Taxes and Taxation Issues

Full Description

Tax Issues

A host country's tax laws can have a direct impact on the profitability of a public-private partnership project and so need to be considered by the potential service provider/ investor and the host government to ensure that the project is viable. Some of the issues relating to taxation that an investor as well as the government will be interested in are:

- is the tax system stable?
- what categories of taxation will the project company and the sponsors be liable to? (service tax, income tax, tax on dividends, etc.)
- are there specific tax liabilities imposed on foreign investors?
- is withholding tax likely to be imposed?
- is there a relevant tax for environmental pollution/ emissions? Are there tax credits available for "clean" solutions?
- are there any helpful tax deductions or exemptions available to the project company?
- will the project company or the awarding authority be able to avail itself of the benefit of depreciation on/ write downs of assets?
- is it possible under the law to introduce specific exemptions/ exceptions to the tax regime for the project/ program?
- can the project company be entitled under the contract to compensation for changes in the tax regime?

Possible Exemptions / Assistance to attract investment

Host countries may use their tax systems to attract private investment, e.g. for key infrastructure projects or for a particular depressed region of that country.

One of the most common tax law incentives is the "tax holiday", which exempts the enterprise or the investor from local income and other taxation for a specific period. The host country may also grant exemptions from taxes on dividends, interest payments, property taxes, and numerous other charges and fees for which the project, its investors, creditors and contractors would otherwise be liable.

A variation of the tax holiday often found is "tax stabilization", which guarantees that the approved enterprise will pay no more than a specified maximum tax rate for a determined period of time.

Other assistance can be for the government to grant an approved project the right to import capital goods, spare parts, or even raw materials for large infrastructure projects at reduced tariff rates or without paying the high customs duties applying in most developing countries.

Investors will be concerned about changes in taxation (particularly discriminatory changes) that will impact the Infrastructure project. The project agreement may therefore need to provide for ways to reduce the impact of this risk on the viability of the project.

Examples of Tax Laws

Specific examples of national laws can be found at Business Ready (Previous Doing Business).

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