



ASSET RECOVERY

Challenges and Recommendations

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ASSETS SEIZURE/FORFEITURE

MAJOR ISSUES AND CHALLENGES



Legal and Procedural
Obstacles



Organizational
Challenges



Challenges of Cooperation
- *Domestic and International*



PRACTICE and STRATEGY

THINGS TO REMEMBER

Best Practices

Understand that what works in other jurisdictions may not work in your jurisdiction

Legal and Procedural Frameworks

Legal systems, law enforcement structures, resources, legislation and procedures vary per jurisdiction

Investigative Techniques

Permitted in other jurisdictions may not be permitted in your jurisdiction or may have different procedural requirements

Terminologies

Same legal concept or procedure may have a different terminology in a different jurisdiction

Agencies/Authorities Concerned

Jurisdictions may assign different roles and responsibilities to those involved in assets recovery

01

03

02

04

05

Source: Asset Recovery Handbook – A Guide to Practitioners by JP Brun, L. Gray, C. Scott and KM Stephen



Challenges in Asset Recovery

Limited/Lack of:



knowledge and skills in asset recovery



political will and support from management



enterprise wider reporting, analysis and information intelligence



funding and resources provided to agencies/ authorities tasked to fight tax and financial crimes



information on Mutual Legal Agreement (MLA)/Tax Information Exchange Agreement (TIEA) procedures and requirements



resources in establishing Asset Recovery Offices, MLA Authorities, FIUs, etc.

Source: Barriers to Asset Recovery Handbook and other OECD Tax Academy instructors and participants



Issues and Challenges

Overly complex procedures
at the domestic level



Absence of
expedient
coordination
mechanism among
domestic authorities



Disparities between
legal, institutional
and operational
frameworks



Complex provisions in
investigation, prosecution
and judicial proceedings
vary per country



Inflexible and resource
intensive strategies
and processes



Security Threats/ Risks





Issues and Challenges

**Statute of Limitations and
Bank Secrecy Law provisions**



**Political
Interventions/
Conflict of Interests**



**Different terminologies to
describe the same legal
concepts**



**Limitations/restrictions as to
what information shall be
shared due to different
interpretations
(Data Privacy Act)**



**Shortcomings in
Practice**

**Preservation Orders /
Retention Orders
(period to retain
records)**



Source: Barriers to Asset Recovery Handbook and OECD Tax Academy instructors and participants



Recommendations



Develop cumulative knowledge in assets recovery cases as one priority field of action



Reinforce legal, institutional and operational frameworks per country



Simplify procedures/ reengineer processes at the domestic level to align with international standards

International and Domestic Cooperation



**Capacity Development
- Sharing of Best Practices**

Utilize and strengthen informal path to obtain legal assistance



Create Specialized Confiscation Units/Asset Recovery Offices and Joint Task Forces to expedite actions on recovery of proceeds of crime



Translate international standards into legislation, policies and practice



Thank you for your attention!

