

Rio Tinto

The Role of Technical Assistance: An Industry Perspective

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- Investments in natural resources tend to:
 - Be large relative to the economy of the developing country, subject to heavy scrutiny, and may have differing regional and national considerations
 - Have capital invested up front, whereas returns to stakeholders are delivered over a long period
 - Pose particular tax administration challenges

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- Three critical factors for a successful partnership between the taxpayer and the tax authority:
 - Transparency of tax administration process and transparency of taxpayer behaviour
 - Capacity-building in tax administrations
 - Clear process in place for escalation of tax disputes, supporting a route to resolution

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- Transparency
 - Compliance by all parties with any investment stabilisation agreement
 - Compliance by all parties with tax administration rules and regulations
 - Consistent application of law and regulations
 - Changes in law should only be prospective and clear guidelines available in advance

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- Capacity-building in tax administrations
 - Consider practical issues such as:
 - What GAAP?
 - What functional currency?
 - What accounting software system?
 - What language to maintain books and records in?
 - Conduct of tax audits and the issue of tax assessments:
 - Reasonable response times if data maintained overseas or requires translation
 - What checks and balances in place to guard against frivolous tax assessments that then clog up the tax courts?
 - VAT and customs duty exemption certification, rather than pay and reclaim

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- Technical issues around capacity-building in tax administrations:
 - Transfer pricing
 - Application of tax treaties
 - Competent authority processes
 - Fit for purpose tax design with a focus on efficient revenue collection

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- Clear process for elevating and resolving tax issues such as:
 - Conflicts between investment stabilisation agreement and subsequent changes of tax law
 - Application of tax treaties
 - Competent authority processes
 - Timely reimbursement of taxes incorrectly withheld
 - Procedural opportunities for quick dispute resolution without necessarily resorting to litigation

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- How can industry help?
 - Share examples of best practice experiences from other countries
 - Work together to find practical and effective solutions to particular audit or tax administration problems
 - Work together in the design of new tax legislation
 - Technical tax training in specialist areas such as issues relevant to mining taxation, application of tax treaties, permanent establishments, transfer pricing
 - Education about the international mining business, key commercial and operational and financing issues