

# TAX INCENTIVES, TAX COMPETITION, AND ASEAN ECONOMIC INTEGRATION: A CALL FOR REGIONAL POLICY REFORM

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BACKGROUND	<ul style="list-style-type: none"><li>Challenges on the effectiveness and efficiency of tax incentives for attracting Foreign Direct Investment</li><li>Tax competition issue arising and intensifying in an economically integrated region</li><li>ASEAN's case: committed to ASEAN economic integration, but to some extent competing with one another through tax incentives</li></ul>
RESEARCH QUESTION	What does the current legal framework of ASEAN economic integration say about tax incentives, and how can it be improved?
METHODS	Reform-oriented research Integrative review method   Thought Experiments   Case Studies

ASEAN AND ASEAN ECONOMIC INTEGRATION



Image sources:  
<https://www.civildaily.com/news/indias-asean-engagement-and-summits/>  
<https://asean.org/>



*"The Charter is a living document, and like all living organisms will have to evolve to adapt to its changing environment"* (Prof. Walter Woon, in The ASEAN Charter: A Commentary )



PRELIMINARY OBSERVATIONS

1 Why do countries use tax incentives, and how should they be designed?

The criteria of tax incentives

- Derogation from the standard corporate tax regime
- Statutory-based
- Selective basis
- Less reliance on sufficient fiscal capacity

The rationales for using tax incentives

- Compensating for market failures
- Fostering competitiveness
- Promoting real economic activities
- Fiscal feasibility

Key design elements

- Types and features of tax incentives
- Eligibility criteria
- Granting mechanism
- Governance: national and regional

2 What are the current practices of tax incentives in ASEAN?

Case Study 1: Increased tax incentive competition in the ASEAN region as a result of The United States-China trade war in 2018

Group I	Member countries with new tax incentives to respond to the trade war	Malaysia, Indonesia, Thailand, The Philippines
Group II	Member countries with new tax incentives without a specific reference to respond to the trade war	Viet Nam, Cambodia, Lao PDR
Group III	Member countries relying on existing tax incentives	Singapore, Myanmar, Brunei Darussalam

3 What is the status quo of tax incentives under the current legal framework for ASEAN economic integration?

The ASEAN Charter

Legal and institutional framework for ASEAN to support and facilitate its integration initiatives

The Blueprints and the Strategic Plan

- Limited scope of taxation cooperation
- No particular consideration on the broader implications of 'counterproductive' tax competition to ASEAN economic integration

The further context

- Divergent ASEAN economies
- The 'ASEAN Way'

4 What are the impacts of 'counterproductive' tax competition on the achievement of the ASEAN economic integration goals?

Based on the theoretical aspects of tax competition and lessons drawn from the approaches of the Caribbean Community (CARICOM), the European Union and the OECD to addressing tax competition arising from tax incentives

Impediment to realising an integrated single market and production base

- Uneven playing field among businesses
- The interplay with the development disparity across and within member countries

Undermined fiscal capacity to meet regional objectives

- Unnecessary tax revenue losses
- Profit shifting concerns

5 What could ASEAN do to align the use of tax incentives with the goals of ASEAN economic integration?

Enhancing Regional Tax Cooperation

The Charter's narratives:

- 'mutual assistance and cooperation'
- promote 'sustainable development',
- 'shared commitment and collective responsibility' in enhancing prosperity

Some extra-legal concepts:

- fairness in international cooperation
- the duties concept of fiscal sovereignty
- Sustainable Development Goals

Doctoral scholarship granted by the Indonesia Endowment Fund for Education (LPDP), Ministry of Finance, Indonesia | Travel grant by the Women in Tax Law Travel Scholarship, Melbourne Law School  
Presented at the IFA Poster Programme, Lisbon, 5-9 October 2025