



Observatory on the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by Luís Eduardo Schoueri and Raphael Assef Lavez, Professor and PhD candidate at the *University of São Paulo Law School*, both OPTR National Reporters of Brazil.

This set of questionnaires comprises the National Reporter's assessment of the country's practice during 2023 in protecting 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 - 2023 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 12 January 2024.

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

Kind regards,

Dr Alessandro Turina
Scientific Coordinator
IBFD Observatory on the Protection of Taxpayers' Rights.

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

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Taxpayers / Tax Practitioners

Tax Administration

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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) 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.

Yes

No

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

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.

- 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) 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.

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) 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.

Yes

No

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

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.

- 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 - 2023 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 2023 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 2023 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 2023, until no later than 12 January 2024. 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,

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Scientific Coordinator
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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 2023" (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 2023. 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 2023", 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 2023".

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.

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

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

(i) The Brazilian Constitution was amended in 2023 in a context of a tax reform, introducing the cooperation principle into the tax system, among other measures.

(ii) The Federal Revenue Service launched a pilot project of cooperation compliance (CONFIA). This project aims to enhance the relationship between taxpayers and tax authorities, avoiding litigation and improving the compliance of tax obligations.

(iii) The State of Sao Paulo enacted the Law n. 17,843/23, that prescribed the settlement of tax disputes. Comparing it to the federal settlement program, there is a provision that assures the right to challenge tax debts on grounds of consolidated judicial case law, regardless of having been settled or not.

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 2023

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 welcome 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 2 - The issue of tax assessment

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.

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 2023

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 welcome 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 2023

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 welcome 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 3 - Confidentiality

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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) 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 2023

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 welcome 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 4 - Normal audits

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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- Yes
- No

Area 5 - More intensive audits

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 6 - Reviews and appeals

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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 2023

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 welcome 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 2023

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 welcome 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

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.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

(i) The Law n. 14,689/23 reduced the tax penalty in cases of fraud without reiteration from 150% to 100%. Moreover, if the taxpayer challenges the tax debt before the administrative council and the debt is kept only by a casting vote, all penalties and criminal charges are dismissed.

(ii) The Superior Court of Justice reaffirmed that it is not possible to impose two or more penalties grounded on the same conduct (e.g., penalty for wrongful fulfillment of tax returns and penalty for the lack of payment) - Special Appeal 1,708,819/RS.

(iii) The Supreme Court ascertained the constitutionality of legislation that dismisses criminal charges for tax crimes in case of a late payment, even in installments - Direct Action for the Declaration of Unconstitutionality 4,273/DF.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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) 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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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

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- No changes
- Shifted away
- Shifted towards

66 (S). Summary of relevant facts in 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

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Yes

No

Area 9 - Cross-border situations

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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

- No changes
- Shifted away
- Shifted towards

72 (S). Summary of relevant facts in 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 10 - Legislation

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.

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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

The Law 14,754/23 amended the tax regime of investment funds and prescribed a retrospective taxation, following the new regime, of non-distributed profits assessed before the legislation was enacted.

Since the tax rate was reduced in almost 50% for taxpayers that agreed with the retrospective taxation and anticipated the payment, it is possible that the provision will not be banned by the Judiciary.

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 2023

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 welcome 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 11 - Revenue practice and guidance

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome 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 12 - Institutional framework for protecting taxpayers' rights

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.

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 2023

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 welcome 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 2023

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 welcome 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 2023

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 welcome to send us these materials to our email: optr@ibfd.org. Thank you.

This content is neither created nor endorsed by Google.

With regard to Question 7 (“Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis”) you marked a shift towards and mentioned that:

“(i) The Brazilian Constitution was amended in 2023 in a context of a tax reform, introducing the cooperation principle into the tax system, among other measures.

https://www.planalto.gov.br/ccivil_03/constituicao/Emendas/Emc/emc132.htm#art1

Art. 145. (...) § 3 The National Tax System shall observe the principles of simplicity, transparency, tax justice, cooperation and protection of the environment. [\(Included by Constitutional Amendment No. 132 of 2023\)](#)

(ii) The Federal Revenue Service launched a pilot project of cooperation compliance (CONFIA). This project aims to enhance the relationship between taxpayers and tax authorities, avoiding litigation and improving the compliance of tax obligations.

[Programa Confia — Receita Federal \(www.gov.br\)](#)

[PORTARIA RFB Nº 387, DE 13 DE DEZEMBRO DE 2023 - PORTARIA RFB Nº 387, DE 13 DE DEZEMBRO DE 2023 - DOU - Imprensa Nacional \(in.gov.br\)](#)

RFB ORDINANCE NO. 387, OF DECEMBER 13, 2023

Establishes the pilot of the Fiscal Cooperative Compliance Program - Trusts and extends the performance of the Procedures Test referred to in RFB Ordinance No. 210, of August 18, 2022.

THE SPECIAL SECRETARY OF THE FEDERAL REVENUE OF BRAZIL, in the use of the attribution conferred on it by item III of article 350 of the Internal Regulations of the Special Secretariat of the Federal Revenue of Brazil, approved by Ordinance ME No. 284, of July 27, 2020, and in view of the provisions of Ordinance RFB No. 28, of April 15, 2021, in RFB Ordinance No. 71, of October 4, 2021, in RFB Ordinance No. 221, of September 21, 2022, resolves:

CHAPTER I

PRELIMINARY PROVISIONS

Article 1 The pilot of the Fiscal Cooperative Compliance Program - Confia, of the Special Secretariat of the Federal Revenue of Brazil - RFB, is hereby instituted.

Art. 2 The objectives of the Confia pilot are:

I - improve the cooperative relationship, based on transparency and mutual trust, between the RFB and the largest taxpayers selected based on the criteria established in this Ordinance;

II - improve the work processes in a cooperative format, as proposed within the scope of the Confiança Dialogue Forum, related to:

a) renewal of the Clearance Certificate of Debts related to Federal Tax Credits and the Active Debt of the Union - CND or Positive Certificate with Negative Effects of Debts related to Federal Tax Credits and the Active Debt of the Union - CPEND, in compliance with the legal provisions on the matter;

b) analysis of tax issues initiated by the RFB; and

c) analysis of tax issues initiated by the taxpayer;

III - test and improve the use of qualitative and quantitative criteria to determine the taxpayer's continuation in the Procedures Test referred to in RFB Ordinance No. 210, of August 18, 2022, and eventual entry into the Confi pilot;

IV - test and improve the process of adhesion to the Confi pilot, carried out under the terms of article 4;

V - to continue the structuring of the internal training activities and internal and external communication of the Confi Center;

VI - stimulate the development of the operational capacity of the RFB and the taxpayers involved, for the cooperative relationship; and

VII - subsidize the structuring of Confia.

Sole paragraph. The criteria referred to in item III of the caput shall seek to:

I - be in accordance with international practices and guidelines of the Organization for Economic Co-operation and Development - OECD;

II - prioritize the largest taxpayers and those with the greatest propensity for tax compliance; and

III - greater effectiveness of the cooperative relationship.

Article 3 The Confia pilot will be conducted by the National Center of the Cooperative Fiscal Compliance Program - Centro Confia and managed by the Confia Management Committee.

CHAPTER II

REQUIREMENTS FOR JOINING THE CONFIA PILOT

Art. 4 The process of joining the Confia pilot will consist of the following steps:

I - Self-assessment, during which the taxpayer must verify the adequacy of its internal policies and procedures to the objectives of Confia and compliance with the requirements and admissibility criteria defined in this Ordinance;

II - Application to Confia, upon submission by the taxpayer, by electronic means, of documentation pre-defined by the RFB;

III - Validation, carried out by the RFB to verify the candidate's compliance with the requirements, criteria and other rules established in this Ordinance;

IV - Preparation of a Compliance Work Plan, during which the taxpayer, together with the RFB, will define the topics of tax interest to be worked on cooperatively in the Confi pilot, according to the model contained in Annex III; and

V - Certification, which will be granted to the taxpayer approved in the validation stage and who has a Compliance Work Plan ratified by the Coordinator of the Confi Center.

§ 1 The certification will be authorized, on a precarious basis, with an indefinite period of validity, by means of an Executive Declaratory Act issued by the Coordinator of the Confia Center published in the Official Gazette of the Union - DOU.

§ 2 The authorization does not imply approval by the RFB of the information provided in the certification request.

Art. 5 Taxpayers who:

I - are subject to special monitoring by the RFB, provided that they have declared, in the calendar year 2022, gross revenue greater than or equal to R\$ 2,000,000,000.00 (two billion reais) and a minimum total debt of R\$ 100,000,000.00 (one hundred million reais);

II - have a greater propensity for tax compliance, through an assessment carried out by the RFB in accordance with the criteria set forth in article 6;

III - comply with the requirements of good standing before the National Treasury for the supply of CND or CPEND;

IV - submit to auditing by independent auditors registered with the Brazilian Securities and Exchange Commission (CVM);

V - agree with the clauses contained in the Term of Adhesion;

VI - have:

a) an effective corporate tax governance structure, demonstrated by the existence and practice of a well-defined and communicated corporate tax policy, approved at the company's strategic level; and

b) control and risk management structure with processes and procedures capable of identifying, mitigating and monitoring the main tax and customs compliance risks in a continuous and consistent manner;

VII - have a tax compliance management system, proven by documentation that demonstrates:

a) the tax policy endorsed by the management with a description of the method of identification and management of the tax liability;

b) the procedures used to comply with ancillary tax obligations; and

c) the procedures used to test and validate the operational effectiveness of the internal control structure related to compliance with tax obligations;

VIII - are not omitted in the delivery of declarations to the RFB under the terms of the legislation in force;

IX - do not have an outstanding balance of taxes payable in Federal Tax Debit and Credit Statements - DCTF; and

X - do not present inconsistencies between declarations submitted to the RFB under the terms of the legislation in force.

Sole paragraph. The application for the Confia pilot will not be validated if the criteria set forth in items I to VII of the caput are not met, regardless of the analysis of the other criteria provided for in this article.

Article 6 In the assessment of the propensity to tax compliance referred to in item II of the caput of article 5, the following aspects shall be considered:

I - registration regularity;

II - degree of indebtedness;

III - ancillary tax obligations related to bookkeeping, declarations and tax documents, in particular the existence of omissions;

IV - main tax obligations, especially their consistency and compliance; and

V - consistency, possible omissions and discrepancies regarding the information provided.

§ 1 The degree of indebtedness referred to in item II of the caput shall be calculated by the following ratio:

I - between the consolidated debt related to taxes administered by the RFB based on the data existing on December 31, 2022 and the total assets reported in the last balance sheet recorded in the accounting, contained in the Tax Accounting Bookkeeping - ECF or the Digital Accounting Bookkeeping - ECD; and

II - between the consolidated debt related to taxes administered by the RFB based on the data available on December 31, 2022 and the average gross revenue of the three (3) calendar years prior to the application.

§ 2 The adhesion process referred to in article 4 shall define the limit of the degree of indebtedness to be adopted for the purposes of the provisions of § 1.

§ 3 For the purposes of evaluation based on the aspects provided for in items I, III, IV and V of the caput, data from the calendar year 2022 and the three previous calendar years shall be considered.

Article 7 The admissibility criterion provided for in item IV of the caput of article 5 shall be proven through:

I - presentation of the financial statements accompanied by the independent audit report; or

II – statement of the independent auditor specifying the services and the period to be audited for which it was hired.

Sole paragraph. The independent auditor must be actively registered with the CVM and have received the "adequate" rating in the result of the last quality review by peers.

Article 8 The Term of Adhesion referred to in item V of the caput of article 5 shall:

I - be based, among others, on the commitment to transparency, responsibility for the tax and customs compliance process and work in cooperation with the RFB; and

II - be prepared in accordance with the model contained in Annex I, signed by the president or the board of directors of the company, depending on its bylaws.

Article 9 The admissibility criteria provided for in items VI and VII of the caput of article 5 shall be proven, at the stage of the Application to Confi, by submitting the self-assessment questionnaire contained in Annex II, signed by the president or the board of directors of the company, depending on its bylaws.

Sole paragraph. The existence, composition and structure of effective tax corporate governance and risk control and management and the tax compliance management system may be included in the work plan or verified during the Confi pilot.

CHAPTER III

FROM THE ENTRY INTO THE PILOT TRUSTS

Art. 10. Once the requirements set forth in Chapter II are met, the selection of contributors for the Confia pilot will be carried out according to the following order of priority:

I - companies participating in the Test of Procedures referred to in RFB Ordinance No. 210, of 2022;

II - companies participating in the Confi Dialogue Forum, established by RFB Ordinance No. 71, of October 4, 2021; and

III - the other legal entities, classified by decreasing amount of gross revenue.

CHAPTER IV

FINAL PROVISIONS

Art. 11. For the purposes of the provisions of this Ordinance, the gross revenue calculation includes, among others, the revenues recorded in the ECF's net income statement, which include gross revenue, other operating revenues and other discontinued revenues.

Sole paragraph. In case of inconsistencies between the values indicated in the caput and information contained in the ECD or published financial statements, the RFB may make the necessary adjustments.

Art. 12. A specific act of the RFB will designate the deadline and form related to the submission of applications to Confia, in addition to the number of vacancies for each adhesion process referred to in article 4.

Art. 13. At the end of the Confia pilot, the Confia Center will prepare a report with the results obtained and the recommendations for improving the work processes tested, in order to support the elaboration of the Confi Program model.

Sole paragraph. The report referred to in the caput will be forwarded for analysis within the scope of the Confiança Dialogue Forum.

Art. 14. RFB Ordinance No. 210, of 2022, comes into force with the following amendment:

"Article 2

....."

Sole paragraph. The Test of Procedures will be conducted until April 30, 2024."

(NR)

Art. 15. This Ordinance enters into force on the date of its publication in the Official Gazette.

ROBINSON SAKIYAMA BARREIRINHAS

(iii) The State of Sao Paulo enacted the Law n. 17,843/23, that prescribed the settlement of tax disputes. Comparing it to the federal settlement program, there is a provision that assures the

right to challenge tax debts on grounds of consolidated judicial case law, regardless of having been settled or not.”

[LEI N° 17.843, DE 07 DE NOVEMBRO DE 2023 - Assembleia Legislativa do Estado de São Paulo](#)

LAW NO. 17,843, OF NOVEMBER 07, 2023

Provides for the settlement in the cases it specifies and for the collection of overdue debt, amends Law No. 12,799, of January 11, 2008, and Law No. 17,784, of October 2, 2023, repeals articles 41 to 56 of Law No. 17,293, of October 15, 2020, and Law No. 14,272, of October 20, 2010, and makes other arrangements

THE GOVERNOR OF THE STATE OF SÃO PAULO:

I hereby inform you that the Legislative Assembly decrees and I hereby promulgate the following law:

CHAPTER I

ON THE SETTLEMENTS

SECTION I

GENERAL PROVISIONS

Article 1 – This chapter establishes the requirements and conditions for the State of São Paulo, its municipalities and other state entities, whose representation is incumbent on the State Attorney General's Office by virtue of law or agreement, and the debtors or adverse parties to settle disputes related to the collection of credits from the Public Treasury, of a tax or non-tax nature, registered as overdue debt.

Paragraph 1 - The State of São Paulo, its autarchies and other state entities shall exercise the judgment of convenience and opportunity, through the State Attorney General's Office, and may enter into a settlement in any of the modalities referred to in this Law.

Paragraph 2 - For the purposes of the application and regulation of this Law, the principles of isonomy, ability to pay, transparency, morality, reasonable duration of proceedings and efficiency shall be observed, among others, and, subject to information protected by confidentiality, the principle of publicity.

Paragraph 3 - Compliance with the principle of transparency shall be effected, among other actions, by the disclosure in electronic means of all settlement terms entered into by taxpayers who are legal entities with information that enables compliance with the principle of isonomy, safeguarding those legally protected by confidentiality, especially by:

I - extract of all the terms of the tax settlement, indicating, individually:

- (a) the debtor;
- (b) the original value;
- (c) the deferred payment period;
- (d) the subject matter of the debt being collected;
- (e) a brief description of the guarantees granted;
- (f) the judicial proceedings which are reached by the act;

II - the total amount originated and settled from the debts that are the subject of a tax settlement;

III - total amount recovered as a result of tax settlements.

Paragraph 4 - The settlement shall have as its object a tax or non-tax obligation to pay, applying:

1. the overdue debt registered by the State Attorney General's Office, pursuant to article 36 of Complementary Law No. 1,270, of August 25, 2015, regardless of the collection phase;
2. where applicable, to active debts registered with foundations, public companies and other state entities, whose registration, collection or representation is incumbent on the State Attorney General's Office, by virtue of law or agreement;
3. tax foreclosures and anti-exaction actions, whether principal or incidental, that question the obligation to be transacted, in whole or in part.

Paragraph 5 - The settlement of tax credits shall be carried out pursuant to article 171 of Federal Law No. 5,172, of October 25, 1966 (National Tax Code).

§ 6 - The settlement does not constitute a subjective right of the taxpayer, and the granting of its request depends on the verification of compliance with the requirements of the specific regulation, duly published before adhesion, decisions in similar cases and benefits to be achieved by the Treasury of the State of São Paulo, considering the principles contained in §2 of this article.

Article 2 – For the purposes of this Law, the following types of settlement are carried out:

I - by adhesion, in the event that the debtor or the adverse party adheres to the terms and conditions established in a public notice published by the State Attorney General's Office;

II - by individual or joint proposal of the debtor or creditor.

Sole Paragraph - The settlement by adhesion implies acceptance, by the debtor, of all the conditions set forth and shall be disclosed in the official press and on the website of the State Attorney General's Office, by means of a public notice that specifies, in an objective manner, the factual and legal hypotheses in which it is admissible, open to all debtors who fit into them and who meet the conditions set forth in this Law and in the public notice.

Article 3 - The proposal for

The settlement shall set out the means for the extinguishment of the claims contemplated therein and shall be conditioned, at least, on the debtor's assumption of the commitments to:

I - not to use the settlement in an abusive manner, with the purpose of limiting, distorting or harming, in any way, free competition or free economic initiative;

II - not to use an intermediary natural or legal person to conceal or disguise the origin or destination of assets, rights and values, their real interests or the identity of the beneficiaries of their acts, to the detriment of the Public Treasury;

III - not to dispose of or encumber assets or rights without due communication to the State Attorney General's Office, when required by law;

IV - to withdraw any objections or appeals that have as their object the claims included in the settlement and to waive any claims of law on which such challenges or appeals are based;

V - waive any current or future claims of law on which lawsuits, including class actions, or appeals that have as their object the credits included in the settlement, by means of a request for termination of the respective proceeding with resolution on the merits, pursuant to subparagraph "c" of item III of article 487 of Federal Law No. 13,105, of 16 March 2015 (Code of Civil Procedure);

VI – to petition in legal proceedings that have as their object the debts involved in the settlement, including in the appellate phase, to notify the execution of the agreement, expressly informing that it will bear the payment of the fee due to its patrons and the costs incurred in the collection.

Paragraph 1 - The approved settlement proposal implies full and irreversible acceptance of all the conditions established in this Law and its regulations, so as to constitute an irrevocable and irreversible confession of the credits covered by the settlement, pursuant to articles 389 to 395 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure).

Paragraph 2 - The net amount of debts is considered to be the amount to be transacted, after the application of any reductions, including those resulting from the application of article 57 of Law No. 17,293, of October 15, 2020.

Paragraph 3 - In addition to the obligations contained in the "caput" of this article, additional obligations may be provided for in the term or in the public notice, due to the specificities of the debts or the situation of the lawsuits in which they are discussed.

Article 4 – When the settlement involves a moratorium or installment payment, the provisions of items I and VI of article 151 of Law No. 5,172, of October 25, 1966 (National Tax Code) shall apply for all purposes.

Article 5 – The credits covered by the settlement will only be extinguished when the conditions set forth in the respective term are fully met.

Article 6 – The amounts deposited in court or pledged to guarantee a credit subject to lawsuits, referring to the debts included in the settlement, must be offered in the term of agreement so that they are deducted from the net amount of the debt.

Paragraph 1 - The debtor shall agree to the conversion into income of the deposits or judicial blocks up to the limit of the net amount of the credit, and the outstanding balance shall be settled in the manner defined in the settlement term.

Paragraph 2 - In the tax settlement, only amounts that are higher than that defined as the net value of the credits subject to the settlement shall be subject to withdrawal by the debtor.

Paragraph 3 - The withdrawal of amounts will occur only if there are no other credits with the State Treasury.

§ 4 - The provisions of §§ 2 and 3 of this article shall not apply in the event that it is demonstrated that, if the amounts are not withdrawn by the debtor, there will be unequivocal unfeasibility of the business activity.

Article 7 – For the purposes of the provisions of this Law, a micro or small business is considered to be a legal entity whose gross revenue is within the limits set forth in items I and II of article 3 of Complementary Law No. 123, of December 14, 2006, and the other criteria for opting for the special regime established therein are not applicable.

Article 8 – The execution of a settlement does not authorize the refund or compensation of amounts paid, offset or included in previously agreed installments.

Article 9 – It is forbidden to enter into a settlement that:

I - involves debts not registered as overdue debt;

II - has as its object the reduction of criminal fines and their charges, except for those that are still under judicial discussion without a final and unappealable decision;

III - levied on debts of the Tax on the Circulation of Goods and Services of Intermunicipal and Interstate Transport and Communication - ICMS of a company opting for the Simples Nacional, except for legal authorization or of its Management Committee;

IV - grant a discount on fines, interest and other legal additions to the debtor in systematic default of the payment of the Tax on the Circulation of Goods and Services of Intermunicipal and Interstate Transport and Communication - ICMS, subject to the provisions of item VI of article 13 of this Law;

V - involves a debt fully guaranteed by deposit, surety bond or bank guarantee, when the anti-exaction action or the motions to enforce have become final and unappealable in favor of the State Treasury;

VI - involves the additional Tax on the Circulation of Goods and Services of Intermunicipal and Interstate Transport and Communication - ICMS destined to the State Fund for the Fight and Eradication of Poverty - FECOEP.

Paragraph 1 - The accumulation of reductions resulting from the settlement modalities referred to in article 2 of this Law with any others guaranteed by law in relation to the credits covered by the settlement proposal is prohibited.

Paragraph 2 - In settlement proposals involving a reduction in the amount of the credit, the fees due due to an overdue debt filed shall be mandatorily reduced by a percentage not lower than that applied to fines and interest on arrears related to the credits to be transacted.

Paragraph 3 - The provisions of item IV of this article shall not apply to debtors in judicial reorganization, judicial liquidation, extrajudicial liquidation or bankruptcy proceedings.

Article 10 – Implies the termination of the settlement:

I - non-compliance with the conditions, clauses or commitments assumed;

II - the finding, by the creditor, of an act tending to the emptying of the debtor's assets as a way of defrauding the fulfillment of the settlement, even if carried out prior to its execution;

III – the decree of bankruptcy or extinction, by liquidation, of the transigent legal entity;

IV - the practice of criminal conduct in its formation;

V - the occurrence of deceit, fraud, simulation or essential error as to the person or object of the conflict;

VI - the occurrence of any of the termination hypotheses additionally provided for in the respective settlement term;

VII - any judicial questioning on the matter transacted and on the settlement itself, except in the cases of article 57 of Law No. 17,293, of October 15, 2020;

Law 17.293, 2020

SECTION XIII

Judicial Proceedings

Article 57 – The Executive Branch, through the competent bodies of the State Attorney General's Office, is hereby authorized to recognize the merits of the request, to refrain from contesting and appealing, and to withdraw from appeals already filed, when, in the absence of any other relevant ground, the claim made or the judicial decision is in accordance with:

I - subject matter of consolidated jurisprudence in the courts;

II - final judgment handed down in the following cases:

a) concentrated or diffuse control of constitutionality by the Federal Supreme Court;

b) extraordinary or special repetitive appeals, pursuant to article 1,036 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure);

c) extraordinary appeal with general repercussion recognized by the Federal Supreme Court, pursuant to Article 102, § 3, of the Federal Constitution;

d) repetitive review appeals, processed under the terms of article 896-C of the Consolidation of Labor Laws, approved by Federal Decree-Law No. 5,452, of May 1, 1943;

e) incident of assumption of jurisdiction, processed under the terms of article 947 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure);

f) incident of resolution of repetitive claims, processed under the terms of article 976 et seq. of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure);

III - binding precedent of the Federal Supreme Court;

IV - precedent of the Superior Court of Justice or the Superior Labor Court.

§ 1 - The provisions of the "caput" of this article shall also apply in situations in which the benefit sought from the action or appeal is lower than the costs of the proceedings.

Paragraph 2 - The Attorney General of the State shall regulate the exercise of the authorization provided for in this law and shall identify the hypotheses of application of said authorization, considering the existence of a justified procedural or strategic interest.

§ 3 - In the cases referred to in this article, the State Attorney who acts in the deed shall, expressly, including for the purposes of the provisions of § 4 of article 496 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure):

1. within the time limit of the response, recognize the merits of the request, including in motions to stay tax enforcement and pre-enforcement objections;
2. withdraw the request or waive the appeal deadline, when notified of the court decision;
3. If the case is before the court, withdraw the appeal.

VIII - non-compliance with any provisions of this Law, the term or the public notice.

Paragraph 1 - The debtor shall be notified of the incidence of any of the hypotheses of termination of the settlement and may contest the act in the manner regulated by specific regulations, guaranteeing the adversarial process and the full defense.

§ 2 - When remediable, the regularization of the defect that would give rise to the termination is admitted during the period granted for the challenge, preserving the settlement in all its terms.

Paragraph 3 - The termination of the settlement will imply the removal of the benefits granted and the full collection of the debts, minus the amounts already paid, without prejudice to other consequences provided for in the term or notice.

Paragraph 4 - Taxpayers with a terminated settlement are prohibited, for a period of two (2) years from the date of termination, from the formalization of a new settlement, even if related to different debts.

Article 11 – The settlement proposal does not suspend the enforceability of the credits covered by it or the progress of the respective tax foreclosures.

Paragraph 1 - The settlement agreement shall provide, when applicable, for the consent of the parties for the purposes of the conventional suspension of the proceeding referred to in item II of article 313 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure), until the extinguishment of the claims, pursuant to article 5 of this Law, or eventual termination.

Paragraph 2 - The conclusion of the settlement does not imply novation of the credits covered by it.

Article 12 – It is incumbent upon the Attorney General of the State to sign the settlement agreement resulting from an individual proposal, referred to in Article 2, item II, of this Law, and the delegation shall be made to him.

Sole Paragraph - The delegation referred to in the "caput" of this article may be sub-delegated, provide for authority values for its exercise or require the approval of multiple authorities.

Article 13 – An act of the Attorney General of the State shall regulate:

I - the procedures necessary for the application of the provisions of this Chapter, including the termination of the settlement;

II - the possibility of conditioning the settlement to the down payment, the presentation, waiver or non-requirement of a guarantee and the maintenance of existing guarantees;

III - the situations in which the settlement may only be entered into by adhesion, with the authorization of the non-cognizance of any individual settlement proposals;

IV - the format and requirements of the settlement proposal and the documents to be submitted;

V - the criteria for assessing the degree of recoverability of debts; the parameters for the acceptance of the settlement in the individual modality and the granting of discounts, including the failure of the ordinary and conventional means of collection and the linking of the benefits to preferably objective criteria, which also include the age of the registered debt; the debtor's ability to pay; the costs of judicial collection; the economic condition of the taxpayer; the attributes of the registered credits and the recovery history;

VI – the definition of systematic delinquency referred to in item IV of article 9 of this Law.

Paragraph 1 - The regulation of items IV and V of article 15 of this Law shall be carried out by a joint act of the Attorney General of the State and the Secretary of Finance and Planning.

§ 2 - The classification referred to in item V shall also take into account:

- I - the available information regarding the credits that have been recovered in the last five (5) years;
- II - the personal information available in relation to the taxable persons;
- III - the existence of systematic default on the part of the taxable person.

SECTION II

ON THE SETTLEMENT IN THE COLLECTION OF CREDITS OF THE STATE, ITS AUTARCHIES AND OTHER STATE ENTITIES

Article 14 – The settlement in the collection of the overdue debt of the State, its autarchies and other state entities may be proposed by the State Attorney General's Office, individually or by adhesion, or at the initiative of the debtor.

Article 15 – The settlement may include, individually or cumulatively:

I - the granting of discounts on fines, interest and other legal accruals, including fees, related to credits to be settled that are classified as irrecoverable or difficult to recover, according to criteria established in an act of the Attorney General of the State, pursuant to item V of article 13 of this Law;

II - the offer of special terms and forms of payment, including deferral, installment payments and moratorium;

III - the offering, substitution or sale of guarantees and constraints;

IV - the use of accumulated credits and reimbursement of the Tax on the Circulation of Goods and Services of Intermunicipal and Interstate Transport and ICMS Communication, including in the cases of Tax Substitution - ICMS/ST and credits of the rural producer, own or acquired from third parties, duly approved by the competent authority, to offset the main tax debt of ICMS, fine and interest, limited to 75% (seventy-five percent) of the amount of the debt;

V - the use of liquid, certain and enforceable credits, own or acquired from third parties, embodied in court orders resulting from final and unappealable judicial decisions and no longer subject to a defense or dismissal measure, as recognized by the State, its autarchies, foundations and dependent companies, to offset the principal debt, fine and interest, limited to 75% (seventy-five percent) of the amount of the debt.

Paragraph 1 - It is forbidden to accumulate any reductions that may be offered in the settlement with any others previously applied to debts in collection.

Paragraph 2 - After the application of the discounts provided for in item I of this article, if any, the settlement of amounts shall be carried out within the scope of the administrative settlement proceeding for the purpose of offsetting the debit balance transacted referred to in items IV and V of this article.

Paragraph 3 - The settlement may not:

1. reduce the principal amount of the credit, thus including its original value, excluding the additions referred to in item I of this article;
2. imply a reduction of more than 65% (sixty-five percent) of the total amount of credits to be transacted, except for the provisions of paragraph 4 of this article;
3. Grant a period of discharge of credits exceeding 120 (one hundred and twenty) months, except for the provisions of §§4 and 5 of this article.

Paragraph 4 - In the event of a settlement involving an individual, micro-enterprise or small business, the maximum reduction referred to in item 2 of paragraph 3 of this article shall be up to 70% (seventy percent), with a maximum settlement period of up to 145 (one hundred and forty-five) months.

Paragraph 5 - For the purposes of the provisions of item I of this article, irrecoverable or difficult to recover credits are those owed by companies in the process of judicial reorganization, judicial liquidation, extrajudicial liquidation or bankruptcy, in which case the discount, regardless of the

size of the company, shall be up to 70% (seventy percent). 1. With regard to paragraph 5 of this article, a discount of 100% (one hundred percent) will be granted on the fees and any expenses arising from the act of registration in overdue debt;

2. with regard to § 5 of this article, the taxpayer may migrate the balances of installments and settlements previously entered into, both before the State Attorney General's Office and before the Department of Finance and Planning, including any balances that are subject to current installments, provided that they are in good standing with the debtor, without any additional costs or requirement for advances/guarantees to the taxpayer;

3. With regard to paragraph 5 of this article, the maximum discharge period of up to 145 (one hundred and forty-five) months shall be observed.

Paragraph 6 - In the settlement, any type of guarantee provided for by law may be accepted, including a real guarantee, bank guarantee, surety bond, fiduciary assignment of credit rights and fiduciary alienation of movable or immovable property or rights, as well as net and certain credits of the taxpayer or third parties in favor of the State recognized in a final and unappealable decision.

Paragraph 7 - For the purposes of the provisions of item IV of this article, the settlement may include the use of the credits described therein, owned by the tax officer or co-responsible for the debt, by a controlling or controlled legal entity, directly or indirectly, or by companies that are directly or indirectly controlled by the same legal entity, or by third parties, regardless of the branch of activity, within the period provided for by tax legislation.

Paragraph 8 - The provisions of this article shall not apply to the Settlement by Adhesion in Tax Litigation of Relevant and Widespread Legal Controversy and to the Settlement by Adhesion in Small Value Litigation, provided for, respectively, in Sections III and IV of this Chapter.

§ 9 - In the case of §5, the taxpayer may request the immediate forwarding of debts already due within the scope of the originating agencies for registration, with the objective of consolidating in the settlement or payment plan the entirety of the liabilities, under the same conditions agreed upon if there are registered debts, not incurring the increases resulting from the registration, including the one referred to in §3 of article 25 of this Law.

SECTION III

ON THE SETTLEMENT BY ADHESION IN TAX LITIGATION OF RELEVANT AND WIDESPREAD LEGAL CONTROVERSY

Article 16 – The State of São Paulo, its agencies and other state entities, represented by the State Attorney General's Office, may propose a settlement, by adhesion, to debtors with tax disputes arising from a relevant and widespread legal controversy.

Paragraph 1 - The settlement proposal and the possible adhesion by the taxpayer may not be invoked as a legal basis or prognosis of success of the thesis supported by any of the parties and shall be understood exclusively as an advantageous measure in view of reciprocal concessions.

Paragraph 2 - The proposed settlement shall, preferably, deal with a controversy restricted to an economic or productive segment, to a group or universe of taxpayers or to delimited responsible parties, and in any case the alteration of the tax legal regime is prohibited.

§ 3 - A relevant and widespread legal controversy is considered to be one that deals with tax issues that go beyond the subjective interests of the case.

Article 17 – The notice of Settlement by Adhesion in Tax Litigation of Relevant and Disseminated Legal Controversy shall contain the requirements to be complied with, the reductions or concessions offered, as well as the terms and forms of payment admitted.

§ 1 - In addition to the requirements set forth in the sole paragraph of article 2 of this Law, the notice referred to in the "caput" of this article:

1. It may limit the credits contemplated by the settlement, considering:

a) the stage of the respective tax judicial process;

(b) the accrual periods to which they refer;

2. It will establish the need for the taxpayer or the person responsible to conform to the understanding of the tax administration about future or unconsummated taxable events.

Paragraph 2 - The reductions and concessions referred to in item "a" of item 1 of paragraph 1 of this article are limited to the discount of 65% (sixty-five percent) of the credit, with a maximum repayment period of 120 (one hundred and twenty) months.

Paragraph 3 - In the event of a settlement involving an individual, micro-enterprise or small business, the maximum reduction referred to in paragraph 2 of this article shall be up to 70% (seventy percent), with an extension of the maximum discharge period to up to 145 (one hundred and forty-five) months.

Paragraph 4 - The settlement notice described in the "caput" may allow:

1. the use of accumulated credits and reimbursement of the Tax on the Circulation of Goods and Services of Intermunicipal and Interstate Transport and Communication - ICMS, including in the cases of Tax Substitution - ICMS/ST, of rural producer credits and credits of permanent assets, own or acquired from third parties, duly approved by the competent authority, to offset the main tax debt of ICMS, fine and interest, limited to 75% (seventy-five percent) of the amount of the debt;

2. the use of liquid, certain and enforceable credits, embodied in court orders resulting from final and unappealable judicial decisions and no longer subject to a defense or dismissal measure, as recognized by the State, its autarchies, foundations and dependent companies, to offset the principal debt, the fine and interest, limited to 75% (seventy-five percent) of the amount of the debt.

Article 18 – The settlement shall only be entered into if it is verified, on the date of publication of the notice, the existence of an overdue debt, a lawsuit, a motion for a stay of tax enforcement or a pre-enforceability exception pending a final judgment, in relation to the subject matter of the settlement.

Sole Paragraph - The settlement will be terminated when it contradicts a final court decision issued before its execution.

Article 19 – Provided that the conditions set forth in the public notice are met, the taxpayer of the tax obligation may request to adhere to the settlement, subject to the procedure established in the act referred to in article 13 of this Law.

Paragraph 1 - The application for adhesion shall cover all disputes related to the thesis object of the settlement existing on the date of the application, even if not definitively judged.

Paragraph 2 - The taxpayer who joins the settlement shall:

1. request judicial approval of the agreement, for the purposes of the provisions of items II and III of article 515 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure);

2. to be subject, in relation to future or unconsummated taxable events, to the understanding given by the tax administration to the matter in dispute, except for the cessation of prospective effectiveness of the settlement resulting from the advent of a persuasive precedent, pursuant to items I to IV of article 927 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure), or in the other cases provided for in article 57 of Law No. 17,293, of October 15, 2020.

§ 3 - The application for adhesion that does not result in the extinction of the judicial litigation will be rejected, except in the cases in which the unequivocal fissification of the object is demonstrated.

Article 20 - The following are prohibited:

I - the execution of a new settlement related to the same tax credit;

II - the proposed settlement with prospective effect that results, directly or indirectly, in a special, differentiated or individual tax regime.

SECTION IV

ADHESION SETTLEMENT IN SMALL CLAIMS LITIGATION

Article 21 – A litigation whose amount does not exceed the limit of jurisdiction established for the filing of the respective tax enforcement is considered to be of small value, pursuant to article 25 of this Law.

Article 22 – The settlement related to small value credit may be carried out for debts registered as overdue for more than two (2) years on the date of publication of the notice.

Article 23 – The settlement referred to in this Section may include, individually or cumulatively:

I - the granting of discounts on fines, interest and other legal additions, including fees, subject to the maximum limit of 50% (fifty percent) of the total amount of the credit;

II - the offer of special terms and forms of payment, including deferral and moratorium, subject to the maximum discharge period of 60 (sixty) months;

III – the offer, substitution or sale of guarantees and constraints.

Article 24 – The settlement proposal may be subject to judicial approval of the agreement, for the purposes of the provisions of items II and III of article 515 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure).

CHAPTER II

COLLECTION OF OVERDUE DEBT

SECTION I

GENERAL PROVISIONS

Article 25 – The State of São Paulo, its autarchies and other state entities, represented by the State Attorney General's Office, are authorized not to file tax foreclosures, as well as to request the withdrawal of those filed, to cease contesting and opposing judicial measures in relation to the collection of debts, of a tax or non-tax nature, of a consolidated amount equal to or less than that established in an act of the Attorney General of the State.

§ 1 - The provisions of the "caput" of this article do not authorize:

1. the waiver of the appropriate measures for administrative collection;
2. the refund, in whole or in part, of any sums collected.

§ 2 - Once the statute of limitations has expired, the debts referred to in the "caput" of this article are canceled.

Paragraph 3 - In the event of discharge of the debt, as a result of the use of an alternative means of administrative collection or protest of title, attorney's fees shall be charged in the percentage of 10% (ten percent) of the total amount of the updated debt, destined to the State Attorney General's Office, pursuant to article 55 of Complementary Law No. 93, of May 28, 1974, except for the provisions of paragraph 1 thereof, which shall be considered as an advance and, where applicable, a complement to the fees due to the Public Treasury in the event of an order to pay them in the tax foreclosure.

Paragraph 4 - The criteria for filing or withdrawing lawsuits or judicial measures, including tax enforcement, shall be determined in an act of the Attorney General of the State, according to the nature or peculiarity of the credits and demands.

Article 26 – The State Attorney General's Office, representing the State of São Paulo, its agencies and other state entities, may condition the filing of tax foreclosures to the verification of evidence of assets, rights or economic activity of the debtors or co-respondents, provided that they are useful for the full or partial satisfaction of the debts to be enforced.

Paragraph 1 - It is incumbent upon the Attorney General of the State to define the limits, criteria and parameters for filing the lawsuit referred to in the "caput" of this article, observing the criteria of rationality, economy and efficiency.

Paragraph 2 - The selective filing of tax foreclosures shall be preceded by an evaluation of the effectiveness of the process, observing:

I - asset information and information relating to the debtor's activity; or II - the compatibility between the amount of the overdue debt subject to each tax foreclosure and:

a) the cost of maintaining and monitoring the process;

(b) the administrative and judicial structure available for the adoption of possible coercive measures; or (c) the value of all the claims of each taxable person.

Paragraph 3 - The parameters for filing tax foreclosures may be regionalized due to economic grounds or even as a result of the administrative or judicial structure available for the conduct of the proceedings.

Article 27 – The State Attorney General's Office may register, including by electronic means, the certificate of overdue debt in the organs of registration of assets and rights, as well as communicate the registration in overdue debt to the credit protection services.

Paragraph 1 - Prior to the registration, a notice shall be issued for the debtor to make the payment of the debt, monetarily adjusted, plus interest, fines and other charges indicated therein, within fifteen (15) days from its receipt.

Paragraph 2 - The notification shall be sent to the debtor's address, by electronic or postal means, and shall be deemed to have been delivered after fifteen (15) days from the date of its issuance.

Paragraph 3 - The notification sent to the address informed to the Public Treasury by the taxpayer or person responsible is presumed to be valid.

Article 28 – Without prejudice to the use of judicial measures for the recovery and safeguarding of credits, if there is evidence of the practice by the taxpayer of an unlawful act provided for in the tax, civil or business legislation as a cause of liability of third parties, partners, administrators, related persons and other responsible parties, the State Attorney General's Office may:

I - notify the persons referred to in the "caput" of this article or third parties to provide information;

II - request information, expert examinations and documents from federal, state and municipal authorities, as well as from the bodies and entities of the direct, indirect or foundational Public Administration, from any of the Powers of the Union, the States, the Federal District and the Municipalities;

III - to initiate an administrative proceeding to determine liability for a debt registered as an overdue debt, whether filed or not, in compliance with the provisions of Law No. 10,177, of December 30, 1998.

Article 29 – The State Attorney General's Office may contract, through a bidding process, auxiliary services for its collection activity.

§ 1 - The services referred to in the "caput" of this article are restricted to the execution of acts related to the administrative collection of debts that do not require the use of information protected by tax secrecy.

Paragraph 2 - The State Attorney General's Office shall regulate the provisions of this article and define the requirements for contracting, the criteria for the selection of debts, the maximum admissible amount and the form of remuneration of the contractor, which may be by success rate, provided that its greater suitability to the public interest and to usual market practices is demonstrated.

Article 30 – The State Attorney General's Office shall regulate the execution of procedural legal settlements within its scope of action, based on the provisions of article 190 of Federal Law No. 13,105, of March 16, 2015 (Code of Civil Procedure).

Sole Paragraph - The execution of a procedural legal settlement may include the preparation of a payment plan to enable the compliance of the tax situation and preservation of the

company, and may be combined with the settlement modalities referred to in Chapter I of this Law.

SECTION II

POSITIVE TAX REGISTRATION

Article 31 – The State Attorney General's Office is hereby authorized to establish the Positive Tax Registry, with the purpose of:

I - create conditions for the permanent construction of an environment of trust between taxpayers and public advocacy;

II - ensure the predictability of its actions vis-à-vis the taxpayers registered in the aforementioned registry;

III - create conditions for the consensual solution of tax conflicts, with incentives to reduce litigation;

IV - reduce compliance costs in relation to credits registered as overdue and the taxpayer's tax situation, based on tax information;

V - to make the risk management of taxpayers registered in the aforementioned registry and the performance of procedural legal settlements more efficient;

VI - improve the understanding of business activities and fiscal bottlenecks.

Sole Paragraph - The State Attorney General's Office may establish an agreement with other state, municipal, Federal District and Federal agencies, notably the Attorney General's Office of the National Treasury, to share information that contributes to the formation of the Positive Tax Registry.

Article 32 – It is incumbent upon the State Attorney General to regulate the Positive Tax Registry, which may provide for customer service, concessions inherent to guarantees, deadlines for the assessment of applications, appeals and other requests from the taxpayer, compliance with obligations before the State Attorney General's Office and administrative or judicial collection acts, especially:

I - creation of differentiated service channels, including for the receipt of settlement requests or for clarification of these requests;

II - relaxation of the rules for the acceptance or replacement of guarantees, including the possibility of replacing judicial deposits with surety bonds or other guarantees based on the taxpayers' ability to generate results;

III - enforcement of guarantees in tax foreclosure only after the final and unappealable judicial discussion related to the enforced title.

Sole Paragraph - While the provisions of this article are not regulated, the classification assigned by the Department of Finance and Planning to taxpayers in the Nos Conformes Program in categories "A+", "A" and "B" will be used.

CHAPTER III

FINAL PROVISIONS

Article 33 – The State Attorney General's Office shall issue complementary acts for the faithful fulfillment of the provisions of this Law.

Article 34 – Public officials who participate in the process of settling the conflict, judicially or extrajudicially, with the purpose of entering into a settlement under the terms of this Law may only be held liable, including before the public bodies of internal and external control, when they act with intent or fraud to obtain an undue advantage for themselves or others.

Article 35 – This Law does not apply to the demands of the Enforcement Bodies of the General Litigation Area, provided for in articles 31 to 34 of Complementary Law No. 1,270, of August 25, 2015, whose criteria and jurisdictions for the waiver or withdrawal of filings, contestations, appeals and judicial measures in general, as well as for the execution of procedural legal settlements and agreements to prevent or terminate litigation, shall be regulated by an act of the State Attorney General.

Article 36 – Administrative fines, as well as the respective legal regulations, imposed by state public agents due to non-compliance with obligations imposed for the prevention and confrontation of the COVID-19 pandemic, in particular those provided for in Decrees No.

I - 64,879, of March 20, 2020;

II - 64,881, of March 22, 2020;

III - 64,956, of April 29, 2020;

IV - 64,959, of May 4, 2020;

V - 64.994, of May 28, 2020.

Sole Paragraph - The refund, in whole or in part, of amounts paid prior to the effective date of the provisions of this article is prohibited.

Article 37 – The following provisions of Law No. 12,799, of January 11, 2008, shall enter into force as follows:

I - the "caput" of Article 3:

"Article 3 – Inclusion in the STATE CADIN shall be made 75 (seventy-five) days after the debtor is notified of the existence of the debt subject to registration, by the following authorities:" (NR)

II - Paragraph 2 of Article 3:

Article 3 - (...) (...) "§ 2 - The communication to the debtor shall be made by publication in the Official Gazette of the State, and in addition, the postal or other electronic means of communication may be used." (NR)

Article 38 – Paragraph 6 is added to Article 3 of Law No. 12,799, of January 11, 2008, with the following wording:

Article 3 - (...) (...) "§ 6 - The communication shall be deemed to have been made fifteen (15) days after the date of publication in the Official State Gazette, the date of sending of the electronic message, or the date of dispatch of the communication by post." (NR)

Article 39 – Item I of article 3 of Law No. 17,784, of October 2, 2023, shall enter into force as follows:

Article 3 - (...) "I - pay the fine with the discounts provided for in item II of article 95 or item II of article 101, both of Law No. 6,374, of March 1, 1989, regardless of the procedural stage in which the case is in the administrative litigation;" (NR)

Article 40 – The provisions of Article 34 of Federal Law No. 9,249, of December 26, 1995, and Article 83 of Federal Law No. 9,430, of December 27, 1996, shall apply to the settlement.

Article 41 – The following are hereby repealed:

I - articles 41 to 56 of Law No. 17,293, of October 15, 2020;

II - Law No. 14,272, of October 20, 2010.

Article 42 – This Law, with its Transitional Provision, shall enter into force after ninety (90) days from its publication, except for the provisions of Articles 36 and 39, which shall enter into force on the date of its publication.

CHAPTER IV

TRANSITIONAL PROVISION

Article 43 – The exceptional modality of Settlement by Adhesion in Litigation of Relevant and Widespread Controversy regarding default interest on debts registered as overdue debt and arising from the application of Law No. 13,918, of December 22, 2009, and Law No. 16,497, of

July 18, 2017, is hereby instituted. in which they amended article 96, paragraph 1, and paragraph 1, item 2, respectively, of Law No. 6,374, of March 1, 1989.

Paragraph 1 - The taxpayer may freely adhere to this modality whenever it has debts registered as overdue debt, contemplating the incidence of default interest calculated in accordance with the "caput", and the following benefits are attributed to the adherents:

1. 100% (one hundred percent) discount on default interest;
2. Less interest on arrears, a discount of 50% (fifty percent) of the total remaining debt, including fines of any kind, interest and legal charges. The application of these discounts may not result in a reduction in the principal amount of tax due;
3. Installment in 120 (one hundred and twenty) months.

§ 2 - For the purpose of settling or abatement of debts in this type of settelement, the forms set forth in items IV and V of article 15 of this Law are admitted.

Paragraph 3 - The settelement shall be deemed to have been concluded with the payment of 5% (five percent) of the residual value after the application of the discounts referred to in items I and II, admitting the use of any amounts blocked or seized administratively or judicially.

Paragraph 4 - After the administrative request for adhesion made by the taxpayer, the responsible body shall have a period of fifteen (15) days to make available the composition of the amounts and respective discounts. In the event that the taxpayer does not have access to the information within the referred period, it will be authorized to carry out the calculation and respective payment of the portion indicated in the previous paragraph within five (5) days, at which time the adhesion will be concluded, without prejudice to the complementary payment of amounts when the composition is made available by the responsible body.

Paragraph 5 - The debtor who has other debts registered as overdue debt is allowed to consolidate all tax liabilities in the payment plan, in which case the discounts and payment term shall be limited to those provided for in article 15 of this law.

§ 6 - The provisions of this article shall also apply to cases in which the interest on debts has already been rectified as a result of a judicial decision or administrative review.

§ 7 - Without prejudice to the exceptional settelement referred to in this provision, the regulation may regulate the application of the provisions of article 96, "caput", items, subparagraphs and paragraphs of Law No. 6,374, of March 1, 1989, as amended by Law No. 16,497, of July 18, 2017 and supervening legislation, to credits registered as overdue debt, regardless of the date of registration.

Bandeirantes Palace, November 07, 2023

TARCISIO DE FREITAS

Inês Maria dos Santos Coimbra State Attorney General Samuel Yoshiaki Oliveira Kinoshita

Secretary of Finance and Planning

Eleuses Vieira de Paiva

Secretary of Health

Gilberto Kassab

Secretary of Government and Institutional Relations

Arthur Luis Pinho de Lima

Chief Secretary of the Civil House

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Could you kindly provide (ideally) a link to or (alternatively) a pdf copy of all the relevant legislation/administrative guidance or that introduced the shift towards. In case of legislation, it would also be appreciated if you were so kind to indicate the relevant provisions.

With regard to Question 58 MS ("Proportionality and ne bis in idem should apply to tax penalties"), you marked a "shift towards" and you indicated that "(i) The Law n. 14,689/23 reduced the tax penalty in cases of fraud without reiteration from 150% to 100%. Moreover, if

the taxpayer challenges the tax debt before the administrative council and the debt is kept only by a casting vote, all penalties and criminal charges are dismissed;

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LAW NO. 14,689, OF SEPTEMBER 20, 2023

Article 8 Article 44 [of Law No. 9,430, of December 27, 1996](#), is hereby amended as follows:

"Art. 44.

.....

[§ 1](#) The percentage of the fine referred to in item I of the **caput of** this article shall be increased in the cases provided for in [articles 71, 72 and 73 of Law No. 4,502, of November 30, 1964](#), regardless of other applicable administrative or criminal penalties, and shall be:

.....

[VI](#) – 100% (one hundred percent) on the total or the difference in tax or contribution subject to the official release;

[VII](#) – 150% (one hundred and fifty percent) on the total or difference of tax or contribution subject to the official entry, in cases where the taxpayer is recurring.

[Paragraph 1-A](#). The recidivism provided for in item VII of [§ 1](#) of this article is verified when, within two (2) years, counted from the act of entry in which the action or omission typified in [articles 71, 72 and 73 of Law No. 4,502, of November 30, 1964](#), it is proven that the taxpayer has again incurred in any of these actions or omissions.

[§ 1º-B](#). (VETADO).

[§ 1-C](#). The classification of the fine provided for in [§ 1](#) of this article does not apply when:

I – the willful misconduct referred to in articles 71, 72 and 73 of [Law No. 4,502, of November 30, 1964](#) is not configured, individualized and proven ;

II – there is a criminal sentence of acquittal with an assessment of the merits in a proceeding from which the taxpayer is criminally charged; and

III – (VETADO).

[§ 1º-D](#). (VETOED);

[§ 2](#) (VETOED).

.....

[§ 6](#) (VETOED).

§ 7 (VETOED)

(ii) The Superior Court of Justice reaffirmed that it is not possible to impose two or more penalties grounded on the same conduct (e.g., penalty for wrongful fulfillment of tax returns and penalty for the lack of payment) - Special Appeal 1,708,819/RS;

FISCAL. CUSTOMS. ISOLATED FINE. EX OFFICIO FINE. CONCOMITANT APPLICATION. IMPOSSIBILITY. PRINCIPLE OF CONSUMPTION. FISCAL. CUSTOMS. ISOLATED FINE. EX OFFICIO FINE. CONCOMITANT APPLICATION. IMPOSSIBILITY. PRINCIPLE OF CONSUMPTION.

1. The ex officio fine is applicable in the event of non-payment or payment, failure to declare and in cases of inaccurate declaration, and is required at the level of 75% (article 44, I, of Law No. 9,430/96).

2. The isolated fine is required as a result of an administrative infraction, in the amount of 50% (article 44, II, of Law No. 9,430/96).

3. The isolated fine cannot be demanded concomitantly with the ex officio fine, being absorbed by the latter, in compliance with the principle of consumption. Precedents: AgInt no AREsp n. 1.603.525/RJ, rapporteur Justice Francisco Falcão, Second Panel, DJe of 11/25/2020; AgRg no REsp 1.576.289/RS, rapporteur Justice Herman Benjamin, Second Panel, DJe 5/27/2016; AgRg no REsp 1.499.389/PB, rapporteur Justice Mauro Campbell Marques, Second Panel, DJe 9/28/2015; REsp n. 1.496.354/PR, rapporteur Minister Humberto Martins, Second Panel, DJe of 3/24/2015.

4. Special appeal granted.

(REsp n. 1.708.819/RS, rapporteur Justice Sérgio Kukina, First Panel, judged on 11/7/2023, DJe of 11/16/2023.)

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(iii) The Supreme Court ascertained the constitutionality of legislation that dismisses criminal charges for tax crimes in case of a late payment, even in installments - Direct Action for the Declaration of Unconstitutionality 4,273/DF.”

CRIMINAL. DIRECT ACTION OF UNCONSTITUTIONALITY. TAX CREDIT. REFILLS. LAW N. 11.941/2009, ARTS. 67, 68 AND 69. LAW NO. 10,684/2003, ART. 9, §§ 1 AND 2. CONTINENCE IN RELATION TO ADI 3.002, JUDGED PREJUDICED. PRELIMINARY OVERCOME. SUBSEQUENT LAW THAT REGULATED THE SUSPENSION OF THE PUNITIVE CLAIM DUE TO THE INSTALLMENT PLAN. PARTIAL LOSS OF OBJECT OF THE ACTION. MERIT. INCOMPATIBILITY WITH ARTS. 3RD, I TO IV, AND 5TH, CAPUT, OF THE FEDERAL CONSTITUTION. INFRINGEMENT OF THE PRINCIPLE OF THE PROHIBITION OF DEFICIENT PROTECTION. NON-OCCURRENCE. IMPACT OF THE PRINCIPLES OF MINIMUM INTERVENTION, FRAGMENTARITY AND PROPORTIONALITY. CONSTITUTIONALITY. 1. ADI 3,002, in which the unconstitutionality of article 9, paragraphs 1 and 2, of Law No. 10,684/2003 was argued, was deemed prejudiced by virtue of a decision by Justice Celso de Mello issued on December 14, 2009. Therefore, there is no contenance relationship, supported by the information presented by the President of the Republic, to justify the meeting of the present case to the developer of that direct action. 2. Article 6 of Law No. 12,382/2011 added paragraphs 1 to 5 to article 83 of Law No. 9,430/1996 and expressly limited the extinction of punishability by installment payment formalized before the complaint was received (Law No. 9,430/1996, article 86, paragraph 6, c/c Law No. 9,249, article 34). 3. As Law No. 12,382/2011 regulated, at a subsequent time, only the extinction of the punishability as a result of the installment payment, without providing for the payment, the rule contained in article 69 of Law

No. 11,941/2009, challenged in the present action, remains in force for the full satisfaction of the tax credit, which admits criminal effects regardless of whether the payment occurred before or after the receipt of the complaint. 4. The claim of unconstitutionality in relation to article 68 of Law No. 11,941/2009 is prejudiced, in line with the firm jurisprudence of this Court (ADI 2,087, Plenary, Justice Dias Toffoli, DJe of May 8, 2018; and ADI 2,542 AgR, Plenary, Justice Luiz Fux, DJe of October 27, 2017). 5. Arts. Sections 67 and 69 of Law No. 11,941/2009 and article 9, §§ 1 and 2, of Law No. 10,684/2003, questioned in the face of the Federal Constitution, provided for decriminalizing measures regarding the offenses of arts. Paragraphs 1 and 2 of Law No. 8,137/1990 and arts. 168-A and 337-A of the Penal Code, consisting of the suspension of the State's punitive claim as a result of the installment payment of tax debts referred to in Law No. 11,941/2009, as well as the extinction of the punishability of the agent if full payment is made. 6. The extinction of punishability as a result of full reparation for the damage caused to the treasury by the practice of crimes against the tax order is a political option that has long been adopted in the Brazilian legal system, which demonstrates the prevalence of the State's interest in the collection of revenues from taxes, to achieve the purposes for which they are intended, to the detriment of the imposition of the criminal sanction on the offender. 7. The installment and full payment of tax credits, in addition to resulting in an increase in tax collection, exercising an unequivocal reparatory function for the damage caused to the treasury by the practice of tax crimes, function as mechanisms for promoting economic activity and, consequently, for the preservation and generation of jobs. They ultimately contribute to the fulfillment of the fundamental objectives of the Federative Republic of Brazil, provided for in Article 3 of the Magna Carta, namely: (i) the construction of a free, fair and solidary society; (ii) ensuring national development; (iii) eradication of poverty and marginalization and reduction of social and regional inequalities; (iv) promotion of the good of all, without prejudice of origin, race, sex, color, age or any other forms of discrimination. 8. The preponderance conferred by the legislator on the collection policy, in relation to the incidence of criminal sanctions, is in accordance and in harmony with the principles of minimum intervention (or subsidiarity) and fragmentariness (or essentiality), which inform criminal law. Such principles are an expression of the constitutional postulate of proportionality, which derives its constitutional foundation from due process of law in its substantive meaning (CF, art. 5, LIV). 9. The criminal sanction must be the ultima ratio for the protection of the legal interest protected by the rules establishing the crimes against the tax order covered by the decriminalizing measures provided for in Law No. 11,941/2009. Thus, the incidence of the penalty will be justified when the tax rules that govern the inspection and collection of taxes – including those regulating the installment payment leading to the extinction of the tax credit – prove to be insufficient for the protection of the legal interest protected by the criminal rules. 10. Arts. Sections 67 and 69 of Law No. 11,941/2009 and Article 9 of Law No. 10,684/2003 do not contradict Article 5, caput, of the 1988 Constitution, considering that the measures of suspension and extinction of punishability give prestige to freedom, property and free enterprise by leaving the criminal sanctions for the practice of crimes against the tax order as an ultima ratio, in accordance with the postulate of proportionality and minimum intervention of criminal law. 11. The suspension of the punitive claim and the period of the criminal statute of limitations, resulting from the installment payment of tax debts, and the extinction of punishability, in view of the full payment of these same debts, are adequate measures to protect the legal interest protected by the incriminating criminal provisions, since they encourage and pursue the reparation of the damage caused to the treasury due to tax evasion. These measures remove the excess characterized by the restriction of the fundamental right to liberty, derived from the imposition of the criminal sanction, when the debts are being regularly paid or have already been fully paid, which reveals, in this case, the sufficiency of the tax rules for the protection of public assets. 12. The measures referred to in the questioned norms appear to be sufficient for the protection of the legal interest under analysis, in view of the provision by the legislator of the suspension of the punitive claim in the criminal sphere and the statute of limitations for the State to exercise it. Once the

tax installment payment is terminated due to the default, if the injury to the treasury persists, the criminal prosecution will be reestablished, which may result in the imposition of a deprivation of liberty sanction on the perpetrator of the crime. 13. The petition was dismissed with respect to article 68 of Law No. 11,941/2009 and dismissed as to the other legal provisions challenged, declaring arts. 67 and 69 of Law No. 11,941/2009 and article 9, §§ 1 and 2, of Law No. 10,684/2003.

(ADI 4273, Rapporteur: NUNES MARQUES, Full Court, judged on 15-08-2023, ELECTRONIC PROCESS DJe-s/n DIVULG 31-08-2023 PUBLIC 01-09-2023)

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Could you kindly provide (ideally) a link to or (alternatively) a pdf copy of all the relevant legislation/case law that introduced the shift towards. In case of legislation, it would also be appreciated if you were so kind to indicate the relevant provisions.

With regard to Question 78 (BP) (“Retrospective tax legislation should ideally be banned completely”), you marked a “shift away” and you indicated that “The Law 14,754/23 amended the tax regime of investment funds and prescribed a retrospective taxation, following the new regime, of non-distributed profits assessed before the legislation was enacted. Since the tax rate was reduced in almost 50% for taxpayers that agreed with the retrospective taxation and anticipated the payment, it is possible that the provision will not be banned by the Judiciary.” Could you kindly provide (ideally) a link to or (alternatively) a pdf copy of all the relevant legislation/that introduced the shift towards. It would also be appreciated if you were so kind to indicate the relevant provisions.

[L14754 \(planalto.gov.br\)](http://L14754(planalto.gov.br))

LAW NO. 14,754, OF DECEMBER 12, 2023

Section V

Transition Rules

Art. 27. Income calculated until December 31, 2023 in investments in investment funds that were not subject until 2023 to periodic taxation in the months of May and November of each year and that will be subject to periodic taxation from the year 2024, based on arts. 17 or 26 of this Law, will be appropriated **pro rata tempore** until December 31, 2023 and will be subject to the incidence of IRRF at the rate of 15% (fifteen percent).

§ 1 The income referred to in the **caput of this article** shall correspond to the positive difference between the equity value of the quota on December 31, 2023, including the income appropriated to each quotaholder, and the acquisition cost calculated in accordance with the rules provided for in §§ 2, 3 and 4 of article 17 of this Law.

§ 2 In the case of funds subject to the specific regime referred to in article 26, the quotaholder may choose not to compute in the IRRF calculation basis the amounts controlled in the sub-accounts referred to in § 3 of article 26 of this Law.

§ 3 The quotaholder shall previously provide the investment fund administrator with the financial resources necessary for the payment of the tax, and the fund administrator may waive the contribution of new resources.

§ 4 The portion of the equity value of the quota taxed pursuant to this article shall be included in the cost of acquisition of the quota, pursuant to item II of § 2 of article 17 of this Law.

§ 5 The tax referred to in the **caput** of this article shall be withheld by the investment fund administrator and collected in cash until May 31, 2024.

§ 6 The tax referred to in the **caput** of this article may be collected in up to twenty-four (24) successive monthly installments, with payment of the first installment by May 31, 2024.

§ 7 In the case referred to in § 6 of this article, the value of each monthly instalment:

I - interest equivalent to the reference rate of the Special Settlement and Custody System (Selic) for federal securities, accumulated monthly, calculated as of June 2024, and 1% (one percent) for the month in which the payment is being made, will be increased at the time of payment; and

II - it may not be less than 1/24 (one twenty-fourth) of the tax assessed under the terms of the **caput** of this article.

§ 8 If the quotaholder invests in the investment fund by means of amortization, redemption or sale of quotas before the expiration of the IRRF payment period, the IRRF maturity will be brought forward to the date of realization.

§ 9 If the tax is not paid within the period referred to in this article, the fund may not make distributions or transfers of funds to the shareholders or make new investments until the tax is fully paid, with any legal additions.

§ 10. If the tax is not paid within the period referred to in this article due to the lack of funds provided by the quota holder, pursuant to paragraph 3 of this article, the administrator shall forward to the Special Secretariat of the Federal Revenue of Brazil of the Ministry of Finance, in the manner and within the period regulated by it, the following information: The administrator's responsibility for withholding and collecting the tax is excluded:

I - taxpayer registration number in the Individual Taxpayer Registry (CPF) or in the National Taxpayer Registry (CNPJ);

II - value of the income that served as the basis for calculating the tax;

III - amount of tax due.

§ 11. In the case referred to in § 10 of this article, the responsibility for the payment of the tax will be of the quota holder, who will be subject to its official entry.

Art. 28. As an alternative to the provisions of article 27 of this Law, the individual resident in the country may choose to pay the IRRF on the income from investments in the investment

funds referred to in said article at the rate of 8% (eight percent), in two (2) stages: [Production of effects](#)

I - in the first, payment of tax on income assessed until November 30, 2023;

II - in the second, payment of tax on income calculated from December 1, 2023 to December 31, 2023.

§ 1 In the event of amortization or redemption of quotas, or spin-off of the fund, between December 1, 2023 and December 29, 2023, the effect of the event shall be excluded from the equity value of the quota on November 30, 2023, for the purposes of the provisions of item I of the **caput** of this article.

§ 2 If the option referred to in this article is exercised, the tax shall be collected:

I - on the income referred to in item I of the **caput** of this article, in four (4) equal, monthly and successive installments, due on December 29, 2023, January 31, 2024, February 29, 2024 and March 29, 2024;

II - on the income referred to in item II of the **caput** of this article, in **cash, within the same maturity period of the IRRF due in the periodic taxation referred to in item I of the caput of article 17 of this Law for the month of May 2024.**

§ 3 The option referred to in this article will only be consummated and become definitive with the full payment of the tax.

§ 4 The provisions of §§ 1 to 4 and §§ 8 to 10 of article 27 of this Law shall apply to the option referred to in this article.

§ 5 If the tax is not paid within the deadlines set forth in § 2 of this article, the quota holder shall be subject to the calculation and payment of the tax in accordance with article 27 of this Law, minus the installments paid up to the date of default.

Art. 29. Investment funds that, on the date of publication of this Law, expressly provide in their regulations for their extinction and non-extendable liquidation until November 30, 2024 shall not be subject to periodic taxation on the dates provided for in item I of the **caput** of article 17 of this Law. [Production of effects](#)