

Expectations to companies on
Responsible Tax Practices



Objective

Threats and opportunities related to global tax practices are important for the DNB Group. Promoting responsible tax practices is also relevant for pursuing UNs 17 Sustainable Development Goals (SDGs). In order to successfully deliver on the goals, much of the increased public financing required to achieve the SDGs needs to be generated domestically (including via taxes). This is specifically true regarding goal number 17, which considers the tax affairs of multinational companies through target 17.1: “Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection”.¹ For DNB Asset Management (DNB AM), the starting point is the DNB Group’s Standard for Responsible Investments when considering sustainable investment practices related to taxation.²

The Standard shall ensure that DNB does not contribute to human or labour rights violations, corruption, serious environmental harm, and other actions which may be perceived to be unethical and/or unsustainable. It shall also ensure that assessments of risks and opportunities arising from Environmental, Social and Governance (ESG) factors are integrated into the investment decision-making process. At DNB AM, we exercise our ownership rights in line with international norms and standards, including the UN Global Compact, UN Guiding Principles on Business and Human Rights, the G20/OECD Principles of Corporate Governance, and the OECD Guidelines for Multinational Enterprises. Our responsible investment approach utilises tools including standard setting, exclusions, active ownership (through engagement and voting), and ESG integration.

Our expectations call for a high level of transparency around how companies identify, assess, and manage their tax obligations. High levels of transparency give DNB AM the opportunity to utilize the information in our company analysis and as an input to investment decision-making. Finally, companies may be excluded from our investment universe as a last resort if they do not adequately manage their tax obligations.

Definition and scope

With the global taxation framework in flux, it is difficult to define one universally agreed upon framework for responsible taxation practices. Nevertheless, a key element is that companies should strive to implement the guidance and the spirit of, the most internationally accepted standards relevant to taxation. Moreover, responsible tax practices also encompass respect for both the letter and the intent of local tax laws. Three key standards are (see more details in the appendix):

- The G20/OECD Principles of Corporate Governance³.
- The OECD guidelines for Multinational Enterprises⁴.
- The OECD’s Base Erosion and Profit Shifting (BEPS) initiative – and its 15 actions⁵.

Introduction to taxation and corporate tax practices

There is a growing consensus that the current international taxation framework is far from optimal and needs to be reformed. International tax rules were originally designed for “brick and mortar” businesses, and these rules are therefore less suited for the modern world where businesses rely heavily on hard-to-value intangible assets, data, automation, and global transactions (more “digital” business models). Tax erosion is increasingly seen as a challenge, eroding the sustainability of nations, including the welfare state.

A related topic is the use of “tax havens”. There can be both legitimate purposes for the incorporation of companies in tax havens (minimizing unnecessary paperwork/reporting, avoid double taxation or a well-functioning court system/legal framework) as well as questionable or illegitimate purposes (such as money laundering, tax evasion or aggressive tax planning). Globally, the public increasingly demands an explanation for the use of these “tax havens”.

The need to reform the international taxation framework has caused a wave of initiatives in the OECD, the US, EU, Norway, and elsewhere. A key element in the reform initiatives is the aim to implement the principle for corporate taxation that profits should be taxed where value is created. However, in a digitalized world, it is often unclear what that value is, how to measure it, or where it is created.

The OECD BEPS initiative mentioned above is arguably one of the most important initiatives, and it refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations. Over 130 countries and jurisdictions are collaborating to implement the BEPS measures. The G20 ratified the key

¹ <https://sdgs.un.org/goals/goal17>

² <https://dnb-asset-management.s3.amazonaws.com/group-standard-dnb-responsible-investments.pdf>

³ <https://www.oecd.org/corporate/principles-corporate-governance/>

⁴ <https://mneguidelines.oecd.org/mneguidelines/>

⁵ <https://www.oecd.org/tax/beps/about/>

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recommendations in 2015, and the multilateral BEPS convention went into effect in 2018⁶. The work with BEPS 2.0 gained momentum in 2021.⁷ Despite progress to date, it is likely that it will take several more years to complete implementation.

From the discussion above, it should be clear that many countries, through international cooperation, are working on improving the global tax framework. However, each individual company also needs to be part of the solution and act in a responsible manner. Furthermore, companies should keep in mind that complex and/or opaque company structures may obstruct investors' financial analysis and the functioning of financial markets. Finally, transparency is also a key element in responsible tax practices including making public company-specific key tax rulings, arbitrations, and tax disputes.

Expectations to companies on responsible tax practices

Our expectations are relevant for all companies within our investment universe and are viewed by us as best-practice guidance. Three key pillars need particular attention:

- Company tax arrangements and disclosures are important board responsibilities.
- Taxes should be paid where economic value is generated.
- Public country-by-country reporting is a core element of corporate tax disclosure.

See further details below, as well as the appendix for more details on relevant international standards.

1. Company tax arrangements and disclosure are key **Board responsibilities** (including tax risk management). The G20/OECD Principles of Corporate Governance, the OECD Guidelines for Multinational Enterprises, and the OECD BEPS actions all provide useful guidance for the Board. The Board should implement best practice including ensuring that relevant tax responsibilities are clearly defined within the organization.⁹
2. The company should **avoid aggressive tax planning**.
3. The company should strive to follow the principle - **"taxes should be paid where economic value is generated"**.
4. The company should have effective policies and practices for dealing with the risk of facilitation of tax evasion by employees or key business partners/customers.
5. The company should have a **proactive and transparent relationship with tax authorities** in all jurisdictions. Furthermore, companies should publish key information of any company-specific tax ruling it has obtained from tax authorities.
6. The company should strive **for openness around their tax policies in general** (especially in the case of complex and/or opaque company structures). Furthermore, multinational enterprises should also publish **country-by-country breakdowns** of:
 - a. How and where their business model generates economic value.
 - b. Where that value is taxed and the amount of tax paid.
 - c. Report revenues, profits, FTEs, subsidies received from governments, and tax payments to governments in a way that matches with the consolidated account.
7. The company should publish their full group structure, including indirectly and jointly-owned entities.
8. If requested, multinational enterprises should be prepared to publicly explain the business case for locating subsidiaries in the following:
 - a. "Closed" jurisdictions and/or significantly low-tax environments ("tax havens").
 - b. Countries where no local employees carry out business functions to any substantive degree or where the number of such employees is very low compared to the economic value generation attributed to that part of the business/country.
9. If the Board decides to **deviate from the guidelines above, they should be prepared to provide a public explanation** detailing their reasons for the deviation.

⁶ <http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf>

⁷ <https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-october-2021.htm>

⁸ <https://www.oecd.org/tax/beps/pillar-two-model-rules-in-a-nutshell.pdf>

⁹ For best practice, see for example NBIM, 2022. <https://www.nbim.no/contentassets/29f69f7ae81449f9adc88a32aa3de8c8/tax-transparency-2022.pdf>

Appendix: Laws, norms, and standards relevant for responsible tax practices that DNB AM expects companies to be compliant with

See also the general norms and standards mentioned in the introduction.

International Standards and Initiatives	Description of Principles
The G20/OECD Principles of Corporate Governance ¹⁰	See especially chapter VI about the responsibilities of the Board. Regarding tax: <ul style="list-style-type: none"> Highlights how the Board is expected to oversee the finance and tax planning strategies management is allowed to conduct (and the risk management system). The Board should also discourage aggressive tax avoidance not in shareholders' long-term interest.
The OECD Guidelines for Multinational Enterprises ¹¹	The only multilateral agreed code for responsible business conduct governments have committed to promoting. Regarding tax, see especially chapter XI: <ul style="list-style-type: none"> The Board should proactively develop appropriate tax policy principles, adopt tax risk management strategies, and develop structures - to ensure tax risks are fully identified and evaluated. The Board should be informed about all potentially material tax risks. Emphasizes the role of internal tax control functions in an enterprise. Enterprises should comply with both the letter and spirit of the tax laws. Transactions should not be structured in a way that will have tax results that are inconsistent with the underlying economic consequences of the transaction (unless there exists specific legislation designed to give that result). Tax compliances also entail cooperation with tax authorities to facilitate effective and equitable applications of the tax laws (including conforming transfer pricing practices to the arm's length principle).
The OECD's Base Erosion and Profit Shifting (BEPS) initiative ¹²	The 15 actions of the OECD's BEPS are based on three main principles: <ul style="list-style-type: none"> Coherence: Introducing coherence in the domestic rules that affect cross-border activities. Substance: Reinforcing substance requirements in the existing international standards. Transparency: Improving transparency, as well as certainty for businesses that do not take aggressive positions.
Various national tax laws	Responsible tax practices encompass respect for both the letter and the intention of local tax laws.

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¹⁰<https://www.oecd.org/corporate/p%20principles-corporate-governance/>

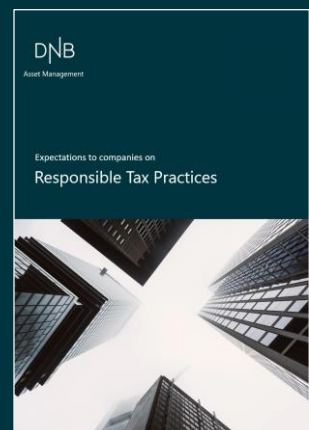
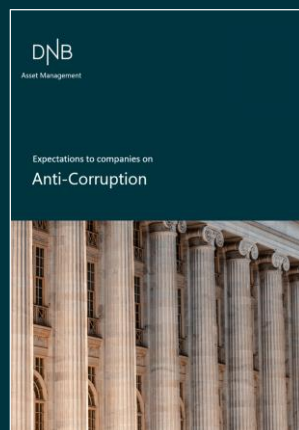
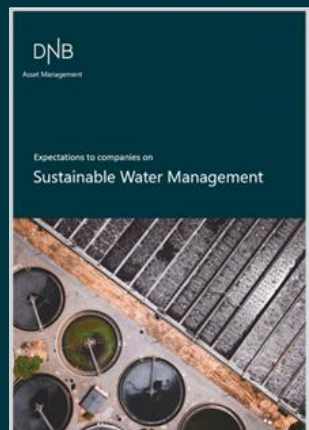
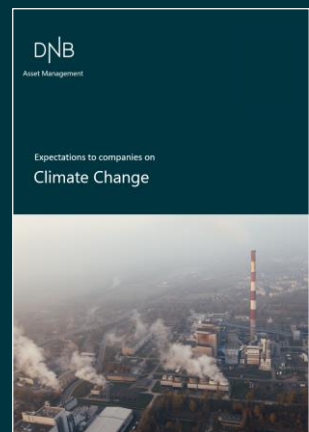
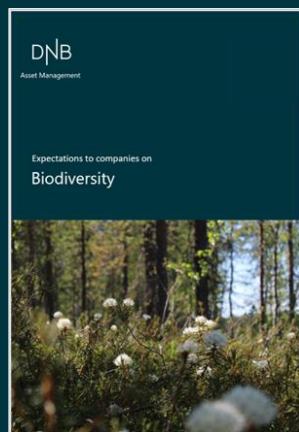
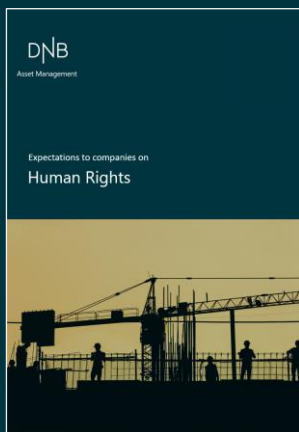
¹¹<https://mneguidelines.oecd.org/mneguidelines/>

¹²<https://www.oecd.org/tax/beps/about/>

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Below are our additional expectation documents.

See our website <https://dnbam.com/en/responsible-investments/guidelines-and-exclusions> for a full and updated list of our expectations on sustainability topics.



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