

Expression of Principles Regarding Taxes & Use of Offshore Financial Centres

This Expression of Principles states FinDev Canada's position on questions of taxation arising in its business activities for the benefit of stakeholders, partners and clients alike.

Background

FinDev Canada conducts its activities with businesses in the developing world in accordance with its mandate in order to meet the United Nations' Sustainable Development Goals (SDGs). Impact-driven, cross-border investments and transactions often involve multiple participants across jurisdictions within complex structures which, in turn, require analysis and review of taxation matters.

Payment of taxes by investors and businesses alike is a cornerstone of a world where inclusive business drives positive development outcomes in a coherent, purposeful, principled and coordinated manner.

International standards and action plans in the area of taxation of development investments, such as the Global Forum on Transparency and Exchange of Information for Tax Purposes ("Global Forum"), the Forum on Harmful Tax Practices ("FHTP") of the Organization for Economic Cooperation and Development ("OECD"), and the United Nations' Addis Ababa Action Agenda ("AAAA") serve, along with national and international laws and policies, as organizing norms to:

- combat tax evasion and corruption
- strengthen national regulation and increase international cooperation in the area of taxation
- reduce opportunities for harmful and aggressive tax avoidance
- promote transparency and responsible investment
- encourage the payment of taxes generated by economic activity when and where due

- ensure development financing is never used, directly or indirectly, to finance terrorism or any activities inconsistent with law or public policy

In the development finance space, transacting through intermediate jurisdictions – or offshore financial centres (“OFCs”) – is common. While some OFCs have come under increasing scrutiny in recent years, there are many legitimate reasons for using such intermediate jurisdictions, including:

- a proposed investment, in particular funds, may span several different jurisdictions thereby creating significant inter-jurisdictional challenges, including exchange controls;
- an appropriate investment vehicle may not exist under the laws of the host country;
- the host country may lack an effective environment for the enforcement of contractual terms;
- internationally accepted shareholder protections may not be clearly recognized under the laws of the host country;
- parties to a joint venture or partnership may be from different jurisdictions and want neutrality in selecting the jurisdiction for their venture (including equal legal and tax treatment);
- for sponsors in some jurisdictions, offshore structures facilitate public listings and other financing activities; and
- legitimate and lawful structuring, such as to avoid the incurrence of additional transactional and other taxes

General Principles on Taxation

1. FinDev Canada shall pay taxes arising from its activities when and where they are due.
2. FinDev Canada shall require its investee companies to pay taxes when and where they are due.

3. Thorough due diligence, including business integrity, taxation and beneficial ownership, is an essential part of each investment review process by FinDev Canada and includes assessing flow of funds and all related, knowable tax implications.
4. As a condition precedent to transacting, all investment structures in which FinDev Canada participates shall be reviewed for compliance with applicable laws and regulations, as well as transparency and responsiveness to relevant standards, policies and best practices in the areas of international taxation.
5. FinDev Canada aims to track, monitor and evaluate a broad range of development indicators and measures associated with its investment activities, including, to the extent feasible, fiscal contributions to the host countries.
6. FinDev Canada shall not participate in structures which have as a predominant purpose the shifting of taxable profits from the jurisdiction in which the economic activity is principally conducted to another, thereby demonstrably eroding the tax base of the jurisdiction hosting the economic activity.

Principles on the use of Intermediate Jurisdictions and Offshore Financial Centres

1. For FinDev Canada to invest through an intermediate jurisdiction (including OFCs), such jurisdictions shall have passed its Global Forum phase 1 review and, where completed, have been rated 'Compliant' or 'Largely Compliant' following the completion of its Global Forum phase 2 review; and be committed to the implementation of the international standard of automatic exchange of information

2. FinDev Canada may transact through holding company structures (including those domiciled in Intermediate Jurisdictions) in order to protect investment capital, mobilize and accommodate other investors, and avoid double-taxation. Regardless of jurisdiction or vehicle, FinDev Canada shall not transact when the structure is predominantly designed to maximize financially beneficial tax outcomes for investors.

FinDev Canada will monitor the evolution of international standards and best practices on an ongoing basis and amend these principles accordingly, as and when appropriate.