

Annex C

Indicators of possible bribery or corruption

There are no absolute rules on what events or characteristics of a taxpayer or transaction should lead a tax examiner or auditor to suspect possible bribery or corruption. Every case must depend on its individual facts and circumstances, and be assessed in light of the tax examiner or auditor's experience. This annex contains a compilation of the indicators of possible bribery or corruption that are listed elsewhere in this Handbook. In some cases, a single indicator may be sufficient for a tax examiner or auditor to feel able to refer their suspicions to the appropriate law enforcement authority or public prosecutor. However, in most cases, the presence of a single indicator should encourage the tax examiner or auditor to also consider other indicators that may be present, to build a more complete picture, before deciding that a referral should be made.

INDICATORS CONCERNING THE TAXPAYER'S EXTERNAL OR INTERNAL RISK ENVIRONMENT

Indicators concerning the taxpayer's external risk environment

- Operates in, or is related to companies operating in, a high risk country.¹
- Operates in a high risk industry,² such as:
 - ◆ public works and construction
 - ◆ utilities
 - ◆ real estate, property, legal and business services
 - ◆ oil and gas
 - ◆ mining
 - ◆ power generation and transmission
 - ◆ pharmaceutical and healthcare
- Operates in a highly regulated sector, or one which requires government authorisations and licenses.

Indicators concerning the taxpayer's internal risk environment

Indicators concerning the taxpayer's legal structure and connections

- Complex or international legal structure with no apparent commercial, legal or tax benefits.
- Owns or controls a legal entity with little or no commercial purpose, particularly one located offshore.
- Employs, or has business connections with, close relatives of the owner or senior management.
- Employs, or has business connections with, Politically Exposed Persons (PEPs) or relatives of PEPs.

Indicators concerning the taxpayer's internal controls

- Management has a lax or non-existent anti-corruption philosophy and regime.
- Few or no internal controls in place, such as an independent internal audit function, to detect and deter corruption.
- Weak controls over the hiring and use of consultants.

Indicators concerning the taxpayer's background and history

- Previously faced suspicions or litigation concerning any kind of financial crime.

Indicators concerning attempts to impact the tax examination or audit

- Attempts to influence the tax examiner or auditor, including by offering a bribe.
- Attempts to hinder the tax examination or audit, for example by refusing to answer questions or withholding financial information or correspondence.

INDICATORS CONCERNING THE TAXPAYER'S TRANSACTIONS

Indicators concerning parties to transactions

- Identity of parties involved in a transaction is not clear.
- Party to contracts with companies or service providers that are unexpected, or not typically involved in the taxpayer's industry.
- Party to contracts with a company owned or controlled by a PEP (or relative of a PEP), in particular where the PEP is authorised to grant contracts or licenses relevant to the taxpayer's business.
- Party to transactions with offshore companies, especially those located in high risk countries.

- Intermediary or consultants are located in a high risk country or a country where the taxpayer's business is not active.
- Intermediary or consultants are used which provide services to only one customer.
- Party to a transaction with a company registered (or with directors that are registered) at the address of an offshore company service provider.
- Party to large or significant transactions with newly established, non-transparent or unidentifiable companies.
- Issues credit notes to entities or branches located in high risk countries.

Indicators concerning the terms of transactions

- Party to contracts or loans which have no underlying documentation.
- Party to contracts where the documentation does not clearly set out key terms, such as the goods or services to be provided, payments to be made etc.
- Party to contracts that do not appear to reflect the reality of a transaction (for example, where goods provided or payments made differ from those set out in the contract and there is no documentation to explain this difference).
- Party to contracts that appear to have no reasonable commercial basis, such as:
 - ◆ loans on particularly favourable or unfavourable terms; or
 - ◆ contracts where the payment for goods or services appears insufficient or excessive.
- Actions outside the terms of a contract (for example, making additional payments).
- Changes to contracts, such as price increases, with no commercial justification.
- Key terms differ from the taxpayer's other transactions or industry norms (for example, acquiring goods or services that are not typically used by the taxpayer).
- Contract provides for payments which are contingent on the outcome of agreements with other parties.
- Normal procurement procedures are not followed (for example, it has not obtained multiple quotes that would usually be required).
- Under-qualified people in senior positions or fictitious employees on the taxpayer's payroll.
- Transactions cannot be clearly explained by the taxpayer.

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)

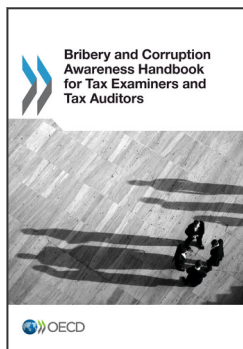
- Company owns luxury assets unrelated to its business (private aircraft, yachts, expensive residential property etc.).
- The taxpayer, an employee or family member has a lifestyle or pattern of spending unsupported by their income.

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.



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