



## **Observatory for the Protection of Taxpayers' Rights**

Below you will find a questionnaire filled in by or with the contribution of the National Reporters of Greece, Dr. Katerina Perrou and Ms. Lydia Sofrona, both representatives of the Tax Administration and Prof. Andreas Tsourouflis a representative of 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 Greece 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 Greece between 2015 and 2017.

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

**Country: GREECE**

Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>1. Identifying taxpayers, issuing tax returns and communicating with taxpayers</b>				
Implement safeguards to prevent impersonation when issuing unique identification numbers				New standard - Applicable
The system of taxpayer identification should take account of religious sensitivities				New standard - Applicable
Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes	Where tax is withheld by third parties, the taxpayer should be excluded from liability if the third party fails to pay over the tax			New standard - Best practice applicable
Where pre-populated returns are used, these should be sent to taxpayers to correct errors				No development - Applicable
Provide a right of access for taxpayers to personal information held about them, and a right to apply to correct inaccuracies	Publish guidance on taxpayers' rights to access information and correct inaccuracies			No development - Minimum standard applicable
Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception				No development – Applicable
Where a system of “cooperative compliance” operates, ensure it is available on a non-discriminatory and voluntary basis				No development - <b>Not</b> applicable
Provide assistance for those who face difficulties in meeting compliance obligations, including those with disabilities, those located in remote areas, and those unable or unwilling to use electronic forms of communication				No development – Applicable
<b>2. The issue of tax assessment</b>				
	Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on equality of arms			No development – Best practice partly applicable (Dialogue only for explanations, no negotiation/agreement phase)

Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>2. The issue of tax assessment (cont)</b>				
	Use e-filing to speed up assessments and correction of errors, particularly systematic errors			New standard – Best practice partly applicable (e-filing used but not for the correction of systematic errors)
<b>3. Confidentiality</b>				
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			New standard - Minimum standard applicable
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			New standard - Minimum standard applicable
Audit data access periodically to identify cases of unauthorised access				New standard - <b>Not</b> applicable
Introduce administrative measures emphasising confidentiality to tax officials	Appoint data protection/privacy officers at senior level and local tax offices			New standard - Minimum standard applicable
If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges)				New standard - Applicable
Introduce an offence for tax officials covering up unauthorised disclosure of confidential information				New standard - Applicable
Provide remedies for taxpayers who are victims of unauthorised disclosure of confidential information				New standard - Applicable
Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted				New standard - Applicable
If “naming and shaming” is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer)	Require judicial authorisation before any disclosure of confidential information by revenue authorities			No development – Minimum standard applicable
No disclosure of confidential taxpayer	Parliamentary supervision of revenue			

information to politicians, or where it might be used for political purposes	authorities should involve independent officials, subject to confidentiality obligations, examining specific taxpayer data, and then reporting to Parliament			New standard – Minimum standard applicable
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Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>3. Confidentiality (cont).</b>				
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				New standard – Partly applicable (access to information held by the tax administration by third parties is subject to conditions provided for in the law)
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			New standard – Best practice applicable
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			No development – Minimum standard applicable
Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege				New standard – <b>Not</b> applicable
<b>4. Normal audits.</b>				
Audits should respect the following principles:  (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>				No development - Applicable

(principle against self-incrimination). Tax notices issued in violation of these principles should be null and void				
In application of proportionality, tax authorities may only request for information that is strictly needed, not otherwise available, and must impose least burdensome impact on taxpayers				No development – Applicable

Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>4. Normal audits (cont).</b>				
	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			No development – Applicable
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				No development – Applicable
In application of <i>nemo tenetur</i> , the right to remain silent should be respected in tax audits.				No development – Applicable
	Tax audits should follow a pattern that is set out in published guidelines			New standard – Applicable
	A manual of good practice in tax audits should be established at the global level			New standard – <b>Not</b> applicable
	Taxpayers should be entitled to request the start of a tax audit (to obtain finality)			New standard – <b>Not</b> applicable
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			New standard - Minimum standard applicable

	in their possession to the taxpayer			
Taxpayers should be informed of information gathering from third parties				New standard – Applicable
	Reasonable time limits should be fixed for the conduct of audits			No development - Applicable
Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer				New standard - Applicable
Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>4. Normal audits (cont).</b>				
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			New standard – Minimum standard applicable
	Following an audit, a report should be prepared even if the audit does not result in additional tax or refund			New standard – Applicable
<b>5. More intensive audits.</b>				
	More intensive audits should be limited to the extent strictly necessary to ensure an effective reaction to non-compliance			New standard - <b>Not</b> applicable
If there is point in an audit when it becomes foreseeable that the taxpayer may be liable for a penalty or criminal charge, from that time the taxpayer should have stronger protection of his right to silence, and statements from the taxpayer should not be used in the audit procedure				No development- <b>Not</b> applicable
Entering premises or interception of communications should be authorised by the judiciary				No development- Applicable
Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for <i>ex post</i> ratification				New standard - <b>Not</b> applicable

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	☑		New standard – Minimum standard applicable  <b>New development:</b> In 2016, art. 25(3) of the Greek Tax Procedure Code was amended (by art. 40 (11a) of law 4410/2016, Official Gazette Folio A' 141/3.8.2016) in order to provide that the tax authorities can enter the private home of a taxpayer not only upon prior authorization of the public prosecutor (condition already present in the provision before its amendment) but also in the presence of a member of the judiciary. The development is an additional safeguard for the taxpayer.
	Access to bank information should require judicial authorisation			New standard – <b>Not</b> applicable
	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			New standard – Best practice partly applicable (no specialised offices within the judiciary should be established to supervise these actions)
Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>5. More intensive audits (cont).</b>				
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				New standard – <b>Not</b> applicable
	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			New standard – <b>Not</b> applicable
Where invasive techniques are applied, they should be limited in time to avoid disproportionate impact on taxpayers				New standard – <b>Not</b> applicable
<b>6. Review and appeals.</b>				
	E-filing of requests for internal review to ensure the effective and speedy handling of the review process			New standard – <b>Not</b> applicable
The right of appeal should not depend upon prior exhaustion of administrative reviews				No development – <b>Not</b> applicable
	Reviews and appeals should not exceed two years			New standard – <b>Not</b> applicable
<i>Audi alteram partem</i> should apply in				No development - Applicable

administrative reviews and judicial appeals				
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			No development - Applicable
	The state should bear some or all of the costs of an appeal, whatever the outcome			No development – Applicable for administrative appeals (before the Dispute Resolution Unit of the Tax Administration); <b>Not</b> applicable for judicial appeals.
Legal assistance should be provided for those taxpayers who cannot afford it				No development - Applicable
Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing				No development – <b>Not</b> applicable
Tax judgments should be published				No development - Applicable

Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>7. Criminal and administrative sanctions.</b>				
Proportionality and <i>ne bis in idem</i> should apply to tax penalties		☑		<p>(a) Proportionality: New standard - Applicable</p> <p>(b) <i>Ne bis in idem</i>: <b>New development</b> – Applicable</p> <p>The changes that were adopted by law 4337/2015 (articles 3-7, Official Gazette Folio A' 129/17.10.2015) in the administrative penalties (the highest amount was initially up to 100% and it was lowered to 50%) were based on the need to keep the penalties proportional, given that for cases of tax fraud the criminal sanctions also apply. In that sense, the law provides for a system where the same set of facts is used for the imposition of both the administrative and the criminal penalty.</p> <p>In 2016, an amendment was introduced to Art. 5 par. 2 of the Code of Administrative Court Procedure (by Art. 17 of Law 4446/2016 Official Gazette folio A' 240/22.12.2016), stipulating that administrative courts, which are competent inter alia for tax disputes, are bound by acquitting decisions issued by criminal courts, unless the acquittal was based on the absence of objective and subjective elements of the criminal liability, which are not relevant for the administrative dispute.</p>
	Where administrative and criminal sanctions			No development – <b>Not</b> applicable (administrative and criminal sanctions



	may both apply, only one procedure and one sanction should be applied			both apply but as two parts of one set of sanctions)
	Voluntary disclosure should lead to reduction of penalties	☑		<p><b>New development</b> – Applicable</p> <p>In 2018, articles 18 and 19 of the Greek Tax Procedure Code were amended (by article 397 (1) and (2) of law 4512/2018, Official Gazette folio A' 5/17.1.2018), providing for the ability to file an initial or amending late tax return, after the audit has commenced. If the amount due is paid within 30 days of the assessment based on the tax return, the fines imposed are reduced by 40%.</p> <p>The system was adopted specifically as a means to enhance collaboration during the audit procedure. This is also compatible with the principle of <i>nemo tenetur</i>; a person who discloses voluntarily is not subject to the same penalties as those imposed after audit.</p>
Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures				New standard - Applicable
<b>8. Enforcement of taxes.</b>				
Collection of taxes should never deprive taxpayers of their minimum necessary for living				New standard - Applicable
	Authorisation by the judiciary should be required before seizing assets or bank accounts			New standard – <b>Not</b> applicable
Taxpayers should have the right to request delayed payment of arrears				No development - Applicable
	Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment			No development - Applicable
Temporary suspension of tax enforcement should follow natural disasters				New standard - Applicable
<b>9. Cross-border procedures.</b>				
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	The taxpayer should be informed that a cross-border request for information is to be made			No development – <b>Not</b> applicable

investigation				
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Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>9. Cross-border procedures (cont).</b>				
	Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer			New standard - Applicable
	Provisions should be included in tax treaties setting specific conditions for exchange of information			New standard - Applicable
If information is sought from third parties, judicial authorisation should be necessary				New standard – Applicable (If the provision of information by third parties is not already provided for in the law, then judicial authorization is needed)
	The taxpayer should be given access to information received by the requesting state			No development – Applicable
	(a) Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information  (b) A requesting state should provide confirmation of confidentiality to the requested state			(a) New standard – <b>Not</b> applicable (b) New standard - Applicable
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				New standard - Applicable
	For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights			New standard – <b>Not</b> applicable
	Taxpayers should have a right to request initiation of mutual agreement procedure			No development - Applicable
Taxpayers should have a right to participate in mutual agreement procedure by being heard and being				New standard - Applicable

informed as to progress of the procedure				
<b>10. Legislation.</b>				
Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail	Retrospective tax legislation should ideally be banned completely			No development – Minimum standard applicable
	Public consultation should precede the making of tax policy and tax law			No development - Applicable

Minimum Standard	Best Practice	Shift towards	Shift away	Development
<b>11. Revenue practice and guidance.</b>				
Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance				New standard - Applicable
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				New standard - Applicable
Binding rulings should only be published in an anonymised form				New standard – Applicable
Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively		☑		<p>New standard - Applicable</p> <p><b>New development:</b> In 2017 article 9 of the Greek Tax Procedure Code was amended (by article 12 of law 4474/2017, Official Gazette Folio A' 80/7.6.2017) in order to specifically provide that:</p> <ul style="list-style-type: none"> <li>- Published guidelines are binding for the tax administration unless there is change in the tax legislation they interpret;</li> <li>- Changes in interpretation of the law by the tax administration do not adversely affect the taxpayer retrospectively; they are only valid for the future;</li> <li>- In case the taxpayer has followed the guidelines published by the tax administration in relation to his tax obligations, he cannot be held liable for not filing a tax return or for filing an inaccurate tax return.</li> </ul> <p>These changes in the law provide a higher level of legal certainty for the taxpayer who follows the guidelines published by the tax administration. In addition protection from unexpected changes in the position of the tax administration is offered.</p>

## 12. Institutional framework for protecting taxpayers' rights.

Adoption of a charter or statement of taxpayers' rights should be a minimum standard	A separate statement of taxpayers' rights under audit should be provided to taxpayers who are audited			No development – <b>Not</b> applicable
	A taxpayer advocate or ombudsman should be established to scrutinise the operations of the tax authority, handle specific complaints, and intervene in appropriate cases. Best practice is the establishment of a separate office within the tax authority but independent from normal operations of that authority			No development – Partly applicable (The tax administration is subject to the scrutiny of the General Ombudsman)
	The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally			New standard – Applicable