Annex A

Summary of recommendations

1. Joint Audits and the Tax Certainty Agenda (Chapter 2)

1. Manage international tax risk assessment, Joint Audits, APA and MAP holistically.
2. Actively manage across these tools to achieve resolution at the earliest possible point in time.
3. Ensure that MAP competent authority is available when needed to conclude a Joint Audit case or ensure an accelerated MAP procedure subsequent to a Joint Audit where a common view could not be achieved to address double taxation as early as possible.
4. Capture and share information on case resolution across the different functions.

2. Costs and benefits (Chapter 3)

1. Develop guidance to ensure that appropriate cases are considered for Joint Audits including where
   - there are reasons to believe that a domestic audit alone even if supplemented by information exchange or other forms of international tax co-operation would be less efficient or less successful in developing a full understanding and appreciation of the facts
   - particular issues, a transaction or series of transactions lead a tax administration to the view that a tax examination on a unilateral basis may lead to double taxation, for example in case of a cross-border business restructuring
   - the case under consideration is similar to types of cases that are already part of the existing MAP pipeline
   - a treaty partner has requested a Joint Audit, the information contained in the request indicates that a Joint Audit would be an appropriate action and the requested tax administration has a common or complementary interest in conducting a Joint Audit
   - the taxpayer has suggested a Joint Audit, the information contained in the suggestion indicates that a Joint Audit would be an appropriate action and the respective tax administrations have a common or complementary interest in conducting a Joint Audit
   - two treaty partners experience an expansion in cross-border trade and investment and a Joint Audit would help to build relationships and facilitate a better understanding of each other's auditing rules, practices and procedures

- a case has made no or little progress in MAP and there is reason to believe that a Joint Audit intervention has the potential to unlock the situation
- APA negotiations have taken a long time and a Joint Audit would allow to create tax certainty for past years and/or otherwise assist in resolving the issues for future years
- where a joint or separate risk assessment has led two or more tax administrations to the view that a particular issue, transaction or series of transactions presents a material international tax risk.

2. Set clear short, intermediate and long-term objectives and develop an evaluation framework that allows an assessment whether these objectives were met.
3. Collect relevant data to facilitate a full evaluation of the Joint Audit practice and the learning.

3. The legal framework for Joint Audits (Chapter 4)

1. 1. For the OECD to consider addressing the uncertainties identified and to explore strengthening the rules applicable to the presence of foreign officials abroad, to streamline the conduct of Joint Audits.
2. 2. For tax administrations to consider providing detailed information on rules and procedures as further described in Chapter 7.

4. Role of the taxpayer (Chapter 5)

1. Tax administrations should engage with the taxpayer early during the case selection phase unless the facts and circumstances of the case suggest otherwise.
2. The decision when to inform the concerned taxpayer should be the result of a joint consultation of the participating tax administrations that might have different concerns about an early involvement of the taxpayer(s).
3. While taxpayers have no enforceable right to request a Joint Audit, tax administrations may encourage taxpayers to come forward and suggest cases for Joint Audits.
4. If a tax administration rejects the suggestion of a taxpayer to be selected for a Joint Audit, the tax administration should provide the taxpayer with the relevant reasoning of its decision.
5. Taxpayers should co-operate with the participating tax administrations as close as possible and provide requested information in a timely and complete manner.
6. Tax administrations should consult on the best dates for calls, visits or other face-to face meetings.
7. Tax administrations should engage with the taxpayer at an early stage and provide an outline of the audit topics, the required documentation and an envisaged timeframe, unless the facts and circumstances suggest otherwise. If tax administrations have concluded a Joint Audit exam plan this might be shared in a Joint Audit with a co-operative taxpayer.
8. Tax administrations should give taxpayers the possibility during the conduct of the audit activities to engage with representatives of both tax administrations and, if there is a co-operative situation, be updated on the progress of the audit, remaining areas of concern and to the extent possible interim results.

9. Tax administrations should share results with the taxpayer before tax administrations finalise audit, to give the opportunity to correct possible misunderstandings and provide any missing documentation or other evidence.
10. Tax administrations should hear taxpayers before finalising the audit report and provide taxpayers with the final reasoning.

5. Building capacity, relationships and trust (Chapter 6)

1. For the FTA to develop a training course on audit co-operation with a focus on Joint Audits based on this Report.
2. For the OECD to offer training courses to interested jurisdictions, alongside its training on exchange of information and MAP.
3. For TIWB to consider supporting less experienced jurisdictions interested in exploring Joint Audits and requesting assistance.
4. For FTA members not yet active in Joint Audits to consider the start of a pilot programme.

6. Joint Audit guidance (Chapter 7)

6.1. Strategic approach

1. Decide on the strategic approach on Joint Audits and implement organisational measures and components accordingly.
2. For jurisdictions following a proactive approach this may include the following:
   - designating experts/create team(s) with specific expertise in international tax co-operation and Joint Audits
   - ensuring that all auditors exposed to international tax issues are aware of the existence and potential of Joint Audits
   - ensuring that the contact details of the expert teams are known to all tax auditors involved in international tax issues and that the expert teams have the skills and resources to guide auditors in the case selection and throughout the Joint Audit[1]
   - ensuring that there are no constraints or disincentives (e.g. performance evaluation criteria) to start a Joint Audit when the case merits it and consider implementing incentives for using Joint Audits in appropriate circumstances
   - implementing a domestic annual budget for the conduct of Joint Audits that are not eligible to be covered by the EU-FISCALIS programme
   - providing the necessary technical infrastructure that allows for a secure exchange between the team members on a regular basis, for example by using CTS to allow secure exchange of documents.

6.2. Case selection

1. Choose case selection process that fits the strategic Joint Audit approach.
2. Conduct due diligence analysis of the international and domestic legal framework to examine audit relevant obstacles with the support of the counterparty's Joint Audit Profile before initiating a Joint Audit.
3. When following a proactive Joint Audit approach, consider determining joint case selection criteria, the participation in joint case selection meetings on a regular basis, or where substantial double taxation is imminent, the possibility to suggest the case for a joint audit without a selection meeting.
4. Consider the key benefits contained in Chapter 3.
5. Use the template for a Joint Audit Proposal when initiating a Joint Audit and include main features of own domestic legal framework (or refer to own Joint Audit Profile).
6. When rejecting a Joint Audit invitation, provide reasons why the invitation is not being accepted.
7. The FTA to provide a forum where tax administrations wishing to propose Joint Audit cases to one or more other FTA member tax administrations can meet and schedule case selection meetings with different counterparties on the same day and in the same location. The FTA Secretariat to support the organisation and logistics, without being involved in any of the substantive discussions.

6.3. Preparation of the audit process

1. Conclude a working agreement that sets out the governing principles of the intended collaboration (for example in a MoU or in the Joint Audit Exam Plan)
2. When selecting the members for the Joint Audit team,
   - assign a responsible Joint Audit co-ordinator
   - include a CA-EOI in the team
   - ensure that background information on the taxpayer is available during the audit
   - include case specific experts to the team (e.g. a transfer pricing specialist or international law expert, etc.)
   - include a MAP Competent Authority in the team or consider fast-track MAP when required
   - keep the team as small as possible
   - avoid replacing team members in the course of the Joint Audit.
3. Organise initial face-to face meeting when engaging in a Joint Audit for the first time.
4. Prepare presentations for initial meeting with taxpayer specific background information and agree on a detailed Joint Audit Exam Plan.
5. Determine secure communication channels (e.g. CTS) between members of the Joint Audit teams and a communication protocol with the taxpayer.

6.4. Conducting the audit

1. Agree as early as possible on timelines, dates for meetings, taxpayer visits etc.
2. Agree on communication approach towards taxpayer and prepare collective information requests.
3. Organise pre-meetings before interacting directly with the taxpayer to address any domestic legal procedural particularities and clarify the audit approach.
4. Provide regular updates on the audit progress for all members of the Joint Audit teams via personnel meetings or regular telephone and/or videoconferencing.

6.5. Audit completion

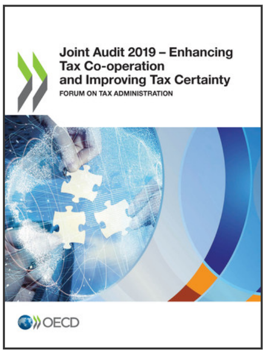
1. Organise a final meeting between the participating tax administrations and with the taxpayer(s) before completing the audit to allow final input.
2. Complete the Joint Audit with a Final Joint Audit Report that outlines the Joint Audit outcome and also contains a full description of the relevant facts and figures and the extent to which the administrations have not reached a common understanding to support subsequent procedures (e.g. MAP).

6.6. Evaluation

Gather relevant data and evaluate each Joint Audit procedure for future reference.

Note

1. Tax administrations may also agree to use a functional email address that is accessible to all members of the Joint Audit team.



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