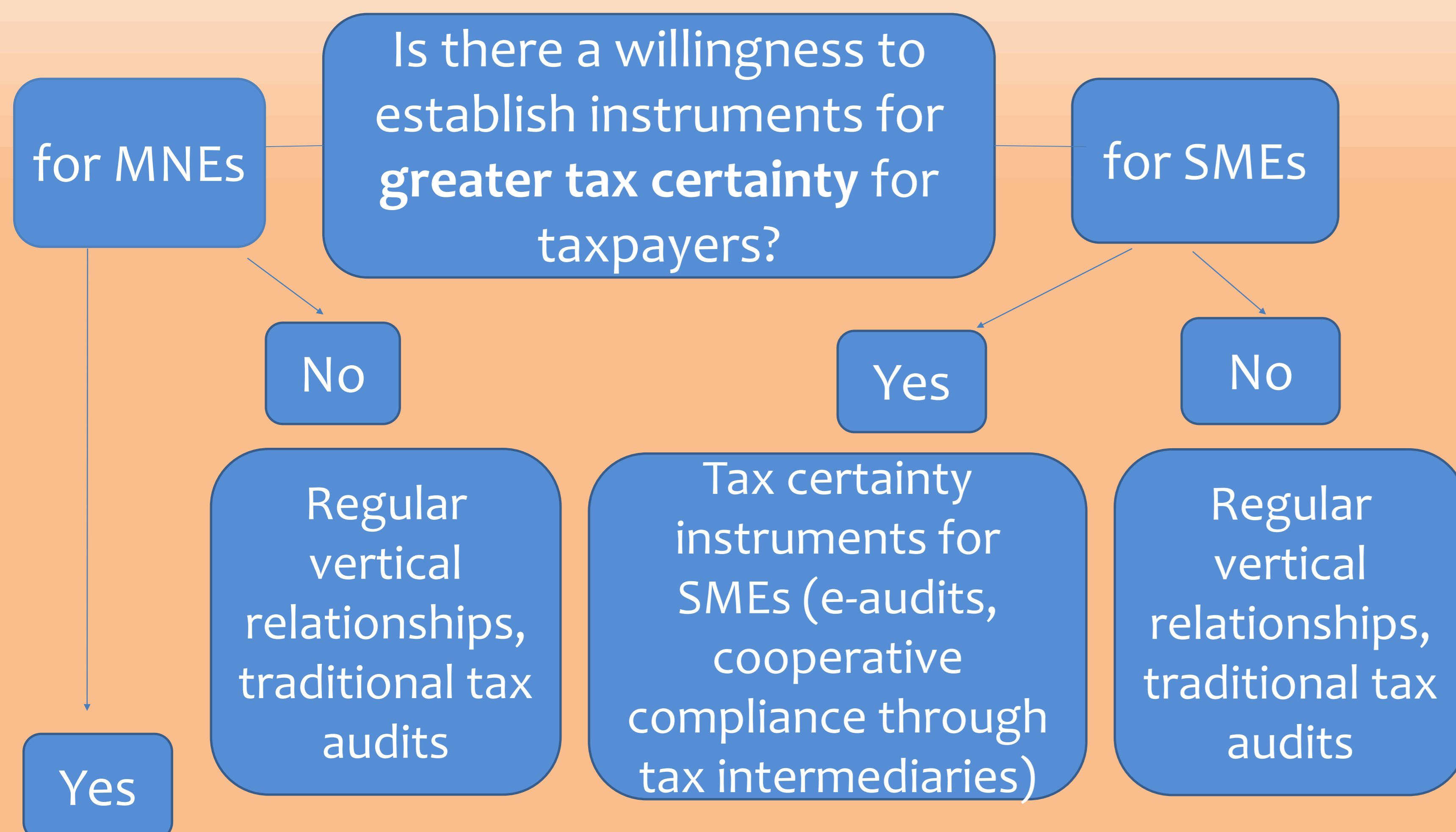


MODEL LEGISLATION FOR COOPERATIVE COMPLIANCE VALIDATED BY REFERENCE TO SPECIFIC JURISDICTIONS

RESEARCH PROBLEM: Cooperative compliance programs became an important part of the tax certainty agenda globally. Analysing the legal theory, policy documents, and practically implemented programs makes it possible to identify the model (set of principles and rules) for cooperative compliance. Model legislation could be used as the basis for national cooperative compliance legislation (or regulations) by countries that would like to introduce the program. It might encourage governments to ensure their systems adhere to a common pattern and support countries lacking financial and expertise capacities.



Cooperative compliance (CC) represents a special concept of relationships between a taxpayer and a tax administration based on increased transparency, real-time tax certainty, and trust, which leads to payment of the right amount of tax at the right time

Is there a willingness to establish a new format of the relationships between the tax administration and taxpayers involving enhanced transparency (beyond statutorily required extent), trust, and continuous real-time cooperation?

Yes

No

Would the jurisdiction use well-established legal principles and tested rules based on those principles for the new format of the relationships (or re-establishing of the earlier existing program)?

Advance rulings, APAs (advance pricing agreements)

Yes

Is the new format (program) of the relationship likely to be established in law?

Yes

No

Need for principle-based model legislation for cooperative compliance

Individual agreements for cooperative compliance still contain rules, rights, and obligations of parties that should comply with basic principles

- What are the essential parts of the model legislation for cooperative compliance?
- Can we find them in the existing cooperative compliance programs? How should they be implemented in future programs?

- Countries continue to implement cooperative compliance programs (in 2019, 36 jurisdictions claimed to have CC programs in place) – current research focuses on Austrian, Russian, and Irish CC programs;
- Principles established by the OECD in reports (2008,2013,1016);
- New multilateral instruments of tax comfort (assurance) – the FTA ICAP and the EU ETACA.

- There are fundamental principles that constitute the basis of cooperative compliance programs: equality before the law, the spirit of the law, commercial awareness, impartiality, proportionality, the responsiveness of tax authorities, disclosure and transparency by tax authorities and taxpayers;
- These principles, together with other elements, such as tax control frameworks (TCFs) and entry requirements, can serve as a basis for model legislation for cooperative compliance.

Research Questions

Current state

Preliminary findings