

# Direct Taxes Code Global Think Tank

## International Dimensions

### of the Direct Taxes Code Bill, 2010

### Comments and Recommendations

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**TAXMANN**

## Best Practices in Legislating a Taxing Statute

“Our principle is simply this – uniformity when you can have it, diversity when you must have it; but, in all cases, certainty.” 1  
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– Lord Macaulay 3

The first draft of the Direct Taxes Code Bill, 2010 (“DTC” or “Code”) was released for public 4  
comments in August 2009 along with a discussion paper explaining its object and scope. 5  
The draft Code and discussion paper were drafted by an internal committee appointed by 6  
the CBDT. It is understood that there were no publicly notified terms of reference providing 7  
direction to the drafters of the new Code. The release of the draft was followed by a 8  
nationwide debate on various proposals and far-reaching policy changes in the Code that 9  
could fundamentally impact the manner in which taxpayers plan their economic affairs. On 10  
deeper scrutiny, the draft was found to be replete with ambiguities, legislative drafting and 11  
conceptual errors. After preliminary discussions with professionals and industry bodies, 12  
the Finance Minister released a revised discussion paper in June 2010. 13

Within a month, the DTC Bill was forwarded to the Law Ministry for drafting. On August 31, 14  
2010, the final version of the DTC Bill was tabled before the Indian Parliament on last day of 15  
the monsoon session. The DTC Bill was then referred to the Parliamentary Standing 16  
Committee on Finance which is currently in the process of scrutinizing the new law and 17  
submitting its recommendations to the Indian Parliament. 18

These are the major events that have transpired over the last 26 months in what is definitely 19  
India's most comprehensive and ambitious attempt at fiscal policy reform. 20

At the outset, we must commend the Finance Minister for taking up the herculean task of 21  
reforming India's tax system and also accepting comments and criticisms from various 22  
quarters and adopting a more pragmatic stance on certain controversial issues in the final 23  
draft of the DTC Bill. 24

Before analyzing the specific provisions of the DTC Bill, we believe that it is necessary to 25  
comment on the process of tax reform and examine how India's approach to the DTC 26  
represents a stark deviation from global best practices in legislating a taxing statute. 27

1 A major cause of concern is the haste with which the Government has proceeded with the  
2 enormous task of completely rewriting the legislative framework for direct taxes. It may not  
3 be feasible to enforce the DTC provisions from the financial year 2012 itself if the Indian  
4 Parliament is expected to thoroughly scrutinize each proposal and analyze their overall  
5 ramifications. Further, the new law will create serious implementation challenges and  
6 taxpayers and revenue officers would require sufficient time to adjust to the new and  
7 radically different tax regime.

8 There have been a number of patent deficiencies in the Government's approach. Firstly,  
9 drafting of the text of the new law had commenced before finalizing, through informed  
10 public debate, the basic principles underlying the new tax regime. Secondly, the  
11 Government appears to have concluded on the utility and effectiveness of each proposal  
12 without having made any realistic economic or statistical analysis. The non-involvement of  
13 legal or technical experts in the revenue's policy making process is apparent from the  
14 quality of the draft law and the accompanying discussion paper. Thirdly, it seems that policy  
15 decisions have been taken without proper coordination and consensus among the various  
16 Government ministries<sup>1</sup>. Fourthly, and most importantly, the Government has abandoned  
17 the well-established convention of referring an important piece of legislative reform such as  
18 the DTC to an independent Law Commission of experts.

## 19 1.1. Institutionalizing Consultation: Legitimacy, Participation, 20 Quality of Law, Predictability and Stability

### 21 1.1.1. Why Consultation?

22 Institutionalizing consultation in policy-making processes is important for upholding the  
23 essence of democratic governance. The importance of consultation has been recognized  
24 by the working group on foreign investment which observes that:

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1. For example, there have been difference of views on issues such as minimum alternative tax and incentives for special economic zones. The conflict of views has been reported on several occasions. Eg: *Commerce Ministry not happy with revised DTC Draft*, TIMES OF INDIA, Jun 19, 2010 ([http://articles.timesofindia.indiatimes.com/2010-06-19/india-business/28307048\\_1\\_sez-units-sez-developers-special-economic-zones](http://articles.timesofindia.indiatimes.com/2010-06-19/india-business/28307048_1_sez-units-sez-developers-special-economic-zones))

“Consultation is important for reasons of participation, accountability, transparency and quality of law. Participation benefits stakeholders by giving them some voice in decision-making processes and in so doing adds to the legitimacy and effectiveness of specific regulations and financial sector governance in general. Stakeholder participation lends greater weight to the law to the extent that it involves subjects in the very process of policy formulation. Such participation also makes it difficult for regulated parties to argue that the law is unworkable and a product of unilateral, non-consultative, processes.”<sup>2</sup>

As will be explained below, consultation is not a mere formality but lies at the heart of evolving sustainable policy. It involves the setting up of a formal institutional framework for allowing stakeholders to meaningfully participate in the policy making process. It requires an environment of transparency, free-thinking and informed debate. It is based on the principle that law is a tool for social engineering and requires optimal reconciliation of diverse views and interests.<sup>3</sup> The need for institutionalizing consultation as part of the legislative reform process is critical to India's system of constitutional democracy.

### 1.1.2. Pre-Legislative Scrutiny

Pre-legislative scrutiny involving comments and analysis by the public on a draft legislation before submission to parliamentary processes further predictability and participation. Public scrutiny via consultation should necessarily precede drafting. It would also be useful to set in place an institutionalized system of consultation with a minimum period for public analysis and submission of comments on changes in legislative policy. The time allowed for consultation would depend on the scope and complexity of the legislative proposals.

Tax payers have a legitimate interest in understanding the complex provisions of law since it has a fundamental bearing on their economic choices. The scrutiny afforded by allowing

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2. DEPARTMENT OF ECONOMIC AFFAIRS, MINISTRY OF FINANCE, REPORT OF THE WORKING GROUP ON FOREIGN INVESTMENT 62 (2010).

3. The renowned sociological jurist, Roscoe Pound was a strong proponent of the theory that: "The task of law is social Engineering".

1 sufficient time for consultation before enactment also allows practitioners and the  
2 Government to receive feedback and identify technical problems with implementation  
3 before particular statutory language is enacted. Legislation, once enacted, is of course  
4 much harder to modify. Consultation to identify technical problems prior to enactment  
5 thus becomes a tool in achieving the basic standards of a good law.

6 We also note that, to be effective, consultation and pre-legislative scrutiny should be  
7 comprehensive and all-encompassing. For example, to enable thorough engagement with  
8 the proposed changes in the tax code, the UK's HM Revenue suggests that they should  
9 present stake-holders with the draft legislation, the accompanying explanatory notes and  
10 technical analysis with sufficient consultation time, additional consultation time for  
11 secondary legislation and annual budget bills, and ostensibly much longer time for a  
12 comprehensive revision of the country's tax code.<sup>4</sup> The prospective legislation should be  
13 accompanied by materials that include assessment of costs including regulatory impact  
14 analyses and appropriate supporting documents. For instance, in Australia, the  
15 Government has issued a detailed Consultation Paper on the tax policies contemplated by it,  
16 analyzed the comments and recommendations received from various stakeholders and  
17 incorporated them into the government's future tax system review.<sup>5</sup>

18 No doubt, the draft DTC has been subjected to reasonable public discussion and coverage  
19 by the press. But, as noted above, the draft was prepared before finalizing (through public  
20 debate) the basic principles to underlie the new tax regime. Moreover, the substantive  
21 provisions of the draft DTC do not appear to have been subjected to the thorough vetting,  
22 interactive and participatory procedures at the level and depth that is routine and  
23 institutionalized in other OECD jurisdictions and which is also not new to India either.<sup>6</sup>

4. HM TREASURY, HM REVENUE & CUSTOMS TAX POLICY MAKING: A NEW APPROACH 11 (2010).

5. Australian Government, Final Report of the Australia's Future Tax System Review (Dec. 2008), [http://taxreview.treasury.gov.au/content/ConsultationPaper.aspx?doc=html/publications/Papers/Consultation Paper Summary/Chapter 1.htm](http://taxreview.treasury.gov.au/content/ConsultationPaper.aspx?doc=html/publications/Papers/Consultation%20Paper%20Summary/Chapter%201.htm).

6. Reference is made to the report of the 12th Law Commission (1958) which paved the way for the enactment of the current Income Tax Act, 1961. Some of the key aspects of the Law Commission's approach have been discussed in subsequent parts of this chapter.

**1.1.3. The Importance of Lawyers, Economists, Accountants and Administrators: Inter-disciplinary Assessments of Tax Law** 1  
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Processes for formulating tax statutes should necessarily be an interdisciplinary affair. The specialized knowledge of tax lawyers, economists, statisticians, accountants, policy thinkers, draftsmen and even foreign tax experts are vital to developing a robust tax code that is both flexible and sustainable in the long term. 3  
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The need for an interdisciplinary approach is not an exotic concern or a luxury for the government. On the contrary, utilization of specialized knowledge resources in academia and professions is the *sine qua non* for the enactment of a good tax code and are global best practices that have been institutionalized in more developed jurisdictions.<sup>7</sup> For instance, economists and statisticians offer important insights into the economic effects of various policy alternatives, and their potential cost and revenue effects. Lawyers contribute in resolving legal interpretation issues, analyzing relevant judicial precedent, and addressing jurisprudential and constitutional law aspects. Accountants and tax department officers are able to foresee enforcement and compliance challenges. To supplement this, valuable insights and suggestions are contributed by private professionals and industry bodies, all of which should be formally incorporated into the policy formulation process. Foreign professionals, lawyers and tax experts can also be of invaluable assistance in exposing India to global best practices. While analysis of a law can be potentially endless, greater due diligence in the tax law formulation process will result in a more sustainable tax code. Finally, lawyers qualified in the art of legislative drafting are able to analyze the overall structure of the legislation, need for simplification of language, logical organization of provisions, clarity and consistency in text, and integration of the various policy choices into the text and spirit of the taxing statute. 7  
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7. See generally, Richard K. Gordon and Victor Thuronyi, *Tax Legislative Process*, in 1 TAX LAW DESIGN AND DRAFTING 4 (International Monetary Fund, 1996).

## 1.2. Organizing the Tax Code

"In my own case the words of such an act as the Income Tax, for example, merely dance before my eyes in a meaningless procession: cross-reference to cross-reference, exception upon exception—couched in abstract terms that offer no handle to seize hold of—leave in my mind only a confused sense of some vitally important, but successfully concealed, purport, which it is my duty to extract, but which is within my power, if at all, only after the most inordinate expenditure of time."<sup>8</sup>

Drafting tax laws is a more exacting exercise than legislative drafting in general. The characteristics of a well-drafted law are understandability, organization, effectiveness, and integration. Understandability is in terms of making the law easier to read and follow. Organization comprises both internal coherence of the law and its consistency with other tax legislation. Effectiveness refers to the potential to implement the desired policy. Lastly, integration requires the law to be in consonance with the legal system and the drafting format of the country. These characteristics are, to a certain extent, inter-related and overlapping.<sup>9</sup>

Simply put, tax laws should be drafted in a manner that best fulfills their function, which is to clearly and with certainty and precision specify how much each taxpayer is liable to pay and what the taxpayers' rights and obligations are. But precision should not be at the expense of being complicated. The easier a tax law is capable of being understood, the lower will be the compliance costs, both for taxpayers and for tax administrators. It is particularly important that a tax law be capable of being easily applied because it applies to nearly every physical and legal person in the country and outside with respect to innumerable transactions on a daily basis.<sup>10</sup>

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8. Learned Hand, J, *THE SPIRIT OF LIBERTY: PAPERS AND ADDRESSES OF LEARNED HAND*, Irving Dilliard (Ed.), (Knopf, New York, 1952), 213.

9. Victor Thuronyi, *Drafting Tax Legislation*, in *TAX LAW DESIGN AND DRAFTING 1-3* (International Monetary Fund, 1996).

10. *Ibid*

**1.2.1. Simplicity**

Tax law is unavoidably complex. With ever deepening ties within and across national economies, not to mention the growing sophistication of commercial interactions and industrial organization, tax codes have become intricate systems. Detailed anti-avoidance rules, for example, add to the complexity of the tax code.<sup>11</sup> For instance, due to issues of legal complexity and uncertainty, the UK HM Revenue has formally withdrawn its elaborate legislative proposals for countering evasion through use of tax treaties.<sup>12</sup>

Another interesting example is the simplified tax regime (Simples Nacional and Lucro Presumido) introduced in Brazil with a view to increase the competitiveness of Brazilian companies by minimizing the tax burden and compliance costs. Specific categories of small and medium size enterprises may opt for being covered under the simplified regime: presently more than 90% of Brazilian taxpayers (representing less than 15% of revenues) apply for such taxation. Simplification also allows the Brazilian tax authorities to concentrate audits on major taxpayers.

It is necessary for the Government to adopt a goal of working towards greater simplicity. Simplicity can co-exist with other policy objectives and would minimize transactional costs of adapting to a new tax regime.

**1.2.2. Structure of the Tax Code**

The overall structure of the tax law is also of crucial importance. Consistent, easily referenced, comprehensive and internally coherent bodies of law facilitate ease of enforcement and compliance.

In this regard, a few principles, though obvious on their face, are worth highlighting given the complexity of tax law and implications of this complexity for each taxpayer.<sup>13</sup>

11. TAX POLICY MAKING: A NEW APPROACH, *supra*, at 9.

12. This recent notification by the UK HM Revenue has been discussed in greater detail in the chapter commenting on the DTC's general anti-avoidance rules.

13. See generally, Victor Thuronyi, *Drafting Tax Legislation*, in 1 TAX LAW DESIGN AND DRAFTING 4 (International Monetary Fund, 1996).



1 Logical organization of tax law aids comprehension. Well organized statutes allow  
2 practitioners to look for and find answers to particular questions more easily. Principles of  
3 organization also suggest grouping together provisions dealing with the same topic.  
4 Individual sections should be created in an order that facilitates ready comprehension by a  
5 practitioner; typically, general rules should be stated first with exceptions and special rules  
6 listed subsequently. Organizing rules by content helps drafters and policy makers  
7 conceptualize the areas covered by a proposed tax code as well as the level of detail  
8 provided therein. Forcing readers to hunt through entire statutes to find relevant provisions  
9 adds unnecessary complexity to tax law which can only make compliance more difficult  
10 and costly.

11 Policy makers should also pay attention to simple matters as the numbering of statutes and  
12 section headings or margin notes. Most countries have adopted the practice of numbering  
13 sections of a statute sequentially.<sup>14</sup> Yet even such ostensibly simple matters can become  
14 complicated with the enactment of inevitable amendments. Amendments placed at the  
15 end of statutes, disrupts organization of a code by theme or if placed within appropriate  
16 sections of a code, requires renumbering or creating a hybrid alphanumerical designation  
17 (ie. a section 2A inserted between a previous section 2 and 3). The entire body of US federal  
18 law, of which US national tax law is a part, is non-sequentially numbered.<sup>15</sup> Section  
19 headings and margin notes provide a quick handle with which to grasp a given area of the  
20 law.

### 21 1.2.3. General Principles v. Detailed Specification of Law

22 Drafting tax legislation involves policy choices between general principles and detailed  
23 specifications in the text of the law. Legislators have to decide how much detail to leave to  
24 regulators in the form of supplemental legislation rules, regulations and secondary  
25 materials and the judiciary, which is tasked with interpreting the law. Tradeoffs revolve  
26 around delegation of power to specify the law versus the specialized expertise and sheer

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14. *Id.* at 5.

15. *Id.* at 6.

time involved in promulgating a law to govern the myriad fact patterns that require resolution in complex societies. 1  
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The extent of delegated legislation may also be restricted by constitutional norms that seek to curb abuse of powers. Suggestions vary as to how to handle tradeoffs over the level of detail of tax law. Some policy-makers may choose to expand regulations incrementally over time.<sup>16</sup> Legislators can also allow the broad principles of a given piece of legislation to speak for itself or specifically state that certain rules apply only where tax authorities have provided their approval in a given case. The Government may also issue detailed commentaries and technical explanations on the law or advance guidance on interpretation of a statute in particular cases. Interpretive commentaries do not have the binding force of law of parliamentary statutes but can provide invaluable guidance to practitioners and taxpayers seeking to understand particular provisions of law. 3  
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**1.2.4. Writing Style and Tax Law** 13

Considerations like brevity, clarity, the use of less bureaucratic or legalistic language, attention to local conventions, gender neutrality and basic simplicity in drafting would add to the effectiveness of the DTC and should be pursued without sacrificing legal accuracy. 14  
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**i. Brevity** 17

The more concise a statute, less will be the effort required to understand it and the lower the attendant compliance burdens.<sup>17</sup> Ideas should not be expressed in so few words that sentences become cryptic, yet, no word should be used in a draft if it does not play a role. 18  
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**ii. Statements of Purpose** 21

A statute is transparent if it easily allows the reader to understand the underlying principles, policy objectives and rationale of the provisions. One way of achieving transparency is to 22  
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16. *Id.* at 15-17

17. *Id.* at 3.

1 begin a law by stating its purpose in very clear terms.<sup>18</sup> If the statement is very general, it is  
2 not helpful. If the statement is specific and clearly brings out the overall legislative objective  
3 it can facilitate judicial interpretation of ambiguous provisions. This would also allow further  
4 the goal of simplicity and allow taxpayers get a greater understanding of the thrust of the  
5 code.

### 6 iii. Plain Language

7 Advocates of 'plain language' recommend avoiding obscure or excessively legalistic  
8 language where possible to enable easier comprehension.<sup>19</sup> Legal terms of art should be  
9 used where needed and precision and accuracy should not be an absolute requirement.  
10 Comprehension can also be aided by packaging instructions alongside a legally accurate,  
11 tightly drafted statute.

12 Clarity in writing style is also of great value to basic comprehension and understanding of a  
13 tax code. Attention to questions of style is not a fanciful pursuit and should be an integral  
14 part of constructing a tax code given the stakes involved.

15 Present tense and active voice should be used wherever possible. Provisos should be  
16 avoided where possible and the language that is intended to be part of a proviso should be  
17 integrated into the main provision. Gender neutral drafting practices should be adopted.  
18 Latin phrases should be avoided where possible, namely when a specific legal concept is  
19 used. Legal jargon should be consistently minimized.<sup>20</sup> Accepted sources of legal citation,  
20 such as the Harvard Law Reviews Uniform System of Citation or "Bluebook," should be  
21 used consistently, accurately and meticulously. The added professionalism achieved by  
22 this attention to detail will be reflected in the reception of the tax law by professionals and  
23 taxpayers.

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18. See generally, DAVID RENTON, THE PREPARATION OF LEGISLATION: REPORT OF A COMMITTEE APPOINTED BY THE LORD PRESIDENT OF THE COUNCIL, 30, 62-63 (1975); REED DICKERSON, LEGISLATIVE DRAFTING 107-108 (1977)

19. See generally, *Drafting Tax Legislation*, supra, at 5.

20. International Monetary Fund, PLAIN ENGLISH: TAX LAW DRAFTING 2-6 (2008)

iv. Sentence Structure

Long, complex sentences should, as far as practicable, be avoided. An alternative is to break down sentences by numbering and indenting its logical components. This is referred to as 'paragraphing'. It fulfills the twin objectives of providing precision / certainty and easier understandability by revealing the logical structure of a sentence at a glance and by showing graphically the relationship between these elements.<sup>21</sup>

Paragraphing however, has its detriments when multiple tiers of sub-divisions are used. It should therefore not be overused, and the number of tiers should be kept to the minimum.<sup>22</sup>

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21. *Drafting Tax Legislation, supra, at 7-8*

22. *Ibid*; See generally, *PLAIN ENGLISH: TAX LAW DRAFTING, supra, at 7-8.*

DTC versus Best Practices

Parameter	12th Law Commission of India Report (1958)	US Joint Committee General Explanation of Tax legislation Enacted in the 111th Congress (March 2011)	HM Treasury, UK, Consultation on CFC Reform (June 2011)	Discussion Papers annexed to Direct Taxes Code (2010)
Scope	Rationalizing the structure of the earlier (1922) tax statute	Analysis & explanation of new US revenue provisions introduced between 2009 & 2011	Review of UK's controlled foreign corporation provisions	Introducing a completely new regime for the taxation of income & wealth in India
No. of pages	492	757	110	106*
Comprehensive clause-by clause analysis of each proposal	Yes	Yes	Yes	No
Analysis of pros / cons & alternatives	Yes	Yes	Yes	No
Explanation of underlying economic theories	Yes	Yes	Yes	No
Reliance on statistics / empirical data	Yes	Yes	Yes	No
Reference to specific international legislations & legal practices	Yes	Yes	Yes	No
Analysis of relevant judicial precedent	Yes	Yes	Yes	No
Reference to specific juristic/ scholarly writings	Yes	Yes	Yes	No
Analysis of implementation issues	Yes	Yes	Yes	No

### 1.3. Best Practices in Developing and Assessing Fiscal Policy

“There is hardly any Act on the Indian Statute Book which is so complicated, so illogical in its arrangement, and in some respects so obscure as the Indian Income-tax Act, 1922.....amendments made from time to time to the Act, directed as they frequently are at stopping an exit through the net of taxation freshly disclosed, are too often framed without sufficient regard to the basic scheme upon which the Act originally rested....Added to the illogicality of the arrangement are two other defects, inaccuracy in the use of language and a degree of obscurity which make it difficult to have a glimpse of the real intention of the legislature.”<sup>23</sup>

To enact sustainable tax legislation, it is necessary to thoroughly analyze and debate on the key revenue, economic and social goals that India seeks to achieve through the new fiscal policy. This should be followed by an analysis of the deficiencies in the present tax regime and the difficulties in achieving the stated goals. The discussion paper annexed to the Code should necessarily be both detailed and comprehensive. It should explain the basis for the fiscal proposals and the intended impact. It should also adopt the best practice of using revenue estimates and statistics to understand the projected quantitative impact of each proposal.

The discussion paper should present both sides of each policy and the available alternatives, and critically analyze relevant judicial decisions, economic theories and international trends. The proposed policy should also be fully integrated into the nation's legal and constitutional scheme. The discussion paper would have to necessarily delve into aspects such as the implications of other statutes, issues of constitutional validity and impact of international law.

The process of drafting should commence only once there is a degree of finality and consensus on the policy to be adopted.

23. LAW COMMISSION OF INDIA, MINISTRY OF LAW, GOVERNMENT OF INDIA; TWELFTH REPORT: INCOME TAX ACT, 1922, (1958).

1 **1.3.1. Identifying and Committing to Key Policy Objectives**

2 The task of evolving sustainable fiscal policy commences with the identification of key  
3 policy considerations that will guide and drive the outcome of the legislative reform  
4 process. Taxing choices depend upon such factors as the level of development, the need  
5 and desire for increased public services, and the capacity to levy taxes effectively. One of  
6 the primary purposes of taxation is to generate sufficient revenue to finance public sector  
7 activities in a non-inflationary manner. The choices to be made also depend upon the  
8 availability of less politically challenging sources of revenue as well as preferences about  
9 such public policy goals as attaining a desired distribution of income and wealth and  
10 increasing the rate of national economic growth. At the same time, the choice of tax policy  
11 cannot ignore the need for fairness and stability.

12 **(a) Revenue concerns:**

13 A Government should be able to generate sufficient revenue to fund projected  
14 expenditures. The ability to raise revenues through taxes differs depending on the tax  
15 structure, the quality of tax administration, and the pace and nature of economic  
16 growth.<sup>24</sup> Considering that revenue choices may be impacted by elasticity of tax  
17 collection vis-à-vis economic growth economists have suggested that a balanced set  
18 of tax instruments rather than a single revenue source be preferred with a view to  
19 lower tax revenue volatility.<sup>25</sup>

20 **(b) Minimizing economic distortions:**

21 A good tax system should minimize economic distortions and thereby ensure  
22 neutrality. "Tax policies that systematically favor one kind of economic activity or  
23 another can lead to the misallocation of resources or, worse, to schemes whose sole  
24 aim is to exploit such preferential tax treatment. If individuals or businesses make their  
25 investment or spending decisions based on the tax code rather than basing them on

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24. Richard M. Bird and Eric M. Zolt, *Tax Policy in Emerging Countries*, 26 ENVIRONMENT AND PLANNING C: GOVERNMENT AND POLICY, 73-86 (2008).

25. *Id.*

their own preferences, that's a violation of the neutrality principle, and can lead to negative economic consequences in the long run."<sup>26</sup>

Even the best-designed tax laws impose real economic costs that reduce the resources available to achieve socially desired objectives.<sup>27</sup> Though taxes are not per se a cost in economic terms as they merely transfer resources from private to public use, it involves multiple costs including enforcement and compliance costs, deadweight costs arising from inefficient reallocation of resources (for reasons such as increase in cost of goods, tax planning costs and other transactional costs), etc.

Good tax policy should aim at minimizing such unnecessary costs of taxation. Three rules have been suggested to achieve the same.: First, tax bases should be as broad as possible. Second, tax rates should be set as low as possible, given revenue needs. "The efficiency cost of taxes arises from their effect on relative prices and generally increases proportionally to the square of the tax rate, so that doubling the rate of a tax implies a fourfold increase in its efficiency costs."<sup>28</sup> Third, to minimize the effect of taxes on reduction of efficiency in the use of resources, taxes on productive activities, such as corporate income taxes and sales taxes, should be limited. Such taxes are particularly distorting as they possess a great potential to affect the location of businesses, ways in which production takes place, and the forms in which business is conducted.

Ambiguous taxing provisions also create additional dead weight costs including significant compliance, enforcement and litigation costs borne by taxpayers and the Government. The proper starting point for corporate tax policy is neutrality: a tax system that does not unnecessarily distort business decisions, and that allows capital to be invested where it will yield the highest (pre-tax) return.<sup>29</sup>

26. FAIR STATE AND LOCAL TAXES *supra*, at 7.

27. *Id.*

28. John Gower Isaac, *Development of Tax Policy Formulation and Presentation: A Retrospect*, 3 BRITISH TAX REVIEW 222, 225 (2006).

29. *Ibid.*



1           **(c) Guaranteeing Fairness and Equity:**

2           Fairness is one of the most important features of a good tax system. Traditionally, tax  
3           scholars have looked upon fairness in terms of horizontal and vertical equity. The  
4           concept of fairness may assume new dimensions in light of the fundamental right to  
5           equality, reasonableness and non-arbitrariness guaranteed under the Constitution.  
6           Therefore, in any tax system, fairness may be expressed in a number of ways  
7           including tax incentives to promote equitable distribution of resources, respecting  
8           principles of natural justice and other taxpayer rights, prospective law making, respect  
9           for treaty commitments, and reasonable exercise of extraterritorial fiscal jurisdiction.

10           **(d) Stability as a key policy consideration:**

11           “Stability is most essential to the proper administration of a taxing statute, and if  
12           the tax structure of this country is to be put on a sound footing, it is essential that a  
13           halt should be called to the making of ill-digested amendments in a frenzy of hurry  
14           which has characterized the history of income-tax law of the last few years.”<sup>30</sup>

15           Predictability and stability are important guiding principles in the process of  
16           developing a tax law. A taxpayer should be taxed under objective law and not by  
17           subjective administrative discretion.<sup>31</sup> As noted by the UK tax authorities, frequent and  
18           ad hoc changes “contribute to the perception of instability in the tax system”<sup>32</sup> and  
19           simply undermine the ability of market participants to plan ahead. The UK tax  
20           authorities have made a commitment on behalf of the UK government to have  
21           prospective changes in their tax law made in a more considered manner.

22           The Final Report of Australia's future tax system review released by the Australian  
23           Government has also identified policy consistency as an important guide to develop a

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30. LAW COMMISSION OF INDIA (1958).

31. John Gower Isaac, *supra*

32. TAX POLICY MAKING: A NEW APPROACH, *supra*, at 9.

well-designed tax system.<sup>33</sup> Tax policy should be internally consistent whereby rules in one part of the system should not contradict those in another. Tax policy should also be consistent with the broader policy objectives of good governance.<sup>34</sup>

**(e) Relevance of international norms and networks:**

The evolution of international tax policy has been fundamentally influenced by bilateral and multilateral treaties, and 'soft' methods adopted by States for coordinating income taxation through network based collaboration, modelling, peer pressure and emulation to reconcile these competing goals. The soft law approach involves political, social, and economic relationships among States and individuals which significantly impact the types of tax norms that arise and take root internationally.<sup>35</sup>

Using such networks, developed economies have built an institutional framework, the OECD, to continuously analyze, discuss, negotiate, and disseminate globally, a set of mutually agreeable income tax standards. The OECD facilitates tax policy development by producing non-binding norms around which nations can converge.

Given the opaque nature of such networks though we may underestimate the impact on national tax policy, however, increasing economic integration inevitably draws States to coordinate their tax policies. "Yet politicians, public sector officials, and tax academics and professionals have become accustomed to working with a view of the State as a "hermetically sealed sphere"<sup>36</sup> of "tax sovereignty"virtually complete

33. Australian Government, Final Report of the Australia's Future Tax System Review (Dec. 2008), [http://taxreview.treasury.gov.au/content/ConsultationPaper.aspx?doc=html/publications/Papers/Consultation\\_Paper\\_Summary/Chapter\\_2.htm](http://taxreview.treasury.gov.au/content/ConsultationPaper.aspx?doc=html/publications/Papers/Consultation_Paper_Summary/Chapter_2.htm)

34. *Ibid.*

35. See Allison Christians, *Historic, Comparative and Evolutionary Analysis of Tax Systems*, 1131 UNIVERSITY OF WISCONSIN LAW SCHOOL 287, 287-288 (2010).

36. Anne Marie Slaughter, *Governing the Global Economy through Government Networks*, in THE ROLE OF LAW IN INTERNATIONAL POLITICS 9 (Michael Byers ed. 2000).

1            autonomy in tax law and policy-making.<sup>37</sup> Such an approach cannot be afforded and  
2            due regard should be given to the non-binding norms that have developed over the  
3            years. It is for this reason that the Andhra Pradesh High Court in the landmark case of  
4            *CIT v. Vishakapatnam Port Trust*<sup>38</sup> noted that: "[i]n view of the standard O.E.C.D. models  
5            which are being used in various countries, a new area of genuine " international tax  
6            law" is now in the process of developing."

### 7            1.3.2. Economic Analysis

8            Tax policy fundamentally affects and directs the decisions of market-participants. Tax rules  
9            should implement sound economic theory. The translation of economic principles to  
10           practical, implementable tax laws that would facilitate the realization of the revenue,  
11           development and investment goals of the country is no simple endeavor.

12           In the US, fiscal policies are analyzed on the basis of 10 year projections of the revenue  
13           impact of each proposal. Revenue estimates provided by the US Joint Committee are  
14           based on a scientifically simulated model that factors in taxpayer behavior as well as  
15           economic, demographic and social trends. The estimates are prepared by a team of senior  
16           economists, accountants and lawyers, and are subjected to a two tier quality-control  
17           process.

18           The reports of the US Joint Committee on Taxation are also noteworthy for their use of  
19           empirical evidence backed by detailed analysis. For instance, in a report, the Joint  
20           Committee cites extensive empirical research to substantiate a hypothesis of a (negative)  
21           relationship between a foreign country's tax rate and U.S. outbound investment.<sup>39</sup> In this  
22           regard, the Committee considers data from approximately 75,000 US controlled CFCs to  
23           show that accumulated earnings and profits of US controlled CFCs in Ireland, a relatively

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37. Diane M. Ring, *What's at Stake in the Sovereignty Debate?: International Tax and the Nation State*, 49 VA. J. INT'L L. 155 (2008); Allison Christians, *Networks, Norms and National Tax Policy*, in LEGAL STUDIES RESEARCH PAPER SERIES (Paper No. 1078) 2-30 (2009).

38. [1983] 144 ITR 146 (AP).

39. GENERAL EXPLANATION OF TAX LEGISLATION ENACTED IN THE 111TH CONGRESS, *supra*.

low tax country, exceeds the sum of accumulated earnings and profits of US controlled CFCs in the UK and Germany, higher tax countries with significantly larger populations and markets.<sup>40</sup> In making their conclusions, the Committee assesses scholarly literature on the effect of differential tax rates in various jurisdictions on the investment choices of US taxpayers. The Committee also makes a cross-sectional analysis of the same by examining data on different taxpayers and investments in one year,<sup>41</sup> unpublished data tabulated by the Statistics of Income Division of the US Internal Revenue Service and contemporaneous data compiled on one-time dividends allowed as deduction to provide further evidence of the magnitude of potential distortion of investment decisions.<sup>42</sup>

The distinguishing feature of these reports is the depth, scope and quality of analysis, the specificity of investigation and the thorough clause-by-clause assessment of proposals with reference to legal precedent, empirical evidence, economic and general policy analysis.

The OECD Centre for Tax Policy and Administration has suggested possible sample questions to assist “policy makers to ask appropriate questions about their country’s economy, its institutions, and policy settings in order to identify priorities, develop an effective set of policies and monitor progress.”<sup>43</sup> The OECD’s questions include:<sup>44</sup>

1. Has the government evaluated the level of tax burden that would be consistent with its broader development objectives and its investment attraction strategy? Is this level consistent with the actual tax burden?
2. What is the average current tax burden on domestic profits, taking into account statutory provisions, tax-planning opportunities and compliance costs?

40. *Id.*

41. *Id.*

42. *Id.*

43. INVESTMENT DIVISION, OECD DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS; USER GUIDANCE FOR THE PFI TAX POLICY QUESTIONS 2 (2010).

44. *Id.* at 3.

1 3. Is the tax burden on the business enterprises of investors appropriate with reference to  
2 the policy goals and objectives of the tax system?

3 4. If framework conditions and market characteristics for investors are weak, is it reasonable  
4 to assume that a low tax burden can compensate by impacting favorably on investment  
5 decisions?

6 5. Where the tax burden on business income differs by firm size, age of the business entity,  
7 ownership structure, industrial sector or location, can these differences be justified? Is the  
8 tax system neutral in its treatment of foreign and domestic investors?

9 6. Are rules for the determination of corporate taxable income formulated with reference to a  
10 benchmark income definition (e.g. comprehensive income), and are the main tax provisions  
11 generally consistent with international norms?

12 7. Have targeted tax incentives for investors and others created unintended tax-planning  
13 opportunities? Are these opportunities and other problems associated with targeted tax  
14 incentives evaluated and taken into account in assessing their cost-effectiveness?

15 8. Are tax expenditure accounts reported and sunset clauses used to inform and manage the  
16 budget process?

17 Taken together, these questions suggest the level of rigor involved with assessing the  
18 various dimensions of a proposed tax code, a level that should form a minimum baseline  
19 given the stakes involved: creating the policy infrastructure for shaping fiscal policy to  
20 address the revenue and growth needs of a country of over a billion people.

21 **1.3.3. Respecting the Institutions of Indian Law: The Role of Legal Analysis in Assessing Tax**  
22 **Statutes**

23 Policy makers would do well to respect the institutions of law for reasons of legitimacy and  
24 effectiveness. Common law systems are rooted in precedent and textual authorization for  
25 the wielding of power, whether legislative, executive or judiciary. Doctrines and bodies of  
26 legal philosophic and policy thought grounded in legal precedent, reflect intense

discussions and interpretive traditions within the judiciary that shape the understanding and application of provisions of law. Issues addressed by precedent and textual authority may seem to hold only the interest of specialized legal professionals. Yet such issues typically address deeper conceptual and analytic concerns which are important to consider. Serious immersion of policy makers in the disciplinary concerns of law is important as part of centuries old traditions and established practices developed to ensure the consistent interpretation and application of law (which in turn also addresses concerns regarding legal certainty), legitimacy and the effectiveness of the legal machinery. Courts review these matters with utmost seriousness and therefore, policy-makers interested in avoiding legal hurdles in implementing the provisions of a body of a law have an immediate, as well as an intrinsic interest in addressing these matters before a law is enacted.

#### **i. Precedent**

Both the 1958 Report of the Law Commission and the reports of the US Joint Committee engage the disciplinary concerns of law at a level of depth not seen in formal discussions of the DTC. For example, the 1958 Report discusses and refers to judicial precedent from India and around the world. The report in its discussion on residence status, contrasts rulings by the Bombay, Madras and Travancore-Cochin High Courts before suggesting its own recommendations. The Law Commission's discussion on income not included in total income and the determination of domestic or foreign residency status are examples of an extensive engagement with legal precedent and textual analysis. Even with respect to a simple provision requiring an income tax officer to "disclose the substance of the particulars on which he relies (for the purpose of an assessment) to the assessee without of course, disclosing the name of the person to whom the particulars pertain" the Law Commission discusses Supreme Court precedent before stating their recommendations and presenting the policy at hand.<sup>45</sup>

The level of analysis of case law and judicial trends by the US Joint Committee is in fact far more detailed than the 1958 Report. On the other hand, the discussion papers annexed to

45. See, TWELFTH REPORT: INCOME TAX ACT, 1922 *supra*, at 18.

1 the DTC are far behind both these standards. The DTC discussion papers reflect little  
2 engagement with the institutions and specific concerns of law as a profession and discipline.  
3 The papers do not discuss relevant judicial precedent, and also fail to acknowledge  
4 landmark apex level decisions that directly address some of the proposals in the DTC. To  
5 the contrary, it seems to brush away the valuable insights and guidance offered by such  
6 high level judicial scrutiny by observing that conflicting decisions may have led to  
7 uncertainty in the law.

## 8 ii. Legal Analysis

9 The 1958 Report as well as the reports of the US Joint Committee also differ from the DTC  
10 discussion papers in their use of and attention to legal and juristic analysis. In the  
11 introduction to one of the committee's reports, the Committee notes that "for each  
12 provision there is a description of present law and the proposal (including effective date), a  
13 reference to relevant prior budget proposals or recent legislative action, and an analysis of  
14 policy issues related to the proposal".<sup>46</sup> For example, the Joint Committee discusses a  
15 specific proposal to eliminate a US resident's ability to concurrently deduct expenses  
16 related to foreign sources of income on which US tax is deferred, by presenting, in turn, the  
17 background and the contemporary law, a description of the relevant provisions and  
18 analysis of the effect on investment location, treatment of interest expense, exclusion of  
19 research and experimental expenses, the distortion of residence choice and technical  
20 considerations. The Joint Committee also analyzes the effect of the proposal on incentive  
21 structures for US multinational corporations by referring to policy reports, related statutes,  
22 US tax authority statistics and US Treasury regulations. The DTC discussion papers  
23 however only present certain general comments on the new fiscal proposals without  
24 analyzing the underlying legal issues, rationale and policy choices.

### 25 1.3.4. Regulatory Impact Assessment:

26 Public policy theorists have developed advanced models of regulatory impact assessment  
27 ("RIA") which can play a valuable role in developing sustainable tax policy.

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46. JOINT COMMITTEE ON TAXATION, GENERAL EXPLANATION OF TAX LEGISLATION ENACTED IN THE 111TH CONGRESS  
1 (2011).

RIA seeks to ensure that the most efficient and effective regulatory option is chosen by establishing a systematic and consistent framework for assessing the potential impacts of government action. RIA involves providing the information necessary to make better policy decisions. It seeks to make transparent the costs and benefits of different regulatory and non-regulatory options that may be suggested by ministries. In this way, the trade-offs between different policy options are more apparent to policy makers. An OECD study identified a number of good practices in member countries which maximize the benefits to be gained from implementing an RIA program.<sup>47</sup> The following are some of the best practices suggested by the OECD<sup>48</sup>:

- i. **Use a consistent but flexible analytical method.** Several RIA methods commonly used in OECD countries include: benefit/cost analysis, cost effectiveness or cost/output analysis, fiscal or budget analysis, socio-economic impact analysis, consequence analysis, compliance cost analysis and business impact tests.
- ii. **Target RIA efforts.** Policy-makers should target RIA towards proposals that are expected to have the largest impact on society, and ensure that all such proposals are subject to RIA scrutiny.
- iii. **Integrate RIA with the policy-making process, beginning as early as possible.** RIA is a challenging process that needs to be built up over time. It has to be integrated into the policy-making process if the disciplines it brings are to become a routine part of policy development.
- iv. **Communicate the results.** The assumptions and data used in RIA can be improved if they are tested through public disclosure and consultation.
- v. **Involve the public extensively.** The public, and especially those affected by regulations, can often provide much of the data needed to complete the RIA. Consultation can

47. OECD, REVIEWS OF REGULATORY REFORM: BACKGROUND DOCUMENT ON REGULATORY REFORM IN OECD COUNTRIES 22 (2006).

48. OECD, REGULATORY IMPACT ANALYSIS. BEST PRACTICE IN OECD COUNTRIES, Paris (1997).



1 furnish important information on the feasibility of proposals, on the range of  
2 alternatives considered, and on the degree to which affected parties are likely to  
3 accept the proposed regulation.

4 vi. Apply RIA to existing as well as new regulation. RIA is equally useful in reviewing  
5 existing regulation as it is in assessing proposed new regulatory measures.

### 6 1.3.5. UK's New Approach to Tax Policy

7 The UK Government has expressed its commitment to a new approach to tax policy  
8 targeted at achieving a more predictable, stable and simple tax system. It has committed  
9 itself inter alia to do the following<sup>49</sup>:

- 10 1. **Stability.** To publish a statement on its approach to consultation; consider a new  
11 convention to confirm the majority of tax changes at least three months prior to the  
12 start of the tax year they come into effect or publication of the finance bill in which  
13 they will be included; and take a more strategic approach to tax avoidance and  
14 develop a protocol for announcements taking immediate effect outside fiscal  
15 events.
- 16 2. **Simplicity.** To create an independent Office of Tax Simplification, to examine the current  
17 tax code and to make proposals for simplification.
- 18 3. **Consultation.** To publish more tax legislation in draft, to allow for pre-legislative  
19 scrutiny;
- 20 4. **Transparency.** To introduce tailored tax impact assessment, replacing the current  
21 form of regulatory impact assessment used across Government; publish more  
22 information on cost implications of tax policies; improve supporting documentation  
23 accompanying tax changes; and consider greater use of sunset clauses for post  
24 implementation evaluation.

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49. TAX POLICY MAKING: A NEW APPROACH *supra*, at 4-15.

A working party appointed by the UK Government has also recommended the establishment of a new Joint Parliamentary Select Committee on Taxation (JPSCT), with membership drawn from both Houses, to examine and make recommendations on proposals presented to it by the Office of Tax Simplification.<sup>50</sup>

### 1.3.6. Qualitative Staffing

Questions of staffing involve a simple assessment of the number of graduate level lawyers, economists, accountants and statisticians available to the revenue department. As suggested above, the US parliamentary committee's assessment of tax law proposals are prepared by a team of senior economists, accountants and lawyers, and are subject to a two tier quality-control process. The line staff available to the US treasury and internal revenue service involves teams of graduate lawyers and economists from reputed academic institutions. In comparison, the Indian revenue department staff may be constrained by limitations such as number of specialized professionals, availability of time and institutional capacity to produce comprehensive and detailed reports of high quality alongside discharging other official responsibilities.

A second line of investigation involves sociology, civil service rules and the status accorded to mid-level jobs in government bureaucracies. The attractiveness of mid-level jobs to highly trained and qualified professional graduates are worth examining as are the role of civil service rules in preventing lateral movements to and from the private sector.

### 1.3.7. The Role of Law Departments in Policy Formulation

Law departments play a vital role in policy formulation. As suggested by the report of the working group on foreign investment,

"Law departments are typically not active participants in agency policy decision making. Law department involvement is typically limited to vetting finalized policy proposals and are often seen as merely trouble-shooting. Indeed, law

50. WORKING PARTY (chaired by Lord Howe of Aberavon), MAKING TAXES SIMPLER (FINAL REPORT) 1-8 (2008).

1 departments are too often called upon only at the stage of defending a regulatory  
2 action or challenge in a court of law. As such, policy instruments, laws, are often  
3 not formulated with the particular institutional concerns of the law or a given  
4 policy arena taken together. The result, in effect, is inaccurate drafting and  
5 instruments that have the force and effect of law but that may not fully achieve  
6 the policy and legal goals these instruments are intended to serve.”<sup>51</sup>

7 The non-recognition of law departments in the DTC initiative is reflected in the absence of  
8 sufficient analysis of relevant judicial precedent, comparative legal analysis, principles of  
9 drafting and organization of statutes, constitutional and international law issues.

#### 10 **1.3.8. Tax Policy Formulation as a Continuous, Ongoing Process**

11 Implementing tax policy can be complicated by many factors. Problems with tax law can  
12 develop with new tax policy choices, changes in the broader economy, new techniques of  
13 tax evasion and prior problems with policy, drafting and administration.<sup>52</sup> Responding to  
14 emerging problems suggests the need for continuous review of tax laws, though regulators  
15 should be mindful of resulting costs, enforcement and compliance issues as well as  
16 taxpayer expectations.

17 The process of developing, analyzing and periodic review of tax policy needs to be formally  
18 institutionalized. Public consultation and education facilitates deeper understanding of tax  
19 law changes improves compliance. The Government should also consider the use of  
20 sunset clauses to institutionalize a mechanism for re-evaluation of tax law changes post  
21 implementation.<sup>53</sup> In Australia, the government, reviewing its future tax system, has  
22 identified that the Board of Taxation should be empowered to initiate its own reviews of  
23 how current tax policies and laws are operating.<sup>54</sup> Going a step further, in U.K., as

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51. See, REPORT OF THE WORKING GROUP ON FOREIGN INVESTMENT, *supra*, at 66.

52. See GORDON AND THURONYI, *supra*, at 2.

53. TAX POLICY MAKING: A NEW APPROACH, *supra*, at 15.

54. Final Report of the Australia's Future Tax System Review.

mentioned above, the government has committed itself to establish a separate office of tax simplification for review of the tax law system. A similar framework can be introduced in India where a high level body (new or existing) is entrusted with the task of continuous review of the tax law system.

#### 1.4. Recommendations: The Art of Legislating Tax Policy

The processes and institutions that drive legal and tax reform can have significant implications for the success of democratic governance.

It is necessary to institutionalize deeper and more engaged forms of consultation as a means of securing greater legitimacy, feedback, predictability and stability in the law. This would require formal and detailed pre-legislative scrutiny of legislative proposals for a prescribed time period based on the nature and scope of the reform, allowing greater participation, informed feedback and sufficient time to adjust to the new regime.

The processes should take advantage of the unique and specialized role of professionals such as lawyers, economists, accountants, sociologists and administrators in the legislative reform process.

Discussion papers annexed to the law should be detailed and comprehensive so that taxpayers can rationally analyze the proposals. They should identify the deficiencies in the present tax regime and the specific revenue and socio-economic targets to be achieved through fiscal policy. To be objective, these papers should present both sides of each policy, the available alternatives and connected implementation challenges. These papers should also critically analyze relevant judicial decisions, economic theories and international trends. The papers should also adopt the best practice of using revenue estimates and statistics to understand the projected economic and quantitative impact of introducing each proposal.

Tax policy formulation is a continuous process and review of the tax code and creation of awareness among the public and stakeholders should be taken up by specialized departments or committees as an ongoing task.

1 The Government should work towards greater simplicity in the tax code to minimize  
2 transition costs for taxpayers and to lower the basic burdens of compliance. Consistent,  
3 easily referenced, comprehensive and internally coherent statutes facilitate compliance.  
4 Writing style and use of plain language are also very important. Considerations like brevity,  
5 clarity, the use of less legalistic language, consolidation and organization of provisions and  
6 basic simplicity in drafting would add to the effectiveness of the tax law and should be  
7 pursued without sacrificing legal accuracy. Attention should also be given to matters such  
8 as the numbering of statutes, section headings and margin notes.

9 From a long-term perspective, decision makers should address the institutional reasons for  
10 the relative lack of depth in Indian tax law formulation. The Government should address the  
11 matters of the numbers, quality and disciplinary training of mid-level staff. Attention should  
12 also be devoted to attracting greater talent to mid-level Government positions.

13 We understand the urgency with which the government is seeking to enact a new Direct  
14 Taxes Code. However, considering the grave ramifications of promulgating an  
15 inadequately analyzed tax code for a country of the size of India, we recommend that the  
16 task of drafting formal discussion papers and the DTC should be entrusted to a Law  
17 Commission comprising of experts in the field of law, economics, statistics, public policy,  
18 accountancy and legislative drafting. A well researched, objective and thoroughly debated  
19 policy draft would allow both taxpayers and the Parliament to make meaningful choices in a  
20 systematic and informed manner.

21 Policy making is an art, especially since it is influenced by the skill, discipline, imagination  
22 and creativity of the law maker and the legislative draftsman. The discussion paper should  
23 serve as an architectural blue print on the basis of which the nation can thoroughly debate  
24 and conclude on the effectiveness and desirability of each DTC proposal.

25 The object is not to rush to a conclusion that may temporarily suit the revenue, but to arrive  
26 at the appropriate fiscal policy in a rational and logical manner. There should also be  
27 sufficient co-ordination and dialogue among various ministries in the Government and  
28 between the revenue and taxpayers.

The process of drafting should commence only once there is a degree of finality and consensus on the policy to be adopted.	1 2
In view of the fundamental issues and infirmities concerning the visualization, conceptualization, articulation and drafting of the proposed DTC Bill, we are of the view that proposed DTC Bill may not be sustainable in the long run.	3 4 5
To avoid the risk of creating a shaky and uncertain foundation, India should not rush through the DTC exercise. The DTC has the potential to become India's most successful experiment with tax reform. It is an opportunity to create a robust, fair, equitable, efficient, transparent and stable tax regime. It is an opportunity for the country to rectify some of the deep-rooted flaws in its existing tax system and adopt global best practices. It is time for India to embrace this opportunity and develop a tax system that takes fiscal reform to the next level.	6 7 8 9 10 11 12