



Observatory for the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by or with the contribution of the National Reporter of Finland, Mr. Eero Männistö, a representative from the Academia.

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

1. It contains information on those issues in which there were movements towards or away from the level of compliance of the relevant standard/best practice in Finland between 2015 and 2017.
2. It is indicated, by the use of a checkmark (☒) whether there were movements towards or away from of the level of compliance of the relevant standard/best practice in Finland between 2015 and 2017.
3. It contains a summarized account on facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices) that serves as grounds for each particular assessment of the level of compliance of a given minimum standard / best practice, in a non-judgmental way.

Country: Finland

Minimum Standard	Best Practice	Shift towards	Shift away	Development
1. Identifying taxpayers, issuing tax returns and communicating with taxpayers				
Implement safeguards to prevent impersonation when issuing unique identification numbers	N/A			
The system of taxpayer identification should take account of religious sensitivities	N/A			
Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes	N/A			
Where pre-populated returns are used, these should be sent to taxpayers to correct errors	N/A			
Provide a right of access for taxpayers to personal information held about them, and a right to apply to correct inaccuracies				GDPR will be followed 25. May 2018.
Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception	N/A			
Where a system of “cooperative compliance” operates, ensure it is available on a non-discriminatory and voluntary basis	N/A			
Provide assistance for those who face difficulties in meeting compliance obligations, including those with disabilities, those located in remote areas, and those unable or unwilling to use electronic forms of communication				Parliamentary Ombudsman has issued a decision that paper based filings must be allowed along side with e-filings.
2. The issue of tax assessment				
	N/A			

Minimum Standard	Best Practice	Shift towards	Shift away	Development
2. The issue of tax assessment (cont)				
	N/A			
3. Confidentiality				
Provide a specific legal guarantee for confidentiality, with sanctions for officials who make unauthorised disclosures (and ensure sanctions are enforced)	N/A			
Restrict access to data to those officials authorised to consult it. For encrypted data, use digital access codes	N/A			
Audit data access periodically to identify cases of unauthorised access	N/A			
Introduce administrative measures emphasising confidentiality to tax officials	N/A			
If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges)	N/A			
Introduce an offence for tax officials covering up unauthorised disclosure of confidential information	N/A			
Provide remedies for taxpayers who are victims of unauthorised disclosure of confidential information	N/A			
Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted	N/A			
If “naming and shaming” is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer)	N/A			
No disclosure of confidential taxpayer information to politicians, or where it might be used for political purposes	N/A			

Minimum Standard	Best Practice	Shift	Shift away	Development
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3. Confidentiality (cont).				
Freedom of information legislation may allow a taxpayer to access information about himself. However, access to information by third parties should be subject to stringent safeguards: only if an independent tribunal concludes that the public interest in disclosure outweighs the right of confidentiality, and only after a hearing where the taxpayer has an opportunity to be heard	N/A			
If published, tax rulings should be anonymised and details that might identify the taxpayer removed	N/A			
Legal professional privilege should apply to tax advice		<input checked="" type="checkbox"/>		
Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege	N/A			
4. Normal audits.				
<p>Audits should respect the following principles:</p> <ul style="list-style-type: none"> (1) Proportionality (2) <i>Ne bis in idem</i> (prohibition on double jeopardy) (3) <i>Audi alteram partem</i> (right to be heard before any decision is taken) (4) <i>Nemo tenetur se detegere</i> (principle against self-incrimination). <p>Tax notices issued in violation of these principles should be null and void</p>			<input checked="" type="checkbox"/>	
In application of proportionality, tax authorities may only request for information that is strictly needed, not otherwise available, and must impose least burdensome impact on taxpayers			<input checked="" type="checkbox"/>	

Minimum Standard	Best Practice	Shift towards	Shift away	Development
4. Normal audits (cont).				
	N/A			
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			☑	
In application of <i>nemo tenetur</i> , the right to remain silent should be respected in tax audits.	N/A			
	Tax audits should follow a pattern that is set out in published guidelines			N/A
	A manual of good practice in tax audits should be established at the global level			N/A
	Taxpayers should be entitled to request the start of a tax audit (to obtain finality)			N/A
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			N/A
Taxpayers should be informed of information gathering from third parties	N/A			
	Reasonable time limits should be fixed for the conduct of audits			N/A
Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer				N/A
Minimum Standard	Best Practice	Shift towards	Shift away	Development

4. Normal audits (cont).				
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			N/A
	Following an audit, a report should be prepared even if the audit does not result in additional tax or refund			N/A
5. More intensive audits.				
	More intensive audits should be limited to the extent strictly necessary to ensure an effective reaction to non-compliance			N/A
If there is point in an audit when it becomes foreseeable that the taxpayer may be liable for a penalty or criminal charge, from that time the taxpayer should have stronger protection of his right to silence, and statements from the taxpayer should not be used in the audit procedure	N/A			
Entering premises or interception of communications should be authorised by the judiciary	N/A			
Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for <i>ex post</i> ratification	N/A			
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			N/A
	Access to bank information should require judicial authorisation			N/A
	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			N/A
Minimum Standard	Best Practice	Shift towards	Shift away	Development

5. More intensive audits (cont).

Seizure of documents should be subject to a requirement to give reasons why seizure is indispensable, and to fix the time when documents will be returned; seizure should be limited in time	N/A			
	If data are held on a computer hard drive, then a backup should be made in the presence of the taxpayer's advisors and the original left with the taxpayer			N/A
Where invasive techniques are applied, they should be limited in time to avoid disproportionate impact on taxpayers	N/A			

6. Review and appeals.

	E-filing of requests for internal review to ensure the effective and speedy handling of the review process			N/A
The right of appeal should not depend upon prior exhaustion of administrative reviews	N/A			
	Reviews and appeals should not exceed two years			N/A
<i>Audi alteram partem</i> should apply in administrative reviews and judicial appeals			<input checked="" type="checkbox"/>	
Where tax must be paid in whole or in part before an appeal, there must be an effective mechanism for providing interim suspension of payment	An appeal should not require prior payment of tax in all cases			N/A
	The state should bear some or all of the costs of an appeal, whatever the outcome		<input checked="" type="checkbox"/>	
Legal assistance should be provided for those taxpayers who cannot afford it	N/A			
Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing	N/A			
Tax judgments should be published	N/A			

Minimum Standard	Best Practice	Shift towards	Shift away	Development
7. Criminal and administrative sanctions.				
Proportionality and <i>ne bis in idem</i> should apply to tax penalties	N/A			
	Where administrative and criminal sanctions may both apply, only one procedure and one sanction should be applied N/A			
	Voluntary disclosure should lead to reduction of penalties			N/A
Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures	N/A			
8. Enforcement of taxes.				
Collection of taxes should never deprive taxpayers of their minimum necessary for living	N/A			
	Authorisation by the judiciary should be required before seizing assets or bank accounts			N/A
Taxpayers should have the right to request delayed payment of arrears	N/A			
	Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment			N/A
Temporary suspension of tax enforcement should follow natural disasters	N/A			
9. Cross-border procedures.				
The requesting state should notify the taxpayer of cross-border requests for information, unless it has specific grounds for considering that this would prejudice the process of investigation. The requested state should inform the taxpayer unless it has a reasoned request from the requesting state that the taxpayer should not be informed on grounds that it would prejudice the investigation	The taxpayer should be informed that a cross-border request for information is to be made			N/A

Minimum Standard	Best Practice	Shift towards	Shift away	Development
9. Cross-border procedures (cont).				
	Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer N/A			
	Provisions should be included in tax treaties setting specific conditions for exchange of information			The new DTC between Finland and Germany includes specific conditions.
If information is sought from third parties, judicial authorisation should be necessary	N/A			
	The taxpayer should be given access to information received by the requesting state			N/A
	Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information A requesting state should provide confirmation of confidentiality to the requested state			N/A
A state should not be entitled to receive information if it is unable to provide independent, verifiable evidence that it observe high standards of data protection	N/A			
	For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights			N/A
	Taxpayers should have a right to request initiation of mutual agreement procedure			N/A
Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to progress of the procedure	N/A			
10. Legislation.				
Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail	Retrospective tax legislation should ideally be banned completely			N/A
	Public consultation should precede the making of tax policy and tax law			N/A

Minimum Standard	Best Practice	Shift towards	Shift away	Development
11. Revenue practice and guidance.				
Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance	N/A			
Where legal material is available primarily on the internet, arrangements should be made to provide it to those who do not have access to the internet	N/A			
Binding rulings should only be published in an anonymised form	N/A			
Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively	N/A			
12. Institutional framework for protecting taxpayers' rights.				
Adoption of a charter or statement of taxpayers' rights should be a minimum standard	A separate statement of taxpayers' rights under audit should be provided to taxpayers who are audited			N/A
	A taxpayer advocate or ombudsman should be established to scrutinise the operations of the tax authority, handle specific complaints, and intervene in appropriate cases. Best practice is the establishment of a separate office within the tax authority but independent from normal operations of that authority			N/A
	The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally			N/A