



Observatory on the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by Zhengwen Shi, Director of the *Center for Fiscal and Tax Law Studies* at the *China University of Political Science and Law*, and OPTR National Reporter of China.

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: China
National Reporter: Professor Zhengwen Shi
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 checked="" type="radio"/>	<input type="radio"/>
2	If yes, can they request the correction of errors in the information?	<input checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
5	Is it possible in your country for taxpayers to communicate electronically with the tax authority?	<input checked="" type="radio"/>	<input type="radio"/>
6	If yes, are there systems in place to prevent unauthorised access to the channel of communication?	<input checked="" 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 checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
10	If yes, can the taxpayer request a meeting with the tax officer?	<input checked="" type="radio"/>	<input type="radio"/>

3. Confidentiality			
#	Question	Yes	No
11	Is information held by your tax authority automatically encrypted?	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>
13	If yes, must the tax official identify himself/herself before accessing information held about a specific taxpayer?	<input checked="" 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 checked="" 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 checked="" type="radio"/>
16	Is information about the tax liability of specific taxpayers publicly available in your country?	<input checked="" type="radio"/>	<input type="radio"/>
17	Is "naming and shaming" of non-compliant taxpayers practised in your country?	<input checked="" 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 checked="" type="radio"/>
19	Is there a system of protection of legally privileged communications between the taxpayer and its advisors?	<input checked="" 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 checked="" 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"/> (a)	<input checked="" type="checkbox"/> (b)	<input type="checkbox"/> (c)	<input type="checkbox"/>
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 checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" type="radio"/>
66	Does the taxpayer have the right to see any information received from another country that relates to him?	<input checked="" 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 checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
70	Is tax legislation subject to constitutional review which can strike down unconstitutional laws?	<input type="radio"/>	<input checked="" type="radio"/>
71	Is there a prohibition on retrospective tax legislation in your country?	<input type="radio"/>	<input checked="" type="radio"/>
72	If no, are there restrictions on the adoption of retrospective tax legislation in your country?	<input checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
23	If yes, what is the normal limit in months?	02 months	
24	Does the taxpayer have the right to be represented by a person of its choice in the audit process?	<input checked="" type="radio"/>	<input type="radio"/>
25	May the opinion of independent experts be used in the audit process?	<input checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
28	If yes, does this mean only one audit per tax per year?	<input checked="" type="radio"/>	<input type="radio"/>
29	Are there limits to the frequency of audits of the same taxpayer (e.g. in respect of different periods or different taxes)?	<input checked="" 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 checked="" 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 checked="" type="radio"/>
32	May the tax authority enter and search the dwelling places of individuals?	<input type="radio"/>	<input checked="" 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 checked="" 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 checked="" type="radio"/>
35	Is the principle <i>nemo tenetur</i> applied in tax investigations (i.e. the principle against self-incrimination)?	<input checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
43	Are there time limits applicable for a tax case to complete the judicial appeal process?	<input checked="" type="radio"/>	<input type="radio"/>
44	If yes, what is the normal time it takes for a tax case to be concluded on appeal?	06 months	
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 checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
75	Does your country have a generalised system of advanced rulings available to taxpayers?	<input type="radio"/>	<input checked="" 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 checked="" 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 checked="" 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 checked="" type="radio"/>	<input type="radio"/>
47	Does the taxpayer need permission to appeal to the first instance tribunal?	<input type="radio"/>	<input checked="" type="radio"/>
48	Does the taxpayer need permission to appeal to the second or higher instance tribunals?	<input type="radio"/>	<input checked="" 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 checked="" 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 checked="" type="radio"/>
51	Does the loser have to pay the costs in a tax appeal?	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>
54	If yes, can the taxpayer preserve its anonymity in the judgment?	<input type="radio"/>	<input checked="" 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 checked="" type="radio"/>	<input type="radio"/>



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

Country: China

National Reporter: Professor Zhengwen Shi

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		○	○	<p>税务机关已采取关于纳税人识别号的保护措施，避免对外发布时出现假冒。 中国情况符合最低标准。报告期内没有新变化。 China's tax authorities have taken protective measures on taxpayers' identification numbers to prevent impersonation when issuing unique identification numbers. China meets the requirements of the minimum standards. There's no changes during the report period.</p> <p>依据材料： 国家税务总局《税务登记管理办法》（2018年修订） 第9条 纳税人办理下列事项时，必须提供税务登记证件：（一）开立银行账户；（二）领购发票。 纳税人办理其他税务事项时，应当出示税务登记证件，经税务机关核准相关信息后办理手续。 第37条 税务机关应当加强税务登记证件的管理，采取实地调查、上门验证等方法，或者结合税务部门和工商部门之间，以及国家税务总局（分局）、地方税务局（分局）之间的信息交换比对进行税务登记证件的管理。 第39条 纳税人、扣缴义务人遗失税务登记证件的，应当自遗失税务登记证件之日起15日内，书面报告主管税务机关，如实填写《税务登记证件遗失报告表》，并将纳税人的名称、税务登记证件名称、税务登记证件号码、税务登记证件有效期、发证机关名称在税务机关认可的报刊上作遗失声明，凭报刊上刊登的遗失声明到主管税务机关补办税务登记证件。</p>
2	The system of taxpayer identification should take account of religious sensitivities		○	○	<p>根据现行规定，已取得统一社会信用代码的法人和其他组织，其纳税人识别号使用“统一社会信用代码”。该“统一社会信用代码”采用无语义的代码，不包含宗教因素，不具有宗教敏感。对于尚未取得或者没有“统一社会信用代码”的纳税人，税务机关根据另外的编码规则赋予其纳税人识别号，该编码规则也不含宗教敏感因素。 中国情况符合最低标准。报告期内没有新变化。 Under current system, for taxpayers who already obtained unified social credit codes(USCC hereafter),those codes are used as taxpayer identification number.USCCs are meaningless codes, which do not contain religious factors and are not religiously sensitive.For the taxpayers who did not obtain USCC yet,or who have no USCC,tax authorities will issue taxpayer identification number according to other coding system which has no religinal sensitive facotors. China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《关于修订纳税人识别号代码标准的公告》（国家税务总局公告2015年第66号） 一、已取得统一社会信用代码的法人和其他组织，其纳税人识别号使用18位的“统一社会信用代码”，编码规则按照相关国家标准执行。 二、未取得统一社会信用代码的个体工商户以及以居民身份证、回乡证、通行证、护照等有效身份证明办理税务登记的纳税人，其纳税人识别号由“身份证件号码”+“2位顺序码”组成。 三、以统一社会信用代码、居民身份证、回乡证、通行证、护照等为有效身份证明的临时纳税的纳税人，其纳税人识别号由“L”+“统一社会信用代码”或“L”+“身份证件号码”组成，作为系统识别，不打在对外证照上。 四、对已设立但未取得统一社会信用代码的法人和其他组织，以及自然人等其他各类纳税人，其纳税人识别号的编码规则仍按照《国家税务总局关于发布纳税人识别号代码标准的通知》（国税发〔2013〕41号）规定执行。 2. 中国国家标准化管理委员会《法人和其他组织统一社会信用代码编码规则》（强制性国家标准GB32100—2015） 第4.1条统一社会信用代码用18位阿拉伯数字或大写英文字母（不使用I、O、Z、S、V）组成，包括第1位登记管理部门代码、第2位机构类别代码、第3位-第8位登记管理机构行政区划码、第9位-第17位主体标识码（组织机构代码）和第18位校验码五个部分组成。</p>

3	Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes		○	<p>中国税法目前明确规定了金融机构对非居民涉税金融信息的保密义务和委托征税机关的保密义务。其他情形没有明确规定。目前税务总局通过备忘录等合作协议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。第三方的监管法律（如银行法）也就现第三方对客户信息的保密义务进行了规定，该保密义务也适用于客户的涉税信息。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>Chinese tax law has set confidentiality obligation of financial institutions on tax-related financial information of non-residence, and the confidentiality obligation of entrusted tax collection institutions, while no clear confidential requirement for other situations. At present, when China's State Administration of Taxation collects information from third parties, cooperative agreements such as tax memorandums will be concluded, which contain articles state that both parties shall not release the information to the public or third parties nor use it for commercial purposes. The laws regulating third parties (e.g., banking law) also impose obligations of confidentiality on the third parties with respect to information of their clients, and tax related information of the clients fall within the obligations.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《纳税人涉税保密信息管理暂行办法》（国税发[2008]93号）</p> <p>第3条 对于纳税人的涉税保密信息，税务机关和税务人员应依法为其保密。除下列情形外，不得向外部部门、社会公众或个人提供：（一）按照法律、法规的规定应予公布的信息；（二）法定第三方依法查询的信息；（三）纳税人自身查询的信息；（四）经纳税人同意公开的信息。</p> <p>第7条 税务机关、税务人员在税收征收管理工作各环节采集、接触到纳税人涉税保密信息的，应当为纳税人保密。</p> <p>第8条 税务机关内部各业务部门、各岗位人员必须在职责范围内接收、使用和传递纳税人涉税保密信息。对涉税保密信息纸质资料，税务机关应明确责任人员，严格按照程序受理、审核、登记、建档、保管和使用。对涉税保密信息电子数据，应由专门人员负责采集、传输和储存、分级授权查询，避免无关人员接触纳税人的涉税保密信息。</p> <p>2. 《中华人民共和国商业银行法》（2015）</p>
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	○	<p>尽管中国税法没有明确规定，但从法律分析并结合税法实践看，扣缴义务人扣缴税款后未缴纳税款的，纳税人的纳税义务应已消灭，税务机关不能再向纳税人追征。</p> <p>Although China's tax law has no specific provision on it, however, based on legal analysis and tax practice, should the withholding agent fails to pay the tax, the taxpayer shall be exempted from corresponding liability for its tax obligation is eliminated by withholding action.</p> <p>中国情况符合最佳实践标准。报告期内没有新变化。</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《委托代征管理办法》（国家税务总局公告2013年第24号）</p> <p>第18条 “税收委托代征工作中，代征人应当履行以下职责”，其中第（七）款规定“在代征税款工作中获知纳税人商业秘密和个人隐私的，应当依法为纳税人保密。”</p> <p>第22条 因代征人责任未征或少征税款的，税务机关应向纳税人追缴税款，并可按《委托代征协议书》的约定向代征人按日加收未征或少征税款万分之五的违约金，但代征人将纳税人拒绝缴纳等情况自纳税人拒绝之时起24小时内报告税务机关的除外。代征人违规多征税款的，由税务机关承担相应的法律责任，并责令代征人立即退还，税款已入库的，由税务机关按规定办理退库手续；代征人违规多征税款致使纳税人合法权益受到损失的，由税务机关赔偿，税务机关拥有事后向代征人追偿的权利。代征人违规多征税款而多取得代征手续费的，应当及时退回。</p> <p>第24条 代征人未按规定期限解缴税款的，由税务机关责令限期解缴，并可从税款滞纳之日起按日加收未缴税款万分之五的违约金。</p> <p>2. 《中华人民共和国税收征收管理法》（2015）</p> <p>第52条 因税务机关的责任，致使纳税人、扣缴义务人未缴或者少缴税款的，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。因纳税人、扣缴义务人计算错误等失误，未缴或者少缴税款的，税务机关在三年内可以追征税款、滞纳金；有特殊情况的，追征期可以延长到五年。</p>

5	Where pre/populated returns are used, these should be sent to taxpayers to correct errors		○	○	<p>中国全国性的税收没有采用此种预征收方式。在房地产税的试点城市之一的重庆，在其《个人住房房产税征收管理实施细则》中，明确规定了税务局预先向纳税人通知应纳税额和申报期限，纳税人在申报期限内予以申报，然后税务机关再予以比对，但是该文件并未表明纳税人可以修改错误的纳税通知。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>No pre-populated system adopted on national level .Chongqing, one of the experimental cities of the real estate tax, requires that the tax authorities shall notify the taxpayers of the tax amount payable and the deadline of tax return in advance, and then taxpayers shall file the tax returns before deadline. After that, the tax authorities will compared the amounts again. But the provisions of Chongqing do not indicate explicitly that taxpayers can correct the errors in the notification.</p> <p>China meets the requirements of the minimum standard. There is no change during report period.</p> <p>依据材料： 《重庆市个人住房房产税征收管理实施细则》 第22条 税务机关于每年8月31日前将应税住房的坐落地址、计税依据、应纳税额、申报期限等通过直接送达、邮寄、公告等方式通知纳税人。 第23条 纳税人应在规定的申报期限内主动向应税住房所在地税务机关，报送纳税申报表，提供减免税要件和其他纳税资料，如实办理纳税申报。 纳税人可以直接到税务机关办理纳税申报，也可以按照规定采取邮寄、数据电文或者其他方式办理纳税申报和报送事项。 第24条 税务机关将纳税人申报情况与征收档案信息比对，核实纳税人实际应纳税额，进行税款征收，并向纳税人开具完税凭证。</p>
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	○	○	<p>中国法律中明确规定了纳税人查询自身涉税信息的和有异议情况下申请核实权利，并发布了规定作为指导。</p> <p>中国情况符合最低标准及最佳实践标准。报告期内无变化。</p> <p>Chinese law clearly stipulates that taxpayers have the right to inquire their own tax-related information and apply for verification when they have any objections. China have promulgated specific normative document as guidance.</p> <p>China meets the requirements of the minimum standard and the best practice. There's no change during the report period.</p> <p>依据材料： 《国家税务总局关于发布<涉税信息查询管理办法>的公告》（国家税务总局公告2016年第41号） 第7条 纳税人可以通过网站、客户端软件、自助办税终端等渠道，经过有效身份认证和识别，自行查询税费缴纳情况、纳税信用评价结果、涉税事项办理进度等自身涉税信息。 第8条 纳税人按照本办法第7条无法自行获取所需自身涉税信息，可以向税务机关提出书面申请，税务机关应当在本单位职责权限内予以受理。书面申请查询，应当提交以下资料：（一）涉税信息查询申请表（式样见附件1）；（二）纳税人本人（法定代表人或主要负责人）有效身份证件原件及复印件。 第10条 纳税人书面申请查询，要求税务机关出具书面查询结果的，税务机关应当出具《涉税信息查询结果告知书》。涉税信息查询结果不作为涉税证明使用。 第11条 纳税人对查询结果有异议，可以向税务机关申请核实，并提交以下资料：（一）涉税信息查询结果核实申请表（式样见附件3）；（二）原涉税信息查询结果；（三）相关证明材料。 第12条 税务机关应当对纳税人提供的异议信息进行核实，并将核实结果告知纳税人。税务机关确认涉税信息存在错误，应当及时进行信息更正。</p>

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7	Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception		○	◎	<p>中国规定了防止假冒或截取涉税电子数据的制度，并明确规定了接触涉税信息的身份限制，以降低涉税信息在电子传输过程中的泄露风险。</p> <p>中国情况符合最低标准。报告期内有改进。</p> <p>China has stipulated a system to prevent impersonation or interception of tax-related electronic data, and limits the access to the tax-related information, so as to reduce the risk of leakage of tax-related information during electronic transmission.</p> <p>China meets the requirements of the minimum standards. There's improvement during the report period.</p> <p>依据材料：</p> <p>1. 《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）</p> <p>第8条 税务机关内部各业务部门、各岗位人员必须在职责范围内接收、使用和传递纳税人涉税保密信息。对涉税保密信息电子数据，应由专门人员负责采集、传输和储存、分级授权查询，避免无关人员接触纳税人的涉税保密信息。</p> <p>第15条 纳税人通过税务机关网站提供的查询功能查询自身涉税信息的，必须经过身份认证和识别。</p> <p>第16条 纳税人授权其他人员代为查询的，除提交第15条规定资料外，还需提交纳税人本人（法定代表人或财务负责人）签字的委托授权书和代理人的有效身份证件原件。</p> <p>第17条 抵押权人、质权人申请查询纳税人的欠税有关情况时，除提交本办法第15条、第16条规定的资料外，还需提交合法有效的抵押合同或者质押合同的原件。</p> <p>2. 《国家税务总局关于发布财务报表数据转换参考标准及完善网上办税系统的通知》（税总发〔2018〕32号）</p> <p>三、各省税务机关开放接口应当符合国家信息安全保护要求，确保纳税人报送数据的安全。</p>
8	Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis		○	○	<p>为规范大企业税收服务和管理工作，2011年起，国家税务总局试行税收遵从协议制度，颁布了《国家税务总局大企业税收服务和规程（试行）》，规定签订税收遵从协议建立在税企双方的自愿、平等、公开、互信基础之上。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>In order to standardize the tax service and the management of large enterprises, China's State Administration of Taxation has piloted the tax compliance agreement system since 2011, and promulgated relevant regulations, stipulating that the establishment of a tax compliance agreement shall be based on voluntariness, equality, openness, mutual trust of both parties.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>《国家税务总局大企业税收服务和规程（试行）》（国税发[2011]71号）</p> <p>第17条 税务总局与企业集团在自愿、平等、公开、互信的基础上，签订税收遵从协议，共同承诺税企双方合作防控税务风险。</p>

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>中国税法对便民纳税服务措施予以明确规定。国家税务总局也要求提高办税效率并规范程序管理，采取措施加强政务公开和政策解读，但暂未规定对残疾人等特殊人群的专门协助条款。</p> <p>中国情况符合最低标准。报告期内有改进。</p> <p>China's tax law requires the tax authorities to provide convenient tax services for taxpayers. The State Administration of Taxation also required tax authorities to improve efficiency, and to standardize procedures. It has been taking steps to enhance the transparency of the tax agencies and the interpreting work of tax policy. However, tax law does not yet provide any special provisions for the assistance of special populations such as the disabled.</p> <p>China meets the requirements of the minimum standard. There's improvement during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国税收征收管理法实施细则》（2016） 第40条 税务机关应当根据方便、快捷、安全的原则，积极推广使用支票、银行卡、电子结算方式缴纳税款。 第44条 税务机关根据有利于税收控管和方便纳税的原则，可以按照国家有关规定委托有关单位和人员代征零星分散和异地缴纳的税收，并发给委托代征证书。受托单位和人员按照代征证书的要求，以税务机关的名义依法征收税款，纳税人不得拒绝；纳税人拒绝的，受托代征单位和人员应当及时报告税务机关。</p> <p>2. 《国家税务总局关于开展2018年“便民办税春风行动”的意见》（税总发〔2018〕19号） （一）增强政策确定性，在提升纳税人税法税制认同感上展示新风貌 4.加强政务公开和政策解读。全面梳理税务部门“五公开”内容、主体、时限、方式等，各省税务机关于2018年11月底前完成主动公开基本目录编制工作，并动态更新；进一步落实税收政策和解读稿同步起草、同步审批、同步发布机制；对现有税收制度有针对性地进行分类，以简明易懂的方式编写税收制度分类指引，并探索多渠道、多形式的公开方式；落实热点问题快速响应机制，做好热点问题收集、研判、转办和反馈工作。</p> <p>3. 《国家税务总局关于推行办税事项“最多跑一次”改革的通知》（税总发〔2018〕26号） 二、明确目标，坚持便民办税的工作方向 办税事项“最多跑一次”，是指纳税人办理《清单》范围内事项，在资料完整且符合法定受理条件的前提下，最多只需要到税务机关跑一次。</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>中国现阶段已经规定纳税人可提出评定关联企业间业务往来的计算依据，以及纳税人对于税务机关核定的应纳税额有异议的，可以通过提供相关证据申请调整。</p> <p>中国情况符合最佳实践标准。报告期内没有新变化。</p> <p>Nowdays, taxpayers may submit a calculation basis for assessing the business transactions between related enterprises and the taxpayers who have objections to the tax amount payables assessed by the tax authorities may apply for adjustments by providing relevant evidences.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>《中华人民共和国税收征收管理法实施细则》（2016） 第47条 纳税人有税收征管法第35条或者第37条所列情形之一的，税务机关有权采用下列任何一种方法核定其应纳税额：（一）参照当地同类行业或者类似行业中经营规模和收入水平相近的纳税人的税负水平核定；（二）按照营业收入或者成本加合理的费用和利润的方法核定；（三）按照耗用的原材料、燃料、动力等推算或者测算核定；（四）按照其他合理方法核定。采用前款所列一种方法不足以正确核定应纳税额时，可以同时采用两种以上的方法核定。纳税人对税务机关采取本条规定的方法核定的应纳税额有异议的，应当提供相关证据，经税务机关认定后，调整应纳税额。</p> <p>第53条 纳税人可以向主管税务机关提出与其关联企业之间业务往来的定价原则和计算方法，主管税务机关审核、批准后，与纳税人预先约定有关定价事项，监督纳税人执行。</p>

11		Use e-filing to speed up assessments and correction of errors, particularly systematic errors	○	○	<p>中国情况符合最佳实践标准。报告期内没有新变化。 China has introduced the taxpayer's electronic filing system to speed up the tax assessment. China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法实施细则》（2016）</p> <p>第30条 税务机关应当建立、健全纳税人自行申报纳税制度。纳税人、扣缴义务人可以采用邮寄、数据电文方式办理纳税申报或者报送代扣代缴、代收代缴税款报告表。数据电文方式，是指税务机关确定的电话语音、电子数据交换和网络传输等电子方式。</p> <p>2. 国家税务总局《国家税务局地方税务局涉税信息采集共用管理办法》（税总发[2016]96号）</p> <p>第5条 税务机关在纳税人办理以下涉税事项时，应对其报送的涉税资料实施一次采集：（一）税务登记。主要包括设立登记、变更登记、注销登记。（二）外出经营活动税收管理证明。主要包括外出经营活动税收管理证明的开具、报验、核销等。（三）账户账号及财务制度报备。主要包括纳税人存款账户账号报告、财务会计制度和会计核算软件报告。（四）涉税申请。主要包括简并征期申请、境外注册中资控股企业居民身份认定申请。（五）纳税申报及财务报表报送。主要包括增值税、消费税及其他地方附加税费申报、财务报表报送。（六）重大事项报告。主要包括纳税人合并分立情况报告、欠税人处置不动产或大额资产报告。（七）省税务机关认为涉税资料可实施一次采集的其他涉税事项。</p> <p>第6条 推行纳税人涉税信息一次采集清单制，规范和统一实施纳税人一次采集的涉税信息，具体包括涉税事项、表单名称、信息项内容、受理税务机关、报送方式等。</p> <p>第10条 对纳税人通过网上办税服务厅、自助办税终端等途径以电子形式报送的涉税资料，由信息系统即时完成信息采集。对纳税人报送的需手工录入的涉税资料，受理机关原则上应在1个工作日内完成信息采集工作。</p> <p>第13条 按照“谁采集，谁负责”的原则，采集机关应加强涉税信息的数据采集质量管理，加强数据校对、审核，并</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>中国法律规定了行政机关及其工作人员对纳税人涉税保密信息的保密义务，对于政府职员非法泄露保密信息的，规定有相应的行政处分和刑事制裁。 中国对纳税人信息进行了高度加密。 中国情况符合最低标准，并且符合最佳实践。报告期内没有变化。 Chinese law imposed the confidentiality obligations on the administrations and officials regard to the tax related confidential information of taxpayers, and provides corresponding administrative sanctions and criminal sanctions for the illegal disclosure of confidential information by officials. China has made taxpayer information highly encrypted. China meets the requirements of the minimum standard and the best practice. There's no change during the report period.</p> <p>依据材料： 1. 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）</p> <p>第7条 税务机关、税务人员在税收征收管理工作各环节采集、接触到纳税人涉税保密信息的，应当为纳税人保密。</p> <p>第8条 税务机关内部各业务部门、各岗位人员必须在职责范围内接收、使用和传递纳税人涉税保密信息。对涉税保密信息纸质资料，税务机关应明确责任人员，严格按照程序受理、审核、登记、建档、保管和使用。对涉税保密信息电子数据，应由专门人员负责采集、传输和储存、分级授权查询，避免无关人员接触纳税人的涉税保密信息。</p> <p>第9条 对存储纳税人涉税保密信息的纸质资料或者电子存储介质按规定销毁时，要指定专人负责监督，确保纸质资料全部销毁，电子存储介质所含数据不可恢复。</p> <p>第10条 税务机关在税收征收管理信息系统或者办公用计算机系统的开发建设、安装调试、维护维修过程中，要与协作单位签订保密协议，采取保密措施，防止纳税人涉税保密信息外泄。</p> <p>第11条 税务机关对纳税人涉税保密资料的存放场所要确保安全，配备必要的防盗设施。</p> <p>第22条 各级税务机关应强化保密教育，努力增强税务人员的保密意识，采取有效措施，防止泄密、失密。</p> <p>第23条 对有下列行为之一的税务人员，按照《中华人民共和国税收征收管理法》第八十七条的规定处理：（一）</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.	○	○	<p>中国目前税务机关的网络系统区分内网和外网。只有税务机关的工作人员才可进入内网。这是一种安全度很高的物理隔离。在税务机关内部是以岗授权、以岗定责、权责一体。即：在核心征管系统中，如果没有相应的岗位职责，则没有对应权限，无法获取涉密信息。并且系统中每个税务人员是实名制，所有操作都是留痕操作，导出任何数据，在系统中都会留下痕迹。</p> <p>纳税人网上办税需要使用CA证书。</p> <p>中国达到最低标准，符合最佳实践。报告期内没有变化。</p> <p>At present, the network systems of tax authorities in China distinguishes between intranet and extranet. Only the officials of tax authorities can enter the intranet, which is a kind of physical isolation with high security. Within collection and management system, if there is no position responsibility, there is no corresponding authority to get access to confidential information. Every official need to use their own identification account to login the system, and every single operation will be traceable by the system.</p> <p>Taxpayers need to use the CA certificate to deal with tax affairs online.</p> <p>China meets the requirements of the minimum standards and the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《税务计算机信息安全管理规定》（国税发[1999]131号）（全文）</p> <p>2. 《税务信息安全等级保护定级工作指南》（全文）</p>
14	Audit data access periodically to identify cases of unauthorised access.		○	○	<p>国家税务总局和各地方税务机关都开展对税务信息定期考核和风险管理工作。</p> <p>中国达到最低标准。报告期内没有新变化。</p> <p>Both the State Administration of Taxation and the local tax authorities carry out regular assessment and risk management of the tax information.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 国家税务总局——征管和科技发展司主要职责：</p> <p>（十五）拟订并组织实施税收征管数据管理和应用办法，承办税收征管质量考核和风险管理工作。</p> <p>（十六）承办总局信息化建设领导小组办公室的日常工作。</p> <p>（十七）办理总局领导交办的其他事项。</p>
15	Introduce administrative measures emphasizing confidentiality to tax officials.	Appoint data protection/privacy officers at senior level and local tax offices.	○	○	<p>中国达到最低标准，符合最佳实践。报告期内没有新变化。</p> <p>Tax authorities at all levels in China regularly carry out tax information security training, some tax bureaus have a special tax information administrator.</p> <p>China satisfies all the requirements of the minimum standard and the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 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）</p> <p>第7条 税务机关、税务人员在税收征收管理工作各环节采集、接触到纳税人涉税保密信息的，应当为纳税人保密。</p> <p>第8条 税务机关内部各业务部门、各岗位人员必须在职责范围内接收、使用和传递纳税人涉税保密信息。对涉税保密信息纸质资料，税务机关应明确责任人员，严格按照程序受理、审核、登记、建档、保管和使用。对涉税保密信息电子数据，应由专门人员负责采集、传输和储存、分级授权查询，避免无关人员接触纳税人的涉税保密信息。</p> <p>第9条 对存储纳税人涉税保密信息的纸质资料或者电子存储介质按规定销毁时，要指定专人负责监督，确保纸质资料全部销毁，电子存储介质所含数据不可恢复。</p> <p>第10条 税务机关在税收征收管理信息系统或者办公用计算机系统的开发建设、安装调试、维护维修过程中，要与协作单位签订保密协议，采取保密措施，防止纳税人涉税保密信息外泄。</p> <p>第11条 税务机关对纳税人涉税保密资料的存放场所要确保安全，配备必要的防盗设施。</p> <p>第22条 各级税务机关应强化保密教育，努力增强税务人员的保密意识，采取有效措施，防止泄密、失密。</p> <p>第23条 对有下列行为之一的税务人员，按照《中华人民共和国税收征收管理法》第八十七条的规定处理：（一）在受理、录入、归档、保存纳税人涉税资料过程中，对外泄露纳税人涉税保密信息的；（二）在日常税收管理、数据统计、报表管理、税源分析、纳税评估过程中，对外泄露纳税人涉税保密信息的；（三）违规设置查询权限或者违规进行技术操作，使不应知晓纳税人涉税保密信息的税务人员可以查询或者知晓的；（四）违反规定程序向他人提供纳税人涉税保密信息的。</p> <p>2. 《中华人民共和国税收征收管理法》（2015）</p>
16	Where pre/populated returns are used, these should be sent to taxpayers to correct errors.		○	○	<p>见第5行。</p> <p>See line 5 above.</p>

17	If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges).		○	◎	<p>违法泄露纳税人涉税保密信息构成行政违法或刑事违法行为的，中国有专门的行政诉讼和刑事诉讼程序对此进行规制。税务机关系统内部有专门的监察制度。 中国符合最低标准。报告期内没有新变化。 Illegal disclosure of taxpayer's tax related confidential information constitutes administrative or criminal violations, and there are special administrative and criminal proceedings in China to regulate it. There was a new special supervisory system created during 2018 which applies to tax administration too. China meets the requirements of the minimum standard. There's improvement during the report period.</p> <p>依据材料： 1. 《中华人民共和国保守国家秘密法》（2010）</p> <p>第44条 保密行政管理部门对机关、单位遵守保密制度的情况进行检查，有关机关、单位应当配合。保密行政管理部门发现机关、单位存在泄密隐患的，应当要求其采取措施，限期整改；对存在泄密隐患的设施、设备、场所，应当责令停止使用；对严重违反保密规定的涉密人员，应当建议有关机关、单位给予处分并调离涉密岗位；发现涉嫌泄露国家秘密的，应当督促、指导有关机关、单位进行调查处理。涉嫌犯罪的，移送司法机关处理。</p> <p>2. 《中华人民共和国公务员法》（2018） 第14条 公务员应当履行下列义务：……（五）保守国家秘密和工作秘密；</p> <p>第57条 机关应当对公务员的思想政治、履行职责、作风表现、遵纪守法等情况进行监督，开展廉政教育，建立日常管理监督制度。 对公务员监督发现问题的，应当区分不同情况，予以谈话提醒、批评教育、责令检查、诫勉、组织调整、处分。 对公务员涉嫌职务违法和职务犯罪的，应当依法移送监察机关处理。</p> <p>第59条 公务员应当遵纪守法，不得有下列行为： （十一）泄露国家秘密或者工作秘密；</p> <p>3. 《中华人民共和国监察法》（2018）</p>
18	Introduce an offence for tax officials covering up unauthorised disclosure of confidential information.		○	○	<p>中国规定了税务机关、税务人员对纳税人涉密信息的保密义务，如果违反该义务将会受到行政处罚，涉及到国家机密的还将受到刑事处罚。 中国达到最低标准。报告期内没有新变化。 China has provided the confidentiality obligations for tax authorities and tax officials on confidential information of taxpayers. If they violate the obligations, they will be subject to administrative penalties. when the violation involves state secrets, they will also be subject to criminal penalties. China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 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）</p> <p>第7条 税务机关、税务人员在税收征收管理工作各环节采集、接触到纳税人涉税保密信息的，应当为纳税人保密。</p> <p>第23条 对有下列行为之一的税务人员，按照《中华人民共和国税收征收管理法》第八十七条的规定处理：（一）在受理、录入、归档、保存纳税人涉税资料过程中，对外泄露纳税人涉税保密信息的；（二）在日常税收管理、数据统计、报表管理、税源分析、纳税评估过程中，对外泄露纳税人涉税保密信息的；（三）违规设置查询权限或者违规进行技术操作，使不应知晓纳税人涉税保密信息的税务人员可以查询或者知晓的；（四）违反规定程序向他人提供纳税人涉税保密信息的。</p> <p>2. 《中华人民共和国税收征收管理法》（2015）</p> <p>第87条 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>

19	Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted.		○	<p>中国明确规定了纳税人涉税保密信息披露的一般规定和例外规定。 中国达到最低标准，与上年报告相比暂无变化。 China's tax administration has regulated the exceptions to the general rule of confidentiality. China satisfies the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 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）</p> <p>第2条 本办法所称纳税人涉税保密信息，是指税务机关在税收征收管理工作中依法制作或者采集的，以一定形式记录、保存的涉及到纳税人商业秘密和个人隐私的信息。主要包括纳税人的技术信息、经营信息和纳税人、主要投资人以及经营者不愿公开的个人事项。 纳税人的税收违法信息不属于保密信息范围。</p> <p>第3条 对于纳税人的涉税保密信息，税务机关和税务人员应依法为其保密。除下列情形外，不得向外部部门、社会公众或个人提供： （一）按照法律、法规的规定应予公布的信息； （二）法定第三方依法查询的信息； （三）纳税人自身查询的信息； （四）经纳税人同意公开的信息。</p> <p>第4条 根据法律、法规的要求和履行职责的需要，税务机关可以披露纳税人的有关涉税信息，主要包括：根据纳税人信息汇总的行业性、区域性等综合涉税信息、税收核算分析数据、纳税信用等级以及定期定额户的定额等信息。 2. 《中华人民共和国政府信息公开条例》（国务院令492号）</p> <p>第9条 行政机关对符合下列基本要求之一的政府信息应当主动公开：（一）涉及公民、法人或者其他组织切身利益的；（二）需要社会公众广泛知晓或者参与的；（三）反映本行政机关机构设置、职能、办事程序等情况的；（四）其他依照法律、法规和国家有关规定应当主动公开的。</p>
20	If "naming and shaming" is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer).		○	<p>中国对于重大税收违法案件信息的公布，由税务稽查局做出了《税务处理决定书》或《税务行政处罚决定书》，且当事人在法定期间内没有申请行政复议或者提起行政诉讼，或者经行政复议或法院裁判对此案件最终确定效力后，才进行公布。中国税务机关的纳税人信息披露并不需要司法授权。 中国达到最低标准。报告期内有改进。 In China, the "naming and shaming" is employed when: Tax inspection bureau has made written decisions of tax disposal or tax administrative penalty, and the taxpayers neither applied for administrative review nor filed administrative litigation during the statutory period, or, when there is remedial procedure followed, the final decisions have gotten. The disclosure of confidential information by revenue authorities needs no judicial authorization. China meets the requirements of the minimum standard. There's improvement during the report period.</p> <p>依据材料： 1. 国家税务总局关于发布《重大税收违法失信案件信息公布办法》的公告（国家税务总局公告2018年第54号）</p> <p>第2条 税务机关依照本办法的规定，向社会公布重大税收违法失信案件信息，并将信息通报相关部门，共同实施严格监管和联合惩戒。</p> <p>第3条 公布重大税收违法失信案件信息和对当事人实施惩戒，应当遵循依法行政、公平公正、统一规范的原则。</p> <p>第4条 按照谁检查、谁负责的原则，对公布的案件实施检查的税务机关对公布案件信息的合法性、真实性和准确性负责。</p> <p>第5条 本办法所称“重大税收违法失信案件”是指符合下列标准的案件： （一）纳税人伪造、变造、隐匿、擅自销毁账簿、记账凭证，或者在账簿上多列支出或者不列、少列收入，或者经税务机关通知申报而拒不申报或者进行虚假的纳税申报，不缴或者少缴应纳税款100万元以上，且任一年度不缴或者少缴应纳税款占当年各税种应纳税总额10%以上的； （二）纳税人欠缴应纳税款，采取转移或者隐匿财产的手段，妨碍税务机关追缴欠缴的税款，欠缴税款金额10万元以上的； （三）骗取国家出口退税款的；</p>

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.	○	○	<p>中国没有明确规定纳税人涉税保密信息不得披露给政客，但严格限定了纳税人涉税保密信息披露的情形，除法院、检察院、公安、审计机构提出合法的纳税人数据需求外，不符合该情形的一概不披露。</p> <p>中国税务机关为垂直领导，全国人大在审议政府工作报告时，并未专门就纳税人信息保密情况进行审议。</p> <p>中国达到最低标准，但尚不符合最佳实践。报告期内没有新变化。</p> <p>There is no law about the disclosure of confidential taxpayer information to politicians in China. As stated above, China limits the conditions for disclosure, which are strictly confined to the lawful request from courts, procuratorates, public security organization and the audit department. Chinese tax authorities have a vertical system of leadership, and they are not directly responsible for National People's Congress.</p> <p>China meets the requirements of the minimum standard, but fails to meet the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 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）</p> <p>第3条 对于纳税人的涉税保密信息，税务机关和税务人员应依法为其保密。除下列情形外，不得向外部部门、社会公众或个人提供：（一）按照法律、法规的规定应予公布的信息；（二）法定第三方依法查询的信息；（三）纳税人自身查询的信息；（四）经纳税人同意公开的信息。</p>
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.		○	○	<p>中国目前规定了纳税人有权获取自身涉税信息。第三方获取纳税人信息的裁决权并不在司法机关，除了法定的情形外，需要征询纳税人的书面意见。</p> <p>中国达到最低标准。报告期内没有变化。</p> <p>In China, taxpayers have the right to get their own tax information. Judicial system has no jurisdiction on the access to taxpayer's information by third parties, however, unless the law set otherwise, written agreement by taxpayer is required before disclosure.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《涉税信息查询管理办法》（国家税务总局公告2016年第41号）</p> <p>第7条 纳税人可以通过网站、客户端软件、自助办税终端等渠道，经过有效身份认证和识别，自行查询税费缴纳情况、纳税信用评价结果、涉税事项办理进度等自身涉税信息。</p> <p>第8条 纳税人按照本办法第七条无法自行获取所需自身涉税信息，可以向税务机关提出书面申请，税务机关应当在本单位职责权限内予以受理。书面申请查询，应当提交以下资料：（一）涉税信息查询申请表（式样见附件1）；（二）纳税人本人（法定代表人或主要负责人）有效身份证件原件及复印件。</p> <p>第9条 纳税人本人（法定代表人或主要负责人）授权其他人员代为书面申请查询，应当提交以下资料：（一）涉税信息查询申请表；（二）纳税人本人（法定代表人或主要负责人）有效身份证件复印件；（三）经办人员有效身份证件原件及复印件；（四）由纳税人本人（法定代表人或主要负责人）签章的授权委托书。</p> <p>第10条 纳税人书面申请查询，要求税务机关出具书面查询结果的，税务机关应当出具《涉税信息查询结果告知书》（式样见附件2）。涉税信息查询结果不作为涉税证明使用。</p> <p>第12条 税务机关对下列单位和个人依照法律、法规规定，申请对纳税人涉税保密信息进行的查询应在职责范围内予以支持。具体包括：（一）人民法院、人民检察院和公安机关根据法律规定进行的办案查询；（二）纳税人对自身涉税信息的查询；（三）抵押权人、质权人请求税务机关提供纳税人欠税有关情况的查询。</p> <p>2. 《中华人民共和国政府信息公开条例》（国务院令492号）</p>

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	○	○	<p>中国法律没有明确规定税务事先裁定制度。尽管一些税务机关已经开展应用实践，但相关裁定书处于非公开状态。中国法院的税务判决、裁定，除涉及国家秘密、商业秘密和纳税人个人隐私的，同其他判决一样，应当公开。公开时并未全部隐去纳税人相关信息。</p> <p>报告期内没有新变化。</p> <p>There is no formal tax rulings system in China yet, some tax authorities have started trying in practice, no rulings published.</p> <p>Judgments involved state secrets, business secrets or privacy are not published. For those tax judgments made by courts should be published, are published without anonymizing or wholly removing identity details.</p> <p>There's no changes during the report period.</p> <p>依据材料： 1. 《中华人民共和国行政诉讼法》</p> <p>第65条 人民法院应当公开发生效力的判决书、裁定书，供公众查阅，但涉及国家秘密、商业秘密和个人隐私的内容除外。</p>
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.	○	○	<p>中国法律明确赋予了律师免于披露委托人相关信息的权利，但对于其他提供税务咨询的注册会计师、注册税务师等，仅规定了保守商业秘密的义务。</p> <p>中国达到最低标准，但尚不符合最佳实践。报告期内没有新变化。</p> <p>Chinese lawyers are authorized with professional privileges not to disclose information of the clients in terms of tax advice. While as for other tax advisors, the privilege is confined to commercial secrets.</p> <p>China meets the requirements of the minimum standard, but fails to meet the best practice. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国律师法》（2017）</p> <p>第38条 律师应当保守在执业活动中知悉的国家秘密、商业秘密，不得泄露当事人的隐私。律师对在执业活动中知悉的委托人和其他人不愿泄露的有关情况和信息，应当予以保密。但是，委托人或者其他人准备或者正在实施危害国家安全、公共安全以及严重危害他人人身安全的犯罪事实和信息除外。</p> <p>2. 《中华人民共和国注册会计师法》（2014）</p> <p>第19条 注册会计师对在执行业务中知悉的商业秘密，负有保密义务。</p> <p>3. 《注册税务师管理暂行办法》（国家税务总局令第14号）</p> <p>第18条 注册税务师对执业中知悉的委托人商业秘密，负有保密义务。</p>

25	Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege.		○	○	<p>中国规定了税务检查的程序。如果违反该程序，纳税人有权拒绝检查。但在检查中纳税人有积极配合的义务。目前未赋予纳税人有委托独立的律师在场的权利。</p> <p>中国尚未达到最低标准。报告期内没有新变化。</p> <p>China has stipulated the procedures of tax audits. If tax authorities violate the procedures, taxpayers are entitled to refuse to be inspected. Taxpayers are obligated to assist the inspection positively. At present, There is no requirement of the presence of a lawyer delegated by taxpayer for tax authorities to enter premises.</p> <p>China fails to satisfy the minimum standard. There's no change during the report period.</p> <p>依据材料： 《中华人民共和国税收征收管理法》（2015）</p> <p>第56条 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>第55条 税务机关对从事生产、经营的纳税人以前纳税期的纳税情况依法进行税务检查时，发现纳税人有逃避纳税义务行为，并有明显的转移、隐匿其应纳税的商品、货物以及其他财产或者应纳税的收入的迹象的，可以按照本法规定的批准权限采取税收保全措施或者强制执行措施。</p> <p>第57条 税务机关依法进行税务检查时，有权向有关单位和個人调查纳税人、扣缴义务人和其他当事人与纳税或者代扣代缴、代收代缴税款有关的情况，有关单位和個人有义务向税务机关如实提供有关资料及证明材料。</p> <p>第58条 税务机关调查税务违法案件时，对与案件有关的情况和资料，可以记录、录音、录像、照相和复制。</p> <p>第59条 税务机关派出的人员进行税务检查时，应当出示税务检查证和税务检查通知书，并有责任为被检查人保守秘密；未出示税务检查证和税务检查通知书的，被检查人有权拒绝检查。</p>
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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.		○	○	<p>(1) 比例原则是指行政权力的行使除了有法律依据这一前提外，行政主体还必须选择对相对人侵害最小的方式而进行。中国行政程序中确立了合理行政的基本要求，即行政机关行使自由裁量权应当符合法律目的，税收检查作为行政行为的一种，也受到合理行政要求的约束。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>The principle of proportionality has been established in China's administrative procedure, which means the authorities' discretion should comply with the aim of relevant law. Tax audit is also constrained by the requirement of proportionality since it's a kind of administrative behavior.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《国务院关于印发全面推进依法行政实施纲要的通知》（国发[2004]10号） 三、依法行政的基本原则和基本要求 5. 依法行政的基本要求</p> <p>合理行政。行政机关实施行政管理，应当遵循公平、公正的原则。要平等对待行政管理相对人，不偏私、不歧视。行使自由裁量权应当符合法律目的，排除不相关因素的干扰；所采取的措施和手段应当必要、适当；行政机关实施行政管理可以采用多种方式实现行政目的的，应当避免采用损害当事人权益的方式。</p> <p>2. 国家税务总局关于规范税务行政裁量权工作的指导意见（国税发[2012]65号） 二、规范税务行政裁量权的基本要求 (一) 合法裁量。税务机关行使行政裁量权应当依照法律法规进行。税务机关行使行政裁量权应当依照法定权力、条件、范围、幅度和程序进行。 (二) 合理裁量。税务机关行使行政裁量权应当符合立法目的和法律原则。要全面考虑相关事实因素和法律因素，排除不相关因素的干扰，维护纳税人合法权益，努力实现法律效果与社会效果的统一。可以采取多种方式实现行政目的的，应当选择对纳税人权益损害最小的方式，对纳税人造成的损害不得与所保护的法定利益显失均衡。</p> <p>(2) 一事不再理原则是指对判决、裁定已经发生法律效力案件的被告人，不得再次起诉和审理。中国行政程</p>

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.		○	○	<p>根据中国《税收征收管理法》以及《税收征收管理法实施条例》的规定，税务机关实施税务检查，必须以相关性为原则；只有与检查内容有关的账簿、报表等凭证信息才能被检查，与检查内容无关的信息不能被列入检查对象，不能对被检查人造成不必要的负担。另一方面，税务机关实施税务检查，必须以合比例行为原则，其实施检查行为所采取的措施必须与所达到的目的相称，不能对被检查人带来超过行政目的价值的侵害。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>According to China's Tax Administration Law, the principle that tax authorities must follow in tax audit procedures is proportionality and rationality. On the one hand, the unrelated information can't be examined since tax audits shouldn't cause unnecessary burden to taxpayers, on the other hand, the measures that tax authorities take should be in proportion with the aim, and the harm might caused by the measures shall not exceed the value to achieve.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国税收征收管理法》（2015）</p> <p>第54条 税务机关有权进行下列税务检查：（一）检查纳税人的账簿、记账凭证、报表和有关资料，检查扣缴义务人应纳的税款、代扣代缴税款账簿、记账凭证和有关资料；（二）到纳税人的生产、经营场所和货物存放地检查纳税人应纳的税款、货物或者其他财产，检查扣缴义务人与代扣代缴、代收代缴税款有关的经营情况；（三）责成纳税人、扣缴义务人提供与纳税或者代扣代缴、代收代缴税款有关的文件、证明材料和有关资料；（四）询问纳税人、扣缴义务人与纳税或者代扣代缴、代收代缴税款有关的问题和情况；（五）到车站、码头、机场、邮政企业及其分支机构检查纳税人托运、邮寄应纳税商品、货物或者其他财产的有关单据、凭证和有关资料；（六）经县以上税务局(分局)局长批准，凭全国统一格式的检查存款账户许可证明，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。税务机关在调查税收违法案件时，经设区的市、自治州以上税务局(分局)局长批准，可以查询案件涉嫌人员的储蓄存款。税务机关查询所获得的资料，不得用于税收以外的用途。</p> <p>第58条 税务机关调查税务违法案件时，对与案件有关的情况和资料，可以记录、录音、录像、照相和复制。</p> <p>2. 《税务稽查工作规程》（国税发[2009]157号）</p> <p>第24条 实施检查时，应当依照法定权限和程序，收集能够证明案件事实的证据材料。收集的证据材料应当真实。</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.	○	○	<p>中国的税收检查明确规定应当严格控制检查的次数，不得对同一纳税人在同一年度内针对同一事项实施重复检查。</p> <p>中国情况符合最佳实践。报告期内没有新变化。</p> <p>China has explicitly stated in tax audits rules that the frequency of audits must be strictly controlled. Tax authorities have no right to carry out repeated audits to the same taxpayer on the same matter during the same audit period.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 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</p> <p>2. 《国家税务总局关于进一步规范税务机关进户执法工作的通知》（税总发[2014]12号）</p> <p>一、依法规范执法行为避免重复进户执法。税务机关工作人员依法到纳税人、扣缴义务人（以下简称纳税人）生产经营场所实施实地核查、纳税评估、税务稽查、反避税调查、税务审计、日常检查等税务行政执法行为，应当严格遵守法定权限和法定程序，能不进户的，或者可进可不进的，均不进户。在同一年度内，除涉及税收违法案件检查和特殊调查事项外，对同一纳税人不得重复进户开展纳税评估、税务稽查、税务审计；对同一纳税人实施实地核查、反避税调查、日常检查时，同一事项原则上不得重复进户。</p> <p>3. 《中华人民共和国税收征收管理法实施细则》（2016）</p> <p>第85条 税务机关应当建立科学的检查制度，统筹安排检查工作，严格控制对纳税人、扣缴义务人的检查次数。税务机关应当制定合理的税务稽查工作规程，负责选案、检查、审理、执行的人员的职责应当明确，并相互分离、相互制约，规范选案程序和检查行为。税务稽查工作的具体办法，由国家税务总局制定。</p> <p>4. 《税务稽查工作规程》（国税发[2009]157号）</p> <p>第15条 稽查局必须有计划地实施稽查，严格控制对纳税人、扣缴义务人的税务检查次数。</p>

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.		○	<p>税务机关针对检查行为作出的税务决定，应当及时告知纳税人、扣缴义务人。纳税人、扣缴义务人对涉及自身利益的事项享有知情权，并享有陈述和申辩的权利，同时在受到税收处罚时有依法要求听证的权利。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>When tax authorities are going to make a decision of tax audits, they should notify the taxpayers the facts, reasons and grounds on which the decision is made, as well as the rights that the taxpayers enjoy according to the law. Taxpayers have the right to make a statement and to defend themselves. When taxpayers might subject to tax punishments, they also have the right to request a public hearing.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国行政处罚法》(2017)</p> <p>第31条 行政机关在作出行政处罚决定之前，应当告知当事人作出行政处罚决定的事实、理由及依据，并告知当事人依法享有的权利。</p> <p>第32条 当事人有权进行陈述和申辩。行政机关必须充分听取当事人的意见，对当事人提出的事实、理由和证据，应当进行复核；当事人提出的事实、理由或者证据成立的，行政机关应当采纳。行政机关不得因当事人申辩而加重处罚。</p> <p>2. 《税务稽查工作规程》(国税发[2009]157号)</p> <p>第28条 当事人、证人可以采取书面或者口头方式陈述或者提供证言。当事人、证人口头陈述或者提供证言的，检查人员可以笔录、录音、录像。笔录应当使用能够长期保持字迹的书写工具书写，也可使用计算机记录并打印。陈述或者证言应当由陈述人或者证人逐页签章、捺指印。当事人、证人口头提出变更陈述或者证言的，检查人员应当就变更部分重新制作笔录，注明原因，由当事人、证人逐页签章、捺指印。当事人、证人变更书面陈述或者证言的，不退回原件</p> <p>第41条 检查结束前，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。</p>
30	In application of <i>nemo tenetur</i> , the right to remain silent should be respected in all tax audits.		○	<p>中国的税收征收管理程序中并未明确赋予当事人在税收检查中的缄默权，而《税收征收管理法》则规定了纳税人、扣缴义务人应当如实陈述反映情况的义务。中国仅仅强调任何人不得自证其罪，赋予纳税人诚实推定权，但缺乏对于当事人保持缄默权利的认同。</p> <p>中国情况不符合最低标准。报告期内没有新变化。</p> <p>Taxpayers are not entitled to remain silent according to China's Tax Administration Law, and they have to report the truth. China emphasizes that no one should be forced to prove the crime by himself, but has no recognition of the right of remaining silent.</p> <p>China fails to meet the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国税收征收管理法》(2015)</p> <p>第56条 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>2. 《税务行政复议规则》(2018)</p> <p>第53条 在行政复议中，被申请人对其作出的具体行政行为负有举证责任。</p>

31		Tax audits should follow a pattern that is set out in published guidelines.	○	○	<p>中国国家税务总局制订了《税务稽查工作规程》，专门规范税务机关的税收检查工作，税务机关执行检查行为，必须遵循《税务稽查工作规程》中的各项规定。</p> <p>中国情况符合最佳实践。报告期内没有新变化。</p> <p>China's State Administration of Taxation formulated "Working Procedures for Tax Audits" in order to regulate the working of tax audits. Tax authorities who carry out tax audits must follow all the details of the Procedure.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国税收征收管理法实施细则》（2016）</p> <p>第6条 国家税务总局应当制定税务人员行为准则和服务规范。</p> <p>第85条 税务机关应当建立科学的检查制度，统筹安排检查工作，严格控制对纳税人、扣缴义务人的检查次数。税务机关应当制定合理的税务稽查工作规程，负责选案、检查、审理、执行的人员的职责应当明确，并相互分离、相互制约，规范选案程序和检查行为。税务检查工作的具体办法，由国家税务总局制定。</p> <p>2. 《税务稽查工作规程》（国税发[2009]157号）</p> <p>第1条 为了保障税收法律、行政法规的贯彻实施，规范税务稽查工作，强化监督制约机制，根据《中华人民共和国税收征收管理法》、《中华人民共和国税收征收管理法实施细则》等有关规定，制定本规程。</p>
32		A manual of good practice in tax audits should be established at the global level.	○	○	<p>目前，规范性文件中详细规定了税务机关在进行税务稽查过程中的工作程序。从管辖、选案、检查、审理以及执行等税务稽查涉及的各个环节及方面进行了具体的规范。</p> <p>中国情况符合最佳实践。报告期内没有新变化。</p> <p>At present, the normative documents stipulate in detail the working procedures of the tax authorities in carrying out tax audits. Conducted specific regulations on all aspects and steps involved in tax audits from jurisdiction, selection, inspection, decision and enforcement.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>《税务稽查工作规程》（国税发[2009]157号）</p> <p>第1条 为了保障税收法律、行政法规的贯彻实施，规范税务稽查工作，强化监督制约机制，根据《中华人民共和国税收征收管理法》（以下简称《税收征管法》）、《中华人民共和国税收征收管理法实施细则》（以下简称《税收征管法细则》）等有关规定，制定本规程。</p> <p>第5条 稽查局查处税收违法案件时，实行选案、检查、审理、执行分工制约原则。稽查局设立选案、检查、审理、执行部门，分别实施选案、检查、审理、执行工作。</p>
33		Taxpayers should be entitled to request the start of a tax audit (to obtain finality).	○	○	<p>目前在中国，纳税人无权要求税务机关为其进行税务审计。</p> <p>中国情况不符合最佳实践。在报告期内没有新变化。</p> <p>Currently in China, taxpayers are not entitled to require tax authorities to conduct tax audits for them.</p> <p>China fails to meet the best practice. There's no change during the report period.</p>

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.	○	○	<p>目前, 税务机关在进行税务稽查工作前, 应告知被稽查的纳税人稽查时间、需要准备的资料等, 但预先通知有碍稽查的除外。通常, 税务机关会给纳税人发送制式的检查通知书, 载明检查期间和时间, 有时会有面谈程序, 面谈不是法律的强行要求。</p> <p>中国情况符合最低标准。总体而言, 不符合最佳实现。报告期内没有新变化。</p> <p>At present, the tax authorities shall, before carrying out the tax audits, inform the taxpayers of the time, the information to be prepared, etc. Unless the advance notice will hinder the audits. In practice, tax authorities would issue a special form of tax notification to notify the audit timescale, date. Initial meeting may be arranged, no requirement by law.</p> <p>China meets the requirements of the minimum standard, while generally speaking, fails to meet the best practice. There's no change during the report period.</p> <p>依据材料:</p> <p>1. 国家税务总局关于印发《税务稽查工作规程》的通知 (国税发[2009]157号)</p> <p>第22条第1款 检查前, 应当告知被检查对象检查时间、需要准备的资料等, 但预先通知有碍稽查的除外。</p> <p>2. 《中华人民共和国税收征收管理法》 (2015)</p> <p>第59条</p> <p>税务机关派出的人员进行税务检查时, 应当出示税务检查证和税务检查通知书, 并有责任为被检查人保守秘密; 未出示税务检查证和税务检查通知书的, 被检查人有权拒绝检查。</p>
35	Taxpayers should be informed of information gathering from third parties.		○	○	<p>中国情况不符合最低标准。报告期内没有新变化。</p> <p>China fails to meet the minimum standard. There's no change during the report period.</p> <p>依据材料:</p> <p>根据《税收违法行为检举管理办法》(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。</p>
36		Reasonable time limits should be fixed for the conduct of audits.	○	○	<p>《税务稽查工作规程》规定, 税务稽查的一般期限是60日, 移送期限是5个工作日, 审理是15日, 其中检查与审理的期限可以适当延长。实践中, 税务机关对期限的把控较严格, 因为超过期限可能成为行政相对人提起行政诉讼的理由, 从而给自己带来不必要的麻烦。在报告期内, 中国全国范围内行政相对人以稽查超期为由提起的税务行政诉讼的数量几乎为零。</p> <p>中国情况符合最佳实践标准。报告期内没有变化。</p> <p>"Working Procedures for Tax Audits" provides that the general period of tax audit is 60 days, the transfer period is 5 work days and the decision period is 15 days, the audit and decision period can be extended with the permission from the director. In practice, the tax authorities strictly control over the duration, because the overdue may be the reason for the administrative counterparts to bring an administrative action, which gives them unnecessary troubles. During the reporting period, the number of tax administrative litigation filed by administrative counterparts nationwide on the grounds of tax audit overdue was almost zero.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料:</p> <p>1. 《税务稽查工作规程》 (国税发[2009]157号)</p> <p>第22条第4款 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。</p> <p>第43条 检查完毕, 检查部门应当将《税务稽查报告》、《税务稽查工作底稿》及相关证据材料, 在5个工作日内移交审理部门审理, 并办理交接手续。</p> <p>第50条 审理部门接到检查部门移交的《税务稽查报告》及有关资料后, 应当在15日内提出审理意见。但下列时间不计入在内: (一) 检查人员补充调查的时间 (二) 向上级机关请示或者向相关部门征询政策问题的时间。案情复杂确需延长审理时限的, 经稽查局局长批准, 可以适当延长。</p>

37	Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer.		○	○	<p>税务检查完成后·税务机关向纳税人作出《税务行政处罚事项告知书》·此时纳税人有权要求举行听证·并且委派专家等代理人。但是·在税务检查的其他环节·例如调查环节·就缺乏对纳税人的技术性保护。所以·中国在技术性帮助方面有所欠缺·仅在个别环节达到标准。</p> <p>总体而言·中国情况不符合最低标准·报告期内没有新变化。</p> <p>After the completion of a tax audit, the tax authorities are obligated to send the taxpayer the "notice of tax administrative punishment". Meanwhile, taxpayers are given the right to request a hearing, and to appoint experts and other agents. However, in other periods of tax audit, such as investigation, no technical protection for taxpayers exists in China's tax law. China fails to meet the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《税务稽查工作规程》（国税发[2009]157号）</p> <p>第51条 拟对被查对象或者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>第53条 被查对象或者其他涉税当事人要求听证的·应当依法组织听证。听证主持人由审理人员担任。听证依照国家税务总局有关规定执行。</p> <p>2. 《税务行政处罚听证程序实施办法（试行）》（国税发[1996]190号）</p> <p>第8条 当事人可以亲自参加听证·也可以委托一至二人代理。当事人委托代理人参加听证的·应当向其代理人出具代理委托书。代理委托书应当注明有关事项·并经税务机关或者听证主持人审核确认。</p>
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.	○	○	<p>税务检查工作完成后·检查部门将作出最终报告以供最终处理意见参考。在作出最终报告时·检查部门将听取行政相对人的意见。另一方面·税务检查的最终处理决定将包含检查的各项内容·并且形成最终决定送达行政相对人。中国情况符合最低标准和最佳实践标准。</p> <p>After the tax audit is completed, the audit department will make a final report for consideration on final conclusion. In making the final report, the audit department will listen to the views of the administrative counterparts. The final conclusion of the tax audit will contain all aspects of the audit and will form a final decision to serve the administrative counterpart. China meets the requirements of the minimum standard and the best practice. There's no change during the report period.</p> <p>依据材料： 《税务稽查工作规程》（国税发[2009]157号）</p> <p>第42条 检查结束时·应当根据《税务稽查工作底稿》及有关资料·制作《税务稽查报告》·由检查部门负责人审核。经检查发现有税收违法事实的·《税务稽查报告》应当包括以下主要内容：（一）案件来源；（二）被查对象基本情况；（三）检查时间和检查所属期间；（四）检查方式、方法以及检查过程中采取的措施；（五）查明的税收违法事实及性质、手段；（六）被查对象是否有拒绝、阻挠检查的情形；（七）被查对象对调查事实的意见；（八）税务处理、处罚建议及依据；（九）其他应当说明的事项；（十）检查人员签名和报告时间。经检查没有发现税收违法事实的·应当在《税务稽查报告》中说明检查内容、过程、事实情况。</p> <p>第55条 审理部门区分下列情形分别作出处理：（一）认为有税收违法行为·应当进行税务处理的·拟制《税务处理决定书》；（二）认为有税收违法行为·应当进行税务行政处罚的·拟制《税务行政处罚决定书》；（三）认为税收违法事实轻微·依法可以不予税务行政处罚的·拟制《不予税务行政处罚决定书》；（四）认为没有税收违法事实的·拟制《税务稽查结论》。</p> <p>《税务处理决定书》、《税务行政处罚决定书》、《不予税务行政处罚决定书》、《税务稽查结论》引用的法律、行政法规、规章及其他规范性文件·应当注明文件全称、文号和有关条款。《税务处理决定书》、《税务行政处罚决定书》、《不予税务行政处罚决定书》、《税务稽查结论》经稽查局局长或者所属税务局领导批准后由执行部门</p>

39		Following an audit, a report should be prepared even if the audit does not result in additional tax or refund.	○	○	<p>在税务检查后，税务机关应当作出《税务稽查报告》，报告稽查情况，在没有发现违法事实的情况下也应当说明。中国的情况符合最佳实践的要求。</p> <p>After the tax audit, the tax authorities should make a "tax audit report" to report the situation. Even the absence of illegal facts should also be described in the report.</p> <p>China meets the requirements of the best practice. There's improvement during the report period.</p> <p>依据材料： 1. 《税务稽查工作规程》（国税发[2009]157号） 第42条 检查结束时，应当根据《税务稽查工作底稿》及有关资料，制作《税务稽查报告》，由检查部门负责人审核。经检查发现有税收违法事实的，《税务稽查报告》应当包括以下主要内容：（一）案件来源；（二）被查对象基本情况；（三）检查时间和检查所属期间；（四）检查方式、方法以及检查过程中采取的措施；（五）查明的税收违法事实及性质、手段；（六）被查对象是否有拒绝、阻挠检查的情形；（七）被查对象对调查事实的意见；（八）税务处理、处罚建议及依据；（九）其他应当说明的事项；（十）检查人员签名和报告时间。经检查没有发现税收违法事实的，应当在《税务稽查报告》中说明检查内容、过程、事实情况。</p>
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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.	○	○	<p>在中国，强化稽查主要是指税收违法行为的稽查和税收犯罪的侦查。税收稽查有严格的选案程序，案源包括税收检查中发现的税收违法事实、被举报的税收违法事实等。公安机关对涉嫌税收违法犯罪的纳税人进行立案侦查，主要是来源于税务机关等机关的移送，有立案程序的要求。</p> <p>中国符合最佳实践标准。报告期内没有新变化。</p> <p>In China, intensive audit mainly include tax audit on tax violations and criminal investigation on tax crimes. Chinese tax law has set procedure for choosing audit objects, and the source of audit cases include the violations discovered during normal tax audit and reports from public, ect. Criminal investigation authority usually based on the cases handed over by tax agencies or other governmental institutions, booking standards shall be met.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料： 1. 《国家税务总局关于印发<税务稽查工作规程>的通知》（国税发[2009]157号） 第14条 稽查局应当通过多种渠道获取案源信息，集体研究，合理、准确地选择和确定稽查对象。 选案部门负责稽查对象的选取，并对税收违法案件查处情况进行跟踪管理。 第15条 稽查局必须有计划地实施稽查，严格控制对纳税人、扣缴义务人的税务检查次数。 稽查局应当在年度终了前制订下一年度的稽查工作计划，经所属税务局领导批准后实施，并报上一级稽查局备案。 年度稽查工作计划中的税收专项检查内容，应当根据上级税务机关税收专项检查安排，结合工作实际确定。经所属税务局领导批准，年度稽查工作计划可以适当调整。 2. 《中华人民共和国刑事诉讼法》（2018） 第109条 公安机关或者人民检察院发现犯罪事实或者犯罪嫌疑人，应当按照管辖范围，立案侦查。 第110条 任何单位和个人发现有犯罪事实或者犯罪嫌疑人，有权利也有义务向公安机关、人民检察院或者人民法院报案或者举报。 被害人对其人身、财产权利的犯罪事实或者犯罪嫌疑人，有权向公安机关、人民检察院或者人民法院报案或者控告。 公安机关、人民检察院或者人民法院对于报案、控告、举报，都应当接受。对于不属于自己管辖的，应当移送主管机关处理，并且通知报案人、控告人、举报人；对于不属于自己管辖而又必须采取紧急措施的，应当先采取紧急措施。</p>

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.		○	○	<p>不论是税务稽查程序，还是刑事侦查程序，中国法律均没有规定纳税人的沉默权。 中国情况不符合最低标准。报告期内没有新变化。 Chinese law did not grant right to silence for taxpayers in the process of tax audit nor tax criminal investigation. China fails to meet the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法》(2015) 第56条 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 2. 《国家税务总局关于印发<税务稽查工作规程>的通知》(国税发[2009]157号) 第27条 询问应当由两名以上检查人员实施。除在被查对象生产、经营场所询问外，应当向被询问人送达《询问通知书》。 询问时应当告知被询问人如实回答问题。询问笔录应当交被询问人核对或者向其宣读；询问笔录有修改的，应当由被询问人在改动处捺指印；核对无误后，由被询问人在尾页结束处写明“以上笔录我看过(或者向我宣读过)，与我说的相符”，并逐页签章、捺指印。被询问人拒绝在询问笔录上签章、捺指印的，检查人员应当在笔录上注明。 3. 《中华人民共和国刑事诉讼法》(2018) 第120条 侦查人员在讯问犯罪嫌疑人的时候，应当首先讯问犯罪嫌疑人是否有犯罪行为，让他陈述有罪的情节或者无罪的辩解，然后向他提出问题。犯罪嫌疑人对侦查人员的提问，应当如实回答。但是对与本案无关的问题，有拒绝回答的权利。 侦查人员在讯问犯罪嫌疑人的时候，应当告知犯罪嫌疑人享有的诉讼权利，如实供述自己罪行可以从宽处理和认罪认罚的法律规定。</p>
42	Entering premises or interception of communications should be authorised by the judiciary.		○	○	<p>(1) 对于税务行政违法行为，税务机关可以到纳税人的生产、经营场所和货物存放地检查纳税人应纳税的商品、货物或者其他财产，该项“入户检查”的权利已经由《税收征管法》授予税务机关，而不再需要司法机关的授权。此外，《税收征管法》并没有授权税务机关采取拦截通讯技术措施的权利，即税务机关无权对纳税人采取拦截通讯的措施。 (2) 对于税收违法犯罪行为，根据《刑事诉讼法》的规定，侦查人员可以对犯罪场所进行检查，对犯罪嫌疑人的住处和其他有关的地方进行搜查。该项权利以由法律赋予刑事侦查机关而无需司法机关的授权。根据《刑事诉讼法》的有关规定，对于拦截通讯这一技术侦查措施，侦查人员只能够在严格限制的情况下采用，如对于危害国家安全犯罪、恐怖活动犯罪、黑社会性质的组织犯罪、重大毒品犯罪或者其他严重危害社会的犯罪案件，重大的贪污、贿赂犯罪案件以及利用职权实施的严重侵犯公民人身权利的重大犯罪案件，以及追捕被通缉或者批准、决定逮捕的在逃的犯罪嫌疑人可以申请采用技术侦查措施。虽然技术侦查措施仍在侦查机关内部进行审批，无需司法机关的授权，但对于拦截通讯措施在实践中很少适用于税务违法犯罪的案件。 总体而言，中国实践未能达到最低标准。报告期内没有新变化。 (1) As to tax administrative illegal activities, tax authority is empowered to inspect a taxpayer's premises for production or business operations or premises for storage by law without authorization by the judiciary. Nevertheless, tax authority has no power to take measures of interception of communication. (2) As to tax criminal activities, investigation authority is empowered to inspect the operation premises, residence and other relevant places of criminal suspects by law without authorization by the judiciary. For communication interception measures, it could be taken without judicial authorization but shall be strictly restricted to certain crimes which impose severely impair to society and human rights. Consequently, the inspection measure of interception of communications is seldomly taken to investigate tax criminal activities. Generally speaking, China fails to meet the minimum standard. There's no changes during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法》(2015) 第54条 在税务检查阶段，税务机关可以采取如下检查措施：(一) 检查纳税人的帐簿、记帐凭证、报表和有关资料，检查</p>
43	Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for ex post ratification.		○	○	<p>本条不适用于中国的情况，参见上条。报告期内无变化。 Based on the above mentioned information, this standard doesn't apply to China's situation. There's no change during the report period.</p>

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.	○	○	<p>(1) 对于税务行政违法行为。目前中国法律并没有授予税务机关检查纳税人住宅的权利。仅授予税务机关在纳税人实际经营场所实施相关检查的权利。税务机关对纳税人的经营场所进行检查时应当提前告知被检查对象检查时间和需要准备的资料。预先通知有碍检查的除外。该项检查无需司法机关的授权。见上条。</p> <p>(2) 对于税收违法犯罪行为。根据《刑事诉讼法》的规定。侦查人员可以对犯罪场所进行检查。对犯罪嫌疑人的住处和其他有关的地方进行搜索。无需司法机关的授权。</p> <p>总体而言。中国实践未达到最低标准。不符合最佳实践。报告期内没有新变化。</p> <p>(1) As to tax administrative illegal activities, laws and regulations have only authorized tax authority to inspect the business premises of taxpayer, but not the residence of taxpayer. Tax authority shall inform the taxpayer of the inspection time and required documents in advance, unless the advance notice is of any impediment to inspection. As mentioned above, no judiciary authorization nor appearance is required/granted.</p> <p>(2) As to tax criminal activities, investigation authority may inspect taxpayer's residence and business premises. As the same, no requirement of judiciary authorization.</p> <p>Based on the analysis above, China fails to meet the minimum standard nor the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《国家税务总局关于进一步规范税务机关进户执法工作的通知》（国税发[2014]12号）</p> <p>一、依法规范执法行为避免重复进户执法。税务机关工作人员依法到纳税人、扣缴义务人（以下简称纳税人）生产经营场所实施实地核查、纳税评估、税务稽查、反避税调查、税务审计、日常检查等税务行政执法行为。应当严格遵守法定权限和法定程序。能不进户的。或者可进可不进的。均不进户。在同一年度内。除涉及税收违法案件检查和特殊调查事项外。对同一纳税人不得重复进户开展纳税评估、税务稽查、税务审计；对同一纳税人实施实地核查、反避税调查、日常检查时。同一事项原则上不得重复进户。</p> <p>二、统筹进户执法工作简并进户执法事项。省及省以下税务机关要成立规范进户执法工作协调小组（以下简称协调小组）。对所有需要进户执法的事项实行统筹安排、统一管理。协调小组负责制定相关管理办法和审批程序。按季</p>
45		Access to bank information should require judicial authorisation.	○	○	<p>不论是针对税务行政违法行为的检查。还是针对税务刑事犯罪行为的侦查。税务机关及侦查机关都无需经过司法机关的授权可以直接对纳税人的银行信息进行查询。但仍需要经过内部的审批程序。</p> <p>中国情况不符合最佳实践标准。报告期内没有新变化。</p> <p>Neither the inspections for tax administrative illegal activities by tax authority nor the investigations for tax criminal activities by investigation authority is required to get authorization by the judiciary to get access to bank information of taxpayers. But internal approvals are required.</p> <p>China fails to meet the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国税收征收管理法》（2015）</p> <p>第54条第6款</p> <p>经县以上税务局（分局）局长批准。凭全国统一格式的检查存款帐户许可证明。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帐户。税务机关在调查税收违法案件时。经设区的市、自治州以上税务局（分局）局长批准。可以查询案件涉嫌人员的储蓄存款。</p> <p>2. 《税务稽查工作规程》（国税发[2009]157号）</p> <p>第33条</p> <p>查询从事生产、经营的纳税人、扣缴义务人存款账户的。应当经所属税务局局长批准。凭《检查存款帐户许可证明》向相关银行或者其他金融机构查询。查询案件涉嫌人员储蓄存款的。应当经所属设区的市、自治州以上税务局局长批准。凭《检查存款帐户许可证明》向相关银行或者其他金融机构查询。</p> <p>3. 《中华人民共和国刑事诉讼法》（2018）</p> <p>第144条 人民检察院、公安机关根据侦查犯罪的需要。可以依照规定查询、冻结犯罪嫌疑人的存款、汇款、债券、股票、基金份额等财产。有关单位和个人应当配合。</p> <p>犯罪嫌疑人的存款、汇款、债券、股票、基金份额等财产已被冻结的。不得重复冻结。</p>

46		<p>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.</p>	○	○	<p>(1) 对于税务行政违法行为。《税收征管法》并没有授权税务机关采取拦截通讯、监测互联网等技术措施的权利，即税务机关无权对纳税人采取拦截通讯的措施。因此，在这一层面上，中国的实践是符合最佳实践的。</p> <p>(2) 对于税收违法犯罪行为。根据《刑事诉讼法》的有关规定，对于拦截通讯、监测互联网接入这一技术侦查措施，侦查人员只能在严格限制的情况下采用。见第42行。</p> <p>报告期内没有新变化。</p> <p>(1) As to tax administrative illegal activities, tax authorities have no power to intercept telephone communications of taxpayers or monitor internet access of taxpayers. Thus, China meets the best practice in this aspect.</p> <p>(2) As to tax criminal activities, interception of telephone communications and monitoring of internet access could be taken without judicial authorization but shall be strictly restricted. See above line 42.</p> <p>There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国税收征收管理法》(2015)</p> <p>第54条在税务检查阶段，税务机关可以采取如下检查措施：（一）检查纳税人的帐簿、记帐凭证、报表和有关资料，检查扣缴义务人代扣代缴、代收代缴税款帐簿、记帐凭证和有关资料；（二）到纳税人的生产、经营场所和货物存放地检查纳税人应纳税的商品、货物或者其他财产，检查扣缴义务人与代扣代缴、代收代缴税款有关的经营情况；（三）责成纳税人、扣缴义务人提供与纳税或者代扣代缴、代收代缴税款有关的文件、证明材料和有关资料；（四）询问纳税人、扣缴义务人与纳税或者代扣代缴、代收代缴税款有关的问题和情况；（五）到车站、码头、机场、邮政企业及其分支机构检查纳税人托运、邮寄应纳税商品、货物或者其他财产的有单单据、凭证和有关资料；（六）经县以上税务局（分局）局长批准，凭全国统一格式的检查存款帐户许可证明，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帐户。税务机关在调查税收违法案件时，经设区的市、自治州以上税务局（分局）局长批准，可以查询案件涉嫌人员的储蓄存款。税务机关查询所获得的资料，不得用于税收以外的用途。以上检查措施中并不包括对于纳税人的通讯设备进行拦截与监听，而对于生产经营场所的检查也不需要司法机关的授权。</p> <p>2. 《税务稽查工作规程》（国税发[2009]157号）</p>
47	<p>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.</p>		○	○	<p>(1) 对于税务行政违法行为。税务机关在对纳税人进行税务检查的过程中需要调取账簿的应当严格按照相关法律法规的规定，经过主管税务机关局长的批准后可以调取。由于设置了调账需经批准的要求，由此在一定程度上限制了税务检查人员对调账措施的滥用。另外根据《税收征管法实施细则》及《税务稽查工作规程》的相关规定，对税务机关调取账簿的时间也进行了严格的限制。</p> <p>(2) 对于税收违法犯罪行为。在对税收违法犯罪进行侦查的过程中，侦查机关有权扣押与案件相关的文件，扣押期限同样受限于侦查期限的要求，此外，经查明确实与案件无关的，应当在三日以内解除查封、扣押、冻结，予以退还。</p> <p>中国的实践符合最低标准的要求。报告期内没有新变化。</p> <p>(1) As to tax administrative illegal activities, only after being approved by the general director of the competent tax bureau, can tax authority take back taxpayer's accounting books for inspection. There is time limit for the tax authority to keep the books. The restricted speculations could avoid abuse of documents seizure to some extent.</p> <p>(2) As to tax criminal activities, the investigating authority has the power to detain the documents related to the case. The duration of seizure is also subject to the investigation deadline. In addition, if it is ascertained that the documents are unrelated to the case, they shall be returned within three days.</p> <p>China's practice meets the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国税收征收管理法实施细则》(2016)</p> <p>第86条</p> <p>税务机关行使税收征管法第五十四条第（一）项职权时，可以在纳税人、扣缴义务人的业务场所进行；必要时，经县以上税务局（分局）局长批准，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，但是税务机关必须向纳税人、扣缴义务人开付清单，并在3个月内完整退还；有特殊情况的，经设区的市、自治州以上税务局局长批准，税务机关可以将纳税人、扣缴义务人当年的账簿、记账凭证、报表和其他有关资料调回检查，但是税务机关必须在30日内退还。</p> <p>2. 《税务稽查工作规程》（国税发[2009]157号）</p> <p>第25条</p>

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.	○	○	<p>无论是在税收行政违法行为的检查中还是在税收刑事犯罪的侦查中，采集纳税人信息系统数据都无需纳税人的税务顾问或律师在场。但在对税务行政违法行为的检查中，税务机关只可对电子数据进行备份，原件仍未纳税人自行留存。</p> <p>总体而言，中国实践不符合最低要求。报告期内没有新变化。</p> <p>Whether in the inspection of tax administrative illegal activities or in the investigation of tax criminal activities, data collection from taxpayer's information system does not require the presence of taxpayer's tax consultants or lawyers. However, during the inspection of tax administrative illegal activities, tax authority shall only backup the electronic data and the originals shall be retained by taxpayer.</p> <p>China fails to meet the best practice standard in general. There's no change during the report period.</p> <p>依据材料： 1. 《税务稽查工作规程》（国税发[2009]157号） 第23条 实施检查时，依照法定权限和程序，可以采取实地检查、调取账簿资料、询问、查询存款账户或者储蓄存款、异地协查等方法。对采用电子信息系统进行管理和核算的被查对象，可以要求其打开该电子信息系统，或者提供与原始电子数据、电子信息系统技术资料一致的复制件。被查对象拒不打开或者拒不提供的，经稽查局局长批准，可以采用适当的技术手段对该电子信息系统进行直接检查，或者提取、复制电子数据进行检查，但所采用的技术手段不得破坏该电子信息系统原始电子数据，或者影响该电子信息系统正常运行。</p> <p>2. 《中华人民共和国刑事诉讼法》（2018） 第133条 勘验、检查的情况应当写成笔录，由参加勘验、检查的人和见证人签名或者盖章。</p>
49	Where invasive techniques are applied, they should be limited in time to avoid disproportionate impact on taxpayers.		○	○	

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.	○	●	<p>目前法规和实践基本认可可以电子方式提出复议申请。特别是有条件的行政复议机构，一般都接受在线申请。目前，北京、浙江、江西等地多级政府开通了网上行政复议信息服务平台。</p> <p>中国情况符合最佳实践。报告期内有改进。</p> <p>Current law and practice allow E-filing of review application. If technical condition satisfied, review departments usually accept on-line filing. At present, Beijing, Zhejiang, Jiangxi and other local governments opened on-line administrative review service platforms on their official website.</p> <p>China meets the requirements of the best practice. There's improvement during the report period.</p> <p>依据材料： 1. 《中华人民共和国行政复议法实施条例》（2017） 第18条 申请人书面申请行政复议的，可以采取当面递交、邮寄或者传真等方式提出行政复议申请。有条件的行政复议机构可以接受以电子邮件形式提出的行政复议申请。</p>

51	The right to appeal should not depend upon prior exhaustion of administrative reviews.		○	○	<p>纳税争议需先行完成行政复议程序·方可以向法院提起诉讼。纳税人申请复议后·如果复议机构没有在法定期限内做出复议决定的·纳税人可以向法院起诉。纳税争议以外的其他税收争议·不要求先申请行政复议·纳税人可以选择向法院提起诉讼·或者申请行政复议。</p> <p>中国在纳税争议的救济方式上·没有达到最低标准;在其他税收争议的救济方式上·达到最低标准。报告期内没有新变化。</p> <p>For tax liability related disputes, administrative review is required before turning to court. After the taxpayer filed an administrative review application, if the review department failed to give a decision within the time limitation set by law, he/she can appeal to the court. For other tax disputes, no administrative review required, taxpayer may go the court, or file an administrative review application.</p> <p>On tax liability related disputes, China fails to meet the minimum standard, while on other tax disputes meets the minimum standard. There's no change during the report period.</p> <p>依据材料:</p> <p>1. 《中华人民共和国税收征收管理法》(2015) 第88条</p> <p>纳税人、扣缴义务人、纳税担保人同税务机关在纳税上发生争议时·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。当事人对税务机关的处罚决定、强制执行措施或者税收保全措施不服的·可以依法申请行政复议·也可以依法向人民法院起诉。当事人对税务机关的处罚决定逾期不申请行政复议也不向人民法院起诉·又不履行的·作出处罚决定的税务机关可以采取本法第40条规定的强制执行措施·或者申请人民法院强制执行。</p> <p>2. 《中华人民共和国税收征收管理法实施细则》(2016) 第100条</p> <p>税收征管法第88条规定的纳税争议·是指纳税人、扣缴义务人、纳税担保人对税务机关确定纳税主体、征税对象、征税范围、减税、免税及退税、适用税率、计税依据、纳税环节、纳税期限、纳税地点以及税款征收方式等具体行政行为有异议而发生的争议。</p>
52		Reviews and appeals should not exceed two years.	○	○	<p>法律规定的行政复议期间一般是60日。行政诉讼·一审案件的审限为6个月·二审案件的审限3个月。据此·通常情况下·税务案件即使经过行政复议和一审、二审程序·能够在2年内获得终审判决·达到最好实践。但因为法律同时规定·特殊情况经过批准可以延长复议期间和审理期间·法律没有对延长审理期间做出时间限制·且有些期间不计算入内·所以在某些情况下·案件历经行政复议、一审、二审·可能超过2年。</p> <p>中国情况符合最佳实践标准。报告期内没有变化。</p> <p>Administrative review period set by law is 60 days.If the tax dispute is brought to the court,the first instance period set by law is 6 months, the second instance period 3 months.Based on the rules stated ahead, even if the tax cases go through administrative review, first instance and second instance, usually, taxpayers will be able to get a final decision within 2 years. From this point, China meets best practice. Since Chinese law also sets that, in some special situations, the periods may be prolonged after approval, and some kind of periods are not accounted in, so, some tax cases may actually take more than 2 years before the final decision.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料:</p> <p>1. 《中华人民共和国行政复议法》(2017) 第17条</p> <p>行政复议机关收到行政复议申请后·应当在五日内进行审查·对不符合本法规定的行政复议申请·决定不予受理·</p>

53	Audi alteram partem should apply in administrative reviews and judicial appeals.		○	○	<p>税务行政复议原则上采用书面审查的办法，但申请人提出要求或者复议机构认为有必要时，应当听取申请人的意见。重大、疑难案件，申请人提出要求或者复议机构认为有必要时，可以采取听证的方式审理。</p> <p>行政诉讼一审采用开庭审理，申请人有权当庭陈述理由。二审应当开庭审理，合议庭认为不需要开庭审理的，也可以不开庭审理，但都需要询问当事人。</p> <p>中国情况符合最低标准。报告期内无变化。</p> <p>As a principle, tax administrative review is based on paper, but when applicants so asked, or the review department found there is necessity, opinions from applicants should be heard. For those very important or complicated cases, when applicants so asked, or the review department found there is necessity, hearing will be arranged.</p> <p>As to administrative litigation, courts shall hold a hearing. In appellate procedure, if the collegiate bench may decide not to have a hearing, hearing may be waived, and the parties will be inquired by the court.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《税务行政复议规则》(2018修正) (国家税务总局令44号)</p> <p>第64条 行政复议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。</p> <p>第65条 对重大、复杂的案件，申请人提出要求或者行政复议机构认为必要时，可以采取听证的方式审理。</p> <p>第66条 行政复议机构决定举行听证的，应当将举行听证的时间、地点和具体要求等事项通知申请人、被申请人和第三人。</p> <p>第三人不参加听证的，不影响听证的举行。</p> <p>第67条 听证应当公开举行，但是涉及国家秘密、商业秘密或者个人隐私的除外。</p> <p>2. 《中华人民共和国行政诉讼法》(2017)</p> <p>第68条 人民法院审理行政案件，由审判员组成合议庭，或者由审判员、陪审员组成合议庭。合议庭的成员，应当是三人以上的单数。</p>
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.	○	○	<p>纳税争议，纳税人需要先缴纳税款或者提供相应的担保（提供担保则可以先不缴纳税款）方可以申请行政复议。缺乏资产的纳税人可能难以缴纳税款或者提供符合要求的担保。非纳税争议则没有要求。</p> <p>纳税争议而言，中国情况没有达到最低标准，不符合最佳实践。非纳税争议达到最低标准、符合最佳实践。报告期内没有新变化。</p> <p>For tax liability related disputes, taxpayers need to pay the tax before an appeal, or tender guarantee (where guarantee is tendered, no tax payment required). The taxpayers who lack of assets might fail to pay the tax or offer guarantee and result of losing the right to appeal. For other tax disputes, no tax payment or guarantee requirement.</p> <p>As to tax liability related disputes, China fails to meet the minimum standard. And as to other tax disputes, minimum standard and best practice are met. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法》(2015)</p> <p>第88条 纳税人、扣缴义务人、纳税担保人同税务机关在纳税上发生争议时，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。当事人对税务机关的处罚决定、强制执行措施或者税收保全措施不服的，可以依法申请行政复议，也可以依法向人民法院起诉。当事人对税务机关的处罚决定逾期不申请行政复议也不向人民法院起诉、又不履行的，作出处罚决定的税务机关可以采取本法第40条规定的强制执行措施，或者申请人民法院强制执行。</p> <p>2. 《税务行政复议规则》(2018) (国家税务总局令44号)</p> <p>第33条 申请人对本规则第十四条第(一)项规定的行为不服的，应当先向行政复议机关申请行政复议；对行政复议决定不服的，可以向人民法院提起行政诉讼。</p> <p>申请人按照前款规定申请行政复议的，必须依照税务机关根据法律、法规确定的税额、期限，先行缴纳或者解缴税款和滞纳金，或者提供相应的担保，才可以在缴清税款和滞纳金以后或者所提供的担保得到作出具体行政行为的税务机关确认之日起60日内提出行政复议申请。</p> <p>申请人提供担保的方式包括保证、抵押和质押。作出具体行政行为的税务机关应当对保证人的资格、资信进行</p>

55		The state should bear some or all of the costs of an appeal, whatever the outcome.	○	<p>行政复议·申请人不需要缴纳任何费用·行政诉讼的诉讼费为人民币50元, 由败诉方承担·国家不承担申请人的律师费等其他费用。</p> <p>中国不符合最佳实践标准·报告期内没有新变化。</p> <p>Applicants pay no fee for the administrative review. The fee for the administrative litigation is 50 RMB, which will be born by the losing party. Government does not pay or bear any attorneys fee for the applicant.</p> <p>China fails to meet the best practice. There's no change during the report period.</p> <p>依据材料:</p> <p>1. 《中华人民共和国行政复议法》(2017) 第39条</p> <p>行政复议机关受理行政复议申请·不得向申请人收取任何费用·行政复议活动所需经费·应当列入本机关的行政经费·由本级财政予以保障。</p> <p>2. 《诉讼费用交纳办法》(国务院令481号) 第13条</p> <p>案件受理费分别按照下列标准交纳:(五)行政案件按照下列标准交纳:1.商标、专利、海事行政案件每件交纳100元;2.其他行政案件每件交纳50元。</p>
56	Legal assistance should be provided for those taxpayers who cannot afford it.		○	<p>没有专门针对纳税人提供的法律援助制度·但有关法律援助和法律服务制度均可适用于纳税人·法律援助主要适用于申请国家赔偿等情形·各地均开通有免费的法律服务热线电话12348·各地基层政府设立了法律服务中心等·为辖区居民提供法律咨询、受理法律援助等·司法部正在推进全国统一的公共法律服务平台建设项目·为群众提供普惠性、公益性、可选择的公共法律服务。</p> <p>中国情况符合最低标准·报告期内有改进。</p> <p>Administrative litigation fee is very low, and if the taxpayer can't afford it, he can apply for reduction or exemption.</p> <p>There is no special legal aid for taxpayers, however, the general system of legal aid and legal service are both available for taxpayers. Legal aid mainly apply to the application for government compensation. Local governments offer a free legal service hot-line 12348 for their residences. And there are legal service centers for free legal consultation and legal aid for residences too. The Justice ministry is carrying on a program of a national wide public legal service platform, which aimed to offer universal, non-profit, and optional legal service for people.</p> <p>China meets the requirements of the minimum standard. There's improvement during the report period.</p> <p>依据材料:</p> <p>1. 《诉讼费用交纳办法》(2006)(国务院令481号) 第44条</p> <p>当事人交纳诉讼费用确有困难的·可以依照本办法向人民法院申请缓交、减交或者免交诉讼费用的司法救助。</p> <p>2. 《法律援助条例》(国务院令385号) 第10条</p> <p>公民对下列需要代理的事项·因经济困难没有委托代理人的·可以向法律援助机构申请法律援助:(一)依法请求国家赔偿的;(二)请求给予社会保险待遇或者最低生活保障待遇的;(三)请求发给抚恤金、救济金的;(四)请求给付赡养费、抚养费、扶养费的;(五)请求支付劳动报酬的;(六)主张因见义勇为行为产生的民事权益的。省、自治区、直辖市人民政府可以对前款规定以外的法律援助事项作出补充规定。公民可以就本条第一款、第二款规定的事项向法律援助机构申请法律咨询。</p> <p>第11条</p> <p>刑事诉讼中有下列情形之一的·公民可以向法律援助机构申请法律援助:(一)犯罪嫌疑人、被告人没有委托辩护人·且具有下列情形之一的·人民法院、人民检察院和公安机关应当通知法律援助机构指派律师为其提供辩护:(一)盲、聋、哑人或者视力、听力、言语残疾人;(二)未成年人;(三)可能被判处死刑的人;(四)因经济困难或者其他原因没有委托辩护人的其他被告人。犯罪嫌疑人、被告人拒绝法律援助机构指派的律师作为辩护人的·且有正当理由的·人民法院、人民检察院和公安机关应当准许·但被告人需另行委托辩护人·或者由法律援助机构重新指派律师担任辩护人。依照前款规定通知法律援助机构指派律师提供辩护的·被告人拒绝后重新指派的律师应当继续为其辩护。</p>

57	Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing.		○	○	<p>行政复议只有听证程序公开举行，但是涉及国家秘密、商业秘密或者个人隐私的，不公开举行。行政诉讼以公开审理为原则，涉及国家秘密和个人隐私的，不公开，涉及商业秘密，当事人可以申请不公开审理的规定。</p> <p>中国情况符合最低标准。报告期内没有变化。</p> <p>During administrative review procedure, only administrative hearings are publicly held, and when national secret, commercial secret or individual privacy are involved, hearing will be held privately. Administrative litigation hearing is held publicly as a principle, and where national secret or individual privacy are involved, hearing shall be held privately. Taxpayer may also apply for a private hearing if commercial secrets are involved.</p> <p>China meets the requirements of the minimum standards. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《税务行政复议规则》（国家税务总局令第21号） 第67条 听证应当公开举行，但是涉及国家秘密、商业秘密或者个人隐私的除外。</p> <p>2. 《中华人民共和国行政诉讼法》（2017）</p> <p>第54条 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。</p>
58	Tax judgments should be published.		○	○	<p>从2016年10月1日开始，全国法院的裁判文书，包括涉税案件的裁判文书，均在中国裁判文书网统一公布，涉及国家秘密、法院认为不宜在互联网公开等情形的除外。</p>

7. Criminal and administrative sanctions

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
59	Proportionality and <i>ne bis in idem</i> should apply to tax penalties.		○	○	<p>行政处罚中明确规定了一事不二罚的原则，刑罚中也包含此原则。中国在处罚与制裁中虽然包含有比例罚款的内容，但起点是百分之五十，而且大量的采用了倍数的形式进行罚款，最高倍数是五倍，对税收违法行为的处罚与制裁相对比较重。</p> <p>中国情况符合最低标准。报告期内没有变化。</p> <p>Both administrative penalty and criminal penalty laws contain <i>ne bis in idem</i>. Although it contains proportion of fines, the starting point of fine for tax evasion is fifty percent of the tax amount unpaid or underpays, and the maximum is five times. The penalty is very heavy, and tax authorities have much discretion on the exact fine amount.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>一、比例原则</p> <p>依据的材料：</p> <p>1. 《中华人民共和国税收征收管理法》（2015） 第63条 纳税人伪造、变造、隐匿、擅自销毁帐簿、记帐凭证，或者在帐簿上多列支出或者不列、少列收入，或者经税务机关通知申报而拒不申报或者进行虚假的纳税申报，不缴或者少缴应纳税款的，是偷税。对纳税人偷税的，由税务机关追缴其不缴或者少缴的税款、滞纳金，并处不缴或者少缴的税款百分之五十以上五倍以下的罚款；构成犯罪的，依法追究刑事责任。扣缴义务人采取前款所列手段，不缴或者少缴已扣、已收税款，由税务机关追缴其不缴或者少缴的税款、滞纳金，并处不缴或者少缴的税款百分之五十以上五倍以下的罚款；构成犯罪的，依法追究刑事责任。</p> <p>2. 《税务行政处罚裁量权行使规则》（国家税务总局公告2016年第78号） 第3条 本规则所称税务行政处罚裁量权，是指税务机关根据法律、法规和规章的规定，综合考虑税收违法事实、性质、情节及社会危害程度，选择处罚种类和幅度并作出处罚决定的权力。</p> <p>第5条 行使税务行政处罚裁量权，应当遵循以下原则：（一）合法原则。在法律、法规、规章规定的种类和幅度内，依照法定权限，遵守法定程序，保障当事人合法权益。（二）合理原则。符合立法目的，考虑相关事实因素和法律因素，作出的行政处罚决定与违法事实、性质、情节、社会危害程度相当，与本地的经济社会发展水平相适应。</p>

60		Where administrative and criminal sanctions may both apply, only one procedure and one sanction should be applied.	○	<p>《中华人民共和国刑法》和《中华人民共和国行政处罚法》中有关于行政处罚折抵刑事处罚以及“已受行政处罚的，不予追究刑事责任”的规定。</p> <p>中国情况符合最佳实践标准。报告期内没有新变化。</p> <p>Criminal law and administrative penalty law provide that administrative fines can commute criminal fines, and if the administrative penalty has been imposed, the criminal liability shall not be imposed.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国刑法》（2017） 第 201 条 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，处三年以下有期徒刑或者拘役，并处罚金；数额巨大并且占应纳税额百分之三十以上的，处三年以上七年以下有期徒刑，并处罚金。扣缴义务人采取前款所列手段，不缴或者少缴已扣、已收税款，数额较大的，依照前款的规定处罚。对多次实施前两款行为，未经处理的，按照累计数额计算。有第一款行为，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；但是，五年内因逃避缴纳税款受过刑事处罚或者被税务机关给予二次以上行政处罚的除外。</p> <p>2. 《中华人民共和国行政处罚法》（2018） 第 28 条 违法行为构成犯罪，人民法院判处拘役或者有期徒刑时，行政机关已经给予当事人行政拘留的，应当依法折抵相应刑期。违法行为构成犯罪，人民法院处罚金时，行政机关已经给予当事人罚款的，应当折抵相应罚金。</p>
61		Voluntary disclosure should lead to reduction of penalties.	○	<p>中国行政法和刑法规定，违法行为人主动纠正违法行为可以给予免罚、减轻或从轻处罚，该规定在税务行政处罚裁量中也有涉及。</p> <p>中国情况符合最佳实践标准。报告期内没有新变化。</p> <p>In China, if the offenders correct the illegal action voluntary and timely, their administrative penalty and/or criminal punishment may be exempted or lessened. Meanwhile the "tax penalty discretion standard" contain similar rules.</p> <p>China meets the requirements of the best practice. There's no changes during the report period.</p> <p>依据材料：</p> <p>1. 《中华人民共和国行政处罚法》（2018.01.01） 第 27 条 当事人有下列情形之一的，应当依法从轻或者减轻行政处罚：（一）主动消除或者减轻违法行为危害后果的；（二）受他人胁迫有违法行为的；（三）配合行政机关查处违法行为有立功表现的；（四）其他依法从轻或者减轻行政处罚的。违法行为轻微并及时纠正，没有造成危害后果的，不予行政处罚。</p> <p>2. 《税务行政处罚裁量权行使规则》（国家税务总局公告2016年第78号） 第 14 条 当事人有下列情形之一的，不予行政处罚：（一）违法行为轻微并及时纠正，没有造成危害后果的；……。</p> <p>第 15 条 当事人有下列情形之一的，应当依法从轻或者减轻行政处罚：（一）主动消除或者减轻违法行为危害后果的；……；（三）配合税务机关查处违法行为有立功表现的；……。</p> <p>3. 《中华人民共和国刑法》（2017） 第 67 条 犯罪以后自动投案，如实供述自己的罪行的，是自首。对于自首的犯罪分子，可以从轻或者减轻处罚。其中，犯罪较轻的，可以免除处罚。被采取强制措施的犯罪嫌疑人、被告人和正在服刑的罪犯，如实供述司法机关还未掌握的本人其他罪行的，以自首论。犯罪嫌疑人虽不具有前两款规定的自首情节，但是如实供述自己罪行的，可以从轻处罚；因其如实供述自己罪行，避免特别严重后果发生的，可以减轻处罚。</p>

62	Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures.		○	○	<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案件，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>中国情况符合最低标准。报告期内无变化。</p> <p>Basing on the 30th normative document of State Administration of Taxation in 2017, tax authorities are required to classify cases according to different situations, focus on major tax violations, practically accomplish tempering justice with mercy, punishing illegal action according to its illegality and with strong evidence. The function of tax inspection should be made full use, and guarantee the organic unity of legal effect and social effect.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 《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）</p> <p>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案件，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>
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8. Enforcement of taxes

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
63	Collection of taxes should never deprive taxpayers of their minimum necessary for living.		○	○	<p>纳税人个人及其所扶养家属维持生活必需的住房和用品不在税务机关采取税收强制执行措施或税收保全措施的范围之内，即税款的征收应保留纳税人最低生活所需的财产。各地在具体执行税收强制执行措施和税收保全措施时，也依据法律和有关地方性规定保留纳税人生活必需财产。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>The residence and supplies necessary for the subsistence of taxpayers and their dependents are not subject to tax enforcement measures or tax protection measures by the tax authorities, that is, the collection of taxes shall exclude the property necessary for the minimum subsistence of the taxpayer for living. Some local tax authority specify the rules and set details for enforcement.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法》（2015） 第 38 条</p> <p>税务机关有根据认为从事生产、经营的纳税人有逃避纳税义务行为的，可以在规定的纳税期之前，责令限期缴纳应纳税款；在限期内发现纳税人有明显的转移、隐匿其应纳税的商品、货物以及其他财产或者应纳税的收入迹象的，税务机关可以责成纳税人提供纳税担保。如果纳税人不能提供纳税担保，经县以上税务局（分局）局长批准，税务机关可以采取下列税收保全措施：（一）书面通知纳税人开户银行或者其他金融机构冻结纳税人的金额相当于应纳税款的存款；（二）扣押、查封纳税人的价值相当于应纳税款的商品、货物或者其他财产。</p> <p>纳税人在前款规定的限期内缴纳应纳税款的，税务机关必须立即解除税收保全措施；限期期满仍未缴纳应纳税款的，经县以上税务局（分局）局长批准，税务机关可以书面通知纳税人开户银行或者其他金融机构从其冻结的存款中扣缴税款，或者依法拍卖或者变卖所扣押、查封的商品、货物或者其他财产，以拍卖或者变卖所得抵缴税款。</p> <p>个人及其所扶养家属维持生活必需的住房和用品，不在税收保全措施的范围之内。</p> <p>第 40 条</p> <p>从事生产、经营的纳税人、扣缴义务人未按照规定的期限缴纳或者解缴税款，纳税担保人未按照规定的期限缴纳所担保的税款，由税务机关责令限期缴纳，逾期仍未缴纳的，经县以上税务局（分局）局长批准，税务机关可以采取下列强制执行措施：（一）书面通知其开户银行或者其他金融机构从其存款中扣缴税款；（二）扣押、查封、依法拍卖或者变卖其价值相当于应纳税款的商品、货物或者其他财产，以拍卖或者变卖所得抵缴税款。</p> <p>税务机关采取强制执行措施时，对前款所列纳税人、扣缴义务人、纳税担保人未缴纳的滞纳金同时强制执行。</p>

64		Authorisation by the judiciary should be required before seizing assets or bank accounts	○	○	<p>税务机关根据法律规定有权对纳税人采取税收保全措施或税收强制执行措施，包括通知银行或其他金融机构冻结或扣缴金额相当于应纳税款的存款；扣押、查封纳税人的价值相当于应纳税款的财产。采取上述措施需要税务机关内部履行相应的批准程序，即须经县以上税务局（分局）局长批准，但不需要履行司法的授权或批准程序。</p> <p>中国情况不符合最佳实践标准。报告期内没有新变化。</p> <p>The tax authorities have the power to take tax protection measures or tax enforcement measures against taxpayers in accordance with the law, including asking banks or other financial institutions to freeze or withhold deposits equal to the amount of tax payable; The above measures need to be carried out after the corresponding approval from the county Tax Bureau (branch) director. There is no requirement of judicial authorization or approval procedures.</p> <p>China fails to meet the best practice. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法》（2015.04.24） 第 38 条 税务机关有根据认为从事生产、经营的纳税人有逃避纳税义务行为的，可以在规定的纳税期之前，责令限期缴纳应纳税款；在限期内发现纳税人有明显的转移、隐匿其应纳税的商品、货物以及其他财产或者应纳税的收入的迹象的，税务机关可以责成纳税人提供纳税担保。如果纳税人不能提供纳税担保，经县以上税务局（分局）局长批准，税务机关可以采取下列税收保全措施：（一）书面通知纳税人开户银行或者其他金融机构冻结纳税人的金额相当于应纳税款的存款；（二）扣押、查封纳税人的价值相当于应纳税款的商品、货物或者其他财产。</p> <p>纳税人在前款规定的限期内缴纳税款的，税务机关必须立即解除税收保全措施；限期期满仍未缴纳税款的，经县以上税务局（分局）局长批准，税务机关可以书面通知纳税人开户银行或者其他金融机构从其冻结的存款中扣缴税款，或者依法拍卖或者变卖所扣押、查封的商品、货物或者其他财产，以拍卖或者变卖所得抵缴税款。</p> <p>个人及其所扶养家属维持生活必需的住房和用品，不在税收保全措施的范围之内。</p> <p>第 40 条 从事生产、经营的纳税人、扣缴义务人未按照规定的期限缴纳或者解缴税款，纳税担保人未按照规定的期限缴纳所担保的税款，由税务机关责令限期缴纳，逾期仍未缴纳的，经县以上税务局（分局）局长批准，税务机关可以采取下列强制执行措施：（一）书面通知其开户银行或者其他金融机构从其存款中扣缴税款；（二）扣押、查封、依法拍卖或者变卖其价值相当于应纳税款的商品、货物或者其他财产，以拍卖或者变卖所得抵缴税款。</p>
65	Taxpayers should have the right to request delayed payment of arrears.		○	○	<p>纳税人在特定条件下有权申请延期缴纳税款。根据法律规定，纳税人有特殊困难，需要延期缴纳税款的，应当在缴纳税款期限届满前提出申请，省、自治区、直辖市国家税务局、地方税务局有权对是否延期缴纳税款作出决定。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>Taxpayers are entitled to apply for delaying tax payment under certain conditions. According to the law, if taxpayers have special difficulties and apply for delaying tax payment, they should apply before the expiry of the tax period set by law or the decision of tax authority, the provincial level Tax Bureaus have the authority to decide whether to allow.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法》（2015） 第 31 条 纳税人、扣缴义务人按照法律、行政法规规定或者税务机关依照法律、行政法规的规定确定的期限，缴纳或者解缴税款。</p> <p>纳税人因有特殊困难，不能按期缴纳税款的，经省、自治区、直辖市国家税务局、地方税务局批准，可以延期缴纳税款，但是最长不得超过三个月。</p> <p>2. 《中华人民共和国税收征收管理法实施细则》（2016） 第 41 条 纳税人有下列情形之一的，属于税收征管法第 31 条所称特殊困难：（一）因不可抗力，导致纳税人发生较大损失，正常生产经营活动受到较大影响的；（二）当期货币资金在扣除应付职工工资、社会保险费后，不足以缴纳税款的。计划单列市国家税务局、地方税务局可以参照税收征管法第 31 条第 2 款的批准权限，审批纳税人延期缴纳税款。</p> <p>第 42 条 纳税人需要延期缴纳税款的，应当在缴纳税款期限届满前提出申请，并报送下列材料：申请延期缴纳税款报告，当期货币资金余额情况及所有银行存款账户的对账单，资产负债表，应付职工工资和社会保险费等相关税务机关要求提供的支出预算。税务机关应当自收到申请延期缴纳税款报告之日起 20 日内作出批准或者不予批准的决定；不予批准的，从缴纳税款期限届满之日起加收滞纳金。</p>

66		Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment.	○	○	<p>“债务人所欠税款”是中国破产法所规定的一类债权，根据破产法的相关规定，债务人或者债权人可以依照规定向人民法院申请对债务人进行重整，而重整就是通过债务减免等计划避免债务人破产清算的一种制度。</p> <p>中国情况符合最佳实践标准。报告期内没有新变化。</p> <p>"Tax that the debtor owes " is a kind of creditor's rights stipulated in the Chinese bankruptcy law, according to the relevant provisions of the bankruptcy law, the debtor or the creditor may apply to the Court to reorganize the debt in accordance with the law, and the reorganization is a system which usually avoids the debtor's bankruptcy by waiving debts.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料： 《中华人民共和国企业破产法》（2007.06.01）</p> <p>第 70 条 债务人或者债权人可以依照本法规定，直接向人民法院申请对债务人进行重整。债权人申请对债务人进行破产清算的，在人民法院受理破产申请后、宣告债务人破产前，债务人或者出资额占债务人注册资本十分之一以上的出资人，可以向人民法院申请重整。</p> <p>第 82 条 下列各类债权的债权人参加讨论重整计划草案的债权人会议，依照下列债权分类，分组对重整计划草案进行表决： （一）对债务人的特定财产享有担保权的债权；（二）债务人所欠职工的工资和医疗、伤残补助、抚恤费用，所欠的应当划入职工个人账户的基本养老保险、基本医疗保险费用，以及法律、行政法规规定应当支付给职工的补偿金；（三）债务人所欠税款；（四）普通债权。</p> <p>人民法院在必要时可以决定在普通债权组中设小额债权组对重整计划草案进行表决。</p>
67	Temporary suspension of tax enforcement should follow natural disasters.		○	○	<p>如前所述，纳税人因有特殊困难的可以申请延期缴纳税款，其中“特殊困难”包括自然灾害等不可抗力，因发生自然灾害不能按期缴纳税款的，纳税人可以申请延期缴纳；中国为支持和帮助一些地震重大受灾地区开展灾后恢复重建工作出台了一些政策，对受灾地区的相关企业和个人给予税根据减免优惠。上述规定和相关政策表明了中国注重对受自然灾害影响的纳税人的利益保护。除此之外，根据《中华人民共和国行政强制法》，当事人履行行政决定确有困难或者暂时无履行能力的，行政机关应中止执行。这里的“困难”应包括不可抗力，如自然灾害等。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>As stated above, taxpayers can apply for suspension due to special difficulties, including force majeure such as natural disasters. The taxpayer may apply for deferred payment due to natural disaster. China has some policies to support and assist some earthquake-stricken areas in post-disaster rehabilitation and reconstruction, granting tax credits to relevant enterprises and individuals in affected areas. The above regulations and related policies demonstrate China's focus on protecting the interests of taxpayers affected by natural disasters. In addition, according to China's Administrative Compulsion law, the administration shall suspend execution if people have difficulties or have no ability to perform the administrative decisions. The "difficulties" here should include force majeure, such as natural disasters.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 《中华人民共和国行政强制法》（2012）</p> <p>第 39 条 有下列情形之一的，中止执行：（一）当事人履行行政决定确有困难或者暂时无履行能力的；（二）第三人执行标的的主张权利，确有理由的；（三）执行可能造成难以弥补的损失，且中止执行不损害公共利益的；（四）行政机关认为需要中止执行的其他情形。</p> <p>中止执行的情形消失后，行政机关应当恢复执行。对没有明显社会危害，当事人确无能力履行，中止执行满三年未恢复执行的，行政机关不再执行。</p>

9. Cross-border procedures

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
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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.	○	○	<p>目前国内明确了税务机关可以将收集情报的目的、来源和内容告知纳税人、扣缴义务人或其他当事人，除非纳税人、扣缴义务人或其他当事人有重大税收违法犯罪嫌疑人，告知后会影响案件调查；或者缔约国一方声明不得将情报的来源和内容告知纳税人、扣缴义务人或其他当事人。</p> <p>国税总局在审核省以下税务机关上报的提供给缔约国的专项情报核查报告，应审核是否说明同意将交换的情报（证明文件或支持材料）全部或部分告知情报接收方纳税人或其他相关当事人。</p> <p>中国情况符合最低标准，不符合最佳实践标准。报告期内无变化。</p> <p>At present, China has prescribed that tax authorities can notify the aim, source and content of the information to taxpayer, withholding agent or other related parties, unless they are suspected of being involved in tax violation, and the notification may affect the investigation; or one of the contracting states disallows the notification.</p> <p>When State Administration of Axation examines the special information verification report submitted by under-provincial tax authorities, it should examine whether the information can be notified to taxpayer, withholding agent or other related parties.</p> <p>China satisfies the minimum standard but not meet the best practice. There's no change during the report period.</p> <p>依据材料： 1. 《国际税收情报交换规程》（国税发[2006]70号） 第27条 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、扣缴义务人或其他当事人，以及执行税收协定所含税种相应的国内法有关的部门或人员，并同时告知其保密义务。</p> <p>虽有前款规定，有下列情形之一的，未经总局批准，税务机关不得告知：（一）纳税人、扣缴义务人或其他当事人有重大税收违法犯罪嫌疑人，告知后会影响案件调查的；（二）缔约国一方声明不得将情报的来源和内容告知纳税人、扣缴义务人或其他当事人的。</p> <p>第33条 对省以下税务机关上报的提供给缔约国的专项情报核查报告和英文函，总局应进行认真审核。对没有按照缔约国专项情报请求事项要求查实的核报，应退回核查单位重新核查。审核的内容主要包括：（八）是否说明同意将交换的情报</p>
69		Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer.	○	○	<p>中国只规定了作为被请求国应当向请求国提供符合互助条约规定的情报，暂未规定应当提供帮助纳税人的情报。</p> <p>中国情况不符合最佳实践标准。报告期内没有新变化。</p> <p>China has merely prescribed that, as the requested state, we should supply those information regulated in treaty of mutual assistance. The information that assists the taxpayer has not specified.</p> <p>China fails to meet the best practice. There's no change during the report period.</p> <p>依据材料： 《多边税收征管互助公约》（2017） 第5条 专项情报交换 一、应请求国请求，被请求国应向请求国提供符合第4条规定的、涉及任何具体人员或交易的情报。二、如被请求国现有税收情况资料中的情报不够充分，从而不能满足情报交换请求，该国应采取一切必要措施，提供请求国要求提供的情报。</p>

70		Provisions should be included in tax treaties setting specific conditions for exchange of information.	○	○	<p>中国采用列举的方式明确了国家税务总局可以拒绝缔约国主管当局情报请求的各类情形；同时也明确规定主管当局不得因为一些理由予以拒绝。因此中国从正反两个方面将税收情报交换的范围限制在必要且合理的范围之内。</p> <p>中国情况符合最佳实践标准，报告期内没有新变化。</p> <p>China has listed different situations where State Administration of Taxation can reject the requests from the requesting state, as well as prescribed that State Administration of Taxation can not reject with certain reasons. Thus, China has restricted the range of information exchange in both sides.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《多边税收征管互助公约》（2017）</p> <p>第五条 专项情报交换</p> <p>一、应请求国请求，被请求国应向请求国提供符合第四条规定的、涉及任何具体人员或交易的情报。二、如被请求国现有税收情况资料中的情报不够充分，从而不能满足情报交换请求，该国应采取一切必要措施，提供请求国要求提供的情报。</p> <p>2. 《中华人民共和国政府和开曼群岛政府关于税收情报交换的协定》（2013）</p> <p>第五条 专项情报交换</p> <p>……六、请求方主管当局根据本协定提出情报请求时，应向被请求方主管当局提供以下信息，以证明情报与请求之间的可预见相关性：（一）被检查或被调查人的身份；（二）所请求情报的期间；（三）所请求情报的性质和类型，包括对所需情报和（或）所求具体证据的描述，以及请求方希望收到情报的形式；（四）请求情报的税收目的；（五）认为所请求的情报存在于被请求方领土内或由被请求方管辖范围内的人所掌握或控制的理由；（六）尽可能多地列出被认为掌握或控制所请求情报的任何人的姓名和地址；（七）声明情报请求符合本协定以及请求方国内法和行政惯例，且如果所请求情报存在于请求方管辖范围内，那么请求方主管当局可以根据请求方法律或正常行政渠道获取该情报；（八）声明请求方已穷尽其领土内除可能导致不适当困难外的获取情报的一切方法。</p> <p>3. 《国际税收情报交换工作规程》（国税发[2006]70号）</p> <p>第9条</p> <p>有下列情形之一的，总局可以拒绝缔约国主管当局的情报请求：（一）情报请求与税收目的无关；（二）情报请求缺乏针对性；（三）情报请求未经缔约国主管当局或者其授权代表签字；（四）请求的税收情报超出税收协定规定的范围；（五）缔约国一方为执行其国内法在相关国家请求提供情报，但该国中法规定无税收协定。</p>
71	If information is sought from third parties, judicial authorisation should be necessary.		○	○	<p>中国并未规定从第三方获取的情报信息需要司法授权程序，仅规定了下级税务机构处理涉及从第三方获取的情报信息应当逐级上报至总局，以及第三方机构应当予以配合。</p> <p>中国情况不符合最低标准。报告期内没有新变化</p> <p>China has not prescribed that the information sought from third parties should need judicial authorisation. In practice, the subordinate tax authorities should report the information to State Administration of Taxation level by level, and third parties should cooperate.</p> <p>China fails to meet the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《国际税收情报交换工作规程》（国税发[2006]70号）</p> <p>第11条</p> <p>省以下税务机关为执行税收协定及其所涉及税种的国内法，需要相关缔约国主管当局协助提供税收情报时，可以提出专项情报交换请求，逐级上报总局；（二）需要获取或核实纳税人与境外公司交易或从境外取得收入过程中支付款项使用的银行帐号、金额、资金往来记录等，而该金融机构在缔约国另一方的。</p> <p>2. 《中华人民共和国税收征收管理法》（2015）</p> <p>第17条</p> <p>税务机关依法查询从事生产、经营的纳税人开立账户的情况时，有关银行和其他金融机构应当予以协助。</p>
72		The taxpayer should be given access to information received by the requesting state.	○	○	<p>依据《国际税收情报交换工作规程》的规定，纳税人有权获得接受国收到的信息。</p> <p>中国符合最佳实践标准，报告期内无变化。</p> <p>According to Notice of the State Administration of Taxation on Issuing the Rules for the International Exchange of Tax Information, taxpayers have right to access to information received by the requesting state.</p> <p>China meets the requirements of the best practice. There is no change during the report period.</p> <p>依据材料：</p> <p>《国际税收情报交换工作规程》（国税发[2006]70号）</p> <p>第二十七条 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、扣缴义务人或其他当事人，以及执行税收协定所含税种相应的国内法有关的部门或人员，并同时告知其保密义务。</p> <p>虽有前款规定，有下列情形之一的，未经总局批准，税务机关不得告知：（一）纳税人、扣缴义务人或其他当事人有重大税收违法犯罪嫌疑人，告知后会严重影响案件调查的；（二）缔约国一方声明不得将情报的来源和内容告知纳税人、扣缴义务人或其他当事人的。</p>

73		Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information.	○	○	<p>违法信息规定：目前明确了不得提供非法获取的信息。中国情况符合最佳实践标准。报告期内无变化。 Stolen or illegal information: At present, China has specified that illegal information should not be supplied. China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料： 国税发[2006]70号《国际税收情报交换工作规程》第34条 省以下税务机关收到缔约国请求、提供或者我国向缔约国请求、提供的三类情报后，应按下列程序办理：（三）调查使用：按调查要求和时限，将三类情报与税收征管信息比对；凡发现有疑点或有税收违法嫌疑的，应依照税收法律、法规的规定，通过询问、检查、稽查等手段进行核查。</p>
74		A requesting state should provide confirmation of confidentiality to the requested state.	○	○	<p>《国际税收情报交换规程》和《多边税收征管互助公约》均单独设置了“保密”一章，详细规定了保密事项，具体而言：①情报制作方面：税收情报必须由专人使用专用计算机进行制作、处理和存储，所使用的的计算机设备需采取访问控制、数据加密等；②情报收发方面：必须设置密件登记簿，逐件编号、登记；③情报传递方面：应当包装密封；④情报保存方面：应当选择安全保密的场所和部位，配备必要的保密设备，需要归档的按照国家有关档案法律法规规定归档；⑤情报销毁方面：需经本级税务机关主管领导批准后由保密部门按密件销毁规定销毁；⑥情报公开方面：税务机关不得在涉税案件公告、通告以及税务文书、媒体宣传报道中披露税收情报的来源和内容。 中国情况符合最佳实践标准。报告期内无变化。 Confirmation of confidentiality: almost all tax laws and regulations related with information exchange have a special chapter to stipulate confidentiality. To be more specific: ①information making: tax information should be made, processed and saved by special assigned person and special computer. The computer should have access control and data encryption; ②information receive-and-dispatch: confidential paper should be saved with register book; ③information transmit: files should be sealed; ④information preserving: information should be preserved in safe and confidential place with necessary equipment. ⑤information destroying: destroying information should be approved by supervisor of the tax authority at the corresponding level; ⑥information disclosure: the source and content should not be disclosed in tax announcements, documents and media reports. China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料： 1. 《国际税收情报交换规程》（国税发[2006]70号）第三章 税收情报的保密 2. 《多边税收征管互助公约》（2017）第22条 保密</p>
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.		○	○	<p>2015年12月《金融账户涉税信息自动交换多边主管当局间协议》对数据安全和保密作出详细规定和承诺。中国情况符合最低标准。报告期内无变化。 China has joined in Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information on December 2015, which has specified data security and made commitment of confidentiality. China meets the requirements of the minimum standards. There's no change during the report period. 依据材料： 《金融账户涉税信息自动交换多边主管当局间协议》（2016.12.16）第五章保密与数据保护，以及附件三《采用的数据安全保护方式》。</p>
76		For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights.	○	○	<p>中国规定金融机构要求账户持有人履行信息变化告知义务时应当预留一定时间。中国情况符合最佳实践标准。报告期内无变化。 China has prescribed that, when requiring taxpayer to report the changes of financial information, financial institutions should obligate sufficient time for taxpayer. China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料： 1. 《非居民金融账户涉税信息尽职调查管理办法》（国家税务总局公告2017年第14号）第32条 金融机构应当建立账户持有人信息变化监控机制，包括要求账户持有人在本办法规定的相关信息变化之日起三十日内告知金融机构。金融机构在知道或者应当知道账户持有人相关信息发生变化之日起九十日内或者本年度12月31日前根据有关尽职调查程序重新识别账户持有人或者有关控制人是否为非居民。</p>

77		Taxpayers should have a right to request initiation of mutual agreement procedure.	○	○	<p>除了几种明显不属于相互协商程序解决的事项外，纳税人有权向省税务机关提出申请，请求启动相互协商程序，一般情况下会予以立案而启动程序。</p> <p>中国情况符合最佳实践标准。报告期内无变化。</p> <p>Except certain matters that may not be solved by mutual agreement procedure, taxpayers have the right to apply provincial tax authorities for the initiation of mutual agreement procedure. Normally the case will be filed and the procedure initiated.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《特别纳税调查调整及相互协商程序管理办法》（国家税务总局公告2017年第6号）</p> <p>第47条</p> <p>根据我国对外签署的税收协定的有关规定，国家税务总局可以依据企业申请或者税收协定缔约对方税务主管当局请求启动相互协商程序，与税收协定缔约对方税务主管当局开展协商谈判，避免或者消除由特别纳税调整事项引起的国际重复征税。</p> <p>相互协商内容包括：（一）双边或者多边预约定价安排的谈签；（二）税收协定缔约一方实施特别纳税调查调整引起另一方相应调整的协商谈判。</p> <p>第48条</p> <p>企业申请启动相互协商程序的，应当在税收协定规定期限内，向国家税务总局书面提交《启动特别纳税调整相互协商程序申请表》和特别纳税调整事项的有关说明。企业当日报送上述资料的，以报送日期为申请日期；邮寄报送的，以国家税务总局收到上述资料的日期为申请日期。国家税务总局收到企业提交的上述资料后，认为符合税收协定有关规定的，可以启动相互协商程序；认为资料不全的，可以要求企业补充提供资料。</p> <p>第52条</p> <p>有下列情形之一的，国家税务总局可以拒绝企业申请或者税收协定缔约对方税务主管当局启动相互协商程序的请求：（一）企业或者其关联方不属于税收协定任一缔约方的税收居民；（二）申请或者请求不属于特别纳税调整事项；（三）申请或者请求明显缺乏事实或者法律依据；（四）申请不符合税收协定有关规定；（五）特别纳税调整案件尚未结案或者虽然已经结案但是企业尚未缴纳税款。</p> <p>2. 《税收协定相互协商程序实施办法》（国家税务总局公告2013年第56号）</p>
78	Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to progress of the procedure.		○	○	<p>中国明确规定了企业或税收协定缔约对方税务主管当局申请启动相互协商程序的过程中，应当对企业履行的及时通知义务，企业享有充分的参与权。</p> <p>中国情况符合最低标准，报告期内没有新变化。</p> <p>China has prescribed that no matter when the enterprises or the other contracting state applies for the initiation of mutual agreement procedure, tax authorities should notify the enterprise timely. The enterprise has unreserved right of participation.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《特别纳税调查调整及相互协商程序管理办法》（国家税务总局公告2017年第6号）</p> <p>第54条</p> <p>有下列情形之一的，国家税务总局可以终止相互协商程序：（一）企业或者其关联方不提供与案件有关的必要资料，或者提供虚假、不完整资料，或者存在其他不配合的情形；（二）企业申请撤回或者终止相互协商程序；（三）税收协定缔约对方税务主管当局撤回或者终止相互协商程序；（四）其他导致相互协商程序终止的情形。</p> <p>第55条</p> <p>国家税务总局决定暂停或者终止相互协商程序的，应当书面通知省税务机关。负责特别纳税调整事项的主管税务机关应当在收到书面通知后15个工作日内，向企业送达暂停或者终止相互协商程序的《税务事项通知书》。</p> <p>2. 《税收协定相互协商程序实施办法》（国家税务总局公告2013年第56号）</p> <p>第15条</p> <p>受理申请的省税务机关应在十五个工作日内，将申请上报税务总局，并将情况告知申请人，同时通知省以下主管税务机关。</p> <p>第16条</p> <p>因申请人提交的信息不全等原因导致申请不具备启动相互协商程序条件的，省税务机关可以要求申请人补充材料。申请人补充材料后仍不具备启动相互协商程序条件的，省税务机关可以拒绝受理，并以书面形式告知申请人。</p> <p>第17条 税务总局收到省税务机关上报的申请后，应在二十个工作日内按下列情况分别处理：（一）申请具备启动相互协商程序条件的，决定启动相互协商程序，并将情况告知受理申请的省税务机关，省税务机关应告知申请人；（二）申请不符合税收协定规定的期限，或者申请上的非正当理由不成立，或申请上其他不具备启动相互协商条件</p>

10. Legislation

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
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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.	○	○	<p>首先，在溯及力方面，中国的法律体系遵循的是“从旧兼从轻”的原则。《中华人民共和国立法法》第93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的特别规定除外”。“从旧兼从轻”的原则也为部门规范性文件的溯及力判定提供了借鉴。《税收规范性文件制定管理办法》第13条规定，“税收规范性文件不得溯及既往，但为了更好地保护税务行政相对人权利和利益而作出的特别规定除外。”其次，在“从旧兼从轻”原则的基础上，《税收规范性文件制定管理办法》规定了规范性文件的溯及效力。第14条规定，“税收规范性文件应当自发布之日起30日后施行。税收规范性文件发布后不立即施行将有碍执行的，可以自发布之日起施行。”同时，“与法律、法规、规章或者上级机关决定配套实施的税收规范性文件，其施行日期需要与前述文件保持一致的，不受本条第一款、第二款时限规定的限制。”根据该条规定，一项税收规范性文件即使是没有成就“更好地保护税务行政相对人权利和利益”的条件，只要其属于一项经授权对规章或上级税收规范性文件的补充规定，其适用效力可以向前追溯到被补充的规章或上级税收规范性文件的施行时间。通常，税收规范性文件的施行之日即为生效之日，公布之日在先，施行之日在后，亦或者公布之日与施行之日属同一日。但是，当一件税收规范性文件是授权对规章或上级税收规范性文件做出补充规定的税收规范性文件时，其施行时间可与规章或上级税收规范性文件的施行时间相同。也就是说，施行之日有可能会在公布之日之前，从客观上产生溯及既往的效果。</p> <p>中国情况符合最低标准，尚未达到最佳实践，报告期内无变化。</p> <p>First of all, in terms of retroactive effect, China's legal system follows the principle of "old and light". Article 93 of the China's "Legislative Law" provides that laws, administrative regulations, local laws and regulations, autonomous regulations and separate regulations, department regulations shall not trace back to the past, except for the special provisions on the better protection of the rights and interests of all citizens, legal entities and other organizations. The principle of "old and light" also provides reference for the departmental normative document. Article 13 of "the Measures for the Administration of Taxation Normative Documents" stipulates that the tax normative documents shall not be traced back to the past, except for the special provisions made in order to better protect the rights and interests of the tax administration counterparts. Second, based on the "old and light" principle, the "Measures for the Administration of Taxation Normative Documents" provides the effect of normative documents. Article 14 stipulates that the tax normative documents shall be implemented 30 days after the date of promulgation, however it shall be implemented immediately on the condition that the delay of implement will cause troubles. At the same time, "Measures for the Administration of Taxation Normative Documents" Provides that a tax normative document, even if it does not fulfill the conditions of "better protection</p>
80		Public consultation should precede the making of tax policy and tax law.	○	●	<p>中国法律明确的在立法程序中规定应通过座谈会、论证会、听证会等多种程序听取各方意见。在《行政法规制定程序条例》中进一步明确“涉及社会公众普遍关注的热点难点问题和经济社会发展遇到的突出矛盾，减损公民、法人和其他组织权利或者增加其义务，对社会公众有重大影响等重大项目调整事项的，应当进行论证咨询。”</p> <p>中国情况符合最新实践标准，报告期内有改进。</p> <p>Chinese law has explicitly regulated that, the drafting procedure should conduct demonstration and consultation. Comments may be requested by holding forums, demonstration meetings and hearings and in other various forms. Furthermore, in Ordinance concerning the Procedures for the Formulation of Administrative Regulations, it regulates that: Where the focal or difficult issue that attracts wide public attention or any prominent conflict encountered in economic and social development is involved, the rights of citizens, legal persons and other organizations are impaired, or their obligations are increased, significant impact is caused on the public, and other major interest adjustment matters are involved, demonstration and consultation shall be conducted.</p> <p>China meets the requirements of the best practice. There's shift towards.</p> <p>依据材料:</p> <p>1. 《中华人民共和国立法法》(2015) 第36条</p> <p>列入常务委员会会议议程的法律案，法律委员会、有关的专门委员会和常务委员会工作机构应当听取各方面的意见。听取意见可以采取座谈会、论证会、听证会等多种形式。法律案有关问题专业性较强，需要进行可行性评价的，应当召开论证会，听取有关专家、部门和全国人民代表大会代表等方面的意见。论证情况应当向常务委员会报告。法律案有关问题存在重大分歧或者涉及利益关系重大调整，需要进行听证的，应当召开听证会，听取有关基层和群体代表、部门、人民团体、专家、全国人民代表大会代表和社会有关方面的意见。听证情况应当向常务委员会报告。常务委员会工作机构应当将法律草案发送相关领域的全国人民代表大会代表、地方人民代表大会常务委员会以及有关部门、组织和专家征求意见。</p> <p>第37条</p> <p>列入常务委员会会议议程的法律案，应当在常务委员会会议后将法律草案及其起草、修改的说明等向社会公布，征求意见，但是经委员会议决定不公布的除外。向社会公布征求意见的时间一般不少于三十日。征求意见的情况应当向委员会通报。</p>

11. Revenue practice and guidance

#	Minimum standard	Best practice	Shift Away	Shift Towards	Summary of relevant facts in 2018
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81	Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance.	○	○	<p>《中华人民共和国税收征收管理法》规定了税务机关广泛宣传税收法律、行政法规等，无偿为纳税人提供纳税咨询服务。此外，根据政府信息公开的有关规定，行政机关应当主动公开政府信息的具体内容，包括行政法规、规章、规范性文件等文件和信息；对于政府尚未主动公开的信息，公民、法人或者其他组织有权申请获取相关信息。即在税收征纳关系中，税务机关也应主动公开有关法律文件，纳税人有权知悉相关信息，并有权申请有关部门公开相关信息。部分地区税务机关专门针对税务系统政府信息公开制定相关规范性文件，保障纳税人获取政府信息的权利。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>The Tax Administration Law of the China stipulates that the tax authorities should publicize the tax law and administrative regulations extensively, and provide tax advisory service for taxpayers. In addition, according to the relevant provisions of government information disclosure, the administrative organs should take the initiative to disclose the specific contents of government information, including the administrative regulations, normative documents and other documents or information; citizens, legal persons or other organizations have the right to apply for information for information that has not been publicly disclosed by the government. That is, in the tax levy relations, the tax authorities should also open the relevant legal documents, taxpayers have the right to know the relevant information, and have the right to apply for the relevant departments to disclose relevant information. Some regional tax authorities make the relevant normative documents for the government information of tax system, and guarantee the taxpayer's right to obtain the Government information.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国税收征收管理法》（2015） 第7条 税务机关应当广泛宣传税收法律、行政法规，普及纳税知识，无偿地为纳税人提供纳税咨询服务。 2. 《中华人民共和国政府信息公开条例》（2008） 第9条 行政机关对符合下列基本要求之一的政府信息应当主动公开：（一）涉及公民、法人或者其他组织切身利益的；（二）需要社会公众广泛知晓或者参与的；（三）反映本行政机关机构设置、职能、办事程序等情况的；（四）其他依照法律、法规和国家有关规定应当主动公开的。 第10条 县级以上各级人民政府及其部门应当依照本条例第9</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.	○	○	<p>根据相关行政法规，行政机关应将主动公开的政府信息以政府公报、政府网站、新闻发布会以及报刊、广播、电视等便于公众知晓的方式公开，且应当在国家档案馆、公共图书馆等设置政府信息查阅场所。此外，现在各地行政机关都会公开政府机关及其内设机构的咨询电话或设置专门的网络信息公开平台、网络办事平台、咨询热线、综合办事和咨询窗口等，供不同需求的公众查阅、咨询、信访等。对于主要在网络公开的信息，一些公民虽然无法通过网络及时获取，但是他们根据自身的息需求，也能够较快地通过政府机关咨询电话、政府办事窗口等多种渠道获取相关信息。</p> <p>中国情况符合最低标准。报告期内没有新变化。</p> <p>According to the relevant administrative regulations, the administrative organ shall disclose the government information which is active and open to the public, such as government gazette, government website, press conference, press, radio, television, etc., and shall set up the government information access place in the National Archives and public Libraries. In addition, all the administrative organs are now open public consultation telephone or set up a special network information open platform, network service platform, consultation hotline, comprehensive affairs and consultation window for different needs of public access. For the information that is mainly open in the network, some citizens can not obtain through the network in time, but they also can quickly obtain the related information through the government consultation telephone, the government affairs window and other various ways.</p> <p>China meets the requirements of the minimum standard. There's no change during the report period.</p> <p>依据材料： 1. 《中华人民共和国政府信息公开条例》（2008） 第15条 行政机关应当将主动公开的政府信息，通过政府公报、政府网站、新闻发布会以及报刊、广播、电视等便于公众知晓的方式公开。 第16条 各级人民政府应当在国家档案馆、公共图书馆设置政府信息查阅场所，并配备相应的设施、设备，为公民、法人或者其他组织获取政府信息提供便利。行政机关可以根据需要设立公共查阅室、资料索取点、信息公告栏、电子信息屏等场所、设施，公开政府信息。行政机关应当及时向国家档案馆、公共图书馆提供主动公开的政府信息。 2. 《北京市政府信息公开规定》（北京市人民政府令 257 号）</p>

83	Binding rulings should only be published in an anonymised form		○	○	<p>现在中国尚没有建立针对纳税人的裁决制度，只存在较少的关于个案税收法规或政策适用的批复，在现有的已公开批复中，有些以匿名方式，如国税函发[1995]663号《国家税务总局关于个人在境外取得博彩所得征收个人所得税问题的批复》，有些则公开了纳税人的姓名或名称，如税总函[2016]609号《国家税务总局关于民政福利企业税收优惠政策适用问题的批复》。但是，由于裁决制度尚未建立，因此较难评价该事项对纳税人权益保护的影响。</p> <p>中国尚未达到最低标准。报告期内没有新变化。</p> <p>Now China has not established a system of advance rulings for taxpayers, there are only a few official approvals for the application of the tax law or policy, and in the existing public approvals, some are anonymous, but some of them disclose the names of taxpayers. However, since the system of rulings has not been established, it is difficult to discuss the impact of the matter on the protection of taxpayer rights.</p> <p>China fails to meet the minimum standard. There's no change during the report period</p>
84	Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively.		○	○	<p>现行中国行政法相关规定对行政机关诚实信用的要求仅针对有权机关作出的行政决定，即要求行政机关非因法定事由并经法定程序不得撤销、变更已经生效的行政决定，而未涉及公开指引等规范性文件的修订事项或其溯及力的问题。《税收规范性文件制定管理办法》规定了制定机关应当及时对税收规范性文件进行清理，发现存在问题的税收规范性文件，应依据规定分类处理，分别宣布失效、废止或予以修改，但是上述规定却没有提到处理后文件的溯及力问题。而根据现行《中华人民共和国税收征收管理法》第52条的规定，因税务机关的责任致使纳税人、扣缴义务人未缴或者少缴税款的，税务机关在三年内仍可以要求补缴税款，只是不加收滞纳金。可见，如果未缴或少缴税款是因税收文件的错误引起的，构成税务机关的责任，但纳税人或扣缴义务人可能仍要承担相应的后果，该规定是没有考量纳税人的信赖利益的。</p> <p>中国尚未达到最低标准。报告期内没有新变化。</p> <p>The relevant provisions of the current Chinese administrative law require the administrative authorities to be honest and trustworthy only to the administrative decisions made by the competent organs, that is to require the executive authorities not to revoke or to change the administrative decisions that have been in force in respect of statutory matters. But this principle does not apply to the retroactivity of guidelines. The regulations on the formulation and administration of the tax normative documents stipulate that the enacting organs should clean up the tax normative documents in time, find out the problems of the tax normative documents, and declare the invalidation, repeal or revise the regulations according to the provisions, but the above mentioned regulations do not mention the retroactivity of the documents. According to the Article 52 of China's Tax Administration Law, where a taxpayer or withholding agent fails to pay taxes or underpay taxes due to the fault of the tax authority, the tax authority may, within three years, require the taxpayer or withholding agent to pay the taxes in arrears, but they shall not impose any late fee. It can be seen that if the unpaid tax payment is caused by the error of the taxation documents, the taxpayer or withholding agent may still bear the corresponding consequences, it does not consider the taxpayer's trust interests.</p> <p>China fails to meet the minimum standard. There's no change during the report period.</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>税收实践中,依据下述法律及规范性文件的指示,多地税务机关要求税务稽查人员在实施检查过程中,发放查前告知书,明确告知纳税人各项权利。</p> <p>中国情况符合最低标准和最佳实践标准。报告期内无变化。</p> <p>At present, the normative documents promulgated by the State Administration of Taxation elaborate on the various rights enjoyed by taxpayers. In the practice of taxation, in accordance with the following laws and normative documents, various tax authorities require tax inspectors to issue pre-inspection notices during the inspection process and explicitly inform the taxpayers of their respective rights.</p> <p>China meets the requirements of the minimum standard and the best practice. There's no change during the report period.</p> <p>依据材料:</p> <p>1. 《国家税务总局关于纳税人权利与义务的公告》(国家税务总局公告[2009]1号)</p> <p>一、知情权。您有权向我们了解国家税收法律、行政法规的规定以及与纳税程序有关的情况,包括:现行税收法律、行政法规和税收政策规定;办理税收事项的时间、方式、步骤以及需要提交的资料;应纳税额核定及其他税务行政处理决定的法律依据、事实依据和计算方法;与我们在纳税、处罚和采取强制执行措施时发生争议或纠纷时,您可以采取的法律救济途径及需要满足的条件。</p> <p>2. 《中华人民共和国税收征收管理法》(2015)</p> <p>第7条 税务机关应当广泛宣传税收法律、行政法规,普及纳税知识,无偿地为纳税人提供纳税咨询服务。</p> <p>3. 《税务稽查工作规程》(国税发[2009]157号)</p> <p>第35条 稽查局采取税收保全措施时,应当向纳税人送达《税收保全措施决定书》,告知其采取税收保全措施的内容、理由及依据,并依法告知其申请行政复议和提起行政诉讼的权利。</p> <p>第51条 拟对被查对象或者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。《税务行政处罚事项告知书》应当包括以下内容:(一)认定的税收违法事实和性质;(二)适用的法律、行政法规、规章及其他规范性文件;(三)拟作出的税务行政处罚;(四)当事人依法享有的权利;(五)告知书的文号、制作日期、税务机关名称及印章;(六)其他相关事项。</p>
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>目前,中国各级税务机关在其内部设置专门机构或配备专门人员,专门负责处理纳税人投诉,保护纳税人权益,其运行机制相对独立。</p> <p>中国符合最佳实践标准。报告期内无变化。</p> <p>At present, the tax authorities at all levels in China set up specialized agencies or specialized personnel in their internal departments to handle the complaints of taxpayers and protect the rights and interests of taxpayers. Their operating mechanism is relatively independent.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料:</p> <p>1.国家税务总局公告2015年第49号《纳税服务投诉管理办法(试行)》</p> <p>第6条 县级以上税务机关的纳税服务管理部门具体办理纳税服务投诉事项,负责受理、调查、处理纳税服务投诉。</p> <p>第7条 各级税务机关应当配备专门人员从事纳税服务投诉管理工作,保障纳税服务投诉工作的顺利开展。</p> <p>2. 税务总局公告2013年第15号《国家税务总局关于加强纳税人权益保护工作的若干意见》</p> <p>(七)探索建立税收争议调解机制,畅通侵权救济渠道。认真做好纳税服务投诉处理工作。严格执行《纳税服务投诉管理办法(试行)》,各级税务机关应配备专门的纳税服务投诉管理人员,健全内部管理机制,畅通投诉受理渠道,规范统一处理流程,利用信息化手段,建立纳税服务投诉“受理、承办、转办、督办、反馈、分析和持续改进”一整套流程的处理机制。定期对投诉事项进行总结、分析和研究,及时发现带有倾向性和普遍性的问题,提出预防和解决的措施,实现从被动接受投诉到主动预防投诉的转变。</p>

87		The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally.	○ ○	<p>目前，国家税务局、地方税务局联合共建纳税人权益保护组织，为纳税人提供法律咨询和援助、调解处理税务行政争议、受理和查办纳税人的各种维权申请、宣传税收知识等事项，为保护纳税人合法权益提供全方位服务。</p> <p>中国情况符合最佳实践标准。报告期内无变化。</p> <p>At present, the State Administration of Taxation and the Local Taxation Bureau jointly establish an organization for protecting the rights and interests of taxpayers. They provide legal advice and assistance to taxpayers, mediate and deal with tax administrative disputes, accept and handle taxpayers' rights protection applications and publicize tax knowledge, provide a full range of services to protect the legitimate rights and interests of taxpayers.</p> <p>China meets the requirements of the best practice. There's no change during the report period.</p> <p>依据材料：</p> <p>1. 《纳税服务投诉管理办法（试行）》（国家税务总局公告 2015 年第 49 号）</p> <p>第 6 条 县级以上税务机关的纳税服务管理部门具体办理纳税服务投诉事项，负责受理、调查、处理纳税服务投诉。</p> <p>第 7 条 各级税务机关应当配备专门人员从事纳税服务投诉管理工作，保障纳税服务投诉工作的顺利开展。</p> <p>2. 《厦门市地方税务局关于印发纳税人权益保护中心工作规程的通知》（厦地税发[2014]81 号）</p> <p>第 2 条 厦门市地方税务局纳税人权益保护中心（以下简称纳税人权益保护中心）是由厦门市地方税务局牵头组建，行政事业单位、社会团体、法律援助机构等成员单位以及相关专业人员和服务志愿者等共同组成的纳税人权益保护机构。</p> <p>第 4 条 本规程所称纳税人权益保护是指纳税人合法权益遭受侵害时，向厦门市地税部门或纳税人权益保护中心其他成员单位反映情况，提出意见、建议或者权益维护诉求，由地税部门直接受理处理或由成员单位受理转地税部门处理的活动。</p> <p>第 5 条 纳税人权益保护中心主要负责受理、转办、处理和反馈纳税人的涉税咨询、涉税纠纷、投诉举报以及法律救助；收集反馈纳税人和社会各界对地税部门工作的合理需求和工作建议；对办结的纳税人权益保护申请事项进行回访；统计、分析纳税人维权数据，提出优化纳税服务工作的建议；不定期举办各类维权服务活动；指导基层单位开展纳税人权益保护工作。</p>
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