ICAO UNITING AVIATION

ICAO POLICIES ON TAXATION OF INTERNATIONAL AIR TRANSPORT

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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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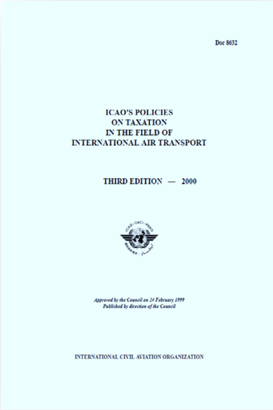
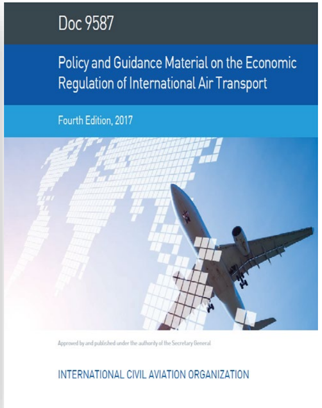
REFERENCE DOCUMENTS

Doc 7300



Doc 8632



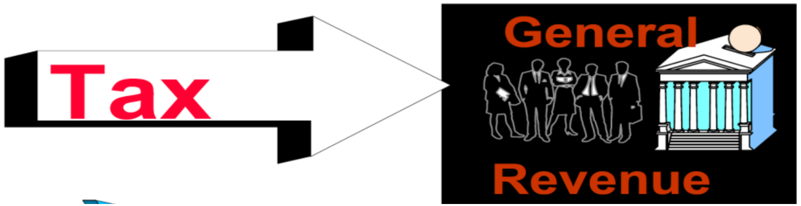
Doc 9587

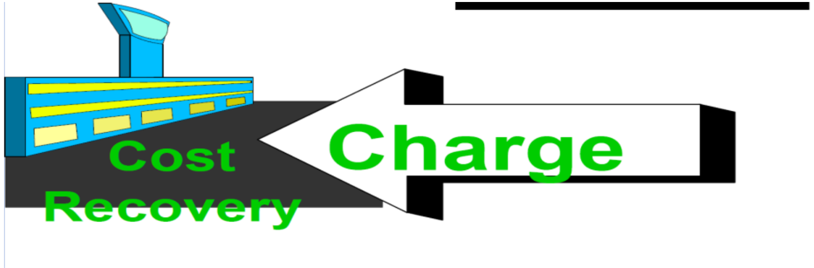
DEFINITIONS

ICAO Definitions of Taxes and Charges

- 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.





ICAO POLICIES ON TAXATION

ICAO's 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.

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Article 24 – Customs Duty

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

ICAO's Policies on Taxation

- 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.

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

Supplements Article 24 of the Chicago Convention

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ICAO's Policies on Taxation

- **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).

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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 A42-26:

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 A42-26
Appendix B on Taxation

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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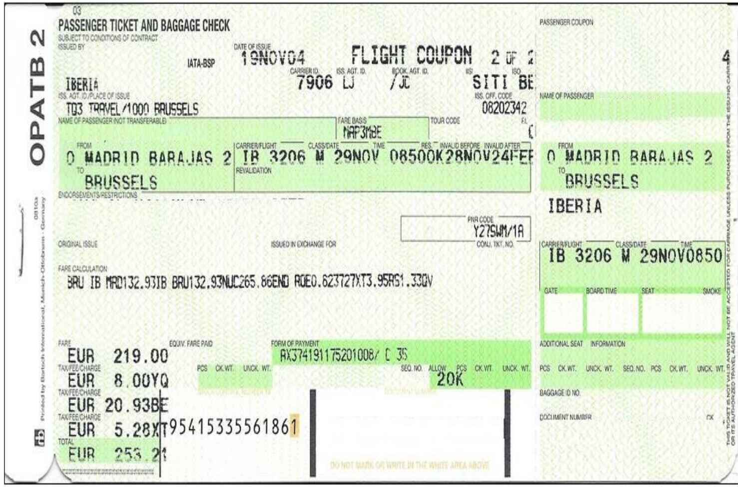
Proliferation of Taxes on International Air Transport



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.

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Proliferation of Taxes on International Air Transport

Source: IATA

Reasons for concern

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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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Source: IATA

Reasons for concern

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

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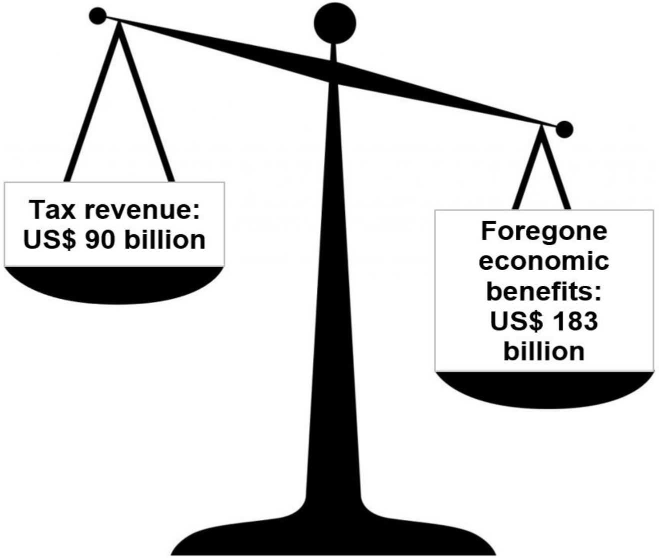
The Negative Impacts Outweighs the Benefits



Source: ACI

ICAO's EFFORTS

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**

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Extract from the ICAO Template Air Services Agreements (TASA)

Article 14 Taxation	Explanatory Notes
[Paragraphs 1 through 3, option 1 of 2]	
1. Profits from the operation of the aircraft of a designated airline in international traffic shall be taxable only in the territory of the Party in which the place of effective management of that airline is situated. 2. Capital represented by aircraft operated in international traffic by a designated airline and by movable property pertaining to the operation of such aircraft shall be taxable only in the territory of the Party in which the place of effective management of the airline is situated.	*A provision on the taxation of income and capital in agreement is not widespread, in part because such matters may be th subject of a separate treaty on double taxation between th parties. One is presented above in light of the policy of ICA (Doc 8632) that such an exemption be granted. Since the issu of taxation and taxation agreements between States would b an issue for financial authorities, a provision such as presented here would require the involvement of thos authorities in its formulation and negotiation.* *In this alternative, paragraphs 1 and 2 address the taxation income and capital, respectively.*
3. Where a special agreement for the avoidance of double taxation with respect to taxes on income and on capital exists between the Parties, the provisions of the latter shall prevail.	*Paragraph 3 provides for a treaty between the Parties on doubl taxation to override the provisions of this agreement.*
[Paragraphs 1 through 3, option 2 of 2]	
1. Profits or income from the operation of aircraft in international traffic derived by an airline of one Party, including participation in inter-airline commercial agreements or joint business ventures, shall be exempt from any tax on profits or income imposed by the Government of the other Party. 2. Capital and assets of an airline of one Party relating to the operation of aircraft in international traffic shall be exempt from all taxes on capital and assets imposed by the Government of the other Party. 3. Gains from the alienation of aircraft operated in international traffic and movable property pertaining to the operation of such aircraft which are received by an airline of one Party shall be exempt from any tax on gains imposed by the Government of the other Party.	*This alternative exempts airlines from certain taxes imposed b the Government of the other Party rather than specifying wher airlines are taxable, i.e., in the territory of effective manageme of the airline, thereby clarifying the scope of tax exemptions.* *Paragraph 1 specifically exempts profits and income fro inter-airline commercial agreements.*
[4.* Each Party shall on a reciprocal basis grant relief from value added tax or similar indirect taxes on goods and services supplied to the airline designated by the other Party and used for the purposes of its operation of international air services. The tax relief may take the form of an exemption or a refund.]	*The exemption is reciprocal though its coverage may vary a indicated by the bracketed text. For example, the Parties ma also choose to include import restrictions, or airline supplie such as ticket stock, or computer equipment.*
[Option 3]	
1. Each party shall undertake to 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 air transport, including such taxes for services which are not required for international civil aviation or which may discriminate against it.	*This clause is recommended by the Sixth Worldwide A Transport Conference as an option for use by States at the discretion. States may choose to use this provision in Memorandum of Understanding (MoU) or a Memorandum Cooperation (MoC).*

ICAO's Efforts

- 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

ICAO's Efforts

- ❑ Promoting sectoral coordination and collaborations.

- ❑ Publication of Supplement to Doc 8632:

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Supplement to Doc 8632

15/1/13

Transmittal Note

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.

Source: IATA

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SUPPLEMENT TO DOC 8632

Chile

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).

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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

ECUADOR

Clause 1

- Ecuador complies with clauses 1 a), b), c) and d). As to clause 1 e), tax is levied on the value of each gallon of aviation fuel and lubricants used within Ecuador by any aircraft engaged in international and domestic commercial service (Art. 28 of the Civil Aviation Act), as established in order to finance the costs of facilities and services.

Clause 2

- Ecuador has a regulation making all enterprises and individuals subject to annual "Income Tax" which must be paid to the Ministry of Finance.

Clause 3

- In Ecuador, no tax is levied on operators' gross revenues or sales.
- Sales of international air passenger tickets issued in Ecuador are taxed at 10 per cent of their value. This amount is collected by the Ministry of Finance.
- Any change which takes place will be notified to the Organization.

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SUPPLEMENT TO DOC 8632

Ecuador

Information provided by some States

MEXICO

Clause 1

- Mexico levies a 16 per cent value added tax on individuals and legal entities selling goods on national territory, regardless of their nationality. Because the VAT is a general tax applied to all goods and services sold or provided in the country, it is not possible to single out any one sector of the economy for preferential treatment (in this case, the aviation sector)
- The Customs Law stipulates that fuel shall be provided to aircraft free of foreign trade tax, except for the restrictions established under international conventions.

Clause 2

- Income derived from international air transport, and income from associated activities, is taxable only in the State of residence of the international air carrier, as per the terms of bilateral tax agreements.

Clause 3

- The Airport Use Fee and the VAT are applied at the time that an air transport ticket is sold.
- With regard to the VAT, the comments presented under Clause 1 apply, except for international air transport, for which only part of the service is deemed to be provided on our territory. 25 per cent of the service is deemed to be provided on Mexican territory when the travel commences there.

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SUPPLEMENT TO DOC 8632

Mexico

CONCLUSIONS

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.*

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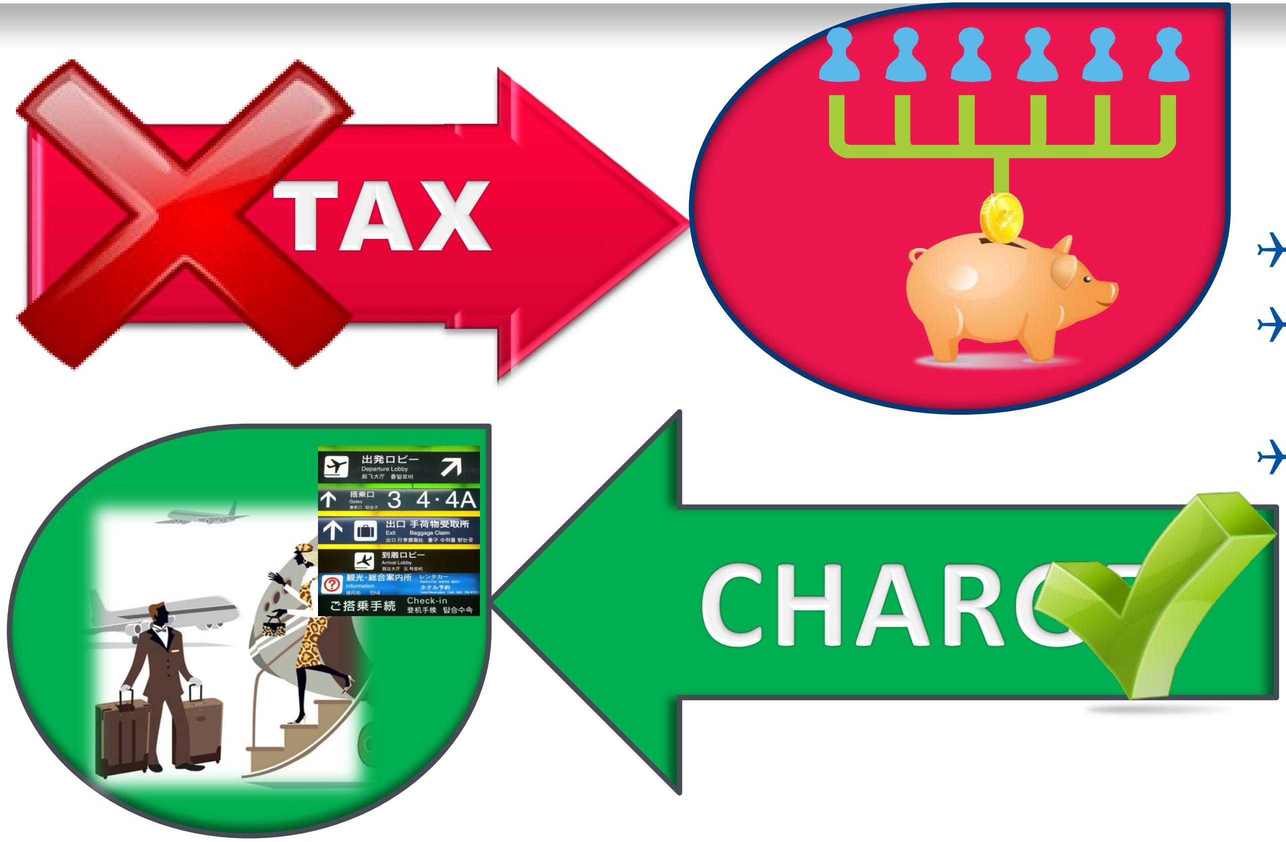
ICAO's Policies on Taxation in the Field of International of Air Transport (Doc 8632)

Conclusion



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

Conclusions

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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Summary

- 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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THANK YOU