



IGF

INTERGOVERNMENTAL FORUM
on Mining, Minerals, Metals and
Sustainable Development



2022 VIRTUAL TRAINING WORKSHOP

International Taxation and the Extractives Sector





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Do you want to build your knowledge in international taxation?

Are you a tax or public finance professional in government with an interest in the extractive industries or a mining professional with an interest in tax?

Do you want to learn from your peers and debate with global experts on mining taxation?

The African Tax Administration Forum (ATAF), the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF), and the Organisation for Economic Co-operation and Development (OECD) offer a high-quality course focusing on international taxation and its application to the extractives sector. The course will provide you with an opportunity to catch up on recent international tax developments applicable to the extractive industry, give you practical ideas to improve mining revenue collection in your country, and foster open discussions with government officials from other resource-rich countries.

ABSTRACT

This online course covers the theory and practice of international taxation with an extractives industry lens, focusing on developing and emerging economies. Designed for mid-level government officials from tax authorities, ministries of finance, and agencies in charge of mineral revenues, it covers international taxation matters in designing and enforcing extractive-specific taxes, royalties, and other fiscal instruments. Investors, licence holders, service providers, and suppliers involved in large-scale extractive projects in developing countries often operate across borders. The extractive industry sells its production abroad, either directly to third parties or through intragroup transactions to associate entity refineries, smelters, or centralized marketing and trading hubs. They also buy goods and services, including management services, technical

services, capital equipment, and general consumables from affiliated companies. The extractive industry is often subject to specific taxation regimes that are a matter of domestic policy, while cross-border transactions are governed by continuously evolving and complex international tax rules. The objective of this course is to equip participants to identify, evaluate, and address international tax risks occurring along the extractive value chain as a consequence of these cross-border transactions. The course covers developments in the G20–OECD Inclusive Project on Base Erosion and Profit Shifting (BEPS), including the Two-Pillar Solution to address the tax challenges arising from the digitalization of the economy and additional proposals, initiatives, or experiences relevant to the extractives sector.



WHO SHOULD APPLY FOR THIS COURSE?

This training course is for mid-level government officials from tax authorities, ministries of finance, and agencies in charge of mineral revenues.

COURSE DESCRIPTION

This online course is presented jointly by the ATAF, the IGF, and the OECD. It is designed to increase participants' knowledge of the main challenges governments face in designing, administering, and monitoring an international tax system for their extractives sector. The course outlines the types of activities related to each stage of the extractives value chain and discusses in detail the international tax risks throughout. Through the modules, the course provides an overview of the most important transfer pricing risks in the extractives sector; reviews critical issues in bilateral tax treaties and the extractives industries; explores important mining tax policy questions, such as tax incentives, simplification measures, and fiscal stabilization, particularly in the context of the OECD/G20's Pillar 2 rules; examines

how the Extractives Exclusion under the OECD/G20's Pillar 1 rules would be applied; and analyzes how mining fiscal policy and administrative design can exacerbate or limit potential international tax risks. It also discusses the implications of the energy transition for the extractives sector. The course relies on the practical experience of participants and facilitators, as well as case studies relevant to the region where the course is given. The course will provide many opportunities to exchange experiences and learn from participants from many countries in Africa. Participants will be invited to share their country experiences throughout the sessions. A certificate of completion will be granted to participants that join at least seven out of the eight modules of the course. The course will be conducted in English and French.

LEARNING OBJECTIVES

Upon completion of this course, participants should be able to:

- ✓ Explain the types of commercial activities related to each stage of the extractives value chain, what tax avoidance risks exist, and what information is available to make an assessment.
- ✓ Evaluate the main transfer pricing risks in the extractives sector, including the sale of minerals and metals to related parties, intra-group service transactions, and intra-group financing.
- ✓ Understand the main bilateral tax treaty considerations for the extractives sector, including permanent establishment issues and offshore indirect transfers.
- ✓ Assess the effectiveness and efficiency of tax incentives in the mining sector and distinguish between constraining and progressive forms of fiscal stabilization.
- ✓ Provide an introduction to the OECD/G20's Pillars 1 and 2 rules, with a specific focus on how the rules would be applied to the extractives sector.
- ✓ Identify how mining fiscal policy and administrative design can exacerbate or limit potential international tax risks.

WHAT PARTICIPANTS SAY ABOUT THE COURSE

This is the third year that the ATAF, the IGF, and the OECD have run this course on International Taxation and the Extractives Sector.



COURSE TRAINERS

The training is delivered by world-class experts on international mining taxation from the ATAF, the IGF and the OECD. Biographies can be found in this brochure.



The entire BEPS in Mining course has been a revelation. We always thought that we were the only country having problems with things like transfer pricing and permanent establishment; it has been great to listen to solutions from other countries. As government officials, this training helped us to identify and scrutinize international tax and transfer pricing issues in the mining sector in our country.



DENZIL GALLOP

Manager, Mining Investigative Audit – Large Business, South African Revenue Services (SARS)

COURSE OUTLINE

All sessions are scheduled from 11:00 a.m. to 2:00 p.m. GMT.

<p>June 23</p>	<p>Identifying International Tax Risks Along the Extractives Value Chain</p>	
<p>LEARNING OBJECTIVES:</p> <ul style="list-style-type: none"> • Participants can identify international tax risks along the extractives value chain. • Participants have knowledge of the types of activities related to each stage of the value chain and the implications for international tax. • Participants know what information is available at different stages of the value chain to assist with evaluating international tax risks. 		<p>OVERVIEW:</p> <ul style="list-style-type: none"> • The typical stages of the extractives value chain. • Analysis of the activities within each stage from an international tax perspective, including functions, assets, and risks borne by companies. • Extractive industry profitability drivers and key performance measures. • Mapping international tax risks and financial flows along the extractives value chain, as well as information available to evaluate international tax risks (e.g., feasibility studies, production reports, public disclosures).

<p>July 14</p>	<p>Pricing an Extractive Commodity and Intra-group Services</p>	
<p>LEARNING OBJECTIVES:</p> <ul style="list-style-type: none"> • Participants understand how to practically evaluate the pricing of related-party extractive commodity sales. • Participants understand how to apply the benefits test to determine whether an intra-group service has been rendered. • Participants understand the process to determine an arm's length price of an intra-group service. • Participants are aware of the common intra-group services in the extractives sector, including management fees, engineering services, and other technical services. 		<p>OVERVIEW:</p> <ul style="list-style-type: none"> • A synopsis of fundamental transfer pricing principles. • Understanding the mineral pricing framework. • Applying the mineral pricing framework to minerals of the future, such as lithium and nickel. • An overview of transfer pricing principles for intragroup services. • Determining whether management services, engineering services, or other technical services have been rendered for an extractive project. • Understanding the process of determining an arm's length price for intragroup services.

August 4	Intercompany Loans and Other Financing Arrangements	
<p>LEARNING OBJECTIVES:</p> <ul style="list-style-type: none"> • Participants understand the economic, legal, and tax differences between equity and debt funding. • Participants appreciate the policy considerations for the taxation of financial instruments. • Participants understand how to practically evaluate inter-company loans in the extractives sector and more generally. 	<p>OVERVIEW:</p> <ul style="list-style-type: none"> • Related party financing as a base erosion and profit shifting (BEPS) risk. • Assessing risk for related-party debt. • Accurately delineating a related-party debt transaction. • Assessing the credit quality of a related-party borrower. • Applying implicit and explicit guarantee concepts. • A benchmarking process to identify suitable comparables. • Other financial topics, such as metal streaming and interest limitation rules. 	

August 25	Fiscal Incentives and the impact of the OECD/G20's Pillar 2	
<p>LEARNING OBJECTIVES:</p> <ul style="list-style-type: none"> • Participants understand the objectives of tax incentives in the extractives sector. • Participants know how to assess the efficiency and effectiveness of tax incentives in the extractives sector. • Participants have a broad understanding of Pillar 2 rules and their impact on leading tax revenue being lost to other jurisdictions. • Participants know how Pillar 2 rules might reduce pressures to offer incentives. • Participants appreciate the need to review their domestic tax and investment frameworks to identify and modify tax incentives that will be affected by a global minimum tax. • Participants are familiar with progressive forms of stabilization. 	<p>OVERVIEW:</p> <ul style="list-style-type: none"> • How incentives factor into investment decisions in the extractives sector, and a review of different types of tax incentives in the extractives sector. • An introduction to Pillar 2 and how a global minimum tax affects the impact of tax incentives. • Understanding how resource-rich countries should amend their tax incentives regime to benefit rather than lose from the Global Minimum Tax. • Examining what resource-rich countries can do if some tax incentives are locked into stabilization clauses under investment agreements or laws. • The evolution of stabilization practices over the last decades. • How the OECD's <i>Guiding Principles on Durable Extractive Contracts</i> set new normative standards for stabilization provisions. • How to implement the new OECD stabilization guiding principles. 	

September 15	Tax Treaties – Introduction and Permanent Establishment Issues
<p>LEARNING OBJECTIVES:</p> <ul style="list-style-type: none"> • Participants understand the main tax treaty issues in the extractives sector and the policy considerations from a resource perspective. • Participants understand what treaty shopping is and why it is a risk. • Participants understand the Permanent Establishment (PE) issues at each stage of the mining value chain. • Participants have knowledge of recent treaty practices in resource-rich countries with respect to PE. 	<p>OVERVIEW:</p> <ul style="list-style-type: none"> • Introduction to the PE concept. • Traditional PE and PE variations (i.e., PE Construction, PE Services). • The importance of the PE concept in each stage of the extractives value chain – PE policy considerations. • Extractives PE provision – variants, treaty practice. • Treaty shopping in the context of PEs.

October 6	Offshore Indirect Transfers: Sale of Extractive Assets
<p>LEARNING OBJECTIVES:</p> <ul style="list-style-type: none"> • Participants know how Offshore Indirect Transfers are structured. • Participants have knowledge of two models to tax Offshore Indirect Transfers within domestic law, proposed by the Platform for Collaboration on Tax. • Participants learn about tax treaty risks in the taxation of Offshore Indirect Transfers. • Participants propose updates to their country's legal Offshore Indirect Transfers framework. 	<p>OVERVIEW:</p> <ul style="list-style-type: none"> • What are Offshore Indirect Transfers? • How to tax Offshore Indirect Transfers. • How tax treaties can prevent the imposition of an Offshore Indirect Transfers tax. • Administrative challenges specific to mining assets.

October 27	The People's Choice
<p>The topic of this module will be based on the interest of participants. A list of optional modules will be shared with the participants in advance. These topics include Mining Contract Negotiations, the OECD/G20's Pillar 1 and the Extractives Exclusion, as well as Financial Modelling.</p>	

November 17

Designing a “BEPS-Proof” Mining Fiscal Regime

LEARNING OBJECTIVES:

- Participants understand how mining fiscal policy and administrative design can enhance or hinder potential international tax risks.
- Participants have knowledge of mining fiscal policy and administrative innovations that may help to safeguard and potentially increase future mining revenues.

OVERVIEW:

- Recap of the international tax risks covered in the previous months.
- Discuss the implication of energy transition for the extractives industry.
- New fiscal and administrative policies in resource-rich countries.
- Negotiating durable mining contracts:
 - Investment contracts – good or bad?
 - Potential pitfalls.
- The politics of policy reform – how to get it done.



TRAINERS' BIOGRAPHIES



ALEXANDRA READHEAD

Alexandra is Lead, Tax and Extractives with the IGF Secretariat.

Alexandra has directly advised over 15 countries in Latin America and the Caribbean, Africa, and Asia-Pacific on the design and implementation of their international tax systems and mining fiscal regimes. She also teaches mining tax policy and administration at the Blavatnik School of Government, Oxford University, as part of their Oil, Gas and Mining Governance course.



LEE CORRICK

Lee is on secondment from the OECD to the ATAF where he is a Technical Advisor

on international taxation. He provides technical assistance on transfer pricing and other international tax issues to the ATAF Secretariat and to African countries. He has been Technical Advisor to the ATAF Cross Border Taxation Technical Committee since its inception in 2014 and provides technical advice to several African countries.



THOMAS LASSOURD

Thomas is a Senior Policy Advisor with the IGF Secretariat,

working on its project to address tax BEPS in mining. His areas of specialization include public finance and fiscal reforms with a strong focus on tax policy in extractive industries.



ANTHONY MUNANDA MATHYELA

Anthony is a Technical Advisor in international

tax and transfer pricing at ATAF. His role entails supporting African tax administrations in building effective and efficient administration in international tax and transfer pricing.



DR. ABOUBAKAR NACANABO

Dr. Nacanabo is an International Tax Expert at ATAF. He is

a trained tax inspector and former head of the Tax Audit unit at the Directorate of Large Enterprise in Burkina Faso Tax Administration. He has been a Member of ATAF's Technical Committee on Cross-border Taxation (CBT) since 2014 and has chaired the committee since 2020.



TOMAS BALCO

Tomas is a Senior Advisor on the BEPS Capacity Building Team in the Global

Relations Division of the OECD. He has over 22 years of practical experience in International Taxation, out of which 16 years also relate to the practical experience in extractive industry. His experience includes participation in complex tax audits as well as formulation of tax policy and legislation recommendations and review of extractive taxation frameworks and investment contracts.



HOWARD MANN

Howard is a Senior Advisor in the BEPS in Mining Program with the IGF. His work

focuses on complex legal matters and the areas of interplay between domestic law, mining investment contracts, and international law on trade and foreign investment.



NESTOR VENEGAS

Nestor is a Technical Advisor in the Tax Treaty Unit of the Centre for Tax Policy

and Administration directorate of the OECD. Prior to this role, he worked for the tax authority of Chile (SII) for over 10 years as part of the tax treaty negotiation team.



JAQUELINE TAQUIRI

Jaqueline is a Policy Advisor, Tax and Extractives with the IGF. She is an expert

in international tax law and global transparency and accountability initiatives related to extractive industries.



VIOLA TARUS

Viola is a Policy Advisor, Tax and Extractives, with the IGF. She is a trained economist specializing in extractives.



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