D-EITI Deutschland Extractive Industries Transparency Initiative

Von: Sam Bartlett <SBartlett@eiti.org>
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An: "Wysluch, Johanna Beate GIZ" <johanna.wysluch@giz.de>
Betreff: RE: Urgent: interpretation of EITI Standard

Hi Johanna,

It is not possible to give a simple "yes/no" answer to this question. The answer depends on the country circumstances and the MSG's deliberations. I don't know enough about the tax system in Germany to give you a definitive answer. But I can highlight the experience in other countries, and the way this is considered during Validation.

In cases like Norway and Peru, only the direct payments (e.g., income taxes, royalties, etc) are reported by companies. In other cases (like Mongolia and Kazakhstan) indirect payments (such as VAT) are included. Note that all four of these countries achieved compliance with the EITI Rules.

The Standard (requirement 4.1) empowers the MSG "to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds". Requirement 4.1b lists revenue streams that should be included (where they are applicable). VAT is not specifically listed here, but the list does refer to "Any other significant payments and material benefit to government". The 2005 Sourcebook – a precursor to the EITI Rules – defined "other significant benefits to host governments" as follows:

> These benefit streams include tax that is levied on the income, production or profits of companies. These exclude tax that is levied on consumption, such as value-added taxes, personal income taxes or sales taxes.

That said, some MSGs have chosen to include indirect taxes like VAT as a "significant payment and material benefit to government". They do this to provide a more comprehensive account of the industry's total tax contribution. This is especially important where VAT payments are used to offset other tax payments.

As the IMF has noted:

> Companies usually collect the VAT from purchasers on their sales, and deduct the VAT paid on their purchases. In the majority of cases, companies are able to claim input tax credits as the companies' purchases are for intermediate and not for final consumption. In some countries, natural resource enterprises do not have input tax credits available to reclaim any value-added taxes paid, and therefore receive no refunds.

If VAT is to be included, it's important to cover both VAT payments and tax credits, so that the overall contribution is not overstated.

I hope this is helpful!

Regards,
Sam

Importance: High

Dear Sam,

I hope this mail finds you well and relaxed after the last Board Meeting. The process in Germany is running straight forward towards the first report. We believe to have an innovative and easy to understand contextual part, which will hopefully create interest for the German extractive sector. However, some points are still unclear and we hope to be enlightened by the secretariat:

The MSG discussed different topics, which are beyond the EITI core topics, like subsidies, renewables etc. One additional point has been consumption tax (energy and electricity taxes). We have different understandings on consumption tax and EITI. Beside the question whether it is possible to recalculate consumption tasks, its meaning for EITI is questioned. One group states, that consumption tax are not financial flows generated by the extractive sector and so far not part of the core financial flows, **which must be considered** for a positive validation. One argument is, that that taxes are based on the use of the extractives and not on the extraction of them and are not transferred directly to the state budget, but to the energy providers (private companies) and would therefore not materially affect the comprehensiveness of the EITI Report. In the case **all financial flows** have to be considered –they argue, also taxes eg. vehicle taxes of the companies must be considered. The other group states, they would be part of EITI as each tax of a high amount would be material.

What is your understanding:
Are consumption taxes financial flows which **are mandatory to be considered** and will be taken into **account in the assessment of compliance** with the EITI Standard or are consumption taxes a voluntary financial flow which is important, **but does not influences the materiality** of the comprehensiveness of the EITI Report.

May we ask you to give us feedback till tomorrow evening?

Best regards,

Johanna Beate Wysluch
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Extractive Industries Transparency Initiative (EITI) in Deutschland
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