



NINETIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Bissau, 6 - 7 July 2023

DIRECTIVE C/DIR.4/07/23 ON HARMONISATION OF THE METHODOLOGY FOR THE EVALUATION OF TAX EXPENDITURES IN ECOWAS MEMBER STATES

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Revised Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 40 of the ECOWAS Revised Treaty relating to fiscal charges and internal taxation;

MINDFUL of Directive C/DIR.1/05/09 on the Harmonization of the laws of the ECOWAS Member States relating to Value Added Tax;

MINDFUL of Directive C/DIR.2/06/09 on the Harmonization of the laws of ECOWAS Member States relating to excise duties;

MINDFUL of Directive C/DIR.1/12/13 adopting the ECOWAS Tax Transition Programme;

CONSIDERING that the implementation of the ECOWAS Common External Tariff, coupled with the conclusion of international trade agreements and trade liberalization policies, will lead to a considerable drop in import duties that cannot be offset by community compensation measures alone;

CONSIDERING ALSO that the harmonization of Member States' tax laws is a necessity for the completion of the common market and that it will also help to achieve consistency in internal taxation systems, ensure equal treatment of economic operators within the Community and improve the yield of the various taxes;

TAKING NOTE that the commitments made by States in the context of poverty reduction strategies with a view to achieving the Millennium Development Goals require increased mobilization of financial resources,

AWARE of the need to strengthen the ECOWAS common market, and to support the economic growth of the Member States of the Community while mobilizing the necessary resources to finance development;

CONSCIOUS of the need to provide Member States with tax management tools to enhance their performance in mobilizing tax resources in order to strengthen the measures of the tax transition programme undertaken by Member States;

CONVINCED that it is in the Community's interest to put in place a coherent programme of fiscal and customs reforms to move from import duty to internal taxation in order to compensate for possible losses of border revenues generated by the opening of the Community market and the conclusion of international trade agreements;

CONVINCED ALSO that domestic taxation should allow for revenue mobilization while promoting business competitiveness;

DESIROUS of providing the Community with a harmonized methodology for evaluating tax expenditure common to all Member States;

UPON THE RECOMMENDATION of the 7th meeting of the Ministers of Finance of ECOWAS Member States held at Abidjan, Côte d'Ivoire on 26th November 2022;

UPON THE OPINION of the Parliament at its First Ordinary Session held in Abuja, Nigeria from 8th to 26th May 2023.

PRESCRIBES:

ARTICLE 1: OBJECTIVE

This Directive **C/DIR.4/07/23** sets out the modalities for the evaluation of tax expenditures in the ECOWAS zone.

ARTICLE 2: DEFINITIONS

For the purposes of this Directive, the following definitions shall apply:

"Tax administration" means the Structure, Institution or Body responsible in each Member State for the administrative management of tax;

"Tax expenditure" means loss of tax revenue resulting from the implementation of legislative, regulatory and treaty provisions that derogate from a Tax Reference System (TRS).

Tax expenditures include the following:

- i. Exemptions
- ii. Tax credits
- iii. Tax reductions
- iv. Reduced rates
- v. Deductions
- vi. Abatements

"Tax incentives" means fiscal measures made available to businesses to guide, regulate, promote economic activity, encourage or discourage behaviour or activities deemed desirable or undesirable;

The "tax reference system" means the most neutral tax system applying to all taxpayers or economic transactions with the least possible discrimination. It indicates, for each tax, duty or charge, the tax base and the standard rate;

ARTICLE 3: PERIODICITY

Member States evaluate tax expenditure each year and prepare a national report which is transmitted to the Commission. The evaluation of tax expenditure for the year n-1 is carried out during the year n to be annexed to the draft Finance Act for the year n+1.

ARTICLE 4: SCOPE OF EVALUATION AND MONITORING OF TAX EXPENDITURE

The evaluation of tax expenditures focuses on measures that derogate from the benchmark tax system.

ARTICLE 5: PROCEDURES FOR DETERMINING THE REFERENCE TAX SYSTEM

The reference tax system for each tax, duty or charge is adopted by the Member States in accordance with the regional guidelines for domestic tax and customs legislation.

ARTICLE 6: EVALUATION METHODS

1. The assessment of the budgetary costs is based on the "lost revenue" method currently used in the Member States.

2. The budgetary costs of tax expenditures are evaluated for each measure in relation to the reference tax system and by type of tax.
3. Member States shall carry out an analysis of the economic and social effects of tax expenditure in addition to the budgetary evaluation.

ARTICLE 7: DATA SOURCES FOR TAX EXPENDITURE EVALUATION

1. Member States use tax data obtained from customs and tax declarations to assess tax expenditure.
2. They may use macroeconomic, sectoral and/or other data sources to determine tax expenditures.
3. Member States shall put in place an organizational arrangement for the collection of reliable data on tax expenditure with a view to its evaluation.

ARTICLE 8: TAX EXPENDITURE EVALUATION GRID AND SPECIFIC MONITORING GRID FOR TAX INCENTIVES

A Tax Expenditure Evaluation Grid and a specific Investment Tax Incentives Monitoring Grid are defined and applied by Member States in order to facilitate the harmonization of data collection, processing and analysis practices for tax expenditures.

ARTICLE 9: STRUCTURE OF THE TAX EXPENDITURE EVALUATION REPORT

The tax expenditure evaluation report includes:

- 1. Definition of concepts and evaluation methodology.** This involves defining the main concepts, recalling the reference tax system and presenting the evaluation methodology.
- 2. The analysis of the results of the budgetary evaluation.** It includes the presentation of the measures identified, the measures evaluated and the tax expenditures. The presentation of fiscal expenditure includes data from three (03) previous years and estimates for the current year. Members States may make projections for the coming year.
- 3. The analysis of tax expenditures is carried out:**
 - i. By tax type;
 - ii. By derogation type;
 - iii. By legal basis;
 - iv. By objective ;

- v. By category of beneficiary ;
- vi. By sector of activity ;
- vii. By budget function or by programme for those who have adopted the programme budget
- viii. By ratios (tax expenditure/total tax revenue, tax expenditure/Gross Domestic Product).

4. Analysis of economic and social effects where relevant

ARTICLE 10: STRUCTURES FOR EVALUATING TAX EXPENDITURES

1. At the national level, each Member State sets up a multidisciplinary structure attached to the Ministry responsible for tax policy to carry out tax expenditure evaluation work.

2. At ECOWAS level, the Commission prepares a synthesis report.

ARTICLE 11: TRANSMISSION, PUBLICATION AND DISSEMINATION OF TAX EXPENDITURE EVALUATION REPORTS

1. The evaluation report on fiscal expenditure of each Member State shall be transmitted to the ECOWAS Commission no later than three (03) months after the adoption of the initial finance law or the annual budget
2. Member States shall take steps to disseminate tax expenditure evaluation reports to all stakeholders, including employers' organisations, consumer organisations, civil society and the media.
3. At ECOWAS level, the Commission publishes the summary report on the ECOWAS website.

ARTICLE 12: ADMINISTRATIVE PROVISIONS

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2023.
2. When Member States adopt the provisions referred to in the preceding paragraph, the provisions shall contain a reference to this Directive or shall be accompanied by such a reference at their official publication.

3. Member States shall communicate to the ECOWAS Commission the measures or arrangements they adopt to comply with this Directive.
4. Member States shall notify the difficulties encountered in implementing this Directive to the President of the Commission who shall report to the next session of the Council of Ministers.

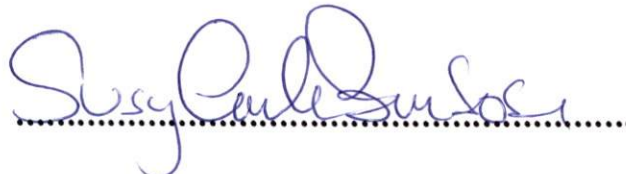
ARTICLE 13: PUBLICATION

1. This **DIRECTIVE C/DIR.4/07/23** shall be published in the Official Journal of the community by the ECOWAS Commission within thirty (30) days of its signature by the Chairperson of the Council of Ministers.
2. It shall also be published within the same time frame by each State in its Official Journal after notification by the ECOWAS Commission.

ARTICLE 14: ENTRY INTO FORCE

This **DIRECTIVE C/DIR.4/07/23** shall enter into force upon its publication.

DONE AT BISSAU, ON 7TH JULY 2023



**H.E. SUZI CARLA BARBOSA
FOR THE COUNCIL
THE CHAIRPERSON**