



Observatory on the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by Sherra Profit, Taxpayers' Ombudsman at the *Office of the Taxpayers' Ombudsman* and OPTR National Reporter of Canada.

This set of questionnaires comprise the National Reporter's assessment on the country practice during 2018 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 2018.
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 2018 (legislation enacted, administrative rulings, circulars, case law, tax administration practices), that serve as grounds for each particular assessment, was also required.



Observatory on the Protection of Taxpayers' Rights
Questionnaire No. 1: Country Practice

Country:
National Reporter:
Affiliation

Tax Administration Tax Practitioner Judiciary Tax Ombudsman Academia

1. Identifying taxpayers and issuing tax returns			
#	Question	Yes	No
1	Do taxpayers have the right to see the information held about them by the tax authority?	<input type="radio"/>	<input type="radio"/>
2	If yes, can they request the correction of errors in the information?	<input type="radio"/>	<input type="radio"/>
3	In your country, is there a system of "cooperative compliance" / "enhanced relationship" which applies to some taxpayers only?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
5	Is it possible in your country for taxpayers to communicate electronically with the tax authority?	<input type="radio"/>	<input type="radio"/>
6	If yes, are there systems in place to prevent unauthorised access to the channel of communication?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>

2. The issue of tax assessments			
#	Question	Yes	No
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 <i>ex officio</i> to notify all affected taxpayers and arrange repayments to them?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
10	If yes, can the taxpayer request a meeting with the tax officer?	<input type="radio"/>	<input type="radio"/>

3. Confidentiality			
#	Question	Yes	No
11	Is information held by your tax authority automatically encrypted?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
13	If yes, must the tax official identify himself/herself before accessing information held about a specific taxpayer?	<input type="radio"/>	<input type="radio"/>
14	Is access to information held about a taxpayer audited internally to check if there has been any unauthorised access to that information?	<input type="radio"/>	<input type="radio"/>
15	Are there examples of tax officials who have been criminally prosecuted in the last decade for unauthorised access to taxpayers' data?	<input type="radio"/>	<input type="radio"/>
16	Is information about the tax liability of specific taxpayers publicly available in your country?	<input type="radio"/>	<input type="radio"/>
17	Is "naming and shaming" of non-compliant taxpayers practised in your country?	<input type="radio"/>	<input type="radio"/>
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. <i>habeas data</i> or freedom of information)?	<input type="radio"/>	<input type="radio"/>
19	Is there a system of protection of legally privileged communications between the taxpayer and its advisors?	<input type="radio"/>	<input type="radio"/>
20	If yes, does this extend to advisors other than those who are legally qualified (e.g. accountants, tax advisors)?	<input type="radio"/>	<input type="radio"/>

7. Criminal and administrative sanctions					
#	Question				
56	Does the principle <i>ne bis in idem</i> apply in your country to prevent either (a) the imposition of a tax penalty and the tax liability; (b) the imposition of more than one tax penalty for the same conduct; (c) the imposition of a tax penalty and a criminal liability?	<input type="checkbox"/> No	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C
57	If <i>ne bis in idem</i> 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)?	<input type="radio"/> Yes	<input type="radio"/> No		
58	If the taxpayer makes a voluntary disclosure of a tax liability, can this result in a reduced or a zero penalty?	<input type="radio"/> Yes	<input type="radio"/> No		

8. Enforcement of taxes			
#	Question	Yes	No
59	Does the taxpayer have the right to request a deferred payment of taxes or a payment in instalments (perhaps with a guarantee)?	<input type="radio"/>	<input type="radio"/>
60	Is a court order always necessary before the tax authorities can access a taxpayer's bank account or other assets?	<input type="radio"/>	<input type="radio"/>

9. Cross-border procedures			
#	Question	Yes	No
61	Does the taxpayer have the right to be informed before information relating to him is exchanged in response to a specific request?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
65	Does the taxpayer have the right to challenge before the judiciary the exchange of information relating to him with another country?	<input type="radio"/>	<input type="radio"/>
66	Does the taxpayer have the right to see any information received from another country that relates to him?	<input type="radio"/>	<input type="radio"/>
67	Does the taxpayer have the right in all cases to require a mutual agreement procedure is initiated?	<input type="radio"/>	<input type="radio"/>
68	Does the taxpayer have a right to see the communications exchanged in the context of a mutual agreement procedure?	<input type="radio"/>	<input type="radio"/>

10. Legislation			
#	Question	Yes	No
69	Is there a procedure in your country for public consultation before the adopting of all (or most) tax legislation?	<input type="radio"/>	<input type="radio"/>
70	Is tax legislation subject to constitutional review which can strike down unconstitutional laws?	<input type="radio"/>	<input type="radio"/>
71	Is there a prohibition on retrospective tax legislation in your country?	<input type="radio"/>	<input type="radio"/>
72	If no, are there restrictions on the adoption of retrospective tax legislation in your country?	<input type="radio"/>	<input type="radio"/>

4. Normal audits			
#	Question	Yes	No
21	Does the principle <i>audi alteram partem</i> 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)?	<input type="radio"/>	<input type="radio"/>
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)?	<input type="radio"/>	<input type="radio"/>
23	If yes, what is the normal limit in months?	Months <input type="text"/>	
24	Does the taxpayer have the right to be represented by a person of its choice in the audit process?	<input type="radio"/>	<input type="radio"/>
25	May the opinion of independent experts be used in the audit process?	<input type="radio"/>	<input type="radio"/>
26	Does the taxpayer have the right to receive a full report on the conclusions of the audit at the end of the process?	<input type="radio"/>	<input type="radio"/>
27	Does the principle <i>ne bis in idem</i> apply to tax audits (i.e. that the taxpayer can only receive one audit in respect of the same taxable period)?	<input type="radio"/>	<input type="radio"/>
28	If yes, does this mean only one audit per tax per year?	<input type="radio"/>	<input type="radio"/>
29	Are there limits to the frequency of audits of the same taxpayer (e.g. in respect to different periods or different taxes)?	<input type="radio"/>	<input type="radio"/>
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)?	<input type="radio"/>	<input type="radio"/>

5. More intensive audits			
#	Question	Yes	No
31	Is authorisation by a court always needed before the tax authority may enter and search premises?	<input type="radio"/>	<input type="radio"/>
32	May the tax authority enter and search the dwelling places of individuals?	<input type="radio"/>	<input type="radio"/>
33	Is there a procedure in place to ensure that legally privileged material is not taken in the course of a search?	<input type="radio"/>	<input type="radio"/>
34	Is a court order required before the tax authority can use interception of communications (e.g. telephone tapping or access to electronic communications)?	<input type="radio"/>	<input type="radio"/>
35	Is the principle <i>nemo tenetur</i> applied in tax investigations (i.e. the principle against self-incrimination)?	<input type="radio"/>	<input type="radio"/>
36	If yes, is there a restriction on the use of information supplied by the taxpayer in a subsequent penalty procedure/criminal procedure?	<input type="radio"/>	<input type="radio"/>
37	If yes to <i>nemo tenetur</i> , can the taxpayer raise this principle to refuse to supply basic accounting information to the tax authority?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>

6. Review and appeals			
#	Question	Yes	No
40	Is there a procedure for an internal review of an assessment/decision before the taxpayer appeals to the judiciary?	<input type="radio"/>	<input type="radio"/>
41	Are there any arrangements for alternative dispute resolution (e.g. mediation or arbitration) before a tax case proceeds to the judiciary?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>
43	Are there time limits applicable for a tax case to complete the judicial appeal process?	<input type="radio"/>	<input type="radio"/>
44	If yes, what is the normal time it takes for a tax case to be concluded on appeal?	Months <input type="text"/>	
45	Does the taxpayer have to pay some/all the tax before an appeal can be made (i.e. <i>solve et repete</i>)?	<input type="radio"/>	<input type="radio"/>

11. Revenue practice and guidance			
#	Question	Yes	No
73	Does the tax authority in your country publish guidance (e.g. revenue manuals, circulars, etc.) as to how it applies your tax law?	<input type="radio"/>	<input type="radio"/>
74	If yes, can taxpayers acting in good faith rely on that published guidance (i.e. protection of legitimate expectations)?	<input type="radio"/>	<input type="radio"/>
75	Does your country have a generalised system of advanced rulings available to taxpayers?	<input type="radio"/>	<input type="radio"/>
76	If yes, is it legally binding?	<input type="radio"/>	<input type="radio"/>
77	If a binding rule is refused, does the taxpayer have a right to appeal?	<input type="radio"/>	<input type="radio"/>

12. Institutional framework for protecting taxpayers' rights			
#	Question	Yes	No
78	Is there a taxpayers' charter or taxpayers' bill of rights in your country?	<input type="radio"/>	<input type="radio"/>
79	If yes, are its provisions legally effective?	<input type="radio"/>	<input type="radio"/>
80	Is there a (tax) ombudsman / taxpayers' advocate / equivalent position in your country?	<input type="radio"/>	<input type="radio"/>
81	If yes, can the ombudsman intervene in an on-going dispute between the taxpayer and the tax authority (before it goes to court)?	<input type="radio"/>	<input type="radio"/>
82	If yes to a (tax) ombudsman, is he/she independent from the tax authority?	<input type="radio"/>	<input type="radio"/>

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)?	<input type="radio"/>	<input type="radio"/>
47	Does the taxpayer need permission to appeal to the first instance tribunal?	<input type="radio"/>	<input type="radio"/>
48	Does the taxpayer need permission to appeal to the second or higher instance tribunals?	<input type="radio"/>	<input type="radio"/>
49	Is there a system for the simplified resolution of tax disputes (e.g. by a determination on the file, or by e/filing)?	<input type="radio"/>	<input type="radio"/>
50	Is the principle audi alteram partem (i.e. each party has a right to a hearing) applied in all tax appeals?	<input type="radio"/>	<input type="radio"/>
51	Does the loser have to pay the costs in a tax appeal?	<input type="radio"/>	<input type="radio"/>
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)?	<input type="radio"/>	<input type="radio"/>
53	Are judgments of tax tribunals published?	<input type="radio"/>	<input type="radio"/>
54	If yes, can the taxpayer preserve its anonymity in the judgment?	<input type="radio"/>	<input type="radio"/>
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?	<input type="radio"/>	<input type="radio"/>



Observatory on the Protection of Taxpayers' Rights
Questionnaire No. 2: Standards of Protection

Country:
National Reporter:
Affiliation

Tax Administration
 Tax Practitioner
 Judiciary
 (Tax) Ombudsman
 Academia

1. Identifying taxpayers and issuing tax returns

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
1	Implement safeguards to prevent impersonation when issuing unique identification number		<input type="radio"/>	<input type="radio"/>	
2	The system of taxpayer identification should take account of religious sensitivities		<input type="radio"/>	<input type="radio"/>	
3	Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes		<input type="radio"/>	<input type="radio"/>	
4		Where tax is withheld by third parties, the taxpayer should be excluded from liability if the third party fails to pay over the tax	<input type="radio"/>	<input type="radio"/>	
5	Where pre/populated returns are used, these should be sent to taxpayers to correct errors		<input type="radio"/>	<input type="radio"/>	
6	Provide a right to access to taxpayers to personal information held about them, and a right to correct inaccuracies	Publish guidance on taxpayers' rights to access information and correct inaccuracies	<input type="radio"/>	<input type="radio"/>	<p>Canada's Access to Information Act and Privacy Act give taxpayers the right to access personal and other information collected and used by the Government of Canada. Taxpayers may obtain access to their personal information held by the Government of Canada, including the Canada Revenue Agency (CRA) by:</p> <ul style="list-style-type: none"> (a) calling or writing the CRA or other government institution most likely to be holding that information; (b) submitting a Personal Information Request Form; or (c) submitting an Access to Information Request. Generally, people are supposed to be able to get information about themselves through informal methods. <p>In 2012, the Taxpayers' Ombudsman conducted a systemic investigation on service issues in the CRA's Access to Information and Privacy (ATIP) processes, titled "Acting on ATIP" (https://www.canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports/acting-atip.html). This was done as a result of receiving complaints about the CRA not responding promptly, not providing enough information about how to file ATIP requests, not explaining the reasons for delays in providing the requested information, and requiring taxpayers to make formal requests for information pursuant to the Access to Information Act or Privacy Act, rather than allowing taxpayers to request the information informally by simply asking a CRA employee to provide it. On the basis of the Taxpayers' Ombudsman's recommendations, the CRA has taken steps to: process its backlog of ATIP requests, initiate actions to promote the use of informal disclosure within the CRA, increase training to employees, and provide more complete information publicly to taxpayers about informal requests for information through its website, publications, and telephone enquiry lines. Despite improvements made, the Office of the Taxpayers' Ombudsman receives complaints from taxpayers about not being able to get their personal information through informal disclosure methods.</p> <p>The Government of Canada has taken steps to modernize the Access to Information Act. In 2017, Bill C-58 (http://www.parl.ca/DocumentViewer/en/42-1/bill/C-58/third-reading) was tabled to extend the laws that provide access to information under the control of the Government of Canada and to set requirements for the proactive publication of certain information. The Standing Senate Committee on Legal and Constitutional Affairs is currently studying the Bill.</p> <p>The CRA's electronic services (e-services), which include portals for individuals, businesses, and their authorized representatives to access tax information, offer taxpayers a self-service option to view or update their personal information.</p>
7	Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception		<input type="radio"/>	<input type="radio"/>	
8	Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis		<input type="radio"/>	<input type="radio"/>	

9	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		○	●	<p>The Canada Revenue Agency (CRA) has initiatives which aim to provide assistance to those who face difficulties in meeting compliance obligations, including: conducting consultations with taxpayers living in northern and remote regions to expand outreach and partnership, improve services, and help taxpayers better understand how to claim an allowance for people living in prescribed zones; re-instating the Disability Advisory Committee to improve the way the CRA administers the tax measures supporting disabled Canadians; and providing an automated telephone filing service called File my Return which allows eligible taxpayers with low or fixed income to file their income tax and benefit return by answering a series of short questions.</p> <p>The CRA also supports large numbers of Canadian volunteers who annually participate in the Community Volunteer Income Tax Program (CVITP), through which community organizations host free tax clinics where volunteers complete income tax and benefit returns for eligible people.</p> <p>Barriers to service remain an issue for many people as a result of issues such as: inability to get through to a CRA agent via telephone; inconsistent and incorrect information provided by CRA agents through telephone lines; difficulty in obtaining paper forms and guides; not meeting the criteria for assistance services (CVITP is only open to taxpayers who have a modest income and simple tax situation; File my Return is only open to people with low or fixed incomes who receive an invitation from the CRA to participate); living in a remote area not serviced by a volunteer clinic or without adequate internet access; language barriers; and difficulty clearing the security questions posed by CRA agents.</p> <p>Taxpayers also face challenges in meeting their obligations when paying amounts they owe. An upcoming report from the Taxpayers' Ombudsman shows that while almost all taxpayers receive a legal warning prior to the CRA taking legal action to collect debt, many taxpayers do not understand what the legal warning means or the seriousness of the specific measures that can be taken by the CRA. The CRA can take legal action against some taxpayers even when they are making payments. The Taxpayers' Ombudsman's report finds a lack of clarity of information on the part of the CRA regarding when a legal warning is given, what it means, and what duration it covers; when payments arrangements are binding; and the consequences of defaulting on a payment when a binding payment arrangement has been made.</p> <p>Once published in March 2019, the full text of the report of the Taxpayers' Ombudsman will be found at:</p>
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2. The issue of tax assessment

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
10		Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on equality of arms	○	○	<p>Taxpayers can contact the Canada Revenue Agency (CRA) to request an explanation of their tax assessment or file a notice of objection if they dispute the assessment. However, among the highest volume of complaints received by the Office of the Taxpayers' Ombudsman (OTO) is the accuracy and clarity of information provided by agents of the CRA's individual tax enquiries telephone line to taxpayers with respect to the processing of individual income tax and benefit returns and adjustments. (Office of the Taxpayers' Ombudsman's Annual Report 2017-2018: https://www.canada.ca/en/taxpayers-ombudsman/programs/reports-publications/annual-reports/annual-report-2017-2018.html#toc20).</p> <p>The CRA's service complaints process encourages taxpayers to address service issues at the lowest administrative level. First, the taxpayer is asked to raise their service issue with a CRA agent or their supervisor. Second, if the taxpayer is not satisfied, they can make a service complaint to have the CRA review the service issue. If the taxpayer is unsatisfied with the outcome of the CRA's review, they can submit a service complaint to the Taxpayers' Ombudsman. In cases of compelling circumstances (for example, personal or financial hardship), the Taxpayers' Ombudsman can review a complaint prior to the taxpayer submitting their service complaint to the CRA for review. While the Taxpayers' Ombudsman is not an advocate for the taxpayer, the OTO facilitates the resolution of service related issues with the CRA and lessens the power imbalance between the individual and the CRA.</p> <p>The CRA also offers a free Liaison Officer service for unincorporated small businesses to help them better understand their tax obligations. Taxpayers may benefit from this service through in-person meetings or a pre-arranged seminar for a group.</p>

11		Use e-filing to speed up assessments and correction of errors, particularly systematic errors	○	○	<p>The Canada Revenue Agency's (CRA) 2017-2018 Departmental Review Report indicates that 88% of individual income tax and benefit returns and 90% of corporate income tax returns were filed online.</p> <p>The CRA's published service standards indicate that a notice of assessment for an individual income tax and benefit return will be sent to the taxpayer within two weeks of the CRA receiving a digitally-filed return and within eight weeks of the CRA receiving a paper-filed return. This timeline is only valid for returns received on or before the filing due date. The CRA aims to meet this standard 95% of the time. The CRA's published service standards indicate that a notice of assessment for a corporate income tax return will be sent to the taxpayer within six weeks of the CRA receiving a digitally-filed return and within sixteen weeks of the CRA receiving a paper-filed return. This timeline is only valid for returns received on or before the corporation's respective filing due date. The CRA aims to meet this standard 95% of the time. In 2017-2018, the CRA processed 96% of individual returns and 94% of corporate returns within this standard.</p> <p>Recently, the CRA launched the Auto-fill my return service for individual taxpayers or their authorized representatives to automatically complete portions of a 2015, 2016, and 2017 income tax and benefit return based on information submitted to the CRA by a third party. Taxpayers are advised by the CRA to verify the information is reported correctly when using the Auto-fill my return service. (https://www.canada.ca/en/revenue-agency/services/e-services/about-auto-fill-return.html).</p> <p>A large volume of complaints have been received by the Office of the Taxpayers' Ombudsman (OTO) over the last two years regarding delays in the processing of individual income tax and benefit returns and adjustment requests for individual income tax, where the processing time for assessments and reassessments exceeds the CRA's published service standards. When the processing of a return is delayed, there can be an impact on the benefits received by taxpayers, such as reduced or delayed benefit payments resulting in financial hardship. Additionally, the OTO has received complaints about not receiving clear, consistent and accurate information from the CRA regarding delays in the processing of an assessment or reassessment. The OTO is currently conducting further research into the issue of delays in processing.</p>
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3. Confidentiality

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
12	Provide a specific legal guarantee for confidentiality, with sanctions for officials who make unauthorised disclosures (and ensure sanctions are enforced).	Encrypt information held by a tax authority about taxpayers to the highest level attainable.	○	○	<p>The Office of the Privacy Commissioner of Canada (OPC) (https://www.priv.gc.ca/en/) and the <i>Privacy Act</i> (https://laws-lois.justice.gc.ca/eng/acts/P-21/) govern the personal information handling practices of Canadian federal departments and agencies.</p> <p>The OPC conducts investigations and audits of personal information handling practices to ensure compliance with the laws and adequate management of personal information. Audits can look at the physical and security controls used to protect personal information; the organization's policies, practices, and procedures; and how privacy incidents are managed. From these audits, the OPC will identify any areas requiring improvement and highlight the good privacy practices of the organization. Where appropriate, the Privacy Commissioner may make recommendations to help prevent issues from recurring.</p>
13	Restrict access to data to those officials authorised to consult it. For encrypted data, use digital access codes.	Ensure an effective fire-wall to prevent unauthorised access to data held by revenue authorities.	○	○	
14	Audit data access periodically to identify cases of unauthorised access.		○	○	
15	Introduce administrative measures emphasizing confidentiality to tax officials.	Appoint data protection/privacy officers at senior level and local tax offices.	○	○	
16	Where pre/populated returns are used, these should be sent to taxpayers to correct errors.		○	○	
17	If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges).		○	○	
18	Introduce an offence for tax officials covering up unauthorised disclosure of confidential information.		○	○	
19	Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted.		○	○	

20	If "naming and shaming" is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer).		<input type="radio"/>	<input type="radio"/>	
21	No disclosure of confidential taxpayer information to politicians, or where it might be used for political purposes.	Parliamentary supervision of revenue authorities should involve independent officials, subject to confidentiality obligations, examining specific taxpayer data, and then reporting to Parliament.	<input type="radio"/>	<input type="radio"/>	
22	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.		<input type="radio"/>	<input type="radio"/>	
23	If published, tax rulings should be anonymised and details that might identify the taxpayer removed.	Anonymise all tax judgments and remove details that might identify the taxpayer	<input type="radio"/>	<input type="radio"/>	
24	Legal professional privilege should apply to tax advice.	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.	<input type="radio"/>	<input type="radio"/>	
25	Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege.		<input type="radio"/>	<input type="radio"/>	

4. Normal audits

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
26	Audits should respect the following principles: (i) Proportionality. (2) <i>Ne bis in idem</i> (prohibition of double jeopardy). (3) <i>Audi alteram partem</i> (right to be heard before any decision is taken). (4) <i>Nemo tenetur se detegere</i> (principle against self/incrimination). Tax notices issued in violation of these principles should be null and void.		<input type="radio"/>	<input type="radio"/>	

27	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.		<input type="radio"/>	<input type="radio"/>	<p>already submitted by a taxpayer on their notice of assessment(s) and found on the taxpayer's file, the CRA can request supporting documentation. Taxpayers are given a clear timeframe for providing the requested supporting documentation.</p> <p>Tax preparers and tax professionals (accountants, tax lawyers) have informed the Office of the Taxpayers' Ombudsman that they are often asked by the CRA to submit the same documents more than once. This creates an additional burden for professionals and additional costs to the taxpayer. Requests to provide the same documentation within a tax year, or year-over-year when the information does not change, are inconsistent with Article 10 of the <i>Taxpayer Bill of Rights</i> which states that taxpayers have "the right to have the costs of compliance taken into account when administering tax legislation."</p> <p>Corporations have also successfully challenged the CRA in Federal Court regarding the requirement to provide internal accounting documents. In the court case <i>BP Canada Energy Company v Canada (National Revenue)</i>, 2017 FCA 61 (https://decisions.fca-caf.gc.ca/fca-caf/decisions/en/item/229222/index.do), the Federal Court of Appeal allowed the appeal of BP Canada from an order of the Federal Court (2015 FC 714) that allowed the application of the Minister of National Revenue</p> <p>pursuant to subsection 231.7(1) of the Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.) (the Act) compelling the production of internal accounting documents, generally referred to as tax accrual working papers (TAWPs). The order was issued for the purpose of assisting the Minister in conducting ongoing audits of BP Canada.</p> <p>The information contained in TAWPs is highly sensitive as these papers typically reveal uncertain tax positions taken by public corporations in filing their tax returns, opinions as to the likely outcome in the event of a challenge by the Minister, and related reserves established to ensure sound and fair financial reporting. BP Canada maintains that the Federal Court judge failed to take into account the exceptional nature of this information in ordering its production ...</p> <p>... I am of the view that the documents ordered to be produced, given the purpose for which they were sought, are beyond the reach of the Minister, and that the Federal Court judge committed a number of legal and factual errors in ordering their production.</p>
28		In application of <i>ne bis in idem</i> the taxpayer should only receive one audit per taxable period, except when facts that become known after the audit was completed.	<input type="radio"/>	<input type="radio"/>	It is possible that taxpayers could be subject to an audit, review or verification, for a previously audited/reviewed/verified issue or period. This occurs generally when the taxpayer has multiple accounts (for example Goods and Services/Harmonized Sales Tax, income tax, payroll, etc.) or when new information about an issue becomes available to the Canada Revenue Agency after the completion of an audit/review/verification.
29	In application of <i>audi alteram partem</i> , 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.		<input type="radio"/>	<input type="radio"/>	<p>According to the Canada Revenue Agency (CRA), there are multiple points in an audit (such as initial contact and interview, audit queries, meetings, proposals, and final interview) where a taxpayer is asked to provide information and representations. In the review or verification of a claim in an income tax return, the CRA may request supporting documentation from the taxpayer. According to Article 15 of the <i>Taxpayer Bill of Rights</i>, taxpayers have the right to be represented by a person of their choice.</p> <p>All CRA audit programs issue a proposal letter to taxpayers and their representatives prior to reassessment and taxpayers have the opportunity to submit representations. The extent to which these established protocols are available to the taxpayer in practice, or the extent to which the information provided by taxpayers is taken into account by auditors before the completion of an audit, is unclear. A 2016 report by Canada's Auditor General on Income Tax Objections (http://www.oag-bvg.gc.ca/internet/English/parl_oag_201611_02_e_41831.html#appa) found that taxpayers objecting to their reassessments post-audit had the reassessment overturned in 66.1% of cases.</p> <p>For reviews and verifications of a claim in an income tax return, the CRA may issue a notice of assessment or reassessment based upon information already held by the CRA, without input from the taxpayer; or may issue a notice of assessment or reassessment based upon the supporting documentation submitted by the taxpayer at the CRA's request.</p>
30	In application of <i>nemo tenetur</i> , the right to remain silent should be respected in all tax audits.		<input type="radio"/>	<input type="radio"/>	
31		Tax audits should follow a pattern that is set out in published guidelines.	<input type="radio"/>	<input type="radio"/>	The Canada Revenue Agency (CRA) makes the Large Business Audit Manual and the Income Tax Audit Manual available to the public in the CRA's online virtual reading room. Additional information on the CRA's website provides information on "What you should know about audits", which includes how the CRA chooses a file for audit, how the CRA does an audit, how long it takes to complete an audit, taxpayer rights and responsibilities, and provides contact information if a taxpayer requires further information. There is also a series of videos on the CRA website that explain the CRA's tax audit process.
32		A manual of good practice in tax audits should be established at the global level.	<input type="radio"/>	<input type="radio"/>	

33		Taxpayers should be entitled to request the start of a tax audit (to obtain finality).	<input type="radio"/>	<input type="radio"/>	Taxpayers are not entitled to request the start of an audit or to obtain audit finality from the Canada Revenue Agency (CRA). Taxpayers can request advance income tax rulings or a pre-ruling consultation to confirm how the CRA will interpret specific provisions of Canadian income tax law as they apply to a definite transaction or transactions that the taxpayer is contemplating. The rulings services are available for a fee, which may be prohibitive for some taxpayers.
34	Where tax authorities have resolved to start an audit, they should inform the taxpayer	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.	<input type="radio"/>	<input type="radio"/>	The business audit processes of the Canada Revenue Agency include contact by the auditor(s) by mail or phone, or both, to advise of the start and location of the audit process. For verifications or reviews of individual income tax assessments, taxpayers may only be made aware of the review when they receive a request for supporting documentation.
35	Taxpayers should be informed of information gathering from third parties.		<input type="radio"/>	<input type="radio"/>	
36		Reasonable time limits should be fixed for the conduct of audits.	<input checked="" type="radio"/>	<input type="radio"/>	<p>The Canada Revenue Agency (CRA) does not have published service standards for the completion of audits, verifications and reviews, as the time spent can vary significantly based on various factors, such as the complexity of the issues identified or the books and records maintained by the taxpayer.</p> <p>The Office of the Taxpayers' Ombudsman agrees that reasonable time limits should be established for audit, verification and review processes, while acknowledging the importance of collaboration on the part of the taxpayer to ensure audits, verifications and reviews are conducted in a timely manner.</p> <p>The Auditor General of Canada (AG) released a report in Fall 2018 on the CRA's Compliance Activities (http://www.oag-bvg.gc.ca/internet/English/parl_oag_201811_07_e_43205.html). The AG found that the CRA did not consistently apply tax rules when it audited or reviewed taxpayers' files, even though the <i>Taxpayer Bill of Rights</i> includes the right to have the law applied consistently. The AG indicated a number of reasons for the inconsistencies, including the judgment of the CRA "staff conducting compliance activities; the region where the file was reassessed; and the type of taxpayer-for example, a small business or a large corporation". According to the report, "taxpayers in one region waited an average of 7 months longer than those in another region for the [CRA] to complete an audit. In one region, it took the [CRA] more than 40 weeks to process taxpayers' requests for adjustments, while in another region, the Agency took 12 weeks". With respect to timelines, the AG recommended the CRA "set time limits for all audit workloads to provide information requested and should consistently enforce the provisions of the <i>Income Tax Act</i> [https://laws-lois.justice.gc.ca/eng/acts/I-3.3/] to compel taxpayers to produce information once those time limits have passed".</p> <p>The CRA agreed with the recommendation and committed to "set timelines for information to be provided, criteria for extensions, and more formal deadlines, past which the [CRA] would move to the courts to compel cooperation, by March 2020".</p>
37	Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer.		<input type="radio"/>	<input type="radio"/>	The <i>Taxpayer Bill of Rights</i> (TBR) includes the right to be represented by a person of your choice (Article 15). Information provided on Canada Revenue Agency's (CRA) website, "What you should know about audits", provides a link to the TBR, but provides no additional information to the taxpayer on how a representative or expert of the taxpayer's choosing can participate in the audit process. The cost of representation or technical assistance is borne solely by the taxpayer. This cost may be prohibitive for the taxpayer and could be contrary to Article 10 in the TBR, "to have the costs of compliance taken into account when [the CRA administers] tax legislation".
38	The completion of a tax audit should be accurately reflected in a document, notified in its full text to the taxpayer.	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.	<input type="radio"/>	<input type="radio"/>	<p>Upon completion of an audit, the Canada Revenue Agency sends a final letter to the taxpayer indicating the result of the audit. This letter indicates whether no adjustments will be made to the previous assessment, an adjustment resulting in more tax owing will be made (reassessment), or an adjustment resulting in less tax owing will be made (reassessment resulting in the entitlement to a refund). Prior to this final letter, the auditor sends a proposal letter to the taxpayer with details of the adjustments necessary to resolve the issues identified. Taxpayers are given a prescribed period of time to respond to the letter and may request an extension to respond.</p> <p>The extent to which these established protocols are available to the taxpayer in practice, or the extent to which the information provided by taxpayers is taken into account by auditors before the completion of an audit, is unclear. A 2016 report by Canada's Auditor General on Income Tax Objections (http://www.oag-bvg.gc.ca/internet/English/parl_oag_201611_02_e_41831.html#appa) found that taxpayers objecting to their reassessments post-audit had the reassessment overturned in 66.1% of cases.</p> <p>For reviews and verifications of a claim in an income tax return, there is no report but the CRA may issue a notice of assessment or reassessment based upon information already held by the CRA, without input from the taxpayer; or may issue a notice of assessment or reassessment based upon the supporting documentation submitted by the taxpayer at the CRA's request.</p>

39		Following an audit, a report should be prepared even if the audit does not result in additional tax or refund.	<input type="radio"/>	<input type="radio"/>	A taxpayer is issued a letter upon completion of an audit even when the audit does not result in an adjustment.
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5. More intensive audits

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
40		More intensive audits should be limited to the extent strictly necessary to ensure an effective reaction to non-compliance.	<input type="radio"/>	<input type="radio"/>	
41	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.		<input type="radio"/>	<input type="radio"/>	
42	Entering premises or interception of communications should be authorised by the judiciary.		<input type="radio"/>	<input type="radio"/>	
43	Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for <i>ex post</i> ratification.		<input type="radio"/>	<input type="radio"/>	
44	Inspection of the taxpayer's home should require authorisation by the judiciary and only be given in exceptional cases.	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.	<input type="radio"/>	<input type="radio"/>	
45		Access to bank information should require judicial authorisation.	<input type="radio"/>	<input type="radio"/>	
46		Authorisation by the judiciary should be necessary for interception of telephone communications and monitoring of internet access. Specialised offices within the judiciary should be established to supervise these actions.	<input type="radio"/>	<input type="radio"/>	
47	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.		<input type="radio"/>	<input type="radio"/>	
48		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.	<input type="radio"/>	<input type="radio"/>	
49	Where invasive techniques are applied, they should be limited in time to avoid disproportionate impact on taxpayers.		<input type="radio"/>	<input type="radio"/>	

6. Review and appeals

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
50		E-filing of requests for internal review to ensure the effective and speedy handling of the review process.	<input type="radio"/>	<input type="radio"/>	The Canada Revenue Agency's (CRA) "Register My Formal Dispute" service, which is available in its online portals, allows taxpayers to electronically file a request for internal review. The CRA also accepts electronic submission of documentation to support the request for review, by individuals, businesses, and representatives who are registered users of the CRA's secure portals. Complaints about service provided by the CRA can also be submitted electronically.
51	The right to appeal should not depend upon prior exhaustion of administrative reviews.		<input type="radio"/>	<input type="radio"/>	The Canada Revenue Agency (CRA) does not allow taxpayers to appeal a decision in Federal Court without prior exhaustion of administrative reviews by the CRA. The use of an internal, administrative review process, followed by an appeal to a court, is consistent with Article 4 of the <i>Taxpayer Bill of Rights</i> which states that "you have the right to a formal review and a subsequent appeal."

52		Reviews and appeals should not exceed two years.	<input type="radio"/>	<input checked="" type="radio"/>	<p>In the 2016 report by the Auditor General of Canada (AG) on Income Tax Objections (http://www.oag-bvg.gc.ca/internet/English/parl_oag_201611_02_e_41831.html), the AG recommended the Canada Revenue Agency (CRA) provide taxpayers with the timeframes in which it expects to resolve their objection and these timeframes should be based on the objection's level of complexity. The AG also recommended the CRA define what it considers the timely resolution of an objection. To assist in this determination, the AG recommended the CRA look to other comparable organizations to help it determine what is reasonable.</p> <p>Since the AG's report, the CRA has taken steps to improve the timely processing of objections by introducing new service standards for resolving low-complexity objections within 180 days, 80% of the time (the CRA indicates this target has been met and surpassed) and medium-complexity objections with 365 days, 80% of the time. As of November 30, 2018, the CRA met this standard for medium-complexity objections in only 74% of objections. It is important to note that beginning in May 2017, the CRA changed its methodology for calculating resolution timeframes to include the entire time the dispute falls within the Government of Canada's control, but excludes the time periods where the CRA has requested and is waiting on receipt of documentation from taxpayers.</p> <p>Additionally, the CRA changed its process for addressing low-complexity and some medium-complexity objections to include taxpayer/representative contact within 30 days of receiving the objection. This expedites the process of requesting additional information or supporting documentation and improves service.</p> <p>Where a taxpayer disagrees with a decision letter from the CPP/EI Rulings Division or a notice of assessment for payroll source deductions, they can file an appeal with the Minister of National Revenue (Minister). There is no service standard for the timeframe within which the appeal should be completed.</p> <p>Valid circumstances may exist where an objection or appeal takes longer than two years. In these cases, it is important for taxpayers to receive regular communication about the status of the objection or appeal.</p>
53	<i>Audi alteram partem</i> should apply in administrative reviews and judicial appeals.		<input type="radio"/>	<input type="radio"/>	In Canada, taxpayers can be heard directly or through their representatives in the context of administrative reviews and judicial appeals. Taxpayers and their authorized representative can submit supporting documents for consideration to the Canada Revenue Agency before any final decision. This right to be heard is consistent with Article 4 of the <i>Taxpayer Bill of Rights</i> which states that "you have the right to a formal review and a subsequent appeal".
54	Where tax must be paid in whole or in part before and appeal, there must be an effective mechanism for providing interim suspension of payment.	An appeal should not require prior payment of tax in all cases.	<input type="radio"/>	<input type="radio"/>	The Canadian <i>Taxpayer Bill of Rights</i> states that taxpayers "have the right, unless otherwise provided by law, not to pay income tax amounts in dispute before you have had an impartial review" (Article 7). However interest charges still apply to an amount owing while it is in dispute. Taxpayers can choose to pay all or part of the amount in dispute to avoid paying more interest on the amount owed. Given the fact that interest continues to accrue while an amount is in dispute, it may not be in the taxpayer's best interests to delay paying amounts owing until the end of the review or appeal process.
55		The state should bear some or all of the costs of an appeal, whatever the outcome.	<input type="radio"/>	<input type="radio"/>	
56	Legal assistance should be provided for those taxpayers who cannot afford it.		<input type="radio"/>	<input type="radio"/>	
57	Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing.		<input type="radio"/>	<input type="radio"/>	
58	Tax judgments should be published.		<input type="radio"/>	<input type="radio"/>	In Canada, court cases and decisions are published as a part of the public record. Legislation guides the appeals process, determining the court or tribunal in which the appeal is heard and the process followed. The Canada Revenue Agency (CRA) objections and appeals processes are the last step before appeal to Federal Court, and all decisions taken with respect to specific objections or appeals are confidential taxpayer information and protected under section 241 of the <i>Income Tax Act</i> . Taxpayer information held by the CRA is considered confidential until it is released publicly by the court.

7. Criminal and administrative sanctions

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
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59	Proportionality and <i>ne bis in idem</i> should apply to tax penalties.		<input type="radio"/>	<input type="radio"/>	The Canada Revenue Agency (CRA) imposes penalties according to the provisions of the <i>Income Tax Act</i> or <i>Excise Tax Act</i> as applicable. There is no prohibition in the law against applying both civil and criminal penalties. Under the <i>Income Tax Act</i> , it is possible that a penalty under subsection 163(1) (applied to taxpayers who failed to report income of \$500 or more on their income tax return) is applicable to a particular amount, while a penalty under subsection 163(2) (applied to taxpayers who made false statements or omissions on their income tax return) is applicable to another amount in the same tax year. However, the CRA indicates that both subsections cannot be applied to the same amount.
60		Where administrative and criminal sanctions may both apply, only one procedure and one sanction should be applied.	<input type="radio"/>	<input type="radio"/>	
61		Voluntary disclosure should lead to reduction of penalties.	<input type="radio"/>	<input type="radio"/>	<p>The Canada Revenue Agency (CRA) has a Voluntary Disclosure Program (VDP) to support a taxpayer's ability to self-report and self-correct any lapse in compliance with the Canadian income tax system.</p> <p>For a disclosure to be valid, it must be: voluntary; complete; involve the application or potential application of a penalty; include information that is at least one year past due; and include the payment of the estimated taxes owing. If the taxpayer is aware of, or has knowledge of an enforcement action(s) against themselves or a person associated or related to them, or the CRA already has knowledge of the information regarding the non-compliance, the request cannot be "voluntary". For a "complete" disclosure, the taxpayer must provide full information for all of the relevant tax years for which there was previously inaccurate or unreported information.</p> <p>As of March 1, 2018, the VDP introduced two new tracks, the Limited Program and the General Program. For the most part, taxpayers accepted under the VDP are placed in the General Program track. In this track, taxpayers are not charged penalties and are not referred for criminal prosecution related to the disclosure. The CRA will also provide partial interest relief for years preceding the three most recent years of income tax returns needed to be filed. Generally, this interest relief will be 50% of the applicable interest for those periods. Full interest charges will be assessed for the three most recent years of income tax returns required to be filed.</p> <p>The Limited Program track is different and applies to those situations where the facts suggest an element of intentional conduct by the taxpayer or a closely related party. As such, while the taxpayer will not be referred for criminal prosecution related to the disclosure and will not be charged a gross negligence penalty, they will be charged other penalties and interest as applicable.</p>
62	Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures.		<input type="radio"/>	<input type="radio"/>	

8. Enforcement of taxes

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
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63	Collection of taxes should never deprive taxpayers of their minimum necessary for living.		<input type="radio"/>	<input type="radio"/>	<p>Taxpayers in collection status with the Canada Revenue Agency (CRA) are provided the opportunity to report their income and expenses to the CRA on a financial questionnaire in an effort to identify a mutually agreeable payment arrangement to resolve their tax debt. The questionnaire includes information on: the essential nature of the taxpayer's expenses; whether the arrangement will put the taxpayer into financial hardship; allows for reasonable expenses and costs for that taxpayer's circumstances; asks taxpayers to restructure their finances to meet the payment expectations of the CRA; and ensures the taxpayer prioritizes their CRA debt over such things as loan payments on second vehicles and vacations.</p> <p>The CRA has the power to enforce the collection of debts through legal actions, such as statutory set-offs (using money owed to a taxpayer by any federal department or agency to apply to the taxpayer's debt), garnishment of wages, certifying a debt with the Federal or Provincial Court (which has the same force and effect as a court judgment and renders the debt a matter of public record which can be attached to an asset), seizing and selling assets, and holding another party jointly and severally responsible for the debt. The Taxpayers' Ombudsman regularly receives complaints from taxpayers involved in the collections process, regarding the fairness of this process. Research into the collections process indicates that in most cases, the CRA provides taxpayers with legal warning, when required, prior to taking legal action to collect a debt. However, there is a lack of understanding by taxpayers about the consequences. In the upcoming Taxpayers' Ombudsman's report, titled "Fair Warning", which will be available on our website in March 2019, (https://www.canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports.html), it was found the CRA does not offer legal warnings if risk of non-payment is deemed too high and it may choose to take legal action without first providing legal warning.</p> <p>The Taxpayers' Ombudsman also continues to hear of taxpayers stating they have to declare bankruptcy as a result of their debts with the CRA. While it is generally the practice of the CRA to enter into payment arrangements with taxpayers based on their ability to pay while meeting the CRA's criteria for a binding payment arrangement, the CRA does not have to accept a payment arrangement, and this option may not always be offered to taxpayers. There is no specific law or policy requiring the use of a payment arrangement.</p>
64		Authorisation by the judiciary should be required before seizing assets or bank accounts	<input type="radio"/>	<input type="radio"/>	<p>The Canada Revenue Agency (CRA) has the authority to take some legal collections actions, such as set-off and garnishment, without authorization by the judiciary, after providing notice to taxpayers through what is called a legal warning. A legal warning is a statement, given either in writing or verbally, that advises the taxpayer the CRA can take legal action if the amount is not paid in full or if a binding payment arrangement is not made with the CRA. Complaints received by the Taxpayers' Ombudsman indicate that taxpayers may not be fully aware that a legal warning is being issued to them, nor of the consequences.</p> <p>Legal warnings may not be given to taxpayers in all circumstances. For example, if the risk of non payment is deemed to be too high, the CRA may choose to proceed with legal actions and take debt collection actions immediately.</p>
65	Taxpayers should have the right to request delayed payment of arrears.		<input type="radio"/>	<input type="radio"/>	<p>The Canada Revenue Agency (CRA) allows taxpayers to enter into payment arrangements to facilitate the payment of a tax debt in a more manageable manner. This arrangement must meet parameters set out by the CRA, but it does take into consideration a taxpayer's financial circumstances. The CRA does not have to accept a payment arrangement, and this option may not always be offered to taxpayers. There is no specific law or policy requiring the use of a payment arrangement.</p> <p>The CRA's Information Circular IC98-1R7, Tax Collections Policies (January 20, 2017, https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic98-1r7/tax-collections-policies.html), indicates that if a taxpayer cannot make a payment on their debt due to circumstances beyond their control, the CRA may allow the taxpayer to postpone payment until their financial situation improves. However, during that time, any interest and penalties that apply will continue to accrue on the debt.</p>
66		Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment.	<input type="radio"/>	<input type="radio"/>	

67	Temporary suspension of tax enforcement should follow natural disasters.			○	○	<p>The Canada Revenue Agency (CRA) regularly invokes its Taxpayer Relief Provisions in cases of natural disaster, such as flood or fire. In such cases, the Minister of National Revenue has the authority, under the <i>Income Tax Act</i>, to grant taxpayers relief from penalties and/or interest; accept certain late, amended or revoked income tax elections; and in certain cases, refund or reduce the amount payable beyond the normal three-year period.</p> <p>After a 2017 examination of the Taxpayer Relief Program by the Taxpayers' Ombudsman, and subsequent publication of a systemic examination report, titled Without Delay (https://www.canada.ca/en/taxpayers-ombudsman/programs/reports-publications/special-reports/without-delay.html), the CRA implemented a 180 calendar day processing standard for taxpayer requests for relief, to be met 85% of the time.</p> <p>It is our understanding, based on anecdotal information, that the CRA can also suspend collection actions for individuals residing in areas affected by natural disasters. However, this is not confirmed in the information publicly available on CRA's website.</p>
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9. Cross-border procedures

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
68	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.	The taxpayer should be informed that a cross-border request for information is to be made.	○	○	
69		Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer.	○	○	
70		Provisions should be included in tax treaties setting specific conditions for exchange of information.	○	○	
71	If information is sought from third parties, judicial authorisation should be necessary.		○	○	
72		The taxpayer should be given access to information received by the requesting state.	○	○	
73		Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information.	○	○	
74		A requesting state should provide confirmation of confidentiality to the requested state.	○	○	
75	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.		○	○	
76		For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights.	○	○	
77		Taxpayers should have a right to request initiation of mutual agreement procedure.	○	○	
78	Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to progress of the procedure.		○	○	

10. Legislation

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
79	Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail.	Retrospective tax legislation should ideally be banned completely.	○	○	

80		Public consultation should precede the making of tax policy and tax law.	<input type="radio"/>	<input type="radio"/>	
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11. Revenue practice and guidance

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
81	Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance.		<input type="radio"/>	<input type="radio"/>	<p>According to the <i>Taxpayer Bill of Rights</i>, Article 6, taxpayers "have the right to complete, accurate, clear, and timely information." The Canada Revenue Agency (CRA) publishes many forms, guides, pamphlets, information circulars and interpretation bulletins to assist taxpayers in complying with their tax obligations. In Canada, all legislation is available on the website of the Department of Justice.</p> <p>Not all CRA manuals are available to the public. The CRA maintains a forms website where the public can search for and select publications which can be ordered online through the website or by phone. Taxpayers are encouraged to contact the CRA to request the relevant form or publication through its website (https://www.canada.ca/en/revenue-agency/services/forms-publications.html).</p> <p>The CRA also provides income tax technical interpretations (Technical Interpretations), advance income tax rulings (Rulings), and consultations in advance of a Ruling request (Pre-ruling Consultations). A Technical Interpretation is generic in nature and provides the CRA's interpretation of specific provisions of Canadian income tax law; however, it may not extend to all situations and is not determinative of the tax treatment of a specific taxpayer's situation. No fee is charged for a Technical Interpretation. A Ruling is a written statement confirming how the CRA's interpretation of specific provisions of Canadian income tax law applies to a definite transaction or transactions that a taxpayer is contemplating. Rulings are generally requested by tax professionals on behalf of their clients. A fee is charged for a Ruling (\$100 plus applicable tax for each of the first 10 hours, or part of an hour, and \$155 for each hour, or part of an hour, thereafter). Some Rulings are distributed through various publishers of tax information (some information is severed or anonymized to protect the identity/confidentiality of the taxpayer).</p>
82	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.		<input type="radio"/>	<input type="radio"/>	Taxpayers can call the Canada Revenue Agency (CRA) to request a printed copy of any material published by the CRA be mailed to them or place an order through the online ordering system for a printed copy of the material to be delivered to them. Alternate formats of forms and publications are also available in braille, e-text, large print, or MP3 format. E-text, or electronic text documents, are text files for individuals with visual impairments to receive instruction on how to complete a specific form. As the CRA does not publish court decisions, they do not provide printed copies of such legal materials.
83	Binding rulings should only be published in an anonymised form		<input type="radio"/>	<input type="radio"/>	
84	Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively.		<input type="radio"/>	<input type="radio"/>	<p>Tax assessments are subject to reassessment if they are found to contain inaccuracies according to the parameters laid out in the Income Tax Act, regardless of the source of the error, and the resulting taxes owed as a result of a reassessment are payable by the taxpayer. This applies both prospectively and retroactively. The CRA will consider waiving or cancelling penalties and/or interest, in some situations, in accordance with the Taxpayer Relief Provisions (Information Circular IC07-1R1, Taxpayer Relief Provisions, paragraph 26, https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/ic07-1r1/taxpayer-relief-provisions-1r1.html), when penalties and/or interest result mainly because of: actions of the CRA, such as errors in CRA material which led a taxpayer to file an income tax return or make a payment based on incorrect information; incorrect information provided to a taxpayer by the CRA; errors in processing; or delays in providing information, resulting in taxpayers not being able to meet their tax obligations in a timely manner.</p> <p>Income tax rulings issued by the CRA are binding with respect to the specific situation which is considered in the ruling, to the extent there is no material omission or misrepresentation of the relevant facts or the proposed transaction by the taxpayer. CRA is not bound to a ruling if any supplemental information provided by the taxpayer or their representative after the ruling was issued results in a change. If legislation is amended after a ruling is issued, and the ruling ceases to be supported by legislation due to the amendment(s), the CRA is no longer bound by the ruling, on the effective date of the amendment(s).</p>

12. Institutional framework for protecting taxpayer's rights

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
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85	Adoption of a charter or statement of taxpayers' rights should be a minimum standard.	A separate statement of taxpayers' rights under audit should be provided to taxpayers who are audited.	○	○	<p>The <i>Taxpayer Bill of Rights</i> (TBR) was introduced by the Canada Revenue Agency (CRA) in 2007. It defined 15 administrative and service rights and described the treatment taxpayers are entitled to when dealing with the CRA. It also set out the CRA's commitment to small business. In 2013, a sixteenth right was added on the request of the Taxpayers' Ombudsman, to protect taxpayers' right to lodge a service complaint and request a formal review without fear of reprisal. The Taxpayers' Ombudsman is responsible for upholding eight of the sixteen rights in the TBR, being the rights deemed to be specifically related to service.</p> <p>There is no separate statement of taxpayers' rights under audit. The rights outlined in the TBR apply to taxpayers with respect to all of their interactions with the CRA, including audit. The CRA does not provide taxpayers with a statement of their rights during an audit. The Taxpayers' Ombudsman is currently conducting a systemic examination whether and how the CRA integrates the rights outlined in the TBR as the foundation of its daily activities, as well as its accountability to report against upholding these rights.</p> <p>The TBR is not legislated. There is no specified repercussion, recourse or remedy if the rights in the TBR are not respected, other than:</p> <ul style="list-style-type: none"> - filing a service complaint with the CRA - filing a service complaint with the Taxpayers' Ombudsman - filing a complaint with the Privacy Commissioner regarding breach of privacy or confidentiality - filing a complaint with the Information Commissioner regarding a problem with obtaining information - filing a complaint with the Commissioner for Official Languages regarding the failure of the CRA to provide service in one's official language of choice.
86		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.	○	○	<p>Order in Council P.C. 2007-0828 (https://www.canada.ca/en/taxpayers-ombudsman/corporate/about-us/order-council.html) created the position of Taxpayers' Ombudsman in Canada and outlines the mandate, limitations, and accountability of the Taxpayers' Ombudsman. The Taxpayers' Ombudsman reports directly to the Minister of National Revenue (an elected official responsible for the Canada Revenue Agency (CRA)), issues an annual report tabled in the Parliament of Canada, examines complaints about the CRA's service, and makes recommendations to the Minister of National Revenue on the corrective actions needed to improve the services delivered to taxpayers by the CRA. The Taxpayers' Ombudsman is responsible for upholding eight of the sixteen rights in the <i>Taxpayer Bill of Rights</i> (TBR), being the rights deemed to be specifically related to service.</p> <p>The Taxpayers' Ombudsman, being an objective third party, is neither an advocate for taxpayers nor a defender of the CRA. The Taxpayers' Ombudsman assists in levelling the imbalance of power between the individual taxpayer or benefit recipient and the CRA. The Taxpayers' Ombudsman operates under the following guiding principles: independence, objectivity, fairness, and confidentiality. The Taxpayers' Ombudsman makes decisions on how service-related issues should be resolved; however, those decisions and any recommendations are not binding upon the CRA.</p> <p>The Order in Council does not permit the Taxpayers' Ombudsman to review:</p> <ul style="list-style-type: none"> - the provision of an administrative interpretation by the CRA of a provision set out in the program legislation; - any decision of, proceeding in, or matter before a court; - legal advice provided to the Government of Canada; and - confidences of the Queen's Privy Council for Canada.

87		The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally.	○ ●	<p>The Taxpayers' Ombudsman is mandated to address service-related issues with the Canada Revenue Agency (CRA). Eight of the rights in the <i>Taxpayer Bill of Rights</i> (TBR) are specifically named in the mandate of the Taxpayers' Ombudsman. The work of the Office of the Taxpayers' Ombudsman (OTO) is centralized in Ottawa, Ontario, Canada but services are available to anyone who interacts with the CRA. Part of the mandate of the Taxpayers' Ombudsman is to raise awareness of the role of the Taxpayers' Ombudsman and that of the OTO. Therefore, the OTO conducts outreach activities across Canada, reaching out to taxpayers, tax professionals, vulnerable populations, community support organizations, and employees and management within the regional and headquarter offices of the CRA, to raise awareness and to learn about service issues being experienced by these stakeholders. In doing so, the OTO is able to identify trends in CRA service issues affecting taxpayers across the country.</p> <p>For the taxpayer right relating to confidentiality, there is a federal Privacy Commissioner as well as Privacy Commissioners at the provincial and territorial levels. For the taxpayer right relating to access to information, there is a federal Information Commissioner as well as Information Commissioners at the provincial and territorial levels. For the taxpayer right relating to service in both official languages, there is a federal Commissioner of Official Languages and two provinces have similar positions.</p> <p>In Canada, there are two levels of income or revenue taxes: federal and provincial/territorial. In all cases, except for the province of Québec, the CRA administers both the federal and the provincial/territorial taxes. In the province of Québec, Revenu Québec administers the provincial income or revenue taxes. The <i>Taxpayer Bill of Rights</i> applies to all interactions with the CRA. Revenu Québec also has the Charter of Taxpayers' and Mandataries' Rights (not legislated). In Québec, the Bureau de la protection des droits de la clientèle (within Revenu Québec) deals with complaints by taxpayers about Revenu Québec. The mandate of the Protecteur du Citoyen (the ombudsman for the province of Québec) includes handling complaints about Revenu Québec.</p>
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