



Observatory on the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by Henrik Peytz, Partner at *Nielsen Nørager Law Firm LLP* and Henrik Klitz, Advisor at the *Danish Tax Appeals Agency*, both OPTR National Reporters of Denmark.

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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Reporters' info

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Henrik Peytz and Henrik Klitz

Country: *

Danmark

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 and 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 and 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. ^{*} not in public) to preserve secrecy/confidentiality?

☒ Yes

☐ No

54. Are judgments of tax tribunals published? ^{*}

☒ Yes

☐ No

55. If yes, can the taxpayer preserve its anonymity in the judgment? ^{*}

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

☒ 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 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 and 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 and 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.

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

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Reporters' info

Name: *

Henrik Peytz and Henrik Klitz

Country: *

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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 and 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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

Do you want to save your results and quit? *

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☐ 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. Thank you.

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. Thank you.

The Parliamentary Ombudsman focused in 2022 on compliance of digital solutions with principles of general administrative law and tax procedures in several investigations, see FOB 2022-11 (https://www.ombudsmanden.dk/find/udtalelser/beretningssager/alle_bsager/2022-11/pdf), FOB 2022-12 (https://www.ombudsmanden.dk/find/udtalelser/beretningssager/alle_bsager/2022-12/pdf) and Case No. 21/03154 (https://www.ombudsmanden.dk/ombudsmandensarbejde/skatteomraadet/afsluttede_sager/21_03154/). The Ombudsman stressed the importance of considering the aspect of compliance with administrative law in the design and development phase of new digital solutions as well as testing the realisation of the planned compliance when solutions go on-line. The Ombudsman once again pointed out that administrative law requires that e-filing must be possible not only for the taxpayer but also for the chosen representative of the taxpayer. This feature had not been included in the design and development of a new digital reporting system. The Ombudsman found it very regrettable that this apparently was the result of a decision not to prioritize the feature.

Do you want to save your results and quit? *

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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. Thank you.

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

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. Thank you.

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. Thank you.

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

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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

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

Please provide separately (via 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) 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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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 and 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

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- ☐ Yes
- ☒ No

Area 4 - Normal audits

25 (MS). Audits should respect the following principles: (i) 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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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

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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. Thank you.

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. Thank you.

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. Thank you.

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

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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 and 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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

An appeal does not require prior payment of tax. However, due to the rules of calculation of interest on tax claims this is not so good as it sounds. It is a general problem in Denmark that the interest rates that are applied in court cases for years have been very high compared to market rates. In addition, within the tax area, a special set of rules on calculation of interest on unpaid taxes applies, which not only include a very high rate of interest, but also include compound interest. In a recent set of cases, it has further been illustrated that the economic position of a taxpayer who in the last instance loses a tax case will also depend upon whether the taxpayer won or lost in a lower instance. If the taxpayer won, the taxpayer cannot avoid the triggering of compound interest if the case is lost on appeal, as there is no legal basis for the tax authorities to accept a depositary payment (or a payment reserving the right to claim back the amount paid) from the taxpayer. Contrary hereto, if the taxpayer lost in the first instance and is able to pay the tax and interest due, then the taxpayer may avoid continued interest payments by paying the tax with accumulated interest at that time.

In more detail, the situation can be described as follows:

The Danish courts have taken alternative approaches to this problem. Early in 2022 the Eastern High Court gave judgment in SKM 2022.469 Ø (<https://skat.dk/data.aspx?oid=2364729>), where the High Court denied the tax authorities the right to interest payment for a significant part of the period passed from the day the taxpayer had offered conditional payment of the disputed tax claim. The High Court found that solution to be in accordance with general principles of access to justice.

The question arises typically in the situation where the taxpayer is successful at the National Tax Tribunal, but where the Ministry of Taxation subsequently appeals the decision of the National Tax Tribunal to the ordinary courts. The statutory interest rules in the Tax Collection Act entail that the taxpayer in that situation, if he has paid the tax, will first be paid back the tax amount with interest for the period from the original latest timely payment date and up to the date of the decision from the National Tax Tribunal. However, if the Ministry of Taxation subsequently on appeal prevails before the ordinary courts, the taxpayer must pay the tax claim as well as interest for the period from the original latest timely payment time to the date of the judgment of the court. This interest claim can be very large. With interest and compound interest under the rules in the Tax Collection Act, the interest claim can significantly exceed the tax claim itself. This happens when the appeal proceedings drag out for many years such as in the so-called beneficial owner cases which due to, among other things, a preliminary referral of questions to the CJEU, went on for several years. In one of these cases, the interest claim ended up being almost twice as large as the tax claim itself. It gave rise to the view that the interest rules in the Tax Collection Act in this situation constitutes an obstacle to access to justice and violates Art. 6 ECHR and Art. 47 of the EU-Charter of Fundamental Rights.

The Supreme Court decided this question otherwise in a judgment of 9 January 2023 in some of the beneficial owner cases, see Joint Cases No. 69/2021, 70/2021 and 79/2021 (<https://domstol.dk/media/thefi0yn/69-70-79-2021-anonym-dom.pdf>).

The Supreme Court found that the tax claim must carry interest and compound interest according to the statutory rules in the Tax Collection Act, and for the period from the original last timely payment day for the tax claim. The Supreme Court also found that there was no possibility to reduce or avoid the interest claim by depositing the amount of the tax claim itself, and in the opinion of the Supreme Court, it was not contrary to general principles of administrative law or other rules that deposits could not be made.

The Supreme Court was aware that this understanding of the Tax Collection Act meant that the total interest claim was very large in relation to the tax claim, and that a significant part of the total interest claim was due to the provisions on compound interest in Sec. 16(a)(4) and Sec. 16(c)(1) of the Tax Collection Act. As the taxpayer had been successful at the National Tax Tribunal and partly also at the High Court, the taxpayer had not had the possibility to deposit the disputed tax amount and thereby to avoid having to pay interest from the time of the deposit and until the courts finally ruled in favour of the Ministry of Taxation.

However, the Supreme Court did not find sufficient basis for an understanding of the statutory provisions contrary to the wording of Sec. 16(a)(4) and Sec. 16(c)(1) of the Tax Collection Act, and there was also no basis for assuming that interest under the statutory provisions of the Tax Collection Act entailed a violation of rights under Art. 6 ECHR or Art. 47 of the EU Charter of Fundamental Rights.

Finally, the Supreme Court stated that there was reason for Parliament to consider whether these consequences of the provisions in the Tax Collection Act were desirable.

In this way, the Supreme Court left it to Parliament to consider whether the Tax Collection Act should be amended.

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. Thank you.

To qualify for remuneration of full or half the actual legal costs under the special scheme of remuneration of legal costs in tax cases, the taxpayer must be obliged to pay for legal costs. In other words, the taxpayer has to be liable for the cost of the services of the professional representative, e.g. the accountant or lawyer. In SKM 2022.608 H (<https://domstol.dk/media/kvtns1ze/10210-2021-anonym-dom.pdf>) the Supreme Court clarified this requirement of liability in a situation where the taxpayer had first entered into an agreement with one professional representative on a no cure no pay basis and subsequently via the original professional representative entered into an agreement with another professional representative on the terms that the costs could not exceed the costs under the original agreement. In practice, the contractual obligations upon the taxpayer amounted to the taxpayer only being liable to pay for the services of the second professional representative, if the first professional representative went bankrupt. On appeal the Supreme Court upheld the decision of the Eastern High Court that this did not constitute a sufficient and real liability of the taxpayer under the special scheme of remuneration of legal costs in tax cases. Thus, the taxpayer did not qualify for remuneration of any legal costs under the scheme.

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

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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. Thank you.

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. 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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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- ☐ Yes
- ☒ No

Area 8 - Enforcement of taxes

Please provide separately (via optr@ibfd.org and 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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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

Please provide separately (via 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. Thank you.

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

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. Thank you.

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. Thank you.

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. Thank you.

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. Thank you.

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

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. Thank you.

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

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. Thank you.

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

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. Thank you.

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

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. Thank you.

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

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. Thank you.

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. Thank you.

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

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. Thank you.

Do you want to save your results and quit? *

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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. Thank you.

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. 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. Thank you.

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

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. Thank you.

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. Thank you.

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. 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. Thank you.

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. Thank you.

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

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. Thank you.

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Questionnaire 1 (Country Practice)

Regarding ne bis in idem, legal privilege and risk of self-incrimination we kindly refer you to our earlier submissions of 2019-2021 as these principles have not changed.

The answer provided to No 19 on legal privileged communication is a “yes”. Legal privilege is not based on legislation but is respected in practice.

The answer provided to No 31 on the principle against self-incrimination is a “yes”. We attach an extract of the currently applicable rules on the principle of risk of self-incrimination in the Danish Legal Protection Act (Consolidated Act No. 1121 of 12 November 2019).

The answer provided to No. 56 on the principle of ne bis in idem is a “The principle does not apply in my country”. This answer on-line is necessary due to the set-up of the electronic questionnaire. The principle of ne bis in idem is indeed generally applicable in Denmark, but the situations mentioned in the questionnaire will not arise since there is no legal basis for administrative sanctions (tax penalties) in Danish tax cases (but only for the collection of the tax with interest). Criminal sanctions may be applied in case of deliberate or grossly negligent violations.

The Danish legislation on tax appeals and of the subsequent handling of tax cases before the general courts is comprehensive and practice is based on the legislation as well as various case-law principles.

We attach an extract of the currently applicable central rules on appeals in the Danish Tax Administration Act (Consolidated Act No. 835 of 3 June 2022).

Questionnaire 2 (Standards of Protection)

As requested, we have inserted links to cited material in the text.

The answers provided to No 53 on appeal and prior payment of tax and No 54 on the costs of an appeal are both indicated to “No change”. Even though the overall assessment is no change, we have submitted in-depth comments regarding the two questions which may be of interest.

If anything is unclear or you have any questions, please do not hesitate to get back to us.

Kind regards,

Henrik Peytz and Henrik Klitz

Kind regards

Henrik Klitz
Head of Legal Office



Skatteankestyrelsen
Danish Tax Appeals Agency

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Extract of the currently applicable rules on risk of self-incrimination in the Danish Legal Protection Act (Consolidated Act No. 1121 of 12 November 2019 - <https://www.retsinformation.dk/eli/lt/2019/1121>):

“ ...

Kapitel 4

Retten til ikke at inkriminere sig selv m.v.

§ 10. Hvis der er konkret mistanke om, at en enkeltperson eller juridisk person har begået en lovovertrædelse, der kan medføre straf, gælder bestemmelser i lovgivningen m.v. om pligt til at meddele oplysninger til myndigheden ikke i forhold til den mistænkte, medmindre det kan udelukkes, at de oplysninger, som søges tilvejebragt, kan have betydning for bedømmelsen af den formodede lovovertrædelse.

Stk. 2. I forhold til andre end den mistænkte gælder bestemmelser i lovgivningen m.v. om pligt til at meddele oplysninger, i det omfang oplysningerne søges tilvejebragt til brug for behandlingen af andre spørgsmål end fastsættelse af straf.

Stk. 3. En myndighed skal vejlede den mistænkte om, at vedkommende ikke har pligt til at meddele oplysninger, som kan have betydning for bedømmelsen af den formodede lovovertrædelse. Hvis den mistænkte meddeler samtykke til at afgive oplysninger, finder reglerne i § 9, stk. 4, 2. og 3. pkt., tilsvarende anvendelse.

Stk. 4. Den mistænkte kan meddele samtykke til anvendelse af en oplysningspligt over for andre med henblik på at tilvejebringe oplysninger til brug for en straffesag mod den mistænkte. Reglerne i § 9, stk. 4, 2. og 3. pkt., finder tilsvarende anvendelse.

...”

In unofficial English translation Section 10 has the following wording:

” ...

Chapter 4

The right not to incriminate oneself

§ 10. If there is a specific reason to suspect that an individual or legal person has committed a punishable infringement of the law, then the rules in the legislation etc. about a duty to provide information to the authority are not applicable to the suspect, unless it can be ruled out that the information which is sought can have impact on the assessment of the presumed infringement.

Sub-section 2. The rules in the legislation etc. about a duty to provide information are applicable to other persons than the suspect to the extent the information is sought for other purposes than deciding the punishment.

Sub-section 3. An authority shall inform the suspect that the suspect does not have any duty to provide information which may have an impact on the assessment of the presumed infringement. If the suspect consents to provide information the rules in Section 9, sub-section 4, 2. and 3. sentence, are applied mutatis mutandis.

Sub-section 4. The suspect can consent to the use of a duty to provide information against other persons with a view to obtaining information for use in a criminal case against the suspect. The rules in Section 9, sub-section 4, 2. and 3. sentence, are applied mutatis mutandis.

...”

**Extract of the currently applicable central rules on appeals in the Danish Tax Administration Act
(Consolidated Act No. 835 of 3 June 2022 - <https://www.retsinformation.dk/eli/lta/2022/835>):**

“ ...

Afsnit III

Klage og domstolsprøvelse samt omkostningsgodtgørelse

Kapitel 13 a

Fælles regler om klage

§ 35 a. Klage over afgørelser truffet af told- og skatteforvaltningen eller Skatterådet og over afgørelser, som er truffet af andre myndigheder, og som efter anden lovgivning er henlagt til afgørelse i Landsskatteretten eller skatteankeforvaltningen efter regler udstedt i medfør af § 35 b, stk. 3, skal indgives til skatteankeforvaltningen, medmindre skatteministeren har bestemt andet efter § 14, stk. 2.

Stk. 2. En klage kan indgives af enhver, der har en væsentlig, direkte og individuel retlig interesse i den afgørelse, der klages over. Klage omfattet af § 6, stk. 1, kan indgives af ejeren af den faste ejendom og af andre, der over for stat eller kommune hæfter for skatter, der opkræves på grundlag af den pågældende ejendomsvurdering.

Stk. 3. Klagen skal være skriftlig og begrundet, og den afgørelse, der påklages, skal følge med klagen. Er der udarbejdet en sagsfremstilling til brug for afgørelsen, skal også sagsfremstillingen følge med klagen. Klagen skal være modtaget i skatteankeforvaltningen senest 3 måneder efter modtagelsen af den afgørelse, der klages over.

Stk. 4. Før en klage afgøres, kan skatteankeforvaltningen eller den myndighed, der skal træffe afgørelse i klagesagen efter § 4 a, stk. 1, jf. §§ 6 og 6 b, § 4 a, stk. 2, § 11, stk. 2, jf. § 6 a, stk. 1, og § 4 a, stk. 3, eller § 35 b, indhente en udtalelse om klagen fra den myndighed, der har truffet afgørelsen. Skatteankeforvaltningen eller den myndighed, der skal træffe afgørelse i sagen, fastsætter en frist for afgivelse af udtalelsen.

Stk. 5. Hvis den myndighed, der har truffet afgørelsen, på grundlag af klagen finder anledning dertil, kan myndigheden uanset de almindelige frister for genoptagelse af myndighedens afgørelse efter denne lov genoptage og ændre afgørelsen, hvis klageren er enig heri. Det er en betingelse for genoptagelse efter 1. pkt. af vurderinger foretaget efter ejendomsvurderingslovens §§ 5 og 6, at genoptagelsen vil resultere i en ændring af ejendomsværdien eller grundværdien, der er større end 20 pct. Genoptages sagen efter 1. pkt., tillægges genoptagelsen skattemæssig virkning fra tidspunktet, hvor den afgørelse, som genoptagelsen vedrører, blev foretaget. Ved genoptagelse efter 1. pkt. anses klagen for tilbagekaldt.

Stk. 6. Klagen afvises af skatteankeforvaltningen, hvis den indgives efter udløbet af fristen i stk. 3, eller hvis klagen ikke er indgivet som anvist i regler, der er fastsat af skatteministeren efter § 35. Skatteankeforvaltningen kan se bort fra en fristoverskridelse, eller at klagen ikke er indgivet som anvist i regler, der er fastsat af skatteministeren efter § 35, hvis særlige omstændigheder taler derfor.

Stk. 7. Hvis en klage er udformet eller begrundet på en sådan måde, at den ikke kan tjene som grundlag for visiteringen af sagen eller sagens videre behandling, kan skatteankeforvaltningen give klageren en frist til at udbedre manglen. Det samme gælder, hvis den påklagede afgørelse og en udarbejdet sagsfremstilling ikke

følger med klagen. Hvis klageren ikke udbedrer manglen inden fristens udløb, afviser skatteankeforvaltningen klagen.

§ 35 b. En klage over en afgørelse omfattet af § 5, stk. 1, eller § 7, stk. 1, afgøres af henholdsvis et skatteankenævn eller et motorankenævn. Hvis en af betingelserne i § 21, stk. 4, nr. 1-5, er opfyldt, skal klagen dog afgøres af Landsskatteretten. Endvidere kan en klage afgøres af Landsskatteretten, hvis klagen udspringer af samme forhold som en sag, der verserer ved Landsskatteretten.

Stk. 2. Øvrige klager afgøres af Landsskatteretten.

Stk. 3. Uanset stk. 2 kan den ledende retsformand efter inddragelse af skatteankeforvaltningen fastsætte regler om, at klager over visse nærmere angivne typer af afgørelser bortset fra afgørelser truffet af Skatterådet skal afgøres af skatteankeforvaltningen. Stk. 1, 2. og 3. pkt., finder tilsvarende anvendelse.

Stk. 4. Skatteankeforvaltningen foretager visitering af klager, jf. stk. 1-3. En visitering kan ændres af skatteankeforvaltningen, hvis der endnu ikke er truffet afgørelse vedrørende klagen og det konstateres, at sagen efter reglerne i stk. 1 eller 3 skal eller kan afgøres af en anden myndighed end den, sagen er visiteret til.

§ 35 c. Ved klage omfattet af § 35 a, stk. 1, betales et gebyr på et grundbeløb på 900 kr. (2010-niveau). Grundbeløbet reguleres efter personskattelovens § 20.

Stk. 2. Der skal dog ikke betales for klage over følgende afgørelser:

- 1) Afgørelser vedrørende aktindsigt efter lov om offentlighed i forvaltningen eller forvaltningsloven.
- 2) Afgørelser efter lov om inddrivelse af gæld til det offentlige og afgørelser om modregning med fordringer under opkrævning, når modregningen gennemføres på baggrund af en beslutning, der træffes af restanceinddrivelsesmyndigheden.

Stk. 3. Betales beløbet ikke rettidigt, betragtes klagen som bortfaldet. Dette gælder også i situationer, hvor klagegebyret efter regler fastsat i medfør af stk. 6 skal betales i forbindelse med indgivelsen af klagen.

Stk. 4. Det indbetalte beløb tilbagebetales i følgende tilfælde:

- 1) Hvis klagen afvises.
- 2) Hvis klageren får helt eller delvis medhold i klagen eller ved en efterfølgende domstolsprøvelse af klagemyndighedens afgørelse.
- 3) Hvis en genoptagelsesanmodning imødekommes af told- og skatteforvaltningen, som følge af at hidtidig praksis er endeligt underkendt ved en dom, en afgørelse fra skatteankeforvaltningen, et skatteankenævn, et vurderingsankenævn, et motorankenævn eller Landsskatteretten eller ved en praksisændring, der er offentliggjort af Skatteministeriet.

Stk. 5. Beløbet tilbagebetales ikke, uanset at klagen indbringes for domstolene efter § 48, stk. 2, eller at klagen tilbagekaldes, medmindre tilbagekaldelsen sker, i forbindelse med at den myndighed, der har truffet den påklagede afgørelse, genoptager sagen.

Stk. 6. Skatteministeren kan fastsætte nærmere regler om betalingen og tilbagebetalingen af gebyret, herunder om fristen for betaling.

§ 35 d. Skatteankeforvaltningen udarbejder en sagsfremstilling ved klager, hvor told- og skatteforvaltningen efter § 19, stk. 5, ikke har udarbejdet en sagsfremstilling, bortset fra sager omfattet af regler udstedt i medfør af § 35 b, stk. 3, og sager, der behandles af et vurderingsankenævn, jf. § 6, eller af skatteankeforvaltningen, jf. § 4 a, stk. 1, jf. §§ 6 og 6 b, eller § 4 a, stk. 2.

Stk. 2. Bestemmelserne i § 19, stk. 1 og 2 og stk. 3, 1. pkt., finder tilsvarende anvendelse.

Stk. 3. Ved høringen efter stk. 2 skal der oplyses om, at sagens parter i øvrigt har ret til at udtale sig skriftligt eller mundtligt over for skatteankeforvaltningen og over for skatteankenævnet eller motorankenævnet, hvis sagen skal behandles af et ankenævn, og om muligheden for at anmode om at få lejlighed til at udtale sig mundtligt under et retsmøde i Landsskatteretten, hvis klagen skal behandles af Landsskatteretten.

Stk. 4. I sager omfattet af regler udstedt i medfør af § 35 b, stk. 3, kan skatteankeforvaltningen udarbejde en sagsfremstilling, og skatteankeforvaltningen skal udarbejde sagsfremstilling, hvis Landsskatteretten anmoder om dette og sagen skal afgøres af Landsskatteretten efter § 35 b, stk. 3, 2. pkt.

Skatteankeforvaltningen kan tilsvarende udarbejde en sagsfremstilling i sager, der efter § 4 a, stk. 1, jf. §§ 6 og 6 b, § 4 a, stk. 2, eller § 6 skal behandles af skatteankeforvaltningen eller et vurderingsankenævn. Stk. 3 og § 19, stk. 2 og stk. 3, 1. pkt., finder tilsvarende anvendelse.

§ 35 e. Klageren har adgang til at udtale sig ved et møde med skatteankeforvaltningen. Dette gælder dog ikke i sager, der skal behandles af skatteankeforvaltningen eller et vurderingsankenævn i medfør af § 4 a, stk. 1, jf. §§ 6 og 6 b, § 4 a, stk. 2, eller § 6.

Stk. 2. Skatteankeforvaltningen kan anmode den myndighed, der har truffet den påklagede afgørelse, om at være repræsenteret ved mødet.

§ 35 f. Afgørelser truffet af skatteankeforvaltningen, et skatteankenævn, et vurderingsankenævn, et motorankenævn eller Landsskatteretten kan ikke indbringes for anden administrativ myndighed.

§ 35 g. Den myndighed, der har truffet afgørelse i en klagesag, kan efter anmodning fra en part genoptage en sag, der er påkendt eller afvist af myndigheden, når der forelægges myndigheden oplysninger, som ikke tidligere har været fremme under sagen, og det skønnes, at de nye oplysninger kunne have medført et væsentligt ændret udfald af afgørelsen, hvis de havde foreligget tidligere.

Stk. 2. De nye oplysninger skal forelægges myndigheden inden for en af følgende frister:

1) Fristerne efter § 26, stk. 2, § 27, § 31, stk. 2, § 32, § 32 a, stk. 1, eller § 33 for fremsættelse af en anmodning om genoptagelse.

2) Fristen efter § 48, stk. 3, for indbringelse af sagen for en domstol i 1. instans, eller inden dennes behandling af sagen er afsluttet.

Stk. 3. Den myndighed, der har truffet afgørelse i en klagesag, kan imødekomme en anmodning om genoptagelse, selv om betingelserne i stk. 1 ikke er opfyldt, hvis myndigheden skønner, at ganske særlige omstændigheder taler derfor.

Stk. 4. Reglerne om betaling og tilbagebetaling i § 35 c finder tilsvarende anvendelse i disse sager.

Kapitel 13 b

Klager, som behandles af skatteankeforvaltningen

§ 35 h. Skatteankeforvaltningen kan uanset klagens formulering foretage afledte ændringer. I sager om vurdering af fast ejendom kan skatteankeforvaltningen uanset klagens formulering tillige foretage ændringer i andre ansættelser og dele af ejendomsvurderingen, hvis ændringerne er en følge af faktiske eller retlige forhold, der indgår i prøvelsen af det påklagede.

Stk. 2. Skatteankeforvaltningen kan ved klage over en afgørelse efter ejendomsvurderingsloven kun ændre ejendomsværdien eller grundværdien, hvis det resulterer i en ændring af ejendomsværdien eller grundværdien, der er større end 20 pct.

Stk. 3. I sager om vurdering af fast ejendom kan skatteankeforvaltningen besigtige den pågældende ejendom. Skatteankeforvaltningen kan tillige tilkalde sagkyndige til at yde bistand i sager om vurdering af fast ejendom.

Stk. 4. I sager omfattet af § 7, stk. 1, kan skatteankeforvaltningen indkalde et køretøj til besigtigelse, hvis det findes nødvendigt.

Stk. 5. Skatteankeforvaltningen kan tilgå og behandle oplysninger fra de registre, der er nævnt i ejendomsvurderingslovens § 55, når sådanne oplysninger er nødvendige for afgørelsen af en klage.

Kapitel 14

Klage, hvor skatteankenævnet træffer afgørelse

§ 36. Skatteankenævnet kan uanset klagens formulering foretage afledte ændringer.

Stk. 2. Skatteankenævnets afgørelse skal indeholde oplysninger om forskellige opfattelser under afstemningen både vedrørende resultatet og vedrørende begrundelsen. Afgørelsen skal angive stemmetallet for hver opfattelse. Afgørelsen skal angive navn på de personer, der har truffet afgørelsen.

§ 37. (Ophævet)

Kapitel 15

Klage, hvor vurderingsankenævnet træffer afgørelse

§ 38. Er der klaget over en afgørelse som nævnt i § 6, stk. 1, nr. 1 eller 3, og skal vurderingsankenævnet træffe afgørelse i sagen, kan told- og skatteforvaltningen indbringe andre afgørelser efter lov om vurdering af landets faste ejendomme eller ejendomsvurderingsloven vedrørende ejendommen, der er en følge af klagen, for vurderingsankenævnet, der påkender disse afgørelser i forbindelse med klagen.

Stk. 2. Vurderingsankenævnet kan uanset klagens udformning foretage ændringer i andre ansættelser og dele af ejendomsvurderingen, hvis ændringerne er en følge af faktiske eller retlige forhold, der indgår i prøvelsen af det påklagede.

Stk. 3. Vurderingsankenævnet kan ved klage over en afgørelse efter ejendomsvurderingsloven kun ændre ejendomsværdien eller grundværdien, hvis det resulterer i en ændring af ejendomsværdien eller grundværdien, der er større end 20 pct.

Stk. 4. Klageren kan anmode om at få lejlighed til at udtale sig mundtligt for vurderingsankenævnet ved et vurderingsankenævnsmøde. Klageren kan på et hvilket som helst tidspunkt frafalde en anmodning om et vurderingsankenævnsmøde.

Stk. 5. Told- og skatteforvaltningen kan i den enkelte sag anmode om at få lejlighed til at udtale sig mundtligt for vurderingsankenævnet under et vurderingsankenævnsmøde. Klageren tilsiges til dette vurderingsankenævnsmøde.

Stk. 6. Vurderingsankenævnet kan undlade at imødekomme en anmodning om afholdelse af et vurderingsankenævnsmøde, jf. stk. 4 og 5, hvor denne fremgangsmåde efter forholdene må anses for overflødig.

Stk. 7. I sager om vurdering af fast ejendom kan vurderingsankenævnet bestemme, at der skal foretages besigtigelse af den pågældende ejendom. Nævnet kan bemyndige skatteankeforvaltningen til som sekretariat for nævnet at foretage besigtigelsen på nævnets vegne. Vurderingsankenævnet kan tillige tilkalde sagkyndige til at yde bistand i sager om vurdering af fast ejendom.

Stk. 8. Det skal fremgå af vurderingsankenævnets afgørelse, hvorvidt afgørelsen er truffet med deltagelse af vurderingsankenævnsmøder, jf. § 8, stk. 4. Har vurderingsankenævnsmøder deltaget, skal afgørelsen indeholde oplysninger om forskellige meninger under afstemningen, både vedrørende resultatet og begrundelsen. Afgørelsen skal angive stemmetallet for hver opfattelse, og det skal fremgå, om formanden eller en ansat, der har deltaget i afgørelsen i formandens sted, jf. § 10 a, stk. 2, har afgivet dissens. Afgørelsen skal angive navn på den eller de personer, der har truffet afgørelsen.

§ 39. (Ophævet)

Kapitel 15 a

Klage, hvor motorankenævnet træffer afgørelse

§ 39 a. Motorankenævnet kan uanset klagens formulering foretage afledte ændringer.

Stk. 2. Motorankenævnet kan indkalde et køretøj til besigtigelse, hvis det findes nødvendigt.

Stk. 3. Motorankenævnets afgørelse skal indeholde oplysninger om forskellige opfattelser under afstemningen både vedrørende resultatet og vedrørende begrundelsen. Afgørelsen skal angive stemmetallet for hver opfattelse. Afgørelsen skal angive navn på de personer, der har truffet afgørelsen.

§ 39 b. (Ophævet)

Kapitel 16

Klage, hvor Landsskatteretten træffer afgørelse

§ 40. Skatteministeriet kan indbringe en afgørelse truffet af Skatterådet, der indeholder en stillingtagen til et EU-retligt spørgsmål, for Landsskatteretten til prøvelse. Anmodningen om behandling i Landsskatteretten skal være modtaget i skatteankeforvaltningen senest 1 måned fra dateringen af den afgørelse, der ønskes behandlet. Bestemmelserne i § 35 a, stk. 3, § 35 e, § 35 g og §§ 44, 45 og 47 finder tilsvarende anvendelse. Den eller de, der har været part i sagen for Skatterådet, stilles som en klager ved Landsskatterettens behandling af en klage.

Stk. 2. Er der klaget over en afgørelse som nævnt i § 6, stk. 1, nr. 1 eller 3, og skal Landsskatteretten træffe afgørelse i sagen efter § 35 b, stk. 1, 2. eller 3. pkt., § 4 a, stk. 3, eller § 6 a, stk. 1, jf. § 11, stk. 2, kan told- og skatteforvaltningen indbringe andre afgørelser efter lov om vurdering af landets faste ejendomme eller ejendomsvurderingsloven vedrørende ejendommen, der er en følge af klagen, for Landsskatteretten, der påkender disse afgørelser i forbindelse med klagen.

§ 41-43. (Ophævet)

§ 44. Klageren kan anmode om at få lejlighed til at udtale sig mundtligt for retten under et retsmøde. Klageren kan på et hvilket som helst tidspunkt frafalde en anmodning om retsmøde.

Stk. 2. Told- og skatteforvaltningen kan i den enkelte sag anmode om at få lejlighed til at udtale sig mundtligt for retten under et retsmøde. Klageren tilsiges til dette retsmøde.

Stk. 3. Landsskatteretten kan undlade at imødekomme en anmodning om afholdelse af retsmøde, hvor denne fremgangsmåde efter forholdene må anses for overflødig.

Stk. 4. I sager om vurdering af fast ejendom kan Landsskatteretten bestemme, at der skal foretages besigtigelse af den pågældende ejendom. Hvis en besigtigelse besluttet, anses besigtigelsen for at udgøre et retsmøde i sagen med de modifikationer, der følger af omstændighederne ved en besigtigelse. Landsskatteretten kan bemyndige skatteankeforvaltningen til som sekretariat for Landsskatteretten at foretage besigtigelsen på Landsskatterettens vegne. 2. pkt. finder ikke anvendelse i disse tilfælde. Landsskatteretten kan tillige tilkalde sagkyndige til at yde bistand i sager om vurdering af fast ejendom.

Stk. 5. I sager omfattet af § 7, stk. 1, kan Landsskatteretten indkalde et køretøj til besigtigelse, hvis det findes nødvendigt.

§ 45. Landsskatteretten kan uanset klagens formulering foretage afledte ændringer. I sager om vurdering af fast ejendom kan Landsskatteretten uanset klagens formulering tillige foretage ændringer i andre ansættelser og dele af ejendomsvurderingen, hvis ændringerne er en følge af faktiske eller retlige forhold, der indgår i prøvelsen af det påklagede.

Stk. 2. Landsskatteretten kan ved klage over en afgørelse efter ejendomsvurderingsloven kun ændre ejendomsværdien eller grundværdien, hvis det resulterer i en ændring af ejendomsværdien eller grundværdien, der er større end 20 pct.

Stk. 3. Det skal fremgå af Landsskatterettens afgørelse, hvorvidt afgørelsen er truffet med deltagelse af læge retsmedlemmer, jf. § 13. Har læge retsmedlemmer deltaget, skal afgørelsen indeholde oplysninger om forskellige meninger under afstemningen både vedrørende resultatet og begrundelsen. Afgørelsen skal angive stemmetallet for hver opfattelse, og det skal fremgå, om retsformanden har afgivet dissens. Afgørelsen skal angive navn på den eller de personer, der har truffet afgørelsen.

§ 46. (Ophævet)

Kapitel 17

Domstolsprøvelse m.v.

§ 47. Retsplejelovens § 343 om adgang til at kræve syn og skøn udmeldt ved de almindelige domstoles foranstaltning finder tilsvarende anvendelse, når sagen er påklaget og skal afgøres af skatteankeforvaltningen, et skatteankenævn eller Landsskatteretten, eller når Skatterådet efter § 4, stk. 3, har tilladt, at der afholdes syn og skøn i en sag, der forelægges for rådet til afgørelse. Der kan dog ikke afholdes syn og skøn i følgende sager:

- 1) Sager om efterprøvelse af passivposter efter boafgiftslovens § 13 a.
- 2) Sager om vurdering af fast ejendom.
- 3) Sager om registrering af køretøjer.

Stk. 2. Skatteankeforvaltningen, skatteankenævnet, Landsskatteretten eller Skatterådet kan fastsætte en frist, inden for hvilken sagens part eller parter og den myndighed, hvis afgørelse sagen vedrører, skal tage stilling til, om der begæres syn og skøn i sagen.

Stk. 3. Hvis en part begærer syn og skøn, udsætter skatteankeforvaltningen, skatteankenævnet, Landsskatteretten eller Skatterådet behandlingen af sagen, indtil klageren efter modtagelsen af skønserklæringen meddeler vedkommende myndighed, hvorvidt sagen opretholdes.

Stk. 4. Begæres syn og skøn udmeldt, indtræder told- og skatteforvaltningen som part i sagen.

§ 48. En afgørelse truffet af skattemyndighederne kan indbringes for domstolene eller påklages, medmindre andet er bestemt efter anden lovgivning. Dog kan vurderinger, der er foretaget fra og med 2013 efter reglerne i den tidligere gældende lov om vurdering af landets faste ejendomme, jf. lovbekendtgørelse nr. 1067 af 30. august 2013, som ændret ved § 1 i lov nr. 1635 af 26. december 2013, lov nr. 1535 af 27. december 2014 og § 1 i lov nr. 61 af 16. januar 2017 og afgørelser vedrørende disse efter samme lov, vurderinger og afgørelser efter ejendomsvurderingsloven og afgørelser om vurderinger efter reglerne i denne lovs kapitel 12 først indbringes for domstolene, når de er blevet prøvet eller afvist af den administrative klageinstans.

Stk. 2. Er en afgørelse påklaget til en administrativ klageinstans, kan klageren i stedet vælge at indbringe afgørelsen for domstolene indtil det tidspunkt, hvor klageren i forbindelse med en høring har modtaget oplysninger om indholdet af den afgørelse, som sagens oplysninger efter skatteankeforvaltningens vurdering vil føre til. Indbringes en afgørelse, der først har været påklaget til en administrativ klageinstans, for domstolene, kan retten tillade, at et nyt spørgsmål inddrages under retssagen, hvis det har en klar sammenhæng med det spørgsmål, som har givet grundlag for retssagen, og det må anses for undskyldeligt, at spørgsmålet ikke har været inddraget tidligere, eller der er grund til at antage, at en nægtelse af tilladelse vil medføre et uforholdsmæssigt retstab for parten. 1. pkt. finder dog ikke anvendelse på almindelige vurderinger og omvurderinger, der er foretaget fra og med 2013 efter reglerne i den tidligere gældende lov om vurdering af landets faste ejendomme, jf. lovbekendtgørelse nr. 1067 af 30. august 2013, som ændret ved § 1 i lov nr. 1635 af 26. december 2013, lov nr. 1535 af 27. december 2014 og § 1 i lov nr. 61 af 16. januar 2017, vurderinger og afgørelser efter ejendomsvurderingsloven og afgørelser om vurderinger efter reglerne i denne lovs kapitel 12.

Stk. 3. En administrativ afgørelse kan ikke indbringes for domstolene senere end 3 måneder efter, at afgørelsen er truffet, jf. dog stk. 4. Har klageinstansen afvist at behandle sagen, kan afvisningen ikke indbringes for domstolene senere end 3 måneder efter, at afvisningen er sket.

Stk. 4. En endelig administrativ afgørelse, hvorover der inden udløbet af fristen i stk. 3, 1. pkt., er indgivet klage til Folketingets Ombudsmand, kan ikke indbringes for domstolene, senere end 1 måned efter at Folketingets Ombudsmand har afsluttet sin behandling af sagen. Fristen kan dog aldrig være kortere end fristen efter stk. 3, 1. pkt.

§ 49. Spørgsmål, som er afgjort af skatteankeforvaltningen, et skatteankenævn, et vurderingsankenævn, et motorankenævn eller Landsskatteretten, kan Skatteministeriet indbringe for domstolene, senest 3 måneder efter at klageinstansen har truffet afgørelse.

§ 50. En sag, der indbringes for domstolene efter §§ 48 eller 49, anlægges ved den retskreds, hvor Skatteministeriets modpart har hjemting ved sagens anlæg, hvis modparten har hjemting i Danmark.

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