A scorecard to assess readiness for globalization of developing country tax administrations
I. Introduction

Increased economic participation of a country in the global economy implies an increase in cross-border activity and economic dealings with foreign entities. Most of this activity has implications for taxation in the country. The increased volume of transactions with tax implications poses challenges for tax design and tax administrations (TAs) historically geared to deal largely with resident taxpayers and within border economic activity, where relatively rare foreign entities were often dealt with on a case-by-case basis. This is particularly true of developing countries, though even some developed countries need to continue streamlining their tax laws and administration to meet globalization challenges.¹

A scorecard is proposed here to assess the readiness of developing country TAs for globalization. Some attention must unavoidably be devoted to aspects of tax laws dealing with international activity. Nevertheless, the main focus is on the administration of taxes. The main premise underlying the analysis is that in dealing with international transactions, TAs aim to implement tax laws to safeguard revenue while ensuring that informational and transactions costs of tax obligations related to international activity are as low as possible.

While the issues related to international tax administration are, with few exceptions, hardly new, there are growing volumes of taxpayers with international transactions in developing countries which are embracing globalization. So dealing with international tax issues as-and-when they arise is no longer an option and special organizational and procedural measures to ensure administrative effectiveness and cost economy are needed. Of course, it will not make economic sense for the extent of specialization and expertise in international tax matters to be at the same level across countries of different sizes as reflected, say, in the value and number of taxable transactions and entities: smaller developing countries may not find elaborate administrative arrangements cost effective, even if this entails some revenue sacrifice or higher taxpayer transactions costs.

¹ For example, a 2007 report of the Office of the Accountant General of Canada reported that the Canada Revenue Agency did not have adequate systems to assess the compliance risk of non-residents or residents with international transactions as late as 2001, though this had improved since then. Deficiencies included limited ability to identify cases of transfer pricing and cases involving foreign affiliates. Furthermore, despite organizational restructuring in 2005, partly to address these problems, including the creation of an International and Large Business Directorate, audit expertise in the assessment of large corporations with international transactions and the institution of systems to cross-match transactions of non-residents were still lacking in 2006.
A second assumption underlying this analysis is that tax laws broadly tax foreign entities according to the source principle and domestic entities in line with the residence principle.²

The analysis begins by listing entities international TAs must deal with. The list includes covers foreign and domestic entities which have taxable international transactions. Informational and tax services and the major types of revenue risks these entities entail are also summarized. Besides taxable entities, other taxing jurisdictions with whom coordination is needed or against whom defensive measures are needed and international tax fora are also identified.

TA institutions and infrastructure in general and also those related to taxpayer information, taxpayer assistance and facilitation, safeguards to protect revenue and to deal with non-compliant taxpayers are then surveyed in turn. The discussion includes, in particular, measures to deal with non-cooperating tax jurisdictions. This is followed by a discussion of administrative issues related to tax cooperation with friendly tax jurisdictions and multi country associations. The conceptual discussion is illustrated by the case of a developing country, India.

The discussion forms the basis of a scorecard to assess TA preparedness to deal with international transactions which is then presented with an illustrative application to India.

The coverage in the paper does not extend to receipts from illegal activity nor receipts “legalized” through money laundering. While such receipts are of growing concern to countries which are integrating into the international financial system, a TA will not be the arm of government with primary responsibility for dealing with them.

II. Entities and income sources³

Entities include resident and non-resident taxpayers in the home country,⁴ other jurisdictions involved in international transactions or that are the origin of taxable foreign entities, and some country associations dealing with tax and TA. It will be assumed for the most part that the home country has the relevant definitions and legal provisions dealing with international transactions⁵ and comprehensive double taxation treaties with at least its major trading partners.

² For an introduction, see Thuronyi (1998), especially the chapter by Richard Vann.
³ This section draws extensively on Vann (1998) and also Asher (2001) and Owens (2002).
⁴ Since more than one taxing jurisdiction will need to be referred to, it will be convenient to refer to the country whose TA is being looked at as the “home” country.
⁵ Important definitions pertain to residence and source tests – such as for permanent establishments and situs of sales to determine the taxable base in different cases and for different entities.
Potentially taxable non-resident entities and sources of income or other tax bases are listed first. This is followed by a list of resident entities and their income sources and other tax bases.

**Non-resident entities potentially liable to tax**

International tax administration issues are listed in up to 5 parts, though not all parts are required for all categories: Information requirements; Taxpayer services and facilitation; Potential high compliance cost areas; Tax avoidance and revenue risks; and Non-compliance and tax evasion risks.

1. **INDIVIDUALS**

1.1 **Employment income**

*Information requirements:* Rules determining residence status; registration, return filing and tax payment: jurisdiction, calendar and computation; Taxability of special perquisites or fringe benefits and “grossing up”; employer’s withholding requirements.

*Taxpayer services and facilitation:* Information on website; on-line and phone helpline; convenient payment channel (e.g. banks, on-line and preferably withheld dues); refunds, where due.

*Potential high compliance cost areas:* Clearance needed by employer/renewal of clearance; “sailing” permits; tax withholding dates and obtaining acknowledgments of taxes withheld and paid (for employers); establishing non-resident status (especially for resident in treaty partner countries where a tie-breaker rule applies to individuals otherwise resident in the host country); double taxation of special perquisites and fringe benefits if not included in income.

*Tax avoidance and revenue risks:* Planning for non-resident status (“183 day rule”) if tax savings exist; income shown as business expenditure of employer incurred by employee.

1.2 **Employment income: technicians, consultants and technical service providers**

*Issues as for 1.1*

*Additional information and taxpayer service:* Advanced rulings procedure in case of potential disputes.

*Additional tax avoidance and revenue risks:* May take advantage of differences in tax treatment by receiving “fees” or “royalty” instead of salary; Incorporation to benefit from tax treatment of corporate income; treaty shopping.

1.3 **Immoveable property income and capital gains**

*Information requirements:* Registration, return filing and tax payment: jurisdiction, calendar and computation; withholding requirements.
Taxpayer services and facilitation: Information on website; on-line and phone helpline; convenient payment channel (e.g. banks, on-line and preferably withheld dues); refunds, where due.

Potential high compliance cost areas: Return filing and tax payment from country of residence.

Non-compliance and tax evasion risks: None (but income is relatively easy to conceal).

1.4 Direct investment income from dividends, interest or capital gains

Information, taxpayer services and facilitation and potential high compliance cost areas: As for 1.3.

Additional information and taxpayer service: Advanced rulings procedure in case of potential disputes

Potential high compliance cost areas: Tax due on accrued but unrealized interest.

Tax avoidance and revenue risks: Characterization as dividend, interest or capital gain in case of different tax treatment; treaty shopping; double-dipping; loss set-off and carry-forward; taxation of accrued but unrealized interest.

1.5 Portfolio investment income from dividends, interest or capital gains

Information, taxpayer services and facilitation and potential high compliance cost areas: As for 1.4.

Special tax avoidance and revenue risks: Largely similar to 1.4.

Special non-compliance and tax evasion risks: Non-payment of tax if not withheld.

1.6 Royalties and fees for technical and management services

Information, taxpayer services and facilitation and potential high compliance cost areas: As for 1.4; Deductibility of expenses.

Non-compliance and tax evasion risks: Non-payment of tax if not withheld.

1.7 Pension income and social security payments

Information and potential high compliance cost areas: As for 1.3.

Taxpayer services and facilitation: No specific information if social security payments are withheld. Other requirements are as for 1.3.

Potential high compliance cost areas: Social security taxes payable in home and host countries without treaty or other relief.
1.8 Business and professional income

Information, taxpayer services and facilitation and potential high compliance cost areas: As for 1.4; Information and facilitation may also be needed for taxes other than income tax (sales tax, VAT, local taxes).

Potential high compliance cost areas: Special compliance requirements for tax incentives; compliance obligations relating to more than one TA department; tax audits and disputes.

Tax avoidance and revenue risks: Disputes regarding classification of income (e.g. royalty or fees versus business income); misuse of tax incentives.

Non-compliance and tax evasion risks: In case of supplies of goods via a branch or subsidiary not resulting in a permanent establishment, risk of transfer pricing, and under- or over-invoicing; Non-payment of taxes if not withheld.

1.9 Professional income of sportsmen and entertainers

Information, taxpayer services and facilitation and potential high compliance cost areas: As for 1.3.

Non-compliance and tax evasion risks: Income classified as income of companies with which the sportsman or entertainer has a contract; income not related to exercise of profession (e.g. endorsements) if source of income is determined by “place of performance”.

1.10 Income from cross border services (transport, some other services)

Potential high compliance cost areas: Multiple taxation in origin, destination and transshipment countries and residence country of provider.

1.11 Multiple income sources

Information, taxpayer services and facilitation and potential high compliance cost areas: As for 1.1 and 1.4; Information and facilitation may also be needed for taxes other than income tax (sales tax, VAT, local taxes).

Potential high compliance cost areas: Compliance obligations relating to more than one TA department. Uncoordinated, duplicate compliance requirements for different income sources and taxes (e.g. clearances and permissions); tax audits.

1.12 Exporters of goods or services including e-commerce to the home jurisdiction

Information, taxpayer services and facilitation: Information related to customs duties and procedures and possibly domestic taxes collected at customs posts; Trade facilitation.

Non-compliance and tax evasion risks: Undervaluation and misclassification of goods to evade taxes; Overvaluation to facilitate transfer of profits abroad by resident importers.
2. OTHER ENTITIES

2.1 Immoveable property income and capital gains
Issues are similar to those for individuals.

2.2 Foreign institutional investors earning dividends, interest or capital gains
*Information, taxpayer services and facilitation and potential high compliance cost areas*: As for 1.4.

*Tax avoidance and revenue risks*: As for 1.4; Low withholding rates on bank interest earnings under tax treaties

2.3 Royalties and fees for technical and management services
Issues are similar to those for individuals, except for much lower risk of non-payment of tax if not withheld.

2.4 Foreign enterprises with domestic business income
*Information, taxpayer services and facilitation and potential high compliance cost areas*: As for 1.4; Information and facilitation may also be needed for taxes other than income tax (sales tax, VAT, local taxes); advance pricing agreements for imports by subsidiaries.

*Potential high compliance cost areas*: Compliance obligations relating to more than one TA department; compliance requirements for tax incentives; tax withholding obligations out of payment of employment income or interest; tax audits

*Tax avoidance and revenue risks*: Disputes regarding classification of income (e.g. royalty or fees versus business income); thin capitalization; resident companies incorporating in low tax jurisdictions (tax havens); share buy backs in lieu of payment of dividends; in case of supplies of goods via a branch or subsidiary not resulting in a permanent establishment, risk of transfer pricing, and under- or over-invoicing; taxation of repatriated branch profits (dividend tax).

2.5 Income from cross border services (transport, communications, some other services)
Issues similar to those for individuals except for inclusion of telecommunication, logistical and courier services providers which are rarely if ever provided by individuals.

2.6 Exporters of goods or services including e-commerce to the home jurisdiction
Issues are similar to those for individuals.

Classification of residents and listing the key TA issues is now undertaken.
Resident entities with international tax implications

3. INDIVIDUALS

3.1 Foreign employment income: resident nationals

*Information requirements:* Rules determining residence status including special status, if any, of formerly non-resident nationals; administration requirements as for domestic source income; exempt foreign source income; unilateral and bilateral double taxation reliefs.

*Taxpayer services and facilitation:* As for domestic source income.

*Potential high compliance cost areas:* Record-keeping to determine residence status; computation of tax relief for foreign tax paid.

*Tax avoidance and revenue risks:* Planning for non-resident status (“183 day rule”) if tax savings exist.

*Non-compliance and tax evasion risks:* Non-declaration or under-declaration of foreign source income; “round-tripping” if foreign source income or receipts are tax favoured.

3.2 Domestic and foreign employment income: resident foreigners

*Information requirements:* Rules determining expatriate status; special domestic tax reliefs on domestic income and on foreign source income; exempt foreign source income.

*Taxpayer services and facilitation:* As for domestic source income of nationals.

*Potential high compliance cost areas:* Record-keeping to determine valuation of expatriate allowances and status; computation of tax relief for foreign tax paid.

*Tax avoidance and revenue risks:* Planning for non-resident status (“183 day rule”) if tax savings exist.

*Non-compliance and tax evasion risks:* Non-declaration or under-declaration of taxable foreign source income.

3.3 Income other than employment income

*Information requirements:* Special domestic tax reliefs on foreign source income; exempt foreign source income; tax treaties and provisions.

*Taxpayer services and facilitation:* As for domestic source income. Advance rulings.

*Potential high compliance cost areas:* Computation of tax relief for foreign tax paid.

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6 While the 5 categories used in the analysis are as for non-residents, tax treatment and administration of domestic source income of *resident nationals* will not be looked at in this sub-section.
Non-compliance and tax evasion risks: Non-declaration or under-declaration of taxable foreign source income.

4. OTHER ENTITIES

4.1 Business and asset income of domestic multinationals

Information requirements: Special domestic tax reliefs on foreign source income; exempt foreign source income; tax treaties and provisions. Domestic tax treatment of foreign source income exempt in the host country, special provisions, if any, relating to joint ventures. Advance rulings.

Special non-compliance and tax evasion risks: incorporation of subsidiaries in a low tax haven jurisdiction; transfer pricing; and under- or over-invoicing.

4.2 Income and receipts from cross border services (transport, some other services)

Potential high compliance cost areas: Multiple taxation in origin and destination countries and residence country of provider.

4.3 Exporters of goods or services

Information, taxpayer services and facilitation: Information related to customs duties and procedures at customs posts; trade facilitation; VAT tax reliefs for exports.

Potential high compliance cost areas: Customs procedures; VAT refunds.

Special non-compliance and tax evasion risks: Undervaluation and misclassification of goods to evade domestic taxes (on domestically sold goods) or export taxes; Undervaluation to facilitate transfer of profits abroad.

4.4 Importers of goods or services

Potential high compliance cost areas: Customs procedures.

Special non-compliance and tax evasion risks: Undervaluation and misclassification of goods to evade customs duties; High seas sales to avoid local sales taxes.

Besides potential taxpayers, other entities include tax havens, tax treaty partner countries and tax and customs administration associations. Tax havens are jurisdictions which facilitate tax avoidance or evasion by residents of other jurisdictions by (a) low tax regimes for non-residents, secrecy laws or practices resulting in no or limited information provision about their residents to foreign TAs (and also financial regulators), possibly opaque and discretionary tax and financial regulations, and lenient laws for incorporation of businesses
by foreigners. Havens enable income from financial wealth of residents of other jurisdictions to remain concealed or outside the home tax jurisdictions in order to defer taxes or evade them outright. Their second major impact is to enable multinational entities to avoid tax in both host and home countries by transfer pricing via an entity incorporated in a (low tax) haven. Some havens also engage in concealment or money laundering of receipts from illegal cross border activities including smuggling and terrorism.

TAs are concerned with their counterparts in countries with whom the home jurisdiction has a double taxation avoidance treaty in three major ways usually covered in the treaties. The first is a mutual agreement procedure allowing treaty partners a fall back mechanism for double taxation issues not covered in the treaty and also a channel for dispute resolution and treaty interpretation (Vann, 1998). One important use of the interpretation function of the procedure is to permit advance pricing agreements (APAs) whereby “fair” transfer prices are agreed to in advance. This and related uses can serve to buttress unilateral advance rulings institutions (discussed further below). The second concerns exchange of information on tax and related matters between TAs. Recent changes to the OECD Model Tax Convention (OECD, 2005) provide for more extensive exchange of information than earlier conventions so that information exchange can also aid in, for example, risk assessment of taxpayers. The third concerns assistance in collection of taxes (Article 27 of the OECD Model Convention), an article recently inserted in the OECD Model Convention. In principle this greatly increases the scope of tax cooperation between countries to prevent taxpayers from escaping tax by, for example, leaving a country without payment of taxes due.

Other international bodies of importance for TA are international or regional associations of tax or customs administrations which permit tax administrators to discuss coordination of procedures and exchange of information regarding good practices, besides, in some cases

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7 Useful discussions are in OECD (1998), Blum et. Al. (1998), Webb (2004) and McLure (2006). In OECD (1998), the OECD Committee on Fiscal Affairs identifies 47 jurisdictions engaged in “harmful tax practices” (HTPs) defined with respect to their tax regimes by “(1) no or low taxation on the relevant income, (2) lack of transparency, (3) lack of effective exchange of information, and (4) the regime is ring-fenced from the domestic economy”. HTPs are not necessary for tax haven status. Dharmapala and Hines (2006) discuss the current situation following the efforts since 1998 by the OECD to get jurisdictions to improve their transparency and information exchange practices. The identify between 33 and 40 jurisdictions with tax regimes qualifying them as tax havens, though only 5 of these are on the current OECD HTP list.

8 See OECD (2004).
take advantage of formal technical assistance arrangements. Information, training and technical assistance from the OECD Committee on Fiscal Affairs is also potentially invaluable to developing countries even if almost none of them are members. Some specific examples of this will arise below.

The final step in laying the groundwork for the discussion of TA is by providing information about the key international taxation issues facing tax administration in India, given its growing global links and development strategies. This is in Box 1 below.

**Box 1: Key concerns of international tax administration in India**

In relation to international transactions, key policies of the Indian government include encouragement of foreign direct investment (FDI), capital market development and increasing service exports in the software sector as part of a general thrust to increase exports. For inward FDI, special concessions for expatriate (“foreign”) employees exist as do concessions for foreign source income of Indian employees of service exporters. In addition, expansion of overseas investment or borrowing by Indian companies has been permitted in recent years following the partial liberalization of capital controls aided by interest exemption on selected foreign debt instruments issued by Indian companies. TA services for all these identified groups can be improved to enable them to benefit fully from legislated concessions.

1. **Foreign direct investment in India**: The general policy of attracting foreign direct investment to India is implemented through tax concessions targeted at several defined classes of investors. These include (a) Non-Resident Indians; (b) Joint ventures and public-private participation in the infrastructure sector; (c) Foreign companies in Special Economic Zones (SEZs); and (d) Venture capital funds.

   1.1 **Investment by Non-Resident Indians (NRIs)**: The primary concession is exemption of interest in specified deposits and capital gain from the sale of specified financial assets, the freedom to elect computation of tax in the currency in which investment is made or in Indian rupees, final withholding taxes at lower rates in some cases than for other non-residents and permission to elect computation of taxes using general computation rules or special provisions applying to NRIs. Information on NRI rights and concessions is available in the official website of the Income Tax Department in that sections of the Income Tax Act dealing solely with NRIs are accessible from one web page. For most individuals unfamiliar with Indian income tax law and procedures, this is incomplete, since general provisions also applicable are not indicated and, furthermore, the language of the Income Tax Act is not easily

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9 These better known ones include the World Customs Organization, The International Fiscal Association (IFA), The Commonwealth Association of Tax Administrations (CATA), The Intra-European Association of Tax Administrations (IOTA), and CIAT, an association of primarily Latin American TAs.

10 Besides NRIs, tax and some commercial laws in India define for special treatment two other categories of entities: Persons of Indian Origin (PIOs) include foreign citizens who had at least one parent or grandparent who is/was an Indian citizen or the spouse of a PIO or Indian citizen; and Overseas Corporate Bodies (OCBs) defined as non-resident companies, firms or societies of which at least 60 percent is owned directly or indirectly by NRIs; and overseas trusts with at least 60 percent beneficial interest irrevocably held by NRIs.
understood by laymen.

The main compliance costs arise if NRIs have excess taxes withheld or have investments on which additional taxes are due to their electing to be taxed as residents. This is because return filing procedures do not currently enable returns to be filed from overseas (or electronically) by NRIs. Instead, they must appoint a representative in India to file returns for them. Furthermore, refunds must either be received through their representative or (since 2007) via a local bank account in a designated bank authorized to receive on-line funds transfers from the Indian Treasury. In case taxes are due, payment of taxes also has to be done through the tax representative or at any rate, at an authorized bank branch in India. While tax audits (“scrutinies”) of NRIs with only passive income are in principal possible, these are, fortunately, exceptional given procedural hurdles and given that NRIs residing oversees will be unable to be physically present for audit hearings.

**Joint ventures and public-private participation in the infrastructure sector:** Most external observers of India’s development identify poor infrastructure as a key impediment to further acceleration in its economic growth.¹¹ Thrust infrastructure areas for the government include power generation, roads and highways and telecommunications. Investment avenues encouraged in these areas are joint ventures with an Indian partner or through setting up a company under the (Indian) Companies Act, 1956.¹² Provision of technical services to an Indian firm or government department is also possible as is turnkey execution of close-ended construction projects: these business entry modes do not result in FDI though they may be eligible for some tax concessions.¹³ The main tax concession for investment in the infrastructure sector by firms are via 5 or 10 year income tax holidays and a

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¹¹ Annual reviews of the progress in improving infrastructure and indeed, economic development in general are to be found in the annual *Economic Survey* released by the Union Ministry of Finance, available on-line. Further information is in Box 2.

¹² Business entry modes for foreign enterprises include setting up a liaison or representative office, a project office, or a branch office, providing technical services to an Indian enterprise, and by setting up an Indian company. Except in specified strategic sectors, there is no restriction on the extent of foreign shareholding in such companies – it can range from 100 percent for a wholly owned subsidiary or a new company with no links to any foreign company, to a minority stake in a joint venture. It is also possible for enterprises other than companies – partnerships or proprietorships to use any of the non-company entry modes.

¹³ Royalty income or fees for technical services by non-residents is exempt from income tax.

¹⁴ Besides SEZs, related “Free trade zones” include export processing zones, or bio/hardware/software technology parks. While outside designated zones, “100 percent export oriented units’ benefit from tax concessions similar to units in free trade zones. The total revenue foregone due to FDI and export related tax concessions in fiscal year 2006-07 amounted to 5.7 percent of pre-concession income tax revenue and 11.4% of customs duties besides lesser percentage losses of excise duty and the service tax. See the Annex to the 2007 Union Budget: Statement of revenue foregone in 2005-06 and 2006-07 at [http://indiabudget.nic.in/ub2007-08/srf/rfs.pdf](http://indiabudget.nic.in/ub2007-08/srf/rfs.pdf).
proportional deduction from taxable profits. The main sources of extra tax compliance costs include additional documentation for foreign transactions, information returns or special documentation needed for tax concessions, and annual clearances needed for expatriate employees. As with resident Indian companies, being obliged to deal with multiple TAs may also prove to be costly.

*Foreign direct investment in Special Economic Zones (SEZs):* A key policy to attract FDI is via units set up in SEZs. These units are “off-shore” since such zones are treated as outside the Indian customs territory, so that no import duty or Union excise duty is levied. A concessional excise duty rate is also applied to goods sold domestically by units in SEZs and service providers to units in SEZs are exempt from the service tax. The main income tax concessions are related to income tax exemption for profits from exports and “deemed” exports besides an initial 10 year tax holiday. Compliance problems are similar to those for infrastructure joint ventures, with the difference that customs and excise compliance costs arise through the need to physically deal with SEZ border customs posts. An additional income tax compliance requirement compared to infrastructure units is annual certification of eligibility for SEZ related concessions by a chartered accountant.

*Venture capital funds:* These funds are considered important for the capital they provide to high risk ventures and start-up enterprises. They are treated as pass-through entities under the Indian income tax, provided they register with India’s stock market regulator, the Securities and Exchange Board of India (SEBI) and provided the units they finance are listed on an Indian stock exchange. Thus their profits are tax exempt and dividends paid are not subject to withholding (Hirani, 2005). Such funds are required to obtain annual approval from the direct tax TA for continuing their tax exempt statues and inform the TA of taxes not withheld from dividends paid to ensure compliance with venture capital fund and also listing requirements.

*Portfolio investment by Foreign Institutional Investors (FIIs):* Foreign investment in India’s formerly closed financial markets was partly liberalized in 2000 by permitting investment by FIIs. The main taxation issue here is one of avoidance of tax on business income by taking advantage of the non-taxation of capital gains in India and Mauritius and the impact of the India-Mauritius tax treaty on Mauritius residents (see Greguras and Gopalan, 2004). No specific compliance cost issues arise and given the size of FIIs, information and tax policy issues are minimal. However compliance and facilitation are likely to become important issues for individual investors when further capital market liberalization takes place.

*Overseas investment and borrowing by Indian companies:* Interest paid to investors on loans taken via “Global Depository Receipts” is tax exempt. No tax concessions are yet available for repatriated profits by Indian multinationals, though foreign based Indian employees of Indian companies can benefit from a relaxation of the Indian version of the “183 day rule” to achieve non-resident status or retain it for a longer duration after returning.

* provision of on-site services by software professionals:* Such “business process outsourcing” is an important area of service exports from India, particular in the information technology sector. The main tax issue is the residence status of Indian software professionals as has been described above for employees of Indian multinationals.

### IV. International tax administration requirements

Administration requirements to effective deal with international taxation are now examined following essentially the same structure as in the discussion above. After a discussion of
general requirements, information and taxpayer service requirements are then looked at. This is followed by two sections dealing with tax avoidance and a further two sections dealing with international relations with other jurisdictions. An attempt is first made to identify “good practice” and then this is used to diagnose weaknesses in current Indian practice.15

**General requirements**

TA efficiency and effectiveness in general requires best practice organization, staff strength and capacity, and appropriate use of information technology. In addition procedures and functions of the TA should be designed to both reduce taxpayer compliance costs and reduce taxpayer non-compliance.16 The task of the TA is aided or hampered by the simplicity of tax laws they are required to administer as well as the sophistication of taxpayers and the transparency or opaqueness of their affairs. These issues are not dealt with in detail here unless specifically related to international taxation. Nevertheless, a general discussion of TA deficiencies in the Indian context is provided, benchmarking the Indian case against best practice.17

A list of important weaknesses present in current Indian TA is now presented.

- Two separate services for direct taxes, and customs & Union excise duty together with limited integration of customs and excise administrations.18

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16 Das-Gupta (2006) distinguishes between TA departments or “TA in the narrow sense” and TA more broadly. The broader concept can be identified by answering the counterfactual question “what institutions would no longer exist if all taxes were abolished?” From the institutions so identified, institutions dealing with tax structure and policy and general tax education are excluded to define the scope of TA. The discussion here is for TA in the broad sense but excludes all non-government actors unless they perform outsourced TA activities. So dispute regulation and judicial institutions are included, but private sector tax lawyers and accountants are excluded. The review here relies fairly extensively on the work of the OECD’s Committee on Fiscal Affairs and Centre for Tax Policy and Administration. OECD (2006) provides an excellent survey of general TA issues, except independent appeals tribunals, court usage for tax prosecutions and dispute resolution and tax ombudsmen. The report also does not discuss certain procedures such as risk assessment in relation to taxpayers selected for audit and audit and dispute resolution. Studies that address these issues and also largely issues addressed by the OECD report include Gill (2000) and Bagchi, Bird and Das-Gupta (1995). See also the analysis of tax administration law in Gordon (1996).


18 (a) Of 33 countries surveyed by OECD (2006), 7, including India, had multiple TAs, a structure identified as having major shortcomings. (b) The Union Excise Duty has gradually evolved into a VAT on goods, though it
• For most normal taxpayer related functions, taxpayers, except large taxpayers, are assigned to single officers for direct taxes and separately, Union excise duty. This is in contrast to the taxpayer segment model identified by OECD (2006) as emerging best practice.

• Due to growth in the number of taxpayers (37 million taxpayers and a workload of 27 million assessments of which 21 million were carried out in fiscal year 2004-05, the latest available year), limited increase in staff strength (the sanctioned strength of assessing officers is currently around 8000) in and limited induction of IT, direct tax administration is overstretched.19

• Assignment of taxpayer numbers (Permanent Account Numbers or PANs) for direct taxes is outsourced. Their integrity and usage continues to be limited, in view of limited induction of information technology (IT) infrastructure, though reforms are underway. Reforms since 2004 have focused on making it mandatory for PANs to be indicated in large value financial transactions with financial companies, stock markets and banks, as well as in case of certain large non-financial transactions (e.g. car purchases). Nevertheless, a reliable nationwide taxpayer master file still does not exist even for direct taxes, let alone across TAs.

• Problems with information for taxpayers available on-line to taxpayers are similar to problems discussed in relation to NRIs in Box 1. Electronic and phone based services are limited in scope with, for example, limited electronic filing of income tax returns. Taxpayer assistance via electronic are yet to be instituted and the responsiveness to queries by traditional mail is not monitored adequately. Phone help lines have been instituted for direct taxes but are geared only to assist in routine procedural queries. For example, information on required clearances and permissions are beyond the competence of help lines. Help desks for all taxpayers have also been set up, with the help of trade associations in or near excise offices. No information is available at this time on their functioning.

• Procedures to detect non-filers as also to utilize information provided by third parties are hampered by the relatively large informal sector in India and limited on-line or paper

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19 See Government of India (2006). Similar information is not readily available for Customs and Excise, though the officer strength in 2004-05 is given by Government of India (2006) at around 15,000 staff of the rank of inspectors and above.
information provision to tax departments, for example from immigration authorities, banks and even other tax departments. Some recent reforms have focused on improved collection of information from third party sources. The receipt and matching of annual information return information required from large financial firms, using tax withholder numbers and PANs, has been outsourced to another government organization bound by confidentiality requirements. Being a recent reform, its impact is still limited.

- Income tax returns are still largely filed via paper returns and directly at tax offices except for large tax withholders and large corporations. A scheme of electronic filing through recognized tax preparers has recently been instituted, but is yet to be widely adopted. On the other hand, excise duty returns are filed by e-mail by the bulk of registered dealers.

- Data capture from tax returns is still not comprehensive and usage of return based information to identify routine mistakes is still work in progress.

- Audits, from case selection to inquiries to assessments are largely discretionary, there being no on-line system of risk assessment based selection and no audit manual. Reform of this situation is contemplated but far from complete. In case of post-audit tax disputes the two stage appeals procedure is usually long drawn out through multiple hearings and the tendency of the tax departments to file second-stage appeals against first-stage appeals without adequate analysis of the likely revenue benefits or compliance costs.

- Other grievance redressal mechanisms and procedures to obtain client feedback still function poorly and without adequate accountability. While taxpayer charters of rights exist on paper, compliance with charters are not monitored by management or external audit.

- Assessment of procedures for collection of overdue taxes is hampered by an overly inclusive accounting requirement for recognizing tax arrears. As a result, there are large reported direct tax and excise arrears. Nevertheless there is no taxpayer current account system in either TA, not even in manual form in local offices.

- As is typical in many TAs tax refunds procedures are slow and allegedly subject to pervasive corruption.

**Taxpayer information**

As with taxes in general, in relation to international taxation information for potentially taxable persons on laws and procedures can be made available through on-line and printed means, supplemented, especially for small, individual taxpayers by e-mail and phone help lines and information desks at tax offices. The information should cover substantive and administrative law, forms and notifications, the tax calendar and key procedures besides information on jurisdictions of tax offices. When tax laws (or transactions) result in
ambiguity, a more tailored approach can be achieved for taxpayers by instituting systems of advance rulings.

As described in the context of NRIs in Box 2.1, India’s official taxpayer information services are limited in their scope and not taxpayer friendly. Fortunately, India does have an active online and traditional publishing sector (Box 2.2) which fills a large part of the information needs for international taxes. Furthermore, both direct and indirect TAs have advanced rulings institutions largely geared to international tax issues. However, only private advance rulings that apply only to the specific case ruled on are made. Second, they are only available to non-residents and to residents in relation to tax liability of non-residents.20

<table>
<thead>
<tr>
<th>Box 2: On-line information on Indian taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>In this box, the main official and a selection of non-official websites that deal with international tax issues are briefly described.</td>
</tr>
<tr>
<td>1. The official website of the Union Ministry of Finance: <a href="http://www.finmin.nic.org">www.finmin.nic.org</a>. The website has sub-websites for</td>
</tr>
<tr>
<td>a. The Union Budget which provides information on new taxation measures and also the Annual Finance Bills and Acts.</td>
</tr>
<tr>
<td>b. The annual <em>Economic Survey</em>, which summarizes and comments on all tax changes during the past year.</td>
</tr>
<tr>
<td>c. The sub-website for the Income Tax Department, <a href="http://www.incometaxindia.gov.in">www.incometaxindia.gov.in</a>, which has online copies of the Indian Income Tax Act and Rules and also Income Tax notifications, circulars and forms. The website also provides a list of tax offices. The website also has online assistance for electronic filing of selected tax returns for eligible taxpayers who are register on the site and online information on withheld taxes for these taxpayers. The registration procedure, however, requires physical production of documents and prior knowledge of the tax office in whose jurisdiction the taxpayer falls.</td>
</tr>
<tr>
<td>d. The sub-website for the Central Board of Customs and Excise, <a href="http://www.cbec.nic.in">www.cbec.nic.in</a>, which provides similar information and some online services related to customs duties, the Union excise duty and Union service tax.</td>
</tr>
<tr>
<td>2. The India Investment Centre, <a href="http://www.iic.nic.in">www.iic.nic.in</a> provides information on policies related to non-resident and foreign investors in India.</td>
</tr>
<tr>
<td>3. The National Informatics Centre, <a href="http://www.nic.in">www.nic.in</a>, hosts the websites of all government organs including Union Ministries, parliament, the Supreme Court and websites of several state governments. Some state government sites have sub-sites or links to websites for state level tax departments such as for the departments administering state VATs. However, not all states have such websites and their quality varies widely.</td>
</tr>
<tr>
<td>4. Several unofficial websites provide information for different groups of non-residents. Six of the better sites are listed below.</td>
</tr>
<tr>
<td>a. India Taxes.com, <a href="http://www.indiataxes.com/index.asp">www.indiataxes.com/index.asp</a>, provides summaries of major tax laws as does</td>
</tr>
<tr>
<td>b. Tax India Online.com, <a href="http://www.tax.indiainfo.com">www.tax.indiainfo.com</a>.</td>
</tr>
<tr>
<td>c. A more extensive description of laws and procedures pertaining to business in India which</td>
</tr>
</tbody>
</table>

20 Besides public sector undertakings.
is targeted at non-residents and nationals of other countries is the MGI International Tax and Business Guide, [www.mgiworld.com/doingbusiness/BusinIndia.php](http://www.mgiworld.com/doingbusiness/BusinIndia.php).

d. Similar coverage is to be found at the website of the Institute of Chartered Accountants of India. The sub-website providing information on doing business in India is at [www.icai.org/icairoot/announcements/announ814.html](http://www.icai.org/icairoot/announcements/announ814.html). This site also provides information on its publications related to accounting norms and standards and online access to its journal, *The Chartered Accountant*.


The major publisher of direct tax publications in India, including laws and income tax tribunal decisions is Taxmann which has an on-line catalogue at [www.taxmann.com](http://www.taxmann.com). It is worth mentioning that the provision of the online copies of the Income Tax Act and Rules in the official website of the Income Tax Department is outsourced to Taxmann.

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**Taxpayer assistance infrastructure**

Taxpayers in general should be provided assistance at all points of interaction with TAs to minimize their compliance costs. This means assistance in meeting registration or obtaining taxpayer numbers, return filing, tax payment at various stages and grievance redressal. For international taxpayers not resident in the jurisdiction, special arrangements are needed to permit taxpayers to meet their obligations from their place of residence abroad (or in the case of non-individual entities, the relevant headquarters location). This requires taxpayer services to be available even outside national borders, best accomplished over the internet. Where face to face interaction is required (for example to verify personal information and identity), the TA should ideally have arrangements for the activity to be performed on their behalf by a designated agent, such as the embassy of the country. As yet, mutual assistance for such “routine” TA procedures does not figure in most bilateral treaties and any such cooperation between two TAs will usually fall outside the treaty framework.\(^{21}\) A third requirement is accessible payment channels both for payments by the taxpayer and for payment of refunds due to the taxpayer. Electronic communication under EDI schemes is particularly important for trade facilitation by customs administrations.

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\(^{21}\) The ideal place for such mutual assistance would be by extending Articles 26 or 27 of the OECD Model Treaty. It should be noted that the language of the current draft is broad enough so as not to preclude such assistance. An important adjunct to any such treaty provisions would be in relation to reimbursement of costs incurred by a TA on behalf of another TA.
In India, a major source of high compliance costs for taxpayers is the need to interact with many TAs and multiple offices even within the direct taxes administration.\textsuperscript{22} A second source of high compliance costs is obtaining various clearances and permissions from the TA, of which several pertain to international transactions including operations in FTZs, employing foreign technicians and expatriates and documenting tax exempt or tax favoured status. For non-residents without a physical presence in India obtaining taxpayer numbers, returns filing, making tax payment and getting refunds are all difficult, as discussed above, as Indian TAs have limited foreign taxpayer service facilities, including for tax payment and tax return filing.

\textbf{Institutional safeguards to protect revenue}

The first requirement for revenue protection in international taxation is modern laws that contain anti tax avoidance provisions which take account of commonly used tax avoidance methods. These include rules to deal with income recognition in the home jurisdiction (most importantly transfer pricing and thin capitalization of subsidiaries), valuation rules for foreign assets, exports and imports, rules to deal with tax deferral on foreign assets of residents, and rules to ascribe income to beneficial owners (such as controlled foreign corporation rules). This becomes particularly important in taxation of business income for business units set up in tax havens by foreign units from other jurisdictions with normal as opposed to low tax regimes. It is also useful to have general arrangements for information sharing on tax matters related, in particular, to common tax shelters.\textsuperscript{23} Other measures include possible procedures to terminate tax treaties, if any, with tax havens to close of this avenue for treaty shopping.

It is also important, to prevent tax evasion, to have comprehensive withholding rules for income earned by non-residents or taxable supplies from non-residents (reverse withholding). This, in turn, requires adequate rules for information reporting by resident counterparts in non-resident transactions.

Information for compliance monitoring and enforcement is problematic because of the need for intelligence on foreign activities of potential taxpayers and from third parties. Thus a network of (comprehensive) bilateral tax treaties with major economic partner countries which include an article on exchange of information is important. For example, OECD (2000, 2002 and 2003) describes in detail a comprehensive system to promote transparency of bank

\textsuperscript{22} To be fair, this problem is present in relation to international taxation even in some advanced countries: See for example, Auditor General of Canada (2007). Comprehensive formal compliance cost studies for India are not available. For the income tax recent studies are Chattopadhyay and Das-Gupta (2002 and 2002a).

\textsuperscript{23} An example is The Joint Tax Shelter Information Centre of Australia, Canada the UK and the USA (Auditor General of Canada, 2007).
information in matters related to taxation while preserving, in spirit, bank secrecy. Another important initiative is for exchange of information on cross-border supplies liable to VAT under the European Union’s VIES system (see, for example, Hutchison, 1996). A third source of information, particularly important for some developing country customs administrations where customs revenue is an important contributor to the fisc, is via private sector pre-shipment inspection. To facilitate information exchange, common taxpayer numbering across jurisdictions, electronic data bases on taxpayers and mandatory requirements for third party information reports from identified institutions (banks, financial companies) or related parties (employers, land transactions record offices) greatly facilitate such exchange of information. An area where the domestic TA procedures are also facilitated by non-resident taxpayer numbers and sufficient IT capacity is in cross-matching of information provided by residents.24

One other area of importance in ensuring TA effectiveness is effective revenue capacity and audits by the jurisdiction’s supreme audit organization, to ensure TA accountability.

India’s income tax law is deficient from the point of view of anti avoidance provisions for international transactions. The most important limitations are

- The Indian Income Tax Act uses the concept “business connection” rather than permanent establishment to establish Indian tax liability of non-residents.25 The permanent establishment test appears only in a chapter introduced in Income Tax Act in 2002 and in India’s tax treaties. So, of course, treaty definitions are the applicable concept in relation to entities from treaty partner countries. Business connection has a substantial body of case law giving rise to the possibility of a non-resident firm having a business connection with a resident entity but not a permanent establishment or vice versa. This leads to potentially different treatment of entities from treaty partner and other countries, besides leading to limited TA expertise in dealing with entities from treaty partners.

- The only substantive anti avoidance legislation in Indian law is for transfer pricing for which provisions were introduced in 2002 is for transfer pricing. Though administration apparatus was also provided for in the legislation, expertise in dealing with cases of transfer pricing – indeed for applying the prescribed test for “arm’s length pricing” – is still limited.

- The absence of tests for beneficial ownership and for tie-breaker rules in case of disputed characterization of income leaves open much scope for avoidance.

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24 In practice, this is easier said than done. For continuing Canadian problems in this area despite over 5 years of trying to implement effective systems see Auditor General of Canada (2007).

• India has a tax treaty with Mauritius, a low tax jurisdiction which assigns taxation of some sources of income to the partner where a taxpayer is resident.  

• Most of India’s tax treaties do not have the equivalent of Article 27 in the OECD Model on assistance in tax collection. In most cases the scope of existing treaties has yet to be expanded.

On the positive side, India has a network of around 70 double taxation treaties which largely follow the OECD Model and, in particular, contain provisions similar to the Model’s article 26 which deals with information exchange. Use of these provisions by the TA in India is still discretionary and not subject to any internal guidelines and therefore, allegedly sparingly used. On the other hand utilization of third party information of relevance to international taxes within the country is limited, though information returns on computer readable media are required from large financial organizations for reasons discussed earlier. As discussed above another reason that access to external information by Indian TAs is limited is because of problems with taxpayer numbering and the taxpayer “master file”. In relation to residents, India has no information reporting requirements for income from designated tax havens.

India’s external auditing body, the Comptroller and Auditor General of India conducts regular audits of direct and indirect taxes. However, performance audits in the area of international tax administration have yet to be carried out, while routine “test-checks” do not cover tax assessments of non-residents extensively.

**Institutions to deal with non-compliance**

The major issues arising here are in relation to risk assessment and fraud detection of non-residents and residents with international transactions, an effective programme of cross-matching, effective use of information exchange provisions in treaty partner countries and effective use of assistance in tax collection in treaty partner countries. The TA should also be able to conduct joint audits with treaty partners in their jurisdictions or, at any rate, request

26 See Greguras and Gopalan (2004) for a discussion of how foreign institutional investors can take advantage of this position to escape taxation on capital gains from stock market transactions.

27 Some treaties) which are not closely patterned on the OECD model have no administrative provisions at all. An example is the treaty with Greece which is a provider of shipping services to India an and employer of Indian seamen.

28 No official statistics are available on this activity.

29 For example, the phrases “permanent establishment” and “business connection” do not appear at all in its most recent audit report on direct taxes, Government of India, Comptroller and Auditor General of India (2006).
that the TA of the partner jurisdiction to address issues in their audits for designated taxpayers. The domestic TA should also have an effective system to enforce collection of withholding taxes for payments to non-residents especially for residents of jurisdictions with whom the country has no tax treaty or where the tax treaty does not provide for collection assistance. In particular, tax laws should provide effective withholder penalties if taxes are not withheld. For countries in which customs duties on import of goods are a substantial revenue source, effective pre-shipment inspection services are possibly also needed since few tax treaties deal with indirect taxes.\(^{30}\)

Of the practices listed above India has satisfactory tax withholding provisions and withholder penalties. The TAs effectiveness in implementing these provisions is yet to be assessed through a performance audit directed specially at non-residents. In all other areas, TA procedures are weak, partly due to the TA being geared to dealing mainly with domestic taxpayers. However, formal risk assessment procedures for audit selection and an audit manual are not yet available even for domestic taxpayers, while IT assisted matching programmes have commenced only recently, as discussed above.

**Bilateral and multilateral administrative cooperation**

Besides the areas of cooperation in treaty partners discussed extensively above, TAs should have programmes for the unilateral and bilateral review of treaty implementation and should actively seek to strengthen administrative and anti-avoidance provisions in treaties where warranted. Membership in international regional associations of tax administrators (such as IFA, IOTA and CATA), and active participation in their conferences is also useful. Finally, given the vital role played by the OECD in analyzing international tax issues and suggesting remedies, external participation in their work, such as through participation as an observer in the OECD’s Committee on Fiscal Affairs.

While bilateral treaty reviews need to work with greater urgency, India is a member of CATA, the WCO and IFA (since 1994) and has recently acquired observer status in the OECD’s Committee on Fiscal Affairs.

**V. A scorecard for international tax administration effectiveness**

The scorecard in Table 1 below is designed to check on the quality and extent of a TA’s practices and infrastructure in relation to the “ideal” situation discussed in section IV above. The list is, at this stage, illustrative in that not all conceivable checks are included. It will also need to be expanded to encompass checks for each of the types of entities identified in section II. Furthermore, the suggested scores (0: Absent or unacceptable; 1: Inadequate; 2:

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\(^{30}\) For examinations of the impact of contract design and other factors on the effectiveness of pre-shipment services see Johnson (2001) and Yang (2005).
Adequate but with identifiable deficiencies or scope for improvement; and 3: Adequate) need to be supported by a guidelines to ensure that scoring is more or less consistent across TAs and time.\textsuperscript{31} The guidelines also need to specify the nature of data and evidence that should be cited in support of assigned scores. A third issue is that all items are given equal weight in arriving at an overall summary score. This is possibly unsatisfactory and a system of weights\textsuperscript{32} will need to be assigned to checks in accordance with their importance. This assignment, however, should be based on evidence of the importance of the scored item on TA performance which is a difficult requirement to meet without an analysis of relevant data which, for many factors will not be available. In actual use an annex providing information on how guidelines have been applied will be needed with each completed scorecard.

The scorecard begins with a summary section patterned on the sub-sections in section IV above. It should be noted that some though some questions are of relevance to more than one sub-section, the total score does not double count these questions.

The, admittedly preliminary and illustrative application to India suggests that, given its size and growing importance of international flows is extremely underprepared to deal with international tax issues. This suggests an imperative need for strengthening tax administration. The checklist could assist in suggesting areas needing improvement and in subsequent periodic monitoring of the progress of measures instituted.

\textsuperscript{31} As s done, for example in World Bank (2006), but for public financial management rather than only TA.

\textsuperscript{32} A lexicographic ordering of some questions within sub-categories may also possibly be advisable.
### Table 1: Readiness for globalization: assessment scorecard for tax administrations

(Key to scoring: 0: Absent or unacceptable; 1: Inadequate; 2: Adequate with identifiable deficiencies/scope for improvement; 3: Adequate)

(Note: Scores in italics: Reforms under way)

<table>
<thead>
<tr>
<th>Q No</th>
<th>Item</th>
<th>Score: India, 2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Summary scores</strong></td>
<td></td>
</tr>
<tr>
<td>S1</td>
<td>General requirements (maximum score 24)</td>
<td>9</td>
</tr>
<tr>
<td>S2</td>
<td>Taxpayer information (maximum score 24)</td>
<td>10</td>
</tr>
<tr>
<td>S3</td>
<td>Taxpayer assistance infrastructure (maximum score 81)</td>
<td>21</td>
</tr>
<tr>
<td>S4</td>
<td>Institutional safeguards to protect revenue (maximum score 78, 7 items repeated)</td>
<td>37</td>
</tr>
<tr>
<td>S5</td>
<td>Institutions to deal with non-compliance (maximum score 54, 13 items repeated)</td>
<td>18</td>
</tr>
<tr>
<td>S6</td>
<td>Bilateral and multilateral administrative cooperation (maximum score 24, 5 items repeated)</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td><strong>Total score (maximum score 210, Indian application 198)</strong></td>
<td>76</td>
</tr>
<tr>
<td></td>
<td><strong>Average score per item</strong></td>
<td>0.384</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>G1</td>
<td>Single or few tax departments for international taxpayers</td>
<td>1</td>
</tr>
<tr>
<td>G2</td>
<td>Organization by taxpayer segment (2 or 3) or function (1or 2)</td>
<td>0</td>
</tr>
<tr>
<td>G3</td>
<td>Effective &quot;one-stop&quot; large taxpayer units</td>
<td>1</td>
</tr>
<tr>
<td>G4</td>
<td>Adequacy if tax office network</td>
<td>3</td>
</tr>
<tr>
<td>G5</td>
<td>Reliable and comprehensive taxpayer number system</td>
<td>1</td>
</tr>
<tr>
<td>G6</td>
<td>Reliable and comprehensive taxpayer master file</td>
<td>1</td>
</tr>
<tr>
<td>G7</td>
<td>Reliable and comprehensive taxpayer current account</td>
<td>1</td>
</tr>
<tr>
<td>G8</td>
<td>Most routine tax proceedings completed within the current assessment year</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>T11</td>
<td>TA website with full information on laws, procedures, taxpayer obligations and forms</td>
<td>2</td>
</tr>
<tr>
<td>T12</td>
<td>Website searchable and with FAQs and links</td>
<td>0</td>
</tr>
<tr>
<td>T13</td>
<td>Website provides information on TA offices responsible for different international taxation functions</td>
<td>2</td>
</tr>
<tr>
<td>T14</td>
<td>Phone, e-mail, postal helplines and tax office help desks</td>
<td>1</td>
</tr>
<tr>
<td>T15</td>
<td>Knowledge and responsiveness of helplines and desks</td>
<td>1</td>
</tr>
<tr>
<td>T16</td>
<td>Advance rulings available to potential non-resident taxpayers</td>
<td>2</td>
</tr>
<tr>
<td>T17</td>
<td>Advance rulings available to potential resident taxpayers with international tax obligations</td>
<td>2</td>
</tr>
<tr>
<td>T18</td>
<td>Advance rulings are public having the force of general TA orders</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TA1</td>
<td>Simple procedure for non-residents to obtain taxpayer identification numbers</td>
<td>1</td>
</tr>
<tr>
<td>TA2</td>
<td>Simple procedure for registration for tax withholders for non-residents</td>
<td>2</td>
</tr>
<tr>
<td>Q No</td>
<td>Item</td>
<td>Score: India, 2007-08</td>
</tr>
<tr>
<td>------</td>
<td>----------------------------------------------------------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>TA3</td>
<td>Network of foreign representatives of TA for procedures requiring face-to-face interaction</td>
<td>0</td>
</tr>
<tr>
<td>TA4</td>
<td>Simple procedure for registration for consumption taxes</td>
<td>2</td>
</tr>
<tr>
<td>TA5</td>
<td>On-line or postal return filing</td>
<td>1</td>
</tr>
<tr>
<td>TA6</td>
<td>Returns can be filed by taxpayers from abroad</td>
<td>0</td>
</tr>
<tr>
<td>TA7</td>
<td>Simple procedure for filing of information returns on international transactions where required</td>
<td>2</td>
</tr>
<tr>
<td>TA8</td>
<td>Simple procedure to obtain clearances and permissions for taxable or exempt international transactions</td>
<td>1</td>
</tr>
<tr>
<td>TA9</td>
<td>Simple procedure for expatriates and non-residents to obtain sailing permits</td>
<td>2</td>
</tr>
<tr>
<td>TA10</td>
<td>Simple procedure for clearances and permissions of units in FTZs</td>
<td>1</td>
</tr>
<tr>
<td>TA11</td>
<td>Simple procedure for payment of tax/other dues on international transactions</td>
<td>1</td>
</tr>
<tr>
<td>TA12</td>
<td>Payments from abroad possible</td>
<td>0</td>
</tr>
<tr>
<td>TA13</td>
<td>Effective and timely procedure for payment of refunds</td>
<td>1</td>
</tr>
<tr>
<td>TA14</td>
<td>Refunds can be received abroad</td>
<td>0</td>
</tr>
<tr>
<td>TA15</td>
<td>Streamlined tax audit procedures, including field audits</td>
<td>1</td>
</tr>
<tr>
<td>TA16</td>
<td>Simple administrative grievance and dispute resolution procedures</td>
<td>1</td>
</tr>
<tr>
<td>TA17</td>
<td>Accessible and timely administrative appeals procedures</td>
<td>1</td>
</tr>
<tr>
<td>TA18</td>
<td>Effective tax ombudsman</td>
<td>0</td>
</tr>
<tr>
<td>TA19</td>
<td>Compliance costs of non-resident taxpayers and resident taxpayers with international dealings routinely monitored on a sample basis</td>
<td>0</td>
</tr>
<tr>
<td>TA20</td>
<td>Compliance costs of taxpayers with international transactions within prescribed norms</td>
<td>NA</td>
</tr>
<tr>
<td>TA21</td>
<td>Compliance costs of new or reformed procedures assessed</td>
<td>0</td>
</tr>
<tr>
<td>TA22</td>
<td>Compliance cost of tax withholders monitored</td>
<td>0</td>
</tr>
<tr>
<td>TA23</td>
<td>Compliance costs of taxpayers with international transactions within prescribed norms</td>
<td>NA</td>
</tr>
<tr>
<td>TA24</td>
<td>Efficient and timely customs formalities for exporters and importers</td>
<td>2</td>
</tr>
<tr>
<td>TA25</td>
<td>Effective EDI infrastructure for goods sourced abroad</td>
<td>2</td>
</tr>
<tr>
<td>TA26</td>
<td>Compliance costs of exporters and importers monitored</td>
<td>0</td>
</tr>
<tr>
<td>TA27</td>
<td>Compliance costs of exporters and importers within prescribed norms</td>
<td>NA</td>
</tr>
</tbody>
</table>

Note: The items above should be adapted and repeated for each of the entities and income sources identified in section II

4. Institutional safeguards to protect revenue

<p>| SPR1 | Adequate anti-avoidance laws: transfer pricing                       | 3                     |
| SPR2 | Adequate anti-avoidance laws: other income recognition problems     | 2                     |
| SPR3 | Adequate anti-avoidance laws: asset valuation and international tax deferral | 2                     |
| SPR4 | Adequate anti-avoidance laws: prescribing beneficial ownership      | 1                     |
| SPR5 | Adequate anti-avoidance laws: specific provisions for transactions and entities from listed tax havens | 0                     |
| SPR6 | Adequate customs valuation rules                                    | 3                     |
| SPR7 | Comprehensive withholding rules for non-residents                   | 3                     |</p>
<table>
<thead>
<tr>
<th>Q No</th>
<th>Item</th>
<th>Score: India, 2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>SPR8</td>
<td>Adequate information reporting rules for resident withholders from payments to non-residents</td>
<td></td>
</tr>
<tr>
<td>SPR9</td>
<td>Adequate penalties for non-reporting by withholders</td>
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</tr>
<tr>
<td>SPR10</td>
<td>Adequate penalties for non-compliance with withholding obligations from payments to non-resident</td>
<td>3</td>
</tr>
<tr>
<td>SPR11</td>
<td>Comprehensive bilateral tax treaties covering most jurisdictions from which non-residents originate: with mutual agreement procedures</td>
<td>2</td>
</tr>
<tr>
<td>SPR12</td>
<td>Comprehensive bilateral tax treaties covering most jurisdictions from which non-residents originate: with information exchange provisions</td>
<td>2</td>
</tr>
<tr>
<td>SPR13</td>
<td>Comprehensive bilateral tax treaties covering most jurisdictions from which non-residents originate: with assistance in tax collection provisions</td>
<td>1</td>
</tr>
<tr>
<td>SPR14</td>
<td>Cooperative arrangements with treaty partners to identify tax avoidance and evasion methods</td>
<td>0</td>
</tr>
<tr>
<td>SPR15</td>
<td>Adequate information reporting rules from banks and other financial firms relating to non-resident accounts with bank secrecy safeguards</td>
<td>3</td>
</tr>
<tr>
<td>SPR16</td>
<td>Adequate IT infrastructure to utilise information on non-resident and resident international transactions within the TA</td>
<td>1</td>
</tr>
<tr>
<td>SPR17</td>
<td>Adequate channels for information exchange with treaty partners</td>
<td>1</td>
</tr>
<tr>
<td>SPR18</td>
<td>Adequate use of tax collection assistance from and for treaty partners</td>
<td>1</td>
</tr>
<tr>
<td>SPR19</td>
<td>Effective and regular revenue audits of international transactions</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td><strong>7 items included in other sections (G5, T18, TAI to TA4 and TA9)</strong></td>
<td></td>
</tr>
</tbody>
</table>

5. Institutions to deal with non-compliance

<table>
<thead>
<tr>
<th>Q No</th>
<th>Item</th>
<th>Score: India, 2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>NC1</td>
<td>Effective information base for internation tax evasion and tax fraud</td>
<td>1</td>
</tr>
<tr>
<td>NC2</td>
<td>Effective risk assessment of non-residents and residents with international transactions</td>
<td>0</td>
</tr>
<tr>
<td>NC3</td>
<td>Effective audit procedures for non-residents</td>
<td>1</td>
</tr>
<tr>
<td>NC4</td>
<td>Effective procedures for dealing with customs under or overdeclaration</td>
<td>1</td>
</tr>
<tr>
<td>NC5</td>
<td>Joint audits or audit assistance from treaty partners for residents in partner countries</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td><strong>13 items included in other sections (T18, SR9, SR10 and SR12 to SR 19)</strong></td>
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</table>

6. Bilateral and multilateral administrative cooperation

<table>
<thead>
<tr>
<th>Q No</th>
<th>Item</th>
<th>Score: India, 2007-08</th>
</tr>
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<tbody>
<tr>
<td>AC1</td>
<td>Unilateral and bilateral procedures for periodic treaty review</td>
<td>NA</td>
</tr>
<tr>
<td>AC2</td>
<td>Active membership in regional and international tax associations</td>
<td>3</td>
</tr>
<tr>
<td>AC3</td>
<td>Adequate links with OECD Committee on Fiscal Affairs</td>
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<td><strong>5 items included in other sections (SR10 to SR14)</strong></td>
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VI. Conclusion

For globalizing developing economies a major challenge is to build tax administration capacity to tackle new areas of taxation that not needed in largely closed economies. The
major challenges are to establish cooperation channels with counterpart jurisdictions, to develop taxpayer service capacity for a growing number of non-resident taxpayers and residents with international economic interests, and to institute measures to protect domestic fiscal revenues. Though the scorecard proposed in this paper is still work in progress, the capacity to systematically monitor progress in capacity building can be aided by using it. The utility of the scorecard will hopefully be enhanced with further refinement and experience.
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