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ICAO POLICIES ON TAXATION OF INTERNATIONAL AIR TRANSPORT

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**ICAO/LACAC Capacity Building Workshop on
Air Transport Economic Regulation and Oversight**



Objectives

- Describe ICAO's policies on taxation of international air transport.
- Identify the principles, provisions and guidance in ICAO's policies on taxation of international air transport.
- Know the reasons for concern for States' non-compliance with ICAO's policies on taxation of international air transport.

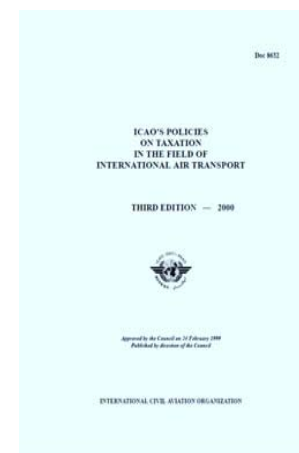
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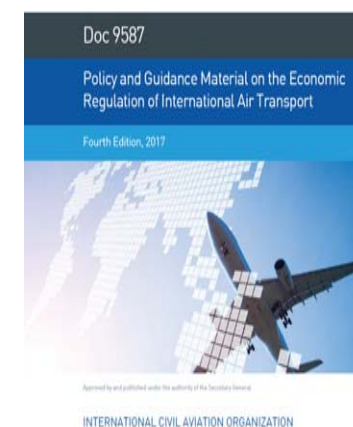
REFERENCE DOCUMENTS



Doc 7300



Doc 8632



Doc 9587



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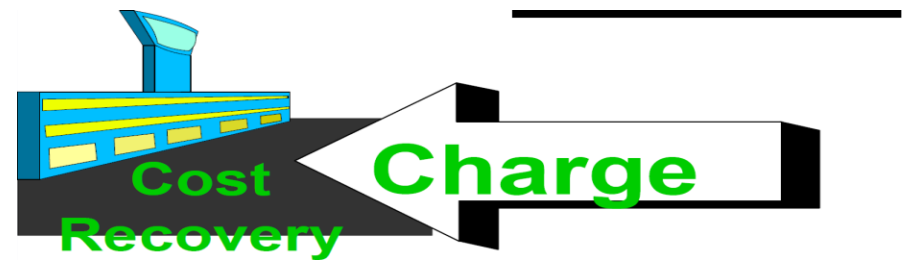
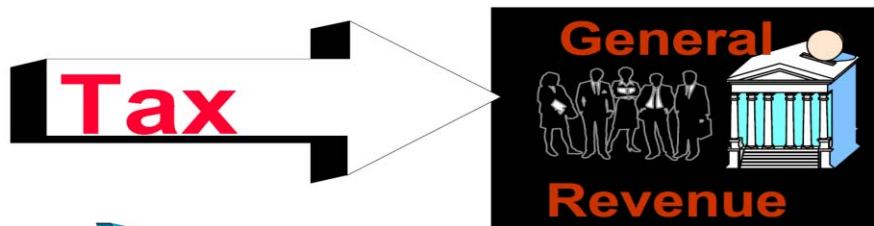
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AFCAC Capacity Building Workshop

DEFINITIONS



- ❑ A **tax** is a levy that is designed to raise national or local government revenues, **which are generally not applied to civil aviation in their entirety or on a cost-specific basis.**
- ❑ A **charge** is a levy that is designed and applied **specifically to recover the costs** of providing facilities and services for civil aviation.





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ICAO POLICIES ON TAXATION





- ❑ The **Chicago Convention** addresses the issue of taxes:
- ❑ The Chicago Convention **did not deal comprehensively** with tax matters
- ❑ **Exempts** from Custom Duty:
 - ➔ Fuel, Lubricants, Spare parts, regular equipment and aircraft stores **on board an aircraft**
 - ➔ **Spare parts and equipment imported into the territory of a contracting States** for incorporation in or use on an aircraft of another contracting state engaged in international air navigation.

ICAO's Policies on Taxation

Article 24 – Customs Duty

Exemption of fuel and lubricating oils, aircraft spare parts, regular equipment and aircraft stores, on board an aircraft



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- ❑ The ICAO's Policies on Taxation in the Field of International of Air Transport (**Doc 8632**) :
- ❑ Supplements **Article 24 of the Chicago Convention** and contains consolidated **ICAO Council Resolutions** and associated commentaries.

ICAO's Policies on Taxation in the Field of International of Air Transport (Doc 8632)

Supplements Article 24 of the Chicago Convention





❑ The ICAO's Policies on Taxation in the Field of International of Air Transport (**Doc 8632**) :

- ➔ States are to **exempt fuel, lubricants and other consumable technical supplies taken** on board from **taxation**(based on reciprocity).
- ➔ States are to limit taxation of **income of airlines and of aircraft** and other movable property to the State where the airline has its fiscal domicile (based on reciprocity).
- ➔ States to **reduce to the fullest practicable extent** taxation on the **sale or use of international air transport** (including taxes levied directly on passengers and shippers).

ICAO's Policies on Taxation in the Field of International of Air Transport (Doc 8632)

Contains consolidated ICAO Council Resolutions and associated commentaries





The Assembly Resolution A41-27:

- i. Urged Member States to **follow the ICAO's Policies on Taxation in the Field of International Air Transport** as contained in Doc 8632, and to avoid imposing discriminatory taxes on international aviation;
- ii. Urged Member States to **avoid double taxation** in the field of air transport;
- i. Urged Member States to forward information when required to ICAO, on the status of their implementation of the consolidated resolutions on taxation for the update of the supplement to Doc 8632; and
- ii. Requests the Council to continue to **promote ICAO's policies on taxation**, monitor developments, and update its policies as required.

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Assembly Resolution A41-27 Appendix B on Taxation





Sixth Worldwide Air Transport Conference (ATConf/6)

- ☐ There was general agreement that:
 - i. the proliferation of various taxes and duties on air transport has a negative economic impact on the sustainable development of air transport and on the protection of the consumer; and
 - ii. ICAO's policies on taxation in **Doc 8632 remain valid.**
- ☐ Specific attention was called on the optional use of the **model clauses in the TASA.**

Outcome of ATConf/6

Sixth Worldwide Air Transport Conference, March 2013

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REASONS FOR CONCERN





Reasons for concern

❑ Growing proliferation of taxes on international air transport beyond the scope of ICAO policies including various taxes on passenger and cargo, tourism taxes, Value Added Tax and Sales Tax on jet fuel, security and environmental taxes, etc.

- ✈ There are many different ticket taxes and fees in place.
- ✈ The share of these taxes as a percentage of ticket price varies between 15 and 20 per cent.
- ✈ Passenger demand for air travel is highly price elastic
- ✈ A 10% increase in price leads to a reduction in demand of up to 15%.

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Proliferation of Taxes on International Air Transport



Reasons for concern

- ❑ Excessive taxation on international air transport for the **sole purpose of generating States revenues**, as such taxes are not used to improve the air transport system.
- ❑ Continuous **lack of transparency and discriminatory practices** against air transport vis-à-vis other modes of transport in the imposition and collection of taxes.
- ❑ Excessive and unjust taxation **constitutes obstacle to the development and expansion** of international travel, trade, tourism and the national economy.

Proliferation of Taxes on International Air Transport



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Reasons for concern

Proliferation of Taxes on International Air Transport

- ❑ Taxes on the sale or use of international air transport **are at odds with modern trends towards liberalizing and reducing barriers to trade in goods and services**, since such taxes may have the same effect or impact as tariffs on imports or exports.



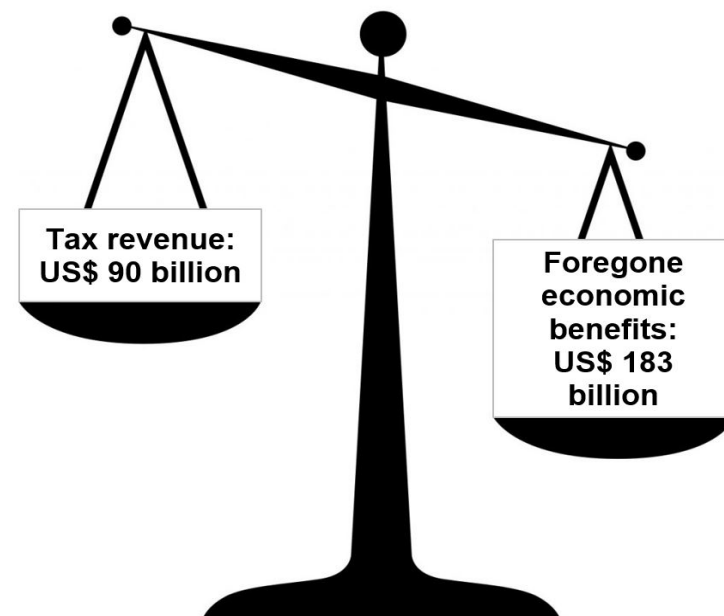
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Reasons for concern

The **overall negative impact of Taxation** outweighs the so call benefits derived from the revenue they generate.

The Negative Impacts Outweighs the Benefits



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ICAO's EFFORTS





- ❑ State should have bilateral negotiation/agreements relating to **double taxation, exchange of commercial air transport rights, or by legislation** granting exemption to any other State that provides reciprocity.
- ❑ According to ICAO data on Air Services Agreements (ASAs):
 - ➔ **over 95%** of the ASAs extend the exemptions to fuel and aircraft equipment; and
 - ➔ **about 20%** grant reciprocal exemptions from taxes on income of international air transport;
- ❑ ICAO also developed a **Template Air Services Agreement (TASA)** on the basis of model clauses or language found in various ASAs, for optional use by States in air services agreements.

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ICAO model clause on taxation

ICAO Template Air Services Agreements (TASA) contains - **Article 14 - Taxation**

Extract from the ICAO Template Air Services Agreements (TASA)

Article 14 Taxation	Explanatory Notes
[Paragraphs 1 through 3, option 1 of 2]	<i>A provision on the taxation of income and capital in agreement is not widespread, in part because such matters may be the subject of a separate treaty on double taxation between the parties. One is presented above in light of the policy of ICAO (Doc 8632) that such an exemption be granted. Since the issue of taxation and taxation agreements between States would be an issue for financial authorities, a provision such as is presented here would require the involvement of those authorities in its formulation and negotiation.</i> <i>In this alternative, paragraphs 1 and 2 address the taxation of income and capital, respectively.</i> <i>Paragraph 3 provides for a treaty between the Parties on double taxation to override the provisions of this agreement.</i>
[Paragraphs 1 through 3, option 2 of 2]	<i>This alternative exempts airlines from certain taxes imposed by the Government of the other Party rather than specifying when airlines are taxable, i.e., in the territory of effective management of the airline, thereby clarifying the scope of tax exemptions.</i> <i>Paragraph 1 specifically exempts profits and income from inter-airline commercial agreements.</i>
[Option 3]	<i>The exemption is reciprocal though its coverage may vary as indicated by the bracketed text. For example, the Parties may also choose to include import restrictions, or airline supplies such as ticket stock, or computer equipment.</i> <i>This clause is recommended by the Sixth Worldwide Air Transport Conference as an option for use by States at the discretion. States may choose to use this provision in a Memorandum of Understanding (MoU) or a Memorandum of Cooperation (MoC).</i>



- ❑ Collaborating with IATA and other industry partners on **Advocacy** against proliferation of unjustified Taxes on air transport .
- ❑ Promoting the **socio-economic benefits** of aviation: Publication of Aviation Benefit Report:



DOWNLOAD YOUR FREE REPORT AT:

<https://www.icao.int/sustainability/Pages/IHLG.aspx>

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Advocacy and Promotion





- ❑ Promoting sectoral coordination and collaborations.
- ❑ Publication of Supplement to Doc 8632:

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Supplement to Doc 8632



15/1/13

SUPPLEMENT TO DOC 8632

ICAO'S POLICIES ON TAXATION IN THE FIELD OF INTERNATIONAL AIR TRANSPORT

(Third Edition — 2000)

1. The attached Supplement supersedes all previous Supplements to Doc 8632 and includes information received up to 15 January 2013 from Contracting States as to their position vis-à-vis the Council Resolution on taxation in the field of international air transport.
2. Additional information received from Contracting States will be issued at intervals as amendments to this Supplement.



CHILE

- Clause 1** • The Directorate General of Civil Aeronautics of Chile is in full agreement with the Resolution. This position is consistent with the exemption from taxation given by Chile in the cases indicated in Clause 1 of Doc 8632.
- Clause 2** • In order to avoid multilateral double taxation, Chile concludes international treaties and agreements with some foreign countries which relate specifically to air transport.
- In general, this type of agreement exempts from taxation the income of the transport enterprises of the other Contracting State derived from their activities, provided that this exemption from taxation is subject to the principle of reciprocity in that other State. Chile has signed treaties with Argentina, Brazil, Colombia, France, Germany, Panama, Paraguay, Spain, the United States, Uruguay and Venezuela (Bolivarian Republic of).
- Clause 3** • In Chile the sale of tickets is exempt from the Value Added Tax (VAT).

SUPPLEMENT TO DOC 8632

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Chile



COLOMBIA

- General**
- The Colombian Civil Aviation Authority fully agrees that the increase in taxation could have an impact on the growth and development of air transport. It feels that decisions regarding such questions, which are of great importance to any State, should be made based on the knowledge and capacity States deem applicable to matters of taxation, and in compliance with individual fiscal policies.
- Clause 1**
- Aviation fuel used to supply international air transport services is not taxed because it is considered an export.
- Clause 2**
- All international air carrier revenue is considered mixed income and is taxed at a rate of 33 per cent on taxable income.
 - In order to avoid multiple taxation, an agreement to eliminate duplicate taxation was established with the Government of Panama.
- Clause 3**
- As regards passengers, in general, a value-added tax (VAT) of 16 per cent is applied on the sale of tickets. However, on international RT flights this is applied only on 50 per cent of the ticket price (eight per cent).
 - International cargo transport is exempted from the VAT.

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SUPPLEMENT TO DOC 8632

Colombia



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CONCLUSIONS





❑ The provisions of Doc 8632 - *ICAO's Policies on Taxation in the Field of International Air Transport* state that:

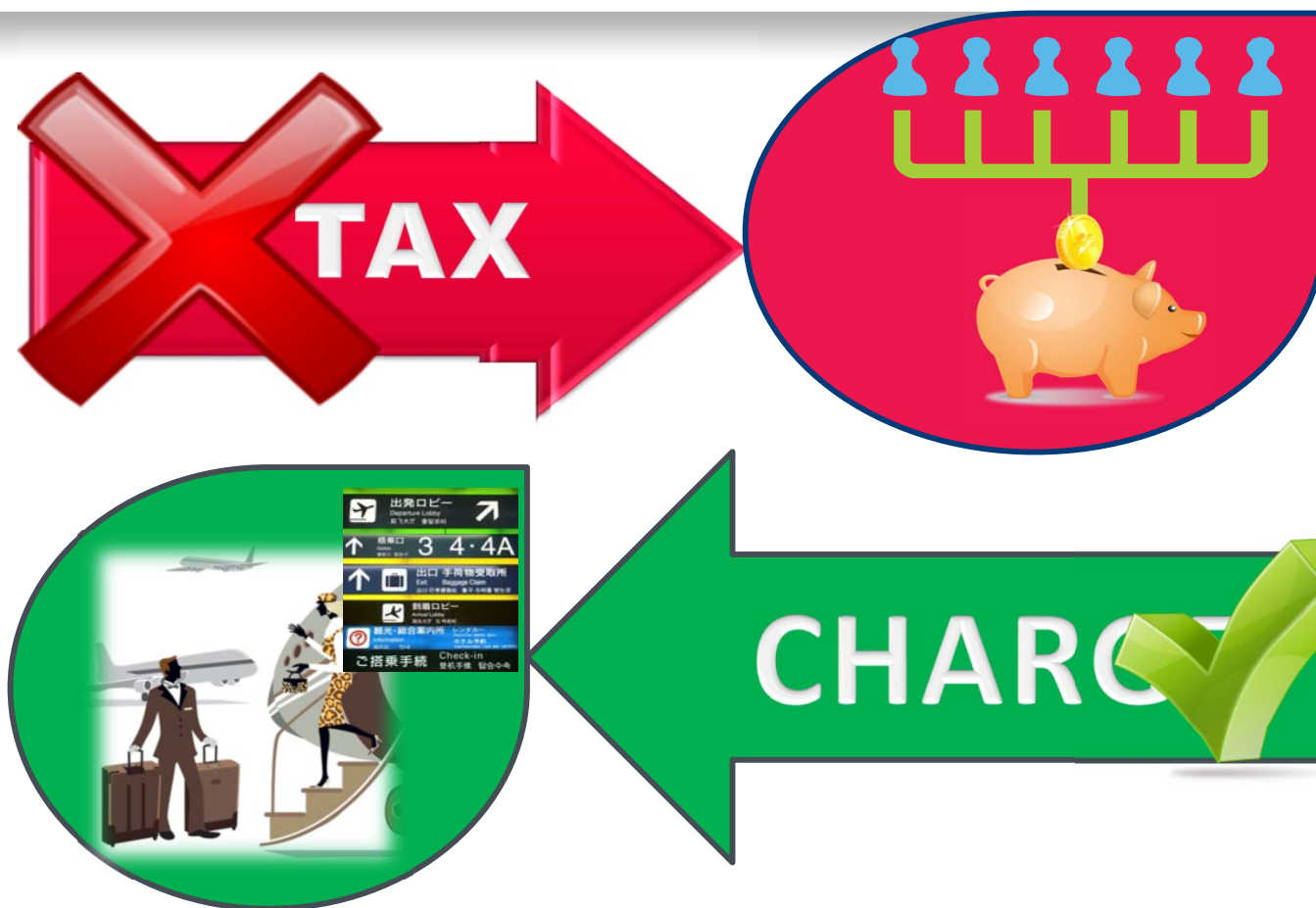
✈ **Taxes on the sale or use of international air transport are at odds with modern trends** towards liberalizing and reducing barriers to **trade in goods and services**, since such taxes may have the same effect or impact as tariffs on imports or exports.

✈ Each Contracting State shall **reduce to the fullest practicable extent and make plans to eliminate as soon as its economic conditions permit all forms of taxation on the sale** or use of international transport by air, including taxes on gross receipts of operators and taxes levied directly on passengers or shippers.

ICAO's Policies on Taxation in the Field of International of Air Transport (Doc 8632)



Conclusion



- Avoid discrimination
- Consider economic contributions
- Reduce taxes to fullest extent



Join the Advocacy and **follow the ICAO policies** on taxation of international air transport

- Convince the policy makers especially those responsible for taxation, of the negative impact of excessive taxation on air transport
- Ensure that the taxes collected in aviation are substantially used to improve the air transport system

ITS TIME TO ACT! NOW!

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- ✈ ICAO's policies on taxation in the Field of International Air Transport.
- ✈ Reasons for concerns on imposition of taxes on use of air transport.
- ✈ ICAO's efforts on ensuring State's compliance with its policies on taxation in the Field of International Air Transport.

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Questions?
Comments?

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THANK YOU