

Tax amnesty in Angola: a fresh start or a vicious circle?

Photo: Odd-Helge Fjeldstad



The Angolan Parliament has recently approved a comprehensive set of new tax legislation as part of the ongoing non-oil tax reform. An amnesty for taxpayers' outstanding debt is part of the reform package. Given the lawlessness that has characterised non-oil taxation in Angola since independence, the Government's position seems to be that the tax amnesty is required to "put the past behind us in order to move forward". Embarking on a tax amnesty is a challenging path full of potential pitfalls. This brief addresses some of these challenges and discusses how to minimise the potential costs of the amnesty. The purpose is to contribute to the public debate in Angola since the legal and regulatory framework for the tax amnesty still seems to be under development.

Odd-Helge Fjeldstad

Senior Researcher, CMI
& Research Director, ICTD

Søren Kirk Jensen

Independent Policy
Analysis & Research
Associate, CMI

Francisco Miguel Paulo

Researcher, CEIC-UCAN

CMI CHR.
MICHELSEN
INSTITUTE

NEW TAX LEGISLATION APPROVED BY THE PARLIAMENT

On June 26, 2014, the National Assembly (NA) approved the long delayed tax reform package consisting of the corporate and personal income taxes and three comprehensive crosscutting tax codes. The approval of the package has been underway for a long time and it is good news for the credibility of the tax reform that it has passed this political obstacle. A detailed analysis of the extent to which the draft legislation has been revised before the NA moved to approve it remains to be made as the laws have not yet been published in the national gazette (Diário da República).

The Ministry of Finance and Pricewaterhouse-Coopers (PwC) recently published an article on their website explaining what the reform package, to be implemented from 2015, will imply for the taxpayers. The article explains that

the basic personal allowance (or the minimum exemption limit) for Personal Income Tax will be increased from AKz 25,000 (equivalent to approximately USD 250) to AKz 34,450 per month (USD 345). This is in line with CEIC/CMI's recommendation of doubling the personal allowance to AKz 50,000 per month even if the increase is more modest. Also in line with the CEIC/CMI policy recommendations, the holiday pay (the so-called 13th month) will be included in the tax base and no longer exempted. It remains to be seen if the Personal Income Tax schedule has been simplified, but this is not mentioned in the article.

THE TAX AMNESTY

Together with the news of the approval of the new tax legislation, it was announced that the Parliament has approved a tax amnesty covering taxpayers' debts related to the Corporate Income Tax, Personal Income Tax owed by self-employed,

Property Tax, Capital Income Tax and Stamp Duty up to December 31, 2012. In effect, this means that 2013 will be 'year one' in the reformed Angolan tax system. From 2013 onwards, a more rigorous application of the tax legislation will be enforced based principally on the new Tax Collection Code (one of the three crosscutting codes).

Embarking on a tax amnesty means starting on a challenging path full of potential pitfalls. Given the widespread lawlessness, that has characterised non-oil taxation in Angola since independence, the Government's position seems to be that the tax amnesty is required to "put the past behind us in order to move forward". However, international experiences show that tax amnesties are rarely successful. A tax amnesty programme must do more than simply offer relief for past violations. It will only be successful if it manages to change future behaviour, both of the taxpayer and the government. If the likelihood of getting caught and penalised for non-compliance increases after the amnesty, then taxpayers are more likely to take advantage of the temporary amnesty as a last chance opportunity. The design of a successful amnesty should therefore combine mild treatment of the evaders upon the disclosure with a tougher expected enforcement regime. The measure also needs to be designed in a way that minimises biases between different segments of taxpayers and safeguards the long-term impact on compliance.

THE POLICY PROCESS

The policy process leading to the decision on the tax amnesty in Angola seems to have been promoted strongly by the ruling party MPLA. Several media channels, including a [news piece](#) on the Tax Reform Project's (PERT) website, present the measure as "...approved by the parliamentary group of the MPLA" which, in the same line, is described as "an applauded proposal" although it is not clear who is applauding. As we shall return to below, large segments of the taxpayers, including public employees who would be considered core MPLA voters, are not to benefit from the amnesty in its current form, which might bring some of the initial applause to a halt.

According to the weekly *Expansão* (4 de Julho, 2014: *Perdão fiscal divide partidos*, Edição N° 275, p. 20), the measure was not proposed by the PERT, but by MPLA members of Parliament. If not unprecedented, it is at least an unusual way of policymaking in Angola to have legislation tabled by Members of Parliament and not proposed by the Executive. However, it seems that the Executive has quickly rallied behind the idea. A member of the Economic and Finance Committee (EFC) of the National Assembly clarified that the proposal was introduced as a way to get the tax legislative process back on track at a time when it has been hard to find genuine backing, particularly for the Tax Collection Code, even within the ranks of the party in power. This corresponds with interviews conducted by the authors' of this brief in February 2014. MPLA leaders of the EFC then stated that the package would not pass without significant alterations. The idea of the amnesty was therefore tabled by the MPLA and discussed within the EFC with the opposition being against the amnesty.

Ultimately, the tax amnesty was passed with the rest of the tax reform package, but in a highly contested political climate with opposition Members of Parliament claiming that the amnesty was introduced exclusively to benefit the business interests of the MPLA. The fact that the Tax Collection Code was controversial is reflected in the voting record as each code was voted on separately in the National Assembly. The Personal Income Tax [was approved unanimously](#); the General Tax Code, the Tax Procedure Code and the Corporate Income Tax were approved with 165 votes in favour and 7 abstentions, whereas the contentious Tax Collection Code was approved with only 141 votes in favour and 31 abstentions.

CHALLENGES AND UNINTENDED EFFECTS OF TAX AMNESTIES

Tax amnesties are especially attractive to politicians who commonly view an "amnesty as a way to obtain revenue owed to the government which would never have been collected without the amnesty". However, international evidence shows that tax amnesties are rarely successful. The main argument against tax amnesties is that credibility problems may arise concerning the ability and/or commitment of the state to enforce the tax laws. Even if amnesties are accompanied by declarations about new and stronger enforcement efforts, taxpayers who take past auditing policy into account are likely to correct only slightly their perception of the riskiness of tax evasion. Therefore, the collection of taxes from past evaders is likely to be low, and the expectation of future amnesties can induce those who previously complied to evade. If an amnesty leads to larger tax evasion, pressure may arise for further subsequent amnesties. This might lead to a vicious circle where more and more generous and frequent amnesties

DEFINING TAX AMNESTY

Tax amnesty is a rule or law issued by the government to forgive tax debts of previous years to taxpayers. Through this measure the government provides a benefit to taxpayers by allowing them to rectify mistakes or omissions in tax returns without fear of legal actions. In other words, the Government sacrifices the penalties for past non-compliance (and often the tax owing itself) in exchange for improved compliance in the future. The amnesty is usually established for a fixed period of time.

are granted. Amnesties could therefore reveal weakness behind the pretended tough stance of a government against future tax evasion and may permanently endanger its taxing capacity by reducing the overall taxpayers' willingness to pay.

The fiscal consequences in terms of revenues lost and reduced taxpayer compliance do not seem to have been part of the considerations in approving the measure in Angola. Whereas this is perhaps not a surprising stance for Members of Parliament, it should be a major concern for the Ministry of Finance as it worsens the non-oil fiscal stance. PERT which responds to the Ministry of Finance might have been divided between the objective of increasing non-oil revenue and the prospect of the tax reform package not being approved at all.

Amongst the justifications provided for the Angolan tax amnesty is that the new Tax Collection Code introduces a more rapid and effective manner to recover outstanding tax payments coercively. In the past, many companies

The Urban Property Tax (Imposto Predial Urbano) is excluded from the Angolan tax amnesty. This implies that the tax authorities must now apply the new Tax Collection Code to hold property owners to account for any owed taxes retrospectively. The property tax before 2011 was 30 percent of the estimated value of the property and the effective rental income tax was 24 percent. When the revised Urban Property Tax was approved in April 2011 (Law 18/11) it massively reduced the property tax rate to 0.5 percent and included a basic exemption for AKz 5m (US\$ 50.000) of the value. The effective tax on rental income was reduced to 15 percent.

There are pros and cons to exclude property taxes from the amnesty as in relation to the tax amnesty in general. Authorising a tax amnesty for outstanding property tax payments would seem grossly unfair to those who have complied voluntarily. On the other hand, this is perhaps one of the subsectors where an amnesty could contribute to 'normalise' taxpayers' relations with the tax authorities by changing future behaviour,



The tax amnesty introduces discriminatory treatment of taxpayers.

did not comply with the tax legislation and the sanctions against tax defaulters were perceived to be weak. However, the argument for the tax amnesty does not seem to be that companies were unwilling to comply, but that they were unable to comply with the old and outdated Corporate Income Tax (law 7/97) from which to calculate outstanding taxes. It was expected that the new legislation would enable the tax administration to enforce taxes more effectively. Equity and fairness considerations are not mentioned in this regard. The tax amnesty introduces discriminatory treatment of taxpayers. It may be perceived as unfair that a large number of employees will have paid their due personal income tax (of which only self-employed – group B – are covered by the amnesty) and that some companies may have complied voluntarily with the corporate tax. These segments of taxpayers are clearly the losers in this process. Moreover, it is likely that at least companies above a certain size would have had the capacity to keep their books in order and paid tax in line with the former legislation in force. The amnesty could therefore have been better targeted at small and medium sized enterprises, which are likely to have struggled with compliance in a complex system that was not geared to facilitate tax payments. This would also be in line with targeted amnesties in other countries. South Africa, for instance, embarked on a tax amnesty for small businesses in 2006.

both of the taxpayer and the government. In Luanda, for instance, it is not unreasonable to assume that a property owner could have rented out property for an average of US\$ 5,000 per month for 10 years prior to the 2011 revision of the law without paying tax. Given that this is not covered by the amnesty it would imply that this property owner owes $10 \times 12 \times 5000 \times 24\% = \text{US\$ } 144,000$ in outstanding rental income tax payments to the authorities. It would be challenging for the tax administration to enforce this even with the new Tax Collection Code in hand. Moreover, registration and valuation of property in Angola is very weak which would challenge the collection of property taxes.

CONCLUSION AND RECOMMENDATIONS

In this brief we caution against the perspective that the tax amnesty will imply a fresh start for the non-oil tax system in Angola. There is a real danger that the amnesty actually might contribute to undermine future compliance, because some taxpayers may be encouraged to engage in non-compliance in anticipation of future tax amnesties, especially if the design is not improved. This could lead to a vicious circle where the unintended effects of the current amnesty will justify future amnesties.

If the authorities decide that this is a risk worth taking, the tax amnesty must be designed and implemented cautiously from a public policy

The Angola Brief series is an output of the CEIC-CMI Cooperation Programme for research in social and economic issues concerning Angola. The series aims to contribute research findings and policy recommendations to enhance public debate in and about Angola.

Authors: Odd-Helge Fjeldstad, Søren Kirk Jensen and Francisco Miguel Paulo. Copy editor: Pernille Jørgensen.

perspective. To avoid the vicious circle, the Angolan amnesty should do more than simply offer relief for past violations. Both the perceived fairness of the amnesty and the non-oil fiscal stance should be taken into account. To achieve these objectives, the amnesty should be better targeted (especially at SMEs) and increase the probability that it will indeed change future behaviour, both of the taxpayer and the government. For affected taxpayers this would imply to start complying with the legislation and pay the taxes excluded by the amnesty from 2013. For the Government this would imply that the tax authorities more effectively would have to investigate and enforce tax evasion. International experiences show that the best results seem to have been reached when an amnesty was offered together with a policy aimed at strengthening enforcement capacity and at improving the overall efficiency of the tax collection system and this is the purpose of the new Tax Collection Code.

Apart from the importance of careful design, a tax amnesty will only be effective if taxpayers can be certain that they do not risk future investigation of possible tax evasion in years covered by the amnesty if they start declaring after the cut-off date of 1 January 2013 after which they are expected to start paying. This will require that the implementation of the amnesty should include a taxpayer education and outreach component, as well as active use of the media. PERT staff should be specially trained and one should consider to establish a dedicated call centre to handle amnesty queries. Dedicated outreach teams should be set up in all regions. These teams should visit businesses to facilitate the process of submitting tax amnesty applications. It is important that these perspectives are incorporated in the legal framework and guidelines to be prepared to regulate the Angolan amnesty.

To avoid using tax amnesties in the future, the Government should continue to pursue policies aiming at reducing tax evasion by (a) addressing its basic determinants such as complex legislation and regulations, insufficient and improper enforcement, malfunctioning courts, and poor links between tax payment and public service provision; and (b) improving the effectiveness of the tax administration.

RECOMMENDED LITERATURE

Bird, R.M. 2004. Administrative dimensions of tax reform. *Asia-Pacific Tax Bulletin*, Vol. 10(3): 3-21.

Marchese, C. 2014. Tax amnesties. IEL Paper in Comparative Analysis of Institutions, Economics and Law No. 17.

Mikesell, J.L. and Birskyte, L. 2007. The tax compliance puzzle: Evidence from theory and practice. *International Journal of Public Finance*.

PREVIOUS CEIC/CMI PUBLICATIONS ON TAXATION IN ANGOLA

Fjeldstad, O.H., Jensen, S.K. and Paulo, M.F. 2014. [Reforming the personal tax system in Angola: An alternative proposal.](#)

Fjeldstad, O.H., Jensen, S.K. and Paulo, M.F. 2014. [The non-oil tax reform in Angola: On track or losing momentum?](#)

Fjeldstad, O.H., Jensen, S.K. and Paulo, M.F. 2014. [Poor revenue forecasting: A major challenge for sound fiscal policy in Angola.](#)

Fjeldstad, O.H., Jensen, S.K. and Orre, A. 2012. [Taking stock of the tax reform process in Angola and why tax incentives should be avoided.](#)

Fjeldstad, O.H., Jensen, S.K. and Orre, A. 2011. [Why collect taxes in oil rich Angola? ... and the challenges of doing so.](#)