



Observatory for the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by or with the contribution of the National Reporter of China, Mr. Zhiyong Zhang, a representative from the Tax Administration.

This questionnaire comprises the National Reporter assessment on the level of compliance of the minimum standards and best practices on the practical protection of taxpayers' rights identified by Prof. Dr. Pistone and Prof. Dr. Philip Baker at the 2015 IFA Congress on "*The Practical Protection of Taxpayers' Rights*". This report was filled in considering the following parameters:

1. It contains information on those issues in which there were movements towards or away from the level of compliance of the relevant standard/best practice in China between 2015 and 2017.
2. It is indicated, by the use of a checkmark () whether there were movements towards or away from of the level of compliance of the relevant standard/best practice in China between 2015 and 2017.

It contains a summarized account on facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices) that serves as grounds for each particular assessment of the level of compliance of a given minimum standard / best practice, in a non-judgmental way.

附件 2

Country: China

| Minimum Standard | Best Practice | Improve | Decrease | Development |
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| 1. Identifying taxpayers, issuing tax returns and communicating with taxpayers | | | | |
| Implement safeguards to prevent impersonation when issuing unique identification numbers | | | | <p>在发布唯一的纳税人标识号时，可隐藏识别号部分位数，纳税人识别号无法被模仿。</p> <p>Certain digits could be concealed when a unique taxpayer identification number is issued. Taxpayer identification number cannot be copied.</p> <p>我国情况符合最低标准</p> <p>China complied with the minimum standard.</p> |
| The system of taxpayer identification should take account of religious sensitivities | | | | <p>纳税人识别系统不涉及宗教敏感性问题。</p> <p>The system of taxpayer identification does not involve religion sensitive information.</p> <p>我国情况符合最低标准</p> <p>China complied with the minimum standard.</p> |
| Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes | Where tax is withheld by third parties, the taxpayer should be excluded from liability if the third party fails to pay over the tax | | | <p>"税收征管法第 8 条规定：纳税人、扣缴义务人有权要求税务机关为纳税人、扣缴义务人的情况保密。税务机关应当依法为纳税人、扣缴义务人的情况保密。</p> <p>《纳税人涉税保密信息管理暂行办法》（国税发[2008]93 号）细化了具体要求。目前税务总局通过备忘录等合作的形式从第三方收集信息时，均会在合作协议中写明双方不得对外发布，不得以任何方式向第三方泄露，不得用于商业目的。"</p> <p>Article 8 of the Tax Administration and Collection Law of the People's Republic of China stipulates that "Taxpayers and withholding agents have the rights to require tax authorities to keep all related information confidential. Tax authorities shall keep the information of taxpayers and withholding agents confidential in accordance with the law."</p> <p>The "Interim Administrative Measures of Taxpayers' Confidential Information" (issued by the SAT, Guo Shui Fa [2008] No.93) provides specific requirements on the aforesaid provision. In current practice, when China State Administration of Taxation (SAT) obtains information from a third party through cooperation agreement where China is a contracting party, e.g. a memorandum, it would be clearly stated in that agreement that neither party shall release the information to any other party in any manner, and the information shall not be used for commercial purposes.</p> <p>我国情况符合最低标准及最佳实践。</p> <p>China complied with the minimum standard and adopted the best practice.</p> |
| Where pre-populated returns are used, these should be sent to taxpayers to | | | | <p>我国无相关情况。</p> <p>Not applicable to China.</p> |

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| correct errors | | | | |
| Provide a right of access for taxpayers to personal information held about them, and a right to apply to correct inaccuracies | Publish guidance on taxpayers' rights to access information and correct inaccuracies | | | <p>在信息采集等环节，提供免填单服务，将纳税人信息提供给纳税人并允许修改。During tax authorities' information collection process, taxpayers will be provided with pre-input information form, ; modification to the information is allowed.</p> <p>我国情况符合最低标准及最佳实践。 China complied with the minimum standard and adopted the best practice.</p> |
| Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception | | | | <p>总局已发网上办税开发技术要求，具体执行情况根据各省市规定，纳税人登录网上申报系统需 CA（Certificate authority）认证，以保证信息保密。 Requirements on the development of online tax service were published by the State Administration of Taxation, and local practice in different locations are subject to respective local implementation rules. Certificate Authority is required when taxpayers login to the online filing system, to ensure confidentiality.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| Where a system of “cooperative compliance” operates, ensure it is available on a non-discriminatory and voluntary basis | | | | <p>与纳税信用好的大企业签订《税收遵从合作备忘录》，我国情况符合最低标准。 China tax authorities enter into “Memorandum on Tax Cooperative Compliance” with the big enterprises with clean records, China complied with the minimum standard.</p> |
| 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>我国税务部门近年来连续开展“便民办税春风行动”，为纳税人办税提供便利。推行网上办税为主，自助办税和其他社会办税为辅、实体办税服务厅兜底的办税模式，满足不同群体纳税人办税需要。</p> <p>China tax authorities have been launching a series of campaigns under the “Spring Action” to enhance services to taxpayers to facilitate tax compliance. The campaigns includes promoting online tax compliance, accompanied by self-service tax compliance scheme and other local community tax compliance schemes. Together with tax counter services at local tax bureaus, China tax authorities has satisfied the needs of different groups of taxpayers on tax compliance.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| 2. The issue of tax assessment | | | | |
| | Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on equality of arms | | | <p>税务总局先后颁布了《纳税评估管理办法》、《国家税务总局关于加强税收风险管理工作的意见》以及《国家税务总局关于进一步加强税收风险管理工作的通知》等规章制度，对税务部门开展风险管理以及评估的流程、内容、工作形式等都做了严格规范，保障纳税人和税务部门之间建立建设性对话。</p> <p>The SAT promulgated several protocols including the “Administrative Measures on Tax Assessment”, “Opinions of the SAT on Strengthening Tax Risk Management”, and “Notice on Further Strengthening Tax Risk Management” etc., to strictly regulate the working</p> |

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| | | | | <p>process and content on tax risk management and assessment for tax authorities, to ensure a constructive dialogue between taxpayers and tax authorities.</p> <p>我国情况符合最佳实践。 China adopted the best practice.</p> |
| Minimum Standard | Best Practice | Improve | Decrease | Development |
| 2. The issue of tax assessment (cont) | | | | |
| | Use e-filing to speed up assessments and correction of errors, particularly systematic errors | 是 | | <p>税务总局上线金税三期后，各级税务机关利用该系统汇集纳税人申报信息，进行风险管理工作，及时纠正纳税人申报错误。</p> <p>After the launch of “Golden Tax Project - Phase III”, the newly upgraded digitalized tax administrative system, China tax authorities at all levels are able to collect tax filing information from taxpayers via the online system, to carry out risk management and advise taxpayers of any filing/reporting errors in a timely manner.</p> <p>我国情况符合最佳实践。 China adopted the best practice.</p> |
| 3. Confidentiality | | | | |
| 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>行政机关公务员处分条例、刑法、国家赔偿法等法律法规有规定。</p> <p>Regulated under several laws and regulations, including the Punishment Ordinance for Civil Servants, the Criminal Law and the State Compensation Law etc.</p> <p>我国符合最低标准及最佳实践。 China complied with the minimum standard and adopted the best practice.</p> |
| 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 | | | <p>目前税务总局进一步加强数据安全，从严执行计算机授权、密码准入、双重验证规则，做好数据权限配置、数据安全审计、数据痕迹化处理等工作，制定严格规范、有效可行的数据安全管控措施，切实提升数据安全保障水平。</p> <p>The SAT has been strengthening its data security management through the strict implementation of protocols of computer authorization, password accessing, double verification requirement, data permission configuration, data security audit and data traces processing etc., with an aim to formulate strict and effective measures on monitoring data security and elevate the data security standard.</p> |
| Audit data access periodically to identify cases of unauthorised access | | | | <p>目前为保障税务总局数据访问安全，所有用户登录总局决策支持平台均需要先登录堡垒机，用户登录后的所有操作被如实记录；同时定期对数据库操作日志进行安全检查以及发现异常数据操作并进行责任追究。</p> |

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| | | | | <p>To ensure data security, all users must login to bastion host before they can login to any decision-supporting platforms of the State Tax Administration of Taxation. Trail of commands would be recorded after login. Security check on the database operation log is performed regularly, any unusual operation can be identified.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| Introduce administrative measures emphasising confidentiality to tax officials | Appoint data protection/privacy officers at senior level and local tax offices | | | <p>在税务系统组织的各项培训中均将保密工作作为培训内容之一，全方位提升各级税务干部的保密知识水平和保密意识。另一方面，征管法第八条明确规定：税务机关应当依法为纳税人、扣缴义务人情况保密。税务机关有专门人员负责保密工作。</p> <p>Confidentiality is included across the broad trainings offered in the tax administration system to enhance the knowledge and awareness of confidentiality of tax officials at all levels. Besides, Article 8 of the Law of Tax Administration and Collection of the People's Republic of China stipulates that the tax authorities shall keep information of the taxpayers and withholding agents confidential. There are designed personnel in the tax authorities responsible for confidentiality.</p> <p>我国情况符合最低标准及最佳实践。 China complied with the minimum standard and adopted the best practice.</p> |
| If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges) | | | | <p>在税务系统内部，如发生失泄密案件，根据失泄密文件的密级以及所造成的影响程度，由相关保密管理机构查出。</p> <p>If there is breach of confidential information within the tax administration system, relevant organization responsible for confidentiality management will conduct investigation with reference to the level of confidentially involved and severity of the breach.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| Introduce an offence for tax officials covering up unauthorised disclosure of confidential information | | | | <p>为起到警示教育作用，税务系统按要求在一定范围内披露失泄密违法违纪行为，提高税务系统领导干部的保密意识，时刻敲响警钟。</p> <p>As a deterrent, it is required in the tax administration system to disclose the breach of confidential information as violation of the code of conduct under certain circumstances, to enhance awareness of confidentiality of the tax officials in all circumstances.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| Provide remedies for taxpayers who are victims of unauthorised disclosure of confidential information | | | | <p>《中华人民共和国税收征收管理法》第八条规定，纳税人、扣缴义务人对税务机关所作出的决定，享有陈述权、申辩权；依法享有申请行政复议、提起行政诉讼、请求国家赔偿等权利。第三十九、四十三、七十八还规定了集中税务机关赔偿的情</p> |

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| | | | | <p>形。 但没有专门针对信息泄露补偿救济的规定。</p> <p>Article 8 of the Law of Tax Administration and Collection of the People's Republic of China stipulates that taxpayers and withholding agents shall enjoy the right of audience and the right to petition regarding the decisions made by the tax authorities, and also the right to apply for administrative appeal, litigation and request for compensation from the State. Article 39, 43 and 78 also address when compensation from the tax authorities is applicable. There are however no specific rules on the provision of remedies for unauthorised disclosure of confidential information.</p> |
| Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted | | | | <p>《中华人民共和国税收征收管理法》第八条规定，税务机关应当依法为纳税人、扣缴义务人的情况保密。第八十七条规定，未按照本法规定为纳税人、扣缴义务人、检举人保密的，对直接负责的主管人员和其他直接责任人员，由所在单位或者有关单位依法给予行政处分。</p> <p>Article 8 of the Law of Tax Administration and Collection of the People's Republic of China stipulates that tax authorities shall keep the information of all taxpayers and withholding agents confidential. Article 87 stipulates that if any information relating to a taxpayer, withholding agent or informant is not kept confidential in accordance with the provisions of the Law, the immediate person-in-charge and other immediate personnels shall be penalized by their authority or other relevant authorities.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| If “naming and shaming” is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer) | Require judicial authorisation before any disclosure of confidential information by revenue authorities | | | <p>《国家税务总局关于印发<纳税人涉税保密信息管理暂行办法>的通知》（国税发〔2008〕93号）等规定，除法院、检察院、公安、审计机构提出合法的纳税人数据需求，税务机关一概为纳税人信息保密。</p> <p>According to Interim Administrative Measures of Tax Confidential Information of Taxpayers (Issued by the SAT, Guo Shui Fa [2008] No.93), unless requested by a Court, a Procuratorate, a Public Security authority, or an National Audit Department, tax authorities shall not disclose the tax information of the taxpayers.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| 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 | | | <p>《国家税务总局关于印发<纳税人涉税保密信息管理暂行办法>的通知》（国税发〔2008〕93号）等规定，除法院、检察院、公安、审计机构提出合法的纳税人数据需求，税务机关一概为纳税人信息保密。</p> <p>According to Interim Administrative Measures of Tax Confidential Information of Taxpayers (Issued by the SAT, Guo Shui Fa [2008] No.93), unless requested by a Court, a Procuratorate, a Public Security authority, or an National Audit Department, tax authorities shall not disclose the tax information of the taxpayers.</p> |

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| Minimum Standard | Best Practice | Improve | Decrease | Development |
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| 3. Confidentiality (cont). | | | | |
| 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 | | | | <p>《国家税务总局关于印发<纳税人涉税保密信息管理暂行办法>的通知》（国税发〔2008〕93号）等规定，除法院、检察院、公安、审计机构提出合法的纳税人数据需求，税务机关一概为纳税人信息保密。 According to Interim Administrative Measures of Tax Confidential Information of Taxpayers (Issued by the SAT, Guo Shui Fa [2008] No.93), unless requested by a Court, a Procuratorate, a Public Security authority, or an National Audit Department, tax authorities shall not disclose the tax information of the taxpayers.</p> <p>我国情况符合最低标准。 China complied with the minimum standard.</p> |
| 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 | | | <p>我国没有公开税前裁定的情况和制度，此条不适用于我国。 Not applicable to China because China does not have the mechanism to publish tax rulings.</p> |
| 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 | | | <p>我国律师法、会计师法有相关规定。 对税务顾问业务我们目前没有专门规定。 Relevant requirements are available in the Laws on Attorneys and Certified Public Accountants. There are no specific requirements for tax advisors.</p> |
| Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege | | | | <p>我国目前无相关规定。 China has no specific rules on this.</p> |
| 4. Normal audits. | | | | |
| Audits should respect the following principles: | | | | <p>根据《国家税务总局关于进一步规范和改进税收执法工作的通知》（税总发〔2017〕107号）的规定，税务机关需要事前明责晰权，规范执法，减轻纳税人负</p> |

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| <p>(1) Proportionality (2) <i>Ne bis in idem</i> (prohibition on 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</p> | | | | <p>担，完善执法程序，规范裁量权，强化执法监督，维护纳税人合法权益。我国情况符合最低标准。</p> <p>According to SAT Announcement of Regulating and Improving Tax Enforcement (Shui Zong Fa [2017] No. 107), tax authorities shall clarify their duty and enforcement applicable range, standardise the enforcement protocol, alleviate the burden of taxpayers, improve enforcement procedures, standardize the discretionary power, strengthen enforcement supervision, and protect lawful rights and interests of the taxpayers.</p> <p>China complied with the minimum standard.</p> |
| <p>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</p> | | | | <p>根据《国家税务总局关于进一步规范和改进税收执法工作的通知》（税总发〔2017〕107号）第二点第（一）项的规定，对进户执法事项统筹安排、统一管理、尽可能合并进户执法任务，实行一次进户、统一实施、结果共享。我国情况符合最低标准。</p> <p>According to Article 2(1) of the SAT Announcement on Regulating and Improving Tax Enforcement (Shui Zong Fa [2017] No. 107), tax authorities shall plan and unify their administrations on tax enforcements for the same targets, shall take the effort to jointly conduct tax enforcement and administration through a single visit and shall share outcomes.</p> <p>China complied with the minimum standard.</p> |

| Minimum Standard | Best Practice | Improve | Decrease | Development |
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| 4. Normal audits (cont). | | | | |
| | <p>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</p> | | | <p>根据《推进税务稽查随机抽查实施方案》（税总发〔2015〕104号）第二点第（五）项规定，3年内已被随机抽查的税务稽查对象，不列入随机抽查范围。我国情况符合最佳实践。</p> <p>According to Article 2(5) of the Implementation Measures for Promoting Random Check of Tax Audits (Shui Zong Fa [2015] No. 104), any tax audit targets has been randomly selected within the past 3 years shall not be included in the random sampling pool.</p> <p>China adopted the best practice.</p> |
| <p>In application of <i>audi alteram partem</i>,</p> | | | | <p>根据《税务稽查工作规程》（国税发〔2009〕157号）第四十一条规定，检查结束</p> |

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| <p>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</p> | | | <p>前，检查人员可以将发现的税收违法事实和依据告知被查对象；必要时，可以向被查对象发出《税务事项通知书》，要求其在限期内书面说明，并提供有关资料；被查对象口头说明的，检查人员应当制作笔录，由当事人签章。第五十一条规定，拟对被查对象或其他涉税当事人作出税务行政处罚的，向其送达《税务行政处罚事项告知书》，告知其依法享有陈述、申辩及要求听证的权利。</p> <p>我国情况符合最低标准。</p> <p>According to Article 41 of the Operating Procedures for Tax Audits (Guo Shui Fa [2009] No. 157), before the completion of a tax audit, the tax inspectors may notify the taxpayer under the tax audit of the identified violation facts with supporting evidence; where necessary, the tax inspectors may issue a Notice of Tax Matters to the taxpayer requiring the taxpayer to provide written explanation and relevant supporting documents within a specified timeline; if the taxpayer makes an oral explanation, the tax inspectors may take notes which shall be signed by the taxpayer. According to Article 51, if a penalties is to be imposed to the taxpayer or any other involved parties, a Notice of Tax Administrative Penalty shall be delivered to inform the taxpayer the right to state their views, to defend and to request a hearing according to law .</p> <p>China complied with the minimum standard.</p> |
| <p>In application of <i>nemo tenetur</i>, the right to remain silent should be respected in tax audits.</p> | | | <p>根据《征管法》第五十六条规定，纳税人、扣缴义务人必须接受税务机关依法进行的税务检查，如实反映情况，提供有关资料，不得拒绝、隐瞒。</p> <p>我国情况不符合最低标准。</p> <p>According to Article 56 of Law of Tax Administration and Collection of the People's Republic of China, a taxpayer or withholding agent must accept the tax audit conducted by the tax authorities, report the actual circumstances and provide relevant information, and shall not refuse to cooperate or conceal any facts.</p> <p>China is to comply with the minimum standard.</p> |
| | <p>Tax audits should follow a pattern that is set out in published guidelines</p> | | <p>《税务稽查工作规程》（国税发〔2009〕157号）</p> <p>我国情况符合最佳实践。</p> <p>Please refer to the Operating Protocols for Tax Audits (Guo Shui Fa [2009] No. 157). China adopted the best practice.</p> |
| | <p>A manual of good practice in tax audits should be established at the global level</p> | | <p>《税务稽查工作规程》（国税发〔2009〕157号）</p> <p>我国情况符合最佳实践。</p> <p>Please refer to the Operating Procedures for Tax Audits (Guo Shui Fa [2009] No. 157). China adopted the best practice.</p> |

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| | Taxpayers should be entitled to request the start of a tax audit (to obtain finality) | | | 我国目前无纳税人要求税务机关税务审计的相关情况。 Currently China tax authorities have not been requested by the taxpayers for a tax audit. |
| 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 | | | 根据《征管法》第五十九条规定，进行检查时，应当出示税务检查证和税务检查通知书；根据《税务稽查工作规程》（国税发〔2009〕157号）第二十二条规定，检查前，应当告知被查对象检查时间、需要准备的资料等，但预先通知有碍检查的除外。 According to Article 59 of the Law on Tax Administration and Collection, relevant tax audit permit and tax audit notice should be shown during inspection; according to Article 22 of the Operating Protocols for Tax Audits (GuoShuiFa [2009] No. 157), prior to the commencement of a tax audit, taxpayers subject to inspection should be informed of the estimated timing and information required for the audit, except for situations where an advance notification would compromise the audit. |
| Taxpayers should be informed of information gathering from third parties | | | | 根据《税收违法检举管理办法》（国家税务总局第24号令）第三十条第（二）项规定，严禁将检举情况透露给被检举人及与案件查处无关的人员，除此之外的第三方信息，符合规定情况下可以告知纳税人。 我国情况符合最低标准。 According to Article 30(2) of the Administrative Measures for the Reporting of Tax Violations (SAT Order No. 24), it is strictly prohibited to disclose situations of reported case to the person being reported or any other irrelevant person. Third-party information other than this can be disclosed to taxpayers under circumstances that are in compliance with regulations. China complied with the minimum standard. |
| | Reasonable time limits should be fixed for the conduct of audits | | | 根据《税务稽查工作规程》（国税发〔2009〕157号）第二十二条第四款规定，检查应当自实施检查之日起60日内完成，确需延长检查时间的，应当经稽查局局长批准。我国情况符合最佳实践。 According to Article 22(4) of the Operating Procedures for Tax Audit (GuoShuiFa [2009] No.157), an tax audit should be completed within 60 days from the starting date. Extension has to be approved by the Commissioner of the Tax Audit Department. China adopted the best practice. |
| Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer | | | | 我国相关情况比较少。 Relatively not common in China. |
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| 4. Normal audits (cont). | | | | |
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| <p>The completion of a tax audit should be accurately reflected in a document, notified in its full text to the taxpayer</p> | <p>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</p> | | | <p>根据《税务稽查工作规程》（国税发〔2009〕157号）第五十二条规定，对被查对象或者其他涉税当事人的陈述、申辩意见，审理人员应当认真对待，提出判断意见。对当事人口头陈述、申辩意见，审理人员应当制作《陈述申辩笔录》，如实记录，由陈述人、申辩人签章。根据《税务稽查工作规程》第五十四条规定，审理完毕应当制作《税务稽查审理报告》，其中应当包括被查对象或者其他涉税当事人的陈述、申辩情况。 我国情况符合最低标准和最佳实践。</p> <p>According to Article 52 of the Operating Protocol for Tax Audit (GuoShuiFa [2009] No.157), inspectors should treat the statements and pleadings of the respondents or other correspondents seriously and make their judgement accordingly. Inspectors should make a Written Transcript of Statements and Defence to record the respondents' statements and pleadings truthfully, and arrange them to be signed by the respondents. According to Article 54 of the Operating Protocol for Tax Audit, a Tax Audit Report should be prepared after the audit to include the statements and pleadings of the respondents and other correspondents.</p> <p>China complied with the minimum standard and adopted the best practice.</p> |
| | <p>Following an audit, a report should be prepared even if the audit does not result in additional tax or refund</p> | | | <p>根据《税务稽查工作规程》（国税发〔2009〕157号）第五十五条第（四）项规定，认为没有税收违法行为的，拟制《税务稽查结论》。我国情况符合最佳实践。</p> <p>According to Article 55(4) of the Operating Protocol for Tax Audit (GuoShuiFa [2009] No. 157), a report on Conclusion of the Tax Audit should be made if there is no tax violation identified. China adopted the best practice.</p> |
| 5. More intensive audits. | | | | |
| | <p>More intensive audits should be limited to the extent strictly necessary to ensure an effective reaction to non-compliance</p> | | | <p>我国更严格的审计，均针对特定情况，有严格的程序限制。</p> <p>Stricter tax audit procedures are in place for specified circumstances.</p> |
| <p>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</p> | | | | <p>我国目前没有相关规定。</p> <p>China has no specific rules on this.</p> |
| <p>Entering premises or interception of communications should be authorised by the judiciary</p> | | | | <p>税务部门检查企业经营场所，征管法规定了程序和要求，不需要经过专门司法机构特别授权。税务部门没有侵入纳税人通讯系统的权力。</p> |

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| | | | | The Law of Tax Administration and Collection stipulates the procedures and requirements for tax authorities to examine the premises and no authorization from the judiciary is required. The tax authority does not have the power to enter into the communication system of the taxpayers. |
| Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for <i>ex post</i> ratification | | | | 我国税务部门没有相应权力。 The Chinese tax authorities exercise no power on this. |
| 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 | | | 我国税务部门没有相应权力。 The Chinese tax authorities exercise no power on this. |
| | Access to bank information should require judicial authorisation | | | 根据《征管法》第五十四条第（六）项规定，税务机关有权查询从事生产、经营的纳税人、扣缴义务人在银行或者其他金融机构的存款账户；可以查询案件嫌疑人员的储蓄存款。 不需司法机关特别授权。 According to Article 54(6) of the Law on Tax Administration and Collection, tax authorities have the power to inquire about the deposit accounts in banks or other financial institutions of the taxpayers and withholding agents; and have the authority to inquire about the saving deposits of the suspects. Authorization from the judiciary is not required. |
| | 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 | | | 我国税务部门没有相应权力。 The Chinese tax authorities exercise no power on this. |
| Minimum Standard | Best Practice | Improve | Decrease | Development |
| 5. More intensive audits (cont). | | | | |
| Seizure of documents should be subject to a requirement to give reasons why seizure is indispensable, and to fix the time when | | | | 根据《征管法实施细则》第八十六条规定，税务机关经过法定程序可以将纳税人、扣缴义务人以前会计年度的账簿、记账凭证、报表和其他有关资料调回税务机关检查，但是必须开付清单，并在3个月内完整退还；特殊情况下，可将当年账簿、记 |

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| documents will be returned; seizure should be limited in time | | | | <p>账凭证、报表和其他有关资料调回检查，但必须在 30 日内退还。不再需要司法部门专门授权。</p> <p>According to Article 86 of the Detailed Implementation Rules of the Law on Tax Administration and Collection, subject to prescribed approval, tax authorities may bring the following documents related to prior accounting years for on-desk inspection: the books of accounts, bookkeeping vouchers, reports and other related information documented in a clear list to the tax office and must be returned back to the taxpayer within 3 months; in special circumstances, may retain current year books of accounts, journal evidence, reports and other relevant materials for inspection, but such documents must be returned to the taxpayer within 30 days.</p> <p>China adopted the minimum practice.</p> |
| | 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 | | | <p>针对电子账套，我国是去拷贝纳税人电子账簿，原始账簿由纳税人留存，符合最佳实践。</p> <p>For electronic books and records, China tax authorities make a copy for information collection and leave the original books and records with the taxpayers. China adopted the best practice.</p> |
| Where invasive techniques are applied, they should be limited in time to avoid disproportionate impact on taxpayers | | | | <p>我国税务部门没有相应权力。</p> <p>The Chinese tax authorities exercise no power on this.</p> |
| 6. Review and appeals. | | | | |
| | E-filing of requests for internal review to ensure the effective and speedy handling of the review process | | | <p>可以通过书面和电子形式提起复议。依据：《中华人民共和国行政复议法实施条例》第十八条</p> <p>我国情况符合最佳实践。</p> <p>According to Article 18 of the Implementation Rules of the Administrative Appeal of the People's Republic of China, an appeal can be made in writing or in electronic form. China adopted the best practice.</p> |
| The right of appeal should not depend upon prior exhaustion of administrative reviews | | | | <p>纳税上发生争议时，必须先依照税务机关的纳税决定缴纳或者解缴税款及滞纳金或者提供相应的担保，然后可以依法申请行政复议；对行政复议决定不服的，可以依法向人民法院起诉。依据：《中华人民共和国税收征收管理法》第八十八条</p> <p>我国情况不符合最低标准。</p> <p>According to Article 88 of the Law on Tax Administration and Collection of the Peoples Republic of China, under a tax dispute, tax payment and surcharges or guarantee must first be made in accordance with the determination of the tax authorities before an administrative appeal is applied for. Taxpayer can appeal to the People's Court if he or she does not agree with the determination of the administrative appeal.</p> |

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| | | | | China is to comply with the minimum standard. |
| | Reviews and appeals should not exceed two years | | | <p>自知道该具体行政行为之日起六十日内提出行政复议申请。依据：《中华人民共和国行政复议法》第九条 我国情况符合最佳实践。</p> <p>According to Article 9 of Law of Administrative Appeal of the People's Republic of China, an application for administrative appeal should be made within 60 days upon the date of knowledge of specific administrative act.</p> <p>China adopted the best practice.</p> |
| <i>Audi alteram partem</i> should apply in administrative reviews and judicial appeals | | | | <p>原则上采用书面审查的办法，但是申请人提出要求或者行政复议机构认为有必要时，应当听取申请人、被申请人和第三人的意见，并可以向有关组织和人员调查了解情况。依据：《税务行政复议规则》第六十四条 我国情况符合最低标准。</p> <p>According to Article 64 of Rules on Tax Appeal, in principle, a written review would be adopted. However, if an applicant requests or the administrative appeal department considers it as necessary, the administrative review department shall listen to the opinions from the applicant, the respondent and the third party, and may investigate the facts with the relevant organizations and personnel.</p> <p>China complied with the minimum standard.</p> |
| 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 | An appeal should not require prior payment of tax in all cases | | | <p>纳税上发生争议时，必须先依照税务机关的纳税决定缴纳或者解缴税款及滞纳金或者提供相应的担保，然后可以依法申请行政复议；对行政复议决定不服的，可以依法向人民法院起诉。依据：《中华人民共和国税收征收管理法》第八十八条 我国情况不符合最低标准。</p> <p>According to Article 88 of the Law on Tax Administration and Collection of the Peoples Republic of China, under a tax dispute, tax payment and surcharges or guarantee must first be made in accordance with the determination of the tax authorities before an administrative appeal. Taxpayer can appeal to the People's Court if he or she does not agree with the determination of the administrative appeal.</p> <p>China is to comply with the minimum standard.</p> |
| | The state should bear some or all of the costs of an appeal, whatever the | | | 诉讼费用由败诉方承担，双方都有责任的由双方分担。依据：《中华人民共和国民事诉讼法》第一百零二条 |

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| | outcome | | | <p>我国情况不符合最佳实践。</p> <p>According to Article 102 of the Law of Administrative Litigation of the People's Republic of China, litigation costs should be borne by the losing party, or both parties if they are both held responsible.</p> <p>China has not adopted the best practice</p> |
| Legal assistance should be provided for those taxpayers who cannot afford it | | | | <p>对符合条件的公民，可以获得法律咨询、代理等无偿法律服务。依据：《法律援助条例》</p> <p>我国做法符合最低标准。</p> <p>According to the Legal Aid Ordinance, qualified citizens are eligible for legal advice and intermediary services free of charge.</p> <p>China complied with the minimum standard.</p> |
| Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing | | | | <p>人民法院公开审理行政案件，但涉及国家秘密、个人隐私和法律另有规定的除外。涉及商业秘密的案件，当事人申请不公开审理的，可以不公开审理。依据：《中华人民共和国行政诉讼法》第五十四条</p> <p>我国做法符合最低标准。</p> <p>According to Article 54 of the Law of Administrative Litigation of the People's Republic of China, hearings at the People's court are open to the public, unless State secrets, personal privacy are involved or set by the law otherwise. Cases involving trade secret can be made non-public if the party applies as such.</p> <p>China complied with the minimum standard.</p> |
| Tax judgments should be published | | | | <p>统一在中国裁判文书网上公布。依据：《最高人民法院关于在互联网公布裁判文书的规定》</p> <p>我国做法符合最低标准。</p> <p>According to the Supreme People's Court's Rules on Publication of Court Judgments on the Internet, tax judgments should be uniformly published on the website for documents of Court Judgements.</p> <p>China complied with the minimum standard.</p> |

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| 7. Criminal and administrative sanctions. | | | | |
| Proportionality and <i>ne bis in idem</i> should apply to tax penalties | | 是 | | <p>根据《国家税务总局关于进一步做好税收违法案件查处有关工作的通知》（税总发〔2017〕30号）第一点第（二）项规定，对税收违法企业，实施税务行政处罚时要综合考虑其违法的手段、情节、金额、违法次数、主观过错程度、纠错态度。我国做法符合最低标准。</p> <p>According to Article 1(2) of SAT Notice on Further Improving Work on Investigating Violation Cases (Shui Zong Fa No. 30 [2017]), the violation approaches, details, involved amount, if it's a first time of violation, taxpayer's intentions, and its cooperative attitude shall all be taken into account when imposing punishment on enterprises with tax violations.</p> <p>China complied with the minimum standard.</p> |
| | Where administrative and criminal sanctions may both apply, only one procedure and one sanction should be applied | | | <p>根据《刑法》第二百零一条第四款规定，纳税人采取欺骗、隐瞒手段进行虚假纳税申报或者不申报，逃避缴纳税款数额较大并且占应纳税额百分之十以上的，经税务机关依法下达追缴通知后，补缴应纳税款，缴纳滞纳金，已受行政处罚的，不予追究刑事责任。我国做法符合最佳实践。</p> <p>According to Article 201(4) of the Criminal Law, if a taxpayer takes a false tax declaration or fails to make declaration and the amount of tax evasion is large and accounts for more than 10% of the tax payable, upon a notice of correction issued by in-charge tax authorities received, the taxpayer shall pay for the tax payable and surcharges. Those that have already been subject to related administrative penalties, will not be held criminally responsible.</p> <p>China adopted the best practice.</p> |
| | Voluntary disclosure should lead to reduction of penalties | 是 | | <p>根据《国家税务总局关于进一步做好税收违法案件查处有关工作的通知》（税总发〔2017〕30号）第一点第（三）项规定，对随机抽查的企业，鼓励其自查自纠、自我修正，引导依法诚信纳税。对主动、如实补缴税款、缴纳滞纳金，或者配合税务机关查处税收违法有立功表现的，依法从轻、减轻税务行政处罚。对税收违法为轻微，且主动、及时补缴税款、缴纳滞纳金，没有造成危害后果的，依法不予税务行政处罚。我国做法符合佳实践。</p> <p>Article 1(3) of SAT Notice on Further Improving Work on Investigating Violation Cases (Shui Zong Fa No. [2017] 30) encourages enterprises under random inspections to perform self-examination and self-correction for outstanding tax issues. Enterprise which has taken the initiative to pay any underpaid taxes and surcharges, or cooperate with the tax authorities</p> |

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| | | | | <p>during the investigation shall be deal with leniently. For non-substantial tax violations, enterprise which has taken the initiative to pay any underpaid taxes and surcharges without creating any harmful consequences, shall not be subject to tax administrative penalties.</p> <p>China adopted the best practice.</p> |
| Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures | | 是 | | <p>根据《国家税务总局关于进一步做好税收违法案件查处有关工作的通知》（税总发〔2017〕30号）规定，税务机关要根据案件的不同形态实施分类处理，重点查处重大税收违法，切实做到当严则严，该宽则宽，宽严相济，罚当其责，宽严有据，充分发挥税务稽查职能作用，确保法律效果和社会效果的有机统一。</p> <p>我国做法符合最低标准。</p> <p>According to SAT Notice on Further Improving Work on Investigating Violation Cases (Shui Zong Fa No. [2017] 30), tax authorities shall categorize tax violation cases and implement different approaches respectively; shall focus on investigating significant tax violations and ensure fairness and reasonableness with solid legal basis fully exhibit the effect of tax audit while to ensuring that the legal and social effects are consistent.</p> <p>China complied with the minimum standard.</p> |
| 8. Enforcement of taxes. | | | | |
| Collection of taxes should never deprive taxpayers of their minimum necessary for living | | | | <p>"税收征管法第四十二条规定：税务机关采取税收保全措施和强制执行措施必须依照法定权限和法定程序，不得查封、扣押纳税人个人及其所扶养家属维持生活必需的住房和用品。</p> <p>税收征管法实施细则规定：个人及其所扶养家属维持生活必需的住房和用品。税务机关对单价 5000 元以下的其他生活用品，不采取税收保全措施和强制执行措施"</p> <p>我国情况符合最低标准。</p> <p>According to the Article 42 of Law on Tax Administration and Collection of the People's Republic of China, tax authorities to take tax preservation measures and enforcement measures shall be subject to applicable legal authority range and legal procedures, and shall not seize the taxpayer and their dependent family's housing and daily necessities.</p> <p>As stipulated in the Detailed Implementation Rules of the Law on Tax Administration and Collection, taxpayer and their dependent family's housing and daily necessities with single item's price below RMB5,000 shall not be subject to tax preservation.</p> <p>China complied with the minimum standard.</p> |
| | Authorisation by the judiciary should be required before seizing | | | "税务机关执行查封扣押冻结划拨纳税人财产或银行存款是税收征管法规定的事项， |

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| | assets or bank accounts | | | <p>不再需要司法机构专门授权。 具体见税收征管法第 38 条、第 40 条。"</p> <p>Authorization from the Judicial Department is not required for tax authorities to seize <u>and freeze</u> taxpayers' property or bank deposits. <u>These are regulated under the Law of Tax Administration and Collection.</u></p> <p>For details, please refer to Article 38 and Article 40 of the Law on Tax Administration and Collection of the People's Republic of China.</p> |
| Taxpayers should have the right to request delayed payment of arrears | | | | <p>"纳税人因有特殊困难难以及时缴税时，可以向税务机关申请延期缴纳 详见税收征管法第 31 条。" 我国情况符合最低标准。</p> <p>Taxpayers may apply for postponement if they have difficulty in paying taxes on time. For details, please refer to Article 31 of the Law on Tax Administration and Collection of the People's Republic of China.</p> <p>China complied with the minimum standard.</p> |
| | Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment | | | <p>"纳税人因有特殊困难难以及时缴税时，可以向税务机关申请延期缴纳 详见税收征管法第 31 条。"</p> <p>我国没有因纳税人经济困难，给纳税人减税的规定。不符合最佳实践。</p> <p>我国情况符合最佳实践。</p> <p>Taxpayers may apply to the tax authorities for postponement if they have difficulty in paying taxes on time. For details, please refer to Article 31 of the Law on Tax Administration and Collection of the People's Republic of China.</p> <p><u>China does not have rules on tax deduction for taxpayers in financial difficulties.</u></p> <p>China adopted the best practice.</p> |
| Temporary suspension of tax enforcement should follow natural disasters | | | | <p>遇到地震等自然灾害时，总局会针对受灾地区纳税人统一发布延长申报期限、延长缴税期限、欠税核销等政策规定 我国情况符合最低标准。</p> <p>In case of natural disasters such as earthquakes, the SAT will issue a policy on extending</p> |

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| | | | | the deadlines for tax reporting and payment etc. China complied with the minimum standard. |
| 9. Cross-border procedures. | | | | |
| 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 | | | 我局于 2006 年制定《国际税收情报交换工作规程》（国税发[2006]70 号）。《规程》第二十七条规定，税务机关可以将收集情报的目的、情报的来源和内容告知相关纳税人，同时告知其保密义务，并规定了不得告知纳税人的例外情形。 In 2016, the SAT developed the "The Protocol of Exchanging the International Tax Information" (Guo Shui Fa [2006] No. 70). Article 27 stipulates that the tax authorities may inform the relevant taxpayers of the purpose of collecting the information, the source and content of the information, and sets out the confidentiality obligations and exceptions that should not be disclosed to the taxpayers. China complied with the minimum standard. |

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| 9. Cross-border procedures (cont). | | | | |
| | Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer | | | 无相关规定。 No relevant regulations in China. China has not complied with the best practice. |
| | Provisions should be included in tax treaties setting specific conditions for exchange of information | | | 我国对外签署的税收协定均规定了相关条件。 As stipulated under tax treaties China has entered into. China adopted the best practice. |
| If information is sought from third parties, judicial authorisation should be necessary | | | | 我国于 2006 年制定《国际税收情报交换工作规程》（国税发[2006]70 号）。《规程》第二十九条规定，税收情报不得转交或透露给与税收无关的其他人员或部门。 In 2016, the SAT developed the "The Protocol of Exchanging the International Tax Information" (Guo Shui Fa [2006] No. 70). Article 29 stipulates that tax information should not be shared or disclosed to irrelevant persons or departments. China complied with the minimum standard. |

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| | The taxpayer should be given access to information received by the requesting state | | | 无相关规定。 No relevant regulations in China . China has not complied with the best practice. |
| | Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information A requesting state should provide confirmation of confidentiality to the requested state | | | 无相关规定。 No relevant regulations in China . China has not complied with the best practice. |
| A state should not be entitled to receive information if it is unable to provide independent, verifiable evidence that it observe high standards of data protection | | 是 | | 我国于 2015 年参与税收透明度和情报交换全球论坛（Global Forum On Transparency and Exchange of Information for Tax Purposes）数据保密和信息安全评估（Confidentiality and Data Safeguards Assessment），对其他辖区开展评估，也接受对我评估，评估不通过的，不得选为信息交换伙伴。 China participated in the Global Forum On Transparency and Exchange of Information for Tax Purposes and Confidentiality and Data Safeguards Assessment in 2015 and carried out assessments on other tax jurisdictions and also accepted the assessment on our jurisdiction. A jurisdiction which does not pass the assessment cannot be an information exchange partner. China complied with the minimum standard. |
| | For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights | 是 | | 我局于 2017 年 5 月会同财政部、人民银行、银监会、证监会、保监会联合发布《非居民金融账户涉税信息尽职调查管理办法》。《办法》第四条规定金融机构应当向账户持有人充分说明本机构需履行的信息收集和报送义务。 In May 2017, the SAT, the Ministry of Finance, the People's Bank of China, the China Banking Regulatory Commission, the China Securities Regulatory Commission and the China Insurance Regulatory Commission jointly issued the Administrative Measures for the Due Diligence on Tax Information of Non-resident Financial Accounts. Article 4 of the Measures stipulates that financial institutions shall fully explain to account holders about the intuitions' obligations of information collection and submission. China adopted the best practice. |
| | Taxpayers should have a right to request initiation of mutual | 是 | | 我局于 2017 年 3 月发布国家税务总局公告 2017 年第 6 号，自 2017 年 5 月 1 日起施 |

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| | agreement procedure | | | <p>行。6 号公告第四十七条、第四十八条规定纳税人有权要求启动相互协商程序。</p> <p>In March 2017, the SAT issued Announcement [2017] No.6, which came into effect from May 1, 2017. According to Article 47 and 48 of the Announcement, taxpayers have the right to request for the commencement of mutual agreement procedure.</p> <p>China adopted the best practice.</p> |
| Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to progress of the procedure | | 是 | | <p>我局于 2017 年 3 月发布国家税务总局公告 2017 年第 6 号，自 2017 年 5 月 1 日起施行。6 号公告第五十条、第五十五条、第五十六条规定纳税人有权利参与到相互协商程序中，并被告知程序的进展情况。</p> <p>In March 2017, the SAT issued Announcement [2017] No.6, which came into effect from May 1, 2017. Article 50, 55 and 56 of the Announcement stipulate that taxpayers have the right to participate in the mutual agreement procedure and be informed of the progress of the procedure.</p> <p>China complied with the minimum standard.</p> |
| 10. Legislation. | | | | |
| Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail | Retrospective tax legislation should ideally be banned completely | | | <p>根据《中华人民共和国立法法》第九十三条规定，法律、行政法规、地方性法规、自治条例和单行条例、规章不得溯及既往，但为了更好地保护公民、法人和其他组织的权利和利益而作出的特别规定除外。</p> <p>我国情况符合最低标准。</p> <p>According to Article 93 of The Legislation Law of the People's Republic of China, laws, administrative regulations, local regulations, autonomous regulations and individual rules and circulars shall not be retroactive, with exceptions for better protection of rights and interests of citizens, legal persons and other organizations.</p> <p>China complied with the minimum standard.</p> |
| | Public consultation should precede the making of tax policy and tax law | | | <p>根据《中华人民共和国立法法》等法律法规相关规定，法律、行政法规、规章草案应当向社会公布，征求意见。根据《税收规范性文件制定管理办法》（国家税务总局令第 41 号公布）第十七条规定，起草税收规范性文件可以采取书面、网上征求意见或者召开座谈会、论证会等形式听取意见。</p> <p>我国情况符合最佳实践。</p> <p>According to the laws and regulation such as The Legislation Law of the People's Republic of China, the proposal of laws, administrative regulations and rules shall be published for</p> |

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| | | | | <p>public consultation. According to Article 17 of Administrative Measures for the Formulation of Normative Taxation Documents, public consultation on the draft tax rules can be conducted through paper, online platform, seminars or discussions.</p> <p>China adopted the best practice.</p> |
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| Minimum Standard | Best Practice | Improve | Decrease | Development |
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| 11. Revenue practice and guidance. | | | | |
| Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance | | | | <p>纳税人可以在公开渠道获得相关信息。税务部门积极开展多种形式的税法宣传活动，确保纳税人了解相关税法知识及办税流程。例如，2015年，税务部门采用互联网技术，推广二维码一次性告知，纳税人扫描相应业务的二维码即可通过手机等移动终端获知办理该项业务的资料准备、基本流程等信息。</p> <p>我国情况符合最低标准。</p> <p>Taxpayers can obtain relevant information through public channels. Tax authorities have been actively carrying out different kinds of campaign to ensure that taxpayers understand relevant tax laws and procedures. For example, in 2015, tax authorities apply internet technology e.g., through QR code scan on mobile devices - to allow taxpayer to obtain real time information on relevant documentation requirements and general administrative procedures, etc.</p> <p>China complied with the minimum standard.</p> |
| 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 | | | | <p>税务部门开展多种宣传活动，向纳税人普及税法知识。</p> <p>我国情况符合最低标准。</p> <p>Tax authorities have launched various communication campaigns to deliver tax knowledge to taxpayers.</p> <p>China complied with the minimum standard.</p> |
| Binding rulings should only be published in an anonymised form | | | | <p>"税收个案拟明确事项普遍适用的，按照《税收规范性文件制定管理办法》制发普遍适用所有纳税人的税收规范性文件；有必要对税收个案进行批复的，按照《批复规程》要求办理。详见如下文件：</p> <p>《国家税务总局办公厅关于进一步规范税收个案批复类文件办理工作的通知》（税总办发〔2015〕184号）</p> <p>《税收个案批复工作规程（试行）》（国税发〔2012〕14号）"</p> |

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| | | | <p>我国情况符合最低标准。</p> <p>For private tax rulings which may be applied generally, a related general public rules applicable to all taxpayers shall be issued separately in according with relevant tax legislation rules. For individual tax cases requiring official replying as private rulings, the following related regulations shall be referred:</p> <p>Notice of the General Office of the SAT on Further Regulating Official Replying for Individual Tax Cases (Shui Zong Ban Fa [2015] No. 184)</p> <p>Working Rules on Responses to Individual Tax Cases (Trial) (Guo Shui Fa [2012] No. 14)</p> <p>China complied with the minimum standard.</p> |
| Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively | | | <p>"税收征管法第五十二条规定：因税务机关的责任，致使纳税人、扣缴义务人未缴或少缴税款的，税务机关在三年内可以要求纳税人、扣缴义务人补缴税款，但是不得加收滞纳金。</p> <p>税收征管法实施细则规定：税收征管法第五十二条所称税务机关的责任，是指税务机关适用税收法律、行政法规不当或者执法行为违法。"</p> <p>我国目前没有关于公布税收指引错误的专门的规定和情况，不符合最低标准。</p> <p>According to Article 52 of the Law on Tax Administration and Collection, taxpayers or withholding agents do not pay or underpay tax due to the responsibility of tax authorities, the tax authorities can request taxpayers to pay back underpaid tax for the past three years, without imposing penalty charges. According to the Detailed Implementation Rules of the Law on Tax Administration and Collection, the responsibility of tax authorities stipulated under Article 52 of the Law refers to circumstances where the tax authorities apply tax laws and regulations inappropriately or the enforcement is in violation of the law.</p> <p>China does not have specific rules to address the circumstances when taxpayers rely upon published tax guidance which are proved to be inaccurate.</p> <p>我国目前没有关于公布税收指引错误的专门的规定和情况，不符合最低标准。</p> |
| 12. Institutional framework for protecting taxpayers' rights. | | | |
| 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>税务总局于 2009 年发布《关于纳税人权利与义务的公告》，向纳税人明确其权利及义务。</p> <p>《税务稽查工作规程》明确在采取税收保全、做出行政处罚、采取强制执行等情形时应告知纳税人依法享有的权利。</p> <p>我国情况符合最低标准及最佳实践。</p> <p>The SAT released the Notice on Taxpayers' Rights and Obligations in 2009 to set out the</p> |

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| | | | <p>rights and responsibilities of taxpayers. The Operating Protocols for Tax Audits set out clearly that the taxpayers shall be informed of their rights under circumstances when tax is reserved, penalty is imposed or execution is enforced etc.</p> <p>China complied with the minimum standard and adopted the best practice.</p> |
| | <p>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> | | <p>税务总局在纳税服务司设立纳税人权益保护处，专门负责处理纳税人投诉，保护纳税人合法权益。我国情况符合最佳实践。</p> <p>A Taxpayer Rights Protection Division- has been established under Taxpayer Services Department of the SAT. The Division is responsible for handling complaints from taxpayers and protect the legal rights of taxpayers. It is not independent from other departments.</p> <p>China adopted the best practice.</p> |
| | <p>The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally</p> | | <p>目前我国在各级税务机关均设立保护纳税人权益的部门。我国情况符合最佳实践。</p> <p>Currently there is a department available in local tax authorities China does not have any nationwide civil organization to protect the rights of taxpayers.</p> <p>China adopted the best practice.</p> |