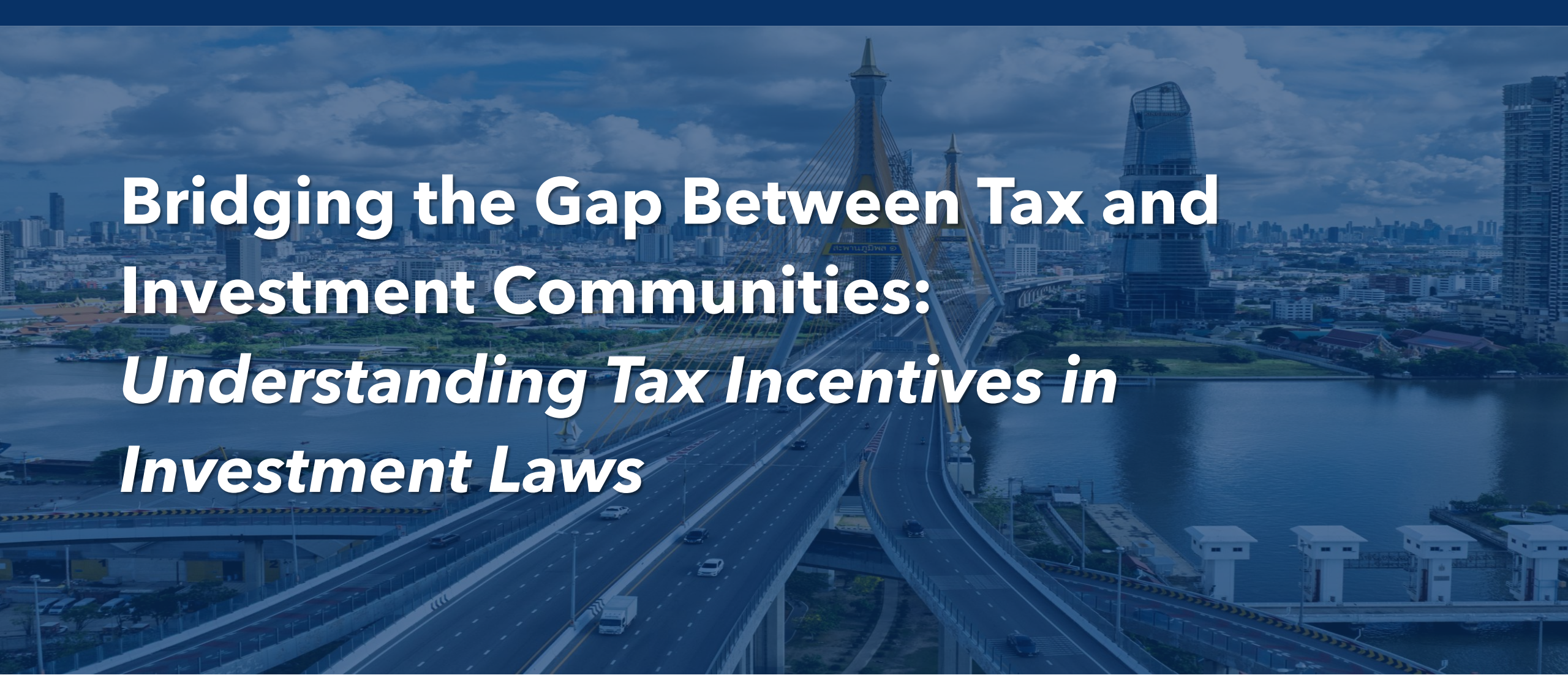




Bridging the Gap Between Tax and Investment Communities: *Understanding Tax Incentives in Investment Laws*

11 June 2026

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Why This Report?

Tax Incentives in National Investment Laws: Bridging the Gap Between Tax and Investment Policy Makers

- Investment laws have become a major vehicle for granting tax incentives, but they remain overlooked in tax debates.
- Little is known about how these incentives are designed, governed, monitored once embedded in investment laws.
- The issue sits between tax and investment policy, requiring stronger coordination between IPAs, MoFs, tax authorities.



Josefina del Rosario Lago

What Does This Report Cover?

From legal design to institutional governance

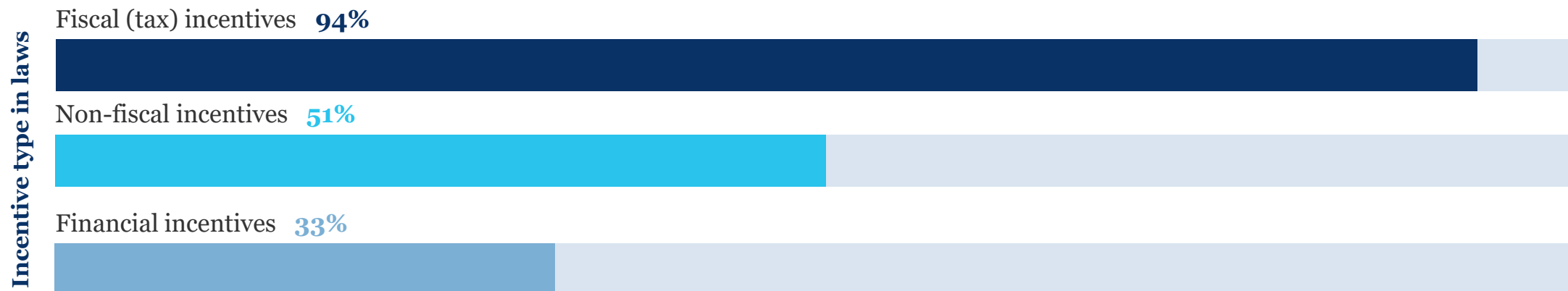
- Maps 105 national investment laws across Africa, Asia, and Latin America and the Caribbean.
- Examines how tax incentives are included in investment laws, including prevalence, types, eligibility, duration.
- Looks at how these incentives interact with other legal instruments.
- Analyzes institutional governance and coordination mechanisms for the tax incentive policy making life cycle.



Scan the QR code to access the report

Investment laws are a key vehicle for tax incentives

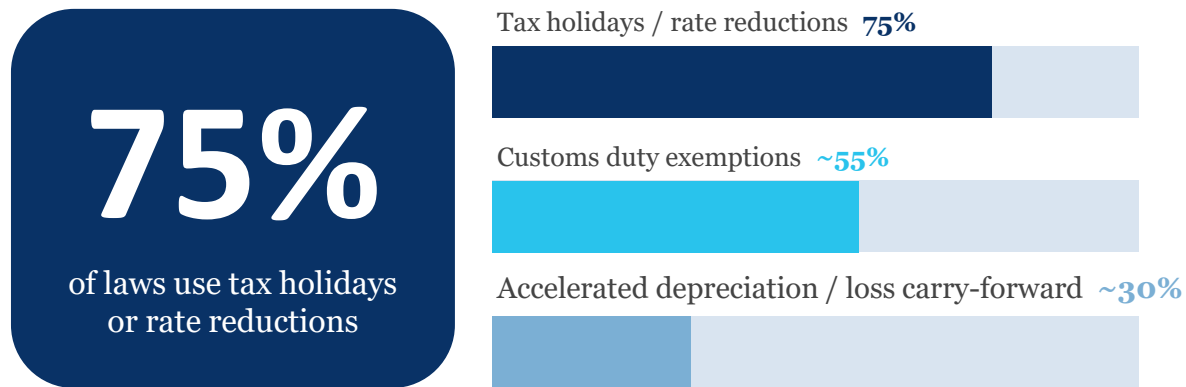
Scale, reach and dominance of tax incentives across EMDE investment laws



Tax Holidays Dominate and Often Exceed Best Practice

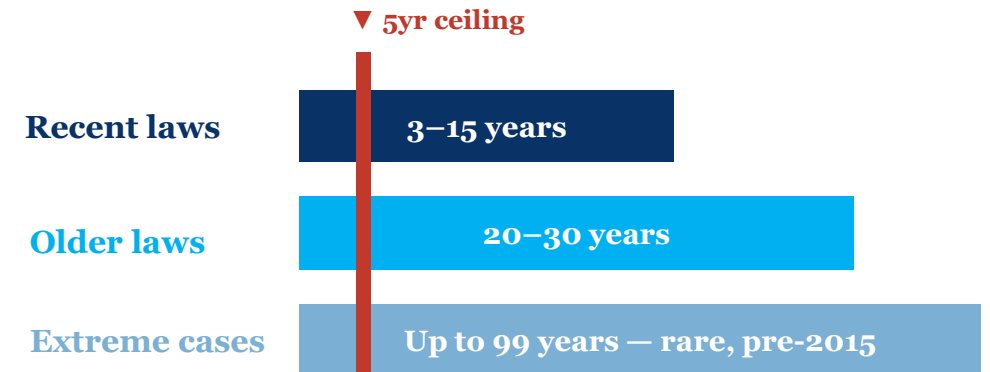
Types of tax incentives in investment laws and their duration

INSTRUMENT BREAKDOWN



Most laws combine **profit-based** incentives (reduce tax owed) with **cost-based** ones (defer tax through depreciation or loss carry-forward)

HOW LONG DO THEY RUN?



Positive reform signal: Recent laws cap incentives at 15 years maximum. Sunset clauses are emerging to force periodic review and prevent ineffective incentives from persisting by default.

The Authorizing Environment: IPAs Prominence

Fiscal oversight is largely absent from investment laws

Investment Promotion Agency

Mandate: attract and facilitate investment

53%

of laws assign IPA an approval role

47%

of laws assign IPA an administration role

VS

Ministry of Finance

Mandate: fiscal stability and revenue protection

15%

of laws assign MoF an approval role

14%

of laws assign MoF an administration role

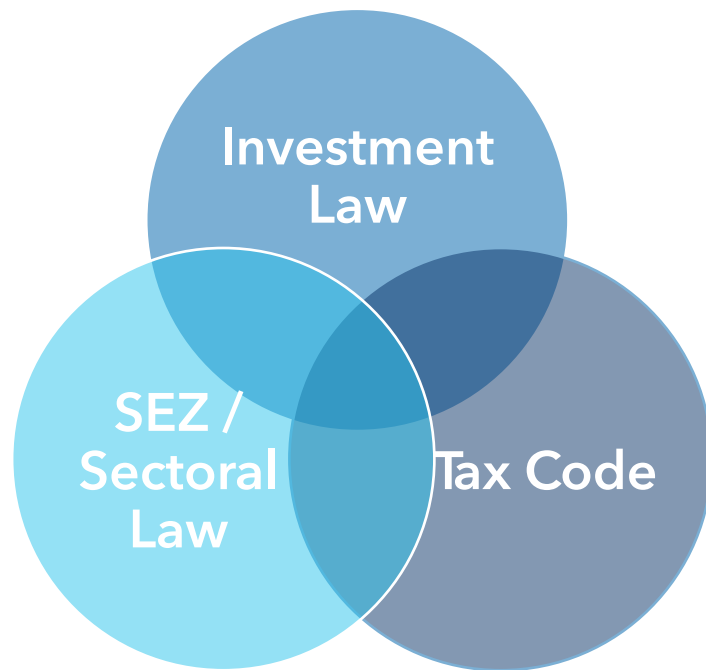
This is a consequence of the design phase of investment laws:

IPAs often drive the drafting of investment laws led by investment promotion priorities, while MoFs tend to have a consultative role in the process rather than a joint tax-investment coordination.

Emerging good practice: Peru & Tanzania.

Tax Incentives Across Multiple Laws Can Impact DRM

Risks on fragmentation, overlapping regimes, and investor-state disputes



90% of EMDEs include incentives in multiple laws.
Few have anti-cumulation rules.

Fiscal risk: “double dipping”

Investors can claim incentives from multiple regimes simultaneously. Globally, revenue forgone through tax expenditures = ~4% of GDP and 25% of total tax revenue.

Legal risk: ISDS exposure

Withdrawing incentives can trigger investor-state arbitration. Average ICSID damages: USD 215 million. Cases include Spentex v. Uzbekistan and ConocoPhillips v. Venezuela.

Emerging reform: centralisation

Ghana’s 2022 Exemptions Act centralises all incentive approval under MoF and Parliament. Honduras is debating a Fiscal Justice Law after exemptions reached ~50% of the national budget.

Monitoring and Evaluation Remain Limited and Uneven

M&E data is not systematically collected or used in investment decision-making

Weak legal basis

Investment laws rarely require periodic review of incentives

Oversight is often reactive

M&E often happens ex post and not systematically

Limited use of data

IPA's capacity gaps can constrain the collection and use of data for M&E

Revenue-foregone data may be produced by tax authorities, but it is not systematically integrated into investment decision-making. At the same time, investment-impact data is rarely collected by IPAs to assess whether incentives are delivering expected sustainable development outcomes.

This creates a knowledge gap on whether tax incentives are working.

What Does This Mean for MOFs and Tax Authorities?

Six governance issues

01. Demand a seat at the table

MoF involvement must be formal and mandatory – not consultative after key decisions are made.

02. Share revenue-foregone data

Tax expenditure reports should be routinely shared with IPAs to inform investment decisions.

03. Advocate for anti-cumulation rules

Clauses preventing investors from stacking incentives across multiple regimes should be in investment laws

04. Support centralization

Ghana and Tanzania show it is achievable. Tax authorities are essential partners not obstacles in these reforms.

05. Embed sunset clauses

Advocate for time-limited incentives (ideally ≤ 5 years) with mandatory review. This prevents entrenchment of ineffective benefits.

06. Understand ISDS risk

Investment laws that include arbitration clauses create legal exposure. Tax authorities must be consulted as a fiscal risk issue.

Thank you!