A GUIDE FOR INFORMED ASSESSMENTS OF COUNTRY LEVEL CORPORATE TAXATION

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1. INTRODUCTION

This guide is designed to guide trade unionists and CSOs to conduct informed assessments of country-level corporate taxation.

2. METHODOLOGY

The guide is designed in table format, which is structured around several key indicators, each one designed to shed light on a different aspect of corporate taxation. These indicators range from tax obligations and incentives to the effects of hiring from the informal sector, financial transparency, and public service funding.

Each indicator is assessed based on a set of criteria. These aid users in gathering and analysing relevant data, drawing on publicly available information, financial reports, tax treaties, and national tax policy, among other sources.

The guide is designed to be comprehensive yet flexible, allowing users to adapt the assessment criteria based on the specific context and issues of interest. It can be used to assess the corporate tax behaviour of a single company, a specific industry sector, or the broader corporate landscape in a country.

3. USING THE TOOLKIT

To use the guide, start by familiarising yourself with the key indicators and the accompanying assessment criteria. Think of each indicator as a piece of the puzzle – the more pieces you gather, the clearer the overall picture becomes.

Next, begin gathering data related to each indicator. The type of data needed will vary depending on the indicator, but may include financial statements, tax returns, company reports, and public records. Remember, the aim is not just to collect data, but to analyse it to gain insights into corporate tax.

Once you've gathered and analysed the data, use your findings to draw conclusions and formulate recommendations. The guide can be used to identify potential areas of advocacy, such as calling for greater transparency, or for changes in tax legislation or corporate practices.

Lastly, share your findings with relevant stakeholders. This might include other members of your organisation, workers, policymakers, or the public. The goal is not only to increase understanding of corporate tax practices but to drive meaningful change towards more equitable and sustainable tax systems.

4. THE GUIDE

Indicators	Assessment Criteria	Explanations	Examples
Corporate Tax Rates	Compare the corporate tax rates with other countries; Are the rates progressive or regressive?	Some countries have flat rates while others use a progressive system.	In Kenya, a flat corporate tax rate of 30% is applied, which is not progressive.
Effective Tax Paid	How much tax do corporations actually pay after deductions and credits? Are they paying their fair share?	Deductions are expenses that can be subtracted from taxable income, like operating expenses or depreciation. Credits are amounts that can be subtracted directly from tax owed, like R&D or investment credits.	Company X reports profits of KSh 100 million but after deductions like business expenses (KSh 20 million) and credits like R&D (KSh 5 million), only pays tax on KSh 75 million.
Tax Incentives and Break	Are there specific tax incentives given to corporations? If so, are these justified and transparent?	Incentives reduce the tax liability of corporations, often to promote specific activities or sectors. They can include tax credits, exemptions, or reduced rates.	Kenya offers a tax holiday for companies in special economic zones to attract investment.
Use of Tax Havens	Are corporations operating in tax havens to reduce their tax liability? If so, what impact does this have on your country's tax revenue?	Companies create subsidiaries in low-tax jurisdictions and channel profits through them to reduce overall tax liability.	Multinational Company Z has a subsidiary in Bermuda, a tax haven. It routes profits through this subsidiary to lower its overall tax bill.
Tax Compliance	Are corporations compliant with the tax laws? Are there instances of tax evasion?	Companies can evade taxes through tactics like trade mis invoicing, underreporting income, or hiding money offshore.	Company A underreports its income by inflating import prices through trade mis invoicing, reducing its declared profits in Kenya and thus its tax liability.
Tax Legislation Complexity	Is the tax legislation too complex, allowing loopholes for corporations to exploit?	Complex tax laws often have loopholes due to various interpretations and lack of clarity.	In Kenya, the legislation on transfer pricing is complex, making it challenging for authorities to effectively monitor and control, thus leading to potential loopholes.
Impact of Corporate Tax on Economic Inequality	Does the corporate tax system contribute to economic inequality?	Where corporations avoid tax, public services might be underfunded, affecting society. Meanwhile, workers might bear a higher relative tax burden.	In Kenya, while large corporations use legal loopholes to reduce their tax liability, the ordinary workers are left shouldering a significant tax burden, exacerbating economic inequality.

Public Services Funding	How much of public services funding is provided by corporate tax? Is this adequate?	This can be examined by looking at disaggregated data on government revenue and expenditure.	In Kenya, despite significant corporate profits, corporate taxes fund only a small fraction of public services, as seen in the national budget breakdown.
Labour Rights and Corporate Tax Practices	Is there a correlation between corporate tax practices and labour rights in the country?	Firms that avoid tax often engage in cost-cutting elsewhere, such as wages and labour rights.	Company E, known for aggressive tax avoidance, also consistently underpays its workers, violating labour rights.
Corporate Tax and Workers Benefits	How does corporate tax practice affect workers' benefits and wages?	Firms that evade tax often cut costs elsewhere, such as wages and benefits, impacting workers negatively.	Company F, which consistently minimizes its tax payments, pays its workers minimal
Corporate Employment from Informal Sector	How many employees are corporates hiring from the informal sector? What impact does this have on corporate tax?	When companies hire workers from the informal sector, these employees may not be covered by traditional labour protections or taxation.	A corporation hires a significant number of workers from the informal sector, reducing its tax liability by not paying formal wages or employment taxes.
Double Tax Treaties (DTTs)	Does your country have DTTs with others? Do they promote fair taxation or enable avoidance?	DTTs aim to prevent the same income being taxed twice. However, they can sometimes be used by corporations to avoid tax.	Kenya has a DTT with Country Y. A Kenyan company sets up a subsidiary in Country Y to take advantage of lower tax rates there, reducing its overall tax liability.
General Anti Avoidance Rule (GAAR)	Is there a GAAR in place? How effective is it in curbing aggressive tax planning?	GAARs are used to counteract tax advantages gained by abusive or aggressive tax arrangements.	Kenya implements a GAAR that challenges transactions or series of transactions where the main purpose is to gain a tax advantage.
Specific Anti Avoidance Rules (SAAR)	Are there SAARs targeting specific tax avoidance strategies?	SAARs target specific avoidance strategies, such as thin capitalization, transfer pricing, or controlled foreign companies rules.	Kenya has a SAAR that restricts the deduction of interest on loans from foreign affiliates if the debt-to-equity ratio exceeds a certain limit.
Transfer Pricing	Are corporations pricing their internal transactions fairly to avoid shifting profits abroad?	Transfer pricing rules ensure that transactions within a multinational enterprise are priced as if they were between independent entities.	A Kenyan subsidiary of a multinational company sells goods to an affiliate in a tax haven at an artificially low price to shift profits abroad.
Tax Criteria for SMEs	Is there a different tax regime for SMEs? How does this impact corporate tax collection?	Some countries have simplified or reduced tax regimes for SMEs	Kenya has a turnover tax for small businesses that earn

		to promote entrepreneurship and growth.	between KSh 1 million and KSh 50 million a year, charged at a rate of 1% on gross sales.
Taxpayer's Obligations - Deductions	What are the corporations' obligations when it comes to claiming deductions?	Taxpayers are typically required to maintain proper records and provide sufficient evidence to support their deductions.	A Kenyan company claims deductions for operating expenses but must provide invoices and receipts as evidence.
Principle Purpose Test (PPT)	Does your country apply the PPT in interpreting its tax treaties?	The PPT is used to deny treaty benefits if it's reasonable to conclude that the main purpose of an arrangement or transaction was to obtain those benefits.	A Kenyan company with a subsidiary in a treaty country is denied treaty benefits because the main purpose of the subsidiary was found to be obtaining tax benefits rather than conducting substantial business activities.
Coverage of Corporate Taxes	What types of taxes are corporations subject to in your country? Understanding the different types of taxes can help identify whether companies are meeting all their tax obligations.	Corporations may be subject to various taxes such as income tax, sales tax, property tax, etc.	In Kenya, corporations are subject to corporate income tax, value-added tax, and possibly local levies.
Coverage of Corporate Entities	What types of corporate entities exist in your country, and what are their tax obligations? Knowing the different corporate entities and their tax obligations can help assess if they are paying their due taxes.	Different types of entities (e.g., limited companies, partnerships, etc.) may have different tax obligations.	In Kenya, a private limited company pays corporate income tax at 30%, while a partnership's income is taxed in the hands of the partners.
Common Reporting Standards (CRS)	Does your country comply with the CRS for sharing tax and financial information? CRS compliance is important for transparency and can help highlight potential offshore tax evasion.	CRS is a standard for automatic exchange of financial account information developed by the OECD.	Kenya is a signatory to the CRS, and Kenyan financial institutions report relevant information to the Kenya Revenue Authority, which is then shared with other countries.
Country by Country Reporting (CbCR)	Does your country require multinational corporations to provide a CbCR? CbCR can reveal if multinationals are shifting profits to tax havens, thereby avoiding taxes.	CbCR is a requirement for multinational corporations to report certain indicators of business activity for each country they operate in.	In Kenya, multinational corporations with total consolidated group revenue of KSh 100 billion or more are required to file a CbCR.
Beneficial Ownership Transparency (BOT)	Does your country have a BOT requirement? BOT can help track money laundering, corruption, and tax evasion by revealing who ultimately owns or controls corporations.	BOT requires corporations to disclose the natural persons who ultimately own or control them.	Kenya passed legislation in 2020 requiring companies to maintain a register of beneficial owners.
Automatic Exchange of	Does your country participate in the AEOI for sharing tax information? AEOI promotes	AEOI is a standard for the automatic exchange of non-	Kenya, being a CRS signatory, engages in AEOI, sharing non-

Information (AEOI)	transparency and can help identify offshore tax evasion.	resident financial account information between tax authorities.	resident financial account information with other countries.
National Tax Policy	What is your country's national tax policy, and how does it influence corporate taxation? Understanding the national tax policy can help analyze its effectiveness and advocate for changes where necessary.	A national tax policy sets out a government's strategy and principles for taxation.	Kenya's National Tax Policy Framework sets the principles for a predictable and stable tax environment. It influences corporate taxation by promoting equity, fairness, and a broad tax base.

5. TEST YOUR USE OF THE GUIDE

Hypothetical Case Study: PSI Addis

PSI Addis is a fast-growing tech start-up in Kenya specialising in quantum computing. It has recently attracted significant foreign investment from global tech giants and is planning to expand its operations into several other countries, including HighTower (a developed country known for its high corporate tax rates) and IncentiVille (a vibrant developing country offering tax incentives for foreign tech companies). As a result of this rapid growth and global expansion, the tax obligations of PSI Addis are becoming increasingly complex and multi-layered.

The company's growth has also led to a significant increase in employment. However, due to the project-based nature of its tech work, many of the jobs are temporary or part-time roles, leading to a large number of workers from Kenya's dynamic informal sector.

Despite the high-tech allure and substantial growth, PSI Addis has kept a low profile on its financials, leading to concerns among workers and civil society organisations (CSOs) about its tax practices and their impact on public service funding in Kenya.

Exercise: The PSI Addis Tax Dilemma

Given the concerns raised about Quantum's tax practices, your task is to identify the key issues that need assessment to better understand the company's corporate taxation landscape.

1. What types of taxes might PSI Addis be subject to in Kenya, HighTower, and IncentiVille? How might the different tax regimes affect its tax obligations and overall tax contributions?
2. What implications might the company's employment practices have on its corporate tax contributions in Kenya?
3. What financial information would you need from PSI Addis to conduct an accurate assessment of its tax practices?
4. How might the tax contributions of PSI Addis affect public service funding in Kenya?
5. What challenges might you face in obtaining the necessary information to assess PSI Addis tax practices?

After identifying these issues, reflect on how the guide could aid your investigation into PSI Addis tax practices. Which indicators from the guide would be most beneficial in your assessment, and why? How would the guide help you decrypt the challenges identified in question 5?

This exercise should help underscore the complexities of corporate tax assessment in a global context and the benefits of using this structured guide.