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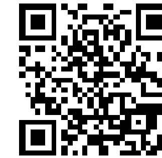

INTRODUCTION TO TAX INCENTIVES

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Abstract:-Over the past two decades, most Governments have been actively promoting their countries as investment locations to attract scarce private capital and associated technology and managerial skills in order to help achieve their development goals. They have increasingly adopted measures to facilitate the entry of foreign investment. As a factor in attracting FDI, incentives are secondary to more fundamental determinants, such as market size, access to raw materials and availability of skilled labour. Investors generally tend to adopt a two-stage process when evaluating countries as investment locations. In the first stage, they screen countries based on their fundamental determinants. Only those countries that pass these criteria go on to the next stage of evaluation where tax rates, grants and other incentives may become important. In some cases, and with some types of investment, however, their impact may be more pronounced. For some foreign investors, such as export-oriented investors, tax incentives can be a major factor in their investment location decision. Also, among countries with similarly attractive features the importance of tax incentives may be more effective.

Keywords:actively promoting , private capital , associated technology , managerial skills , Tax Incentives .

INTRODUCTION

Over the past two decades, most Governments have been actively promoting their countries as investment locations to attract scarce private capital and associated technology and managerial skills in order to help achieve their development goals. They have increasingly adopted measures to facilitate the entry of foreign investment. As a factor in attracting FDI, incentives are secondary to more fundamental determinants, such as market size, access to raw materials and availability of skilled labour. Investors generally tend to adopt a two-stage process when evaluating countries as investment locations. In the first stage, they screen countries based on their fundamental determinants. Only those countries that pass these criteria go on to the next stage of evaluation where tax rates, grants and other incentives may become important. In some cases, and with some types of investment, however, their impact may be more pronounced. For some foreign investors, such as export-oriented investors, tax incentives can be a major factor in their investment location decision. Also, among countries with similarly attractive features the importance of tax incentives may be more effective. In addition, Governments can quickly and easily change the range and extent of the tax incentives they offer.

Tax incentives can be defined as any incentives that reduce the tax burden of enterprises in order to induce them to invest in particular projects or sectors. They are exceptions to the general tax regime. In other words, they are deviations from the general tax system that are applied to certain kinds of investments to reduce their tax liability. Tax incentives would include, for example, reduced tax rates on profits, tax holidays, accounting rules that allow accelerated depreciation and loss carry forwards for tax purposes, and reduced tariffs on imported equipment, components, and raw materials, or increased tariffs to protect the domestic market for import substituting investment projects.

When choosing policies for incentives, government must balance their likely costs and potential benefits. For tax incentives, an investment incentive is beneficial if lowering taxes for a specific sector can induce capital investment that increases revenue from the sector and generates social benefits.

Every investment incentive policy has potential benefits and costs. The benefits arise from:-

Higher revenue from possibly increased investment.

Social benefits such as jobs, positive externalities etc.

The costs are due to:-

Revenue losses from investments that would have been made even without the incentives.
Indirect cost such as economic distortions and administrative and leakage cost.

Any type of incentive policy is successful if the lost revenue and indirect costs are more than compensated for by higher revenue and social benefits from the additional investments.

The costs and benefits of tax incentives are not easy to evaluate and are hard to quantify and estimate. Incentives that may work well in one country or region may be ineffective in another context.

It therefore may make sense (i) to limit the duration of tax incentive regimes to re-duce the potential costs of unsuccessful or poorly designed programs by including a specific “sunset” provision as part of the original legislation; (ii) to design incentive regimes to require information reporting by beneficiaries to investment agencies and to specify what government agency has responsibility for monitoring and enforcing qualification and any recapture provisions; and (iii) to require an evaluation be made as to the costs and benefits of specific tax incentive regimes and to specify the timing of the evaluation and the parties responsible for conducting the review.

RATIONALE FOR OFFERING TAX INCENTIVES

Varying tax practices of different countries complicate decision making by MNEs as to what is most profitable on international basis. Tax systems of different countries differ in terms of definition of income and expenses, types of taxes, exemptions and concessions, rates and collection procedures. If a country's domestic tax burden is high relative to other countries, the tax base may shift to countries with a less burdensome tax regime, implying outward flows of FDI.

Globalisation and the resulting increase in capital mobility have created opportunities for tax competition among countries eager to attract FDI. In the process, tax incentives have assumed new and increasing importance. The policy makers offer the following reasons for offering tax incentives to attract FDI:

The process of globalisation and the integration of markets through creation of Free Trade Agreements (FTAs) and Custom Union (CUs) have greatly increased the importance of taxation in investment decisions. Government in all parts of the world now feel it necessary to offer tax incentives to attract FDI.
Another explanation given by policy makers is that in order to maintain their country's competitive position vis-a-vis neighbouring countries, it is beneficial for a country to offer various tax incentives.
Tax considerations do not always figure prominently in the initial decisions to invest abroad but once the decision is made to invest in a particular country, tax differences reflect their impact on such decisions. In recent years, it has been observed that tax rates and incentives influence the location decision of MNCs within regional economic groupings like EUs, NAFTA etc.

OBJECTIVES OF TAX INCENTIVES

Regional Investment

Countries often employ a mix of incentives to channel investment for development of a particular area or region. Regional development objectives include support for rural development, building industrial centres away from major cities and reducing environmental hazards, over-urbanization and concentration of population. Tax incentives include a 10-year tax holiday from profits tax, income tax, remittance tax and customs duties, and tax reduction for shareholders.

Sectoral Investment

Countries employ tax incentives in order to promote sectors of industry or activities considered crucial for development. These may be targeted at mining and industrial parks, export-led activities, the film industry and businesses with new technologies. The majority of tax incentives granted by developing countries relate to investment in manufacture, exploration and extraction of mineral reserves, promotion of export and, increasingly, the tourism and leisure sectors.

Performance enhancement

Incentives can be targeted at many types of activities, such as export promotion, employment/skills training, domestic value added and headquarters location. Free trade zones (FTZs) typically cover incentives for export-oriented manufacturing.

Transfer of technology

An important objective of using incentives to attract investment to developing countries is the transfer of technology. Some countries such as Singapore and Malaysia, have introduced a specific set of incentives directed towards research and development (R&D) activities and technology projects (pioneer industries). They include tax-exempt technology development funds and tax credit for expenditures on R&D, and for upgrading human resources related to R&D. In particular, deduction is allowed for certain types of expenditure, and income tax exemption is offered for a period of time, while machinery, equipment and raw materials are exempt from import duty and sales tax. For import of technology, tax incentives provided may take the form of deductions allowed for transfer costs of patent rights and import fees, exemption of income from consulting and the granting of tax privileges to R&D projects.

CLASSIFICATION OF TAX INCENTIVES

Reduced corporate income tax rate

Governments may set a lower corporate income tax rate as an exception to the general tax regime in order to attract FDI into specific sectors or regions.

Loss carry forwards

Governments that employ a low corporate profit tax rate often use two other mechanisms to lower the effective tax rate. One such mechanism is to allow investors to carry losses forward (or backward) for a specified number of years (usually three to five years) for tax accounting purposes. This measure is particularly valued by investors whose projects are expected to run losses in the first few years as they try to increase production and penetrate markets. Accelerated depreciation also allows investors to reduce their tax burdens in the years immediately following investment when cash flow is important to pay off debt. Taken together, a low tax rate accompanied by loss carry forwards for tax purposes and accelerated depreciation is considered to be a major element in an effective tax system and one that is highly attractive to foreign investors.

Tax holidays

Tax holidays are a common form of tax incentives used by developing countries and countries with economies in transition to attract FDI. Under a tax holiday, qualifying “newly established firms” are exempt from paying corporate income tax for a specified time period (e.g. five years). The provisions may exempt firms from other tax liabilities as well. Tax holidays eliminate tax on net revenues from investment projects over the holiday period, which, depending on the case considered, tends to encourage investment.

Investment allowances

Investment allowances are deductions from taxable income based on some percentage of new investment (depreciation). They tend to lower the effective price of acquiring capital. Both investment allowances and investment tax credits are given as a specified percentage of qualifying investment expenditures. Because they are deducted against the tax base, however, their value to the investing firm depends, among other things, on the value of the corporate income tax rate applicable to the tax base — the higher (lower) the tax rate, the higher (lower) is the amount of tax relief on a given amount of investment allowance claimed. In contrast, variations in the corporate tax rate do not affect the value of investment tax credits.

Under an investment allowance, firms are provided with faster or more generous write-offs for qualifying capital costs. Two types of investment allowances can be distinguished. With accelerated depreciation, firms are allowed to write off capital costs in a shorter time period than is dictated by the capital's useful economic life, which generally is the accounting basis for depreciating capital costs. While this treatment does not alter the total amount of capital cost to be depreciated, it increases the present value of the claims by shifting them forward closer to the time of the investment. The present value of claims is obviously the greatest when the full cost of the capital asset can be deducted in the year the expenditure is made. With an enhanced deduction, firms are allowed to claim deductions for the cost of qualifying capital that are a multiple of the actual cost (i.e. one-and-half times or twice the price). Depending on whether investment allowances must be claimed in the year they were earned or not, their value to a firm will differ. In most countries, unused depreciable capital costs can be carried forward — in some cases indefinitely — to offset future tax liabilities.

Where the deductions must be claimed in the year earned, the tax treatment of losses becomes critically important. As is often the case during the early stages of an investment project involving high capital expenditure, deductions provide benefit only if they can be carried forward to offset future tax liabilities.

Investment tax credits

Investment tax credits may be flat or incremental. A flat investment tax credit is earned as a fixed percentage of investment expenditures incurred in a year on qualifying (targeted) capital. In contrast, an incremental investment tax credit is earned as a fixed percentage of qualifying investment expenditures in a year in excess of some base that is typically a moving-average base (e.g. the average investment expenditure by the taxpayer over the previous three years). The intent behind the incremental tax credit is to improve the targeting of the relief to incremental expenditures that would not have occurred in the absence of the tax relief.

Reduced taxes on dividends and interest paid abroad

Governments generally levy taxes on dividends remitted abroad by foreign investors. These taxes may be reduced in order to attract foreign investment. It is generally said that the lower the dividend tax, the greater the tax incentive.

Preferential treatment of long-term capital gains

Many countries accord preferential tax treatment for appreciation in value of capital (assets) held by enterprises if the capital (or assets) is held over a fixed period of time. Preferential tax treatment of long-term capital gains is intended to encourage investors to retain funds for longer periods.

Deductions for qualifying expenses

Some countries try to encourage certain types of behaviour by investors through the tax system. They allow more than full deduction for tax purposes of qualifying expenses. For example, they may allow double deduction of training expenses, R&D expenses, or export marketing expenses.

Zero or reduced tariffs

Governments can grant two types of tariff incentives. On the one hand, they can reduce or eliminate tariffs on imported capital equipment and spare parts for qualifying investment projects. This has the effect of reducing the cost of investment. On the other hand, they can increase tariffs on the final products of the investor in order to protect the domestic market from import competition. Tariff protection has been quite a common form of investment incentive in many countries.

Tax credits for value addition

In order to promote domestic capacity building and discourage export of raw commodities, Governments may provide tax credits or allowances for value addition in processing or for the net local content of outputs (defined as the value of sales less depreciation of capital equipment, and the value of imported raw material and supplies).

ADVANTAGES OF TAX INCENTIVES

If properly designed and implemented, tax incentives may be a useful tool in attracting investments that would not have been made without the provision of tax benefits. As discussed below, new investment may bring substantial benefits, some of which are not easily quantifiable.

That governments often choose tax incentives as it is much easier to provide tax benefits than to correct deficiencies in the legal system or to dramatically improve the communications system in the country. Also, tax incentives do not require an actual expenditure of funds by the government. One alternative to using tax incentives is to provide for grants or cash subsidies to investors. Although tax incentives and cash grants may be similar economically, for political and other reasons, it is easier to provide tax benefits than to actually provide funds to investors.

Different types of benefits. Tax incentives may yield different types of benefits. The benefits from tax incentives for foreign investment follow the traditional list of benefits resulting from foreign direct investment. These include increased capital transfers, transfers of know-how and technology, increased employment, and assistance in improving conditions in less-developed areas.

Foreign direct investment may generate substantial spill over effects. For example, the choice to locate a large manufacturing facility will not only result in increased investment and employment in that facility, but also at firms that supply and distribute the products from that facility. Economic growth will increase the spending power of the country's residents that, in turn, will increase demand for new goods and services. Increased investment may also increase government tax revenue either directly from taxes paid by the investor (for example, after the expiration of the tax holiday period) or indirectly through increased tax revenues received from employees, suppliers, and consumers.

One can provide a general description of the general types of benefits of additional investment resulting from tax

incentives. It is difficult, however, to estimate the benefits resulting from tax incentives with any degree of certainty. Sometimes the benefits are hard to quantify. Other times the benefit accrues to persons other than the firm receiving the tax benefits.

DISADVANTAGES OF TAX INCENTIVES

There are different types of costs associated with tax incentives. In considering the costs of tax incentive regime, it may be useful to examine four different types of costs: (i) revenue costs; (ii) resource allocation costs; (iii) enforcement and compliance costs; and (iv) the costs associated with the corruption and lack of transparency.

Revenue Costs. The tax revenue losses from tax incentives come from two primary sources: first, foregone revenue from projects that would have been undertaken even if the investor did not receive any tax incentives; and, second, lost revenue from investors and activities that improperly claim incentives or shift income from related taxable firms to those firms qualifying for favourable tax treatment.

Policy makers may wish to target tax incentives to achieve the greatest possible benefits for the lowest costs. The goal would be to offer tax incentives only to those investors who at the margin would invest elsewhere but for the tax incentives. Offering tax incentives to those investors whose decisions to invest are not affected by the proposed tax benefit results in just a transfer to the investor (or in some instances, to the foreign investor's government) from the host government without any gain.

It is very difficult to determine on a project-by-project basis which projects were undertaken solely due to tax incentives. Similarly, it is hard to estimate for an economy as a whole what the levels of investment would be with or without a tax incentive regime.

For those projects that really would not have been undertaken without tax incentives, there is no real loss of tax revenue from those firms. Indeed, to the extent that the firms become regular taxpayers or to the extent that these operations generate other tax revenue (such as increased profits from suppliers or increased wage taxes from employees) there are revenue gains from those projects.

An additional revenue cost of tax incentives results from erosion of the revenue base due to taxpayers abusing the tax incentive regimes to avoid paying taxes on non-qualifying activities or income. This can take many forms. Revenue losses can result where taxpayers disguise their operations to qualify for tax benefits. For example, if tax incentives are only available to foreign investors, local firms or individuals can use foreign corporations through which to route their local investments. Similarly, if tax benefits are available to only new firms, then taxpayers can reincorporate or set up many new related corporations to be treated as a new taxpayer under the tax incentive regime.

Other leakages occur where taxpayers use tax incentives to reduce the tax liability from non-qualified activities. For example, assume that a firm qualifies for a tax holiday because it is engaged in a type of activity that the government believes merits tax incentives. It is likely quite difficult to monitor the firm's operation to ensure the firm does not engage in additional non-qualifying activities. Even where the activities are separated, it is very difficult to monitor related party transactions to make sure that income is not shifted from a taxable firm to a related firm that qualifies for a tax holiday.

Resource allocation costs. If tax incentives are successful, they will cause additional investment in sectors, regions or countries that would not otherwise have occurred. Sometimes this additional investment will correct for market failures. Other times, however, the tax incentives will cause allocation of resources that may result in too much investment in certain activities or too little investment in other non-tax favored areas.

It is difficult to determine the effects of tax provisions in developed countries where markets are relatively developed. It is more difficult to determine the consequences of tax provisions in developing countries where markets do not approach the competitive models. As such, where markets are imperfect, it is not clear whether providing tax incentives to correct market imperfections will make markets more competitive.

Enforcement and compliance costs. As with any tax provision, there are resource costs incurred by the government in enforcing the tax rules and by taxpayers in complying. The cost of enforcement relates to the initial grant of the incentive as well as the costs incurred in monitoring compliance with the qualification requirements and enforcing any recapture provisions on the termination or failure to continue to qualify.

The greater the complexity of the tax incentive regime, the higher the enforcement costs (as well as compliance costs) may be. Similarly, tax incentive schemes that have many beneficiaries are harder to enforce than narrowly targeted regimes. It is also difficult to get revenue authorities enthusiastic about spending resources to monitor tax incentive schemes. Revenue authorities seek to use their limited administrative resources to improve tax collection. The revenue authorities may prefer auditing fully taxable firms rather than those operating under a tax holiday arrangement.

Tax incentives also impose administrative costs on taxpayers. The administrative costs will vary by type of incentive as well as the qualification process, monitoring and reporting requirements.

Opportunities for corruption. There is a possibility of corruption and other rent-seeking behaviour associated with the granting of tax incentives. There are several different approaches to providing the qualification requirements for tax incentives. The relative merits of automatic and objective approaches versus discretionary and subjective approaches enhance the possibility of corruption.

What is clear is that the opportunity for corruption is much greater for tax incentives regimes where officials have wide discretion in determining which investors or projects receive favourable treatment. The potential for abuse is great where

no clear guidelines exist for qualification.

Transparency and Tax Incentives

Howell Zee nicely adopts the transparency concepts from the anti-corruption literature to tax incentives regimes. Zee examines transparency and tax incentives along three dimensions:

Legal and regulatory dimension. That tax incentives have a statutory basis in relevant tax laws and any changes to the regime be effected through the formal amendment process;

Economic dimension. That the rationale for granting any incentives be clearly set forth and that the costs and benefits of a proposed incentives scheme be determined based on clearly stated assumptions and methodologies;

Administrative dimension. That the qualifying criteria be simple, specific and objective to minimize the discretion afforded officials that grant the incentives and to provide guidance to tax authorities charged with monitoring and enforcing the tax incentive regime.

CONCLUSION

There are, however, some clear guidelines that may improve the chances of success of tax incentive programs. First, the objectives of the tax incentive program should be clearly set forth. Second, the type of tax incentive program should be crafted to best fit the objective. Third, the government should estimate the anticipated costs and benefits of the incentive program in a manner similar to other types of tax expenditure analysis. Fourth, the incentive program should be designed to minimize the opportunities for corruption in the granting of incentive and for taxpayer abuse in exploiting the tax benefit. Fifth, the tax incentive regime should have a definite "sunset" provision to allow for a determination of the merits of the program. Finally, the government should be required at a specific time to assess the success and failure of each incentive program.

Providing incentives can create risks that might have implications for the investment climate and overall fiscal compliance. Increasing transparency on the costs and benefits of tax incentives would, in the long run, help frame future policy. Providing a level playing field to all businesses through a broadly based, low, uniform tax rate has been the best investment incentive to attract foreign investment.

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