



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

Below you will find a questionnaire filled in by Sylvie De Raedt, Professor at the *University of Antwerpen* and Jef van Eyndhoven, Attorney at *HCGB Advocaten*, both OPTR National Reporters of Belgium.

This set of questionnaires comprise the National Reporter's assessment on the country practice during 2022 in the protection of taxpayers' rights, 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".

# OPTR - 2022 Questionnaire 1 - Country Practice

Dear National Reporter,

I would like to thank you for your participation in the IBFD's Observatory on the Protection of Taxpayers' Rights (OPTR).

This form collects the information on the practical implementation in domestic law of legal procedures, safeguards and guarantees associated with taxpayers' rights in 82 situations for the practical protection of taxpayers' rights, as monitored by the IBFD Observatory on the Protection of Taxpayers' Rights.

We kindly ask you to assess assertively (yes/no) the level of practical implementation of said procedures, safeguards and guarantees associated with taxpayers' rights in your country. When answering, please bear in mind the actual practice regarding each situation, regardless of whether a given procedure, safeguard or guarantee has been formally adopted in your country.

We would be very grateful if you submit us this questionnaire, duly filled out, by no later than 14 January 2023.

Feel free to contact us for any clarification you may need. We look forward to your valuable contribution to this remarkable project.

Kind regards,

Prof. Dr. Carlos E. Weffe  
Scientific Coordinator  
IBFD Observatory on the Protection of Taxpayers' Rights.

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\* Better if filled in using Google Chrome © or Mozilla Firefox ©

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Reporters' info

Name: \*

Sylvie De Raedt and Jef Van Eyndhoven

Country: \*

Belgium

Affiliation \*

☒ Taxpayers / Tax Practitioners

☐ Tax Administration

☐ Judiciary

☐ (Tax) Ombudsperson

☒ Academia

☐ Other: \_\_\_\_\_

## Questionnaire 1 - Country Practice

### Instructions:

1. Please answer all questions. The form will not allow you to continue/submit your responses until you have answered all questions.
2. For assertive questions, please answer with “yes” or “no” by clicking on the corresponding button.
3. For questions that require you to specify a period of time (namely, Q. 26 and Q. 45), please select the time applicable in your country to carry out the procedures indicated in the questions in practice, within the options provided.
4. For questions with more than one possible answer (namely, Q. 56), please check all necessary boxes to reflect better the practical situation of your country regarding the issue, by clicking on them.
5. When completed, please submit the survey.
6. Once you have submitted the survey, you will receive an email acknowledging your participation in

the OPTR and providing a backup of your answers.

7. The email will also include an "edit your survey" link, in case you want to modify any of your answers. You will receive this email every time you submit partial responses.

8. An option to quit the survey and save your answers is provided at the end of each section.

9. If answering partially, please select "Yes" at the end of the section in which you are to submit your partial answers to the survey. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this survey.

10. For editing your answers, please use the last "edit your response" link provided to you via email. Please bear in mind that this is the only way the system will acknowledge your previous answers. If you use a link other than the last one provided, some (or all) changes might not be retrieved by the system.

11. When clicking on the last "edit your response" link, the system will lead you to the front page of the survey. Click on "Next" as many times as needed to get to the section you want to continue in. Once you have reached said section, please remember to change your answer to the question "Do you want to save your results and quit?" to "No", in order to be able to continue.

## Area 1 - Identification of taxpayers, issuing tax returns and communicating with taxpayers

1. Do taxpayers have the right to see the information held about them by the tax authority? \*

☒ Yes

☐ No

2. If yes, can they request the correction of errors in the information? \*

☐ Not applicable (click here if you answered "No" to the previous question)

☒ Yes

☐ No



3. Is it possible in your country for taxpayers to communicate electronically with the tax authority? \*

☒ Yes

☐ No

4. If yes, are there systems in place to prevent unauthorised access to the channel of communication? \*

☒ Yes

☐ No

5. In your country, is there a system of "cooperative compliance" / "enhanced relationship" which applies to some taxpayers only? \*

☒ Yes

☐ No

6. 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? \*

☐ Not applicable (click here if you answered "No" to question 5)

☐ Yes

☒ No

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? \*

☒ Yes

☐ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

## Area 2 - The issue of tax assessment

8. 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? \*

☒ Yes

☐ No

9. If yes, can the taxpayer request a meeting with the tax officer? \*

☐ Not applicable (click here if you answered "No" to question 8)

☒ Yes

☐ No

10. 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 ex officio to notify all affected taxpayers and arrange repayments to them? \*

☐ Yes

☒ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

### Area 3 - Confidentiality

11. Is information held by your tax authority automatically encrypted? \*

☐ Yes

☒ No

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? \*

☒ Yes

☐ No

13. If yes, must the tax official identify himself/herself before accessing information held about a specific taxpayer? \*

☐ Not applicable (click here if you answered "No" to question 12)

☒ Yes

☐ No

14. Is access to information held about a taxpayer audited internally to check if there has been any unauthorised access to that information? \*

☒ Yes

☐ No

15. Are there examples of tax officials who have been criminally prosecuted in the last decade for unauthorised access to taxpayers' data? \*

☐ Yes

☒ No

16. Is information about the tax liability of specific taxpayers publicly available in your country? \*

☐ Yes

☒ No

17. Is "naming and shaming" of non-compliant taxpayers practised in your country? \*

☐ Yes

☒ No

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. habeas data or freedom of information)? \*

☐ Yes

☒ No

19. Is there a system of protection of legally privileged communications between the taxpayer and its advisors? \*

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

☒ Yes

☐ No

20. If yes, does this extend to advisors other than those who are legally qualified (e.g. accountants, tax advisors)? \*

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☐ Not applicable (click here if you answered "No" to question 19)

☐ Yes

☒ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

#### Area 4 - Normal audits

21. Does the principle ne bis in idem apply to tax audits (i.e. that the taxpayer can only receive one audit in respect of the same taxable period)? \*

☐ Yes

☒ No

22. If yes, does this mean only one audit per tax per year? \*

- ☒ Not applicable (click here if you answered "No" to question 21)
- ☐ Yes
- ☐ No

23. Does the principle audi alteram partem 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)? \*

- ☐ Yes
- ☒ No

24. 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)? \*

- ☐ Yes
- ☒ No

25. 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)? \*

- ☐ Yes
- ☒ No

26. If yes, what is the normal limit in months? \*

There is no limit (click here if you answered "No" to question 25) ▼

27. Does the taxpayer have the right to be represented by a person of its choice in the audit process? \*

☒ Yes

☐ No

28. May the opinion of independent experts be used in the audit process? \*

☒ Yes

☐ No

29. Does the taxpayer have the right to receive a full report on the conclusions of the audit at the end of the process? \*

☒ Yes

☐ No



30. Are there limits to the frequency of audits of the same taxpayer (e.g. in respect to different periods or different taxes)? \*

☐ Yes

☒ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

#### Area 5 - More intensive audits

31. Is the principle nemo tenetur applied in tax investigations (i.e. the principle against self-incrimination)? \*

☐ Yes

☒ No

32. If yes, is there a restriction on the use of information supplied by the taxpayer in a subsequent penalty procedure/criminal procedure? \*

- ☒ Not applicable (click here if you answered "No" to question 31)
- ☐ Yes
- ☐ No

33. If yes to nemo tenetur, can the taxpayer raise this principle to refuse to supply basic accounting information to the tax authority? \*

- ☒ Not applicable (click here if you answered "No" to question 31)
- ☐ Yes
- ☐ No

34. 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? \*

- ☐ Yes
- ☒ No

35. If yes, is there a requirement to give the taxpayer a warning that the taxpayer can rely \* on the right of non-self-incrimination?

☒ Not applicable (click here if you answered "No" to question 34)

☐ Yes

☐ No

36. Is authorisation by a court always needed before the tax authority may enter and \* search premises?

☐ Yes

☒ No

37. May the tax authority enter and search the dwelling places of individuals? \*

☒ Yes

☐ No

38. Is a court order required before the tax authority can use interception of \* communications (e.g. telephone tapping or access to electronic communications)?

☐ Yes

☒ No

39. Is there a procedure in place to ensure that legally privileged material is not taken in the course of a search? \*

☐ Yes

☒ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

## Area 6 - Reviews and appeals

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

40. Is there a procedure for an internal review of an assessment/decision before the taxpayer appeals to the judiciary? \*

☒ Yes

☐ No

41. Does the taxpayer need permission to appeal to the first instance tribunal? \*

☐ Yes

☒ No

42. Does the taxpayer need permission to appeal to the second or higher instance tribunals? \*

☐ Yes

☒ No

43. 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? \*

☐ Yes

☒ No

44. Are there time limits applicable for a tax case to complete the judicial appeal process? \*

☐ Yes

☒ No

45. If yes, what is the normal time it takes for a tax case to be concluded on appeal? \*

There is no limit (click here if you answered "No" to question 44) ▼

46. Are there any arrangements for alternative dispute resolution (e.g. mediation or arbitration) before a tax case proceeds to the judiciary? \*

☒ Yes

☐ No

47. Is there a system for the simplified resolution of tax disputes (e.g. by a determination on the file, or by e/filing)? \*

☐ Yes

☒ No

48. Is the principle audi alteram partem (i.e. each party has a right to a hearing) applied in all tax appeals? \*

☒ Yes

☐ No

49. Does the taxpayer have to pay some/all the tax before an appeal can be made (i.e. solve et repete)? \*

☐ Yes

☒ No

50. 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?) \*

☒ Not applicable (click here if you answered "No" to question 49)

☐ Yes

☐ No

51. Does the loser have to pay the costs in a tax appeal? \*

☒ Yes

☐ No

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)? \*

☐ Not applicable (click here if you answered "No" to question 51)

☒ Yes

☐ No

53. If there is usually a public hearing, can the taxpayer request a hearing in camera (i.e. <sup>\*</sup> not in public) to preserve secrecy/confidentiality?

☒ Yes

☐ No

54. Are judgments of tax tribunals published? <sup>\*</sup>

☒ Yes

☐ No

55. If yes, can the taxpayer preserve its anonymity in the judgment? <sup>\*</sup>

☐ Not applicable (click here if you answered "No" to question 54)

☐ Yes

☒ No

Do you want to save your results and quit? <sup>\*</sup>

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

Area 7 - Criminal and administrative sanctions



56. Does the principle ne bis in idem apply in your country to prevent either: \*

- ☐ The principle does not apply in my country
- ☐ The imposition of a tax penalty and the tax liability
- ☒ The imposition of more than one tax penalty for the same conduct
- ☒ The imposition of a tax penalty and a criminal liability

57. If ne bis in idem 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)?

- ☐ Not applicable (click here if you answered "No" to question 56)
- ☐ Yes
- ☒ No

58. If the taxpayer makes a voluntary disclosure of a tax liability, can this result in a reduced or a zero penalty? \*

- ☒ Yes
- ☐ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- ☐ Yes
- ☒ No

## Area 8 - Enforcement of taxes

59. Is a court order always necessary before the tax authorities can access a taxpayer's bank account or other assets? \*

☐ Yes

☒ No

60. Does the taxpayer have the right to request a deferred payment of taxes or a payment in instalments (perhaps with a guarantee)? \*

☒ Yes

☐ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

## Area 9 - Cross-border situations

61. Does the taxpayer have the right to be informed before information relating to him is exchanged in response to a specific request? \*

☐ Yes

☒ No

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? \*

☐ Yes

☒ No

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? \*

☒ Not applicable (click here if you answered "No" to either question 61 or question 62)

☐ Yes

☐ No

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? \*

☐ Yes

☒ No

65. Does the taxpayer have the right to challenge before the judiciary the exchange of information relating to him with another country? \*

☒ Yes

☐ No

66. Does the taxpayer have the right to see any information received from another country that relates to him? \*

☒ Yes

☐ No

67. Does the taxpayer have the right in all cases to require a mutual agreement procedure is initiated? \*

☐ Yes

☒ No

68. Does the taxpayer have a right to see the communications exchanged in the context of a mutual agreement procedure? \*

☐ Yes

☒ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

## Area 10 - Legislation

69. Is there a prohibition on retrospective tax legislation in your country? \*

☐ Yes

☒ No

70. If no, are there restrictions on the adoption of retrospective tax legislation in your country? \*

☐ Not applicable (click here if you answered "Yes" to question 69)

☒ Yes

☐ No

71. Is there a procedure in your country for public consultation before the adopting of all (or most) tax legislation? \*

☐ Yes

☒ No

72. Is tax legislation subject to constitutional review which can strike down unconstitutional laws? \*

☒ Yes

☐ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

#### Area 11 - Revenue practice and guidance

73. Does the tax authority in your country publish guidance (e.g. revenue manuals, circulars, etc.) as to how it applies your tax law? \*

☒ Yes

☐ No

74. Does your country have a generalised system of advanced rulings available to taxpayers? \*

☒ Yes

☐ No

75. If yes, is it legally binding? \*

- ☐ Not applicable (click here if you answered "No" to question 74)
- ☒ Yes
- ☐ No

76. If a binding ruling is refused, does the taxpayer have a right to appeal? \*

- ☒ Yes
- ☐ No

77. If your country publishes guidance as to how it applies your tax law, can taxpayers acting in good faith rely on that published guidance (i.e. protection of legitimate expectations)? \*

- ☐ Not applicable (click here if you answered "No" to question 76)
- ☐ Yes
- ☒ No

Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- ☐ Yes
- ☒ No

## Area 12 - Institutional framework for protecting taxpayers' rights

78. Is there a taxpayers' charter or taxpayers' bill of rights in your country? \*

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

☒ Yes

☐ No

79. If yes, are its provisions legally effective? \*

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

☐ Not applicable (click here if you answered "No" to the previous question)

☒ Yes

☐ No

80. Is there a (tax) ombudsman / taxpayers' advocate / equivalent position in your country? \*

☒ Yes

☐ No



81. If yes, can the ombudsman intervene in an on-going dispute between the taxpayer and the tax authority (before it goes to court)? \*

- ☐ Not applicable (click here if you answered "No" to question 80)
- ☒ Yes
- ☐ No

82. If yes to a (tax) ombudsman, is he/she independent from the tax authority? \*

- ☐ Not applicable (click here if you answered "No" to question 80)
- ☐ Yes
- ☒ No

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# OPTR - 2022 Questionnaire 2 - Standards of Protection

Dear National Reporter,

I would like to thank you for your participation in the IBFD Observatory on the Protection of Taxpayers' Rights (OPTR).

This form collects the information on developments occurred in 2022 regarding the implementation of 57 minimum standards and 44 best practices, distributed into 86 benchmarks, for the practical protection of taxpayers' rights as monitored by the OPTR.

We kindly ask you to provide an impartial, non-judgmental summary of events occurred in 2022 that in your opinion affect the level of compliance of a given minimum standard/best practice in your country. These events may include, without limitation, legislation enacted, administrative rulings and/or circulars issued, case law and tax administration practices implemented, among others, as requested by this form.

In ALL cases back up your assertions with the relevant documentary materials, and provide full details for identifying the documents related to the reported developments. Either a (soft) copy or internet links to make said documents available (and therefore, quotable) are greatly appreciated.

You are also kindly required to assess whether the events you described represent either a step towards or a step away from the practical implementation of the given minimum standard/best practice in your country. Full instructions are provided below.

This form should be filled in as soon as any of the events mentioned above occurs and edited as many times as necessary to cover all relevant developments occurred in 2022, until no later than 14 January 2023. We appreciate very much your cooperation in this regard.

Feel free to contact us for any clarification you may need. We look forward to your valuable contribution to this remarkable project.

Kind regards,

Prof. Dr Carlos E. Weffe  
Scientific Coordinator  
IBFD Observatory on the Protection of Taxpayers' Rights.

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\* Better if filled in using Google Chrome © or Mozilla Firefox ©

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## Reporters' info

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Affiliation \*

☒ Taxpayers / Tax Practitioners

☐ Tax Administration

☐ Judiciary

☐ (Tax) Ombudsperson

☒ Academia

☐ Other: \_\_\_\_\_

## Instructions

1. Please answer all questions. The form will not allow you to continue/submit your responses until you have answered all questions.

2. All questions are two or three-tiered (namely, either with parts "MS" and/or "BP", and "S"). They comprise a minimum standard (MS) and /or a best practice (BP), and a "summary of relevant facts in 2021" (S). The latter is a space for providing a summarized account on facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way.

3. Please Indicate, by clicking on the corresponding button, whether there was an improvement or a decrease of the level of compliance of the relevant standard/best practice in your country in 2021. If there were no changes, please indicate so by clicking on the corresponding button.
4. In ALL cases where an assessment of either improvement or decrease is reported, please refer the relevant novelties in the space provided under "summary of relevant facts in 2021", for each question. Please give a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. In case there is nothing to report for a given minimum standard/best practice, please answer "no changes".
5. If any, make additional, non-judgmental commentaries at the space provided under "summary of relevant facts in 2021".
6. In ALL cases back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org).
7. When completed, please submit the survey.
8. Once you have submitted the survey, you will receive an email acknowledging your participation in the OPTR and providing a backup of your answers.
9. The email will also include an "edit your survey" link, in case you want to modify any of your answers. You will receive this email every time you submit partial responses.
10. An option to quit the survey and save your answers is provided at the end of each section. This survey has 12 sections, as many as those identified by Baker and Pistone in their 2015 IFA General Report.
11. If answering partially, please select "Yes" at the end of the section in which you are to submit your partial answers to the survey. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this survey.
12. For editing your answers, please use the last "edit your response" link provided to you via email. Please bear in mind that this is the only way the system will acknowledge your previous answers. If you use a link other than the last one provided, some (or all) changes might not be retrieved by the system.
13. When clicking on the last "edit your response" link, the system will lead you to the front page of the survey. Click on "Next" as many times as needed to get to the section you want to continue in. Once you have reached said section, please remember to change your answer to the question "Do you want to save your results and quit?" to "No", in order to be able to continue.

## Area 1 - Identification of taxpayers, issuing tax returns and communicating with taxpayers

1 (MS). Implement safeguards to prevent impersonation when issuing a unique identification number \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

1 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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2 (MS). The system of taxpayer identification should take account of religious sensitivities \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

## 2 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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## 3 (MS). Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

## 3 (BP). Where tax is withheld by third parties, the taxpayer should be excluded from liability if the third party fails to pay over the tax \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 3 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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4 (MS). Where pre/populated returns are used, these should be sent to taxpayers to correct errors.

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 4 (S). Summary of relevant facts in 2022

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5 (MS). Provide a right to access to taxpayers to personal information held about them, and a right to correct inaccuracies. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

5 (BP). Publish guidance on taxpayers' rights to access information and correct inaccuracies \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

5 (S). Summary of relevant facts in 2022

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6 (MS). Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception ★

- ☐ No changes
- ☐ Shifted away
- ☒ Shifted towards

#### 6 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

In Belgium, for some time now, the possibility for taxpayers (or their mandataries) to contact individual officials of the tax administration directly by telephone or by e-mail is being phased out. In response to a parliamentary question of March 23, 2022 the Belgian Minister of Finance stated that it is planned to completely stop direct telephone and e-mail communication between taxpayers (or their mandataries) and the tax administration. All contacts will have to be made via a central information number or via the website MyMinFin (in combination with the digital platform eBox). This step is justified by the Minister of Finance partly on the basis of a concern about fraud attempts via phishing and fake e-mail addresses of government services. According to the Minister of Finance only communication via a secure platform such as MyMinFin can guarantee optimal security. Ordinary e-mails can end up with the wrong person and carry a risk of delayed follow-up, for example if the addressee is absent. The tax authorities no longer consider it responsible to exchange sensitive information such as account numbers via e-mail. In general, they fear that it is too difficult to guarantee privacy in all circumstances via normal e-mail traffic.

Although this evolution is being marked as a shift towards the minimum standard concerning the prevention of impersonation or interception, we would like to note that a lot of tax practitioners consider the impossibility of direct communication with the competent tax official as a negative evolution.

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7 (MS). Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 7 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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8 (MS). 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 changes
- ☐ Shifted away
- ☐ Shifted towards

## 8 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

☐ Yes

☒ No

## Area 2 - The issue of tax assessment

9 (BP). Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on equality of arms \*

☒ No changes

☐ Shifted away

☐ Shifted towards

### 9 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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### 10 (BP). Use e-filing to speed up assessments and correction of errors, particularly systematic errors

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 10 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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☐ Yes

☒ No

### Area 3 - Confidentiality

11 (MS). Provide a specific legal guarantee for confidentiality, with sanctions for officials who make unauthorised disclosures (and ensure sanctions are enforced). \*

☒ No changes

☐ Shifted away

☐ Shifted towards

11 (BP). Encrypt information held by a tax authority about taxpayers to the highest level attainable. \*

☒ No changes

☐ Shifted away

☐ Shifted towards

### 11 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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12 (MS). Introduce an offence for tax officials covering up unauthorised disclosure of confidential information. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 12 (S). Summary of relevant facts in 2022

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13 (MS). Restrict access to data to those officials authorised to consult it. For encrypted data, use digital access codes. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

13 (BP). Ensure an effective fire-wall to prevent unauthorised access to data held by revenue authorities. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 13 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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14 (MS). Audit data access periodically to identify cases of unauthorised access. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

14 (S). Summary of relevant facts in 2022

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15 (MS). Introduce administrative measures emphasizing confidentiality to tax officials. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

15 (BP). Appoint data protection/privacy officers at senior level and local tax offices. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards



### 15 (S). Summary of relevant facts in 2022

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16 (MS). If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges). \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 16 (S). Summary of relevant facts in 2022

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17 (MS). Provide remedies for taxpayers who are victims of unauthorised disclosure of confidential information. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

17 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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18 (MS). Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 18 (S). Summary of relevant facts in 2022

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19 (MS). If "naming and shaming" is employed, ensure adequate safeguards (e.g. judicial \*  
authorisation after proceedings involving the taxpayer).

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

19 (BP). Require judicial authorisation before any disclosure of confidential information by \*  
revenue authorities

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 19 (S). Summary of relevant facts in 2022

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20 (MS). No disclosure of confidential taxpayer information to politicians, or where it might be used for political purposes. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

20 (BP). Parliamentary supervision of revenue authorities should involve independent officials, subject to confidentiality obligations, examining specific taxpayer data, and then reporting to Parliament. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

## 20 (S). Summary of relevant facts in 2022

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21 (MS). 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. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

## 21 (S). Summary of relevant facts in 2022

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22 (MS). If published, tax rulings should be anonymised and details that might identify the taxpayer removed. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

22 (BP). Anonymize all tax judgments and remove details that might identify the taxpayer \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

22 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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23 (MS). Legal professional privilege should apply to tax advice. \*

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org)) an annex with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- ☐ No changes
- ☐ Shifted away
- ☒ Shifted towards

23 (BP). 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. \*

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org)) an annex with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 23 (S). Summary of relevant facts in 2022

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In last year's report we noted that the Belgian Constitutional Court posed a preliminary question to the European Court of Justice asking whether Directive 2018/822 is compatible with the right to a fair trial and the right to respect for private life, where that directive obliges Member States to provide for an exception to the 'legal privilege under the national law of that Member State' when an intermediary is required to inform another intermediary. In particular, the Constitutional Court asks whether the duty of the intermediary 'lawyer' to disclose information which he has learned in the course of exercising the essential activity of his profession to another intermediary, even outside any court proceeding, is compatible with the right to a fair trial and to respect for private life. In a judgement of 8 December 2022 (C-694/20) the European Court of Justice ruled that this obligation to disclose information imposed on an intermediary lawyer is not compatible with Article 7 of the Charter of Fundamental Rights of the European Union which protects the confidentiality of all correspondence between individuals and affords strengthened protection to exchanges between lawyers and their clients. The Court of Justice ruled that Article 8ab(5) of amended Directive 2011/16 is invalid in the light of Article 7 of the Charter, in so far as the Member States' application of that provision has the effect of requiring a lawyer acting as an intermediary (where he or she is exempt from the reporting obligation laid down in paragraph 1 of Article 8ab of that directive on account of the legal professional privilege by which he or she is bound), to notify without delay any other intermediary who is not his or her client of that intermediary's reporting obligations under paragraph 6 of that Article 8ab.

24 (MS). Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege. \*

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards



## 24 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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☐ Yes

☒ No

## Area 4 - Normal audits

25 (MS). Audits should respect the following principles: (1) Proportionality. (2) Ne bis in idem (prohibition of double jeopardy). (3) Audi alteram partem (right to be heard before any decision is taken). (4) Nemo tenetur se detegere (principle against self/incrimination). Tax notices issued in violation of these principles should be null and void. \*

☐ No changes

☐ Shifted away

☒ Shifted towards

## 25 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

The Law of 17 March 2022 made it possible for tax officials to participate in mixed multidisciplinary investigation teams (so called "MOTEM"s), which also include police officers. To this end, the Law foresees that 25 tax officials will be vested with the capacity of judicial police officer. This capacity enables these tax officials to provide full assistance to criminal investigations, for example by participating in house searches and interrogations and by analysing the data obtained by the investigation. It is important to note that the Law explicitly states that the evidence gathered by the tax officials during their cooperation in a MOTEM can be used not only for the purpose of the criminal investigation, but also to determine the existence and amount of the tax debt. It is said that this provision is intended to avoid double gathering of evidence, which is of great importance in the (recent) case law of the ECtHR concerning respect for the ne bis in idem-principle with regard to dual administrative and criminal proceedings/investigations.

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26 (MS). 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 changes
- ☐ Shifted away
- ☐ Shifted towards

## 26 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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27 (BP). In application of ne bis in idem the taxpayer should only receive one audit per taxable period, except when facts that become known after the audit was completed. \*

- ☐ No changes
- ☐ Shift away
- ☒ Shift towards

## 27 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

A company was subject to a tax audit by the Special Tax Inspectorate (STI) of Ghent. As a result of this audit, negotiations were started between the taxpayer and the STI of Ghent. These negotiations resulted in an agreement, seemingly ending the discussion between the taxpayer and the tax authorities. However, less than a year after the conclusion of this agreement the taxpayer was subject to a new tax audit, this time from the STI of Brussels. The audit concerned the same tax issue relating to an assessment year that had already been included in the aforementioned agreement with the STI of Ghent. When the taxpayer referred to the agreement with the STI of Ghent, the STI of Brussels stated that it would not take this agreement into account and imposed a taxation. This case was brought before the Court of First Instance of Antwerp. Before the Court the STI of Brussels disputed that the STI of Ghent had effectively investigated the relevant tax issue. However, in a judgement of 21 February 2022 the Court ruled that the STI of Brussels could not seriously argue that the tax issue in question had not actually been investigated and did not form a part of the concluded agreement. The agreement is thus binding for the STI of Brussels, unless it can prove an error or other absence of consensus ad idem, or the emergence of new elements. The Court concluded that the taxpayer could trust that the tax administration would no longer question the tax issue settled in the agreement with the STI of Ghent. According to the Court the STI of Brussels violated the principles of trust, legal certainty and fair play.

28 (MS). In application of audi alteram partem, 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 changes
- ☐ Shifted away
- ☐ Shifted towards

## 28 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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29 (MS). In application of nemo tenetur, the right to remain silent should be respected in all tax audits. \*

- ☐ No changes
- ☒ Shifted away
- ☐ Shifted towards

## 29 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

The Law of 20 November 2022 introduced an new weapon for the tax administration to enforce taxpayers' obligation to cooperate in tax audits, by offering the tax administration the possibility to claim incremental penalty payments before the court in case of non-compliance by the taxpayer or by a third party with the obligations they have in the context of a tax audit. Referring to the Van Weerelt v. The Netherlands-case, the Belgian government is convinced that the imposition of incremental penalty payments in order to enforce cooperation from taxpayers is not in violation of the nemo tenetur-principle. Future application of this new provision in practice will have to show whether this will indeed always be the case, especially when evidence/material is concerned of which the existence is dependent on the will of the taxpayer.

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30 (BP). Tax audits should follow a pattern that is set out in published guidelines. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

30 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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31 (BP). A manual of good practice in tax audits should be established at the global level. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 31 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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### 32 (BP). Taxpayers should be entitled to request the start of a tax audit (to obtain finality). \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 32 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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33 (MS). Where tax authorities have resolved to start an audit, they should inform the taxpayer

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

33 (BP). 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.

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

33 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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34 (MS). Taxpayers should be informed of information gathering from third parties. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

34 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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35 (BP). Reasonable time limits should be fixed for the conduct of audits. \*

- ☐ No changes
- ☒ Shifted away
- ☐ Shifted towards

### 35 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

The Law of 20 November 2022 has radically changed the time limits for conducting audits and imposing taxes in the field of income taxes. The new time limits only apply as of assessment year 2023. In general, the new Law introduces longer time limits for the conduct of audits and the imposition of taxes than the existing ones. Roughly speaking the existing time limit for conducting audits and imposing taxes is three years and that time limit can be extended to seven years in case of fraud.

As of assessment year 2023, the time limit is:

- three years: if the tax due exceeds the tax that was declared in a formally correct and timely declaration;
- four years: in case of non-declaration or non-timely filing of the declaration;
- six years: in case of non-declaration, non-timely filing of the declaration or if the tax due exceeds the tax that was declared in a formally correct and timely declaration, 'and' one of the six cases explicitly listed in the law applies (e.g. when the declaration must be accompanied by a form stating the payments made to "tax havens");
- ten years: in case of non-declaration, non-timely filing of the declaration or if the tax due exceeds the tax that was declared in a formally correct and timely declaration, 'and' the declaration is "complex". The law explicitly lists three cases in which the declaration is deemed "complex" (e.g. when the declaration must mention the existence of legal arrangements in another state);
- ten years: in case of tax fraud; or when the investigations are carried out at the request of a state with which Belgium has concluded a double tax treaty.

In the field of VAT the Law of 22 November 2022 has also extended the time limits for investigation and for claiming additional taxes. The normal time limit of three years is extended to four years in case of non-declaration or non-timely declaration. The time limit in case of tax fraud is extended from seven years to ten years.

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36 (MS). Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 36 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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37 (MS). The completion of a tax audit should be accurately reflected in a document, notified in its full text to the taxpayer. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

37 (BP). 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.

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 37 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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38 (BP). Following an audit, a report should be prepared even if the audit does not result \* in additional tax or refund.

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 38 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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☐ Yes

☒ No

### Area 5 - More intensive audits

39 (BP). More intensive audits should be limited to the extent strictly necessary to ensure \*  
an effective reaction to non-compliance.

☒ No changes

☐ Shifted away

☐ Shifted towards

### 39 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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40 (MS). 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 changes
- ☐ Shifted away
- ☐ Shifted towards

### 40 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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41 (MS). Entering premises or interception of communications should be authorised by the judiciary. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 41 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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42 (MS). Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for ex-post ratification. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 42 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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43 (MS). Inspection of the taxpayer's home should require authorisation by the judiciary and only be given in exceptional cases. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

43 (BP). 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. \*

- ☐ No changes
- ☒ Shifted away
- ☐ Shifted towards



#### 43 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

In the field of income tax and VAT the Law states that the tax authorities only have access to private homes or occupied premises with the authorization of a judge in the Police Court. In a case where the tax authorities had collected evidence in a taxpayer's home without the required authorisation from a judge, the Court of Appeal of Ghent ruled that this evidence was, by definition, obtained illegally, so it could not be used for tax purposes. With a judgement of 21 April 2022 the Belgian Court of Cassation however overturned the judgement of the Court of Appeal of Ghent. According to the Court of Cassation such evidence can't be excluded 'by definition'. The question whether or not illegally obtained evidence should be allowed or not should 'always' be tested against the principles of good administration and the right to a fair trial. The case was referred to the Court of Appeal of Antwerp that will have to make this test.

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#### 44 (BP). Access to bank information should require judicial authorisation. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 44 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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45 (BP). Authorisation by the judiciary should be necessary for the interception of telephone communications and monitoring of internet access. Specialised offices within the judiciary should be established to supervise these actions. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 45 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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46 (MS). 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. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 46 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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47 (BP). 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. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 47 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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48 (MS). Where invasive techniques are applied, they should be limited in time to avoid a disproportionate impact on taxpayers. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 48 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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Do you want to save your results and quit? \*

If "Yes", please submit the form. If "Yes", bear in mind that there are still several questions that need to be answered later. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- ☐ Yes
- ☒ No

#### Area 6 - Reviews and appeals

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

49 (BP). E-filing of requests for internal review to ensure the effective and speedy handling of the review process. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

49 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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50 (MS). The right to appeal should not depend upon prior exhaustion of administrative reviews. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 50 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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#### 51 (BP). Reviews and appeals should not exceed two years. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 51 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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52 (MS). Audi alteram partem should apply in administrative reviews and judicial appeals. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 52 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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53 (MS). 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. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

53 (BP). An appeal should not require prior payment of tax in all cases. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 53 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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54 (BP). The state should bear some or all of the costs of an appeal, whatever the outcome.

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 54 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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55 (MS). Legal assistance should be provided for those taxpayers who cannot afford it. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 55 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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56 (MS). Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 56 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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#### 57 (MS). Tax judgments should be published. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 57 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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☐ Yes

☒ No

## Area 7 - Criminal and administrative sanctions

58 (MS). Proportionality and ne bis in idem should apply to tax penalties. \*

☐ No changes

☐ Shifted away

☒ Shifted towards

### 58 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

In a judgement of 21 April 2022 the Belgian Court of Cassation applied the ne bis in idem-case law of the ECtHR, as set out in the A and B v. Norway-judgement, to the imposition of two administrative penalties for the same offence (late filing of an income tax declaration). Although the Court of Cassation ruled that it is up to the judge assessing the case to make the A and B v. Norway-test (sufficiently close connection in substance and in time) it confirmed the assessment of the judge in question that there had been a violation of the ne bis in idem-principle. The judge had ruled that the imposition by the tax authorities of a fixed fine 'and' a tax surcharge for the same offence (late filing of an income tax declaration) did not meet the requirements of a sufficiently close connection in substance and in time. In a judgement of 11 March 2022 the Court of First Instance of Louvain ruled in the same way in a very similar case (imposition of a fixed fine 'and' a tax surcharge for the late filing of a tax declaration).

In a judgement of 17 November 2022 the Belgian Constitutional Court ruled that the imposition of a fixed fine 'and' a tax surcharge for the same offence of non-declaration can be allowed, insofar as certain principles are observed in doing so. These principles concern compliance with the A and B V. Norway-test of a sufficiently close connection in substance and in time.

59 (BP). Where administrative and criminal sanctions may both apply, only one procedure \* and one sanction should be applied.

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 59 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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### 60 (BP). Voluntary disclosure should lead to reduction of penalties. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 60 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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61 (MS). Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 61 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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- ☐ Yes
- ☒ No

#### Area 8 - Enforcement of taxes

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org) and [c.weffe@ibfd.org](mailto:c.weffe@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Please be particularly aware of regulations on the COVID-19 pandemic. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

62 (MS). Collection of taxes should never deprive taxpayers of their minimum necessary for living. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 62 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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63 (BP). Authorisation by the judiciary should be required before seizing assets or bank accounts \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 63 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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### 64 (MS). Taxpayers should have the right to request delayed payment of arrears. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 64 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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65 (BP). Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 65 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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#### 66 (MS). Temporary suspension of tax enforcement should follow natural disasters. \*

Please provide separately (via [optr@ibfd.org](mailto:optr@ibfd.org)) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Please be particularly aware of regulations on the COVID-19 pandemic. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- ☐ No changes
- ☐ Shifted away
- ☒ Shifted towards

## 66 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

With the Law of 26 December 2022 the Belgian legislator has created a possibility for employers to be exempted from payment of withholding tax on wages in certain cases of natural disasters. On the initiative of the competent Region, the federal tax authority can allow an employer who has one or more establishments affected by natural disasters recognised by the Region to withhold the entire withholding tax from the wages of employees employed in that establishment(s) but only pass on part of it to the tax authorities.

Although not exactly a "natural disaster" it may be noted that a Law of 30 October 2022 provided for the extension of certain payment deadlines in the field of income tax and withholding taxes as a result of the energy crisis.

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☐ Yes

☒ No

Area 9 - Cross-border situations

67 (MS). 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. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

67 (BP). The taxpayer should be informed that a cross-border request for information is to be made. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 67 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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68 (BP). Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer.

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 68 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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69 (BP). Provisions should be included in tax treaties setting specific conditions for exchange of information.

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 69 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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70 (MS). If information is sought from third parties, judicial authorisation should be necessary.

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 70 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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71 (BP). The taxpayer should be given access to information received by the requesting state. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 71 (S). Summary of relevant facts in 2022

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72 (BP). Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

## 72 (S). Summary of relevant facts in 2022

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---

73 (BP). A requesting state should provide confirmation of confidentiality to the requested state. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

## 73 (S). Summary of relevant facts in 2022

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74 (MS). 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. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 74 (S). Summary of relevant facts in 2022

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75 (BP). For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards



### 75 (S). Summary of relevant facts in 2022

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### 76 (BP). Taxpayers should have a right to request initiation of mutual agreement procedure.

\*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 76 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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77 (MS). Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to the progress of the procedure. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 77 (S). Summary of relevant facts in 2022

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- ☐ Yes
- ☒ No

Area 10 - Legislation

78 (MS). Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

78 (BP). Retrospective tax legislation should ideally be banned completely. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

78 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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79 (BP). Public consultation should precede the making of tax policy and tax law. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

## 79 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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☐ Yes

☒ No

## Area 11 - Revenue practice and guidance

80 (MS). Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance. \*

☒ No changes

☐ Shifted away

☐ Shifted towards

#### 80 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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81 (MS). 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. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 81 (S). Summary of relevant facts in 2022

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82 (MS). Binding rulings should only be published in an anonymised form \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

82 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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83 (MS). Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

### 83 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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☐ Yes

☒ No

### Area 12 - Institutional framework for protecting taxpayers' rights

84 (MS). Adoption of a charter or statement of taxpayers' rights should be a minimum standard. \*

☒ No changes

☐ Shifted away

☐ Shifted towards

84 (BP). A separate statement of taxpayers' rights under audit should be provided to taxpayers who are audited. \*

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

#### 84 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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85 (BP). 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 changes
- ☐ Shifted away
- ☐ Shifted towards



85 (S). Summary of relevant facts in 2022

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up your assertions with the relevant documentary materials. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: [optr@ibfd.org](mailto:optr@ibfd.org). Thank you.

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86 (BP). The organisational structure for the protection of taxpayers' rights should operate \*  
at local level as well as nationally.

- ☒ No changes
- ☐ Shifted away
- ☐ Shifted towards

86 (S). Summary of relevant facts in 2022

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