



Guidebook

Taxing the Telecommunications Industry

by
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Executive Summary

Governments worldwide are facing increased demands on public finances and the need to mobilise additional sources of revenue. The telecommunications sector represents a substantial part of modern consumer expenditure and is an important area for tax revenues. However, this Guidebook does not recommend either for or against imposing any new or additional taxation on this sector; that decision needs to be weighed against the economic benefits from this sector and the likely impact on families and other stakeholders. Rather, the Guidebook highlights the complexities of taxing the sector.

There is no single way that countries have chosen to tax this sector (beyond the application of income tax on company profits and application of the general consumption tax rate on goods and services). Sector specific taxing instruments are, however, commonly used in developing countries; they vary in nature but include:

- *Taxing handsets, tablets and other devices at manufacture or importation (either by an Excise tax or by an enhanced Customs duty or both).*
- *Applying an excise tax on the provision of a phone line or SIM.*
- *Imposing an excise tax on "airtime" and on other telephone charges.*
- *Raising the required revenue through the operator's licence fee (a "spectrum tax").*
- *Imposing regulatory fees on operators.*
- *Imposing a higher corporate income tax rate on the profits of telecommunication companies.*
- *Imposing a higher rate of VAT or Sales Tax on telecommunication services.*
- *Imposing a turnover tax on telecommunications companies.*

The telecommunications sector is technically complex and often not well understood; before embarking upon the design of any tax, detailed research will be needed. Each taxing instrument will need careful designing if the revenue-raising objectives are to be achieved, but there does not seem to be any tax regime that is straightforward – all have both advantages and disadvantages.

A bespoke excise style of tax on "airtime"¹ seems to be the approach most commonly adopted, and the Guidebook highlights the complications that will need to be addressed in the detailed design of such a tax. A degree of pragmatism may need to be applied in the design with a broadly based tax glossing over many of the complications.

In terms of equity, applying similar taxing regimes to both landlines and mobile phone communications seems attractive. Decisions will also have to be taken on whether other electronic communications (e.g., satellite TV) should also be brought within the tax charge, as the distinction between the use of telephones, the internet and broadcast transmissions is rapidly disappearing.

Part 1: Context and Background

1.1. Telecommunications Sector

Telecommunication is a very broad term. At its simplest, it covers the transmission of messages, words, images, sounds or information of any nature by wire, radio, optical or other electromagnetic systems. In the context of a tax it embraces: phone usage (mobile and landline); radio and television; the internet and all the services that it hosts; the manufacturers and operators of the hardware and infrastructure; and the related software. Section 1.6.1. describes the sector in more depth.

1.2. Fiscal Context

Governments all over the world are facing increased demands on public finances and need to explore additional sources of revenue. This is particularly the case as developing countries seek to move away from aid dependency, whilst at the same time funding major initiatives on, inter alia, free education, improved access to health services and clean water, and beginning to put into place grants to support the most vulnerable in society.

In the last 30 years, the use of communications has altered out of all recognition. This has resulted in changes to consumer expenditure patterns and priorities with a much greater proportion of personal expenditure now being made on communications². There is no reason to suppose that the rate of change and expansion of the services supplied by this sector will slow down in the coming years. As a result, governments have already seen revenue increases from the telecommunications sector but are also focussing attention on telecommunication taxes as being an important future source of much-needed government revenues (and in part to replace sources that are gradually reducing – for example, from the taxation of tobacco products). The telecommunications sector does, of course, provide the infrastructure for a large number of industries and businesses that also contribute to tax revenues, as well as supporting society in general and life-enhancing applications in particular.

There are many research papers that describe economic and other benefits flowing from the telecommunications sector. This research will need to be evaluated when taxes on this sector are being considered, but this Guidebook is written on the basis that a decision has been taken to devise a tax on this sector and concentrates on how such a tax might be designed.

1.3. Taxation Principles

Any government considering a new tax should be aware of the generally accepted principles, or canons of taxation, that have been developed over centuries. These are set out at Annexe 1. Whilst, ideally, a tax system should satisfy all the principles outlined; in practice it is often not possible to devise a tax system that satisfies them all. The telecommunications sector has a well-developed international framework (under the aegis of the International Telecommunications Union – ITU) and international agreements that will have a bearing on the taxation of cross border telecommunication services. (See 3.2.11).

1.4. Taxing Telecommunications

1.4.1. Taxes Applicable to the Telecommunications Industry

There are many taxes that affect this sector, in addition to cross sectoral taxes such as company income tax on profits. The International Telecommunication Union (ITU) Report in June 2013 entitled "Taxing

telecommunication/ICT services: an overview¹³ included a taxonomy of telecommunication/ICT taxes listing the types of taxation on telecommunications internationally. Thus taxes on this sector can take the form of:

Charged goods or services	Nature of the tax
Handsets	Customs import duty (at possibly a higher rate than for other consumer goods) Excise taxes: either a specific tax (\$x per handset) or at an <i>ad valorem</i> % rate of the handset value Value Added Tax (Sales Tax)
Other devices	Customs import duty (at possibly a higher rate than for other consumer goods) Excise taxes on tablets, PCs, laptops, games consoles, etc. Value Added Tax (Sales Tax)
Telecommunications equipment	Customs import duties Value Added Tax (Sales Tax)
Wireless services	An excise style of “airtime” tax (usually as a percentage of the credit purchased); and/or A one-off or annual tax on a SIM card/phone line Value Added Tax (Sales Tax)
Broadband	An internet access tax Value Added Tax (Sales Tax)

1.4.2. Telecommunications Industry: Taxation Options

If the primary objective of a tax on telecommunications is to raise revenue, there is a range of options available to governments apart from those listed above and an excise type of tax; the options might include:

- *Raising the required revenue through the operator's licence fees (a "spectrum tax").*
- *Imposing regulatory fees on operators.*
- *Imposing a higher corporate income tax rate on the profits of telecommunication companies.*
- *Imposing a higher rate of VAT or Sales Tax on telecommunication services.*
- *Imposing a turnover tax on telecommunications companies.*

These options are explored a little below:

Revenue levied via a “spectrum” licence fee⁴ – In many ways, this is the simplest of all the taxation options, and it has been adopted in many countries. As the “tax” or licence fee requires payment only from a very small number of telecommunication companies, it is relatively easy to administer. There would also be

an obvious sanction for non-payment (suspension of the licence to operate). The amount payable for the allocation of radio frequencies “spectrum” could be set annually as a fixed monetary sum or as a percentage of the previous turnover. Thus, the Ministry of Finance could be relatively certain of the revenue yield.

Imposing regulatory fees – In some countries, revenue is raised by placing surcharges on international calls – both outgoing and on incoming call termination charges. There are also examples of taxes being placed on the provision of a SIM card or a landline and/or subscriber/numbering activation fees.

A higher corporate income tax rate on the profits of telecommunication companies – There are precedents for this in the sense that in some countries, banks have been subjected to higher corporate tax rates than other companies in general. However, by their very nature, telecommunication companies tend to be multinationals, and there are considerable risks that profits may be shifted offshore (via transfer pricing, management fees, loans and other devices) so that the declared profit is reduced. The complex nature of the telecommunications industry tends to militate against relying to a greater extent on a tax on profits.

Higher rate of VAT or Sales Tax on telecommunication services – This is probably the easiest option for the industry and consumers to understand and ensure compliance. However, it has many difficulties. If a higher rate of VAT/Sales tax already exists, then moving specified telecommunications services up to that rate would be straightforward. But if that was not the case, and a higher rate had to be introduced, then it would require changes to tills by retailers selling “airtime” and, most likely, additional boxes on VAT returns. Similarly, the revenue administration would need to alter its computer systems to cater for the additional tax rate. In addition, it is difficult to contemplate that politicians would be prepared to tax telecommunications at a higher rate when luxuries (e.g., alcohol and tobacco), were still taxed at a lower rate. VAT would also be a defective solution from the revenue standpoint in the sense that it would not be borne by businesses (as they could most likely reclaim the VAT incurred on business telecommunication costs as input tax).

Turnover tax on telecommunications companies – This again has some attractions in that it would only affect a small number of businesses and the tax would not have to be paid overtly by the end customer. Such a tax could, however, act as a disincentive to investment by the industry, and there would also be some difficulty defining what constituted turnover; for example, in the telecommunications world it may be better (and fairer) to use, as the tax base, the operator's revenue net of charges such as network interconnection fees. Turnover based taxes or fees already, de facto, exist in some countries – for example, in India annual spectrum charges are calculated as a percentage of revenue (and can be 8%). In addition, in the UK, the costs of the operations of the regulator (OFCOM) are passed onto operators through fees and charges (equal to 0.116% of turnover for 2018-19).

1.5. Excise Taxes

1.5.1. Excise Tax Options

Examples of excise taxation regimes (including tax regimes with the same characteristics as excise taxes) applicable to communications in a range of countries are at Annexe 2. The paragraphs below amplify the various ways that excise taxes can be designed (and the importance of thoroughly studying the industry first); however, excise taxes on communication services have tended to follow one of two models:

- *A charge at a specific rate (e.g., \$x per minute or data megabyte or message).*
- *An ad valorem charge on the amount the consumer is charged (e.g., 10%).*

As the following paragraphs show, neither formulation is as simple as it appears but the imposition of an ad valorem excise tax on “airtime” seems now to be the commonest form of excise taxation on

telecommunications. The definition of what constitutes "airtime" will need careful wording (see 3.2.5.).

1.5.2. Deciding the Extent of an Excise Tax Charge on Telecommunications

As noted, the telecommunications industry is particularly complex and subject to rapid change. It is strongly recommended that, prior to designing what the tax might cover, a period of systematic research into the industry (with both fixed line and mobile operators in your country) is undertaken.

Considerations that will need to be borne in mind when deciding on the coverage of the tax should include:

- *The required revenue yield;*
- *Identifying and minimising opportunities for avoidance and evasion and the ease of audits;*
- *The administrative practicability of the planned tax charge for the telephone operators (and consistency with international accounting standards⁵);*
- *The fairness of the tax charge taking into account the inter network and national and international call termination charges;*
- *The burden of the tax on consumers and the likely impact on demand (and consequential reductions in yields from VAT) and on income tax on profits;*
- *The social and economic impacts of an additional tax burden (see 1.5.3 below); and*
- *The simplicity of the tax and its resilience to rapidly changing phone company charging practices and technological developments.*

The pragmatic and simplest approach might be to legislate for all telecommunications services to be within the scope of the tax, although that will not avoid difficult issues arising from determining the value and tax point for the tax charge.

1.5.3. Social and Economic Impacts

The importance of telecommunications to an economy cannot be underestimated. The UK Government assess that the industry directly contributes 4-5% of the country's GDP.⁶

The ITU Report in June 2013 entitled, *Taxing telecommunication/ICT services: an overview*,⁷ considered whether taxes in general were regressive or progressive. They commented that:

"typically, access to telecommunication services trickles down through the income distribution in any age group, but may also trickle up from younger to older people

– an important distributional point because in many countries wealth, in particular, is held predominantly by older generations. The link with income suggests that at the start of the diffusion process, and to a decreasing extent as it continues, a tax on access to telecommunication may fall upon the better off, and be progressive. Is this desirable? Clearly it depends on the government's and the society's social values, but it is important here to recognise that telecommunication services are both a production and a consumption good. A tax on inputs, as shown above, risks causing productive inefficiency. A tax on consumption may be justified by distributional considerations, but achieving one goal but not the other may be impractical.

A further point is that, compared with a continuing tax on usage, a one-off payment such as a tax on a handset or a charge to activate a SIM card may also bear down

particularly heavily on those with limited cash resources and an inability to borrow.

The situation with usage of telecommunication/ICT services is more complicated. Better-off people are likely to spend more on using the service, suggesting that a tax on usage is progressive. Conversely, as all subscribers may pay the same access charge, a tax on access is likely to be regressive. This is, of course, subject to the same point made above – that a tax on use for production should be considered differently from a tax on consumption uses. But there is a further point, relating to voice call usage. In most jurisdictions, the caller pays the whole price of the call, even if the person called benefits too (i.e., it is ‘calling party pays’). In any case, a call made by a rich urban dweller benefits a poor rural inhabitant. The ‘two-sided’ – caller and receiver – nature of the usage market has implications for its distributional effects.”

Thus there is no clear conclusion as to whether an excise tax will be progressive or regressive; rather it will depend on both the coverage of the tax (call charges; data charges; and any taxes on equipment) and on the nature of the market in the country concerned.

The telecommunications industry highlights the benefits to the economy of greater household penetration. The exact benefit will depend on the economy concerned, but it is reasonable to assume that any change in taxation will have an impact on demand and a consequential economic impact. The benefits might include:

- *Productivity gains in industries such as tourism, exports and manufacturing; and in social services such as education and public administration;*
- *Innovation incentives, leading to the creation of new businesses in the digital economy (applications, software platforms, local content);*
- *Integration of isolated regions, leading to further development of economic activities; and*
- *Better coordination among economic agents through improved knowledge of inputs market prices (agriculture).*

Beyond this, of course, it is important to recognise the impact of mobile communications that has revolutionised the way family members are able to keep in touch with each other.

It has been noted that, in some countries, the mobile phone sector has been unwilling to invest in building mobile/cell phone towers in rural communities where they are unlikely to achieve a good return for their expenditure. In theory, revenue from a tax could be used to build a national telecommunications infrastructure.

1.6. Description of the Telecommunications Sector

1.6.1. Telecommunications Industry

In simple form, telecommunication covers the transmission of signals, messages, words, images and sounds by wire, radio, optical, or other electromagnetic systems. The telecommunications industry often refers to telecommunication services being of two types: basic telephone services and value added services. There is some confusion in the content of each category, but the WTO⁸ defines these as follows:

- *Basic telecommunication services include all telecommunication services, both public and private, that involve end-to-end transmission of customer supplier information.*
- *Value-added telecommunication services are telecommunications for which suppliers “add value” to*

the customer's information by enhancing its form/content or by providing for its storage and retrieval.

Thus, the former category covers all the normal activities of telephone companies including:

Landline transmission:

- *Voice telephone services;*
- *Packet-switched and Circuit-switched data transmission services;*
- *Telex, telegraph and facsimile services; and*
- *Private leased circuit services.*

Mobile transmissions:

- *Analog/digital cellular/mobile telephone services;*
- *Mobile data services;*
- *Paging services;*
- *Personal communications services;*
- *Satellite-based mobile services (e.g., telephony, data, and paging);*
- *Fixed satellite services;*
- *VSAT services;*
- *Gateway earth station services;*
- *Teleconferencing;*
- *Video transport; and*
- *Trunked radio system services.*

These constitute a very wide range of services and many of the terms might be unfamiliar to the layman (see the Glossary at Annexe 6).

Whereas value-added services include many other services (see paragraph 3.1.2).

The telephone and telecommunications industry is a rapidly changing one. Thirty years ago communications were through landlines provided primarily by a national telephone provider (Telkom in South Africa, Zamtel in Zambia, British Telecomms – "BT" in the UK, etc). Charges were for a line rental and for each minute of usage for voice/fax calls but with different tariffs for local calls, long distance ("trunk") calls and for international calls. As a result of competition from mobile operators, there are now a myriad of charges even from fixed line operators – as an example, the BT current consumer price guide is 168 pages long⁹.

1.6.2. Mobile Operators

The advent of mobile phone operators has seen a revolution in not just the way telecommunications are used but also in the way telecommunication services are charged. Voice line rentals with calls charged per minute are now less common; such charges have often been replaced by "bundles" embracing both the provision of the line/service and a call or data package (or both).

The mobile industry operates quite differently to the way that fixed line operators used to charge. There are two basic service provisions – a monthly contract and "Pay as You Go" services:

- *Monthly contracts: these typically may provide a handset but have a fixed monthly allowance covering voice calls, text messages (SMS), and data. The monthly allowance may, or may not, be interchangeable between, – for example, voice calls and data. Some contracts provide unlimited calls and data, but calls or data outside of the allowance, or calls to numbers not covered by the allowance (e.g., international calls), are the subject of additional charges.*
- *Pay as You Go: these typically provide telecommunication services in return for the purchase of a credit, for use for calls, data and other services up to the value of the voucher. The credit may, or may not, be interchangeable between, for example, voice calls and data, and some "bundles" purchased may provide for unlimited data or calls for a defined period. Calls or data outside of the allowance or usage not covered by the allowance (e.g., international calls or data used when roaming) are the subject of additional charges.*

1.6.3. Interconnection Charges

One of the most complex aspects of telecommunications is the interconnection charging arrangements. Self-evidently, the fundamental principle of any telecommunications network is to allow calls between subscribers, whether on the same network or on another network. In more technical terms, a call starting from the originating caller is terminated at a point of destination, but in order to allow for traffic to be routed and terminated between different operators, “interconnection” must be established. Interconnection allows for calls placed by a subscriber in one network to reach a subscriber in another network where the call is “terminated”. For example, if a customer of Mobile Phone Company X calls someone who is with Mobile Phone Company Y, Company X will charge the customer a fee per minute for the call, but Company Y will charge Company X a fee for terminating the call on its network. This termination fee therefore forms part of Company X’s cost of providing the call to its customer, and the revenue for Company Y will include revenue received from the other company.

This interconnection charging principle applies both within countries and for international calls across borders. Thus many calls incur interconnection charges, even within a country and/or the same network (as calls may be routed through infrastructure operated by a third party).

For calls made between countries, the charging principles are laid down in International Rules from the ITU (International Telecommunication Union)¹⁰. Whilst, de facto, these arrangements ensure that the originator of the call pays for the call; the charges for the call consist of a national component and an international component originating from the country in which the call was terminated.

For calls made within a country, the charging arrangements are likely to be regulated. The termination charges in the UK are regulated by Ofcom,¹¹ which sets maximum rates for termination charges for calls to mobile numbers. From 1 April 2018, the cap on mobile termination rates is 0.468 pence per minute.

When voice calls are made over the internet, an alternative to traditional call termination charges is needed. As data charges are paid on both ends for the same VOIP call, this model obviates the need for interconnection charges per se.

1.6.4. Research

Before designing any tax on telecommunications, detailed research on the industry (in the country) is required. This is particularly important as there are marked variations between countries in how telecommunication services are sold and marketed to consumers. Thus, there are considerable dangers in simply copying the excise tax on telecommunications of another country.

Part 2: Key Tax Policy Issues

2.1. Hierarchy of Indirect Taxes

Indirect taxes, known as consumption taxes, are levied on goods and services rather than on individuals and businesses. These are usually comprised of customs or import duties, excise taxes or duties and value added tax (VAT¹²) or sales tax.

Import duties fall only on specified imports of goods according to the tariff set for each country or customs union region and do not generally apply to imported services. Excise taxes fall on specified goods whether produced domestically or imported, and excise taxes are generally levied on top of any import duties. Services tend to be taxed only when consumed domestically (although some countries have placed an excise tax on imports of electricity).

Any VAT or sales tax is usually chargeable on the basis of selling price including any import duties and excise tax. In some countries, levies are imposed that are, arguably, akin to excise taxes in impact, but the levy is based on the selling price as is the case for the VAT. For services, the value for an excise style of tax is likely to be based on the selling price (less any VAT or Sales Tax included in the cost of purchasing the service).

2.2. Nature of Excise Taxes (Especially on Services)

According to Prof. Sijbren Cnossen¹³, excises are broadly defined to encompass all selective taxes on tobacco products, alcoholic beverages, petroleum products, motor vehicles, pollutants, luxury items and other goods selected for specific taxation – whether imported or produced domestically.

Excise taxes, whilst closely related to general taxes on goods and services such as VATs and sales taxes, have the distinguishing feature of being selective in coverage. The basis for assessment for excise tax is usually a quantitative amount, for example, volume, weight or strength – to which a specific rate per unit of measurement is applied. Alternatively, some excise taxes are levied at *ad valorem* rates with a percentage tax rate applied to the value or price of products or services.

Excise taxes are levied primarily on goods, but some governments apply excise taxes to selected services. For example, in the SADC region where one or more governments charge excise taxes on:

- *Electricity;*
- *Cellphone “airtime,” and other mobile phone and data services;*
- *Other electronic communication services;*
- *Pay TV services; and*
- *Financial transactions.*

Elsewhere in the world, excise taxes can be found on gambling (e.g., UK and USA); on professional services (e.g., in various US states including Hawaii, Washington and New Mexico; and in Pakistan); on Highway usage (USA); and on indoor tanning services (USA).

As the basis of assessment (if there are high tax rates) requires some form of physical control over production, excise taxes on goods are usually levied at the manufacturing stage. Excise taxes on services, such as telecommunications, are for simplicity best taxed at the business providing the service or the service infrastructure rather than at a retail stage.

These characteristics are key distinctions on how excise taxes differ from VATs, which are levied on actual transactions and prices across the supply chain and where compliance is verified through audit and accounting checks.

As free and regional trade agreements dictate what may be charged for customs duty, governments have been turning increasingly to excise taxes – as a stable means of not just raising revenue but for penalising imports where there is no local comparator or there is a substitute local product.

Many developing countries have narrow taxpayer bases for levying traditional direct taxes on income and large informal economies. They may levy excise taxes not only on luxury items such as cosmetics, perfumes, yachts, etc., but on semi-essential goods such as soap, bottled soft drinks and even producer goods such as cement, as well as on selected services.

As such, excises can be an efficient means of taxing consumption.

2.3. Objectives of Excise Taxation

Historically, the objective of excise taxation was to raise revenue for general purposes. Excise taxes can generally be administered more cheaply and easily than other taxes because they are collected from only a small number of taxpayers – the manufacturers and importers of excisable products. Excises on tobacco products, alcoholic beverages, road fuels and motor vehicles are good sources of revenue because the products are easy to identify and measure and the volume of sales is high.

There are no close substitutes for addictive or indispensable products that consumers find satisfactory so, economically, demand for these products is described as inelastic. Imposing high tax rates on goods with low elasticity of demand is unlikely to result in economic distortion. In practice, goods such as spirituous beverages and cigarettes subject to very high excise taxes become attractive to smugglers and fraudsters. Excise taxes have been criticized over the years for being regressive in that they bear more heavily on the poor than on the rich.

Over the 20th century, governments chose excise taxes to:

- *Reflect external costs to society associated with consumption or production but not accounted for in price;*
- *Discourage undesirable consumption; and*
- *Improve the progressivity of the tax system (e.g., taxing luxury goods).*

Many developing countries have narrow taxpayer bases for levying traditional direct taxes on income and large informal economies. To compensate, they may levy excise taxes not only on luxury items such as cosmetics, perfumes, yachts, etc., but on semi-essential goods such as soap, bottled soft drinks and even producer goods such as cement, as well as on selected services.

As such, excises can be an efficient means of taxing consumption.

2.4. Excise Tax Structure Options

There are three options for the structure of an excise tax:

- *Specific – levied by reference to the weight, quantity, volume, size or contents of the product.*
- *Ad valorem – levied as a fixed percentage of (usually) the producer's sales price though sometimes values may be prescribed or computed.*

- *Mixed – a combination of a rate applied as a specific tax and a rate based on price.*

Each option carries both advantages and disadvantages, but these are different for goods as against taxing services. For services, a tax structure that is *ad valorem* is recommended as being the most practical. However, if a specific rate structure is chosen, the tax amount will not adjust automatically to reflect changes in price or inflation (so provision for regular adjustment needs to be built into legislation).

Part 3: Detailed Tax Design Issues

3.1. Scope of a Tax on the Telecommunications Industry

3.1.1. Design Scope: Landline and Mobile Operators

The first question that needs to be answered concerns whether the chosen tax should cover landlines as well as mobile telecommunications. Landlines and mobile coverage are becoming increasingly interchangeable with the operators in competition with each other. Thus there is a considerable argument (of non-discrimination) that any tax should cover the services provided by a landline or by a mobile operator. This is also the simplest option.

3.1.2. Services to be Taxed

Ministries of Finance tend to focus on what might be loosely described as an "airtime" tax. However, as outlined above, it is better (and fairer) to apply the tax to the selected services, whether provided by a fixed line or a mobile operator.

As regards the services to be taxed, the prior question is whether the excise tax is to be narrow and cover only (selected types of) communication services used by the public. A much wider form of telecommunications tax could cover additional services provided to businesses (such as private leased circuit services; gateway earth station services; VSAT connections and equipment; video conferencing, and fixed satellite services¹⁴). Even for domestic consumers there are many potential areas that the tax could cover beyond the use of land and mobile phone lines, for example, cable or satellite TV.

A narrow definition of what constitutes the taxed services could be:

- *Any landline charges for the provision of a phone line, calls, messages or data; and*
- *Any mobile charges for the provision of a SIM (and network access), calls, messages or data.*

However, much broader definitions are also possible, as there are many more charges that telephone companies make to consumers that go far beyond the cost of telephone calls, messaging or data. They will include caller line identification, number blocking, charges for paper bills, SIM and number swap charges, voicemail charges, paging services, and many more, as well as either the overt or covert recovery of charges for equipment (such as phone handsets, tablets, ADSL wireless routers, modems, etc.). There will also be a range of "value added services" that need to be consciously either included or excluded from the excise tax charge. Examples include:

- *Purchase of ring tone and downloads of wallpapers, themes, other graphics or picture messages formats;*
- *Application ("App") (and other software) purchases and downloads;*
- *Entertainment: downloading or streaming videos, live TV, etc.; online games; online gambling; lotteries; and music downloads;*

- *Marketing and advertising;*
- *Transaction fees for the redemption of coupons, point of sale, purchases and micro payments;*
- *Call directory and call centre services;*
- *Calls or texts to premium numbers; texts that include a charitable donation or other payment to a third party; and*
- *Cloud storage.*

Mobile money¹⁵ is an application that is a de facto bank account rather than a telecommunications service per se. However, some countries have also levied an excise style of tax on the charges made for mobile money transactions.

Clarity on the inclusions and exclusions is essential. It must also be borne in mind that the business models of the telecommunication industry are evolving rapidly and hence some attempts must be made to design the tax charges in such a way that they do not quickly become outdated and need amendment. But, as mentioned earlier (see 1.4.2), there may be alternative taxation options that are more flexible and resilient to changes in the industry.

Even with a broad coverage based on "all telecommunications services", it is likely that some "anti-avoidance" provisions will be needed to ensure that, for example:

- *Equipment costs (and any warranties thereon) are not inflated to cover "free" calls, messages, data, etc. (and hence reduce artificially the excise tax payable) – in some instances equipment costs may be subsidised by the operators;*
- *Payments (for packages and bundles) that cover taxable and nontaxable services are not allocated inappropriately in order to reduce the value on which excise tax is payable;*
- *Services that are purported as "free" do not adversely affect the tax base.*

However, for the purposes of this Guidebook, we focus primarily on a tax on "airtime" purchases from mobile operators (for use for calls, messaging, and data), but the table below shows a few of the options that are available for bringing into the tax net:

- *Other services supplied directly by GSM operators;*
- *Mobile money charges;*
- *Landline telephone services; and*
- *Other electronic services (e.g., satellite TV).*

	Comprehensive	Telecomms Only: Wide	Telecomms: Middle Route	Telecomms Only: Narrow
GSM				
“Airtime” credit purchases and all other PAYG revenues	All	All	Exclude amounts used on specified non chargeable items/services	Exclude all usage other than for calls, messages and data
Billed charges	All communications including TV and film/video services	All communications excluding TV and film and video services	All communications excluding TV, film and video services and hardware costs	Line rental, calls, messaging and data only
Landline				
Billed charges	All communications including TV and film/video services	All communications excluding TV and film and video services	All communications excluding TV, film and video services and hardware costs	Line rental, calls, messaging and data only

3.2. Tax Design Checklist

The main areas to cover are as follows:

- *Tax type (an excise tax or levy);*
- *Tax rate structure (specific or ad valorem; one rate or multiple rates);*
- *Tax coverage;*
- *Taxable value (for an ad valorem rate structure);*
- *Tax point;*
- *Tax administration requirements; and*
- *Special provisions (areas to be covered in law).*

3.2.1. Tax Type (excise tax or levy)

This is an important decision and in many ways a difficult one. Excise taxes have traditionally been levied on goods, and the existing excise legal framework and administration approach may not be ideal for taxing services. Conversely, the legal framework for VAT is designed for the taxation of both goods and services. So the practical options for an excise style of tax on mobile phone usage (or on a wider range of telecommunication services) are either some adaptations to current excise laws or a bespoke levy or tax on (specified) telecommunications with legal provisions and powers that closely mirror those found in VAT laws.

3.2.2. Tax Rate Structure (specific or *ad valorem*; one rate or multiple rates)

Governments should set appropriate tax rates that will deliver the required tax revenues efficiently, whilst meeting any other public policy objectives. Rates should not be so high as to provide a real incentive to fraudsters. For goods, if the tax rate is broadly comparable to that set in neighbouring jurisdictions, it helps to reduce the incentive for smuggling, but not the incentive for illicit or undeclared production.

For services, these considerations only apply at the margins, but using foreign based service providers may be an "avoidance" option particularly in the field of electronic communications. It is clearly undesirable to have a tax regime under which services such as satellite TV are taxed if supplied by a local business, but are not taxed when supplied from abroad.

A specific rate charging mechanism sounds attractive but is likely to be more complex to apply for both operators and the tax authority. In theory, a specific rate tax structure could be devised with tax bands based on monthly usage (as an example, for data, say, a tax of \$0.25 for up to 1GB a month; \$0.5 for up to 5GB, and \$1 for over 5GB). However this approach would be difficult to apply to PAYG customers. A fixed tax per month or per year for each SIM card activation is one route that may be practical (Italy, Pakistan and Turkey have variations of this). However, any specific rate tax that is based on the amount of minutes or data either purchased or used, is bound to be fraught with difficulties (particularly to operators as many packages provide subscribers with *de facto* unlimited usage). A specific rate tax on (the importation or manufacture of) handsets and other devices used for telecommunications (including or excluding PCs, tablets, TVs, etc.) would be regressive, but an *ad valorem* tax would be more progressive as it would place a higher tax burden on the purchase of more expensive hardware.

Ad valorem tax rates are likely to be easier to apply (for both operators and the tax administration) compared with specific rates and would not need periodic adjustment to reflect price changes, inflation, etc.

3.2.3. Equity Considerations

For reasons of equity, ideally there should be comparability between the tax applied to both land and mobile lines. Additionally, the advent of Skype, What's App, and others has altered the phone and text message landscapes. Many voice calls or text messages are now not sent using call or text message credits, but instead they are paid for by data usage. It is important to avoid any tax charge that does not embrace the totality of voice, messaging and data usage and ideally, the tax rate structure should be such that there is no tax advantage or disadvantage for using one communication route or another. So, on equity grounds, and as an example, if a 15-minute Skype conversation uses 20MB of data, the tax payable should theoretically be broadly the same as for a 15-minute dialled voice call. However, such an approach could create additional complexity for industry and tax administrations alike. Perhaps, again, it will be necessary to forego equity considerations and merely apply the tax equally to all telecommunications services thus avoiding the need to distinguish between such methods of communication. Given that the industry is developing new features and products all the time, the coverage of the tax will need to be as broad as possible to ensure it is future proof.

3.2.4. Elasticity of Demand

The impact of price changes in the telecommunications sectors has been studied, but no clear picture emerges. The IMF working paper WP/17/247¹⁶ (Table 2) confirms that the estimated price elasticity varies greatly, but that it seems to fall mainly within the range from -1.0 to -2.1.

Much, of course, depends on the type of contract or the purchase that a consumer makes. If a person pays

\$20 a month on a contract or buys a top-up credit voucher for \$5 each week, and a new tax charge simply results in a smaller call duration or data allowance, then the impact on sales would probably be less than if the telecommunications company increases the monthly contract charge or the top-up voucher cost. A further complicating factor is that telecommunication costs have tended to reduce over time (partly due to a competitive marketplace and partly due to pressure from industry regulators) so a tax increase might, after a period, be de facto cancelled out by price reductions. The myriad of contracts, packages, bonuses and special offers will also make it very difficult for consumers to assess the exact impact of a tax charge on their services.

If the tax is charged on the value of services to consumers, then the tax revenue yield will naturally follow the ups and downs of prices charged to consumers.

3.2.5. Tax Coverage

Paragraph 3.1 outlined the many options for tax coverage, and as Annexe 2 shows, an “airtime tax” is the most prevalent choice. But whatever coverage is decided upon, there must be a clear definition in the law on what is taxable and what is not. In particular, “airtime” will need to be carefully defined in order to avoid subsequent disputes and be a definition that consumers can understand and which is feasible for the industry operators to apply. As far as is practical, the definitions chosen should be broad in nature so that they will not need constant changing as the industry develops either new (technical) products or new marketing approaches.

3.2.6. Taxable Value (*ad valorem* rate structure)

If the selected approach is to place an excise tax of x% on the amount charged to consumers for listed telecommunication services, the tax might be calculated as a percentage of the VAT exclusive amount.

However, establishing what constitutes the amount charged to or paid by consumers, can be complicated due to the way that the mobile industry operates. A credit purchase of, say, \$1 may give the following:

- *A credit of \$1 (for use for calls, messaging or data) and the same in revenue to the operator (for example, when a person purchases from the operator direct by a transfer from a credit or debit card);*
- *A credit of \$1 (for use for calls, messaging or data) but, say, 95c in revenue to the operator (for example, when a person purchases through an agent and the agent retains part of the top up charge as a commission – typically 2.5% to 5%). The commission should ideally be treated as a separate transaction and excise tax charged on the full amount paid (rather than the net amount after deducting commission); and/or*
- *A credit of \$2 (but only \$1 of revenue to the operator) because the operator provides a bonus at particular times of the month (e.g., "top up before midnight and get a double call or data credit").*

The value for excise is further complicated if the consumer purchases a credit for, say, \$1 but only uses say, 50 cents of it before it expires.

Some of the complications tax designers face when dealing with the telecommunications industry arise from how services are sold and, in particular, from packages or "bundles" where one charge covers more than one service. For example, several "landline" companies in UK sell packages that can include: landline and mobile voice/data communications, ADSL routers, mobile phone handsets, anti-virus software, satellite TV access, and on line movies. If not all services are taxable then clearly deciding the value of the taxable services will be a challenge.

A further complication can be calls or texts to premium numbers and texts that include a charitable donation or other payment to a third party. These are further reasons for the tax to cover all telecommunications services.

It is essential to have law that is clear (and unarguable) when defining what is the value for excise duty. One option is to base the value for excise on the gross amount paid for any mobile phone credit (less any VAT). This is important as a small percentage of credits purchased will never be used, and, in addition, when a credit is converted into a purchase of, for example, call minutes or data, a proportion of what is purchased also may never be used.

Another issue may be the inclusion of a "free handset" within the bundles of services, and perhaps the way forward is to take the Customs value (CIF plus all duties, taxes, levies payable at importation) as the default value for the "free handset". A simpler approach would be to extend the excise tax on services to cover the handset and any warranty.

It may also be prudent to include in the law a valuation provision to define the "open market value" of taxable services, for use when discounted, reduced price or free services are provided.

3.2.7. Tax Point

A "tax point" is the time that the tax becomes payable. For services, the tax point will usually be the earlier of payment or the completion, or performance, of the service.

The way the mobile industry can work is that a credit is purchased (by some means) and is placed on a person's account. This is akin to depositing money into a bank account and could be viewed as such rather than a payment for a specific service. That credit could then be used for:

- *A transfer of a credit (or data) to a friend either as a credit or as call minutes/data, etc.;*
- *Used to purchase a call, message or data bundle; or*
- *Taken by the mobile operator to cover the cost of "out of bundle" calls, data, etc.*

It is important to decide when the excise tax point occurs and how to accommodate scenarios such as mobile money. If all services are not going to be taxed then there must be a means of knowing when, say, a taxable service has been purchased from a credit balance. This is another reason to keep things simple and levying the tax on all telecommunications services.

In the above examples, the purchase is in advance with the credit purchased being used over a period (or maybe forfeited when the validity period expires or, for example, when the account is suspended for lack of use). The law must ensure that the excise tax is levied when the payment is received rather than when the credit is actually used. Thus the tax point for excise should be the earlier of either:

- *The receipt of a payment;*
- *The raising of an invoice; or*
- *The completion of the service.*

These alternatives are important given the different ways that telecommunications are charged for (e.g., by monthly invoices) and bearing in mind the complications of roaming charges, etc. A pragmatic approach is to adopt the same tax point rules for a telecommunications ("airtime") tax as apply to VAT, as that would certainly simplify matters for both the operators and the tax administration's audit staff.

3.2.8. Special Provisions (detailed areas to be covered in law)

Specific legal provisions may be needed (beyond the normal excise legal provisions – designed for goods) to ensure that the tax works as intended on services such as telecommunications. These might include:

- *Treatment of charges for handsets;*
- *The import/export of services;*
- *Charging provisions for calls made or received when abroad (jurisdiction);*
- *TV services – place of supply is where the service is received (jurisdiction);*
- *Supplies to entitled persons (e.g., diplomatic missions);*
- *The treatment of tax on bad debts (on billed calls);*
- *Self-supply (including free or reduced price supplies to staff);*
- *Commissions paid to agents;*
- *Free samples, gifts, promotional items, trial services, free minutes or credits, etc.; and*
- *Treatment of refunds and credits (e.g., call, message and data credits).*

3.2.9. Treatment of Charges for Handsets

The general rule (provided for in the legislation) might be that any charges for handsets or other hardware (and any warranties on them) can only be excluded from the tax base for billed services if they are separately itemised on an invoice. (This assumes the tax does not cover any hardware.) However, to prevent tax avoidance (by inflating hardware charges and reducing service charges) there may need to be a provision to ensure that the equipment is billed at cost or no more than cost plus a laid down percentage.

3.2.10. The Import and Export of Services

If a tax on telecommunications is widely drawn and extends into services supplied to businesses overseas (e.g., cloud storage), governments may wish to mirror the VAT export zero-rating provisions on exports of services. This should not extend to the zero-rating of telephone calls to other countries. In theory, a VAT-like reverse charge on imports of services could also be applied.

3.2.11. Jurisdiction Issues in the Context of Import and Export of Phone Services

Landlines are comparatively straightforward as they are invariably used in country. However, some mobile phones will be taken out of the country and used abroad (although charges will be incurred within the home country). Equally mobile phones with foreign registered SIM cards will be used in country.

The law will need to have provisions that define when services are “exported” and cover both calls received and made whilst abroad (whether or not they are from or to the home country), and make it whether they are to be subject to excise tax or not. Data usage when abroad will also need to be covered.

Telecommunication companies may argue that the interconnection charges they have to pay to third parties overseas (e.g., to overseas providers as termination charges) should be deducted from the revenue base on which excise tax is calculated. There is logic for this as the charges concerned are not for a service that is incurred within the country; however, this would amount to an unjustified financial benefit for the telephone company if they did not pass such a tax free amount back to consumers. The simplest way

forward, and admittedly a pragmatic approach, is to ensure that the law provides that all calls, messages, data, etc., charged to a phone number in the home country are subject to excise tax (wherever in the world a call is made and wherever a call is received and regardless of where data was used).

Situations where services are “imported” are a potential complication. On grounds of practicality, in collecting excise tax, the use of foreign-registered mobile phones in country may need to be overlooked. This will, however, be problematic where an operator treats more than one country as if it were a single country. For example, clear legal (and inevitably complex) provisions will be needed to cover situations such as:

- *MTN in Rwanda; MTN in South Sudan and Safaricom in Kenya operating as de facto a single network.*
- *Airtel allowing usage in 20 African countries with no charges for incoming calls; local calls when roaming being at that country's rate and the ability to top up in the country being visited (with any credit remaining being able to be used on return to the home country).*
- *Mobile usage in EU countries being treated as being the same as domestic use – for example, a UK phone can be used in France for any calls within the EU at the same cost as for calls made or received in the home country (with the same call minutes, data allowances applying).*
- *Foreign visitors making domestic calls in country using a foreign SIM and billed to them by a foreign based operator; this can sometimes be a particular feature in border areas where there is a differential in call costs between neighbouring countries.*

A similar situation will arise from satellite phones that do not use the network of a telecommunications operator in the home country.

Perhaps the only way to avoid such complexity in respect of import and export of mobile phone services when designing an excise tax on telecommunications is to limit the tax to services provided by businesses based in the country concerned. There will still be tax “lost” on services provided by businesses outside the country, but that might be the cost of achieving simplicity and certainty in framing the legislation (and, of course, recovering tax from a business overseas would also be problematic). In this situation, it will be helpful if the same legislative approach is taken in neighbouring countries and/or in the immediate region.

For international telephone services there is an international “standard” that members of the International Telecommunications Union have adopted as regards the taxation of “incoming” calls¹⁷. This reads as follows:

“6.3 Where, in accordance with the national law of a country, a fiscal tax is levied on collection charges for international telecommunication services, this tax shall normally be collected only in respect of international services billed to customers in that country, unless other arrangements are made to meet special circumstances.”

The objective in the legal drafting should be to preclude the double taxation of any service (or part thereof), but equally to ensure that there can be no tax avoidance that results in the “non taxation” of a service.

3.2.12. Jurisdiction Issues in the Context of Import and Export of Other Services

It will be important to establish in the legislation the “place of supply” for a service; for example, for satellite TV (which may be “beamed” from one country via a satellite to another, with maybe the payment being made to a foreign company). This also applies to VAT and a provision that defines the place of supply as where the service is received or used will help to counter potential tax avoidance. Thus for satellite TV, tax will be payable by the subscriber in the country of receipt (regardless of where the TV company is based or where the payment is sent).

Separate legislative provisions may also be needed for “cloud” storage and services (when the hardware is located outside of the country).

3.2.13 Supplies to Entitled Persons

Under a VAT, there may be some exemptions (or tax refunds) for supplies to entitled persons (e.g., for services supplied to diplomatic missions). It would be prudent to mirror any such reliefs in the legislation on a telecommunications tax.

3.2.14. Treatment of Tax on Bad Debts (on billed calls)

Some countries provide for relief from VAT on bad debts and, if that is the case, it would seem difficult to defend the exclusion of a similar relief to an excise tax on telecommunication services (subject to the same requirements as for VAT). This will affect only billed services (rather than “Pay as You Go” credit purchase).

3.2.15. Self Supply (including free or reduced price supplies to staff)

It would seem unjust that a telecommunications business (as compared to any other business) can supply services to its staff or for use in its business “tax free.” Thus a provision that imposes a tax charge on self-supplied services might be contemplated.

3.2.16. Commissions Paid to Agents

A feature of the sale of “airtime” credit is the commission paid to agents and retailers. The risk of the commission being deducted from the credit cost is covered in Section 5.7., but, in order to minimise misunderstandings, it is important to ensure that the law sets out clearly that the value for the excise tax is the amount paid by the consumer (net of VAT) and that the value for tax cannot be further reduced by any commissions paid to an agent.

3.2.17. Free Samples, Gifts, Promotional Items, Trial Services, Free Minutes or Credits

The legislation should also clarify the tax treatment of any free services provided either to particular persons (“brand ambassadors”, politicians, etc.) or to consumers in general for a trial period. The laws should also cover businesses that offer “loyalty points” for customers, reduced prices for introductory periods, and offers to tempt new customers such as free equipment.

3.2.18. Treatment of Refunds (call, message and data credits) and Credits

Rules will be needed to cover situations where a credit is given whether for a service failure or for an incorrect charge (or for any other reason). The objective of having clear rules (and legal provisions) is to avoid disputes and/or errors made resulting in irregularities that come to light during audit/assurance checks.

3.2.19. Ease of Revenue Assurance/Audit

Developing countries may not have sufficient skilled resources to carry out the specialist computer audits/assurance needed for this sector. Therefore, it is important to aim for as simple a tax as possible for ease of revenue assurance. A simple tax should also minimise compliance costs for the industry.

Part 4: Tax Administration and Powers Required

4.1. General Characteristics of Effective Tax Administration

For all taxes, the IMF recommends the following general characteristics as essential components of a modern tax system appropriate for the digital age and a globalized economy.

Characteristics of Effective Tax Administration

- *A proper legal framework for tax administration that provides an appropriate balance between the rights of taxpayers and the powers of the tax agency.*
- *Efficient organizational and staffing arrangements, featuring strong headquarters; function-based organizational design; minimal management layers and appropriate spans of control; streamlined field operations; and organizational alignment to key taxpayer segments (e.g., a large taxpayer office); and sufficient numbers of staff assigned to each level of the organization and each function.*
- *A system of self-assessment directed at creating an environment of taxpayer voluntary compliance (thereby minimizing intrusion of revenue officials in the affairs of voluntary taxpayers, while concentrating enforcement efforts on those representing a higher risk).*
- *Streamlined collection systems and procedures aimed at securing timely revenues without imposing undue compliance costs and inconvenience on the business sector.*
- *Service-oriented approaches, whereby the tax administration operates as a trusted advisor and educator, ensuring that taxpayers are given the information and support they need to meet their obligations voluntarily.*
- *Risk-based audit and other verification programs aimed at detecting taxpayers who present the greatest risks to the tax system, supported by effective dispute resolution.*
- *Extensive use of IT to gather and process taxpayer information, undertake selective checking based on risk analysis, automatically exchange information between government agencies and provide timely information to support management decision making and tax policy formulation.*
- *Modern human resource management practices that provide incentives for high performance and non-corrupt behavior among tax officers as well as develop staff skills and professionalism.*
- *Effective models for ongoing institutional change, including enhancing strategic planning capabilities, building coalitions with external stakeholders, and developing an internal culture that is receptive to change.*
- *An environment of integrity and good governance with transparency of taxpayer rights and required staff conduct, with mechanisms to assure integrity of systems, procedures and staff practices, and to regularly inform the public of organizational goals, plans, efforts and outcomes.*

4.2. Administration of Excise Taxes

Excise tax laws and the requirements have generally been designed to provide for the effective administration of excise taxes on “high risk” products such as cigarettes and alcoholic drinks. The provisions usually cover licensing, vetting of directors to preclude persons with past revenue offences, premises and machinery that meet revenue standards, a financial security or bond, office accommodation for excise officials, and controls over production, etc.

VAT, with its lower tax rates, on the other hand, does not require the above. The revenue risks of an excise tax on telecommunications are broadly similar to those of a VAT and thus a tax administration would probably seek to administer an excise tax in a similar way and would not wish to apply the provisions of excise laws in full.

The likely requirements should cover the requirements for, inter alia:

- *Registration;*
- *Record keeping;*
- *Returns and payments;*
- *Debt management;*
- *Assessments;*
- *Compliance powers;*
- *Offences and penalties; and*
- *Appeals.*

Paragraphs explaining each of the above follow.

4.3. Registration

Telecommunication providers subject to excise tax will need to register with the tax administration and provide information about their businesses such as:

- *Name and address of legal entity (and a copy of the certificate of incorporation, etc.);*
- *Mailing address of the business headquarters (if different from above);*
- *Name and contact details of senior person in the business who will be responsible for the tax returns and payments;*
- *Tax identification or reference numbers – for example, for VAT, Company Income tax, Personal Income tax and/or Payroll Tax as appropriate (these numbers should be linked on the tax administration's database so that comparison can be made across taxes with the tax administration having a complete picture of the company's tax affairs);*
- *Bank account details;*
- *Details of the services they provide including revenue by category types;*
- *Copies of their current Tariff Structures; and*
- *Details of commercial records kept and software used.*

As part of the registration process, a follow-up visit will be prudent to explore and document the company software, the accounting systems and the internal assurance mechanisms in detail.

4.4. Changes to the Registration Data

Any changes to the registration data must be notified to the tax administration without delay.

4.5. Deregistration

There will need to be a facility allowing companies to deregister where they cease trading in products and/or services subject to the tax or when businesses merge, etc.

4.6. Records to be Kept

The commercial records required for VAT and for income tax (on profits) should form the mainstay of the records required for this type of excise tax. Additional records may be required if features of the excise tax differ from VAT – for example, to record the self-supply of telecommunication services.

4.7. Length of Time to Keep Records

A five-year minimum period is commonplace, but some countries require a longer time period. In any event, the record keeping requirements should be set out in legislation and, ideally, be the same for all taxes.

4.8. Rendering Returns and Making Payments

Tax administrations need to decide on the frequency with which to require returns from telecommunication companies, but the frequency needs to tie in with the billing arrangements of the companies. Monthly returns and payments are likely to be preferred by government so as to ensure a consistent revenue flow. Linking return and payment dates to when VAT returns are due might simplify administration.

The information on the returns will need to reflect the detailed design features of the excise tax and be sufficient to provide some background information that can be verified during periodic audits. The return data anticipated as being required should be discussed with the telecommunications companies to ensure that it is available on, for example, a monthly basis.

Returns and payments should be required to be submitted electronically.

4.9. Debt Management

In excise laws, overt powers to recover unpaid tax are frequently absent (the assumption being that the premises can be closed and stock can be detained, etc). For an excise tax on telecommunications, powers that are akin to those of VAT are recommended – including powers to levy distress on assets, to garnish/attach a bank account, and to recover amounts owing from third parties.

4.10. Assessments

A power to assess (and call for) tax due is commonplace under a VAT and permits the administration to estimate the tax due if no return is submitted, as well as calling for tax underdeclared found during an audit. Such powers are frequently not found in excise laws but could be important for an excise tax on telecommunications.

4.11. Compliance Powers

The tax administration must have powers to access records (including computer records) and enforce all requirements necessary to secure full compliance with the tax legislation.

These powers may need to be different from the traditional powers available for excise functions and more akin to those available for VAT. Necessary powers include:

- *Access to, and search of, premises;*
- *Seizure of computers, records and other items;*
- *Record keeping requirements;*
- *Provision of information when required;*
- *Challenge the content of any tax return or other relevant document; and*
- *Assess additional liability where appropriate and enforce payment.*

4.12. Offences and Penalties

Penalties should be proportionate not only to the amount of tax involved but also to the compliance history of the business. A first under-declaration may be subject to a small penalty, in addition to an assessment for the unpaid tax, or to a “suspended” penalty and a requirement for the operator to record and declare product tax liability correctly over a subsequent period (two or three years), whereupon the penalty would lapse. If, however, the operator were to make another under declaration within the period advised, then a larger penalty plus the original “suspended” penalty would be due.

One country¹⁸ has a sanction for non-compliance with monitoring mechanisms that equates to 5% of annual turnover (with licence revocation should the failure persist).

Additional penalties and sanctions should include:

- *Sanctions for non-payment;*
- *Sanctions and penalties for irregularities or non-compliance; and*
- *Criminal prosecution (particularly for fraudulent behaviour).*

In the telecommunications sector withdrawal of an operating licence would represent a very severe penalty and affect potentially millions of customers, so although provision should be made for licence revocation in the law, it would only be considered in extreme circumstances.

4.13. Appeals

An appeals mechanism is an important part of good tax administration and helps to engender voluntary compliance. This should, ideally, cover any decision of the tax administration, including the withdrawal of a licence and to disputes over the amounts of tax payable. In order to deter frivolous appeals, rules should be in place to require some or all of the tax in dispute to be paid before the appeal can be heard.

Part 5: Compliance, Tax Risks and Audit/Assurance

5.1. General Principles

Compliance is what is expected of all taxpayers and all actions by tax administrations should aim to ensure that taxpayers comply with the law and published procedures. An effective modern strategy for compliance should aim to optimize tax revenues and facilitate legitimate trade. To achieve these objectives, regulations and procedures should be simple, with requirements based on modern commercial practice, including the use of electronic facilities for filing returns and making payments. The strategy should include the use of appropriate tools to respond to taxpayer behaviours. The intention should not be to penalize or put out of business those who make genuine mistakes but to show taxpayers how to get it right next time.

Much of an administration's time and effort is spent dealing with errors made, deliberately or unintentionally, by taxpayers. Operators who are regularly negligent or are lax in their internal controls or documentation should be assessed the appropriate penalties, which should include suspension or revocation of license. Those who deliberately evade must be addressed through penalties (including suspension or revocation of their excise registration, licence, or approval) plus enforcement and criminal investigation action. Successful prosecutions should be publicized to the maximum in order to deter others.

It is assumed that a large publicly listed telecommunications company will not engage in fraudulent practices; rather, it may make errors in the calculations of its excise tax liability and/or be late with making returns and/or tax payments. Engagement at senior levels with the company can minimise the latter but errors can only be addressed by a combination of education and audit.

The compliance effect of a good audit can be expected to include the detection of errors with a view to future declarations by the taxpayer being accurate.

5.2. Creating Effective Partnerships with Business Operators

Effective partnerships are built on mutual respect and an efficient, practical and transparent system of administration and enforcement. Both the tax administration and the operator have to take action to ensure that there is no corruption on either side. Some countries have developed voluntary Memoranda of Understanding through the trade associations representing taxpayers in particular business sectors.

5.3. Voluntary Disclosure

Several developed countries have established a "voluntary disclosure" facility whereby an industry member may voluntarily disclose to the tax administration any errors made regarding payment of taxes. Depending on circumstances, the tax administration may reduce or remove the penalty and require that the taxpayer pay only the tax owed and interest. If the tax administration finds the error, full penalties are applied. This facility has proved successful in encouraging industry to audit itself rigorously to avoid penalties and the ability to make voluntary disclosure has helped to build trust between tax administrations and industry.

5.4. Working with the Regulator

Many countries now have an independent regulator of telecommunications. The regulator will have insights into each company's behaviours and issues. It is well worthwhile engaging with the regulator at frequent intervals to assist in planning audits.

5.5. Taxpayer Education and Support

Taxpayers need to understand that, in recompense for the privilege of being allowed to register they will have obligations. The tax administration should ensure that these obligations are published clearly and in user friendly language, not legal terminology. All those who seek to register as excise taxpayers should be provided with full information about the tax administration's requirements for conducting their business once the registration has been granted.

5.6. A Risk Management Approach to Control

The modern approach to compliance and enforcement is underpinned by risk management.

The benefits of a risk-management approach are that compliant businesses receive relatively little tax

administration attention so that scarce resources can be devoted to those businesses and those transactions that pose the greatest risk of fraud.

At regular intervals after registration, risks may need to be reviewed as the risk information may have changed, compliance may have decreased, new personnel may have been appointed to positions of responsibility, and there may be unusual trading patterns or partners which give rise to compliance doubts.

Risk management also applies to each individual transaction and to all returns and declarations made. There may be millions of individual transactions per year, and risk factors need to be devised and set centrally according to the circumstances in each country. These are usually combined with parameters that can be set by local officials (subject to approval by local management to guard against corruption).

Central to a modern risk management system is information. This means that the tax administration needs electronic information of all return data. Weightings can be given to factors such as intelligence, results of spot checks, industry trends, assessments levied, compliance history, warnings and penalties issued and number of new and total customers. The set parameters are applied, and the results both determine the frequency and level of all audit interventions and can lead to specific enforcement interventions where the risk analysis indicates potential fraud.

5.7. Tax Risk Areas

For a listed large telecommunications company the main risks for an *ad valorem* excise tax charge are ensuring that all the taxable revenues are accounted for. The detailed design of the excise tax (see 3.2) will dictate the detailed risk areas and particular attention during a tax audit will need to be paid on specific detailed tax rules on, inter alia:

- *The value for tax;*
- *The time the tax is due (the tax point);*
- *The treatment of roaming and international call charge revenues;*
- *Non call revenues;*
- *Exemptions;*
- *Payments for hardware;*
- *Self-supply of services;*
- *Treatment of credits given and forfeited credits, etc.; and*
- *Credits purchased but used to buy non-taxable services.*

If there is a VAT (or sales tax) in place when a telecommunications tax is introduced there is an obvious risk that the company will assume that the same rules and detailed provisions that apply for VAT should also apply to a new telecommunications tax. However, the legal frameworks may well be different and the detailed rules on, for example, the taxable value and on exemptions may also differ.

Discussions with other tax administrations may help to identify specific risk areas for telecommunications companies (and be particularly useful where a telecommunications company is part of a group operating in many countries and using identical or similar IT and accounting systems). As an example, taking the first risk of an incorrect value for tax being used with incorrect deduction of the agent's commission from the value for tax. This might arise from misinterpretation of the tax value rules or using the wrong excise tax base. An example might be:

Example (all figures rounded)

- Credit of \$5 purchased.
- \$5 includes VAT of 17% - \$0.72 (total paid x tax rate / (100 + rate of tax): $\$5 * 17/117$)
- VAT exclusive cost = \$4.28 ($\$5 - \0.72)
- Excise Tax (at 10%) = \$0.39 (VAT exclusive cost x tax rate / (100 + rate of tax): $\$4.28 * 10/110$)
- Excise tax value = \$3.89
- Commission to agent = \$.020 (4% of \$5)
- Net revenue to company = \$3.69

The commission of \$0.20 does not affect the tax value for either VAT or excise tax because two supplies are taking place – the sale of services to the customer and the supply of a service by the agent to the telephone company.

5.8. Audit

5.8.1. Introduction

An audit of a telecommunications company (e.g., a mobile phone operator) will need a carefully planned approach and ideally will cover three tax types – excise, VAT and income tax on profits. Only if a telecommunications tax is charged at specific rates would a separate excise audit be likely to be warranted. The reason for covering all tax types is that the main source material for auditing will be the company's IT system with the same information being used as the basis for the verification of declarations for the three taxes. Specialist computer audit skills are likely to be needed in the audit team in order to be able to extract the required information for the audit (and/or to verify the information provided for the audit by the operator).

5.8.2. Methodology

An audit should follow the usual methodology employed by the tax administration for auditing any large business (see the example methodology at Annexe 4) that is likely to entail, for example:

- *Desk research (including past tax returns, financial accounts) and drawing up of an audit plan (this might also entail a pre-audit visit to the telecommunications regulator to assemble background information);*
- *Initial interviews at the business and assembling of the required information (including management accounts and internal and external audit reports);*
- *Making a preliminary assessment of compliance and risk areas;*
- *Testing of individual risk areas; and*
- *Producing (and discussing) the audit findings.*

5.8.3. Sources of Tax Liabilities

In a telecommunications company there are likely to be several “revenue streams”:

- *Revenue collected from the billing system for contract customers;*
- *Revenue from PAYG customers; and*
- *Other revenues received.*

The billing system should be straightforward to audit, but where the excise tax is based on the provision of the service and not on a payment tax point the treatment of bad debts will be an audit risk area. Some contracts provide for a billed amount, but if the contract allowances are exceeded, rather than add extra charges, they require the purchase of a top-up package; thus the audit should ensure that the tax on any extra purchases is accounted for. A particular risk will include how any tax exemptions are administered (e.g., for diplomatic missions) and the tax treatment of payments recovered for hardware (handsets, modems, routers, tablets, etc.).

Revenue received from “Pay as You Go” customers is likely to be the most complex area to audit as it will require interrogation and audit of bespoke account records to be undertaken. A useful starting point may, however, be looking at the requirements set out in the computer system’s documentation to see whether the tax requirements are likely to have been met. For example, what happens when:

- *A credit is refunded?*
- *A credit lapses and/or when a SIM is cancelled?*
- *A credit is transferred to another subscriber?*
- *A credit is used for a non (excise) taxable purpose?*
- *Roaming charges are incurred?*
- *Inward international calls are received?*

Auditing other revenue receipts will be complex as there are likely to be many payments from other entities for non-phone line related amounts and also in respect of international revenues. These receipts will need to be identified and cross checked against the wording of the excise (and VAT) legislation to test if they are taxable or not. The volume of transactions handled by the telecoms companies means that audit/assurance checks may need to be carried out more frequently than in other trade sectors.

5.8.4. Auditing of Excise Tax Risk Areas

Apart from checking the overall methodologies utilised in building up the excise tax liability (from the various income streams referred to above), there will be specific areas of the telecommunications excise taxation that may need to be treated differently to VAT and will require to be addressed individually during the audit. Some risk areas are mentioned in section 5.7; an example of a risk area to be audited is the revenue from credit purchases. Where an agent is used (a retail shop, a street vendor, etc.), the amount paid would usually be the basis of the tax value and not the net amount after deducting the amount of commission paid to the agent.

Part 6: Implementing a New Tax on Telecommunications

The introduction of any new tax will inevitably be a complex process. Annexe 5 highlights some of the high level activities that will be key to the successful implementation of a specific tax. It is recognized that a two-year implementation timescale may not be possible and that the planning and implementation processes may need to be telescoped into a shorter timescale. However, if that is the case, it is still important to undertake all of the project activities and to research thoroughly the areas that the tax is likely to cover. There are three main variables to consider in the preparation for implementation – time, cost and quality. Implementing a major tax change in a short time will require additional skilled resources (increasing the cost) or the scope/quality of the final product can be reduced. Timely decision making by Ministers and senior officials will also be essential.

A few of these areas to be considered are also amplified in the following paragraphs.

6.1. Policy Consultation

It is international good practice for a tax administration to consult stakeholders on all key aspects of an intended new tax. Businesses, consumers and other public sector bodies (especially the Telecommunications Regulator and Consumer Protection) can provide very useful information that will help the Ministry of Finance and tax administration decide on options for an excise tax on telecommunications and on the detail of its administration. Stakeholder analysis should identify all public and private sector key stakeholders including any advisors, trade associations and civil society groups. A consultation document should be published, setting out the intended format for the new tax and the options under consideration with sufficient time for stakeholders to respond (say, three months).

Responses should be analysed and appropriate changes made. A summary should be published together with a revised tax outline.

6.2. Legislation

The draft legislation should be subject to the usual parliamentary scrutiny before it becomes law.

6.3. IT Systems

Wherever possible, electronic facilities for returns, payments and supporting records should be the norm. Much will depend on the numbers of companies likely to be involved in the excise tax; if it is only a small number (such as may be the norm for a tax on services supplied by the GSM operators) a simpler (spreadsheet) system for capturing bespoke telecommunications return information, for example, might be the best way forward.

Before IT systems can be developed and implemented it is essential to have determined the detail required (e.g., for registration, for periodic declarations, etc.). This will require participation of IT staff in the tax administration from the early stages of planning the tax. Businesses who will be paying the new tax will also need time to adapt their own systems once they know exactly what the tax is to cover and what details are required. The policy consultation paper should invite businesses to specify and explain their needs and highlight the areas where the proposed tax will create complexities that will need to be overcome. In a perfect world, the functionality and capability of the IT systems of the telecommunications companies will be taken into account when designing the detail of the tax so that the administrative burden on the

operators is reduced (and tax audit is made easier).

The implementation timetable for a new tax should take into account both the time needed by businesses to amend their record keeping and reporting systems and also the time required for development or adaptation of the tax administration's IT and other systems and processes once the legislation is finalised.

6.4. Public Awareness/Sensitization

It is vital to the successful implementation of the tax for the tax administration to have developed a close working relationship with the telecommunications industry. Tax administrations should also provide general awareness information targeted at potential taxpayers and consumers. They should have a website to promulgate information about the new tax with an FAQ section developed in liaison with the appropriate trade association/chamber of commerce, etc.

To reach as many consumers as possible, media messages should be circulated to local TV and radio stations and local press as well as to the national media so that, for example, the impact of the new tax on “airtime” purchases are clearly set out. Articles about the new tax can be provided to trade associations, accountancy and legal associations as well as to chambers of commerce. In this way, consumers will be forewarned about any likely price changes (and to the extent of them – in case the telecommunications companies seek to impose other price hikes at the same time).

6.5. Human Resources

The tax administration may need additional resources to handle both the public awareness programme and preparation for the new tax including process administration, call or contact centre handling, audit and enforcement.

It is international good practice to set up a temporary programme or project team to oversee all the different aspects of introduction of a new tax. This team should include a Change Manager who will usually be a senior HR person responsible for making HR resource estimates and ensuring that staff with the appropriate skills and tools are in place on implementation of the new tax. It is clearly vital that the staff who will be auditing the tax understand the tax provisions in detail (and also gain knowledge of the telecommunications industry) in addition to having the specialist computer audit skills.

Annexes

Annexe 1: Principles of Taxation

Any government considering introducing a new tax should be aware of the generally accepted principles or canons of taxation that have been developed over centuries. Ideally, all tax systems should satisfy as many as possible of these principles.

The Scottish economist, Adam Smith, in his “Wealth of Nations” of 1776, first set out the four canons of taxation. These are:

Proportionality. “The subjects of every state ought to contribute towards the support of the Government, as nearly as possible, in proportion to their respective abilities, that is, in proportion to their revenue which they respectively enjoy under the protection of the State.”

Certainty. Taxpayers should be certain how much tax has to be paid, to whom and by when. Other procedural information should also be clear. This is to protect taxpayers from exploitation by tax authorities or unscrupulous officials and to enable them to manage their income and expenditure.

Convenience. Every tax should be levied in such time and manner as are convenient to the taxpayer.

Economy/Efficiency. To maximise the benefit to government and minimise the impact on taxpayers, the cost of tax collection should be as low as possible. *“Every tax ought to be contrived as both to take out and keep out of pockets of the people as little as possible over and above what it brings, into the public treasury of the State.”*

After Smith, other economists have propounded other important tax principles, in particular:

Productivity. Tax should be of such a nature as to work for the welfare of the people and yield sufficient income to the government to run the administration efficiently. Tax yield is important. Every government should consider the yield before proposing any new tax. If a tax yields poor income, it cannot be said to be good and productive.

Elasticity. Tax systems should be so elastic that tax rates may be increased or reduced as and when needs change. Inelastic tax systems may constrain governments in meeting the various exigencies that may arise.

Simplicity. The tax should be so simple that taxpayers can understand it without the help of any expert. This also reduces scope for errors and tax evasion.

Diversity. There should be a number of taxes of different varieties so that every class of citizen may be called upon to pay something towards the national exchequer. Because it may be possible for taxpayers to avoid/evade a single tax, the yield from a range of taxes is more dependable than from any one tax. If the government imposes a variety of taxes, it is difficult for people to evade/avoid them all. The burden of different types of tax should not focus on just one category of taxpayers.

Expediency. A tax should be so desirable that the government may defend it against public criticism. Any new tax must have a justification to create a feeling of acceptance in the minds of taxpayers. Unjust taxes will face sharp unwillingness on the part of taxpayers to pay, leading to evasion.

Annexe 2: Sample International Taxation Practices

Country	Tax
Argentina	Mobile handsets have a 25.2% tax; of this 20.5% is excise tax. Usage prices for calling and SMS have a 12.9% tax. 4% of this consists of municipal tax and 1% goes towards the National Body of Sports Performance.
Bangladesh	100 Taka tax on each new handset. 800 Taka tax is also imposed on each SIM activation.
Chad	9.6% special tax applies on all handsets.
Colombia	Handset tax of 1.2%.
Croatia	A mobile-specific 6% fee on operator's revenues on invoiced services for mobile SMS, MMS and voice services including roaming services.
Democratic Republic of Congo	10% airtime excise on usage of calls and SMS.
Dominican Republic	12% special telecom tax is imposed on usage of calls and SMS.
Egypt	Mobile telecom services VAT is applied at a higher rate than for other goods and services. Mobile telecom VAT is 15%, landline VAT is 5%, and standard VAT is 10%.
Gabon	Airtime excise of 18% on usage. An import surcharge of \$5 per handset (in addition to 30% Customs duty).
Ghana	A communication service tax on airtime of 6% – see below for further details.
Greece	12% tax on prepaid mobile subscriptions and tax rates on post-paid subscriptions of 12%, 15%, 18%, and 20%, depending on the amount of the total monthly bill.
Italy	Post-paid mobile services for non-business consumers are taxed at the rate of € 5.16 per month. Business post-paid mobile subscriptions are taxed at the rate of € 12.91 per month.
Jordan	Special cellular phone tax of 8% applies to mobile phone usage.
Kenya	10% airtime excise applies on texting and minute usage costs.
Madagascar	10% airtime excise on usage applies to call and SMS. A special 1% handset tax also applies.
Malawi	10% tax on airtime.
Malaysia	An airtime excise of 6% applies to mobile service usage.
Mozambique	A 7.5% special handset tax applies.

Nepal	An excise service charge of 5% applies to usage.
Niger	3% airtime excise applies to usage. A CFA 250 special tax that applies to connections.
Pakistan	11.5% withholding excise applies on postpaid bill amount and on prepaid balance of calling cards, though Supreme Court decisions require the suspension of several of those excises both on prepaid and post-paid. An excise duty of Rs 250 applies to each handset. A special tax of Rs 250 applies to each SIM activation. VAT on the telecoms sector is 19.5% compared to the 16% standard rate.
Rwanda	10% airtime excise tax.
SACU countries ¹⁹	9% excise tax on handsets, tablets, laptops and other devices.
Senegal	5% tax on airtime.
Sierra Leone	10% airtime excise applies on texting and minute usage costs.
Sri Lanka	25% telecommunications levy on voice and text charges.
Tanzania	17% tax on all mobile usage.
Turkey	Special Communications Tax rates of 7.5% on all services. Special consumption tax of 20% on mobile handset. On connection a 34 TL special communications tax applies together with a further 13.2 TL wireless connection fee. A 13.2 TL wireless usage fee applies to rental. For each handset a 0.37TL fee for registering an IMEI number is paid.
Uganda	12% airtime usage excise on mobile services – see below for further details.
Zambia	17.5% on airtime. Special handset tax of 5%.
Zimbabwe	5% tax on airtime.

Additional information for selected countries

GHANA: COMMUNICATIONS SERVICE TAX

6% of the charge for the use of the communications services provided by communication service operators.

Communication service operators include:

- National fixed network and mobile cellular network operators
- Internet Service Providers (ISPs)

- Public/Corporate Data Operators
- Providers of Radio (FM) broadcasting services
- Providers of free-on-air and pay-per-view television services

UGANDA: TELECOMMUNICATIONS TAXATION (2018)

EXCISE DUTY

Telecommunication services

- (a) Value added services: 20%
- (b) Incoming international call services: USD \$0.09 per minute
- (c) Money transfer or withdrawal services including transfers and withdraw services by the operators licensed or permitted to provide communications or money transfer or withdrawal but not including transfer and withdraw services provided by banks: 10% of the fees charged
- (d) Airtime or talktime
 - (i) Mobile cellular devices: 12%
 - (ii) Landlines and public pay phones: 5%

Note: “value added services” means content, products or services offered in the telecom sector via the mobile platform and includes short messaging service and multimedia messaging service which afford the user flexibility in accessing other services including mobile betting, games, paying for services, products or promotions but does not include standard voice calls, peer to peer short messaging service and multimedia messaging service, fax transmission, internet, mobile money transactions and games promoted by a value added service provider licensed by the National Lotteries Board.

VAT: 18% on telecommunication goods and services

Source: *Uganda Excise Duty Act 2014*

ZIMBABWE: 5% SPECIAL EXCISE DUTY ON AIRTIME

172E: Interpretation in Part XIIB:

“airtime” means the minutes of voice calls, short message service (SMS), multimedia service (mms), internet bandwidth or such other service as a licensed operator may offer through a cellular telecommunication system or any other electronic communications service [Definition substituted by Act 11 of 2014];

“cellular telecommunication system” has the meaning given to it by the Postal and Telecommunications Act [Chapter 12:05];

“licence” means a licence issued under the Postal and Telecommunications Act [Chapter 12.05], and “licensed” shall be construed accordingly;

“operator” means the operator of a licensed service to which this Part applies; “rendering a service” means operating a licensed service for the benefit of the public.

Annexe 3: Telecommunications – Tax Design Checklist

Rationale for the tax		
1.1.	Revenue rationale (impact on revenue yield)	Is sufficient evidence available? Or is research needed and/or statistical sampling required?
1.2.	Wider economic benefits or costs	
1.3.	Impact on consumer demand	Monitoring of price changes (on tax introduction)
1.4.	Impact on revenues from the industry (e.g., for 4G licences)	Impact on income tax on profits
Tax Type		
2.1.	Is this to be an excise tax covered by existing excise tax legislation?	
2.2.	If a new VAT rate, what legislative and administrative VAT changes will be needed?	
2.3.	If it is to be a new tax or levy how will it fit in with existing indirect taxes? What legislation will be needed (e.g., to cover the tax administration requirements).	
2.4.	Is the proposed new tax consistent with regional/international agreements?	
Tax Structure		
3.1.	<i>Ad valorem</i> : one rate or several rates?	
3.2.	Specific: one rate or several rates?	
3.3.	Mixed (<i>Ad valorem</i> and Specific)	<i>Ad valorem</i> on airtime, specific on SIM card purchase/licence, etc.
Tax Coverage		
4.1.	GSM operators only? Airtime purchases? Taxed for voice calls, messages and data usage only?	Hardware to be included/excluded – valuation.
4.2.	Additional services (e.g., ring tones)? Cloud storage?	
4.3.	Landline comparable services?	
4.4.	TV and other wireless services	
4.5.	Video streaming, Netflix, etc.	

Taxable Value (<i>Ad Valorem</i> Rate)		
5.1.	Based on actual amounts paid (less any included VAT/ Sales Tax	
5.2.	Define value (commissions? royalties? discounts? advertising?)	
5.3.	Value rules for sales to connected persons; to agents	
5.4.	Value for self-supply	
5.5.	Valuation rules for international calls or when roaming	
Tax Point		
6.1.	Earliest of invoicing or payment	
6.2.	Inward calls from international or when roaming: when received	
Tax Administration		
7.1.	Jurisdiction (who administers the tax)	
7.2.	Registration and licensing (and approvals) and cancellation of registration/licence	
7.3.	Facilities for tax staff; real time data?	
7.4.	Record keeping requirements	
7.5.	Returns and payments	
7.6.	Non-payment: recovery	
7.7.	Carelessness and errors	
7.8.	Legal powers: non-compliance with requirements; search powers; fraud and other offences; access to records; seizure of records, equipment, etc.	
7.9.	Appeals	
7.10.	Requirements to lodge with tax administration details of IT systems	
7.11.	Audit reports to be made available; internal and external audits of telecommunications companies and reports/investigations by the regulator or other government bodies	

Special Requirements		
8.1.	Imports and exports of services	
8.2.	Charging provisions for calls made or received when abroad (jurisdiction)	
8.3.	Supplies to entitled persons (e.g., diplomatic missions)	
8.4.	Bad debts	
8.5.	Commissions paid to agents – cover rules	Value should be gross amount the customer pays not the revenue the telecomms company receives
8.6.	TV services, etc. – place of supply is where the service is received	
8.7.	Self-supply (including free or reduced price supplies to staff)	
8.8.	Free samples, gifts, promotional items. Free minutes or credits, etc.	
8.9.	Treatment of refunds (call, message and data credits), credits, etc.	

Annexe 4: Audit Approach

The normal practice should be for audits on telecommunications companies to be conducted using a Systems Based Control approach – and by the tax administration’s large taxpayer team personnel (using computer audit expertise as required). Any audit approach must be used flexibly with the audit tailored to meet the needs of assurance for that individual taxpayer. If this approach is not possible due to the quality of the taxpayer’s internal controls, substantive testing may be more reliable, easier or more cost effective to perform.

For the telecommunications industry it may also be possible to utilise independent substantive evidence from a telecommunications regulator as the most reliable form of assurance at a taxpayer, but if using that evidence involves an exhaustive amount of resources compared to an alternative approach, then the alternative should be considered.

Systems-based audit controls

All taxpayers need systems to organise and control their businesses. Systems Based Control (SBC) exercises control by identifying the systems that affect revenue activities and evaluating the effectiveness of those systems in ensuring compliance with tax requirements. As this method of control is both expensive in resources and requires a high level of training, it is normal for the full SBC approach to be aimed predominately at large/significant taxpayers. Ones where the amount of revenue involved justify the use of this method and telecommunications companies such as GSM operators are likely to fall into this category.

Under SBC the control effort is concentrated on the areas such evaluation shows as weak and revenue significant. Where deficiencies are found and a tax liability is established, this amount should be collected and the taxpayer encouraged to take action to correct the deficiencies in his systems.

The need for a systematic approach is clear, the benefits being greater management control, a consistent standard of Audit work being completed, staff focused clearly on what is expected of them and a consistent approach to control being exercised over all taxpayers.

There is a point at which the risk to the revenue will demand a lower level of audit control and as a result these taxpayers should be subject to more substantive based transactional or credibility testing.

PERCET RR is the acronym that summarises the processes involved in the SBC approach to taxpayer control:

- **Plan:** Audit plans will determine priorities and establish the best way to achieve the overall aim, scope and conduct of the Audit based on identified risks and defining tasks to be carried out and the resources allocated.
- **Establish:** Obtain comprehensive information about the system and identify the objective of the system being examined.
- **Record:** Document the system as appropriate.
- **Confirm:** Check the information recorded using walkthrough tests. This will confirm the correctness, or otherwise, of information obtained from the taxpayer.
- **Evaluate:** Assess whether the systems procedures and controls will provide accurate and timely information to enable the taxpayer to declare the right amount of tax/duty and comply with their legal obligations at the right time.
- **Test:** Perform compliance and substantive tests derived from the evaluation of taxpayer’s systems.
- **Review & Recommend:** This is where the audit information is examined and conclusions formed on the adequacy of the taxpayer’s systems and controls in meeting their revenue objectives. Where weaknesses exist, taxpayers should be reminded of their responsibilities and any proposed remedial action, demands for tax/duty, discussed and recorded.

Other audit methods

There will be circumstances, including situations where systems and procedures are in place, where an alternative to the systems based approach will be the best method of gaining assurance. In these situations, a limited form of audit or Alternative Means of Gaining Assurance (AMOGA) must be considered. The SBC approach may not, for example, be suitable if verification of the accuracy and completeness of declarations and payments can be made through the examination of reliable, independent, data.

When deciding to use the AMOGA Audit approach the basic principles of SBC must still be followed in that a systematic approach to the audit process must be adhered to but will primarily consist of Planning, Testing and Reporting instead of the full PERCET approach. Options open to auditors are:

- **Full Premises Audit** – this option is for use when conducting Audits to the large/significant taxpayers. The full PERCET approach would be utilised and all aspects of the taxpayer's Tax activities would be tested.
- **Premises Audit** – this option is designed to look at and test a number of areas of non-compliance but not all aspects of taxpayers Tax activities. The AMOGA approach being adopted for such audits – for example, looking at the computerised account, records, and sales/export documents.
- **Premises Issue Audit** – this option is designed to look at and test a single area of (possible) non-compliance.
- **Desk Audit** – this option is designed to look at and test a single/number of areas of non-compliance using information obtained from, for example, the telecommunications regulator
- **Sample Audit** – this option is designed to test the taxpayer audit risk model. Where the model has identified taxpayers who should not receive an Audit a percentage from this list, picked at random, should be subject to a Premises Audit. This will act as validation of the risk system (or not) as well as maintaining a "light touch" control of the lowest risk taxpayers. (This option will only become available once a taxpayer audit risk model is operational).

Regardless of the type of visit chosen, one of the most important challenges for an auditor is being comfortable with less than "100% checking." All audit testing plans should be based on sufficient information that allows for a percentage based testing programme. For example, where 5% of "airtime" credit purchases, within a given time period, have been selected for testing and the results show a high level of compliance then that output should be used to determine whether further time is spent on the audit or not. Likewise if the testing reveals errors then that would support a case for more time to be spent on the audit.

Annexe 5: Implementation Critical Path

Listed below are very high-level activities that are key to the successful implementation of a specific tax. It is important to develop a comprehensive and detailed project plan for each of the aspects shown, to assign responsibilities and for the programme manager to monitor progress on a weekly basis and ensure that top management are aware of any significant issues and proposals to resolve them at an early stage. The timescales shown are indicative and based on delivering a major tax change/new tax in an already complex tax structure involving many IT systems. In emerging economies with a less complex tax and IT structure, it should be feasible to deliver a new tax or a major tax change in less than two years. Whatever the timescale, it is still important to undertake all of the project activities and to research thoroughly the areas the tax is likely to cover. Timely decision making by Ministers and senior officials will be essential.

Project	24-18 Months Before "Go"	18-12 Months Before "Go"	12-6 Months Before "Go"	6-0 Months Before "Go"	6-12 Months After "Go"
Policy	<p>Key decisions made on rates and scope by 24 months before "Go".</p> <p>Proposals published before 24 months before "Go" in consultation document with three month deadline for feedback. Feedback analyzed.</p> <p>Policy decisions revised in the light of taxpayer and other agency feedback. Final key policy decisions taken and published.</p>	<p>Operation policy and more minor decisions taken and fed to Legislation, IT, Publications and Training teams.</p>	<p>Policy team continually updates other teams.</p> <p>Once IT systems development starts, policy changes will incur additional costs.</p>	<p>Policy team work with Legislative team to implement legislation for the new system and closure of the old tax regime.</p>	<p>Policy team assess success of change, achievement of tax and other objectives and consider any necessary amendments to the law.</p>
Legislation	<p>Lawyers commissioned to work up legislative proposals with Policy team.</p>	<p>Lawyers can now start work developing primary legislation in liaison with Policy team.</p>	<p>Lawyers work closely with Policy team in developing legislative proposal.</p>	<p>Legislation achieved.</p>	<p>Lawyers consider any amendments suggested by Policy team.</p>

Project	24-18 Months Before "Go"	18-12 Months Before "Go"	12-6 Months Before "Go"	6-0 Months Before "Go"	6-12 Months After "Go"
IT system changes	Initial scoping of business requirements developed in liaison with Policy team and based on policy decisions. Tender document produced within three months or (if changes developed in house) change order produced within three months.	Detailed business requirements, e.g., details needed for each box on the tax return, agreed in liaison with Policy team. Tender documents revised and published or change order finalized and costed. Budget approval sought.	Ongoing liaison with policy and operational areas to ensure IT developed understand business needs and provide a user friendly system.	System is thoroughly tested by internal users and piloted with a selection of taxpayer users (large, medium and small operators) before implementation. Delay implementation, if necessary, until the system works satisfactorily.	Review of success of IT changes and potential for amendment to facilitate use by taxpayer or internal users.
Media and Publications	Communications/media team commissioned to provide costed options for general publicity. Publication team commissioned to develop taxpayer guidance booklet(s).	Decisions made on publicity options and budget allocated. Initial high-level publicity published. Work starts on detailed guidance booklet(s). Assistance provided to Helpline team in developing helpline scripts.	Publicity campaign starts. Guidance booklets published to taxpayer. All paper forms agreed and sent to print.	Final high key publicity campaign. Publications available. Paper forms available. Q/A briefing available.	Review success of publicity campaigns and publications. Make amendments to publications in the light of taxpayer feedback.
Resources	Analysis of current excise resources by grade, location and skills carried out. In liaison with operational managers, resource requirements drawn up indicating numbers needed by grade, location and skills. Liaise with Trade Unions throughout (as appropriate).	Gap analysis between excise tax resources and skills available and those required. HR needs assessed, costed and budget agreed.	Resources to be moved to work on new tax selected or recruited. Decisions taken on future of staff no longer required (e.g., wrong grade, wrong location). Helpline resource put in place.	Resources in place ready for rolling training programme. Deal with outstanding issues.	Review success of resource plan. Deal with outstanding issues. If former tax issues completed, resources devoted to "tidying up" the old tax move to new work.

Project	24-18 Months Before "Go"	18-12 Months Before "Go"	12-6 Months Before "Go"	6-0 Months Before "Go"	6-12 Months After "Go"
Accommodation	Excise resource accommodation stocktake carried out.	Locations, accommodation requirements costed and budget agreed.	New accommodation acquired and decision taken on future of accommodation no longer needed. Helpline accommodation set up.	Accommodation filled as resources arrive.	Review success of accommodation plan.
Vehicles, Equipment (laptops/ cellphone, etc.)	Excise equipment stocktake carried out.	Excise resource equipment needs agreed, costed and budget agreed.	Equipment ordered. Helpline equipment set up.	Any minor changes accommodated.	Review success of equipment plan.
Training and Awareness for: (1) Internal staff and managers; (2) Taxpayers and their staff; (3) Other national enforcement agencies; and (4) Revenue authorities and enforcement agencies in neighbouring countries or any mutual assistance partners.	Training team to start work developing training and awareness programmes, identifying target audiences/type of training to be provided.	Training proposals agreed and budget allocated. Training team start to develop courses and other learning materials for each of the target audiences. Training delivery plan agreed for each target audience and trainers selected.	Training delivery starts according to plans for each target audience.	Training delivery ongoing until a month before "Go" date then "tidy up" training starts for staff working on former tax system.	Review success of training plan.

Project	24-18 Months Before "Go"	18-12 Months Before "Go"	12-6 Months Before "Go"	6-0 Months Before "Go"	6-12 Months After "Go"
<p>Implementation team (Keeps log of risks and issues, monitors budget, holds checkpoint meetings with <u>every</u> other project and ensures they keep to time resolving issues as they occur under oversight of Change Programme Manager.)</p>	<p>Co-ordinates activity by all other projects. Puts together budget proposal on behalf of all projects and seeks budget approval. Also monitors expenditure by all projects.</p> <p>Provides regular programme reports to Steering Group and implements Steering Group decisions on changes to budgets, etc.</p>	<p>Ongoing monitoring and support to all other projects.</p>			<p>Review success of implementation and ensures that "lessons learnt" are captured for the benefit of future major change programmes.</p>

Annexe 6: Glossary of Abbreviations and Terminology

ADSL	Asymmetric digital subscriber line – also known as “broadband”. Data communications technology that enables faster data transmission over telephone lines than a conventional voiceband modem can provide
“Ad valorem”	A tax rate expressed as a percentage of the value
AMOGA	Alternative means of gaining assurance (on an audit)
Broadband	ADSL technology that provides high-speed Internet access
CIF	The value being the total of the cost (purchase price), insurance and freight
EU	European Union
Gateway earth station services	Services that permit communications to/from satellites
GSM	Global System for Mobile Communications
GST	Goods and Services Tax (or General Sales Tax)
ITIC	The International Tax and Investment Center (a non-profit research and education organization based in Washington, DC)
ITU	International Telecommunication Union
OFCOM	The Office of Communications is the UK government’s regulatory and competition authority for the broadcasting, telecommunications and postal industries
Packet switched data transmission services	Packet switching is the primary basis for data communications in computer networks worldwide. It is a method of grouping data for transmission over a digital network
Private leased lines / circuits	A private telecommunications circuit between two or more locations (rented from a telecommunications company).
SACU	Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa and Swaziland)
SADC	Southern African Development Community
SBC	Systems Based (audit) Control
SIM	A Subscriber Identity Module: an integrated circuit that stores the international mobile subscriber identity (IMSI) number for use to identify and authenticate subscribers on mobile telephony
SMS	Short Message Service (also known as text messages)

Trunked radio system services	A trunked radio system is two-way radio system that uses a control channel to automatically direct radio traffic.
Tax administration	The Tax (or Customs) service of a country responsible for the administration of excise taxes. In sub Saharan Africa this is usually a Revenue Authority.
TV	Television
Value Added Services	Additional services available with voice or data communication services – including the purchase of ring tones and downloads of wallpapers, themes, other graphics or picture messages formats; applications and programmes for entertainment, gambling, etc.
VAT	Value Added Tax
Video transport	Providing a means to deliver (multiple) streams of media either by radio transmission or via a physical line (e.g., via fibre)
VOIP	Voice over Internet Protocol – e.g., Skype
VSAT	Very Small Aperture Terminal – a satellite dish smaller than 3.8 meters. VSAT systems provide high speed, broadband satellite communications for Internet or private network communications.
WTO	World Trade Organisation

Endnotes

- ¹ Airtime is a loose term but usually refers to a tax levied on a purchase of a credit from a mobile telephone operator (which may be used for call, SMS messages, internet data, etc).
- ² Consumer expenditure on telecommunications and media has increased tenfold since 1975 and now represents a significant part of household expenditure: 3.4% in South Africa and an average of 2.5% in the EU. In South Africa the amount spent annually increased by 24% from 2010-11 to 2014-15.
- ³ ITU Report in June 2013 entitled "Taxing telecommunication/ICT services: an overview" : <https://www.itu.int/en/ITU-D/Regulatory-Market/Documents/Taxation%20Study-final-en.pdf>.
- ⁴ Spectrum relates to the radio frequencies allocated to the mobile industry and other sectors for communication. The allocated frequencies are often auctioned by Governments and the mobile companies then pay annual licence fees for the use of the allocated frequencies. These fees are calculated by countries in many different ways and e.g. may be based on the operator's turnover, or on the number of base stations or subscribers, or on the quantum of frequency bands used.
- ⁵ The International Accounting Standards Board document IFRS 15 details new rules on how to account for Revenue from Contracts with Customers
- ⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61335/telecommunications_sector_intro.pdf
- ⁷ <https://www.itu.int/en/ITU-D/Regulatory-Market/Documents/Taxation%20Study-final-en.pdf>
- ⁸ https://www.wto.org/english/tratop_e/serv_e/telecom_e/telecom_coverage_e.htm#basic
- ⁹ www.bt.com/tariffguide
- ¹⁰ <https://www.itu.int/rec/T-REC-D.93-200901-I/en>
- ¹¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0011/103340/mobile-call-termination-consultation.pdf
- ¹² In some countries a Value Added Tax is termed a GST – General Sales Tax (or Goods and Services Tax)
- ¹³ *Excise Tax Policy and Administration in Southern African Countries*, Sijbren Cnossen, ed., (2006)
- ¹⁴ Mobile or Cellular phones transmit via land-based towers. When you are in a particular area, that cell (or call) is carried by the closest tower. ... Satellite phones, on the other hand, do not rely on towers, but instead transmit signals via satellites orbiting the earth.
- ¹⁵ See the GSMA 2017 State of the Industry Report on Mobile Money (https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2018/05/GSMA_2017_State_of_the_Industry_Report_on_Mobile_Money_Full_Report.pdf)
- ¹⁶ <https://www.imf.org/~media/Files/Publications/WP/2017/wp17247.ashx>
- ¹⁷ See Article 6.3 of the Final Acts Of The World Conference On International Telecommunications (Dubai, 2012)
- ¹⁸ Ghana Communications Service Tax (Amendment) Act 2013: Section 7
- ¹⁹ SACU countries are Botswana, Lesotho, Namibia, South Africa and Swaziland

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