

INTERAMERICAN  
DEVELOPMENT BANK

# RECOMMENDATIONS AND BEST PRACTICES ON TAXATION OF SMEs IN LATIN AMERICA



## Recommendations and Best Practices on Taxation of SMEs in Latin America

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SMEs in Latin America**

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### INTRODUCTION

When analyzing the fiscal treatment of micro, small and medium-sized enterprises we deem it necessary, on a preliminary basis, to gain insight into the economic, institutional and technological contexts in which these enterprises are called upon to operate.

It is evident that these issues will vary considerably across the different countries participating in this Meeting. However, there is widespread agreement as to the fact that the main issues determining which actions public authorities should take in the legal, administrative, technological and financial contexts of SMEs are the following:

1. Simplify formalities and reduce costs for creating new companies. To this end, information as well as assistance strategies for SMEs' start-up will be analyzed.
2. Improve legislation. It is necessary to provide companies of this type with simple and easily applicable laws. Clearly, this demands tax law policies that prioritize simplicity over any other criterion.
3. Improve the relationship between SMEs and public agencies, particularly tax-related bodies, through the intensive use of new technologies.
4. Design fiscal and financial policies to support SMEs.
5. Promote SMEs' technological capabilities. This will encourage us to value more positively all processes oriented to introducing ICT in the relationship between taxpayers and tax agencies.

In the light of this context, this document starts by analyzing the concept of SME from an economic point of view. Considering that the fiscal treatment of SMEs' business requires a deeper insight into the features of these peculiar economic agents appears to be quite sensible.

The institutional environment surrounding SMEs should not be underestimated either. Therefore, we will pay attention to the definition of public policies for the sector in order to assess how they impact on SMEs or how SMEs are impacted by tax policies.

In addition, the technological context is to be considered. ICTs should play –and indeed are playing– a crucial role in the development of this kind of enterprises, especially micro-enterprises. In this sense, even though this issue goes beyond the purpose of this paper, we cannot ignore the significant role that SMEs have in bridging the so-called “digital gap”.

Once the contexts in which SMEs operate are defined, we will focus on the basic features of the tax systems imposed on their operations in the countries participating in this Meeting. For this purpose, we will first describe the most relevant components of each country's tax system.

Further on, we will explain concrete strategies aimed at facilitating SMEs' compliance with their tax obligations since their very start-up.

Now, as small and medium taxpayers form part of the so-called “hard to control” segment, tax agencies have imposed a sector-specific tax treatment, by designing a series of strategies to ensure voluntary compliance with tax obligations with minimum costs for both taxpayers and tax agencies. This is why special emphasis will be placed on simplifying formalities and procedures and, in the major taxation principles arena, on the need to advocate for the principles of general application of taxes and simplicity.

### 1. THE CONCEPT OF SME: THE SOCIOECONOMIC CONTEXT

There is a widespread agreement on recognizing how significant SMEs are for economic development and job creation. From a quantitative viewpoint, it is to be underscored that SMEs generate approximately 80% of jobs in Spain as well as in Latin American countries.

For the purposes of this paper, the concept of SME comprises micro, small and medium-sized enterprises. Even though the economic literature abounds in definitions of enterprise that are satisfactory to all almost without question, there is not a generally accepted definition of small and medium-sized enterprise. Such definition varies in different countries and circumstances, so it is hard to determine when a company falls in the category of a SME. Therefore, a first conclusion that can be drawn is that there is not a single, strict and consistent definition of SME available.

In Latin American countries, several criteria are applied to define companies: number of employees, sales, assets, among others. In several countries there is more than one criterion and, consequently, more than one definition. However, most of them rely on the number of employees (Bolivia, Colombia, Costa Rica, El Salvador, Guatemala, Mexico, Venezuela, etc.), sales/income (Argentina, Chile, Panama, etc.) and assets.

Moreover, some countries draw a distinction depending on the business in which economic units are involved – i.e. manufacturing, trade or services. There are even some countries where definitions vary according to the institution that formulates them; accordingly, each institution uses its own definition to design its incentive policies.

The problem of defining whether a company is or is not a SME becomes even more complex when different criteria are applied depending on the area involved: credits, labor, taxes, pension, subsidies, etc.

In Spain, a micro-enterprise is defined, from an economic perspective, as an organization with less than 10 employees; small and medium-sized enterprises as units having a staff ranging from 10 to 249 members, and large companies as organizations having at least 250 workers. Ninety-four percent of Spanish companies are either individual businessmen or micro-enterprises.

The Spanish and Latin American business network is largely made up of SMEs. From a social point of view, SMEs employ a fourth/fifth of the workforce in these countries.

In an economic context like the one that prevails in Latin America, the role of SMEs gains even more significance, if such a thing is possible. One of the features of Latin American economies is their uneven income distribution. Large segments of their population have an income lower than the average. A consequence of this is the large size of the informal economy, naturally not subject to taxation. This “underground” economy contaminates the entire circuit of goods and services production and distribution as well as all socioeconomic layers.

Informality is also associated with a shortage of adequate financial products. The absence of easy access to credit is an important barrier to SMEs. Very often, this sector turns away from bank loans to look for informal alternatives, evidently less reliable or structured. Thus, “financial exclusion” appears as another cause of informality.

To be specific –and this is indeed most worrying–, informal economies generate negative external effects, such as the following:

- They discourage awareness of the need to contribute to finance social goods.
- They prevent the generation of necessary resources to lay the foundations for social protection mechanisms.
- They deprive tax systems and enforcement authorities of their legitimacy.

Thus, in an attempt to break this “vicious circle”, a set of mechanisms to legitimate tax systems is proposed. These mechanisms will affect both the spending and revenue sides. Anyhow, we will focus on one of the sides of the coin. This is why we will not analyze spending policies nor examine the taxation system for large taxpayers, but will draw our attention to small and medium taxpayers and, within this category, to those engaged in self-employed activities, i.e., small and medium entrepreneurs.

Now, despite the fact that this document does not intend to analyze spending policies, we cannot simply ignore them. In Latin America, social spending does not have

the right magnitude. Moreover, its targeting as well as its management should be improved.

As usual, the revenue-spending dyad has multiple implications. Tax policy is, in practice, the only instrument available to fight informality. But this issue is far from simple. Most SMEs have a low productivity rate, and are often mere forms of subsistence that become more competitive as they evade tax obligations. Here is the dilemma: we should tax these sectors because they are “unfair” competitors vis-à-vis the formal economy but, on the other side, social spending does not reach emergency situations in the usual contexts of fiscal constraint.

It is increasingly necessary to attain a qualitative balance between revenue and spending to legitimate the financial process.

By way of conclusion to this introduction, we deem it relevant to highlight, even at the risk of being repetitive, that SMEs are the most diverse and complex economic structures and business units in Latin America in terms of size, sectoral diversity and managerial capacity. All this makes it difficult to get to know SMEs’ actual magnitude.

Nevertheless, all statistical reports indicate that SMEs are the most important business sector for the economies of Latin American countries. For governments, however, large companies are a more attractive, more clear-cut and less complex set than SMEs. In designing public policies, particularly tax policies, governments have usually targeted their strategies to large companies. This is one of the issues yet to be solved. Public officials should set the SME sector as a priority for all their policies. As far as our focus of interest is concerned, this will translate into a permanent and ongoing attention given to SME-specific tax systems, from the “pre-legal” task of selecting parameters and the design of laws and regulations to their application and enforcement and their subsequent and permanent revision to adjust them to the changing economic circumstances.

## **2. BASIC FEATURES OF LATIN AMERICAN TAX SYSTEMS APPLICABLE TO SMEs: THEIR REGULATORY AND LEGAL CONTEXTS**

### **2.1. Basic Structure of the Different Tax Systems**

In order to adequately address the issue of simplified tax systems, which will be extensively discussed further on, it appears sensible to start analyzing, though from a very general viewpoint, the structure and features of the Latin American fiscal systems in which these simplified regimes operate.

Even though each country has developed its own tax structure based on its own political, economic and social conditions, a set of features common to most of them can be identified.

Tax reforms recently undertaken in Latin America have aimed at attaining neutrality by designing VAT-based systems, introducing greater equity in the distribution of the tax burden, increasing collection through simpler schemes, facilitating taxpayers' fiscal compliance and attaining greater efficiency in resource allocation.

We find that tax structures and legal systems are similar to those in European countries, but clear differences arise when we examine their actual application and their acceptance or compliance by taxpayers, given the high degree of non-compliance and tax evasion observed.

Latin American tax systems are highly complex since there are many different tax instruments, regimes and agencies involved in their regulation and management, all of which vary according to the country's political and administrative organization.

With regard to the tax structure and taking into account that the taxpayer's economic capacity can be taxed either directly or indirectly, the first category encountered is direct taxation –income taxes imposed on physical persons and legal entities, levying the proceeds or net profits obtained along the taxable period, as well as property taxes. Then, there is a second category made up of indirect taxes –those imposed on the taxpayers' payment capacity, like the valued-added tax, which is a tax on consumption of goods and services in general, or

specific or excise taxes. There are also other tax instruments that are not relevant because they are very low-revenue yielding.

It is worth noting that Latin American tax systems give priority to indirect taxes, true milestones in revenue collection, since they account for more than 70% of total fiscal revenue on average. In turn, direct taxes average less than 20% of the total, a percentage that clearly reveals their low impact on Latin American tax systems. These systems, therefore, are highly regressive as taxation relies primarily on proportional consumption-based taxes, thus clearly penalizing lower-income taxpayers. There are, however, cases in which systems show more progressive structures, reporting higher collection levels from direct taxes.

In **Chile**, according to tax collection data from fiscal year 2004, VAT accounts for 51% of total revenue, while 25% consists of income tax and 11%, of excise taxes.

In **Argentina**, VAT accounts for 43.1%, while income tax represents 31% of total tax collection.

In the tax systems of the two countries above mentioned, more progressivity is introduced, since a higher incidence of revenue collection from progressive direct taxes makes the systems more equitable as far as tax burden distribution is concerned.

According to OECD data for Latin America, the tax burden –defined as tax-to-GDP ratio– ranges from 10% to 24% of the GDP vis-à-vis 35% to 45% in European countries. Nevertheless, these figures should be deemed relative given the circumstances inherent to Latin American countries, among which the following stand out: highly informal economies –more than 40% of the economically active population work in the “underground” market–, the inflationary effect and the ratio between public and private spending.

As already explained, the value-added tax is the key component of these systems, accounting for approximately 50% of total fiscal revenue, with an average rate of 15.26% in fiscal year 2004 vis-à-vis 17.8% in OECD Member countries.

As for direct taxation, there is a very high degree of non-compliance with income tax on individuals and an absence of comprehensive remedial policies; in this context, direct taxes are progressive for individuals and proportional for legal entities, though there are

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countries, like **Venezuela**, where corporate income taxes are progressive.

There are many exemptions and deductions in force, a factor that deprives these instruments of effectiveness for an equitable redistribution of the tax burden.

The maximum rate for the individual income tax, based on World Bank's 2003 data, amounts, on average, to 28.3% in Latin American countries vis-à-vis an average maximum rate of 42.3% in OECD Member countries.

In the case of the corporate income tax, the mean rate in Latin America was 28.6% in 2003, while in OECD Member countries it was 30.8%.

In 2003, income tax revenues accounted for 4% of the GDP in Latin America, as compared to a 14% in OECD countries.

From the perspective of political and territorial organization, tax agencies operate at different territorial levels, enforcing tax instruments and fulfilling the roles that are within the purview of the central government or, otherwise, of the federal states, provinces or municipalities.

Special attention should be drawn to the phenomenon affecting some countries with a high degree of political and administrative decentralization, as is the case of **Brazil**, where federal states have competence for regulating and administering some taxes, particularly VAT. This situation demands joint coordination and cooperation efforts from all tax agencies in the country. The purpose is to reduce as much as possible the inefficiency derived from the coexistence of several agencies as well as the indirect fiscal costs borne by taxpayers.

It is necessary to make reference to the integration processes initiated by Latin American countries in order to cope with a globalized economy. This requires the adoption of fiscal policies oriented to ensuring a balance in their tax systems within a context of interdependent economies, without undermining their revenues or their competencies.

As for tax systems, these processes demand the implementation of fiscal harmonization policies and the strengthening of international cooperation in mutual assistance and information.

In relation to the situation currently faced by Latin American tax systems and the shortages and deficiencies

involved, it would be interesting to conclude this subsection by making reference to the proposals included in the "Report and Recommendations of Working Group III, Fiscal Affairs", during the III Plenary Meeting of the Inter-Parliamentary Forum of the Americas (FIPA), held in April 2004 in Valparaíso. The following general objectives were established:

- Work toward the simplification of tax systems.
- Attain equity based on the taxpayer's ability to pay.
- Increase long-term legal certainty.
- Apply certain taxes on a selectivity basis.
- Design a progressive income tax system with few brackets.
- Establish a broad tax base.
- Strengthen tax administrations.
- Improve systems of tax control.
- Include the subject of harmonization in talks on trade agreements in the Americas.
- Reduce informality in economic activities.

### **2.2. Basic Features of Latin American Taxation Applicable to SMEs**

In this part of the paper, we intend to analyze the fiscal measures implemented by Latin American countries in their tax structures in order to support and promote small and medium-sized enterprises. To this end, it is necessary to limit both the material and personal scopes of the discussion.

With reference to the former, we will not focus on all the fiscal measures or incentives adopted by the different tax systems to support small and medium-sized enterprises, but only on the regimes specifically applied to them, designated as simplified or special regimes.

With regard to the latter, when referring to SMEs, a commonly accepted term that comprises, however, different realities in different countries, we mean small individual entrepreneurs, with a modest turnover volume and a small number of employees, though we may sometimes include some legal entities as well.

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Once this has been clarified, we will now examine the current situation of special or simplified tax regimes adopted in many countries in Latin America and the Caribbean, not only due to the reasons already mentioned, but also to fight the high degree of informality affecting this segment of taxpayers in the economic, labor and fiscal aspects. These systems are targeted to taxpayers with specific and well-defined characteristics, which thus condition the implementation as well as the inherent principles of the systems. These specificities will be discussed below.

A simplified tax regime is to be understood as a special fiscal regime targeted to a specific category of taxpayers performing economic activities on their own, particularly low-income earning and subject to a presumptive tax base determination regime.

In considering the possibility of undertaking a comparative study of these regimes in Latin America to identify their common features or elements, we will inevitably face the problem of heterogeneity, derived from the different social, economic and historical conditioning factors that account for the particular origin and evolution of tax systems in each country.

However, we do find common and consistent elements in this regard when we analyze the reasons for implementing these simplified tax systems. In our opinion, the most essential of such reasons have been:

### **1<sup>st</sup> The nature and typology of targeted taxpayers**

The purpose of these special regimes is to include a great number of taxpayers performing self-employed economic activities, whose compliance is hard to control, and who have low income levels and little impact in terms of revenue collection vis-à-vis global tax revenues, but strong impact in the political arena.

### **2<sup>nd</sup> Reduce informal economy**

By adopting these systems, efforts are made to reduce the high degree of underground economy and labor, which in Latin American countries, according to OECD data, account for not less than 50% of the gross domestic product or even more, if the entire economically active population is taken into account.

### **3<sup>rd</sup> Simplify tax formalities**

Considering the taxpayers' profile, these regimes intend to facilitate their compliance with fiscal obligations,

reducing indirect fiscal costs by simplifying formalities as much as possible, so that taxpayers can comply not only with their taxes but also with their bookkeeping, accounting record and invoicing obligations.

### **4<sup>th</sup> Maximize efficiency in resource allocation**

Efficiency in allocating tax agencies' scarce resources has been another key reason when evaluating the implementation of these special regimes. As the revenue collection impact of this segment of taxpayers is almost negligible vis-à-vis total domestic revenue from the entire tax system, most staff and resources tend to be allocated to control high-income taxpayers, who are fewer in number but economically more significant, for which reason the cost-benefit ratio is far greater.

Thus, in pre-determined tax rate regimes – an essential feature common to all simplified systems –, control of these taxpayers is considerably reduced compared to the one they would otherwise require under the general system. Tasks only include verifying whether taxpayers are operating subject to the correct tax bracket or segment, i.e. to check whether they are assigned to the right category.

In relation to the personal scope of application of these regimes, it should also be said that, although the title of this subsection includes the acronym SME, a term commonly used in Spain to cover both corporate and individual entrepreneurs taking into account the turnover and staff members variables, we will consider regimes primarily applied to individual entrepreneurs, except where otherwise specified.

Moreover, as in most fiscal systems, we should not refer to a univocal concept of SME applied to all Latin American systems, since each country will regard as such – for the purposes of the implementation of these regimes – any entrepreneurial subject that falls within the tax brackets defined and adopted by each system. In general terms, and despite the fact that other objective parameters are also introduced, the most commonly accepted parameter to define the inclusion limits is sales or turnover volume. Consequently, the special regime is applied to all taxpayers who, given their business volume, fall within the brackets specified by law.

Now, it is time to turn our attention to the basic features of the special or simplified tax regimes in force that have been adopted by the countries participating in this Meeting, also describing the results of the experience gained by the countries concerned.

### 2.2.1. Personal Scope of Application of Simplified Tax Regimes

Taxpayers to which these regimes are targeted share the following fundamental features:

- They are a great number of individuals and thus difficult for public officials to control.
- They are at a low-income level, yielding little revenue.
- They make up a conflictive segment, generating high political costs.
- Their business organization is both poor and inefficient.
- They operate in the underground or informal economy.

As stated in the introduction, these special regimes have been adopted in the different Latin American tax systems not only to foster job creation and support SMEs from start-up, but also to fight the high degree of informality among these low-income earning and hard-to-control taxpayers. At least at a first stage, the purpose is not so much to collect revenue as to attract and incorporate into the system an enormous number of taxpayers who operate in the underground economic and labor markets and are unbeknownst to the tax agency.

However, we would like to insist on what has been repeatedly pointed out in other documents on this issue – rather than merely incorporating new taxpayers into the system, new regimes produce “transfers” among taxpayers already incorporated but subject to a less favorable regime. Proof of this is the overall reduction in revenue collection in the periods following the implementation. Such has been the case in Brazil and Peru, for example.

Simplified tax regimes are mainly applied to **small taxpayers who are natural persons and perform economic activities**, though in some cases they are also applicable to corporate taxpayers or legal entities of some specific kind.

In the past, **turnover volume or gross income** used to be the most common **variable** to delimit the scope of the regime in order to determine the inclusion of taxpayers operating in previously identified sectors or business,

though the current trend is to use combined presumptive indicators (both economic variables and physical parameters).

In **Argentina**, the Simplified Regime for Small Taxpayers (*Monotributo*) is applicable to individuals, temporary associations or partnerships. A small taxpayer is any entrepreneur in the services sector with an annual income smaller than Arg\$ 72,000 (US\$ 24,000), a floor space or land area smaller than 85 m<sup>2</sup> and an electricity consumption lower than 10,000 kW. As to the rest of the activities other than services, annual income should be smaller than Arg\$ 144,000 (US\$ 48,000), the floor space or land area smaller than 200 m<sup>2</sup> and electricity consumption equal to or lower than 20,000 kW, provided the unit price of products does not exceed the established limit.

Besides the Simplified Regime for Small Taxpayers, there are two additional subcategories: the Small Occasional Taxpayer (*Contribuyente eventual*), comprising all individual taxpayers who work on a temporary, seasonal, or non-continual basis, with no fixed business address and a maximum turnover volume of Arg\$ 12,000 (US\$ 4,000) per year or Arg\$ 1,000 per month, and the Social Single Tax (*Monotributo social*), applicable to persons or production projects registered with the Ministry of Social Development that are granted subsidies or are exempted from tax and pension obligations for 24 months.

**Bolivia** has implemented a Simplified Tax Regime (*Régimen Tributario Simplificado* or *RTS*) whereby individuals engaged in retail business, small food and drink vendors and craftspeople can register on condition that they comply with some requirements as to turnover, business capital, unit price, and types of goods.

Moreover, the Integrated Tax Regime (*Régimen Tributario Integrado* or *RTI*), applicable to the transportation sector, is targeted to individuals who own taxis, buses and minibuses and render public transportation services for either cargo or passengers with no more than two vehicles.

Finally, the Unified Agricultural Regime (*Régimen Agropecuario Unificado* or *RAU*) is targeted to individuals or agricultural cooperatives, the threshold being the number of hectares used for agricultural exploitation.

In **Brazil**, the Combined Tax and Contribution Payment System for Micro and Small-Sized Enterprises (*Sistema*

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*Integrado de Pagamento de Impostos e Contribuições das Microempresas e das Empresas de Pequeno Porte* or *SIMPLES*) is applicable, as its name indicates, to micro and small-sized enterprises involving legal entities whose annual gross income is equivalent to or smaller than R\$ 240,000 (US\$ 102,938) and R\$ 2,400,000 (US\$ 1,029,380), respectively. In addition, the law specifies a series of sectors and taxpayers that will not be subject to this regime regardless of their compliance with the specified turnover volume requirements.

The so-called Presumptive Income Regime (*Regime de Tributação com Base no Lucro Presumido*) is a simplified corporate income tax system that applies to companies whose annual turnover is not greater than R\$ 24,000,000 (US\$ 10,293,802).

**Costa Rica** has also adopted a Simplified Tax System (*Régimen de Tributación Simplificada* or *RTS*), combining both the income tax and the general sales tax, that is targeted to corporate and individual taxpayers with an annual purchase volume not greater than C 15,000,000 (US\$ 31,000) and with no more than three employees, provided their business activity is one of the eleven included in this regime.

In **Chile**, the Income Tax Simplified System (*Régimen Simplificado del Impuesto a la Renta*) applies to small taxpayers, including small-scale artisanal miners, street service providers or vendors, newspaper and magazine street vendors, owners of small workshops and artisanal fishermen.

The VAT Simplified Regime (*Régimen Simplificado del IVA*) includes small business taxpayers, craftspeople and service providers, on condition that they are natural persons, who sell goods or render services directly to the end user, provided that the average sales or service provision amount per month (VAT excluded) during the 12-month period preceding the tax return date specified for admission into the regime does not exceed 20 monthly tax units (Ch\$ 606,740) on average.

These two regimes are targeted to micro-enterprises, entities performing regular economic activities on an individual, familiar or association basis with an annual sales volume smaller than 2,400 indexed units of account (US\$ 80,000).

The Presumptive Income Tax Regime for the Agricultural Sector (*Régimen de Renta Presunta para el Sector Agropecuario*) is applicable to individuals, communities, cooperatives and associations of persons

engaged in agricultural activities, provided that their annual sales volume does not exceed 8,000 monthly tax units (US\$ 480,000).

Finally, there is a compulsory special regime for taxpayers not registered as individuals performing agricultural activities with the tax agency, which is known as VAT Subject Change Regime (*Régimen de Cambio de Sujeto del IVA*), targeted to individual taxpayers classified as small agricultural producers, though it is also applicable to small artisanal miners, owners of workshops and artisanal fishermen. The peculiarity of this regime is that these people do not issue any invoice; it is the buyer the person obliged to issue an invoice accounting for his/her purchase and to withhold the tax on the transaction.

**Mexico** applies a Small Taxpayer Regime (*Régimen de Pequeños Contribuyentes* or *REPECOS*) combining the income tax and value-added tax. It is managed by the federal states. Individuals concerned with business activities can choose to be subject to this regime, provided they sell goods or render services to the public and their own income plus the interests from the previous year do not exceed Mex\$ 2 million (US\$ 186,133).

In addition, the Intermediate Regime (*Régimen Intermedio*) is targeted to individuals engaged in trade, industry, transportation, and agricultural and livestock-related activities whose gross income the year before was not greater than Mex\$ 4,000,000 (US\$ 372,000), as well as to people in the business of cargo transportation whose gross income in the previous fiscal year was smaller than Mex\$ 10,000,000 (US\$ 930,000). This regime involves the application of the general VAT and income tax regime with simplified accounting obligations and total deduction of fixed asset purchases.

There are, finally, two other regimes in force: the Simplified Regime for Agriculture, Livestock, Forestry and Fishing (*Régimen Simplificado de la Agricultura, Ganadería, Silvicultura y Pesca*) and the Simplified Regime for Transportation (*Régimen Simplificado de Autotransporte*), applicable to corporate taxpayers with an annual income of up to Mex\$ 10,000,000 (US\$ 930,000), who are subject to the general regime but are also eligible for some income tax incentives, though they may choose to be subject to the Intermediate Regime (*Régimen Intermedio*) instead.

**Nicaragua** has adopted the so-called Special Regime of Administrative Estimation (*Régimen Especial de*

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*Estimación Administrativa*) for small individual taxpayers who have an annual gross income from sales of goods or provision of services not greater than C\$ 480,000 (US\$ 28,200) and whose stock of merchandise is not worth more than C\$ 200,000 (US\$ 11,800) at any time in the year. Those individuals concerned with foreign trade transactions or operating in economic units are excluded from this regime.

In **Peru**, the New Single Simplified Regime (*Nuevo Régimen Único Simplificado* or *Nuevo RUS*) and the Special Income Tax Regime (*Régimen Especial de Renta* or *RER*) incorporate a segment of what the Peruvian legislation defines as *MYPE* (micro and small-sized enterprise). The New *RUS* is a promotional regime targeted to individuals and undivided estates concerned with commercial and/or industrial activities, providing services and/or exercising a trade, with an annual gross income not greater than S/. 240,000 (US\$ 71,000), provided they are not excluded from the regime as specified in the relevant statute.

The *RER* is a tax regime for individuals and legal entities, undivided estates and marital partnerships domiciled in the country with a third-category (corporate) income from commercial, industrial or service activities complying with some specified requirements.

The **Dominican Republic** applies a Simple Estimation Regime (*Régimen de Estimación Simple* or *RES*) to individual taxpayers and stores of a single owner, the taxable gross income of which does not exceed RD\$ 2,000,000 per year (US\$ 62,500).

In **Venezuela**, even though no special tax regime for small taxpayers is currently in force, the National Assembly is studying a draft proposal to adopt a fixed-tax rate simplified regime for small taxpayers.

All these regimes described are **voluntary** –i.e. taxpayers register after classifying or categorizing their own activity, without any prior administrative oversight procedure. This might be the reason why all these regimes aim at incorporating to the system as many taxpayers as possible in the first stage; tax control and database purging actions are exercised later on.

As the only variable used for inclusion purposes has traditionally been the taxpayers' gross income –indeed a parameter difficult to control by tax agencies–, taxpayers used to register in the lowest tax brackets or categories. While apparently observing their fiscal

obligations, taxpayers were benefiting from tax savings without running any risk, as no controls are exercised after registration and, if they are, the already mentioned variable is used, rendering any oversight action inefficient.

All this has given birth to a widespread phenomenon in all countries under study, known in Spanish by different authors as “*enanismo fiscal*” (literally, fiscal dwarfism, or under-reporting of taxes) or taxpayers' atomization, the only purpose of which is to reduce their tax bill.

This phenomenon adopts two modalities: on the one hand, there are taxpayers who report less income in order to fall in a lower tax bracket; on the other hand, there are taxpayers whose increased business and income figures would force them to include themselves in a higher tax bracket, but they avoid it by dividing their activity in as many activities as necessary not to exceed the established thresholds.

This phenomenon is not unique to these countries. In Spain, though for different reasons, a similar situation takes place in certain economic sectors. The taxpayers' goal is to be subject to a regime far more favorable than the general one, which they should quit once they surpass the limits specified by physical parameters or modules.

By way of example and with the purpose of anticipating any abusive behavior that might occur after presumptive systems are in place for more than a decade, in **Spain** the following profiles are being detected:

- Taxpayers subject to the presumptive assessment regime who declare high-income earnings and generate a tax credit, but fall below the inclusion limits and have no employees. In this case, there is no correlation between production means and turnover volume, for which reason their turnover tends not to comply with tax regulations.
- Taxpayers subject to the presumptive assessment regime who create a legal entity or corporate body to intermediate their relationship with third parties.
- Taxpayers subject to the presumptive assessment regime with high purchase volumes that surpass the exclusion limit in a specific fiscal year. Tax regulations will exclude them from this presumptive assessment regime in the immediate

fiscal year, but they have already generated a tax credit.

- Taxpayers subject to the presumptive assessment regime with spouses and dependents subject to the same regime in order to divide sales and purchases and thus avoid the limits for exclusion. These alleged behaviors may also help taxpayers to include in the presumptive assessment regime income from other activities generated by the family but that is not provided for in such regime.

### **2.2.2. Tax Payable Determination Regime and Applicable Variables. Special Reference to Integrated Taxes**

Generally speaking, in the Latin American countries analyzed the tax amount to be paid by the taxpayers under these regimes is calculated by establishing fixed payments in accordance with the tax bracket where they are classified. Such tax bracket or threshold is dependent upon the turnover in the period under consideration – generally one month –, although there are cases where progressive rates are applied according to the income volume involved –i.e. different turnover volumes fall under different tax brackets.

As it has already been pointed out, sales volume or gross income used to be the variable most commonly applied to establish the limits for inclusion in the regime (the threshold level variable) and to calculate the tax payable. There is, however, a large number of countries that, in addition to the turnover variable, have introduced in their regulations other economic or physical variables as well to assess the tax payable.

We will now describe the tax payment schemes in the most significant regimes of the countries participating in the Meeting.

In **Argentina**, the Simplified Regime for Small Taxpayers (*Monotributo*) establishes two categories according to the taxpayer's economic activity (services fall into five tax brackets, while all the other activities, into eight). Taxpayers subject to this regime must pay a fixed monthly rate established by law for each bracket, without the need to file a year-end tax adjustment return. Taxpayers are categorized on the basis of the gross revenue variable and a series of physical parameters, such as the land area or floor space used for the activity and electricity consumption.

Under the Simplified Regime for Small Occasional Taxpayers (*Régimen del Contribuyente Eventual*), an amount equivalent to 5% of gross income must be paid every four months.

In **Bolivia**, under the Simplified Tax Regime (*Sistema Tributario Simplificado* or *RTS*) there are five tax brackets established according to the capital allocated to the activity, and involving a fixed tax amount payable every two months. The Integrated Tax Regime (*Régimen Tributario Integrado* or *RTI*) also has five tax brackets depending on the type of vehicle used, the transportation service rendered, and the city where the taxpayer is registered. Under this regime, fixed quarterly tax payments are made. Finally, under the Unified Agricultural Regime (*Régimen Agropecuario Unificado* or *RAU*), an annual tax payment is made, calculated according to the land area occupied by the farming operation, as stated in hectares.

As for the **Brazilian SIMPLES**, a monthly payment is made, with progressive rates being applied according to the income level. The tax amount payable is calculated by applying to the monthly income the tax rate relevant to the accumulated income earned up to the current month. Under the Presumptive Income Regime, an 8% flat tax rate is levied on gross income, although special rates are applied for certain activities. Payment of this tax is made on a quarterly basis.

In **Costa Rica**, the taxes included in the Simplified Tax Regime (*Régimen de Tributación Simplificada* or *RTS*) are assessed on a quarterly basis by applying, in each activity sector, one income tax factor and another general sales tax factor to the purchase volume variable.

In **Chile**, under the Income Tax Simplified Regime (*Régimen Simplificado del Impuesto a la Renta*), an annual tax liability is assessed and divided into monthly installments. In the mining activity, a progressive rate is applied on the net value of mining product sales. In commercial activities, street vendors pay a fixed amount in monthly tax units, while newspaper and magazine street vendors pay a percentage over total sales. For workshop owners, the applicable tax is a percentage of their gross income or two monthly tax units, whichever is higher. Artisanal fishermen are applied a fixed amount according to the vessel's gross register tonnage.

Under the VAT Simplified Regime (*Régimen Simplificado del IVA*), a fixed monthly tax amount is paid by activity or taxpayer category, calculated on the basis of a series of rates that are indicative of the volume of operations.

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In the Presumptive Income Tax Regime for the Agricultural Sector (*Régimen de Renta Presunta al Sector Agropecuario*), the tax payable is calculated by applying a percentage over the assessed valuation of the property where the farming operation is located: 10% for owners and 4% for tenants.

In **Mexico**, under the Small Taxpayer Regime (*Régimen de Pequeños Contribuyentes* or *REPECOS*), the tax payable is a single amount composed of a fixed sum involving the value-added tax, which represents a Mex\$ 100 monthly VAT tax, plus the amount resulting from applying a 2% tax rate on the taxpayer's gross annual income. Payment of this tax is made on a two-month basis.

The tax payment scheme in the Intermediate Regime (*Régimen Intermedio*) is the same as that in the general system, only that for income tax purposes purchases of fixed assets are deducted in full and not as an annual percentage, as in the general system. The income tax is paid annually, divided in provisional monthly payments. VAT is paid on a monthly basis.

In the Simplified Regimes for Agriculture and Transportation, the tax payment scheme is like the one described above –i.e. the general system–, with the only difference that it provides for income tax incentives and benefits.

**Nicaragua** has implemented the Special Regime of Administrative Estimation (*Régimen Especial de Estimación Administrativa*), which applies a fixed unified monthly amount combining both the income tax and VAT, based upon the annual gross income in the preceding fiscal year. For this calculation, a chart of values approved by the tax agency is used. These taxpayers are not required to file and pay the annual income tax return.

Under **Peru's** New Single Simplified Regime (*Nuevo Régimen Único Simplificado* or *Nuevo RUS*), a monthly payment is made according to the tax bracket, which is based on gross income as well as on some physical parameters (land area or floor space used for the activity, electricity consumption, telephone bill, number of employees, purchase volume, etc.). This regime involves five brackets for commercial/industrial activities and other five brackets for services/trades. This tax replaces both the income tax and the general sales tax.

In the Special Income Tax Regime (*Régimen Especial de Renta* or *RER*), the monthly tax payment is calculated by applying a percentage over the net monthly income: 2.5% for trade and industry and 3.5% for services. Under this regime, taxpayers must comply with their general sales tax obligations pursuant to the general regime.

In the **Dominican Republic**, the net taxable income of taxpayers subject to the Simple Estimation Regime (*Régimen de Estimación Simple* or *RES*) is 70% of their gross income for the period; to this taxable income, a progressive schedule with rates of 15%, 20% and 25% is applied, according to income levels. The tax is paid on a quarterly basis, in equal installments calculated on the basis of the preceding fiscal year's tax return.

### **Integrated or Combined Taxes**

Special consideration should be given to the analysis of the combination of tax instruments in the different regimes. This tax combination or integration seeks to meet the need for simplification that characterizes these regimes, at least at their initial stages, so that by complying with a single payment obligation, the taxpayer is released from all other tax obligations and, in some cases, from his/her contributions to the social security system.

Even though in some systems the simplified tax regime is applied separately to a series of taxes, there are countries that integrate different taxes in a single instrument, usually the income tax and VAT.

This is the case of **Bolivia**, where the payment of VAT, the transaction tax (*Impuesto a las Transacciones* or *IT*), and the tax on enterprise profits (*Impuesto sobre las Utilidades de las Empresas* or *IUE*) is unified; **Costa Rica**, where only one form known as "Tax Return - Simplified Tax Regime" (*Declaración Jurada - Régimen de Tributación Simplificada*) is used to pay both income and sales taxes; **Nicaragua**, which has integrated income tax and VAT; **Peru**, where the New *RUS* now replaces the general sales tax and the income tax with a single fixed-rate payment, or **Mexico**, where the *REPECOS* integrates both the income tax and VAT, as well as local taxes levied by the federal states.

There are two special regimes, the **Brazilian SIMPLES** and the **Argentine Monotributo**, which, in order to achieve greater simplification, introduced a new key element: both of them integrate, though differently,

**social security** contributions. To the advantages of a simplified tax system, both regimes have added employment incentives and health insurance and retirement benefits.

In the **Brazilian SIMPLES**, taxpayers meet their tax obligations by means of a single regular (monthly) payment that integrates the corporate income tax (*Imposto de Renda Pessoa Jurídica* or *IRPJ*), the contributions for both the social integration program and the social security funding (*Programa de Integração Social/Contribuição para o Financiamento da Seguridade Social* or *PIS/COFINS*), the social contribution on net profits (*Contribuição Social sobre o Lucro Líquido* or *CSLL*), the tax on industrial goods (*Imposto sobre Produtos Industrializados* or *IPI*), and the social security contribution. VAT is not included, as it is administered by the federal states, but it may be integrated as well by way of an agreement; however, this has not yet happened.

The **Argentine Monotributo** integrates the value-added tax, the income tax, the presumptive minimum income tax (*Impuesto a la Ganancia Mínima Presunta*) and contributions to the integrated social security system.

### **2.2.3. Organization and Administrative Management Systems**

In general terms, the tax agencies analyzed have a dual organization: a functional organization, structured by areas or tasks, and another organization structured by type of taxpayer. For the second organizational branch, there are specific management and control bodies in charge of different taxpayer groups, such as large taxpayers, small taxpayers, large companies, etc. Thus, there is some sort of specialization based on the distinctive characteristics of the taxpayer groups and the administrative actions that have to be taken with respect of them.

As to the management and control of the taxpayers segment subject to the simplified or special regimes, there is no evidence of any specialized unit in the organization charts of the tax agencies analyzed.

One of the crucial factors for a proper administration and supervision of any tax system is the existence of a reliable and updated **census or database** of taxpayers with their respective tax obligations. Generally speaking, databases in Latin American countries are incomplete and inaccurate, outdated and of little use. Indeed, they do not reflect the reality of taxpayers and

their obligations. This is largely due to the high degree of informality that prevails in these economies.

In line with the comments above, it has also been observed that these systems' **classifications of economic activities** are very inaccurate and deficient due to the absence of a proper definition for such activities and sectors, all of which results in lack of strictness and enforceability upon the taxpayers to promote their correct categorization.

As to **resources** allocated to the **management and control** of these taxpayers, a shortage of human and material resources is commonly observed. Resources are primarily used for the control of other taxpayer segments yielding more revenue.

Efficiency aspects at the organization, management and control levels are important when there are different tax agencies with either specific or shared tax competences. Such situations call for the implementation of coordination, cooperation and mutual assistance actions.

A typical example that illustrates how complex it is to manage these regimes is **Brazil**, where the value-added tax, a critical component in these tax systems that is administered by the federal states, may be included in the *SIMPLES* regime upon the request of the federal states, provided that the relevant agreement is formalized. However, experience has shown that federal states have no interest whatsoever in integrating such tax, on account of the risk that this would entail for their autonomy and independence, as well as for their revenue collection level.

### **2.2.4. Formal and Material Obligations**

As it has already been stated, one of the reasons for creating such special regimes within tax systems is to release the taxpayers eligible to be included in them from material and formal obligations that, given the characteristics of their entrepreneurial activities, involve tax compliance costs that impact significantly on their businesses. For this reason, taxpayers under these regimes are typically not required to keep certain accounting books and records, issue invoices or perform other formalities that most businesses must observe for tax and business purposes.

This is possible because these regimes are based on a presumptive assessment of profits, which does not take into consideration the actual flow of expenditure and

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income of the business but rather presumptive or objective parameters that assume the actual income volume. It is then easy to understand why these taxpayers are only required to keep certain inventory or cash receipts journals.

In most of the regimes implemented in the countries participating in the Meeting, taxpayers are released from certain formal and invoicing obligations to which taxpayers engaged in business activities are generally subject.

Thus, in **Argentina** these taxpayers are waived from keeping accounting books, but must exhibit a clearly visible identification sign, obtain invoices for all purchases or services received and issue invoices for sales or services rendered.

In **Bolivia**, taxpayers under simplified regimes must register appropriately and keep the invoices for purchases made as well as the documents evidencing their regular payments.

In **Brazil**, taxpayers within these regimes are exempted from the obligation to keep books for tax purposes, and are only required to keep in proper condition their cash and inventory journals. Legal entities registered under the *SIMPLES* must set up a clearly visible identification sign indicating they are subject to this tax regime, and file a simplified annual tax return.

In **Costa Rica** there is no obligation to keep the purchase ledger, nor is the taxpayer required to issue invoices or keep all supporting documents of his/her transactions, except for purchase invoices.

In **Chile**, the Simplified Income Tax Regime imposes invoicing obligations, from which only certain street vendors and small business owners are released. In addition, there is a simplified accounting system applicable only to individuals subject to certain conditions and involved in specific economic activities or sectors.

In the VAT Simplified Regime, taxpayers are required to keep a special journal where all purchases and sales as well as services rendered or received are to be daily recorded, even if such services are VAT-exempted.

In **Mexico**, taxpayers under *REPECOS* are not required to keep accounting records of their daily income. Neither are they obliged to file an informative return of income nor to issue invoices to customers or keep

original invoices when transactions involve an amount lower than Mex\$ 100.

Under the Intermediate Regime, taxpayers have the obligation to keep accounting records; such obligation may be met by keeping the income, investment and deduction record books. They are also required to issue invoices and keep tax documentation. Under this regime, customers may deduct the invoices received.

Formal obligations in the Simplified Regimes for Agriculture and Transportation are the same as the ones described for the Intermediate Regime.

**Nicaragua's** Special Regime of Administrative Estimation exempts taxpayers from the obligation to issue invoices, unless the customer so requires. However, taxpayers must demand that their suppliers and service providers issue the relevant invoices. They are not required to keep accounting books.

Under the New *RUS* in **Peru**, taxpayers are not allowed to issue invoices that can be used for tax credit and are not required to keep accounting books. This, however, does not hold for taxpayers under the Special Income Tax Regime or *RER*, who are subject to the general invoicing and bookkeeping obligations, i.e. the sales and income journal, the purchase ledger and the inventory journal, as well as balance sheets.

In the **Dominican Republic**, taxpayers must register with the tax agency and file an income tax, but are not required to file any financial statement.

As to material obligations – which are understood to be the ones that taxpayers should meet in order to settle their tax liability –, there is a tendency toward simplifying and reducing paperwork and formalities, the tax payable being normally cancelled in regular installments, without the need to file any year-end tax return or tax adjustment document.

In the cases of **Argentina** and **Brazil**, the fixed amount payable contains, in addition to the tax component, a social security component. This implies an important qualitative step forward in the pursuit of the maximum simplification of taxpayers' obligations. In the Brazilian *SIMPLES* this component works as an employment promotion subsidy. In the Argentine *Monotributo* it is a social security incentive, as it generates retirement and health insurance benefits for taxpayers under such regime.

The flexibilization of the invoicing obligations impacts on the very dynamics of indirect taxation, since it affects other economic agents comprised within the general tax system. Therefore, any decision to be taken in relation to invoicing, as well as the generation or not of tax credit on the VAT paid by the taxpayers under these regimes, must be made taking into consideration the system as a whole.

In the vast majority of countries, simplified tax regimes do not provide for the generation of VAT credit for those taxpayers to whom invoices have been issued by the taxpayers comprised within these regimes or the application of such credit to sectors or activities selling goods or providing services directly to end users or consumers, for the reasons already mentioned and in order not to break the value-added tax chain.

### 2.2.5. Verification and Control Procedures

To determine the capacity of the tax agency to enforce taxpayers' compliance with their tax obligations under the simplified regimes, we must first analyze the situation in which such regimes are introduced, as well as the instruments available to tax authorities so that they can fulfill their verification duties.

In the tax systems analyzed almost no actions are taken to verify compliance with the conditions required to be admitted to or to remain in the regimes.

The reasons for that situation are multiple. In many countries we have detected a phenomenon that is typically observed at the regime's initial stages, where the emphasis is placed on attracting to them as many taxpayers as possible. As a result of this, impediments or obstacles for inclusion are eliminated, and registration is encouraged by means of raising taxpayer awareness and taking information and support actions, so that taxpayers may realize that moving away from informality will get them benefits in terms of social security, simplification of tax obligations and, why not, peace of mind.

However, in countries with some experience in the implementation of this type of regimes, such as **Argentina** or **Brazil**, although post-categorization control actions are taken, including the adoption of corrective measures, the control tasks undertaken are insufficient and poorly carried out by unqualified staff, which in many cases results in inefficient verification procedures.

The threshold level variable traditionally applied in the majority of these regimes has not contributed to the success of this effort either. This is the case of the business turnover variable, which is extremely difficult to control. In this respect, a large number of countries have introduced, together with such variable, a series of objective parameters that facilitate categorization control.

As it has been repeatedly pointed out, these countries have very inadequate, outdated and, therefore, ineffective taxpayer databases. This means that the taxpayers included in the regimes are only a part of their potential beneficiaries, and that the greatest part of them is outside the tax system, operating in the informal economy.

In addition, there is another taxpayer group that should not qualify for inclusion within these regimes on account of their actual income levels, in respect of which, however, no actions aimed to verify their inclusion in the regimes or proper categorization are carried out.

Under these circumstances, in tax systems with very little tradition of payment of individual or corporate income tax, it is very difficult to impose a corrective system upon those taxpayers who at least formally are in compliance with the regime, because of the inequity this would represent vis-à-vis those who are not even registered with the tax agency, in addition to the minimum tax revenue impact generated by this taxpayer segment and to its high potential for conflict, as evidenced by the actions of its umbrella organizations.

Thus, with very few specific exceptions, such as the case of **Argentina**, with no significant effects either, even though regulations provide for a detailed penalty regime, in practice this is unlikely to be implemented given the minimum or no control activity that is effectively carried out.

**Argentina** conducts extensive controls of these taxpayers by matching electronic data from previous tax returns filed by *Monotributo* taxpayers, third parties and financial institutions. Such verification procedures result, in some cases, in retroactive changes of categories and, in others, in exclusion from the simplified system and in tax liability assessment under the general regime.

In addition, preventive controls are conducted – usually by unqualified hired personnel – to verify proper taxpayer categorization. These are hasty, no in-depth controls that are not performed with enough consistency

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and frequency throughout the country. Furthermore, the Argentine tax agency does not have a unit within its functional structure specifically assigned to this task.

For its part, **Brazil** imposes a series of massive electronic controls upon these taxpayers via data matches, but such controls are insufficient and of a residual nature, although they have made it possible to unveil some cases of “*enanismo fiscal*” or atomization.

In the rest of the countries participating in the Meeting, the situation is not too different. Controls are very loose due to the above-mentioned reasons and the scarcity of resources available for the detection of pockets of tax fraud in other sectors or taxpayers, the identification of which would be much more important for the tax agencies in terms of tax revenue.

### 2.2.6. Implementation Results

In this last subsection we include some statistical data on the revenue generated by the taxpayers subject to these regimes and its impact on total tax revenue.

This information will help us establish the magnitude of the taxpayer segment on which we have focused our analysis, and better understand some realities and measures adopted by the Latin American tax authorities.

The data from some of the countries participating in the Meeting give as an indication of and shed light on the significance that these regimes have in terms of revenue collection and taxpayer registration.

In **Peru**, the New *RUS* contributed during 2004 only 0.30% of total internal tax revenue collected by the National Superintendency of Tax Administration (*Superintendencia Nacional de Administración Tributaria* or *SUNAT*). The largest portion of the regime’s taxpayers – 92.3% – is classified in the two lowest brackets.

In the *RER*, income tax collection in 2004 accounted for 0.60% of total income tax revenue. The classification pattern is similar to the one observed in the New *RUS*. Eighty per cent of the *RER* taxpayers’ reported sales fall within the limits established for the two lowest brackets of the regime.

In **Nicaragua**, the 2005 estimated revenue data show that tax collection from taxpayers who are levied a fixed tax amount accounts for 0.08% of total tax revenue. These taxpayers represent 55% of the country’s total

taxpayer base. As to large taxpayers – 1.3% of the taxpayer base –, they generate public income accounting for 90.95% of total tax revenue.

By way of illustration of the situation of a large country, the number of taxpayers registered under the **Brazilian SIMPLES** – accounting for 75% of the National Registry of Legal Entities (*Cadastro Nacional da Pessoa Jurídica* or *CNPJ*) – generates only 7% of total tax revenue. Businesses registered under the general or regular regime account for 7% of the *CNPJ* and yield 85% of total tax revenue.

### 2.2.7. Summary

To conclude this section, let us summarize the basic features of the simplified tax regimes implemented in Latin America:

- They are special tax regimes designed to promote and support small and medium-sized enterprises, to cope with a situation of considerable economic informality in that target segment, and to enhance efficiency in the use of administrative resources.
- These regimes are intended for a very large number of small taxpayers who conduct low-income generating and hard-to-control business activities with a minimum impact on total tax revenue.
- Simplicity prevails over equity in the calculation of the tax burden.
- The material and formal obligations to be met by taxpayers are substantially simplified.
- Invoices issued by the taxpayers comprised within this regime do not generate VAT credit for their recipients.
- These are voluntary regimes in which taxpayers are self-categorized. The variable used to determine category or bracket inclusion and the calculation of the tax amount payable are determined by income or turnover volume.
- Various tax obligations are replaced by a single regular payment whereby all such tax obligations are discharged, including, in some cases, social security contributions.

- Administrative control of the degree of compliance and correct tax bracket inclusion and permanence is low.
- It is very frequent to detect cases of “*enanismo fiscal*” and atomization of taxpayers, who seek to be classified in the lowest tax brackets in order to reduce their tax bill.
- Administrative resources allocated to the control of these taxpayers are scarce and no skilled staff is assigned to these tasks.

### 3. RECOMMENDATIONS

The recommendations we provide as a conclusion are derived from the presentations delivered during the Meeting. Our goal is to establish a set of basic practical parameters that may furnish us with the information needed to make the most appropriate decisions within the different economic, social and political contexts of the countries in the region.

Obvious as it may seem, we should not forget that fiscal policy is a supreme form of politics, as it involves deciding who, and to what extent, should contribute resources to the public treasury, as well as who, and to what extent, will be the beneficiaries of the allocation of such resources.

Therefore, the experts responsible for setting down tax rules and regulations should be well prepared to justify the social, political and, in some cases, constitutional adequacy of their choices.

This leads us to express that, in our opinion, no one can deny that these regimes conform to the basic constitutional principles adopted by “standard” democratic constitutions, principles that imbue fiscal policy with a set of values applicable within the context of a “weighing of principles” process.

Modern constitutional regulations tend to establish that citizens should pay taxes on the basis of their economic capacity. The point is how we can justify that presumptive methods are adequate means to measure payment capacity in conformity with constitutional principles. We understand that taxation based on presumptive parameters is a compromise between the ability-to-pay and administrative efficiency principles and the respect for the individual rights of citizens, without overlooking the fact that such methods serve a

basic democratic principle: the general application principle, under which all taxpayers must meet their tax obligations. It is easy to reinforce the point: we cannot possibly talk about ability to pay when some of those who are liable to pay taxes fail to meet their tax obligations.

It is obvious that fiscal policy is not the Garden of Eden. We face a reality that we want to transform and that constrains many of the decisions to be adopted.

The purpose of this paper is not to conduct a painstaking theoretical analysis of the different alternatives we may follow when designing the fiscal context in which SMEs will operate in our countries. It is convenient, however, to make a brief account of the presumptive methods most commonly applied in Latin America, and then attempt to establish the basic features of the regulatory and institutional aspects that are to affect the taxpayers that fall under the category of SMEs for taxation purposes.

For organization purposes, we propose two different levels of analysis. The first one focuses on regulatory design aspects, i.e. the specification of the most appropriate “tax system” so that the SMEs’ tax regime be in accordance with the principles of general application and feasibility.

The second proposed level of analysis will draw attention to the tax agency model best suited to enforce tax regulations on SMEs. We do not intend to provide a definition of the whole spectrum of functions of a tax agency. We will only describe that part of a tax agency that is responsible for enforcing the tax regulations designed for SMEs.

We will also emphasize how crucially important a basic tax-related institution is in order to ensure effectiveness in the general administration of tax systems, i.e. the **taxpayer census or database**.

### 3.1. Proposals for an Effective Regulatory Framework for a Presumptive Tax System for SMEs

From a regulatory standpoint, we believe that two types of rules are necessary:

- Common and horizontal rules to regulate the registration of taxpayers under this regime and establish their basic categories.
- Material rules that define the specific taxes applicable to SMEs and quantify their tax burden.

We would like to emphasize the importance of taxpayer registration rules, as they constitute the foundations of the system; they are necessary and imperative regardless of the tax regime of our choice.

The regulatory design of presumptive regimes must be implemented taking three basic principles into account:

- Simplicity.
- Reduction of administration costs for tax agencies and compliance costs for citizens.
- Legal certainty.

#### 3.1.1. Presumptive Methods: Their Appraisal, Advantages and Disadvantages

The main presumptive methods are as follows:

- Percentage of sales volume.
- Objective parameters.
- Taxpayer substitution.
- Presumptive tax debit and actual tax credit.
- Fixed-tax rate.
- Mixed systems.

The **percentage of sales volume** method is the easiest to apply and the hardest to control. The determination of the sales figure presents a wide range of difficulties. Not even the most comprehensive and conscientious tax audit mechanisms ensure a minimum level of certainty about this value. In economic sectors operating with end

users, cash payments are frequent and the use of electronic forms of payment is not widespread. The possibility or the need to make cash sales is an invitation for concealment, as it, in turn, generates cash purchases, thus closing the informal loop. Reporting obligations are easily avoidable, as the incentives not to report income are obvious. Finally, not even invoicing-related obligations can guarantee a solution to the problem.

In any case, we should not rule out this method for sectors with controlled sales or, in broader terms, at a later implementation stage, according to how these regimes perform in each country and within the framework of the continued review process they must undergo.

**Objective parameters** are physical magnitudes representative of the taxpayers' ability to pay or economic capacity. Their advantage is that objective parameters and, hence, these regimes are easy to control. One of the disadvantages is that the "pre-legal" selection of parameters is a complex process that gives rise to a series of economic-related issues that we may well imagine. For instance, the parameter concerning the number of employees has a significant impact on employment.

**Taxpayer substitution** is a mechanism that consists in transferring the tax obligations from the SME to a third party, such as the SME's suppliers or customers who are not the direct consumers. This is no more than a reporting system reinforced by the fact that a third party who is not the primary taxpayer is responsible for paying the tax, which raises greater awareness of the reporting obligation since, should non-compliance be detected, the costs to be incurred by the failing party are clearly higher.

The method based on a **presumptive tax debit and an actual tax credit** is typical of the value-added tax. It has different modalities depending on how the tax credit is computed. There is a full computation or a limited computation, i.e. it is computed either up to the amount concurrent with the presumptive debit or up to a certain percentage of the tax debit.

This method is typically applied in VAT-like indirect taxation, which involves greater complexity in terms of control than the pure presumptive methods, since actual tax credit verification tasks involve higher costs for and greater efforts by the tax agency.

We do not deem it appropriate that taxpayers allowed to apply this method should generate VAT credit for their customers. This is the case in Spain – resulting from an EU imposition –, where this issue is one of the greatest sources of conflict in the application of the regime.

We should not ignore the fact that reality is full of nuances and that tax fraud is becoming increasingly sophisticated. Borrowed invoices are difficult to detect, while absolutely irregular invoices are almost no longer found. A common fraudulent practice is to issue invoices for actual transactions where the consideration has been overcharged, which makes the fraud scheme harder to be detected.

In addition, during SMEs' audits it is common to detect situations where the small entrepreneur complains that if he/she does not inflate the invoice amount, he/she "will be forced to go out of business". As we can see, tax credit in respect of third parties is one of the main sources of controversy.

**Fixed-tax rate** methods, whereby a tax amount payable is determined according to the taxpayer's bracket, are easy to apply because they do not require an assessment procedure. Instead, this system is based on the categorization of taxpayers in accordance with a set of fixed parameters, combined in some cases with income, so that a different tax rate is applied to each tax bracket.

These systems may be appropriate when introducing presumptive regimes or more stable regimes targeted to the micro-enterprise segment.

**Mixed systems** combine more than one presumptive method to categorize taxpayers and determine their tax burden.

Presumptive methods are certainly not more inaccurate than direct assessment methods; they are simply different approaches to the economic reality of citizens. Moreover, there are neither pure presumptive methods, as they all have some direct assessment elements, nor pure direct assessment methods, as they all use some form of presumptive estimation.

These presumptive methods will produce special regimes that will determine tax burdens on the basis of the mean or potential yields of a business activity. This is a highly debatable criterion, since the taxpayer who is below the average will be adversely affected.

Tax exemptions may be offered in the event of exceptional circumstances such as natural disasters, fires or floods. Moreover, taxpayers who can substantiate continued losses might be eligible for tax exemption. Within this context, presumptive methods might even become mandatory for taxpayers in a certain tax bracket.

In addition, we should bear in mind that while taxes levied on mean or potential income are easier to apply, they involve more complex pre-legal calculation tasks.

In closing this first part of the recommendations section, and as a positive appraisal of presumptive methods, we believe that we should boost the "morale" of the oft-criticized presumptive regimes. These systems must get rid of their inferiority complex from the tax equity perspective. They are not more unfair than other regimes that rely on an entirely theoretical concept of equity. The effective fairness of a tax system should be analyzed in the light of its implementation outcomes. We do not deem it appropriate to evaluate a tax regime at the "legal book laboratory" without examining it against reality, i.e. the outcomes resulting from its application.

### **3.1.2. Taxpayer Registration Rules**

Taxpayer registration rules derive from the need to create a stable, horizontal classification system of economic activities, i.e. applicable to the whole tax system and, if possible, at all levels in the tax agency.

In other words, within the general taxpayer census or database there should be a specific SME database that should provide input to the system used to assess the tax burden that is imposed upon this segment of taxpayers.

We understand that it is impossible to agree on a SME concept to be fully applicable in all the countries of the region. There will always be specificities. We believe, however, that such concept must be simple, understandable and based on readily verifiable objective parameters, avoiding the use of magnitudes such as sales or purchase figures.

Now, we do believe that it is possible to broadly define the **types of activities** often undertaken by SMEs, which may include, though not be limited to, the following:

1. Agricultural, cattle-breeding, forest, fishing, small mining and all primary sector activities.

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2. Small industrial activities, such as bakery, woodworking, small masonry and construction.
3. Retail business.
4. Restaurant, hotel and coffee shop services.
5. Home appliance, car, bicycle and other vehicle repair services.
6. Small-sized cargo and passenger transportation businesses.

As can be seen, they are perfectly identifiable sectors in respect of which a set of readily measurable objective magnitudes, to some extent related to their tax-paying capacity, might be defined.

To refine these objective classifications, an attempt could be made to introduce elements designed to gauge the estimated tax burden by differentiating three broad categories:

- Micro-enterprises.
- Small enterprises.
- Medium-sized enterprises.

The threshold level variable for each category should be, once again, readily measurable objective parameters. The choice of such parameters must respond to their representativeness and, more importantly, their assessment and verification costs. From a practical point of view, if we use data provided by large and reliable suppliers, such as electricity or telecommunications companies, the management of the tax procedure will be less costly for the tax agency, and will save costs for highly compliant taxpayers, as at least the minimum tax payable amounts would be calculated by the tax agency itself.

This is certainly not too ambitious. The existence of "some correlation" is deemed a sufficient condition. We are not seeking econometric accuracy; in fact, a simple trend will do. The Spanish experience is extremely revealing. The presumptive estimation regime implemented in 1992 entailed an evident increase (to 43%) in the net income declared by small entrepreneurs. In addition, it has been noted that those taxpayers who have abandoned such regimes now report under the direct assessment regime one third of the income they used to report under the presumptive regime. The rationale for presumptive regimes is obvious. They are

not an ideal system, but a second-best solution. As we all know, the best is the enemy of the good.

What remains to be defined is the personal scope of application of these regimes. In our opinion, they should only be applied to individual entrepreneurs and the less complex forms of business associations, such as joint ownerships and non-commercial partnerships. The application of these regimes to legal entities that are subject to commercial law is not advisable, even though this is a decision that should be dependent on the characteristics of each country.

### 3.1.3. Substantive Tax Rules

Before presenting the tax structure that we deem most appropriate for SMEs, we will briefly outline the main taxation options available.

These taxation options pursue one objective: to determine the **ideal tax burden** for SMEs. In this respect, it is intended to be higher than the actual tax burden in the previous regime, but lower than the tax burden that should derive from the proper application of the general regime. This is to serve as an incentive to attract new taxpayers and, more importantly, to encourage their permanence under the presumptive regime, with the resulting reduction of non-compliance.

It is our opinion that the best taxation option consists in defining a presumptive regime structured into two large categories:

- A single comprehensive tax replacing income and value-added tax obligations for all activity sectors, except for the primary sector.
- A single differentiated tax for the agricultural, livestock, fishing and forest sectors, known as the primary sector.

We will now make reference to the taxation options that we have discarded. From a theoretical perspective, we have ruled out the adoption of two different presumptive regimes, one for income tax and another for VAT. Our regime of choice is close to the ones established in countries like **Argentina** and, with some slight variations, **Brazil**.

This single tax instrument should further include social security contributions. The unified management of the tax and social security systems, i.e. the two financial

phenomena most representative of modern States, produces the following positive outcomes, to mention but a few:

- The combination of tax and social security contributions encourages compliance incentives.
- It legitimates the regime, since it makes it possible to individually visualize the benefits of social spending.
- It generates administrative cost savings.
- It facilitates citizens' compliance with their tax obligations.

At a lower decision-making level, once we have opted for a single-tax system, we should define the most appropriate objective parameters that are to be applied to assess the tax burden. However, this is a question that should be left for each country to decide, in accordance with its specific social and economic contexts.

### **3.2. Implementation of a Tax System for SMEs: Information and Assistance Strategies**

#### **3.2.1. Information and Assistance as Strategies for Voluntary Compliance**

One of the basic pillars of any modern tax system is the provision of taxpayer information and assistance services that contribute to the priority objective of encouraging voluntary compliance with tax obligations.

That is so to the extent that it is on this voluntary compliance that tax agencies have built their main strategy to increase tax collection levels.

We should bear in mind that only a very low percentage of the revenues collected by the tax agency are derived from adjustments in cases of tax fraud. Thus, most of the revenues result from voluntary payments made by taxpayers.

For this reason, it is imperative that all levels of management in a tax system implement measures aimed at making it as easy as possible for compliant taxpayers to perform their tax duties. Yet, the resources allocated to this task should, for obvious reasons, be concentrated

in those units or bodies that have been made responsible for the management of low-income taxpayers.

Nonetheless, we must not forget that those percentages of voluntary compliance, which should be maximized, are nothing but the consequence of the implementation, along with the above-mentioned information and assistance services, of strict control measures on fraudulent or non-compliant taxpayers. These measures act as an incentive for voluntary compliance.

There are two clear lines of action. On the one hand, the tax agency should facilitate procedures as much as possible so that compliant taxpayers can perform their tax duties. On the other hand, it should step up rigorous controls and coercive measures in the face of non-compliant taxpayers.

In accordance with two basic principles of taxation, general application and ability to pay, whereby all citizens should contribute to public spending in proportion to their economic capacity, current tax agencies are expected to manage enormous volumes of tax returns. This requires that taxpayers themselves fulfill part of the tasks, thus cooperating with the agencies in completing tax returns, information forms, tax census records, etc.

Therefore, the set of formal and material obligations falling on taxpayers, which imposes on them indirect tax costs affecting the course of their business, should be reduced to the minimum through the implementation of information and assistance mechanisms, which will not only facilitate the timely steps to be taken by taxpayers but also prevent subsequent verification or control of filed returns as much as possible.

As a general rule, even if their scope of action and implementation is very broad as they extend to numerous taxpayers, information and assistance services should preferably be the responsibility of large-scale management bodies, whose controls are mostly IT-based and have standardized procedures.

As we have previously pointed out, these services will be naturally targeted to taxpayers who voluntarily settle their tax liabilities.

For the sake of accuracy and in order to have a clearer understanding, we should state that information services are to be understood as those aimed at providing information on applicable criteria and responding to any inquiry raised by taxpayers about tax compliance issues.

Assistance services involve all those services that the tax agency makes available to taxpayers in order to facilitate their performance of formal or material duties.

An important aspect that should not be overlooked is the **preventive nature** of these actions. As we have emphasized before, in addition to making it easier for taxpayers to meet their tax obligations, these services obviously play a role in filtering and weeding out problems, so that eventual control tasks are then minimized as a result of previous actions involving the explanation of tax issues, interpretative criteria and, in many cases, new tax regulations.

We cannot conclude this first subsection without underscoring the significance of both the necessary **human resources**, who should be required to be **highly qualified** in order to undertake these tasks, and **IT resources**. This issue is crucial to all modern organizations and ever more so to tax agencies not only because of the volumes of data that they handle but also because their activities involve coming into contact with taxpayers.

Therefore, when discussing information and assistance services, we cannot help making reference to this matter, which will be examined in detail below. As an example, we can mention the increased use of new ICT-based methods by tax agencies to manage tax returns and tax payments and to provide information and assistance services, as well as by taxpayers, whose use of these systems is growing every year, although it is mainly restricted to the corporate sector.

The use of ICT channels over the Internet has become widespread. The number of procedures that tax agencies have made available to taxpayers through their websites is ever increasing, from access to tax-related information and inquiries to the filing of returns, downloading of samples, having access to support computer programs, etc.

### **3.2.2. Specific Strategies for SMEs**

When it comes to designing information and assistance strategies within the taxation framework for SMEs, and, more specifically, within the simplified tax regimes for SMEs, we should analyze the measures to be adopted according to the stage at which we are –i.e. before or after the implementation of these regimes.

A country's social and economic context will substantially determine the actions to be developed. Consequently, a decisive factor to be taken into account will be its underground or informal economy, a characteristic of all Latin American countries, which affects those economic activities primarily subject to these regimes.

In addition, the measures to be taken are conditioned by the taxpayers' profile. As this is a business segment with a poor organization and no easy access to information channels, special care should be taken to avoid that pre-implementation actions oriented to inform on, assist with and disseminate the virtues of the regime should not reach only a reduced number of taxpayers.

#### **3.2.2.1. The Introduction Phase of Presumptive Tax Systems**

At the introduction phase, information activities take precedence over all other actions since it is at this stage that tax agencies seek to reach as many eligible taxpayers as possible. This does not mean, however, that assistance-related actions –for example, to help with document compliance and the use of support software – are to be neglected.

Hence, actions during this phase will be mainly focused on providing information to “sell the product” –i.e. to inform the maximum number of taxpayers of the advantages of choosing the new regime. The message should clearly reflect the straightforwardness and simplicity of the regime and the benefits awaiting those who choose it –in the form of a significant reduction in their formal and material obligations plus the provision of social security incentives– and should show any other advantage that the regime may bring to those applying for it.

Likewise, it is essential to conduct advertising and information campaigns among the groups and sectors involved in and concerned with the introduction phase.

Similarly, it is crucial that this information makes it perfectly clear that this special regime has not been designed to introduce new tax instruments, but to facilitate taxpayers' compliance with pre-existing tax obligations while providing them with numerous benefits.

As mentioned above, though information activities have a predominant role to play at this stage, tax agencies should not overlook the need to maintain a permanent

and ongoing assistance service for taxpayers who decide to register under the new regime, since they will demand such assistance to complete all the formalities required.

### 3.2.2.2. The Implementation Phase of Presumptive Tax Systems

At the implementation phase of the regime, information and assistance actions to be carried out are the ones generally taken for any other taxpayer segment. It is worth repeating that these taxpayers have a very modest corporate structure. This is why the tax agency needs to redouble its efforts to provide them with all the relevant tax information as well as with the necessary assistance for the fulfillment of their formal and material obligations.

It is deemed important that there should be a **specialized unit** of officials within the organizational structure of tax agencies concerned with assisting these taxpayers with their inquiries or problems in addition to conducting their regular management and control tasks.

By way of illustration, module units (*unidades de módulos*) responsible for the management and control of SMEs in Spain perform important information and assistance tasks, even with regard to compliance with quarterly payments of VAT and individual income tax.

### 3.2.3. Best Practices in Information and Assistance Services for SMEs

This third subsection presents examples of information and assistance services that can be rendered to SMEs, with the aim of fostering voluntary compliance and facilitating the performance of tax obligations. Yet, most of these measures may be applicable to any other segment of taxpayers.

Information and assistance-related measures should be adapted to the stage in which the regime is, i.e. the introduction or implementation stage. At its very origin, particular emphasis should be placed on actions designed to attract taxpayers in the informal economy to the new regime. Later on, when taxpayers under the new regime make up the majority, actions have to be necessarily of a different nature, intended to provide ongoing and long-term assistance.

We will now make reference to some experiences conducted in countries participating in the Meeting,

which have adopted a series of measures as best practices, aware of how important it is to clearly inform about the advantages of registering under the simplified tax regime –reduction in indirect tax costs, social security and labor benefits, where appropriate– and the disadvantages of acting otherwise.

In Spain, tax laws, the paradigm of which is the General Tax Act (*Ley General Tributaria*), provide that taxpayers have the right to be informed about and assisted with the exercise of their rights and the performance of their tax obligations by the tax agency.

This principle is put into practice through the following actions:

- a) Updated texts on tax regulations and administrative doctrine are published;
- b) Communications and information activities are carried out by the relevant services within the tax agency;
- c) Written inquiries are given attention and responded;
- d) Pre-assessment actions are carried out;
- e) Assistance is given to those having the duty to prepare tax returns, self-assessments and tax reports.

#### 3.2.3.1. Information Services

The right to information must be founded on three pillars: first, the tax agency has an obligation to create the information-related body; second, the citizen has the right to submit information requests and receive an answer, and, third, the tax agency has the duty to develop on its own initiative information activities for the sake of informing the general public.

We call administrative **information** activities those actions taken by the tax agency itself aimed at supplying information. They include all activities geared toward ensuring that the right of the taxpayer is fully and effectively exercised.

The tools that may be used for this purpose are the following:

- **Advertising campaigns.** This is the principal tool used by tax agencies to inform taxpayers about issues of special interest and significance that greatly

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concern them. Advertising can also be used to offer assistance services or raise tax awareness.

- **Information brochures.** They are designed to offer taxpayers specific information on topics of interest to them and to make them aware of the services available.
- **Letters.** They are mailed to groups of taxpayers that, because of their characteristics, require special attention, whether to remind them of concrete aspects related to their tax status or to prevent risk situations. All these taxpayers can be sent an informative letter to remind them of such matters at the most suitable period for the intended purpose.
- **Practical handbooks, instructions, guides.** With the help of a handbook, any person can prepare his/her own tax return. Taxpayers receive tax returns samples containing instructions that explain, box by box, what data is required. Handbooks have to be reviewed on a yearly basis, adding any further explanation that may be deemed necessary in the light of the results from the previous year.

The first two instruments are essential during the introduction phase of any special regime. They are mass media tools that inform taxpayers in clear and simple terms about the characteristics of the special regime and the benefits inherent to it. Other high-impact activities are seminars, talks and information meetings with interested groups or associations.

Yet, all of them are also crucial at the implementation phase because of the need for permanent assistance and follow-up that these taxpayers have, as has already been mentioned.

Publications may contain general information, in which case they are sent to most taxpayers under the regime. They must be kept duly updated. In some cases they may be more specific and, consequently, will only be sent to specific targets, for example taxpayers of a particular activity or sector.

These are tools frequently used by tax agencies. A case in point is **Peru**, where the National Superintendency of Tax Administration (*Superintendencia Nacional de Administración Tributaria* or *SUNAT*) makes constant outreach and education efforts among taxpayers of the New *RUS* and the *RER* to inform them of their tax rights and obligations, thus facilitating their compliance.

Something along the same line takes place in **Costa Rica** with its Tax Reform Bill (*Proyecto de Ley de Ordenamiento Fiscal*), in **Chile** with its intensive use of IT resources, or in **Bolivia** with its thorough outreach through information brochures.

With regard to **information at the request of the taxpayer**, under the Spanish system the tax agency shall inform taxpayers about existing administrative criteria for the application of tax regulations, facilitate consultation of computerized databases containing such criteria and send communications aimed at providing information about the taxation of specific sectors, activities or sources of income.

In addition, pursuant to the Spanish system regulations, those activities can be performed through ICT means. To this end, access via the Internet is free of charge.

There are three ways in which the tax agency and taxpayers can make use of this service: verbal inquiries made by the taxpayer appearing personally at the tax agency's offices; inquiries made over the telephone, and inquiries sent via ICT tools.

Verbal inquiries made by the interested party in person are handled verbally on the spot. A similar approach is taken to answer questions made over the telephone. Should a question require the examination of documentation for a proper answer, the interested party will be referred to information services or, if this were not possible, he/she will be advised to write to those services.

The third option is the information services rendered via ICT means.

All tax agencies maintain as a basic strategy the need to maximize the use of IT, which brings evident benefits and advantages to agencies and citizens alike. This is why tax agencies make efforts to extend as much as possible the use of IT for the provision of their own services and to enable taxpayers to comply with their own formalities in this way.

Along this line and with regard to information and assistance services, tax agencies should adopt the necessary measures to invest in IT and computer programs that are user-friendly for this segment of taxpayers requiring special assistance, with a view to facilitating the fulfillment of their tax duties.

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Thus, in the field of information provision, the best system would be to have ICT access to the tax agency's tax information databases in order to learn about updated regulations, applicable criteria, administrative and legal doctrine, administrative or court decisions, etc.

Likewise, this service may include a section for inquiries to be responded to by the agency's competent body. Decisions are to be made concerning whether such a response will be deemed binding or not, whether it will be sent to the inquirer only or to a group of taxpayers, etc.

An example that is worth mentioning is the Spanish tax agency's program known as *Informa* ("We inform"), which is available to all officials engaged in information services in the respective units concerned with serving taxpayers who make verbal or written inquiries. It is also open to taxpayers over the Internet so that they can have free access to it, that is, without the need for an electronic signature.

Finally, to round it off, it is worth underscoring how important it is to maintain centralized **telephone information services**, independent from the information services rendered by each tax agency's specialized unit. In this way, the tax agency can respond to the telephone demand of information by taxpayers, while reducing phone calls coming into the units, which will be then in better conditions to meet the demand of personalized information.

Furthermore, whenever demand cannot be satisfied with the material and human resources available at the tax agency's offices because of a huge number of inbound calls asking for information, centralized telephone information services can serve as a relief and complementary resource.

### 3.2.3.2. Assistance Services

"Tax assistance" is to be understood as those services and means that the tax agency makes available to taxpayers to facilitate their compliance with tax obligations.

In any case, taxpayers have the right to be assisted in meeting their tax-related obligations, especially those sectors that, given their special characteristics as a result of their business activities or their tax profile, require more administrative assistance. Hence, as has already been discussed, it is necessary to introduce appropriate measures that should contribute to enhancing voluntary

compliance at the lowest possible cost. Let us examine this in depth.

### 3.2.3.3. Support Computer Programs

Support computer programs form an integral part of the above-mentioned assistance measures. These programs have some special features that make them highly effective and widely used and accepted by taxpayers, such as the following:

- They ensure compliance with tax returns **in accordance with the laws in force**. To a great extent, this saves taxpayers from keeping abreast of regulations and applying them.
- They offer security and credibility to the filing taxpayer due to the fact that they are developed by the tax agency itself. Yet, it should be made clear that this security only refers to the criteria and calculations applied, but it should be borne in mind that the data are furnished by the taxpayer and that complying with the tax returns required does not mean their veracity is accepted without question, since returns submitted in this way may be subject to subsequent verification, like all the others.
- They are user-friendly. Taxpayers do not need to make previous calculations. They just have to provide their data as required by the program.
- They are easy to access. They can either be downloaded from the Internet at no cost or be mailed to taxpayers at their tax address.
- These computer programs should permit the printing of tax returns on paper for their filing. Notwithstanding this, they should also allow the filing of returns over the Internet, generating the necessary file for their electronic submission.

From the tax agency's perspective, the generalized use of support computer programs means a great saving in the resources allocated to the manual recording of tax returns and their formal and arithmetic verification since, with these tools, returns are considered formally submitted, they are stored through optical reading in PDF format and no arithmetic errors are committed.

Support programs can be used to complete multiple tax returns, to pay taxes, for registering purposes, etc.

All returns must be exclusively prepared on the basis of the data provided by taxpayers, free of charge and using an anonymous user name.

### **3.2.3.4. Appointment Services**

Appointment services can be implemented to offer, in certain cases, a personalized service to taxpayers.

These services are best suited to the taxpayers that concern us – low- or middle-income earning individuals who have no knowledge of taxes – for the preparation of simplified returns or for any other purpose. Appointments could be arranged in two modalities. One is through a computer application, listing all the centers where assistance in return preparation is rendered, their working hours, number of service stands and operating days. The other alternative is to organize appointments from a telephone platform directly working on this computer application, through which operators would reserve available dates and hours as taxpayers call.

Appointments may also be accessible through the Internet.

### **3.2.3.5. Social Partnerships**

An ever-expanding practice among tax agencies for the provision of taxpayer assistance services is social partnerships.

The risk of saturation at the offices during the income tax season – as a result of a growing number of computer program users who prepare their personal income tax returns – has led Spain to look for solutions to streamline taxpayers' demand.

One possibility that has been entertained is to forge social partnerships with financial institutions that have a broad network of branches all over the country and some experience in rendering similar services to their customers.

These institutions are exclusively bound to prepare their customers' simplified returns. Logically, their role does not involve any tax consultation whatsoever, but simply assisting in materially preparing tax returns and assessing the tax liability, by using a version of the income tax computer program specially developed to that end by the Spanish tax agency. The storage of any personal data contained in the returns is not allowed by

the software, thus avoiding risks of disclosing confidential information.

Other types of partner organizations that have been following the lead of financial institutions include city councils, autonomous communities, chambers of commerce, etc. On the whole, cooperation of external agents throughout all these years has turned out to be very satisfactory.

### **3.2.3.6. Services over the Internet**

Without prejudice to what has been discussed earlier in this regard, we will finally refer to services that are capable of being rendered through the Internet. Two types of services can be distinguished according to the restrictions established for their access and use.

- **Services of general use.** Any taxpayer can have access to the following services without the need of a user certificate:
  - Models and forms. All of the tax models are available in PDF format to be downloaded and printed from the taxpayer's home computer.
  - Support programs. These programs can be imported to the user's computer to be used without the need of being connected to the Internet.
- **Services of restricted use.** The use of these services requires an electronic signature. In this case, because of the nature of the information to which access is requested and the type of work to be completed, preservation of the taxpayer's confidentiality and tax-related data is thus ensured. Among others, they include:
  - Inquiries about the taxpayer's categorization;
  - Filing of returns and payment of taxes;
  - Inquiries about periodic obligations and taxpayers' status.

In order to facilitate taxpayers' access to these services of restricted use, tax regulations should allow another person, institution, organization, business or association to make use of electronic means for the performance of tax-related activities on behalf of taxpayers.

As further evidence of what has been pointed out above about the need for all agencies and, particularly, tax agencies to maximize the use of IT and to encourage the use of the Internet as much as possible, we can mention the **Chilean** case. More specifically, its tax agency is a role model in the pursuit of this objective as a strategic option.

Thus, the so-called “e-Government” as a strategic option is founded on the grounds that the Internet is the main channel of interaction with taxpayers. This can bring the following benefits:

- Providing quality services for taxpayers as an incentive to enhance voluntary compliance;
- Reducing the cost of tax compliance and taxpayers’ visits to the offices of the Chilean Internal Revenue Service (*Servicio de Impuestos Internos* or *SII*) and banking institutions;
- Optimizing *SII*’s capabilities to use and manage the information furnished by taxpayers themselves;
- Fostering the use of IT throughout all the stages of the taxpayer’s life cycle;
- Producing bandwagon effects on other governmental agencies and promoting the use of Internet solutions in the private sector.

The main projects that are being developed along this line by the Chilean tax agency are the following:

- **Electronic Invoices.** This system gives legal and tax validity to electronic invoices as a backup for business transactions between taxpayers, replacing paper invoices;
- **Electronic Receipts for Professional Services.** This web application allows taxpayers to issue, authorize and consult electronic receipts;
- **Start-up of Activities.** This web application allows taxpayers subject to taxes of the second category under the Income Tax Act (*Ley de la Renta*) –i.e. professional people– to register without walking into an *SII* office;
- Submission of tax returns over the Internet;
- Payment of taxes.

### 3.2.3.7. A Single Window for SMEs

We would like to conclude this subsection of the paper by presenting noteworthy initiatives that have been undertaken in several countries to promote and support SMEs. These actions are aimed at introducing integrated services of information, assistance and guidance about the requirements and processes for the constitution of businesses as well as at completing administrative procedures for their operation.

We believe that it would be interesting to share the experience of **Costa Rica** so that other countries can draw lessons from it. On the one hand, we have detailed information about the development of this initiative. On the other hand, this is a very recent measure, which was scheduled to be implemented in December 2005.

The rationale for its implementation is to fully eliminate legal and regulatory hurdles and to reduce the red tape to start and run a business. These barriers discourage businessmen from abandoning the informal economy, thus excluding them from the different programs and benefits afforded by the government to fuel the growth of businesses.

After many efforts made by the institutions involved, and with a view to harmonizing all formalities inherent to the creation and operation of SMEs, **Costa Rica** has signed an Interinstitutional Cooperation Framework Agreement for the Creation of a Business Formalization Macroprocess (*Convenio marco de Cooperación Inter-institucional para la creación del Macroproceso de Formalización de Empresas*). This agreement reinforces the program designed to establish a Single Window for Business Formalization (*Ventanilla única para la formalización de empresas* or *VENUFE*).

This program seeks to contribute to broadening the participation of micro and small-sized enterprises in **Costa Rica**’s formal economy in addition to increasing business formalization rates through a simple, speedy and effective registration mechanism.

Its implementation is gradual. During the initial phase of the program, the scope of procedures embedded in the system is reduced, only to be broadened at a later phase.

The *VENUFE* basically consists of an electronic window through a network electronic system. This network facilitates one-stop filing of all the necessary documentation for business formalization and

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encourages information exchange between the institutions involved.

It has been conceived as a macroprocess that centralizes the entry of data required to carry out the most usual business registration procedures. It is intended to reduce costs and save time.

Participating institutions in **Costa Rica** include:

- The Ministry of Economy, Industry and Trade;
- The Ministry of Finance;
- The Ministry of Government and Police Forces;
- The Public Registry;
- The Electoral Supreme Court;
- The Ministry of Health;
- The National Institute for Insurance (*Instituto Nacional de Seguros*);
- The Costa Rican Social Security Fund (*La Caja Costarricense de Seguro Social*).

The *VENUFE* has the following **features**:

- A one-stop collection of information through a single form;
- Generation of a single data file;
- Electronic delivery of data;
- Process tracking.

It brings the following **benefits or advantages**:

- The process of communicating data to administrative bodies is substantially simplified;
- Procedures and formalities are standardized;
- Red tape for documentation compliance is reduced.

Along this line, **Brazil** has proposed a bill to generally regulate the simplification and standardization of the process leading to business registration and formalization at the federal, state and municipal levels.

This bill provides for a one-stop data entry independent from other bodies. A single specific agency is to be responsible for the receipt of data and its transmission to other bodies.

Furthermore, the so-called National Synchronized Registry Project (*Projeto Nacional de Cadastro Sincronizado*) is in its pilot phase, in which the current National Registry of Legal Entities (*Cadastro Nacional da Pessoa Jurídica* or *CNPJ*) will operate as a single registry for the three levels of government.

### **3.3. Tax Control Systems for SMEs: Organization and Procedures**

#### **3.3.1. Administrative Organization**

Tax agencies are labor-intensive organizations, and indeed human resources are a scarce resource that requires optimal utilization. The current strategy pursued by modern tax agencies is geared toward a differentiated treatment of taxpayers and a massive use of IT-based support. Once again, we revisit the subject of ICTs.

Thus, on a functional basis, organizations entrusted with tax control tend to stratify taxpayers. This trend toward stratification results in the creation of control units for large taxpayers and the design of presumptive tax regimes for SMEs.

From their implementation standpoint, presumptive tax regimes can be mainly characterized as follows:

- They free human resources as they can control a large group of taxpayers, previously defined through easily measurable and verifiable objective parameters;
- They are not aimed at increasing revenue collection;
- They are intended to free human and material resources to better control other groups of taxpayers, thus contributing to increased efficiency in resource allocation;
- They rely on an accurate census or database of taxpayers;

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- In the course of their development, they tend to become more complex, as they get closer to the taxpayer's actual ability to pay.

A presumptive tax system should be validated by the advantages it brings both to the tax agency and to the taxpayer. Consequently, **from the point of view of the tax agency**, the system should allow:

- Increased tax collection from small entrepreneurs;
- Improved control over these taxpayers through the development of an effective control system at a reasonable cost. For this purpose, it will be necessary:
  - To replace economic variables that are difficult to control (income and expenditure) with physical variables (number of employees, floor space or land area, electricity consumption, mileage, etc.) that, while indicative of the income resulting from the taxpayers' business activities, are easier to control;
  - Replacing intensive individualized controls typical of tax audit techniques with standardized and summary controls;
  - Reducing the gap between tax return filing and tax return control;
  - Replacing qualified staff, which should be assigned to tax audits of higher complexity, with less qualified staff specializing in simple, standardized tasks prone to a systematic planning.
  - Utilizing IT resources, which contributes to increasing the number of taxpayers controlled by each official.

**From the taxpayer's point of view**, these regimes should be applied on the grounds of the following inspirational principles:

- The main targets of these regimes should be taxpayers with poor organizational and administrative structures;
- The application of direct presumptive assessment of their income and expenditure should not impose a high indirect tax burden on them;

- Therefore, taxpayers demand easy-to-apply taxes, reduced formal obligations and increased legal certainty.

These types of controls are the most suitable for activities falling under presumptive tax systems –yet, with the pre-requisite that this extensive control has to be performed by **specialized units**.

### **3.3.2. Procedures and Nature of Control Systems**

Control over SMEs –in terms of information, compliance, etc.– should be permanent, extensive and in coordination with intensive controls.

The key of the system lies in information collection or census and in **census control**. A sort of “fiscal scanning” throughout the country is crucial for keeping an accurate taxpayer database from the following viewpoints:

- General application. It is important to include all taxable persons in the database, for which purpose those who do not register spontaneously have to be detected;
- Correct classification of activities. It is indispensable to verify in the field the relevant parameters for presumptive taxation purposes;
- Permanent updating. All the sectors should be subject to special action plans so as to enhance equity criteria in the distribution of the tax burden.

Once a complete and well-categorized census or database has been created, controls specifically applied to SMEs to verify their compliance with periodic obligations can be extensive in nature and IT-supported.

We will now delve into the extensive control features, which are essential to define the administrative organization responsible for its implementation.

Among the most important characteristics of **extensive controls**, we can mention that:

1. They are a type of control directed toward the **verification** of tax returns and non-compliance with obligations **on the basis of documented findings resulting from census control activities**, during which data is gathered according to the selected relevant parameters;

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2. The **moment in time** at which controls are performed is **very close to the taxable event** and is based on the latest tax return. For instance, if returns are scheduled to be filed on a quarterly basis, once this term has expired, we should be able to identify those who, in spite of being registered, have failed to submit their tax returns, or, conversely, those who have filed their returns but who have under-reported their income, as it results from the application of parameters verified through census control action. Extensive controls of the first-quarter returns should be carried out before the filing of the second-quarter returns. This serves as a **catalyst for** voluntary compliance.
3. Control should be computerized and guide-supported throughout all its phases. IT-based and guide-supported procedures release the most qualified staff for tasks involving more complex or demanding controls.

The major **advantages** of extensive controls would include:

- Their **general condition**, since they are applied to all taxpayers and to all tax returns;
- Their **immediacy**, which has a high direct impact, in the sense that they immediately correct any non-compliance situation detected;
- Their **strong catalytic effect**, resulting from their generalized condition, which conveys to society the sense that controls are in place, thus deterring non-compliance;
- Their generation of a **high revenue collection rate during the voluntary period**;
- Their **reduced administrative costs**.

**Coordination with the tax audit** unit is crucial to create an effective mechanism to verify any alleged **abuses of presumptive tax regimes**, which generally take place after some time has elapsed since their implementation.

If extensive controls constitute the first phase of tax control, we should then analyze the coordination between extensive and intensive controls. The purpose of coordination should be twofold. First, the bodies conducting both types of control should not focus simultaneously on the same taxpayer. And, second, the necessary mechanisms should be put in place to undertake intensive controls over those taxpayers who

have been subject to extensive controls when circumstances suggest a more thorough verification of the taxpayer. This can be due to the fact that the extensive control body may not be competent to verify certain events, for example, in the case where a more specialized audit is needed, such as the analysis of bank accounts, or because the taxpayer has failed to respond to the requirements made by the control body, or for any other reason resulting from the review process.

The differences between these two types of controls reflect to some extent their respective scope of application, drawing a dividing line that greatly facilitates their coordination.

With regard to the **verification period**, while extensive controls usually refer to the last closed fiscal year, intensive controls comprise all the fiscal years previous to the last one, but without going beyond the term barred by the statute of limitations, although they can comprise the last one as well. In this case, the extensive control body will identify a computer mark informing it of the circumstances; therefore, it will abstain from intervening, referring its proceedings to the audit body.

As far as the **moment of verification** is concerned, whereas extensive controls are conducted upon the expiration of the term for filing tax returns, intensive controls can be initiated even several years after that term.

The **subject matter of control** is also different for the two types of controls. Extensive controls focus on one tax; by contrast, intensive controls usually apply to all the taxes to which the taxpayer is subject.

Another feature that sets them apart and brings them together at the same time is the **form of control**. In general, units specializing in SMEs verify the events filed by taxpayers themselves or demand returns that have not been filed, always on the basis of the information known to the tax agency. However, when "fiscal scanning" is conducted, activities unknown to the tax authority may be discovered. When verifying taxpayers already registered, parameters that have never been reported can be detected. This is why we should admit that, like tax audit bodies, these units also conduct effective investigations about events unknown to the tax agency.

As to the **control body**, intensive controls are entrusted to bodies specialized in tax inspection, made up of

qualified staff members who also have higher levels of competence than extensive control bodies.

They also differ in the **method of selection** used for the verification of taxpayers. What prevails in extensive controls is a widespread selection by means of computerized procedures. Conversely, what is more common in units specialized in intensive controls is individual or specific selection.

Another distinguishing feature is the **type of taxpayer** on which they focus. In effect, intensive controls are applied, almost exclusively, to businessmen and professionals who do not pay taxes under presumptive tax regimes. This does not imply that extensive controls cannot be applied to these types of taxpayers, but they will always be partial in nature, for which reason intensive controls can be subsequently conducted.

Finally, the **penalty regime** is automatically enforced on the basis of pre-established criteria in the case of extensive controls. By contrast, in the case of intensive controls, penalties are more rigorous and depend, to a larger extent, on factors determined by the verification body, yet always within the purview of the law in force. Not for nothing are intensive controls targeted to taxpayers' segments with higher levels of fraud. Thus, it is important that society should perceive the exemplifying effect of penalties.

As to the **coordination of actions** between extensive control units for SMEs and fiscal audit units, as well as to the **linkage of control-related procedures**, it is advisable that their design specifies when a file should be referred to the audit body.

#### **4. CONCLUSIONS**

It is difficult to draw conclusions that are brief and yet do not leave out any relevant aspect.

The main issues that we should highlight are the following:

1. There have been, there are, and there will always be taxpayers who need simple and simplified taxation systems. We do not have a better tax choice to offer them but this one.
2. "Pre-legal" design tasks are essential to the success of the systems. Statistical resources and economic baseline studies are instrumental in determining "presumptive or average income."
3. In the creation of these regimes, incorporating as many taxpayers as possible into the formal economy takes priority over any other objective.
4. Voluntary compliance of taxpayers should be facilitated.
5. Once implemented, these systems should be under permanent review. The useful life of these regimes should be duly planned.
6. Sales volume should not be used as a key parameter.
7. Tax agencies should assign specialized bodies for the comprehensive implementation and follow-up of presumptive tax regimes for SMEs.
8. Control strategies must prioritize the correct categorization and general registration of this type of taxpayers.