

Preface

In today's interconnected world, corruption's damaging effects spread throughout the global economy and society far beyond where the corrupt act is committed. In order to effectively fight corruption – both at home and internationally – transparency, accountability and integrity in the public and private sectors are necessary. The OECD has been a global leader in the fight against corruption for 15 years since the adoption of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Our multidisciplinary approach addresses corruption in business, taxation, development aid, and governance in member countries and beyond as part of its mission to build a stronger, cleaner and fairer world economy.

In 1996, the *Recommendation on the Tax Deductibility of Bribes to Foreign Public Officials in International Business Transactions* was adopted. The implementation of this recommendation sent a clear message that bribery would no longer be treated as a business expense and that it is a criminal offence subject to serious penalties. Building on the 1996 Recommendation and on the experience in its application, in 2009 the *Recommendation on Tax Measures for Further Combating Bribery of Foreign Public Officials in International Business Transactions* was adopted. This requires countries to explicitly prohibit the tax deductibility of bribes to foreign public officials and promotes enhanced co-operation between tax authorities and law enforcement agencies both at home and abroad to counter corruption.

Strengthening the legal framework to counter corruption is important, but ensuring effective and vigorous application of those laws is essential to detect, deter and prosecute corrupt practices. Thus, the OECD developed the *Bribery Awareness Handbook for Tax Examiners*. The Handbook, first issued in 2001, provided practical guidance to help tax examiners identify suspicious payments likely to be bribes so that the denial of deductibility could be enforced, and bribe payments detected and reported to the appropriate domestic law enforcement authorities. Given the interest in the Bribery Awareness Handbook, it was made available in 18 languages.

In 2010, the *Recommendation to Facilitate Co-operation Between Tax and Other Law Enforcement Authorities to Combat Serious Crimes* was adopted. This requires countries to put in place legal and administrative frameworks, and provide guidance, to facilitate reporting by tax officials of suspicions of all serious crimes arising out of the performance of their duties to the appropriate law enforcement authority. This was followed in 2011 by the launch of the Oslo Dialogue at the first Forum on Tax and Crime, held in March 2011 in Oslo, Norway. The Oslo Dialogue encourages countries to adopt a whole of government approach to combating all forms of financial crime, including tax crime, money laundering and corruption. To support these developments, this new *Bribery and Corruption Awareness Handbook for Tax*

Examiners and Tax Auditors considers the various types of corruption that a tax examiner or auditor are most likely to encounter in their work, and not just the bribery of foreign public officials, so that tax officials can better understand how their contribution can assist criminal investigators and law enforcement authorities in countering these crimes.

INDICATORS CONCERNING PAYMENTS AND MONEY FLOWS

Indicators concerning where payments are being made to or received from

- Payments to or from persons in high risk countries, who cannot be identified, or are companies whose beneficial owners cannot be identified.
- Payments made or received through intermediaries in third countries.
- High payments for handling services in high risk countries.
- Payments to foreign accounts of individuals or companies with which there is no business relationship.
- Payments made for travel and lodging of PEPs.
- Commission payments split into parts, paid into different offshore bank accounts.
- Payments made to countries with bank secrecy rules, which do not exchange bank information.
- Payments to bank accounts in countries other than those where the recipient is located.
- Payments to personal bank accounts rather than to business accounts.
- Payments to entities that did not take part in projects or transactions.

Indicators concerning the terms of payments

- Large or frequent, rounded payments or receipts.
- Deviation from normal procedures in approving payments.
- Payments made or received where no written contract exists, or where written contracts are unclear or unavailable.
- Invoices paid which are not required under contracts.
- Payments made under invoices that do not fit the taxpayer's usual profile (for example, in terms of amount, timing, location of recipient etc.).
- Payments made under self-prepared vouchers rather than third party invoices.
- High commission payments made around certain dates (for example, when contracts are concluded).
- Payments made immediately upon (or before) receipt of an invoice or signing a contract.
- Third party makes payments directly to creditors on behalf of the taxpayer, or to entities controlled by the taxpayer.
- Favourable treatment shown to certain creditors (e.g. paying one supplier faster than others for no clear reason).
- Amounts received appear excessive for the goods or services provided.
- Amounts paid to intermediaries or consultants appear excessive.

Other indicators concerning payments and money flows

- Significant, unexplained cash withdrawals.
- Notary's or lawyer's third party account used where there is no apparent need.
- Origin of funds for a transaction is not clear.
- History of frequently opening and closing bank accounts.
- Significant unexplained payments into and out of the taxpayer's bank accounts.
- Evidence of payments that are not recorded in financial records.
- Certain payments cannot be satisfactorily explained.

INDICATORS CONCERNING THE OUTCOMES OF THE TAXPAYER'S TRANSACTIONS

Indicators concerning outcomes that impact the taxpayer's business

- Benefits from favourable treatment by government agencies, suppliers or customers.
- Unusually successful at obtaining and retaining contracts.
- Contracts or licences are granted by PEPs or their relatives.
- Contracts are granted without the need for public tender, negotiations, or documents which would normally be expected.
- Goods or services acquired under contracts were never in fact received.
- Company has recently fired senior staff members with no clear justification.
- Records include incriminating correspondence that suggests possible bribery or other corruption.

Indicators concerning outcomes that impact the taxpayer's financial records

- Key financial ratios are out of line with similar businesses.
- Unusual or unexplained losses or profits on contracts.
- Records show no taxable gain when one would be expected.
- Records include expenses which are not linked to sales or profits.
- Balance sheet contains assets or rights acquired at higher or lower than market value, which have no real value, or may not even exist.
- Balance sheet assets or rights disposed of at a price higher or lower than their market value.
- Balance sheet contains an unexplained loan with an unrelated entity.
- Unexplained waiver of a loan with an unrelated entity.

- Balance sheet contains liabilities associated with assets which are unidentified, or where the value of the liability appears excessive.
- Business has seen a substantial and unexplained increase in capital.

Indicators concerning outcomes that impact the taxpayer's personal assets (or those of senior management)

- Company owns luxury assets unrelated to its business (private aircraft, yachts, expensive residential property etc.).
- The taxpayer, an employee or family member has a lifestyle or pattern of spending unsupported by their income.

INDICATORS SPECIFICALLY CONCERNING THE RECIPIENT OF POSSIBLE PROCEEDS OF BRIBERY AND CORRUPTION

- Works for government agency in high risk country.
- Responsible for granting authorisations, licences or contracts to businesses.
- Ownership or control of entities not connected with the recipient's main job.
- Receives commissions for consultancy work, but lacks relevant skills and experience.
- Receives additional employment or consultancy income when already fully employed.
- Sudden or unusual support given to particular companies or industries.
- Referred to in a Suspicious Transaction Report (STR) received by the FIU.
- Unexplained growth in net worth (including that of family members).
- Unexplained donations to political campaigns or parties.
- Unusual and unexplained spending, particularly in cash (including by family members).

Notes

1. High risk countries include those which do not engage in effective exchange of information, have a low score on the Transparency International Corruption Perceptions Index or Bribe Payers Index, or have a high score on the Tax Justice Network Financial Secrecy Index.
2. High risk industries include those with a low score on the Transparency International Bribe Payers Index. The list of industries included above achieved low scores in the 2011 index.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

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OECD Publishing disseminates widely the results of the Organisation's statistics gathering and research on economic, social and environmental issues, as well as the conventions, guidelines and standards agreed by its members.

Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors

The purpose of this Handbook is to raise the awareness of tax examiners and auditors of issues concerning bribery and other forms of corruption. It provides guidance on how to recognise indicators of possible bribery or corruption in the course of regular tax examinations and audits.

Contents

What are bribery and corruption?

The role of the tax administration in combating bribery and corruption

The role of tax examiners and tax auditors

Indicators of possible bribery or corruption

Indicators concerning the taxpayer's external and internal risk environment

Indicators concerning the taxpayer's transactions

Indicators concerning payments and money flows

Indicators concerning the outcome of the taxpayer's transactions

Indicators specifically concerning the recipient of the proceeds of possible bribery or corruption

Annex A. List of useful websites and resources

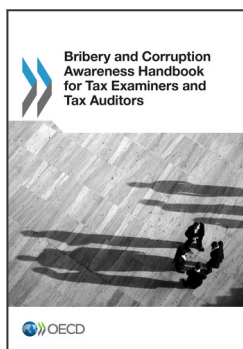
Annex B. Information to be included in a referral of suspicions of possible bribery or corruption

Annex C. Indicators of possible bribery or corruption

Consult this publication on line at <http://dx.doi.org/10.1787/9789264205376-en>.

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