for dialogue and constructive engagement in natural resource management in order to build trust and reduce conflict among stakeholders.
* Italy: implement OPENAID 2.0, the public consultation platform providing data and information on Italy’s Aid to Development and the destination and use of funds.
* Ghana: develop regulations to implement the Petroleum Revenue Management Act.
* Tunisia: join the EITI
* Azerbaijan: Increase transparency in Extractive Industries; support activities of Multi-Stakeholder Group, conduct training.
* France: join the EITI
* USA: achieve EITI compliance by 2017; improve the quality and enhance the use of U.S. Foreign Assistance Information on Foreign Assistance.gov.
1. **Selected examples of invented participation in revenue policy**

Budget civil society organizations have for some time been working on tax policy and tax administration issues from a civil society perspective. GIFT stewards such as FUNDAR, INESC and ICEFI have been working for a long time now on tax expenditures, tax transparency, and access to tax files to reveal tax credits or tax privileges in Mexico, Brazil and Central America. The Africa Tax Justice network has developed activities on tax incentives. GIFT partners such as the Centro de Investigacion Economica y Presupuestaria have done research on the availability of tax information in Mexico.  In Mexico, information on who benefits from a special tax regime is not subject to the FOI law, while information on who benefits from budget subsidies is covered by the FOI Law; there is transparency on the expenditure side but there has been opacity on the revenue side, even when the impact is equivalent. Recently, the Mexican Revenue Administration has disclosed in open data sources information about revenue tax collection by income deciles and by sectors, in a significant breakout transparency move. This will facilitate analysis of the possible effect of transparency on tax incidence and burdens and on tax compliance rates.

Finally, the International Budget Partnership, a GIFT lead Steward, is starting to engage in the area, realizing that a greater emphasis on tax transparency would enable it to address the full range of opportunities and trade-offs involved in budget policymaking.

1. **Some possible issues for discussion**
2. How and why does the tax work from your sector (government, international financial institution, civil society organization, academia/university, etc.) benefit or complement the work of other sectors?
3. What scope is there for more public engagement during the development of tax policies?
4. How might this best be done?
5. To what extent do potential behavioural responses to transparency of possible tax policy changes constrain the scope for public engagement by the executive during the policy design stage?
6. Are citizens more likely to pay taxes when government is open and transparent about how public resources are allocated and spent?
7. What is the relationship between taxation and government accountability? Are citizens more likely to hold public officials to account when they honor their tax obligations?
8. To what extent are countries treating tax administration as a public service? How many countries are introducing instruments such as a taxpayer charter?
9. What activities do international financial institutions have under consideration to promote more public participation in tax policy design and implementation?
10. What activities do civil society organisations have under consideration to promote more public participation in tax policy design and implementation?
11. What role might GIFT play, as a multi-stakeholder initiative, to promote greater public participation in tax policy design and implementation?
1. ‘Taxes that are seen as unfair will be poorly complied with. And poor compliance leads itself to actual and perceived unfairness, as only some pay their fair share.’ Cottarelli, PFM Blog, April 25, 2011. [↑](#footnote-ref-1)
2. Principle 1: Accessibility: Facilitate public participation in general by disseminating complete fiscal information and all other relevant data, in formats and using mechanisms that are easy for all to access, understand, and to use, re-use and transform, namely in open data formats. See <http://www.fiscaltransparency.net/pp_principles/> [↑](#footnote-ref-2)
3. The IMF has consulted on a draft of Pillar IV of the 2014 IMF Fiscal Transparency Code covering natural resource transparency and revenue management which will replace the 2007 Guide on Resource Revenue Transparency. [↑](#footnote-ref-3)
4. HM Treasury, June 2010. [↑](#footnote-ref-4)
5. The Process for Making Tax Policy: An International Comparison, B. Arnold, 2013. [↑](#footnote-ref-5)
6. See the Forum’s fifth Annual Report, for 2016, at <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/574703/TPF_2016_report_final.pdf> [↑](#footnote-ref-6)
7. ‘Findings on public participation in fiscal policy from IMF Fiscal Transparency Evaluations’, GIFT, draft, 30 May 2017. [↑](#footnote-ref-7)
8. See <http://taxpolicy.ird.govt.nz> [↑](#footnote-ref-8)
9. Source: The TADAT Framework: A Pocket Reference Guide, p. 71. [↑](#footnote-ref-9)