

What are bribery and corruption?

The same justifications and excuses for bribery and corruption, like other white collar crimes, are heard time and time again. “Everybody does it”, “it’s a cost of doing business”, “it doesn’t really matter”, “nobody gets hurt”. This is not true. The corruption of public or private officials and decision makers, and the payment of bribes, raise serious moral and political concerns. These are not victimless crimes, and in fact exact a heavy economic and social cost. Bribery and corruption create an unlevel playing field for honest businesses, and cut deep into the social fabric of developed and developing countries alike. They can translate into inferior and dangerous products allowed onto the market place, substandard building materials used in infrastructure projects that can endanger people’s health and welfare, and the diversion of vital money required for education, health and welfare services. In the end, we all pay the bill.

Corruption can take many forms, but all involve the abuse of public or private office for personal gain. A corrupt official may exercise his or her authority in a way they should not (for example, where a purchasing manager grants a contract to a supplier that has paid a bribe) or fail to exercise authority in the way they should (for example, where a building inspector ignores the use of sub-standard building that should be reported). Other parties to corruption may act for a variety of personal or business reasons. Corrupt transactions can be extremely simple or incredibly complex, involving companies in many different countries. Corruption can take place at the highest levels of government and at the top of large multinational companies. It can also happen at a local level, wherever somebody has the power to influence decision-making.

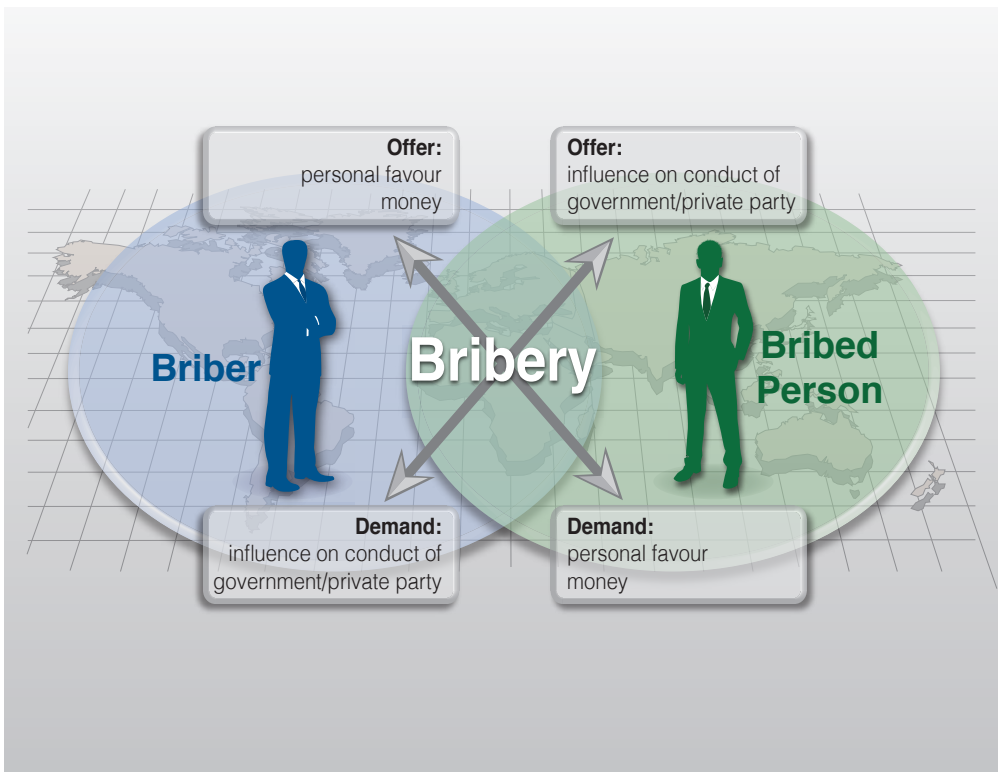
Corruption is one of the main obstacles to sustainable economic, political and social development for developing, emerging and developed economies. Overall, corruption reduces efficiency and increases inequality. Estimates show that the cost of corruption equals more than 5% of global GDP, or USD 2.6 trillion (World Economic Forum), with over USD 1 trillion paid in bribes each year (World Bank). The costs of corruption can be felt in many different ways. Investors are often unwilling to invest in countries where systems are perceived to be corrupt, because they are less able to assess the likely risk or return on their investment. Bureaucratic processes may be slowed down, both by corrupt officials and by mechanisms introduced to identify and combat corruption. Corruption may also be linked with other criminal enterprises, such as tax evasion, money laundering and serious organised crime.

Categories of corruption

Corruption can be found in many different forms, including cronyism, nepotism and patronage. The types of corruption that a tax examiner or tax auditor is most likely to encounter in their work include bribery, embezzlement and extortion.

Bribery

Bribery involves intentionally offering, promising or giving any undue pecuniary or other advantage to an official or decision maker, with the intention that the official or decision maker acts or refrains from acting in relation to the performance of their duties. This can be seen in the illustration below.

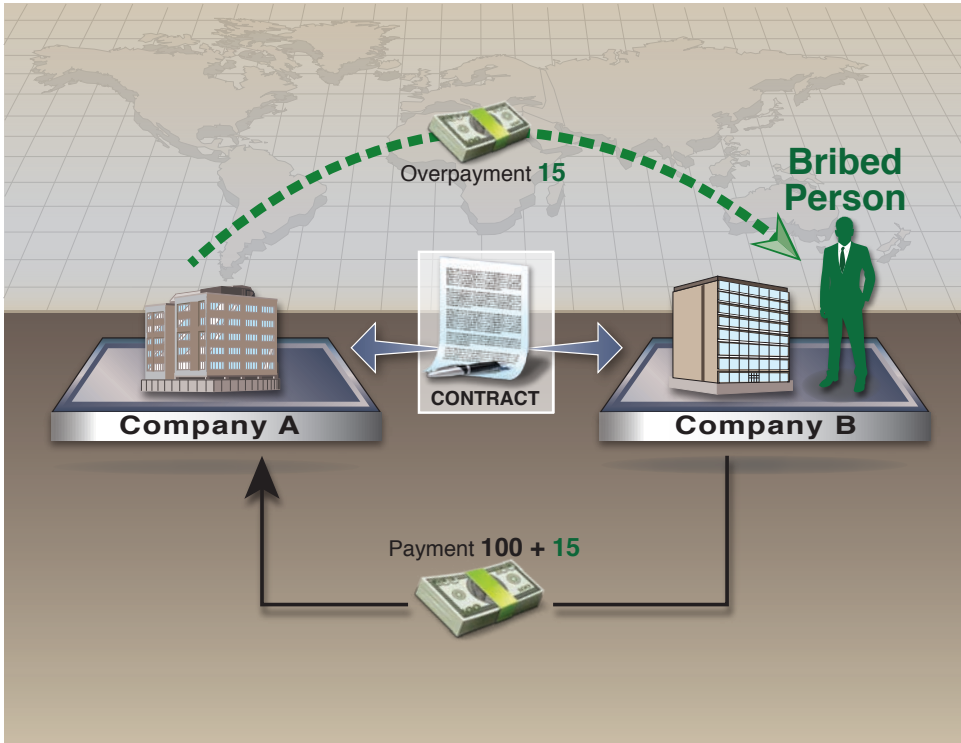


Generally, in any business related bribery transaction there are four main parties: the briber; the bribed person and their respective organisations. While it is not always the case, these organisations are sometimes a direct victim of the bribery, for example, the government agency that over-pays for services as part of a kickback scheme or the private organisation that enters into contracts on unfavourable terms as a result of the actions of the briber and bribed person. There may also be many indirect victims of bribery, including individuals who suffer when funds are diverted from public services and law-abiding businesses that miss out on contracts because they refuse to pay bribes.

Different types of bribery include:

- *Kickbacks* – A kickback is a form of bribe paid to a person of influence within an organisation, in return for them securing some kind of benefit from their organisation for the person paying the bribe. Commonly, kickbacks are paid by companies seeking to secure profitable contracts or contracts on favourable terms. In return for their assistance, part of the benefit from the contract is paid (or “kicked back”) to a decision maker within the organisation granting the contract. The organisation granting the contract is not aware of the payment to its official.
- *Secret commissions* – Companies often use agents to enter into contracts on their behalf, for example to make sales in an overseas market. Secret commissions are a form of bribery whereby an agent requests or accepts a payment to influence these contracts for the benefit of the payer, without the knowledge or consent of their principal. This may be to secure a contract, to gain favourable terms, or even to prevent a contract being entered into with a competitor.
- *Facilitation payments* – Facilitation payments are made by a business to a government official in order to encourage or ensure that the official performs his or her normal duties. An example of such a case might be where a company makes a payment to a customs official to avoid unnecessary delays on clearing a shipment of goods. Facilitation payments are made in order to influence the behaviour of an official, but in many countries these particular payments are not illegal, therefore tax examiners and auditors should familiarise themselves with their own country’s treatment of these payments.
- *Influence peddling* – Also known as “trading” or “trafficking in influence”, influence peddling occurs where an official seeks to obtain payment in return for using their influence to secure an undue advantage or favour for the payer. The term is also used where it is the payer who solicits an official to use their influence to secure an undue advantage or favour in return for payment. Influence peddling is most often seen in the world of politics, but does also occur in business.
- *Electoral bribery* – In some countries it is a crime to make a donation for the purpose of promoting a candidate or a political party, where the intention is to influence the result of an election and so secure or retain a contract with the government.

Simple example of bribery in the form of a kickback



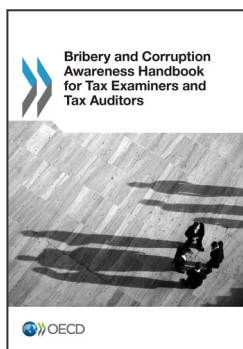
Company B is a government-owned company responsible for co-ordinating the renovation of the state-owned railway, including the granting of contracts. It has invited tenders from a number of companies to conduct the work. Company A (Briber) is a privately owned company that is bidding for the contract. The contract has a value of USD 100 million. Company A comes to an agreement with a corrupt official (Bribed Person) at Company B, whereby Company A is awarded the contract and is paid USD 115 million. In return, Company A pays a 'kickback' of USD 15 million to the corrupt official.

Embezzlement

Embezzlement concerns a public or private official appropriating money or other assets that they have been entrusted with in their official capacity. Embezzlement is a kind of financial fraud, which often involves the falsification of documents and records over a long period of time, while small amounts are regularly secreted in a systematic manner.

Extortion

Extortion is the illegal use of a person's position to forcefully demand payment in return for granting an undue economic advantage. Like bribery, in extortion a payment is made to a person who is in a position of power or influence. However, in the case of extortion, the person in the position of power or influence demands the payment and does so using intimidation, threats or force.



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