



Observatory on the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by Luis Rodrigo Salinas Olvera, Tax Counsel at *Creel, García-Cuellar, Aiza y Enríquez, S.C.*, Fernando Juarez Hernandez, Partner at *Cacheaux, Cavazos & Newton* and Diana Bernal Ladrón de Guevara, Counsel at *Fernandez Espino y Asociados*, all of them National Reporters of Mexico.

This set of questionnaires comprise the National Reporters' assessment on the country practice during 2019 in the protection of taxpayers' rights (Questionnaire # 1), and the level of fulfilment of the minimum standards and best practices on the practical protection of taxpayers' rights identified by Prof. Dr. Philip Baker and Prof. Dr. Pasquale Pistone at the 2015 IFA Congress on "*The Practical Protection of Taxpayers' Fundamental Rights*" (Questionnaire # 2). These questionnaires were filled in considering the following parameters:

1. *For Questionnaire # 1*, an assertive assessment (yes/no) was required on the effective implementation in domestic law of 82 legal safeguards, guarantees and procedures relevant in 12 specific areas for the practical protection of taxpayers' rights, as identified by Baker & Pistone in 2015. This line of questioning aims to get an overview of the state of protection of taxpayers' rights in the country in 2019.
2. *For Questionnaire # 2*, an impartial, non-judgmental evaluation was required on the developments, either of improvement or of decline, in the level of realisation of 57 minimum standards and 44 best practices, distributed into 87 benchmarks for the practical protection of taxpayers' rights. In this regard, a summary of events occurred in 2019 (legislation enacted, administrative rulings, circulars, case law, tax administration practices), that serve as grounds for each particular assessment, was also required.

IBFD Observatory on the Protection of Taxpayers' Rights

Dear National Reporter,

On behalf of Prof. Dr. Philip Baker and Prof. Dr. Pasquale Pistone, I would like to thank you for your participation in the IBFD's Observatory on the Protection of Taxpayers' Rights (OPTR).

As you are aware, the OPTR aims to keep track of the developments in the practical protection of taxpayers' rights around the world. We intend to do so through the valuable and timely information you are kindly supplying, as member of your country's group of experts. Practitioners, tax authorities, academics and the judiciary of each surveyed country form national groups, to obtain a neutral, balanced report on the situation of taxpayers' rights in these countries.

Following you will find two questionnaires, of twelve sections each, aiming to compile relevant information regarding the level of practical implementation of the minimum standards and best practices of 12 taxpayers' rights, as identified by Prof. Dr. Baker and Prof. Dr. Pistone in Basel, 2015. We kindly ask you to fill them out completely, according to the instructions provided at the beginning of each questionnaire.

We would be very grateful if you submit us this questionnaire, duly filled out, by no later than 17 January 2020. We remain at your disposal for any clarification you may need.

We look forward to your valuable contribution to what we believe is an extraordinary project!

Kind regards,

Prof. Dr. Carlos E. Weffe
Managing Editor
IBFD Observatory on the Protection of Taxpayers' Rights.

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Judiciary

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Academia

Other:

Questionnaire 1 - Country Practice

Instructions:

1. Please answer all questions. The form will not allow you to continue/submit your responses until you have answered all questions.

2. For assertive questions, please answer with "yes" or "no" by clicking on the corresponding button.

3. For questions that require you to specify a period of time (namely, Q. 23 and Q. 44), please select the time applicable in your country to carry out the procedures indicated in the questions in practice, within the options provided.
4. For questions with more than one possible answer (namely, Q. 56), please check all necessary boxes to reflect better the practical situation of your country regarding the issue, by clicking on them.
5. When completed, please submit the survey.
6. Once you have submitted the survey, you will receive an email acknowledging your participation in the OPTR and providing a backup of your answers.
7. The email will also include an "edit your survey" link, in case you want to modify any of your answers. You will receive this email every time you submit partial responses.
8. An option to quit the survey and save your answers is provided at the end of each section.
9. If answering partially, please select "Yes" at the end of the section in which you are to submit your partial answers to the survey. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this survey.
10. For editing your answers, please use the last "edit your response" link provided to you via email. Please bear in mind that this is the only way the system will acknowledge your previous answers. If you use a link other than the last one provided, some (or all) changes might not be retrieved by the system.
11. When clicking on the last "edit your response" link, the system will lead you to the front page of the survey. Click on "Next" as many times as needed to get to the section you want to continue in. Once you have reached said section, please remember to change your answer to the question "Do you want to save your results and quit?" to "No", in order to be able to continue.

I. Identifying taxpayers and issuing tax returns

1. Do taxpayers have the right to see the information held about them by the tax authority? *

Yes

No

2. If yes, can they request the correction of errors in the information? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

3. In your country, is there a system of "cooperative compliance" / "enhanced relationship" which applies to some taxpayers only? *

Yes

No

4. If yes, are there rules or procedures in place to ensure this system is available to all eligible taxpayers on a non-preferential/non discriminatory/non arbitrary basis? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

5. Is it possible in your country for taxpayers to communicate electronically with the tax authority? *

Yes

No

6. If yes, are there systems in place to prevent unauthorised access to the channel of communication? *

Yes

No

7. Are there special arrangements for individuals who face particular difficulties (e.g. the disabled, the elderly, other special cases) to receive assistance in complying with their tax obligations? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

II. The issue of tax assessment

8. If a systematic error in the assessment of tax comes to light (e.g. the tax authority loses a tax case and it is clear that tax has been collected on a wrong basis), does the tax authority act ex officio to notify all affected taxpayers and arrange repayments to them? *

Yes

No

9. Does a dialogue take place in your country between the taxpayer and the tax authority before the issue of an assessment in order to reach an agreed assessment? *

Yes

No

10. If yes, can the taxpayer request a meeting with the tax officer? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

III. Confidentiality

11. Is information held by your tax authority automatically encrypted? *

Yes

No

12. Is access to information held by the tax authority about a specific taxpayer accessible only to the tax official(s) dealing with that taxpayer's affairs? *

Yes

No

13. If yes, must the tax official identify himself/herself before accessing information held about a specific taxpayer? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

14. Is access to information held about a taxpayer audited internally to check if there has been any unauthorised access to that information? *

Yes

No

15. Are there examples of tax officials who have been criminally prosecuted in the last decade for unauthorised access to taxpayers' data? *

Yes

No

16. Is information about the tax liability of specific taxpayers publicly available in your country? *

Yes

No

17. Is "naming and shaming" of non-compliant taxpayers practised in your country? *

Yes

No

18. Is there a system in your country by which the courts may authorise the public disclosure of information held by the tax authority about specific taxpayers (e.g. habeas data or freedom of information)? *

Yes

No

19. Is there a system of protection of legally privileged communications between the taxpayer and its advisors? *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

Yes

No

20. If yes, does this extend to advisors other than those who are legally qualified (e.g. accountants, tax advisors)? *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

Not applicable (click here if you answered "No" to the previous question)

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

IV. Normal Audits

21. Does the principle audi alteram partem apply in the tax audit process (i.e. does the taxpayer have to be notified of all decisions taken in the process and have the right to object and be heard before the decision is finalised)? *

Yes

No

22. Are there time limits applicable to the conduct of a normal audit in your country (e.g. the audit must be concluded within so many months)? *

Yes

No

23. If yes, what is the normal limit in months? *

10-12 months



24. Does the taxpayer have the right to be represented by a person of its choice in the audit process? *

Yes

No

25. May the opinion of independent experts be used in the audit process? *

Yes

No

26. Does the taxpayer have the right to receive a full report on the conclusions of the audit at the end of the process? *

Yes

No

27. Does the principle ne bis in idem apply to tax audits (i.e. that the taxpayer can only receive one audit in respect of the same taxable period)? *

Yes

No

28. If yes, does this mean only one audit per tax per year? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

29. Are there limits to the frequency of audits of the same taxpayer (e.g. in respect to different periods or different taxes)? *

Yes

No

30. Does the taxpayer have the right to request an audit (e.g. if the taxpayer wishes to get finality of taxation for a particular year)? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

V. More intensive audits

31. Is authorisation by a court always needed before the tax authority may enter and search premises? *

Yes

No

32. May the tax authority enter and search the dwelling places of individuals? *

Yes

No

33. Is there a procedure in place to ensure that legally privileged material is not taken in the course of a search? *

Yes

No

34. Is a court order required before the tax authority can use interception of communications (e.g. telephone tapping or access to electronic communications)? *

Yes

No

35. Is the principle nemo tenetur applied in tax investigations (i.e. the principle against self-incrimination)? *

Yes

No

36. If yes, is there a restriction on the use of information supplied by the taxpayer in a subsequent penalty procedure/criminal procedure? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

37. If yes to nemo tenetur, can the taxpayer raise this principle to refuse to supply basic accounting information to the tax authority? *

Not applicable (click here if you answered "No" to question 35)

Yes

No

38. Is there a procedure applied in your country to identify a point in time during an investigation when it becomes likely that the taxpayer may be liable for a penalty or a criminal charge, and from that time onwards the taxpayer's right not to self-incriminate is recognised? *

Yes

No

39. If yes, is there a requirement to give the taxpayer a warning that the taxpayer can rely on the right of non-self-incrimination? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

VI. Review and appeals

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

40. Is there a procedure for an internal review of an assessment/decision before the taxpayer appeals to the judiciary? *

Yes

No

41. Are there any arrangements for alternative dispute resolution (e.g. mediation or arbitration) before a tax case proceeds to the judiciary? *

Yes

No

42. Is it necessary for the taxpayer to bring his case first before an administrative court to quash the assessment/decision, before the case can proceed to a judicial hearing? *

Yes

No

43. Are there time limits applicable for a tax case to complete the judicial appeal process? *

Yes

No

44. If yes, what is the normal time it takes for a tax case to be concluded on appeal? *

More than 24 months



45. Does the taxpayer have to pay some/all the tax before an appeal can be made (i.e. solve et repete)? *

Yes

No

46. If yes, are there exceptions recognised where the taxpayer does not need to pay before appealing (i.e. can obtain an interim suspension of the tax debt)? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

47. Does the taxpayer need permission to appeal to the first instance tribunal? *

Yes

No

48. Does the taxpayer need permission to appeal to the second or higher instance tribunals? *

Yes

No

49. Is there a system for the simplified resolution of tax disputes (e.g. by a determination on the file, or by e/filing)? *

Yes

No

50. Is the principle audi alteram partem (i.e. each party has a right to a hearing) applied in all tax appeals? *

Yes

No

51. Does the loser have to pay the costs in a tax appeal? *

Yes

No

52. If yes, are there situations recognised where the loser does not need to pay the costs (e.g. because of the conduct of the other party)? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

53. Are judgments of tax tribunals published? *

Yes

No

54. If yes, can the taxpayer preserve its anonymity in the judgment? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

55. If there is usually a public hearing, can the taxpayer request a hearing in camera (i.e. not in public) to preserve secrecy/confidentiality? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

VII. Criminal and administrative sanctions

56. Does the principle ne bis in idem apply in your country to prevent either:

*

- The principle does not apply in my country
- The imposition of a tax penalty and the tax liability
- The imposition of more than one tax penalty for the same conduct
- The imposition of a tax penalty and a criminal liability

57. If ne bis in idem is recognised, does this prevent two parallel sets of court proceedings arising from the same factual circumstances (e.g. a tax court and a criminal court)? *

- Not applicable (click here if you answered "No" to the previous question)
- Yes
- No

58. If the taxpayer makes a voluntary disclosure of a tax liability, can this result in a reduced or a zero penalty? *

- Yes
- No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

VIII. Enforcement of taxes

59. Does the taxpayer have the right to request a deferred payment of taxes or a payment in instalments (perhaps with a guarantee)? *

Yes

No

60. Is a court order always necessary before the tax authorities can access a taxpayer's bank account or other assets? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

IX. Cross-border procedures

61. Does the taxpayer have the right to be informed before information relating to him is exchanged in response to a specific request? *

Yes

No

62. Does the taxpayer have a right to be informed before information is sought from third parties in response to a specific request for exchange of information? *

Yes

No

63. If no to either of the previous two questions, did your country previously recognise the right of taxpayers to be informed and was such right removed in the context of the peer review by the Forum on Transparency and Exchange of Information? *

Not applicable (click here if you answered "No" to either question 61 or question 62)

Yes

No

64. Does the taxpayer have the right to be heard by the tax authority before the exchange of information relating to him with another country? *

Yes

No

65. Does the taxpayer have the right to challenge before the judiciary the exchange of information relating to him with another country? *

Yes

No

66. Does the taxpayer have the right to see any information received from another country that relates to him? *

Yes

No

67. Does the taxpayer have the right in all cases to require a mutual agreement procedure is initiated? *

Yes

No

68. Does the taxpayer have a right to see the communications exchanged in the context of a mutual agreement procedure? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

X. Legislation

69. Is there a procedure in your country for public consultation before the adopting of all (or most) tax legislation? *

Yes

No

70. Is tax legislation subject to constitutional review which can strike down unconstitutional laws? *

Yes

No

71. Is there a prohibition on retrospective tax legislation in your country? *

Yes

No

72. If no, are there restrictions on the adoption of retrospective tax legislation in your country? *

Not applicable (click here if you answered "Yes" to the previous question)

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

XI. Revenue practice and guidance

73. Does the tax authority in your country publish guidance (e.g. revenue manuals, circulars, etc.) as to how it applies your tax law? *

Yes

No

74. If yes, can taxpayers acting in good faith rely on that published guidance (i.e. protection of legitimate expectations)? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

75. Does your country have a generalised system of advanced rulings available to taxpayers? *

Yes

No

76. If yes, is it legally binding? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

77. If a binding rule is refused, does the taxpayer have a right to appeal? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

XII. Institutional framework for protecting taxpayer's rights

78. Is there a taxpayers' charter or taxpayers' bill of rights in your country? *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

Yes

No

79. If yes, are its provisions legally effective? *

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Not applicable (click here if you answered "No" to the previous question)

Yes

No

80. Is there a (tax) ombudsman / taxpayers' advocate / equivalent position in your country? *

Yes

No

81. If yes, can the ombudsman intervene in an on-going dispute between the taxpayer and the tax authority (before it goes to court)? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

82. If yes to a (tax) ombudsman, is he/she independent from the tax authority? *

Not applicable (click here if you answered "No" to question 80)

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Questionnaire 2 - Standards of protection

Instructions:

1. Please answer all questions. The form will not allow you to continue/submit your responses until you have answered all questions.
2. All questions are two or three-tiered (namely, either with parts "A" and "B" or "A", "B" and "C"). They comprise a minimum standard and /or a best practice, and a "summary of relevant facts in 2019", a space for providing a summarized account on facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way.
3. Please Indicate, by clicking on the corresponding button, whether there was an improvement or a decrease of the level of compliance of the relevant standard/best practice in your country in 2019. If there were no changes, please indicate so by clicking on the corresponding button.
4. In all cases, please refer the relevant novelties in the space provided under "summary of relevant facts in 2019", for each question. Please give a summarized account on facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. In case there is nothing to report for a given minimum standard/best practice, please indicate so briefly.

5. If any, make additional, non-judgmental commentaries at the space provided under "summary of relevant facts in 2019".
6. Back up your assertions with the relevant documentary materials, if possible. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: optr@ibfd.org and c.weffe@ibfd.org.
7. When completed, please submit the survey.
8. Once you have submitted the survey, you will receive an email acknowledging your participation in the OPTR and providing a backup of your answers.
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Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

I. Identifying taxpayers and issuing tax returns

1 (A). Implement safeguards to prevent impersonation when issuing a unique identification number *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

1 (B). Summary of relevant facts in 2019

2 (A). The system of taxpayer identification should take account of religious sensitivities *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

2 (B). Summary of relevant facts in 2019

3 (A). Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

3 (B). Summary of relevant facts in 2019

4 (A). Where tax is withheld by third parties, the taxpayer should be excluded from liability if the third party fails to pay over the tax *

- No changes
- Shifted away from the best practice
- Shifted towards / match the best practice

4 (B). Summary of relevant facts in 2019

5 (A). Where pre/populated returns are used, these should be sent to taxpayers to correct errors. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

5 (B). Summary of relevant facts in 2019

6 (A). Provide a right to access to taxpayers to personal information held about them, and a right to correct inaccuracies. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

6 (B). Publish guidance on taxpayers' rights to access information and correct inaccuracies *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

6 (C). Summary of relevant facts in 2019

7 (A). Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

7 (B). Summary of relevant facts in 2019

8 (A). Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

8 (B). Summary of relevant facts in 2019

9 (A). Provide assistance for those who face difficulties in meeting compliance obligations, including those with disabilities, those located in remote areas, and those unable or unwilling to use electronic forms of communication *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

9 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

II. The issue of tax assessment

10 (A). Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on equality of arms *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

10 (B). Summary of relevant facts in 2019

11 (A). Use e-filing to speed up assessments and correction of errors, particularly systematic errors *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

11 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

III. Confidentiality

12 (A). Provide a specific legal guarantee for confidentiality, with sanctions for officials who make unauthorised disclosures (and ensure sanctions are enforced). *

No changes

Shifted away from the minimum standard

Shifted towards / improved the minimum standard

12 (B). Encrypt information held by a tax authority about taxpayers to the highest level attainable. *

No changes

Shifted away from the best practice

Shifted towards / matched the best practice

12 (C). Summary of relevant facts in 2019

13 (A). Restrict access to data to those officials authorised to consult it. For encrypted data, use digital access codes. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

13 (B). Ensure an effective fire-wall to prevent unauthorised access to data held by revenue authorities. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

13 (C). Summary of relevant facts in 2019

14 (A). Audit data access periodically to identify cases of unauthorised access. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

14 (B). Summary of relevant facts in 2019

15 (A). Introduce administrative measures emphasizing confidentiality to tax officials. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

15 (B). Appoint data protection/privacy officers at senior level and local tax offices. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

15 (C). Summary of relevant facts in 2019

16 (A). Where pre/populated returns are used, these should be sent to taxpayers to correct errors. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

16 (B). Summary of relevant facts in 2019

17 (A). If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges). *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

17 (B). Summary of relevant facts in 2019

18 (A). Introduce an offence for tax officials covering up unauthorised disclosure of confidential information. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

18 (B). Summary of relevant facts in 2019

19 (A). Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

19 (B). Summary of relevant facts in 2019

20 (A). If "naming and shaming" is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer). *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

20 (B). Summary of relevant facts in 2019

21 (A). No disclosure of confidential taxpayer information to politicians, or where it might be used for political purposes. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

21 (B). Parliamentary supervision of revenue authorities should involve independent officials, subject to confidentiality obligations, examining specific taxpayer data, and then reporting to Parliament. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

21 (C). Summary of relevant facts in 2019 *

22 (A). Freedom of information legislation may allow a taxpayer to access information about himself. However, access to information by third parties should be subject to stringent safeguards: only if an independent tribunal concludes that the public interest in disclosure outweighs the right of confidentiality, and only after a hearing where the taxpayer has an opportunity to be heard. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

22 (B). Summary of relevant facts in 2019

23 (A). If published, tax rulings should be anonymised and details that might identify the taxpayer removed. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

23 (B). Anonymise all tax judgments and remove details that might identify the taxpayer

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

23 (C). Summary of relevant facts in 2019

24 (A). Legal professional privilege should apply to tax advice. *

Please provide separately (via optr@ibfd.org) an annex with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

24 (B). Privilege from disclosure should apply to all tax advisors (not just lawyers) who supply similar advice to lawyers. Information imparted in circumstances of confidentiality may be privileged from disclosure. *

Please provide separately (via optr@ibfd.org) an annex with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

24 (C). Summary of relevant facts in 2019 *

Please provide separately (via optr@ibfd.org) an annex with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

25 (A). Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege. *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

25 (B). Summary of relevant facts in 2019 *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

IV. Normal audits

26 (A). Audits should respect the following principles: (i) Proportionality. (2) Ne bis in idem (prohibition of double jeopardy). (3) Audi alteram partem (right to be heard before any decision is taken). (4) Nemo tenetur se detegere (principle against self/incrimination). Tax notices issued in violation of these principles should be null and void. *

No changes

Shifted away from the minimum standard

Shifted towards / improved the minimum standard

26 (B). Summary of relevant facts in 2019

27 (A). In application of proportionality, tax authorities may only request for information that is strictly needed, not otherwise available, and must impose least burdensome impact on taxpayers. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

27 (B). Summary of relevant facts in 2019

28 (A). In application of ne bis in idem the taxpayer should only receive one audit per taxable period, except when facts that become known after the audit was completed. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

28 (B). Summary of relevant facts in 2019 *

29 (A). In application of audi alteram partem, taxpayers should have the right to attend all relevant meetings with tax authorities (assisted by advisors), the right to provide factual information, and to present their views before decisions of the tax authorities become final. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

29 (B). Summary of relevant facts in 2019

30 (A). In application of nemo tenetur, the right to remain silent should be respected in all tax audits. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

30 (B). Summary of relevant facts in 2019

31 (A). Tax audits should follow a pattern that is set out in published guidelines. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

31 (B). Summary of relevant facts in 2019 *

32 (A). A manual of good practice in tax audits should be established at the global level. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

32 (B). Summary of relevant facts in 2019

33 (A). Taxpayers should be entitled to request the start of a tax audit (to obtain finality). *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

33 (B). Summary of relevant facts in 2019

34 (A). Where tax authorities have resolved to start an audit, they should inform the taxpayer *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

34 (B). Where tax authorities have resolved to start an audit, they should hold an initial meeting with the taxpayer in which they spell out the aims and procedure, together with timescale and targets. They should then disclose any additional evidence in their possession to the taxpayer.

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

34 (C). Summary of relevant facts in 2019

35 (A). Taxpayers should be informed of information gathering from third parties. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

35 (B). Summary of relevant facts in 2019

36 (A). Reasonable time limits should be fixed for the conduct of audits. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

36 (B). Summary of relevant facts in 2019

37 (A). Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

37 (B). Summary of relevant facts in 2019

38 (A). The completion of a tax audit should be accurately reflected in a document, notified in its full text to the taxpayer. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

38 (B). The drafting of the final audit report should involve participation by the taxpayer, with the opportunity to correct inaccuracies of facts and to express the taxpayer's view. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

38 (C). Summary of relevant facts in 2019

39 (A). Following an audit, a report should be prepared even if the audit does not result in additional tax or refund. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

39 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

V. More intensive audits

40 (A). More intensive audits should be limited to the extent strictly necessary to ensure an effective reaction to non-compliance. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

40 (B). Summary of relevant facts in 2019

41 (A). If there is point in an audit when it becomes foreseeable that the taxpayer may be liable for a penalty or criminal charge, from that time the taxpayer should have stronger protection of his right to silence, and statements from the taxpayer should not be used in the audit procedure. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

41 (B). Summary of relevant facts in 2019

42 (A). Entering premises or interception of communications should be authorised by the judiciary. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

42 (B). Summary of relevant facts in 2019

43 (A). Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for ex-post ratification. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

43 (B). Summary of relevant facts in 2019

44 (A). Inspection of the taxpayer's home should require authorisation by the judiciary and only be given in exceptional cases. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

44 (B). Where tax authorities intend to search the taxpayer's premises, the taxpayer should be informed and have an opportunity to appear before the judicial authority, subject to exception where there is evidence of danger that documents will be removed or destroyed. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

44 (C). Summary of relevant facts in 2019

45 (A). Access to bank information should require judicial authorisation. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

45 (B). Summary of relevant facts in 2019

46 (A). Authorisation by the judiciary should be necessary for the interception of telephone communications and monitoring of internet access. Specialised offices within the judiciary should be established to supervise these actions. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

46 (B). Summary of relevant facts in 2019

47 (A). Seizure of documents should be subject to a requirement to give reasons why seizure is indispensable, and to fix the time when documents will be returned; seizure should be limited in time. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

47 (B). Summary of relevant facts in 2019

48 (A). If data are held on a computer hard drive, then a backup should be made in the presence of the taxpayer's advisors and the original left with the taxpayer. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

48 (B). Summary of relevant facts in 2019

49 (A). Where invasive techniques are applied, they should be limited in time to avoid a disproportionate impact on taxpayers. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

49 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

VI. Review and appeals

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

50 (A). E-filing of requests for internal review to ensure the effective and speedy handling of the review process. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

50 (B). Summary of relevant facts in 2019

51 (A). The right to appeal should not depend upon prior exhaustion of administrative reviews. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

51 (B). Summary of relevant facts in 2019 *

52 (A). Reviews and appeals should not exceed two years. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

52 (B). Summary of relevant facts in 2019

53 (A). Audi alteram partem should apply in administrative reviews and judicial appeals. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

53 (B). Summary of relevant facts in 2019

54 (A). Where tax must be paid in whole or in part before an appeal, there must be an effective mechanism for providing interim suspension of payment. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

54 (B). An appeal should not require prior payment of tax in all cases. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

54 (C). Summary of relevant facts in 2019

55 (A). The state should bear some or all of the costs of an appeal, whatever the outcome.

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

55 (B). Summary of relevant facts in 2019

56 (A). Legal assistance should be provided for those taxpayers who cannot afford it. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

56 (B). Summary of relevant facts in 2019

57 (A). Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

57 (B). Summary of relevant facts in 2019

58 (A). Tax judgments should be published. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

58 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

VII. Criminal and administrative sanctions

59 (A). Proportionality and ne bis in idem should apply to tax penalties. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

59 (B). Summary of relevant facts in 2019

60 (A). Where administrative and criminal sanctions may both apply, only one procedure and one sanction should be applied. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

60 (B). Summary of relevant facts in 2019

61 (A). Voluntary disclosure should lead to reduction of penalties. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

61 (B). Summary of relevant facts in 2019

62 (A). Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

62 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

VIII. Enforcement of taxes

63 (A). Collection of taxes should never deprive taxpayers of their minimum necessary for living. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

63 (B). Summary of relevant facts in 2019

64 (A). Authorisation by the judiciary should be required before seizing assets or bank accounts *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

64 (B). Summary of relevant facts in 2019

65 (A). Taxpayers should have the right to request delayed payment of arrears. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

65 (B). Summary of relevant facts in 2019

66 (A). Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

66 (B). Summary of relevant facts in 2019

67 (A). Temporary suspension of tax enforcement should follow natural disasters. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

67 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

IX. Cross-border procedures

68 (A). The requesting state should notify the taxpayer of cross-border requests for information, unless it has specific grounds for considering that this would prejudice the process of investigation. The requested state should inform the taxpayer unless it has a reasoned request from the requesting state that the taxpayer should not be informed on grounds that it would prejudice the investigation. *

No changes

Shifted away from the minimum standard

Shifted towards / improved the minimum standard

68 (B). The taxpayer should be informed that a cross-border request for information is to be made. *

No changes

Shifted away from the best practice

Shifted towards / matched the best practice

68 (C). Summary of relevant facts in 2019

69 (A). Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

69 (B). Summary of relevant facts in 2019

70 (A). Provisions should be included in tax treaties setting specific conditions for exchange of information. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

70 (B). Summary of relevant facts in 2019

71 (A). If information is sought from third parties, judicial authorisation should be necessary. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

71 (B). Summary of relevant facts in 2019

72 (A). The taxpayer should be given access to information received by the requesting state. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

72 (B). Summary of relevant facts in 2019

73 (A). Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information.

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

73 (B). Summary of relevant facts in 2019

74 (A). A requesting state should provide confirmation of confidentiality to the requested state. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

74 (B). Summary of relevant facts in 2019

75 (A). A state should not be entitled to receive information if it is unable to provide independent, verifiable evidence that it observes high standards of data protection. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

75 (B). Summary of relevant facts in 2019

76 (A). For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

76 (B). Summary of relevant facts in 2019

77 (A). Taxpayers should have a right to request initiation of mutual agreement procedure. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

77 (B). Summary of relevant facts in 2019

78 (A). Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to the progress of the procedure. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

78 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

X. Legislation

79 (A). Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

79 (B). Retrospective tax legislation should ideally be banned completely. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

79 (C). Summary of relevant facts in 2019

80 (A). Public consultation should precede the making of tax policy and tax law. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

80 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

XI. Revenue practice and guidance

81 (A). Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance. *

No changes

Shifted away from the minimum standard

Shifted towards / improved the minimum standard

81 (B). Summary of relevant facts in 2019

82 (A). Where legal material is available primarily on the internet, arrangements should be made to provide it to those who do not have access to the internet. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

82 (B). Summary of relevant facts in 2019

83 (A). Binding rulings should only be published in an anonymised form *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

83 (B). Summary of relevant facts in 2019

84 (A). Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively. *

- No changes
- Shifted away from the minimum standard
- Shifted towards / improved the minimum standard

84 (B). Summary of relevant facts in 2019

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

XII. Institutional framework for protecting taxpayers' rights

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

85 (A). Adoption of a charter or statement of taxpayers' rights should be a minimum standard. *

No changes

Shifted away from the minimum standard

Shifted towards / improved the minimum standard

85 (B). A separate statement of taxpayers' rights under audit should be provided to taxpayers who are audited. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

85 (C). Summary of relevant facts in 2019

86 (A). A taxpayer advocate or ombudsman should be established to scrutinise the operations of the tax authority, handle specific complaints, and intervene in appropriate cases. Best practice is the establishment of a separate office within the tax authority but independent from normal operations of that authority. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

86 (B). Summary of relevant facts in 2019

87 (A). The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally. *

- No changes
- Shifted away from the best practice
- Shifted towards / matched the best practice

87 (B). Summary of relevant facts in 2019

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FEDERAL TAX CODE

(QUESTION 40)

Article 116. Administrative appeals may be filed against resolutions from administrative authorities on federal tax matters.

(QUESTION 41)

Article 69C. Taxpayers subject to the exercise of review powers described in article 42(II), (III) or (IX) of this Code who disagree with the facts or omissions described in the last preliminary audit report, the final audit report, the audit report or in the provisional ruling that may constitute a breach to tax provisions, may elect to request the adoption of a settlement. The scope of such settlement shall be one or several facts or omissions found, and shall be definitive with regard to the facts or omissions covered by it.

Notwithstanding the provisions of the preceding paragraph, taxpayers may request the adoption of a settlement at any stage, from the beginning of the exercise of review powers up until before a tax assessment is notified, provided that the reviewing authority has already qualified the facts or omissions.

Article 69D. Taxpayers electing a settlement shall process it through the Taxpayer Advocate Office [*Procuraduría de la Defensa del Contribuyente*]. The written application shall describe the facts and omissions attributed to them and with which they disagree. In addition, they shall describe therein the qualification that should be given, in their opinion, to such facts and omissions. Any documentation deemed necessary may be enclosed to such application.

Once an application is received, the Taxpayer Advocate Office shall request to the reviewing authority to declare, within a term of twenty days counted from such request, whether it accepts the terms of the settlement or not; the factual and legal grounds for not accepting the settlement; or the terms under which the settlement would be adopted.

Whenever the reviewing authority fails to answer a request made under the provisions of the preceding paragraph, the penalty described in article 28(I) of the Law Organizing the Taxpayer Advocate Office [*Ley Orgánica de la Procuraduría de la Defensa del Contribuyente*] shall be imposed.

Article 69E. Once the Taxpayer Advocate Office acknowledges receipt of a tax authority's answer, it shall have a twenty-day term to conclude the procedure described in this Chapter, which shall be notified to the parties. Whenever the procedure concludes with the execution of a settlement, it shall be signed by the taxpayer and the reviewing authority, as well as by such Office.

In order to ease the adoption of settlements, the Taxpayer Advocate Office may organize round tables, promoting at all times that the authority and the taxpayer agree to the execution of a settlement.

(QUESTION 42)

Article 120. Filing an administrative appeal before bringing action at the Federal Court of Tax and Administrative Justice will be optional for the interested party.

When an appeal is filed before tax authorities lacking competent jurisdiction, it will be remitted to the competent authorities.

(QUESTION 45)

Article 141. Taxpayers may guarantee a tax liability in any of the following manners, when falling within the scope of articles 74 and 142 of this code:

I. By making a deposit in cash, with a letter of credit, or with other forms of equivalent financial guarantees set forth by the Ministry of the Treasury and Public Credit through general rules into the accounts to secure tax liabilities referred to in Article 141-A of this Code.

II. With a pledge or mortgage.

III. By providing a bond issued by an authorized institution. Said institution will not enjoy the benefits of order and discussion.

For tax purposes, if the bonding policy is submitted in a digital document, it must contain the bonding company's advanced electronic signature or digital seal.

IV. Through a joint and several obligation assumed by a third party that demonstrates that he is suitable and solvent.

V. Through an administrative-law attachment.

VI. Through securities or the credit portfolio of the taxpayer himself, if his impossibility of guaranteeing the entire deficiency through any of the methods described in the preceding sections is demonstrated. Securities and credit portfolios will be accepted at the value discretionarily determined by the Ministry of the Treasury and Public Credit.

The guarantee must cover -in addition to the contributions currently owed, updated for inflation- the ancillary charges already incurred as well as those that will be incurred in the twelve months after it is issued. At the end of this period and until the deficiency has been paid, the amount thereof must be updated each year, and the guarantee must be increased to cover the deficiency, updated for inflation, and the amount of the interest, including the interest corresponding to the following twelve months.

The Regulations of this Code shall set forth the requirements that will apply to guarantees. The tax authority shall ensure that guarantees are sufficient both at the time they are accepted and thereafter; and if they fail to be sufficient, it shall demand that they be increased. Should taxpayers fail to increase or replace sufficient guarantee, upon request by the tax authority, such authority shall proceed to attach or seize other goods to secure the tax interest.

In no event may tax authorities waive the obligation to furnish a guarantee.

A guarantee shall be created within thirty days following the effective date of the notification by the tax authority of a ruling upon which the tax interest must be secured, except in cases where a different term is set forth in other provisions of this Code.

Under Article 135 of the [Law of Amparo], when taxpayers directly responsible for the payment of contributions and levies bring suits requesting [amparo] relief under the Constitution against the collection of such contributions, the tax liability must be guaranteed by depositing the corresponding amounts with the Federal Treasury Office or the corresponding state or municipal government.

If under the Federal Law of Procedure of Administrative Litigation [Ley Federal de Procedimiento Contencioso Administrativo] or the Law on Constitutional Litigation [Ley de Amparo], the Federal Court of Tax and Administrative Justice or the competent jurisdictional body is asked to suspend the determination, assessment, execution or collection of contributions, levies or any other liabilities of tax nature, the tax liability shall be guaranteed before the collecting authority through any of the means set forth in this Code.

For the purposes of the preceding paragraph, the Federal Court of Tax and Administrative Justice will not require a deposit when, in the opinion of the judge or court office that reviews the request for suspension, the sums being collected exceed the petitioner's ability to pay and when a guarantee has already been furnished to the tax collection office, or in cases involving persons other than the taxpayer who is directly required to make the payment. In the latter case, the tax liability will be guaranteed in accordance with the first two paragraphs of this Article.

Article 141A. The Ministry of the Treasury and Public Credit may authorize banking institutions or brokerage houses to operate accounts to guarantee tax liabilities. The authorized institutions or brokerage houses will have the following obligations:

I. To file a semiannual return stating the names and Federal Taxpayer Identification Numbers of users of accounts to guarantee tax liabilities, as well as the amounts transferred to the accounts of taxpayers or of the Federal Treasury Office. The return referred to in this section must be filed in July of the calendar year in question and in January of the following year, for the immediately preceding six-month period.

II. To transfer the guarantee amount, plus the yields thereon, to the account of the Federal Treasury Office, on the day after they receive the notice set forth in Customs or tax provisions.

In the event of noncompliance with the obligations set forth in (II) of this Article, the authorized banking institution or brokerage house must pay, as indemnification for losses, the amount resulting from updating the amount of the negotiable instruments deposited plus the yields generated in accordance with Article 17-A of the Federal Fiscal Code, and the interest that would be paid under Article 21 of the Federal Fiscal Code, calculated from the date on which the corresponding transfer should have been made until it is made. The foregoing is without prejudice to any applicable sanctions.

Article 142. A tax liability must be guaranteed when:

I. The taxpayer requests the suspension of the administrative-law enforcement procedure, even if the request is filed with the Federal Court of Tax and Administrative Justice pursuant to the Federal Law of Procedures of Administrative Litigation.

II. The taxpayer requests an extension on the payment of the tax deficiencies or to be allowed to pay for said deficiencies in installments, if such benefits are granted individually.

III. The taxpayer requests that the proceeds be applied in accordance with Article 159 of this Code.

IV. In other cases set forth in this statute and the tax laws.

No guarantee will be furnished regarding enforcement costs, unless the tax liability is composed solely of said costs.

(QUESTION 49)

Article 121. The administrative appeal shall be filed through the tax mailbox, within thirty days after the notification thereof takes effect, except as provided for in article 127 of this Code, in which case the appeal shall be filed within the period indicated therein.

The administrative appeal may be sent to the authorities with competent jurisdiction by reason of domicile or to those that issued or executed the resolution, through the means authorized by the Tax Administration Service in general rules.

When a private party subject to an administrative resolution or order dies during the period referred to in this Article, the time limit will be suspended for up to one year, unless before the end of that period the position of representative of the succession has been filled. The time limit for filing the appeal will also be suspended if the private party requests that the tax authorities initiate the dispute resolution procedure set forth in a convention to avoid double taxation including, if applicable, an arbitral proceeding. In such cases, the suspension will expire when notification of the resolution terminating said procedure is given, in the event that it is terminated at the request of the interested party.

In cases of incapacity or a declaration of absence decreed by judicial authorities, when the private party is subject to an administrative resolution or order, the time limit for filing the administrative appeal will be suspended for up to one year. The suspension will expire when it is demonstrated that the position of guardian of the incompetent person or the legal representative of the person who is absent has been filled. In addition, a failure to appoint a representative for the private party during the aforementioned period will be to the detriment of the private party.

(QUESTION 50)

Article 58-22. Having received the response to the claim and, if applicable, the response to the supplementing of this, the Investigating Judge will summon the parties for a hearing to set the litigation, which will be settled orally without exception, within the twenty days following receipt of the respective response. The Investigating Judge will give a brief statement as to what constitutes the dispute raised by the parties, who will state what they deem to be in their best interest, sticking to what is stated in the claim, or in any supplement or response thereof.

The hearing to set the litigation must be settled, without exception, in the presence of the Investigating Judge, who may call on the assistance of the Clerk of the Court to take a detailed account of the proceedings. The parties may attend personally or may send their authorized attorneys. The other Judges who are members of the Chamber may attend the hearing to fix the litigation. When the parties having been duly notified, under the terms of Articles 67 and 68 of this Act, are unable to attend the hearing to set the litigation, this will be carried out with the party who is present.

The regulation of the time that the parties will have to set out the reasons why they consider themselves to be in the right will be up to the discretion of the Investigating Judge, in strict consideration of the principle of celerity that governs this process.

When either of the parties should not attend the hearing to set the litigation, it will be understood that they agree to the terms in which this was fixed by the Investigating Judge, also precluding their right to formulate any subsequent allegation in the trial, whether in writing or verbally.

In the event that the admissibility to assert jurisdiction has been agreed by the Upper Chamber, the Investigating Judge will reserve the conduct of the actions set forth in Article 58-26, first paragraph of this Act, so that these can be carried out before the corresponding presiding Judge.

Once the hearing for the setting of litigation has taken place, the Investigating Judge will notify the parties of the agreement to which Article 47 of this Act refers, except in the cases established in the above paragraph.

(QUESTION 51)

Article 6. In the proceedings heard by the Court there shall be no order to pay attorneys' fees. Each party shall be liable for its own expenses and those derived from any action they file or request.

The order to pay attorneys' fees shall only be applicable in favor of the defendant authority when resolutions are challenged for evidently delaying purposes.

For purposes of this Article, the plaintiff shall be deemed to have evidently delaying purposes when, upon entering of a judgment recognizing the validity of the challenged resolution, the plaintiff derives an economic benefit from any delay in the collection, execution or performance thereof, provided that the challenging claims filed in the complaint are evidently inapplicable or groundless. When the law provides that the due amounts are increased with updating for inflation and with any interest or surcharge rate, it shall be deemed that there is no economic benefit derived from the delay.

The defendant authority must indemnify the private party affected by the sum of accrued damages and losses, when the administrative unit of such body commits a serious fault by entering the challenged resolution and failing to accept the claim when answering the complaint in the applicable challenging argument. There shall be a serious fault when:

I. The same is voided by virtue of lack of grounds or cause, as to the substance or the jurisdiction.

II. It is contrary to the jurisprudence of the Supreme Court of Justice of the Nation in connection with legality. If the legal precedent is published after the answer, there shall be no serious fault.

III. It is voided pursuant to Article 51 (V) of this Law.

The order to pay attorneys' fees or the indemnification provided by paragraphs two and three of this Article shall be claimed through the respective ancillary procedure, which shall be carried out pursuant to the provisions of paragraph four of Article 39 of this Law.

(QUESTION 53)

Article 75. Precedents of the plenary session of the upper chamber

The theses sustained in the judgments pronounced in the Plenary session of the Upper Chamber, approved by at least seven Judges, will constitute a precedent, once published in the Court Journal.

The opinions sustained in the judgments of Sections of the Superior Chamber shall also constitute a precedent, as long as they are approved by four of the judges that comprise the Section in question, and are published in the Court Journal.

The Chambers and the Judges Hearing summary proceedings may depart from precedents issued by the Court en banc or the Sections, provided that they express in the judgment the reasons thereof. In this case, they shall send a copy of the judgment to the President of the Court.

**THIRD REPORT FOR THE PRACTICAL PROTECTION OF TAXPAYERS' RIGHTS
MEXICO 2019**

**ANNEX
DOCUMENTARY MATERIALS**

QUESTIONNAIRE I

RESPONSE 40

Artículo 114-B.- Se impondrá sanción de uno a seis años de prisión, al servidor público que revele a terceros, en contravención a lo dispuesto por el artículo 69 de este Código, la información que las instituciones que componen el sistema financiero hayan proporcionado a las autoridades fiscales.

Artículo 115.- Se impondrá sanción de tres meses a seis años de prisión, al que se apodere de mercancías que se encuentren en recinto fiscal o fiscalizado, si el valor de lo robado no excede de **\$66,470.00**; cuando exceda, la sanción será de tres a nueve años de prisión.

La misma pena se impondrá a quien dolosamente destruya o deteriore dichas mercancías.

Artículo 115 Bis. Se deroga.

**TITULO QUINTO
De Los Procedimientos Administrativos**

**CAPITULO I
Del recurso administrativo**

**Sección Primera
Del Recurso de Revocación**

Artículo 116.- Contra los actos administrativos dictados en materia fiscal federal, se podrá interponer el recurso de revocación.

Artículo 117.- El recurso de revocación procederá contra:

I.- Las resoluciones definitivas dictadas por autoridades fiscales federales que:

- a) Determinen contribuciones, accesorios o aprovechamientos.
- b) Nieguen la devolución de cantidades que procedan conforme a la Ley.
- c) Dicten las autoridades aduaneras.
- d) Cualquier resolución de carácter definitivo que cause agravio al particular en materia fiscal, salvo aquéllas a que se refieren los artículos 33-A, 36 y 74 de este Código.

II.- Los actos de autoridades fiscales federales que:

- a) Exijan el pago de créditos fiscales, cuando se alegue que éstos se han extinguido o que su monto real es inferior al exigido, siempre que el cobro en exceso sea imputable a la autoridad ejecutora o se refiera a recargos, gastos de ejecución o a la indemnización a que se refiere el artículo 21 de este Código.

- b) Se dicten en el procedimiento administrativo de ejecución, cuando se alegue que éste no se ha ajustado a la Ley, o determinen el valor de los bienes embargados.
- c) Afecten el interés jurídico de terceros, en los casos a que se refiere el artículo 128 de este Código.
- d) (Se deroga).

RESPONSE 41

CAPÍTULO II De los Acuerdos Conclusivos

Artículo 69-C. Cuando los contribuyentes sean objeto del ejercicio de las facultades de comprobación a que se refiere el artículo 42, fracciones II, III o IX de este Código y no estén de acuerdo con los hechos u omisiones asentados en la última acta parcial, en el acta final, en el oficio de observaciones o en la resolución provisional, que puedan entrañar incumplimiento de las disposiciones fiscales, podrán optar por solicitar la adopción de un acuerdo conclusivo. Dicho acuerdo podrá versar sobre uno o varios de los hechos u omisiones consignados y será definitivo en cuanto al hecho u omisión sobre el que verse.

Sin perjuicio de lo dispuesto en el párrafo anterior, los contribuyentes podrán solicitar la adopción del acuerdo conclusivo en cualquier momento, a partir de que dé inicio el ejercicio de facultades de comprobación y hasta antes de que se les notifique la resolución que determine el monto de las contribuciones omitidas, siempre que la autoridad revisora ya haya hecho una calificación de hechos u omisiones.

Artículo 69-D. El contribuyente que opte por el acuerdo conclusivo lo tramitará a través de la Procuraduría de la Defensa del Contribuyente. En el escrito inicial deberá señalar los hechos u omisiones que se le atribuyen con los cuales no esté de acuerdo, expresando la calificación que, en su opinión, debe darse a los mismos, y podrá adjuntar la documentación que considere necesaria.

Recibida la solicitud, la Procuraduría de la Defensa del Contribuyente requerirá a la autoridad revisora para que, en un plazo de veinte días, contado a partir del requerimiento, manifieste si acepta o no los términos en que se plantea el acuerdo conclusivo; los fundamentos y motivos por los cuales no se acepta, o bien, exprese los términos en que procedería la adopción de dicho acuerdo.

En caso de que la autoridad revisora no atienda el requerimiento a que se refiere el párrafo anterior procederá la imposición de la multa prevista en el artículo 28, fracción I, numeral 1, de la Ley Orgánica de la Procuraduría de la Defensa del Contribuyente.

Artículo 69-E. La Procuraduría de la Defensa del Contribuyente, una vez que acuse recibo de la respuesta de la autoridad fiscal, contará con un plazo de veinte días para concluir el procedimiento a que se refiere este Capítulo, lo que se notificará a las partes. De concluirse el procedimiento con la suscripción del Acuerdo, éste deberá firmarse por el contribuyente y la autoridad revisora, así como por la referida Procuraduría.

Para mejor proveer a la adopción del acuerdo conclusivo, la Procuraduría de la Defensa del Contribuyente podrá convocar a mesas de trabajo, promoviendo en todo momento la emisión consensuada del acuerdo entre autoridad y contribuyente.

Artículo 69-F. El procedimiento de acuerdo conclusivo suspende los plazos a que se refieren los artículos 46-A, primer párrafo; 50, primer párrafo; 53-B y 67, antepenúltimo párrafo de este Código, a partir de que el contribuyente presente ante la Procuraduría de la Defensa del Contribuyente la solicitud de acuerdo conclusivo y hasta que se notifique a la autoridad revisora la conclusión del procedimiento previsto en este Capítulo.

Artículo 69-G. El contribuyente que haya suscrito un acuerdo conclusivo tendrá derecho, por única ocasión, a la condonación del 100% de las multas; en la segunda y posteriores suscripciones aplicará la condonación de sanciones en los términos y bajo los supuestos que establece el artículo 17 de la Ley Federal de los Derechos del Contribuyente. Las autoridades fiscales deberán tomar en cuenta los alcances del acuerdo conclusivo para, en su caso, emitir la resolución que corresponda. La condonación prevista en este artículo no dará derecho a devolución o compensación alguna.

Artículo 69-H. En contra de los acuerdos conclusivos alcanzados y suscritos por el contribuyente y la autoridad no procederá medio de defensa alguno; cuando los hechos u omisiones materia del acuerdo sirvan de fundamento a las resoluciones de la autoridad, los mismos serán incontrovertibles. Los acuerdos de referencia sólo surtirán efectos entre las partes y en ningún caso generarán precedentes.

Las autoridades fiscales no podrán desconocer los hechos u omisiones sobre los que versó el acuerdo conclusivo, ni procederá el juicio a que se refiere el artículo 36, primer párrafo de este Código, salvo que se compruebe que se trate de hechos falsos.

RESPONSE 42

LEY DE AMPARO, REGLAMENTARIA DE LOS ARTÍCULOS 103 Y 107 DE LA CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS.

Artículo 170. El juicio de amparo directo procede:

I. Contra sentencias definitivas, laudos y resoluciones que pongan fin al juicio, dictadas por tribunales judiciales, administrativos, agrarios o del trabajo, ya sea que la violación se cometa en ellos, o que cometida durante el procedimiento, afecte las defensas del quejoso trascendiendo al resultado del fallo.

Se entenderá por sentencias definitivas o laudos, los que decidan el juicio en lo principal; por resoluciones que pongan fin al juicio, las que sin decidirlo en lo principal lo den por concluido. En materia penal, las sentencias condenatorias, absolutorias y de sobreseimiento, podrán ser impugnadas por la víctima u ofendido del delito.

Párrafo reformado DOF 17-06-2016

Para la procedencia del juicio deberán agotarse previamente los recursos ordinarios que se establezcan en la ley de la materia, por virtud de los cuales aquellas sentencias definitivas o laudos y resoluciones puedan ser modificados o revocados, salvo el caso en que la ley permita la renuncia de los recursos.

Cuando dentro del juicio surjan cuestiones sobre constitucionalidad de normas generales que sean de reparación posible por no afectar derechos sustantivos ni constituir violaciones procesales relevantes, sólo podrán hacerse valer en el amparo directo que proceda contra la resolución definitiva.

Para efectos de esta Ley, el juicio se inicia con la presentación de la demanda. En materia penal el proceso comienza con la audiencia inicial ante el Juez de control;

Párrafo reformado DOF 17-06-2016

II. Contra sentencias definitivas y resoluciones que pongan fin al juicio dictadas por tribunales de lo contencioso administrativo cuando éstas sean favorables al quejoso, para el único efecto de hacer valer conceptos de violación en contra de las normas generales aplicadas.

En estos casos, el juicio se tramitará únicamente si la autoridad interpone y se admite el recurso de revisión en materia contencioso administrativa previsto por el artículo 104 de la Constitución Política de los Estados Unidos Mexicanos. El tribunal colegiado de circuito resolverá primero lo relativo al recurso de

revisión contencioso administrativa, y únicamente en el caso de que éste sea considerado procedente y fundado, se avocará al estudio de las cuestiones de constitucionalidad planteadas en el juicio de amparo.

RESPONSE 42

Artículo 120.- La interposición del recurso de revocación será optativa para el interesado antes de acudir al Tribunal Federal de Justicia Fiscal y Administrativa.

Cuando un recurso se interponga ante autoridad fiscal incompetente, ésta lo turnará a la que sea competente.

RESPONSE 45

Artículo 141. Los contribuyentes podrán garantizar el interés fiscal, cuando se actualice alguno de los supuestos previstos en los artículos 74 y 142 de este Código, en alguna de las formas siguientes:

- I. Depósito en dinero, carta de crédito u otras formas de garantía financiera equivalentes que establezca la Secretaría de Hacienda y Crédito Público mediante reglas de carácter general que se efectúen en las cuentas de garantía del interés fiscal a que se refiere el artículo 141-A de este Código.
- II. Prenda o hipoteca.
- III. Fianza otorgada por institución autorizada, la que no gozará de los beneficios de orden y excusión.

Para los efectos fiscales, en el caso de que la póliza de fianza se exhiba en documento digital, deberá contener la firma electrónica avanzada o el sello digital de la afianzadora.
- IV. Obligación solidaria asumida por tercero que compruebe su idoneidad y solvencia.
- V. Embargo en la vía administrativa.
- VI.- Títulos valor o cartera de créditos del propio contribuyente, en caso de que se demuestre la imposibilidad de garantizar la totalidad del crédito mediante cualquiera de las fracciones anteriores, los cuales se aceptarán al valor que discrecionalmente fije la Secretaría de Hacienda y Crédito Público.

La garantía deberá comprender, además de las contribuciones adeudadas actualizadas, los accesorios causados, así como de los que se causen en los doce meses siguientes a su otorgamiento. Al terminar este período y en tanto no se cubra el crédito, deberá actualizarse su importe cada año y ampliarse la garantía para que cubra el crédito actualizado y el importe de los recargos, incluso los correspondientes a los doce meses siguientes.

El Reglamento de este Código establecerá los requisitos que deberán reunir las garantías. La autoridad fiscal vigilará que sean suficientes tanto en el momento de su aceptación como con posterioridad y, si no lo fueren, exigirá su ampliación. En los casos en que los contribuyentes, a requerimiento de la autoridad fiscal, no lleven a cabo la ampliación o sustitución de garantía suficiente, ésta procederá al secuestro o embargo de otros bienes para garantizar el interés fiscal.

En ningún caso las autoridades fiscales podrán dispensar el otorgamiento de la garantía.

La garantía deberá constituirse dentro de los treinta días siguientes a aquél en que surta efectos la notificación efectuada por la autoridad fiscal correspondiente de la resolución sobre la cual se deba garantizar el interés fiscal, salvo en los casos en que se indique un plazo diferente en otros preceptos de este Código.

Conforme al artículo 135 de la Ley de Amparo, tratándose de los juicios de amparo que se pidan contra el cobro de las contribuciones y aprovechamientos, por los causantes obligados directamente a su pago, el interés fiscal se deberá asegurar mediante el depósito de las cantidades que correspondan ante la Tesorería de la Federación o la Entidad Federativa o Municipio que corresponda.

En los casos en que de acuerdo con la Ley Federal de Procedimiento Contencioso Administrativo o, en su caso, la Ley de Amparo, se solicite ante el Tribunal Federal de Justicia Fiscal y Administrativa o ante el órgano jurisdiccional competente la suspensión contra actos relativos a determinación, liquidación, ejecución o cobro de contribuciones, aprovechamientos y otros créditos de naturaleza fiscal, el interés fiscal se deberá garantizar ante la autoridad exactora por cualquiera de los medios previstos en este Código.

Para los efectos del párrafo anterior, el Tribunal Federal de Justicia Fiscal y Administrativa no exigirá el depósito cuando se trate del cobro de sumas que, a juicio del Magistrado o Sala que deba conocer de la suspensión, excedan la posibilidad del solicitante de la misma, cuando previamente se haya constituido garantía ante la autoridad exactora, o cuando se trate de personas distintas de los causantes obligados directamente al pago; en este último caso, se asegurará el interés fiscal en los términos indicados en los primeros dos párrafos de este artículo.

Artículo 141-A.- La Secretaría de Hacienda y Crédito Público podrá autorizar a las instituciones de crédito o casas de bolsa para operar cuentas de garantía del interés fiscal. Las instituciones o casas autorizadas tendrán las siguientes obligaciones:

I. Presentar declaración semestral en que manifiesten el nombre y registro federal de contribuyentes de los usuarios de las cuentas de garantía del interés fiscal, así como las cantidades transferidas a las cuentas de los contribuyentes o de la Tesorería de la Federación. La declaración a que se refiere esta fracción deberá presentarse durante los meses de julio del año de calendario de que se trate y de enero del siguiente año, por el semestre inmediato anterior.

II. Transferir el importe de garantía, más sus rendimientos, a la cuenta de la Tesorería de la Federación, al día siguiente a aquél en que reciba el aviso que se establezca en las disposiciones fiscales o aduaneras.

En caso de incumplimiento de las obligaciones previstas en la fracción II de este artículo, la institución de crédito o casa de bolsa autorizada deberá cubrir como resarcimiento del daño, un monto equivalente a la cantidad que resulte de actualizar el importe de los títulos depositados más los rendimientos generados, en los términos del artículo 17-A del Código Fiscal de la Federación, adicionado con los recargos que se pagarían en los términos del artículo 21 del Código Fiscal de la Federación, computados a partir de la fecha en que debió hacerse la transferencia correspondiente y hasta que la misma se efectúe. Lo anterior, sin perjuicio de las sanciones que resulten aplicables.

Artículo 142.- Procede garantizar el interés fiscal, cuando:

I. Se solicite la suspensión del procedimiento administrativo de ejecución, inclusive si dicha suspensión se solicita ante el Tribunal Federal de Justicia Fiscal y Administrativa en los términos de la Ley Federal de Procedimiento Contencioso Administrativo.

II. Se solicite prórroga para el pago de los créditos fiscales o para que los mismos sean cubiertos en parcialidades, si dichas facilidades se conceden individualmente.

III. Se solicite la aplicación del producto en los términos del Artículo 159 de este Código.

IV. En los demás casos que señalen este ordenamiento y las leyes fiscales.

No se otorgará garantía respecto de gastos de ejecución, salvo que el interés fiscal esté constituido únicamente por éstos.

RESPONSE 50

ARTÍCULO 58-22. Recibida la contestación de la demanda y, en su caso, la contestación a la ampliación de la misma, el Magistrado Instructor citará a las partes para audiencia de fijación de litis, la que se desahogará sin excepción de manera oral dentro de los veinte días siguientes a la recepción de la contestación respectiva. El Magistrado Instructor expondrá de forma breve en qué consiste la controversia planteada por las partes, quienes manifestarán lo que a su derecho convenga, ajustándose a lo manifestado en la demanda, su ampliación o su contestación.

La audiencia de fijación de litis deberá ser desahogada, sin excepción, ante la presencia del Magistrado Instructor quien podrá auxiliarse del Secretario de Acuerdos para que levante acta circunstanciada de la diligencia. Las partes podrán acudir personalmente o por conducto de sus autorizados legales. Los demás Magistrados integrantes de la Sala podrán acudir a la audiencia de fijación de litis. Cuando estando debidamente notificadas las partes, en términos de los artículos 67 y 68 de esta Ley, alguna no acuda a la audiencia de fijación de litis, ésta se llevará a cabo con la parte que esté presente.

Quedará al prudente arbitrio del Magistrado Instructor, la regulación del tiempo que tengan las partes para exponer los motivos por los que estiman les asiste la razón, considerando estrictamente el principio de celeridad que rige esta vía.

Cuando alguna de las partes no acuda a la audiencia de fijación de litis se entenderá que consiente los términos en que la misma quedó fijada por el Magistrado Instructor, precluyendo además su derecho para formular cualquier alegato posterior en el juicio, ya sea en forma verbal o escrita.

En el caso de que se haya acordado precedente la atracción del juicio por la Sala Superior, el Magistrado Instructor reservará la celebración de las actuaciones previstas en el artículo 58-26, primer párrafo de esta Ley, para que éstas se lleven a cabo ante el Magistrado ponente que corresponda.

Una vez celebrada la audiencia de fijación de litis, el Magistrado Instructor notificará a las partes el acuerdo a que se refiere el artículo 47 de esta Ley, salvo en los casos establecidos en el párrafo anterior.

RESPONSE 51

ARTÍCULO 6o.- En los juicios que se tramiten ante el Tribunal no habrá lugar a condenación en costas. Cada parte será responsable de sus propios gastos y los que originen las diligencias que promuevan.

Únicamente habrá lugar a condena en costas a favor de la autoridad demandada, cuando se controviertan resoluciones con propósitos notoriamente dilatorios.

Para los efectos de este artículo, se entenderá que el actor tiene propósitos notoriamente dilatorios cuando al dictarse una sentencia que reconozca la validez de la resolución impugnada, se beneficia económicamente por la dilación en el cobro, ejecución o cumplimiento, siempre que los conceptos de impugnación formulados en la demanda sean notoriamente improcedentes o infundados. Cuando la ley prevea que las cantidades adeudadas se aumentan con actualización por inflación y con alguna tasa de interés o de recargos, se entenderá que no hay beneficio económico por la dilación.

La autoridad demandada deberá indemnizar al particular afectado por el importe de los daños y perjuicios causados, cuando la unidad administrativa de dicho órgano cometa falta grave al dictar la resolución impugnada y no se allane al contestar la demanda en el concepto de impugnación de que se trata. Habrá falta grave cuando:

- I. Se anule por ausencia de fundamentación o de motivación, en cuanto al fondo o a la competencia.
- II. Sea contraria a una jurisprudencia de la Suprema Corte de Justicia de la Nación en materia de legalidad. Si la jurisprudencia se publica con posterioridad a la contestación no hay falta grave.

III. Se anule con fundamento en el artículo 51, fracción V de esta Ley.

La condenación en costas o la indemnización establecidas en los párrafos segundo y tercero de este artículo se reclamará a través del incidente respectivo, el que se tramitará conforme lo previsto por el cuarto párrafo del artículo 39 de esta Ley.

RESPONSE 53

ARTÍCULO 75. Las tesis sustentadas en las sentencias pronunciadas por el Pleno de la Sala Superior, aprobadas por lo menos por siete Magistrados, constituirán precedente, una vez publicadas en la Revista del Tribunal.

Párrafo reformado DOF 13-06-2016

También constituirán precedente las tesis sustentadas en las sentencias de las Secciones de la Sala Superior, siempre que sean aprobadas cuando menos por cuatro de los magistrados integrantes de la Sección de que se trate y sean publicados en la Revista del Tribunal.

Las Salas y los Magistrados Instructores de un Juicio en la vía Sumaria podrán apartarse de los precedentes establecidos por el Pleno o las Secciones, siempre que en la sentencia expresen las razones por las que se apartan de los mismos, debiendo enviar al Presidente del Tribunal copia de la sentencia.

ANNEX QUESTIONNAIRE II

RESPONSE 24(C).

CÓDIGO FISCAL DE LA FEDERACIÓN TITULO SEXTO De la Revelación de Esquemas Reportables CAPÍTULO ÚNICO

Artículo 197. Los asesores fiscales se encuentran obligados a revelar los esquemas reportables generalizados y personalizados a que se refiere este Capítulo al Servicio de Administración Tributaria.

Se entiende por asesor fiscal cualquier persona física o moral que, en el curso ordinario de su actividad realice actividades de asesoría fiscal, y sea responsable o esté involucrada en el diseño, comercialización, organización, implementación o administración de la totalidad de un esquema reportable o quien pone a disposición la totalidad de un esquema reportable para su implementación por parte de un tercero.

Los asesores fiscales obligados conforme a este Capítulo, son aquéllos que se consideren residentes en México o residentes en el extranjero que tengan un establecimiento permanente en territorio nacional de conformidad con la Ley del Impuesto sobre la Renta, siempre que las actividades atribuibles a dicho establecimiento permanente sean aquéllas realizadas por un asesor fiscal. Cuando un asesor fiscal residente en el extranjero tenga en México un establecimiento permanente o una parte relacionada, se presume, salvo prueba en contrario, que la asesoría fiscal fue prestada por estos últimos. Esta presunción también será aplicable cuando un tercero que sea un residente en México o un establecimiento permanente de un residente en el extranjero en los términos de la Ley del Impuesto sobre la Renta, realice actividades de asesoría fiscal bajo la misma marca o nombre comercial que el asesor fiscal residente en el extranjero. Para controvertir dicha presunción, no será suficiente presentar un contrato que señale que el servicio de asesoría fiscal fue prestado directamente por dicho residente en el extranjero. En este supuesto, el establecimiento permanente, la parte relacionada o el tercero tendrán la obligación de revelar el esquema reportable.

Existe la obligación de revelar un esquema reportable de conformidad con este artículo, sin importar la residencia fiscal del contribuyente, siempre que éste obtenga un beneficio fiscal en México.

Si varios asesores fiscales se encuentran obligados a revelar un mismo esquema reportable, se considerará que los mismos han cumplido con la obligación señalada en este artículo, si uno de ellos revela dicho esquema a nombre y por cuenta de todos ellos. Cuando un asesor fiscal, que sea una persona física, preste servicios de asesoría fiscal a través de una persona moral, no estará obligado a revelar conforme a lo dispuesto en este Capítulo, siempre que dicha persona moral revele el esquema reportable por ser considerada un asesor fiscal.

En los casos previstos en el párrafo anterior, el asesor fiscal que revele dicho esquema deberá cumplir con lo dispuesto en el artículo 200 de este Código. Adicionalmente, dicho asesor deberá emitir una constancia, en los términos de las disposiciones generales que para tal efecto expida el Servicio de Administración Tributaria, a los demás asesores fiscales que sean liberados de la obligación contenida en este artículo, que indique que ha revelado el esquema reportable, a la que se deberá anexar una copia de la declaración informativa a través de la cual se reveló el esquema reportable, así como una copia del acuse de recibo de dicha declaración y el certificado donde se asigne el número de identificación del esquema. Si alguno de los asesores fiscales no recibe la referida constancia o no se encuentra de acuerdo con el contenido de la declaración informativa presentada, seguirá obligado a revelar el esquema reportable en los términos previstos en el tercer párrafo del artículo 201 de este Código. En caso que no se encuentre de acuerdo con el contenido de la declaración informativa presentada o desee proporcionar mayor información, podrá presentar una declaración informativa complementaria que sólo tendrá efectos para el asesor fiscal que la haya presentado, misma que se deberá presentar dentro de los 20 días siguientes a partir de la fecha en que se haya recibido dicha constancia.

En caso que un esquema genere beneficios fiscales en México pero no sea reportable de conformidad con el artículo 199 de este Código o exista un impedimento legal para su revelación por parte del asesor fiscal, éste deberá expedir una constancia, en los términos de las disposiciones generales que para tal efecto expida el Servicio de Administración Tributaria, al contribuyente en la que justifique y motive las razones por las cuales lo considere no reportable o exista un impedimento para revelar, misma que se deberá entregar dentro de los cinco días siguientes al día en que se ponga a disposición del contribuyente el esquema reportable o se realice el primer hecho o acto jurídico que forme parte del esquema, lo que suceda primero. La revelación de esquemas reportables de conformidad con este Capítulo no constituirá una violación a la obligación de guardar un secreto conocido al amparo de alguna profesión.

Los asesores fiscales deberán presentar una declaración informativa, en los términos de las disposiciones generales que para tal efecto expida el Servicio de Administración Tributaria, en el mes de febrero de cada año, que contenga una lista con los nombres, denominaciones o razones sociales de los contribuyentes, así como su clave en el registro federal de contribuyentes, a los cuales brindó asesoría fiscal respecto a los esquemas reportables. En caso que el contribuyente sea un residente en el extranjero sin establecimiento permanente en el país o que, teniéndolo, el esquema no esté relacionado con dicho establecimiento, se deberá incluir adicionalmente el país o jurisdicción de residencia de dicho contribuyente, así como su número de identificación fiscal, domicilio fiscal o cualquier dato para su localización.

El Servicio de Administración Tributaria emitirá las reglas de carácter general para la aplicación del presente artículo.

...

DISPOSICIONES TRANSITORIAS DEL CÓDIGO FISCAL DE LA FEDERACIÓN

Artículo Octavo.- En relación con las modificaciones a que se refiere el Artículo Séptimo de este Decreto, se estará a lo siguiente:

II. Los plazos previstos para cumplir con las obligaciones establecidas en los artículos 197 a 202 del Código Fiscal de la Federación, empezarán a computarse a partir del 1 de enero de 2021.

Los esquemas reportables que deberán ser revelados son los diseñados, comercializados, organizados, implementados o administrados a partir del año 2020, o con anterioridad a dicho año cuando alguno de sus efectos fiscales se refleje en los ejercicios fiscales comprendidos a partir de 2020. En este último supuesto los contribuyentes serán los únicos obligados a revelar.

Para los efectos del artículo 25, fracción I de la Ley de Ingresos de la Federación para el Ejercicio Fiscal de 2019, la información correspondiente al último trimestre del ejercicio, se deberá presentar a más tardar el último día del mes de febrero de 2020, en los medios y formatos que señale el Servicio de Administración Tributaria mediante reglas de carácter general.

RESPONSE 27(B).

JURISPRUDENCIA EMITIDA POR LA SUPREMA CORTE DE JUSTICIA DE LA NACIÓN.

Época: Décima Época
Registro: 2021218
Instancia: Segunda Sala
Tipo de Tesis: Jurisprudencia
Fuente: Semanario Judicial de la Federación
Publicación: viernes 06 de diciembre de 2019 10:18 h
Materia(s): (Administrativa)
Tesis: 2a./J. 161/2019 (10a.)

DOCUMENTOS PRIVADOS. DEBEN CUMPLIR CON EL REQUISITO DE "FECHA CIERTA" TRATÁNDOSE DEL EJERCICIO DE LAS FACULTADES DE COMPROBACIÓN, PARA VERIFICAR EL CUMPLIMIENTO DE OBLIGACIONES FISCALES DEL CONTRIBUYENTE.

La connotación jurídica de la "fecha cierta" deriva del derecho civil, con la finalidad de otorgar eficacia probatoria a los documentos privados y evitar actos fraudulentos o dolosos en perjuicio de terceras personas. Así, la "fecha cierta" es un requisito exigible respecto de los documentos privados que se presentan a la autoridad fiscal como consecuencia del ejercicio de sus facultades de comprobación, que los contribuyentes tienen el deber de conservar para demostrar la adquisición de un bien o la realización de un contrato u operación que incida en sus actividades fiscales. Lo anterior, en el entendido de que esos documentos adquieren fecha cierta cuando se inscriban en el Registro Público de la Propiedad, a partir de la fecha en que se presenten ante un fedatario público o a partir de la muerte de cualquiera de los firmantes; sin que obste que la legislación fiscal no lo exija expresamente, pues tal condición emana del valor probatorio que de dichos documentos se pretende lograr.

SEGUNDA SALA

Contradicción de tesis 203/2019. Entre las sustentadas por los Tribunales Colegiados Séptimo del Tercer Circuito, Segundo del Cuarto Circuito y Tercero, Quinto y Sexto del Tercer Circuito, todos en Materia Administrativa. 23 de octubre de 2019. Cuatro votos de los Ministros Alberto Pérez Dayán, José Fernando Franco González Salas, Yasmín Esquivel Mossa y Javier Laynez Potisek. Ponente: Yasmín Esquivel Mossa. Secretaria: Guadalupe Margarita Ortiz Blanco.

Tesis y criterios contendientes:

Tesis III.6o.A.4 A (10a.), de título y subtítulo: "FECHA CIERTA. NO ES UN REQUISITO EXIGIBLE RESPECTO DE LA DOCUMENTACIÓN QUE SE PRESENTA A LA AUTORIDAD FISCAL EN EJERCICIO DE SUS FACULTADES DE COMPROBACIÓN Y QUE CONSTITUYE PARTE DE LA QUE EL CONTRIBUYENTE SE ENCUENTRA OBLIGADO A LLEVAR.", aprobada por el Sexto Tribunal Colegiado en Materia Administrativa del Tercer Circuito y publicada en el Semanario Judicial de la Federación del viernes 12 de enero de 2018 a las 10:13 horas y en la Gaceta del Semanario Judicial de la Federación, Décima Época, Libro 50, Tomo IV, enero de 2018, página 2164; y,

El sustentado por el Segundo Tribunal Colegiado en Materia Administrativa del Cuarto Circuito, al resolver el amparo directo 305/2017, el sustentado por el Tercer Tribunal Colegiado en Materia Administrativa del Tercer Circuito, al resolver el amparo directo 159/2017, el sustentado por el Séptimo Tribunal Colegiado en Materia Administrativa del Tercer Circuito, al resolver el amparo directo 396/2018, y el diverso sustentado por el Quinto Tribunal Colegiado en Materia Administrativa del Tercer Circuito, al resolver el amparo directo 184/2014.

Tesis de jurisprudencia 161/2019 (10a.). Aprobada por la Segunda Sala de este Alto Tribunal, en sesión privada del seis de noviembre de dos mil diecinueve.

Esta tesis se publicó el viernes 06 de diciembre de 2019 a las 10:18 horas en el Semanario Judicial de la Federación y, por ende, se considera de aplicación obligatoria a partir del lunes 09 de diciembre de 2019, para los efectos previstos en el punto séptimo del Acuerdo General Plenario 19/2013.

RESPONSE 59(B).

DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Ley Federal contra la Delincuencia Organizada, de la Ley de Seguridad Nacional, del Código Nacional de Procedimientos Penales, del Código Fiscal de la Federación y del Código Penal Federal.

Al margen un sello con el Escudo Nacional, que dice: Estados Unidos Mexicanos.- Presidencia de la República.

ANDRÉS MANUEL LÓPEZ OBRADOR, Presidente de los Estados Unidos Mexicanos, a sus habitantes sabed:

Que el Honorable Congreso de la Unión, se ha servido dirigirme el siguiente

DECRETO

"EL CONGRESO GENERAL DE LOS ESTADOS UNIDOS MEXICANOS, DECRETA:

SE REFORMAN, ADICIONAN Y DEROGAN DIVERSAS DISPOSICIONES DE LA LEY FEDERAL CONTRA LA DELINCUENCIA ORGANIZADA, DE LA LEY DE SEGURIDAD NACIONAL, DEL CÓDIGO NACIONAL DE PROCEDIMIENTOS PENALES, DEL CÓDIGO FISCAL DE LA FEDERACIÓN Y DEL CÓDIGO PENAL FEDERAL.

Artículo Primero. Se reforma la fracción VIII del artículo 2o. y se adicionan las fracciones VIII Bis y VIII Ter al artículo 2o. de la Ley Federal contra la Delincuencia Organizada, para quedar como sigue:

Artículo 2o.- ...

I. a VII. ...

VIII. Contrabando y su equiparable, previstos en los artículos 102 y 105 del Código Fiscal de la Federación;

VIII Bis. Defraudación fiscal, previsto en el artículo 108, y los supuestos de defraudación fiscal equiparada, previstos en los artículos 109, fracciones I y IV, ambos del Código Fiscal de la Federación, exclusivamente cuando el monto de lo defraudado supere 3 veces lo dispuesto en la fracción III del artículo 108 del Código Fiscal de la Federación;

VIII Ter. Las conductas previstas en el artículo 113 Bis del Código Fiscal de la Federación, exclusivamente cuando las cifras, cantidad o valor de los comprobantes fiscales que amparan operaciones inexistentes, falsas o actos jurídicos simulados, superen 3 veces lo establecido en la fracción III del artículo 108 del Código Fiscal de la Federación;

IX. y X. ...

...

Artículo Segundo. Se adiciona una fracción XIII al artículo 5 de la Ley de Seguridad Nacional, para quedar como sigue:

Artículo 5.- ...

I. a X. ...

XI. Actos tendentes a obstaculizar o bloquear actividades de inteligencia o contrainteligencia;

XII. Actos tendentes a destruir o inhabilitar la infraestructura de carácter estratégico o indispensable para la provisión de bienes o servicios públicos, y

XIII. Actos ilícitos en contra del fisco federal a los que hace referencia el artículo 167 del Código Nacional de Procedimientos Penales.

Artículo Tercero. Se reforman el párrafo segundo del artículo 187; y el párrafo tercero del artículo 256; y se adicionan un párrafo séptimo con las fracciones I, II y III, recorriéndose en su orden el subsecuente, al artículo 167; y un párrafo tercero al artículo 192 del Código Nacional de Procedimientos Penales, para quedar como sigue:

Artículo 167. Causas de procedencia

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Se consideran delitos que ameritan prisión preventiva oficiosa, los previstos en el Código Penal Federal, de la manera siguiente:

I. a XI. ...

Se consideran delitos que ameritan prisión preventiva oficiosa, los previstos en el Código Fiscal de la Federación, de la siguiente manera:

I. Contrabando y su equiparable, de conformidad con lo dispuesto en los artículos 102 y 105, fracciones I y IV, cuando estén a las sanciones previstas en las fracciones II o III, párrafo segundo, del artículo 104, exclusivamente cuando sean calificados;

II. Defraudación fiscal y su equiparable, de conformidad con lo dispuesto en los artículos 108 y 109, cuando el monto de lo defraudado supere 3 veces lo dispuesto en la fracción III del artículo 108 del Código Fiscal de la Federación, exclusivamente cuando sean calificados, y

III. La expedición, venta, enajenación, compra o adquisición de comprobantes fiscales que amparen operaciones inexistentes, falsas o actos jurídicos simulados, de conformidad con lo dispuesto en el artículo 113 Bis del Código Fiscal de la Federación, exclusivamente cuando las cifras, cantidad o valor de los comprobantes fiscales, superen 3 veces lo establecido en la fracción III del artículo 108 del Código Fiscal de la Federación.

...

Artículo 187. Control sobre los acuerdos reparatorios

Procederán los acuerdos reparatorios únicamente en los casos siguientes:

I. a III. ...

No procederán los acuerdos reparatorios en los casos en que el imputado haya celebrado anteriormente otros acuerdos por hechos que correspondan a los mismos delitos dolosos, tampoco procederán cuando se trate de delitos de violencia familiar o sus equivalentes en las Entidades federativas. Tampoco serán procedentes los acuerdos reparatorios para las hipótesis previstas en las fracciones I, II y III del párrafo séptimo del artículo 167 del presente Código.

...

Artículo 192. Procedencia

La suspensión condicional del proceso, a solicitud del imputado o del Ministerio Público con acuerdo de aquél, procederá en los casos en que se cubran los requisitos siguientes:

I. a III. ...

...

La suspensión condicional será improcedente para las hipótesis previstas en las fracciones I, II y III del párrafo séptimo del artículo 167 del presente Código.

Artículo 256. Casos en que operan los criterios de oportunidad

...

...

I. a VII. ...

No podrá aplicarse el criterio de oportunidad en los casos de delitos contra el libre desarrollo de la personalidad, de violencia familiar ni en los casos de delitos fiscales o aquellos que afecten gravemente el interés público. Para el caso de delitos fiscales y financieros, previa autorización de la Secretaría de Hacienda y Crédito Público, a través de la Procuraduría Fiscal de la Federación, únicamente podrá ser aplicado el supuesto de la fracción V, en el caso de que el imputado aporte información fidedigna que coadyuve para la investigación y persecución del beneficiario final del mismo delito, tomando en consideración que será este último quien estará obligado a reparar el daño.

...

...

...

Artículo Cuarto. Se reforma el artículo 113 Bis y se deroga la fracción III del artículo 113 del Código Fiscal de la Federación, para quedar como sigue:

Artículo 113.- ...

I. y II. ...

III. (Se deroga).

Artículo 113 Bis.- Se impondrá sanción de dos a nueve años de prisión, al que por sí o por interpósita persona, expida, enajene, compre o adquiera comprobantes fiscales que amparen operaciones inexistentes, falsas o actos jurídicos simulados.

Será sancionado con las mismas penas, al que a sabiendas permita o publique, a través de cualquier medio, anuncios para la adquisición o enajenación de comprobantes fiscales que amparen operaciones inexistentes, falsas o actos jurídicos simulados.

Cuando el delito sea cometido por un servidor público en ejercicio de sus funciones, será destituido del empleo e inhabilitado de uno a diez años para desempeñar cargo o comisión públicos, en adición a la agravante señalada en el artículo 97 de este Código.

Se requerirá querrela por parte de la Secretaría de Hacienda y Crédito Público, para proceder penalmente por este delito.

El delito previsto en este artículo, así como el dispuesto en el artículo 400 Bis del Código Penal Federal, se podrán perseguir simultáneamente.

Artículo Quinto. Se adiciona una fracción VIII Bis al Apartado B del artículo 11 Bis del Código Penal Federal, para quedar como sigue:

Artículo 11 Bis.- ...

A. ...

I. a XVI. ...

B. ...

I. a VIII. ...

VIII Bis. Del Código Fiscal de la Federación, el delito previsto en el artículo 113 Bis;

IX. a XXII. ...

...

...

...

Transitorios

Primero. El presente Decreto entrará en vigor el día 1o. de enero de 2020.

Segundo. Al momento de la entrada en vigor del presente Decreto, quedan sin efectos todas las disposiciones contrarias al mismo, no obstante lo anterior, las conductas cometidas antes de la entrada en vigor del presente Decreto que actualicen cualquiera de los delitos previstos en los artículos 113, fracción III y 113 Bis del Código Fiscal de la Federación, así como el artículo 400 Bis del Código Penal Federal, continuarán siendo investigadas, juzgadas y sentenciadas, mediante la aplicación de dichos preceptos.

RESPONSE 73(B).

CÓDIGO FISCAL DE LA FEDERACIÓN

Artículo 69-B Ter. Las autoridades fiscales podrán recibir y, en su caso, emplear la información y documentación que proporcionen terceros colaboradores fiscales, para substanciar el procedimiento previsto en el artículo 69-B del presente Código, así como, para motivar las resoluciones de dicho procedimiento, en términos del artículo 63 de este Código.

Se considera tercero colaborador fiscal a aquella persona que no ha participado en la expedición, adquisición o enajenación de comprobantes fiscales que amparen operaciones inexistentes, pero que cuenta con información que no obre en poder de la autoridad fiscal, relativa a contribuyentes que han incurrido en tales conductas y que voluntariamente proporciona a la autoridad fiscal la información de la que pueda disponer legalmente y que sea suficiente para acreditar dicha situación. La identidad del tercero colaborador fiscal tendrá el carácter de reservada en términos del artículo 69 de este Código.

El tercero colaborador fiscal podrá participar en los sorteos previstos en el artículo 33-B de este Código, siempre que la información y documentación que proporcione en colaboración de la autoridad fiscal sean verificables. Asimismo, en la lista definitiva que se publique en términos del artículo 69-B, cuarto párrafo del presente Código, serán identificadas las empresas que facturan operaciones simuladas que se hayan conocido en virtud de la información proporcionada por el tercero colaborador fiscal.