



GUATEMALA¹: PLAYING THE INSIDER / OUTSIDER GAME TO REFORM TAX ADMINISTRATION

The Central American Institute for Fiscal Studies (*Instituto Centroamericano de Estudios Fiscales*), or ICEFI, was founded in 2005 to independently evaluate the fiscal policies of Central American countries. The Guatemala City-based think tank counts a number of former senior government officials among its staff and is well respected for the quality of its analyses and for its contributions to public debates on fiscal matters. In 2015, it took advantage of a major corruption scandal to call for new legislation to enhance accountability in the country's revenue administration agency (the *Superintendencia de Administración Tributaria*), or SAT, which was considered opaque and ineffective. Apart from presenting technical proposals, ICEFI worked with legislators and the media, and built broad coalitions in support of reforms. As a result of the campaign, Congress eventually adopted a new law whose main innovations had been proposed by ICEFI.

THE TAX REFORM

Among all Latin American countries, Guatemala collects the lowest amount in taxes—12.1% of GDP in 2018, compared to an average for the region of 23.1%. The country's low collection rate has hindered its ability to make social investments, perpetuating some of the highest levels of poverty and inequality in the region. Over half of revenues are collected through the value-added tax, which is regressive and very burdensome for poor Guatemalan families. The tax system also is undermined by widespread evasion—estimated to be as high as 80% for corporate income tax—and lax enforcement.

The Guatemalan tax authority (SAT) had long been perceived to be inefficient and corrupt. But it fell into deep crisis in April 2015, when a special prosecutor accused the agency's acting and former superintendents of extracting bribes in exchange for providing large companies with tax exemptions and refunds, as well as tolerating fiscal fraud and illegal smuggling. The "La Línea" scandal deeply shook Guatemalan society—particularly after it was revealed that the corrupt actions had been ordered by the country's president and vice president, who had each profited from the scam. After peaceful mass demonstrations, and following regular Constitutional procedures, both elected leaders resigned and were soon arrested; public discussion called for an overhaul of the tax administration system to make it more transparent, accountable, and effective.

In early 2016, a newly elected Congress set up a committee to consider such reforms. In support of this process, ICEFI developed a series of reform proposals and gathered support from various actors. At the time, the SAT's leadership were direct subordinates to the president. Members were appointed by the president and could be removed by him, and the board's responsibilities were mainly advisory. SAT did not have access to taxpayers' bank accounts, which could have been used to verify consistency of tax returns with banking operations. This lack of access also prevented information exchange with other countries' tax bureaus, placing Guatemala on the OECD's "gray list" of tax havens.

¹ Derived from Gustavo Berganza's case study paper: "Reforming Tax Administration in Guatemala: A Civil Society Success Story", July 2020.

The reform that was eventually approved in 2016 (Decree 37-2016) addressed each of these issues. First, it changed the process of appointing the SAT superintendent, removing the power from the president and placing it with the board of directors. The superintendent is now nominated for a period of four years and must meet specified tax collection targets. Although the president retains the power to nominate board members, she/he must do so from a short list prepared by an ad-hoc commission. The reform also created the Administrative Tribunal for Taxes and Customs (*Tribunal Administrativo Tributario y Aduanero*, TRIBUTA) to review taxpayers' complaints against SAT rulings; previously, this review had been done by the board itself. Finally, the decree amended Guatemala's banking law, modifying secrecy provisions to give SAT access to taxpayers' bank account information. As a result, SAT can now establish information exchange agreements with tax authorities in other countries and comply, for the first time, with international conventions on the prevention of money laundering and terrorist financing. In addition to these reforms, the congress also developed a multi-year strategic plan to ensure enforcement of the reform.

THE CAMPAIGN

ICEFI's campaign began just days after the *La Línea* corruption scandal broke in April 2015, when the organization released a statement asking the government to design a roadmap to reform the SAT. This statement also proposed the creation of a technical-political roundtable including participants from civil society organizations, academia, business, government and the international community. ICEFI also quickly initiated a social media campaign (#exijosathonesta), though its reach was limited.



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In May 2015 ICEFI publicly launched its roadmap proposal in draft form so that citizens and organizations could discuss it and make changes. ICEFI was able to formulate its initial reform proposals quickly because of its longstanding history analyzing the Guatemalan tax system and its deep knowledge of the institutions that administer it. This roadmap included some of the key structural reforms that would be included in Decree 37-2016, including ensuring the superintendent's independence from the president and modifying the powers of the board of directors. ICEFI hosted a public presentation of the roadmap in Guatemala City, and then—upon favorable reception—decided to take the proposal to other cities outside

the capital. This initial stage of ICEFI's campaign focused on bringing in different civic organizations, from business associations to peasants' groups, and shaping public debate on the need for reforms to the SAT.

The decisive, more political phase of the campaign began in January 2016, after the newly elected government had been inaugurated. ICEFI was able to secure a public commitment from both congressional committees and the finance minister to "mutual collaboration" with ICEFI on fiscal policy issues. This agreement helped ICEFI influence some of the key actors in the reform process. During these discussions, ICEFI had the advantage of being the only actor with a comprehensive proposal—which had gained considerable public support. Additionally, ICEFI benefited from personal connections, including the close relationship between its senior economist and a key champion of the reform who sat on the relevant congressional committee.

In February 2016, ICEFI presented an updated version of its roadmap, and again requested the convening of a roundtable to discuss its recommendations. At this roundtable, ICEFI's recommendations were presented alongside a shorter proposal from the finance ministry; differences were reconciled during the following months' negotiations, and the final version of the Decree was approved by Congress in July 2016.

ASSESSMENT

The promulgation of Decree 37-2016 represented the successful culmination of an ICEFI effort that began with a press release, and quickly developed into a significant public campaign to structurally reform the SAT. ICEFI's efforts—done in partnership with other civil society organizations—helped



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highlight the urgent need to reform SAT and provided a clear template for reform. This effort also involved making alliances with grassroots organizations, a tour of several cities in the country to explain the need to promote changes to SAT and sophisticated political negotiations with key stakeholders. All of this was accompanied by press conferences and media appearances by ICEFI researchers, to keep the urgency for reform alive in the social imagination. Although the reforms did not deliver on all their promises in subsequent years, the case shows how

technical and political acumen can lead to successful civil society advocacy for tax administration reforms.

This successful reform process can be conceptualized as occurring through two distinct phases, involving different actors and different modalities of action. The first stage was focused on building a broad reform coalition, spurred by public demonstrations which helped highlight the need for changes in the SAT and broader issues of corruption and lack of transparency. Once the public agenda had been set, the process advanced to the more technical second stage. This is the stage during which potential reforms to the SAT were proposed, debated and negotiated, both in public as well as through private lobbying. In contrast to the initial stage, this phase was mainly a dialogue between elites; as such, ICEFI's technical expertise and close relationships with powerful actors were particularly important. The media had a central role during both stages, since both the public presentations and the technical and political negotiation process received coverage in the press. ICEFI's previous efforts to cultivate media contacts proved tremendously useful in disseminating their analyses and opinions to a wider audience.

LESSONS

In developing and pushing for these tax administration reforms, ICEFI drew on its decade-long experience and recognized credibility and expertise in fiscal policy. These attributes allowed the organization to immediately engage in discussions on the need to reform the SAT once the *La Línea* scandal broke. They also allowed it to establish productive working relationships with a broad range of actors. This combination of technical expertise, political capital, and first-hand experience regarding public finance management provided the organization with the legitimacy and weight needed to make its proposals count in public debates.

At least three lessons can be drawn from the success of ICEFI's campaign. First, ICEFI's success in keeping the issue of tax administration reform on the public agenda was driven by its capacity to effectively engage the media in disseminating its analyses and proposals. This media engagement approach relied on a long-term strategy of building contacts and credibility. Second, ICEFI adjusted its advocacy approach based on its reading of a quickly changing political context, shifting strategies from building broad coalitions to elite negotiations, and from seeking the support of diverse actors to exploiting its political connections. This capacity to adapt strategies to changing circumstances is likely to be very important in most tax advocacy efforts. Third, ICEFI was ready and able to exploit the political opportunity provided by the *La Línea* corruption scandal because of its accumulated knowledge and experience, again highlighting the long-term and opportunistic nature of civil society tax advocacy.

That said, it is worth noting that this successful reform was prompted by events well beyond ICEFI's control, such as the presence of an international anti-corruption actor in Guatemala who decided to prosecute corruption involving powerful politicians and senior officials, and the mass mobilizations that ensued and continued for months. This created a climate in which government actors were forced to consider structural reforms that may otherwise have been difficult to secure.