



Tax expenditures to promote environmentally responsible investment

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STRUCTURE

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TAX EXPENDITURES OR DIRECT SPENDING?

- DIRECT OUTLAY/IMPLICIT SUBSIDIES: COSTS/FORGONE GENERAL REVENUE (TAX EXPENDITURE – BENEFIT)
- ENVIRONMENTAL PURPOSE: EG. INVESTMENT IN ASSETS DESIGNED TO PREVENT OR ABATE POLLUTION OR TO PROTECT THE ENVIRONMENT
- TECHNIQUES: EXCLUSION, EXEMPTION, DEDUCTION, SPECIAL CREDIT, PREFERENTIAL RATE, ACCELERATED DEPRECIATION, DEFERRAL
- ALTERNATIVE TO TAXING ENVIRONMENTAL “BADS” IS TO PROVIDE TAX RELIEF FOR ENVIRONMENTALLY BENEFICIAL GOODS OR ACTIONS
 - REWARD POLITICALLY ACCEPTABLE: SHIFT TO THE PRIVATE SECTOR
 - BUT DISTRUST: DEVIATION FROM TRADITIONAL TAX PRINCIPLES (WITHIN PUBLIC EXPENDITURE SEARCH FOR SOCIAL PRINCIPLES IS MORE EASILY JUSTIFIED)



AN EVOLVING PATH

- CHANGES IN GOVERNMENTAL PREFERENCES... “WHETHER THE BENEFIT IS PROVIDED AT THE FRONT OR BACK END OF THE TAXATION PROCESS”

- TAX EXPENDITURES



- LOW-SALIENCE POLICY INSTRUMENTS
- ALLOW POLITICIANS TO APPEAR TO BE REDUCING THE SIZE OF GOVERNMENT (REDUCING TAXES) WHILE ACTUALLY INCREASING IT (INCREASING SPENDING)
- EXPANSIVE RELIANCE ON THEM
- THE HIDDEN WELFARE STATE (CAUTION – REMOVAL)

TAX EXPENDITURES BUDGET

- IDENTIFIES BUDGETARY COST OF USING THE TAX SYSTEM FOR NON-REVENUE PURPOSES
- ENABLES PARLIAMENTARY & PUBLIC SCRUTINY
- PARADOX: SUCCEEDED PROCEDURALLY, BUT FAILED SUBSTANTIVELY?
- WHEN IT IS ALLEVIATED, THE DIRECT EXPENDITURE MAY GROW ACCORDINGLY
 - SUCCESS? FRONT DOOR SUBSIDIES, ANNUAL SUPERVISION. NO MORE FISCAL ILLUSION
 - BUT SPECIALIZED INSTITUTIONS ARE SUBJECT TO CAPTURE



TAX EXPENDITURES AS DEVIATIONS FROM A REFERENCE SYSTEM

- RULES THAT MAKE UP A REFERENCE SYSTEM ARE THOSE WHICH IMPLEMENT ITS FUNDAMENTAL GUIDING PRINCIPLE (EG. ABILITY TO PAY, ENVIRONMENTAL PROTECTION)
- IS THERE AN 'ALIEN' ELEMENT IN THE SYSTEM? (EG. TAX BASE DISTINCTIONS BASED ON ENVIRONMENTAL FACTS)
 - SUBSYSTEM EXISTING PARALLEL WITH THE GENERAL TAX SYSTEM: GOVERNING PRINCIPLE (PROTECTION OF THE ENVIRONMENT). NO NEED TO IDENTIFY DEROGATION
 - MEASURES THAT FORM PART OF A BROADER SYSTEM: EXAMINE WHETHER THE ADVANTAGEOUS TREATMENT CONSTITUTES A DEROGATION (IN SITUATIONS LEGALLY & FACTUALLY COMPARABLE)
- TAX EXPENDITURES MAY PLAY A DIFFERENT ROLE DEPENDING ON THE TAX AFFECTED (ACCIDENTALLY OR FULLY ONES)



WHICH REFERENCE SYSTEM?

- BENCHMARK FOR ASSESSING IF TAX EXPENDITURES ARE CONSISTENT WITH PROMOTION OF ENVIRONMENTAL RESPONSIBILITY
 - NATIONAL (VARIES DEPENDING ON WHAT IS STRUCTURAL)
 - REGIONAL (EG. ART. 107 TFEU – STATE AID)
 - GLOBAL (EG. INT’L ENVIRONMENTAL LAW)
- THE METHOD OF TAKING THE STRUCTURAL ELEMENTS OF A TAX SYSTEM AS A BENCHMARK WITHIN THAT SYSTEM HAS ITS LIMITS
 - EG. A CAR TAXATION SYSTEM IS NOT NECESSARILY BASED ON THE OBJECTIVE OF TAXING CARS IN AN ENVIRONMENTALLY CONSCIOUS WAY
- HOW TO DEFINE THE NORM/REFERENCE SYSTEM?
 - EXPANSIVELY, BASED ON TRANSPARENT & UNDERSTANDABLE PRINCIPLES? LESS DEVIATIONS
 - NARROWLY? MORE PROVISIONS BECOME PREFERENCES
 - DIFFERENT MODELS: CONCEPTUAL BASELINE, REFERENCE TAX LAW, REVENUE REDUCER LIST



ON THE EROSION OF THE REVENUE BASE

- OECD – TAX EXPENDITURE BUDGETING = CLASSIFICATION EXERCISE (IT DOES NOT MAKE THE ITEM UNDESIDERABLE)
- DESIRED INCENTIVE (DELIBERATE POLICY DECISION MADE BY CONGRESS) OR GAP OR MISMATCH (BEPS)?
- EXPLOTATION WITH OR WITHOUT ARTIFICIALITY (BY CREATIVE TAX EXPERTS)? EG. MANIPULATION OF TAX INCENTIVES BY TAXPAYERS UNDER THE GUISE OF IMPLEMENTING ENVIRONMENTAL POLICY
 - TAX AVOIDANCE TRANSACTIONS ARE NOT REFLECTED IN TAX EXPENDITURE ESTIMATES UNLESS THE AVOIDANCE INVOLVES MANIPULATION OF A PROVISION THAT IS ITSELF A TAX EXPENDITURE
- FASHION A LEGISLATIVE RULE UNDER WHICH NEW TAX EXPENDITURES REQUIRE THE APPROVAL OF TAXWRITING & SPECIALIZED COMMITTEES (ABOLISHMENT LEFT TO TAXWRITERS)?
- LARGE TAX EXPENDITURES ESTIMATES CREATE UNREALISTIC EXPECTATIONS CONCERNING POTENTIAL REVENUE GAINS



TOWARDS MULTI-TARGETED TAX INCENTIVES?

- OECD – AGREEMENT (36) ON EFFORTS TO ACHIEVE ECONOMIC TRANSFORMATION NECESSARY TO DELIVER SUSTAINABLE GROWTH
 - THROUGH INCENTIVISING PRIVATE INVESTMENT IN LOW-CARBON & CLIMATE-RESILIENT INFRASTRUCTURE
 - PRIVATE CONTRIBUTION IS SOUGHT ALLOWING TAX BENEFITS (CLEAR REGULATION NEEDED)
 - ALIGNMENT OF POLICIES: FISCAL, ENVIRONMENT & DEVELOPMENT COOPERATION
 - MULTI-PURPOSES IN A TAX EXPENDITURE COMPLICATE ITS MANAGEMENT & CONTROL
 - GROUPS OF INTERDEPENDENT TAX EXPENDITURES MAY BE ALSO ADOPTED



DEALING WITH IMPLEMENTATION & CONTROL

- IMPLEMENTATION ISSUES
 - RECIPIENTS
 - DIFFERENT COMPETENT AUTHORITIES INVOLVED (DOUBLE FUNDING?) HOME & HOST COUNTRIES
 - SUPPLEMENTARY MEASURES (INFORMATION & PROCEDURES)



- CONTROL MECHANISMS - TIGHT SUPERVISION: CORRECTLY APPLIED/BEHAVIOUR INFLUENCED?
 - PRESENT INVESTMENT PLAN (EXTRA-FUNCTIONAL ASSETS?)
 - INFORM IN ANNUAL ACCOUNTS (DISCREPANCIES?)
 - SANCTIONS FOR NON-COMPLIANCE (ADMINISTRATIVE INTERPRETATION?)
- STIMULUS OR BRAKE?
 - CUMULATIVE REQUIREMENTS, TERMS, INCOMPATIBILITY
 - TRUST ON CSR STRATEGIES?

LESSONS FROM COMPARATIVE EXPERIENCES

- PERIODICAL EVALUATION OF SIZE & EFFECTIVENESS, CHECK PERFORMANCE
- PRESENT BY FUNCTIONAL CATEGORY, PROVIDE EXHAUSTIVE LISTINGS (WITH COSTS ESTIMATES, OR WITHOUT THEM IF MINIMAL FISCAL CONSEQUENCES)
- ISOLATING THE COST OF TAX EXPENDITURES ON A ONE-BY-ONE BASIS IS PREFERABLE THAN ESTIMATING THE COSTS OF GROUPS OF INTERDEPENDENT TAX EXPENDITURES
- BY COMPARING THE SUMS OVER TIME SOME INFORMATION ABOUT TRENDS MAY BE OBTAINED
- EXPLAIN HOW THEY ARE CALCULATED, THEIR OBJECTIVES & DETAIL CHANGES
- AUTOMATIC PILOT? MULTI-YEAR TARGET CEILINGS ON TAX SUBSIDIES EXPRESSED AS A PERCENTAGE OF PROJECTED GDP. BREACH => SURCHARGE IMPOSED ON ALL TAX RATES SUFFICIENT TO FUND THE EXCESS SPENDING



DIFFICULTIES IN MEASUREMENT

- THE NEED TO LOOK FOR OTHER SOURCES WHEN THE BENEFIT IS NOT CONNECTED TO THE ENVIRONMENT IN THE FUNCTIONAL CLASSIFICATION (EG. SPANISH EXPERIENCE)
- WELCOME TRANSPARENCY EFFORTS MADE BY EUROPEAN COMMISSION & OECD ON FOSSIL FUELS SUBSIDIES
- EUROSTAT – ENVIRONMENTAL PROTECTION EXPENDITURE
 - MONEY DEVOTED TO THE ACTIVITIES THAT HELP PREVENTING, REDUCING & ELIMINATING THE POLLUTION DERIVED FROM THE PRODUCTION OR CONSUMPTION OF GOODS & SERVICES (INVESTMENT & OPERATIONAL EXPENSES TO PREVENT AN DEAL WITH POLLUTION)
- HOW TO ENSURE THAT THE SCOPE OF EACH SUBSIDY IS CONSISTENT WITH THE REVENUE PROJECTIONS THAT UNDERLAY ITS ADOPTION?
 - US JCT 2008 TAXONOMY OF TAX EXPENDITURES – BUSINESS SYNTHETIC SPENDING: TAX SUBSIDIES INTENDED TO SUBSIDIZE OR INDUCE BEHAVIOUR DIRECTLY RELATED TO THE PRODUCTION OF BUSINESS OR INVESTMENT INCOME



FINAL REMARKS

- DO THE TAX INCENTIVES TO INTERNATIONALIZE THE ECONOMIC ACTIVITY CARE ABOUT POSSIBLE ENVIRONMENTAL IMPACTS ABROAD? IS THIS A MATTER OF CSR?
 - NEED OF A BETTER DESIGN & AN IMPROVED CONTROL (COOPERATIVE COMPLIANCE?)
- DEVELOPING COUNTRIES SEEK TO ATTRACT FOREIGN INVESTMENT - THEY MAY STIMULATE ENVIRONMENTAL PROTECTION
 - DANGER OF CREATING INVESTMENT PROBLEMS DUE TO FLUCTUATING TAX INCENTIVES. THE NON-ASSURANCE OF TAX STABILITY DAMAGES CAPITAL INVESTMENT DECISIONS
 - OECD POLICY GUIDANCE FOR INVESTMENT IN CLEAN ENERGY INFRASTRUCTURE – COUNTRY REVIEWS



FINAL REMARKS

- GOOD GOVERNANCE CONDITIONS ARE USUALLY IMPOSED ON OFFICIAL DEVELOPMENT AID
 - IF AID IS REPLACED WITH TAX, THERE IS A RISK TO MAINTAIN THE ENVIRONMENTAL PROTECTION!
- TAX EXPENDITURES COULD PROMOTE ENVIRONMENTALLY RESPONSIBLE INVESTMENT
 - BEING CAREFULLY ADOPTED IN THE DEVELOPING COUNTRY, AND...
 - IN THE HOME STATE, DUE TO THE ENVIRONMENTAL RESPONSIBILITY TOWARD, WITHIN & FROM THE EU (BENEFITS FOR STAKEHOLDERS IN THE HOST STATE)
- THE TAX EXPENDITURE BUDGET IS A USEFUL TOOL (PREPARATION, CONTENTS, PERIODICITY)
 - LOOK FORWARD TO BE INTEGRATED WITH THE BUDGET (BIAS DUE TO TRANSITIONAL FISCAL CONSTRAINTS, THEY IMPLY LOWER GOVERNMENT SPENDING)

