



Observatory on the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by Billur Yalti, Professor at the *Istanbul University*, and OPTR National Reporter of Türkiye.

This set of questionnaires comprises the National Reporter's assessment of the country's practice during 2024 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 - 2024 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 a wide range of 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.

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 2024, until no later than 10 January 2025. 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,

Dr Sam van der Vlugt
Scientific Coordinator
IBFD Observatory on the Protection of Taxpayers' Rights.

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

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Reporters' info

Name: *

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Country: *

Türkiye

Affiliation *

☐ Taxpayers / Tax Practitioners

☐ Tax Administration

☐ Judiciary

☐ (Tax) Ombudsperson

☒ Academia

☐ Other:

Questionnaire 1 - Country Practice

Instructions:

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

7. The email will also include an "edit your survey" link, in case you want to modify any of your answers. You will receive this email every time you submit partial responses.
8. An option to quit the survey and save your answers is provided at the end of each section.
9. If answering partially, please select "Yes" at the end of the section in which you are to submit your partial answers to the survey. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this survey.
10. For editing your answers, please use the last "edit your response" link provided to you via email. Please bear in mind that this is the only way the system will acknowledge your previous answers. If you use a link other than the last one provided, some (or all) changes might not be retrieved by the system.
11. When clicking on the last "edit your response" link, the system will lead you to the front page of the survey. Click on "Next" as many times as needed to get to the section you want to continue in. Once you have reached said section, please remember to change your answer to the question "Do you want to save your results and quit?" to "No", in order to be able to continue.

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

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

☒ Yes

☐ No

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

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

☐ Yes

☒ No

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

☒ Yes

☐ No

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

☒ Yes

☐ No

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

☐ Yes

☒ No

5A. 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

6. Are compliance obligations imposed on third parties subject to limits that ensure they are necessary and proportionate? *

☐ 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

7A. Are there special arrangements in circumstances of force majeure? *

☒ Yes

☐ No

7B. If yes to 7A, do said arrangements operate automatically? *

☐ Not applicable (click here if you answered "No" to question 7A)

☐ 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 and data protection

N.B. From 2024 all questions of this area also refer to data protection

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

☒ Yes

☐ No

11A. Do data protection rights apply to all information held by tax authorities? *

☐ Yes

☒ No

11B. If yes to 11A, does it include the right to access data and correct inaccuracies? *

☐ Yes

☐ No

☒ Not applicable (click here if you answered "No" to question 11A)

11C. If yes to 11A, is all data (at some point) destroyed once its purpose has been fulfilled? *

- ☐ Yes
- ☐ No
- ☒ Not applicable (click here if you answered "No" to question 11A)

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

14A. If yes to 14, are victims of an unauthorised disclosure entitled to be informed and paid a *
compensation?

- ☐ Yes
- ☒ No
- ☐ Not applicable (click here if you answered "No" to question 14)

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

- ☐ Yes
- ☒ No

15A. Are tax officials entitled to work remotely? *

- ☒ Yes
- ☐ No

15B. If yes to 15A, are equivalent measures taken to ensure confidentiality and data protection to the ones that apply when the official is working from a tax office? *

- ☒ Yes
- ☐ No
- ☐ Not applicable (click here if you answered "No" to question 15A)

15C. If yes to 15B, are those measures audited? *

- ☒ Yes
- ☐ No
- ☐ Not applicable (click here if you answered "No" to question 15A & 15B)

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

- ☒ Yes
- ☐ No

16A. If yes to 16, is access limited only to those who have a legitimate interest? *

- ☐ Yes
- ☒ No
- ☐ Not applicable (click here if you answered "No" to question 16)

16B. Can information held by tax authorities be supplied to other authorities? *

- ☒ Yes
- ☐ No

16C. If yes to 16 B, is the supply to other public authorities permitted only when authorised by law and with appropriate safeguards? *

- ☒ Yes
- ☐ No
- ☐ Not applicable (click here if you answered "No" to question 16B)

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

- ☒ Yes
- ☐ No

17A. If yes to 17, is personal data that places the individual at risk not disclosable? *

- ☒ Yes
- ☐ No
- ☐ Not applicable (click here if you answered "No" to question 17)

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

18A. Is there legislation that protects whistleblowers that disclose confidential information held by revenue authorities (or third parties holding data for tax purposes)? *

☐ 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

20A. Are there mandatory disclosure requirements (e.g. mandatory disclosure of tax planning arrangements)? *

☐ Yes

☒ No

20B. If yes to 20A, are those mandatory disclosure obligations so drafted as not to affect the relations with professional advisers? *

☐ Yes

☐ No

☒ Not applicable (click here if you answered "No" to question 20A)

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

23A. If yes to 23, does this principle also apply to online meetings? *

☒ Yes

☐ No

☐ Not applicable (click here if you answered "No" to question 23)

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? *

⌵ Dropdown

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

2. 1-3 months

3. 4-6 months

4. 7-9 months

5. 10-12 months

6. 13-15 months

7. 16-18 months

8. 19-21 months

9. 22-24 months

10. More than 24 months

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

29A. Once a tax audit is completed, are there rules that prevent further evidence being collected, further arguments being put forward and no further tax charges being brought? *

☐ 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

38A. Does access to bank information for tax purposes require prior judicial authorisation? *

☐ 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

39A. If evidence is collected as a result of a search that was not authorised by the judiciary is ^{*} that evidence admissible?

☐ Yes

☒ No

39B. If digital data is copied or removed, are there provisions to ensure that this does not ^{*} affect the normal operation of the electronic information system?

☒ 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

40A. Do taxpayers have an alternative of taking an appeal to an arbitration tribunal in place of the tax courts? *

☐ 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? *

 Dropdown

1. There is no limit (click here if you answered "No" to question 44)
2. 1-3 months
3. 4-6 months
4. 7-9 months
5. 10-12 months
6. 13-15 months
7. 16-18 months
8. 19-21 months
9. 22-24 months
10. More than 24 months

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

☐ Yes

☒ No

46A. Does a taxpayer have the right to request an online hearing or object to it? *

☐ 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

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

58A. Is there a legislative cap to prevent interest, penalties and surcharges to exceed the amount of tax due? *

- ☐ 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

65A. If information is sought from a third party, does that third party have the right to challenge the legality of the request before the judiciary? *

☐ Yes

☒ No

65B. Is exchange of information prohibited with any state if it is foreseeable that the data would be used in a way that is repressive or that it would undermine the protection of fundamental rights? *

☐ Yes

☒ No

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

☐ Yes

☒ No

66A. In the event of a leak of confidential information, is exchange of information with that state suspended? *

☐ Yes

☒ No

66B. Are there time-limits after which data that has been exchanged are to be destroyed or anonymously archived? *

☐ 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

68A. Does a taxpayer have a right to be given a statement of reasons how a solution was reached through mutual agreement procedures? *

☐ 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

83. 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

84. 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

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

- ☒ Yes
- ☐ No

86. 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 85)
- ☐ Yes
- ☒ No

87. 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

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 13 - Artificial Intelligence (AI)/Automated Analytical Systems (AAS)

88. Are taxpayers who are subject to a tax compliance procedure that involves AI/AAS informed of that fact? *

☐ Yes

☒ No

☐ Not applicable (in case no AI/AAS is used)

89. In communications between a tax authority and a taxpayer that employs AI/AAS, is it stated that the tax authorities is represented only by a machine? *

☐ Yes

☒ No

☐ Not applicable

90. If a decision relating to tax administration has been taken by the use of AI/AAS, is the taxpayer provided with basic details of the procedure applied? *

- ☐ Yes
- ☒ No
- ☐ Not applicable

91. Do the tax authorities publish details of the type of AI/AAS employed with specific information about the purpose for which they are used? *

- ☐ Yes
- ☒ No

92. Does a system exist for voluntary registration of AI/AAS? *

- ☐ Yes
- ☒ No

93. If yes to 92, does the tax authority register all AI/AAS tools or algorithms with that system? *

- ☐ Yes
- ☐ No
- ☒ Not applicable (click here if you answered "No" to question 92)

94. Are decisions that may have a significant impact on a taxpayer taken exclusively by AI/AAS? *

- ☐ Yes
- ☒ No
- ☐ Not applicable

95. If decisions impacting a taxpayer are taken by AI/AAS, are they overseen by a suitably qualified individual before the decision is notified? *

- ☐ Yes
- ☒ No
- ☐ Not applicable

96. If an audit employs material generated by AI/AAS, is that material available to taxpayers and their advisors? *

- ☐ Yes
- ☒ No
- ☐ Not applicable

97. If yes to 96, is an explanation provided and does the taxpayer have an effective remedy against unlawful or inaccurate use of AI/AAS? *

- ☐ Yes
- ☐ No
- ☒ Not applicable (click here if you answered "No" to Question 96)

98. Do tax authorities publish guidance notes explaining the way in which they use AI/AAS? *

- ☐ Yes
- ☒ No

99. If revenue authorities use AI/AAS, do they publish guidelines and points of contact for taxpayers who have questions or concerns about those procedures? *

- ☐ Yes
- ☒ No
- ☐ Not applicable

100. Does the tax administration appoint a senior official with overriding responsibility for AI/AAS in the tax administration? *

- ☐ Yes
- ☒ No
- ☐ Not applicable

Google Forms

OPTR - 2024 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 2024 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 2024 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 2024, until no later than 10 January 2025. 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,

Dr Sam van der Vlugt
Scientific Coordinator
IBFD Observatory on the Protection of Taxpayers' Rights.

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

Email *

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Reporters' info

Name: *

Billur Yalti

Country: *

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Affiliation *

☐ Taxpayers / Tax Practitioners

☐ Tax Administration

☐ Judiciary

☐ (Tax) Ombudsperson

☒ Academia

☐ Other:

Instructions

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

2. All questions are two or three-tiered (namely, either with parts "MS" and/or "BP", and "S"). They comprise a minimum standard (MS) and /or a best practice (BP), and a "summary of relevant facts in 2024" (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 2024. 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 2024", 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 2024".

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. (BP) Methods of identifying taxpayers should employ the highest levels of identification security, including dual authentication (without imposing an excessive burden on taxpayers to log in when accessing private information or engaging in communication with the revenue authorities) *

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

1 (S). Summary of relevant facts in 2024

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 2024

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 2024

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 2024

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 2024

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 2024

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 2024

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.

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 2024

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.

9 (MS). Compliance obligations on third parties should only be imposed where necessary and in all cases the burden imposed on third parties should be proportionate and not excessive *

- ☒ No Changes
- ☐ Shifted away
- ☐ Shifted towards

9 (S). Summary of relevant facts in 2024.

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 (MS). In circumstances of force majeure (e.g. pandemics / natural disasters), mechanisms should automatically apply to relieve taxpayers of compliance obligations that have become excessively difficult due to the circumstances. The point at which such circumstances start to apply and cease to apply should be clearly and publicly announced *

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

10 (S). Summary of relevant facts in 2024.

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.

11 (BP). Tax compliance obligations should be designed so as to ensure that taxpayers can fulfil their compliance obligations without excessive cost and without the compulsory use of a tax agent, due regard being had to the type of taxpayer (individual / corporate / others) and to the complexity of the taxpayer's tax affairs *

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

11 (S). Summary of relevant facts in 2024.

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). Compliance obligations on third parties should only be imposed where necessary *
and in all cases the burden imposed on third parties should be proportionate and not excessive

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

12 (S). Summary of relevant facts in 2024.

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.

13 (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

13 (S). Summary of relevant facts in 2024

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

*

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

14 (S). Summary of relevant facts in 2024

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). Where a tax assessment indicates a repayment is due, that repayment should be made without undue delay or unnecessary formalities. *

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

15 (S). Summary of relevant facts in 2024

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 and data protection

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.

16 (MS). Provide a specific legal guarantee for confidentiality and data protection, with sanctions for officials who make unauthorised disclosures (and ensure sanctions are enforced).

*

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

16 (MS). Encrypt information held by a tax authority about taxpayers to the highest level attainable.

*

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

16 (S). Summary of relevant facts in 2024

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.

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

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

17 (S). Summary of relevant facts in 2024

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

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

18 (MS). Ensure an effective fire-wall to prevent unauthorised access to data held by revenue authorities. *

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

18 (S). Summary of relevant facts in 2024

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). Data protection rights apply to all information held by tax authorities. This includes rights to access data and correct inaccuracies and the destruction (or anonymous archiving) of all data once its purpose has been fulfilled. *

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

19 (S). Summary of relevant facts in 2024

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). Audit data access periodically to identify cases of unauthorised access. *

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

20 (S). Summary of relevant facts in 2024

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). Introduce administrative measures emphasizing confidentiality to tax officials. *

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

21 (S). Summary of relevant facts in 2024

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). Where tax officials are permitted to work remotely (e.g. from home), equivalent measures should be taken to ensure confidentiality and data protection as if the official were working from a tax office. The measures taken to ensure confidentiality and data protection should be audited on a regular basis. *

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

22 (S). Summary of relevant facts in 2024

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

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

23 (S). Summary of relevant facts in 2024

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). 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

24 (S). Summary of relevant facts in 2024

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.

25 (MS). Introduce an offence for tax officials and others covering up unauthorised disclosure of confidential information

*

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

25 (S). Summary of relevant facts in 2024

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). Taxpayers who are victims of unauthorised disclosure of confidential information *
should be entitled: a) to be informed as soon as possible of the unauthorised disclosure; and
b) to full compensation, including damages (in cases where tax authorities and third parties
have not maintained adequate standards of data protection).

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

26 (S). Summary of relevant facts in 2024

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 (MS). Exceptions to the general rule of confidentiality should be explicitly stated in the *
law, narrowly drafted and interpreted. Data held by tax authorities (or third parties for tax
purposes) should only be accessible to those who can show a legitimate interest in access to
that data

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

27 (S). Summary of relevant facts in 2024

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). Information held by a tax authority (or by third parties for tax purposes) should not be supplied to other public authorities unless the transfer is authorised by law and there are appropriate safeguards (e.g. a requirement of judicial authorisation). *

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

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

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

28 (S). Summary of relevant facts in 2024

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

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

29 (BP). If "naming and shaming" is employed by any governmental body on the basis of tax information, then personal data that places the individual at risk (e.g. the individual's home address) should not be disclosed. *

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

29 (S). Summary of relevant facts in 2024

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). Legislation should protect whistleblowers in appropriate cases (including where the information disclosed demonstrates that a crime has been committed), in particular where the whistleblower discloses breaches of confidentiality and data protection by revenue authorities (and by third parties holding data for tax purposes). *

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

30 (S). Summary of relevant facts in 2024

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

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

31 (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

31 (S). Summary of relevant facts in 2024

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 (MS). Freedom of information legislation should allow a taxpayer to access information relevant to the tax system and how it impacts on that taxpayer (including all information about themselves). 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

32 (S). Summary of relevant facts in 2024

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

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

33 (BP). Anonymised tax rulings should be published to allow taxpayers to understand administrative practices. This should be subject to exceptions where publication would be potentially damaging to the taxpayer concerned *

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

33 (S). Summary of relevant facts in 2024

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

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

34 (S). Summary of relevant facts in 2024

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 (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

35 (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

35 (S). Summary of relevant facts in 2024

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). 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

36 (S). Summary of relevant facts in 2024

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). Mandatory disclosure requirements (if adopted) should be clearly drafted and only * apply to cases in which such disclosure is strictly necessary and proportionate. The disclosure obligation should not operate to adversely affect the relationship with professional advisors and other third parties to a disproportionate extent.

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

37 (S). Summary of relevant facts in 2024

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.

38 (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

38 (S). Summary of relevant facts in 2024

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.

39 (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

39 (S). Summary of relevant facts in 2024

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 (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

40 (S). Summary of relevant facts in 2024

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). 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. This should apply equally to on-line meetings. *

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

41 (S). Summary of relevant facts in 2024

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

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

42 (S). Summary of relevant facts in 2024

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

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

43 (S). Summary of relevant facts in 2024

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

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

44 (S). Summary of relevant facts in 2024

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

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

45 (S). Summary of relevant facts in 2024

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

*

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

46 (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

46 (S). Summary of relevant facts in 2024

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

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

47 (S). Summary of relevant facts in 2024

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). For normal audits there should be a limitation period for the start of the audit; this should only be extended where information comes to light that could not reasonably have been obtained previously. Once an audit has commenced, it should be conducted with a view to achieving certainty and finality as soon as reasonable, and adequate resources should be devoted to achieving that objective. *

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

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

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

48 (S). Summary of relevant facts in 2024

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.

49 (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

49 (S). Summary of relevant facts in 2024

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 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

50 (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

50 (S). Summary of relevant facts in 2024

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 (MS). Once a tax audit is completed, no further evidence should be collected or included, *
no further arguments brought forward by the tax authorities, and no further tax charges brought, unless in exceptional circumstances (e.g. where information comes to light that the taxpayer has concealed).

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

51 (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

51 (S). Summary of relevant facts in 2024

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 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.

52 (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

52 (S). Summary of relevant facts in 2024

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). 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

53 (S). Summary of relevant facts in 2024

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 (MS). Entering premises should be authorised by the judiciary. Judicial supervision of the search should be available at all times. *

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

54 (S). Summary of relevant facts in 2024

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). 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

55 (BP). Evidence obtained as a result of a search that was not authorised by the judiciary *
should not be admissible.

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

55 (S). Summary of relevant facts in 2024

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). 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

56 (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

56 (S). Summary of relevant facts in 2024

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 (BP). Access to bank information for tax purposes (including automatically-supplied * information) should require judicial authorisation.

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

57 (S). Summary of relevant facts in 2024

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.

58 (MS). Authorisation by the judiciary should be necessary for the interception of telephone communications and monitoring of internet access. *

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

58 (BP). Specialised offices within the judiciary should be established to supervise the interception of telephone communications and monitoring of internet access. *

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

58 (S). Summary of relevant facts in 2024

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.

59 (MS). Seizure of documents or data held on computer drives should be subject to a requirement to give reasons why seizure is indispensable, and to fix the time when the documents and data will be returned; seizure should be limited in time. *

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

59 (S). Summary of relevant facts in 2024

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). 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

60 (S). Summary of relevant facts in 2024

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 (BP). If digital data is copied or removed, it should be done in a way that does not prevent or affect the normal operations of the electronic information system. *

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

61 (S). Summary of relevant facts in 2024

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.

62 (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

62 (S). Summary of relevant facts in 2024

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 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.

63 (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

63 (S). Summary of relevant facts in 2024

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

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

64 (BP). Taxpayers may have an alternative of taking an appeal to an arbitration tribunal in place of the tax courts. *

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

64 (S). Summary of relevant facts in 2024

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 (MS). Taxpayers should have a remedy to accelerate or terminate (including through reference to mediation or ADR) reviews and appeals in cases of excessive delay. *

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

65 (BP). Reviews and appeals should not exceed two years. *

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

65 (S). Summary of relevant facts in 2024

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). Audi alteram partem should apply in administrative reviews and judicial appeals. *

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

66 (BP). The review or appeal of tax decisions should not place on the taxpayer an excessive or impossible burden of evidence. This should apply, in particular, where the burden is on the taxpayer to prove a negative (e.g. to prove the absence of motive) or to prove facts that occurred significantly in the past (e.g. more than 10 years previously).

*

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

66 (S). Summary of relevant facts in 2024

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.

67 (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

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

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

67 (S). Summary of relevant facts in 2024

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

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

68 (S). Summary of relevant facts in 2024

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

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

69 (S). Summary of relevant facts in 2024

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

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

70 (S). Summary of relevant facts in 2024

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 (MS). Taxpayers should have the right to request an online hearing or to object to an online hearing. *

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

71 (MS). Tax judgments should be published. *

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

71 (BP). If tax judgments are published, the taxpayer should be able to ensure anonymity (or at least the removal of confidential information). *

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

71 (S). Summary of relevant facts in 2024

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 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.

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

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

72 (BP). The cumulative effect of penalties, interest and surcharges should not exceed the amount of tax due (and should only reach this amount in cases of the most serious violations). *

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

72 (S). Summary of relevant facts in 2024

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

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

73 (S). Summary of relevant facts in 2024

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

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

74 (S). Summary of relevant facts in 2024

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

*

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

75 (S). Summary of relevant facts in 2024

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.

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

☒ No changes

☐ Shifted away

☐ Shifted towards

76 (S). Summary of relevant facts in 2024

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

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

77 (S). Summary of relevant facts in 2024

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.

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

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

78 (S). Summary of relevant facts in 2024

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.

79 (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

79 (S). Summary of relevant facts in 2024

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.

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

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

80 (S). Summary of relevant facts in 2024

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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.

81 (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

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

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

81 (S). Summary of relevant facts in 2024

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). The taxpayer should have a right to bring a legal challenge to test the legality of the request for exchange of information. *

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

82 (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

82 (S). Summary of relevant facts in 2024

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

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

83 (S). Summary of relevant facts in 2024

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.

84 (MS). If information is sought from third parties, judicial authorisation should be *
necessary and the third party should have a right to bring a legal challenge to test the legality
of the request for exchange of information (on the same grounds as the taxpayer).

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

84 (S). Summary of relevant facts in 2024

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 (MS). In the case of exchange of information on request, the taxpayer should be given access to information received by the requesting state (unless there are good justifications for not doing so). *

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

85 (S). Summary of relevant facts in 2024

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). 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

86 (S). Summary of relevant facts in 2024

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.

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

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

87 (S). Summary of relevant facts in 2024

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.

88 (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

88 (S). Summary of relevant facts in 2024

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.

89 (MS). In the event of a leak of confidential information or data held by the tax authority of a requesting state, all exchange of information with that state should be suspended until verifiable evidence has been provided that the cause of the leak has been permanently rectified. *

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

89 (S). Summary of relevant facts in 2024

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.

90 (MS). Data protection safeguards should apply to all exchanges of information. *

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

90 (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

90 (S). Summary of relevant facts in 2024

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.

91 (MS). The taxpayer should be notified of an exchange of information and given sufficient time to exercise data protection rights (including the right to correct inaccurate data). *

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

91 (S). Summary of relevant facts in 2024

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.

92 (MS). Time limits should apply to the retention of data that is exchanged (and the data should be destroyed or anonymously archived within this time limit). *

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

92 (S). Summary of relevant facts in 2024

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.

93 (MS). No exchange of information should be permitted with respect to any state if it is reasonably foreseeable that the recipient state will use the data in a way that is repressive or that would undermine the protection of fundamental rights. *

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

93 (BP). No exchange of information should be permitted with respect to any state if that state does not guarantee adequate data protection in its law and in practice. *

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

93 (S). Summary of relevant facts in 2024

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.

94 (MS). Taxpayers should have a right to request initiation of mutual agreement procedure. *

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

94. (BP). Where mutual agreement procedure (or arbitration following mutual agreement procedure) reaches a solution or fails to reach a solution, the taxpayer should be given a statement of reasons how that solution was reached (or why no solution was reached). *

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

94 (S). Summary of relevant facts in 2024

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.

95 (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

95 (S). Summary of relevant facts in 2024

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.

96 (MS). Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail (and that respect the rule of law and the principle of legitimate expectation). *

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

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

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

96 (S). Summary of relevant facts in 2024

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 additional corporate income tax applied retrospectively on exempt income in 2023 after the earthquakes occurred in the eastern part of Türkiye on 6 February 2023 was found to be constitutional by the Constitutional Court (E.23/169, K.24/82, 14.03.2024, Official Gazette of 19.04.2024). According to the court, in case of extraordinary events like wise natural disasters that have negative impact on the economy may justify a retrospective tax legislation provided that the imposition is proportional.

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

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

97 (S). Summary of relevant facts in 2024

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.

98 (MS). All tax legislation should be reviewed on a regular basis to ensure that it supports the gradual realisation of the rights set out in the International Covenant on Economic Social and Cultural rights. *

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

98 (S). Summary of relevant facts in 2024

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.

99 (MS). All tax legislation should be reviewed on a regular basis to ensure that it is consistent with the realisation of the UN Sustainable Development Goals.

*

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

99 (S). Summary of relevant facts in 2024

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 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.

100 (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

100 (S). Summary of relevant facts in 2024

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.

101 (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

101 (S). Summary of relevant facts in 2024

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.

102 (MS). Where a state has a system of advance rulings, they should be binding on the tax authorities (unless based on an incorrect presentation of the relevant circumstances). *

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

102 (S). Summary of relevant facts in 2024

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.

103 (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

103 (S). Summary of relevant facts in 2024

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 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.

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

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

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

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

104 (S). Summary of relevant facts in 2024

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.

105 (BP). A charter or statement of taxpayers' rights should be legally enforceable. *

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

105 (S). Summary of relevant facts in 2024

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.

106 (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

106 (S). Summary of relevant facts in 2024

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.

107 (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

107 (S). Summary of relevant facts in 2024

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 13 - Artificial intelligence / Automated analytical systems

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.

108 (MS). All taxpayers who are subject to a tax compliance procedure that involves artificial intelligence or automated analytical systems should be informed that such procedures will be applied. *

☐ No changes

☐ Shifted away

☒ Shifted towards

108 (S). Summary of relevant facts in 2024

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.

On 8.4.2024, the Ministry of Finance has released to public that the project on AI use in VAT audits has been completed. However, this information is a general one and there has been no legislative background or initiative that a specific taxpayer shall be informed about the AI usage in case of audit.

109 (MS). All communications between a tax authority and a taxpayer that employ artificial intelligence / automated analytical systems (e.g. via “chatbots” or automated correspondence) should state whether the tax authority is represented only by a machine or whether there is (or has been) human intervention. *

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

109 (S). Summary of relevant facts in 2024

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.

110 (MS). Where any decision relating to tax administration has been taken in respect of a taxpayer by the use of artificial intelligence / automated analytical systems, the taxpayer should be informed of that fact together with basic details of the procedure that has been applied. *

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

110 (BP). Where any decision relating to tax administration has been taken in respect of a taxpayer by the use of artificial intelligence / automated analytical systems, the taxpayer should be given full details of the criteria and algorithms that were used to reach that decision. *

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

110 (S). Summary of relevant facts in 2024

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.

111 (BP). Tax authorities should publish details of the types of artificial intelligence / automated analytical systems employed by the revenue authority with specific details about the purposes for which the artificial intelligence / automated analytical systems are being used. *

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

111 (S). Summary of relevant facts in 2024

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.

112 (BP). Where a system exists for voluntary registration of artificial intelligence / automated analytical systems tools or algorithms the tax authority should register all such tools and algorithms it employs. *

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

112 (S). Summary of relevant facts in 2024

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.

113 (MS). No decisions that may have a significant impact on a taxpayer may be taken exclusively by artificial intelligence/automated analytical systems. All decisions affecting a taxpayer should be overseen by a suitably qualified individual before the decision is notified. This applies both to decisions by the tax authorities and by judicial authorities. *

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

113 (BP). No decisions impacting a taxpayer should be taken exclusively by artificial intelligence / automated analytical systems. All decisions affecting a taxpayer should be overseen by a suitably qualified individual before the decision is notified. This applies both to decisions by the tax authorities (in connection with audits and reviews) and by judicial authorities. *

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

113 (S). Summary of relevant facts in 2024

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.

114 (MS). When an audit (or a more intense audit) employs any material generated by artificial intelligence / automated analytical systems, the material generated should be made available to taxpayers and their advisers, together with an explanation of how the material was derived by artificial intelligence / automated analytical systems. The taxpayer's legal remedies should be effective against unlawful or inaccurate use of artificial intelligence / automated analytical systems. *

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

114 (BP). Where artificial intelligence / automated analytical systems are to be employed by a tax authority (e.g. to identify under-declarations or evasion of tax), any taxpayers who may be impacted (which may include all taxpayers) should be given prior warning of the proposed action and given an opportunity to make voluntary disclosure (without any additional potential penalty). *

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

114 (S). Summary of relevant facts in 2024

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.

115 (MS). All revenue authorities should publish guidance notes explaining the ways in which they use artificial intelligence / automated analytical systems in connection with tax compliance and administration, together with guidelines for the use of those procedures and points of contact for taxpayers who have questions or concerns about those procedures. *

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

115 (S). Summary of relevant facts in 2024

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.

116 (MS). Algorithms used by tax authorities should not use criteria that are foreseeably likely to have a discriminatory or distortive or disproportionate effect on the decisions taken as a consequence of the use of those algorithms. *

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

116 (S). Summary of relevant facts in 2024

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.

117 (MS). Where the use of artificial intelligence / automated analytical systems by a tax authority risks infringing any fundamental rights (e.g. the right to privacy) additional safeguards for those should be required. *

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

117 (S). Summary of relevant facts in 2024

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.

118 (MS). All tax administrations should appoint a senior official with overriding responsibility *
for the use of artificial intelligence / automated analytical systems in tax administration by
that tax authority.

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

118 (S). Summary of relevant facts in 2024

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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Dear Cristian,

Regarding your request, see below:

- In questionnaire 2, under question 97 you refer to “Constitutional Court (E.23/169, K.24/82, 14.03.2024, Official Gazette of 19.04.2024)”, and we were wondering if you could provide us with a document of that case (either a PDF or a URL)?

<https://normkararlarbilgibankasi.anayasa.gov.tr/ND/2024/82?EsasNo=2023%2F169>

See also the attached file.

- In questionnaire 2, under question 108 you report that “On 8.4.2024, the Ministry of Finance has released to the public that the project on AI use in VAT audits has been completed.” We were wondering if there is any source you could provide that substantiates this claim (e.g. a legislative change, court case) that we could include in the report, so that this becomes accessible for readers through this corroborating evidence?

No, I cannot provide such a source. The info appeared only in the press. See the link below:

<https://aitrends.com.tr/mehmet-simsek-duyurdu-kdv-istismarina-karsi-yapay-zeka-destekli-denetim/>

Have a nice weekend.

Best,

Billur

Dear National Reporter of Türkiye, (dear Prof. Yalti)

I hope this email finds you well. Once again, thank you very much for completing the questionnaires.

The OPTR Scientific Coordinator reviewed your responses, and he still requests some extra information regarding some of your answers.

- In questionnaire 2, under question 97 you refer to “Constitutional Court (E.23/169, K.24/82, 14.03.2024, Official Gazette of 19.04.2024)”, and we were wondering if you could provide us with a document of that case (either a PDF or a URL)?
- In questionnaire 2, under question 108 you report that “On 8.4.2024, the Ministry of Finance has released to public that the project on AI use in VAT audits has been completed.” We were wondering if there is any source you could provide that substantiates this claim (e.g. a legislative change, court case) that we could include in the report, so that this becomes accessible for readers through this corroborating evidence?

We wait to hear from you at your earliest convenience. Thanks a lot in advance for your feedback.

Kind regards,

Cristian San Felipe Maestre | Project Coordinator

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ANAYASA MAHKEMESİ KARARI

Esas Sayısı : 2023/169

Karar Sayısı : 2024/82

Karar Tarihi : 14/3/2024

R.G.Tarih-Sayı : 19/4/2024-32522

İTİRAZ YOLUNA BAŞVURAN: İstanbul 1. Vergi Mahkemesi

İTİRAZIN KONUSU: 9/3/2023 tarihli ve 7440 sayılı Bazı Alacakların Yeniden Yapılandırılması ile Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun'un 10. maddesinin (27) numaralı fıkrasının Anayasa'nın 13., 35. ve 73. maddelerine aykırı olduğu ileri sürülerek iptaline karar verilmesi talebidir.

OLAY: Davacı tarafından ihtirazi kayıtla verilen kurumlar vergisi beyannamesinde tahakkuk ettirilen ek verginin iptali talebiyle açılan davada itiraz konusu kuralın Anayasa'ya aykırı olduğu kanısına varan Mahkeme, iptali için başvurmuştur.

I. İPTALİ İSTENEN VE İLGİLİ GÖRÜLEN KANUN HÜKÜMLERİ

A. İptali İstenen Kanun Hükmü

Kanun'un 10. maddesinin itiraz konusu (27) numaralı fıkrası şöyledir:

“(27) Kurumlar vergisi mükellefleri tarafından, 2022 yılına ilişkin kurumlar vergisi beyannamesinde gösterilmek suretiyle, 5520 sayılı Kanun ile diğer kanunlarda yer alan düzenlemeler uyarınca kurum kazancından indirim konusu yapılan istisna ve indirim tutarları ile aynı Kanunun 32/A maddesi kapsamında indirimli kurumlar vergisine tabi matrahları üzerinden, dönem kazancı ile ilişkilendirilmeksizin %10 oranında, 5520 sayılı Kanunun 5 inci maddesinin birinci fıkrasının (a) bendinde düzenlenen istisna ile yurt dışından elde edilen ve en az %15 oranında vergi yükü taşıdığı tevsik edilen istisna kazançlar üzerinden ise %5 oranında ek vergi hesaplanır ve bu verginin ilk taksiti kurumlar vergisinin ödeme süresi içinde, ikinci taksiti bu süreyi takip eden dördüncü ayda ödenir. Özel hesap dönemi tayin edilen mükelleflerde bu vergi, 2023 yılı içinde sona eren hesap dönemi için verilmesi gereken beyannamelerde gösterilmek suretiyle uygulanır. Bu vergi gider ve indirim olarak dikkate alınamaz ve hiçbir vergiden mahsup edilemez. Şu kadar ki 5520 sayılı Kanunun 5 inci maddesinin birinci fıkrasının; (d), (i), (j) ve (k) bentleri ile geçici 14 üncü maddesi kapsamındaki istisnalar, aynı Kanunun 10 uncu maddesinin birinci fıkrasının; (b), (c), (ç), (d), (e), (f), (g) ve (h) bentleri kapsamındaki indirimler, 193 sayılı Kanunun geçici 61 inci maddesi kapsamında tevkifata tabi yatırım indirimi istisnası, ilgili kanunları uyarınca kurum kazancından indirilebilen bağış ve yardımlar ile 10/7/2018 tarihli ve 1 sayılı Cumhurbaşkanlığı Teşkilatı Hakkında Cumhurbaşkanlığı Kararnamesinin 407 nci maddesi kapsamında tanımlanan mikro ve küçük işletmelerin teknoloji geliştirme bölgeleri ile Ar-ge ve tasarım merkezlerinden elde ettikleri istisnaya ve indirime konu kazançları üzerinden bu vergi hesaplanmaz. 6/2/2023 tarihi itibarıyla, Adana, Adıyaman, Diyarbakır, Elazığ, Gaziantep, Hatay, Kahramanmaraş, Kilis, Malatya, Osmaniye ve Şanlıurfa illeri ile Sivas İlinin Gürün İlçesinde kurumlar vergisi mükellefiyeti bulunanlar ek vergiden muaftır. Tahsil edilen ek vergi, genel bütçe geliri olarak kaydedilir ve 5779 sayılı Kanun ile diğer kanunlara göre mahalli idarelere verilecek payların hesabında dikkate alınmaz. Bu fıkranın uygulanmasına ilişkin usul ve esaslar Hazine ve Maliye Bakanlığınca belirlenir.”

B. İlgili Görülen Kanun Hükmü

13/6/2006 tarihli ve 5520 sayılı Kurumlar Vergisi Kanunu'nun 10. maddesinin (1) numaralı fıkrasının ilgili kısmı şöyledir:

“Diğer indirimler

MADDE 10- (1) Kurumlar vergisi matrahının tespitinde; kurumlar vergisi beyannamesi üzerinde ayrıca gösterilmek şartıyla, kurum kazancından sırasıyla aşağıdaki indirimler yapılır:

a) (Mülga: 15/7/2016-6728/58 md.)

b) 21/5/1986 tarihli ve 3289 sayılı Gençlik ve Spor Genel Müdürlüğünün Teşkilat ve Görevleri Hakkında Kanun ile 17/6/1992 tarihli ve 3813 sayılı Türkiye Futbol Federasyonu Kuruluş ve Görevleri Hakkında Kanun kapsamında yapılan sponsorluk harcamalarının sözü edilen kanunlar uyarınca tespit edilen amatör spor dalları için tamamı, profesyonel spor dalları için % 50'si.

c) Genel ve özel bütçeli kamu idarelerine, il özel idarelerine, belediyelere ve köylere, Cumhurbaşkanınca vergi muafiyeti tanınan vakıflara ve kamu yararına çalışan dernekler ile bilimsel araştırma ve geliştirme faaliyetinde bulunan kurum ve kuruluşlara makbuz karşılığında yapılan bağış ve yardımların toplamının o yıla ait kurum kazancının % 5'ine kadar olan kısmı.

ç) (c) bendinde sayılan kamu kurum ve kuruluşlarına bağışlanan okul, sağlık tesisi, 100 yatak (kalkınmada öncelikli yörelerde 50 yatak) kapasitesinden az olmamak kaydıyla öğrenci yurdu ile çocuk yuvası, yetiştirme yurdu, huzurevi ve bakım ve rehabilitasyon merkezi ile mülki idare amirlerinin izni ve denetimine tabi olarak yaptırılacak ibadethaneler ve Diyanet İşleri Başkanlığı denetiminde yaygın din eğitimi verilen tesislerin ve Gençlik ve Spor Bakanlığına ait gençlik merkezleri ile gençlik ve izcilik kamplarının inşası dolayısıyla yapılan harcamalar veya bu tesislerin inşası için bu kuruluşlara yapılan her türlü bağış ve yardımlar ile mevcut tesislerin faaliyetlerini devam ettirebilmeleri için yapılan her türlü nakdî ve aynî bağış ve yardımların tamamı.

d) Genel ve özel bütçeli kamu idareleri, il özel idareleri, belediyeler ve köyler, Cumhurbaşkanınca vergi muafiyeti tanınan vakıflar ve kamu yararına çalışan dernekler ile bilimsel araştırma ve geliştirme faaliyetinde bulunan kurum ve kuruluşlar tarafından yapılan veya Kültür ve Turizm Bakanlığınca desteklenen ya da desteklenmesi uygun görülen;

1) Kültür ve sanat faaliyetlerine ilişkin ticarî olmayan ulusal veya uluslararası organizasyonların gerçekleştirilmesine,

2) Ülkemizin uygarlık birikiminin kültürü, sanatı, tarihi, edebiyatı, mimarîsi ve somut olmayan kültürel mirası ile ilgili veya ülke tanıtımına yönelik kitap, katalog, broşür, film, kaset, CD ve DVD gibi manyetik, elektronik ve bilişim teknolojisi yoluyla üretilenler de dahil olmak üzere görsel, işitsel veya basılı materyallerin hazırlanması, bunlarla ilgili derleme ve araştırmaların yayınlanması, yurt içinde ve yurt dışında dağıtımı ve tanıtımının sağlanmasına,

3) Yazma ve nadir eserlerin korunması ve elektronik ortama aktarılması ile bu eserlerin Kültür ve Turizm Bakanlığı koleksiyonuna kazandırılmasına,

4) 21/7/1983 tarihli ve 2863 sayılı Kültür ve Tabiat Varlıklarını Koruma Kanunu kapsamındaki taşınmaz kültür varlıklarının bakımı, onarımı, yaşatılması, rölöve, restorasyon, restitüsyon projeleri yapılması ve nakil işlerine,

5) Kurtarma kazıları, bilimsel kazı çalışmaları ve yüzey araştırmalarına,

6) Yurt dışındaki taşınmaz Türk kültür varlıklarının yerinde korunması veya ülkemize ait kültür varlıklarının Türkiye'ye getirilmesi çalışmalarına,

7) Kültür envanterinin oluşturulması çalışmalarına,

8) Kültür ve Tabiat Varlıklarını Koruma Kanunu kapsamındaki taşınır kültür varlıkları ile güzel sanatlar, çağdaş ve geleneksel el sanatları alanlarındaki ürün ve eserlerin Kültür ve Turizm Bakanlığı koleksiyonuna kazandırılması ve güvenliklerinin sağlanmasına,

9) Somut olmayan kültürel miras, güzel sanatlar, sinema, çağdaş ve geleneksel el sanatları alanlarındaki üretim ve faaliyetler ile bu alanlarda araştırma, eğitim veya uygulama merkezleri, atölye, stüdyo ve film platosu kurulması, bakım ve onarımı, her türlü araç ve teçhizatının tedariki ile film yapımına,

10) Kütüphane, müze, sanat galerisi ve kültür merkezi ile sinema, tiyatro, opera, bale ve konser gibi kültür ve sanat faaliyetlerinin sergilendiği tesislerin yapımı, onarımı veya modernizasyon çalışmalarına,

ilişkin harcamalar ile makbuz karşılığı yapılan bağış ve yardımların % 100'ü...

e) (Değişik: 10/9/2014-6552/92 md.) Cumhurbaşkanınca başlatılan yardım kampanyalarına makbuz karşılığı yapılan aynı ve nakdi bağışların tamamı.

f) (Ek: 16/6/2009-5904/5 md.) İktisadi işletmeleri hariç, Türkiye Kızılay Derneğine ve Türkiye Yeşilay Cemiyetine makbuz karşılığı yapılan nakdi bağış veya yardımların tamamı.

g) (Ek: 31/5/2012-6322/36 md.) 213 sayılı Vergi Usul Kanununun 325/A maddesine göre girişim sermayesi fonu olarak ayrılan tutarların beyan edilen gelirin %10'unu aşmayan kısmı.

ğ) (Ek: 31/5/2012-6322/36 md.) Türkiye'de yerleşmiş olmayan kişilerle, işyeri, kanuni ve iş merkezi yurt dışında bulunanlara Türkiye'de verilen ve münhasıran yurt dışında yararlanılan mimarlık, mühendislik, tasarım, yazılım, tıbbi raporlama, muhasebe kaydı tutma, çağrı merkezi, ürün testi, sertifikasyon, veri saklama, veri işleme, veri analizi ve ilgili bakanlıkların görüşü alınmak suretiyle Maliye Bakanlığınca belirlenen mesleki eğitim alanlarında faaliyette bulunan hizmet işletmeleri ile ilgili bakanlığın izni ve denetimine tabi olarak eğitim ve sağlık alanında faaliyet gösteren ve Türkiye'de yerleşmiş olmayan kişilere hizmet veren işletmelerin münhasıran bu faaliyetlerinden elde ettikleri kazancın, elde edildiği hesap dönemine ilişkin kurumlar vergisi beyannamesinin verilmesi gereken tarihe kadar tamamının Türkiye'ye transfer edilmesi şartıyla, %80'i.

...

h) (Ek: 6/2/2014-6518/83 md.) 1/7/2005 tarihli ve 5378 sayılı Engelliler Hakkında Kanuna göre kurulan korumalı işyerlerinde istihdam edilen ve iş gücü piyasasına kazandırılmaları güç olan zihinsel veya ruhsal engelli çalışanlar için diğer kişi ve kurumlarca karşılanan tutar dâhil yapılan ücret ödemelerinin yıllık brüt tutarının % 100'ü oranında korumalı işyeri indirimi (İndirim, her bir engelli çalışan için azami beş yıl süre ile uygulanır ve yıllık olarak indirilecek tutar, her bir engelli çalışan için asgari ücretin yıllık brüt tutarının % 150'sini aşamaz.)...

ı) (Ek: 27/3/2015-6637/8 md.)[24] Finans, bankacılık ve sigortacılık sektörlerinde faaliyet gösteren kurumlar ile kamu iktisadi teşebbüsleri hariç olmak üzere sermaye şirketlerinin ilgili hesap dönemi içinde, ticaret siciline tescil edilmiş olan ödenmiş veya çıkarılmış sermaye tutarlarındaki nakdi sermaye artışları veya yeni kurulan sermaye şirketlerinde ödenmiş sermayenin nakit olarak

karşılanan kısmı üzerinden Türkiye Cumhuriyet Merkez Bankası tarafından indirimden yararlanan yıl için en son açıklanan “Bankalarca açılan TL cinsinden ticari kredilere uygulanan ağırlıklı yıllık ortalama faiz oranı” dikkate alınarak, ilgili hesap döneminin sonuna kadar hesaplanan tutarın %50’si.

(Ek ikinci paragraf:14/10/2021-7338/59 md.) Nakdi sermaye artışlarının, yurt dışından getirilen nakitle karşılanan kısmı için bu oran %75 olarak uygulanır.

...

i) (Ek: 16/11/2022-7421/20 md.) 22/6/2022 tarihli ve 7412 sayılı İstanbul Finans Merkezi Kanunu hükümlerine göre katılımcı belgesi alarak İstanbul Finans Merkezi Bölgesinde faaliyette bulunan kurumların, münhasıran bu faaliyet kapsamında yurt dışından satın alınan malları Türkiye’ye getirilmeksizin yurt dışında satmalarından veya yurt dışında gerçekleşen mal alım satımlarına aracılık etmelerinden sağladıkları kazancın %50’si,

...”

II. İLK İNCELEME

1. Anayasa Mahkemesi İçtüzüğü hükümleri uyarınca Zühtü ARSLAN, Hasan Tahsin GÖKCAN, Engin YILDIRIM, Muammer TOPAL, M. Emin KUZ, Rıdvan GÜLEÇ, Yusuf Şevki HAKYEMEZ, Yıldız SEFERİNOĞLU, Selahaddin MENTEŞ, Basri BAĞCI, İrfan FİDAN, Kenan YAŞAR ve Muhterem İNCE’nin katılımlarıyla 30/11/2023 tarihinde yapılan ilk inceleme toplantısında dosyada eksiklik bulunmadığından işin esasının incelenmesine OYBİRLİĞİYLE karar verilmiştir.

III. ESASIN İNCELENMESİ

2. Başvuru kararı ve ekleri, Raportör Cem GÜNDOĞDU tarafından hazırlanan işin esasına ilişkin rapor, itiraz konusu ve ilgili görülen kanun hükümleri, dayanan ve ilgili görülen Anayasa kuralları ve bunların gerekçeleri ile diğer yasama belgeleri okunup incelendikten sonra gereği görüşülüp düşünüldü:

A. Uygulanacak Kural ve Sınırlama Sorunu

3. Anayasa’nın 152. ile 30/3/2011 tarihli ve 6216 sayılı Anayasa Mahkemesinin Kuruluşu ve Yargılama Usulleri Hakkında Kanun’un 40. maddelerine göre bir davaya bakmakta olan mahkeme, o dava sebebiyle uygulanacak bir kanunun veya Cumhurbaşkanlığı kararnamesinin hükümlerini Anayasa’ya aykırı görmesi hâlinde veya taraflardan birinin ileri sürdüğü aykırılık iddiasının ciddi olduğu kanısına varması durumunda bu hükümlerin iptalleri için Anayasa Mahkemesine başvurmaya yetkilidir. Ancak anılan maddeler uyarınca bir mahkemenin Anayasa Mahkemesine başvurabilmesi için elinde yöntemince açılmış ve mahkemenin görevine giren bir davanın bulunması, iptali talep edilen kuralın da o davada uygulanacak olması gerekir. Uygulanacak kural ise bakılmakta olan davanın değişik evrelerinde ortaya çıkan sorunların çözümünde veya davayı sonuçlandırmada olumlu ya da olumsuz yönde etki yapacak nitelikte olan kurallardır.

4. Başvuru kararında 7440 sayılı Kanun’un 10. maddesinin (27) numaralı fıkrasının iptali talep edilmiştir. Söz konusu fıkra kurumlar vergisi mükelleflerine yönelik olarak öngörülen ek vergi ile bu ek verginin oranlarını ve tahsil usulünü düzenlemektedir. Ayrıca aynı fıkroda ek vergiye tabi olmayacak istisna ve indirim unsurları ile mükellefler belirtilmiş ve tahsil edilen ek verginin genel bütçeye dâhil edileceği öngörülmüştür.

5. Bakılmakta olan davanın konusu ise 5520 sayılı Kanun'un 10. maddesinin (1) numaralı fıkrasının (1) bendi gereğince kurum kazancından indirilen tutar üzerinden %10 oranında hesaplanan ek vergidir. Bu itibarla anılan fıkranın birinci cümlesinde yer alan "...ile diğer kanunlarda yer alan düzenlemeler...", "...istisna ve...", "...ile aynı Kanunun 32/A maddesi kapsamında indirimli kurumlar vergisine tabi matrahları..." ve "...5520 sayılı Kanunun 5 inci maddesinin birinci fıkrasının (a) bendinde düzenlenen istisna ile yurt dışından elde edilen ve en az %15 oranında vergi yükü taşıdığı tevsik edilen istisna kazançlar üzerinden ise %5 oranında..." ibareleri ile ikinci, üçüncü, dördüncü, beşinci, altıncı ve yedinci cümlelerinin itiraz başvurusunda bulunan Mahkemenin bakmakta olduğu davada uygulanma imkânı bulunmamaktadır. Bu nedenle anılan ibareler ve cümlelere ilişkin başvurunun Mahkemenin yetkisizliği nedeniyle reddi gerekir.

6. Öte yandan söz konusu birinci cümlelerin kalan kısmı bakılmakta olan davanın konusunun yanı sıra bakılmakta olan davada uygulanma imkânı bulunmayan "...ile diğer kanunlarda yer alan düzenlemeler...", "...istisna ve...", "...ile aynı Kanunun 32/A maddesi kapsamında indirimli kurumlar vergisine tabi matrahları..." ve "...5520 sayılı Kanunun 5 inci maddesinin birinci fıkrasının (a) bendinde düzenlenen istisna ile yurt dışından elde edilen ve en az %15 oranında vergi yükü taşıdığı tevsik edilen istisna kazançlar üzerinden ise %5 oranında..." ibareleri yönünden de geçerli ortak kural niteliğindedir. Bu nedenle birinci cümlelerin kalan kısmının esasına ilişkin incelemenin bakılmakta olan davanın konusu gözetilerek "...5520 sayılı Kanun..." ibaresi ile sınırlı olarak yapılması gerekir.

B. Anlam ve Kapsam

7. 5520 sayılı Kanun'un İkinci Kısmı'nın Birinci Bölümü'nde kurumlar vergisi matrahının belirlenme usulüne ilişkin hususlara yer verilmiştir. Anılan bölümde yer alan "*Diğer indirimler*" başlıklı 10. maddede de kurumlar vergisi matrahının tespitinde, kurumlar vergisi beyannamesinde ayrıca gösterilmek şartıyla, bazı kurum kazançlarından çeşitli oranlarda indirim yapılması öngörülmektedir.

8. İtiraz konusu kuralda ise 2022 yılına ilişkin kurumlar vergisi beyannamesinde gösterilmek suretiyle 5520 sayılı Kanun uyarınca kurum kazancından indirim konusu yapılan tutarlar üzerinden dönem kazancı ile ilişkilendirilmeksizin %10 oranında ek verginin hesaplanacağı belirtilmektedir. 7440 sayılı Kanun'un (27) numaralı fıkrasının dördüncü cümlesinde de 5520 sayılı Kanun'un 10. maddesinin (1) numaralı fıkrasının (b), (c), (ç), (d), (e), (f), (g) ve (h) bentleri kapsamındaki indirime konu tutarlar üzerinden bu verginin hesaplanmayacağı hükme bağlanmıştır.

9. Üzerinden ek vergi hesaplanmayacağı belirtilen indirim unsurları dışında kalan bentler incelendiğinde, ek vergiye tabi olan tutarlardan ilkinin 5520 sayılı Kanun'un 10. maddesinin (1) numaralı fıkrasının (a) bendi kapsamındaki Ar-Ge indirimi tutarlarının oluşturduğu anlaşılmaktadır. Anılan bent 15/7/2016 tarihli ve 6728 sayılı Kanun'un 58. maddesiyle yürürlükten kaldırılmıştır. Söz konusu bendin yürürlükten kaldırılmadan önceki hâline göre mükelleflerin, işletmelerin bünyesinde gerçekleştirdikleri münhasıran yeni teknoloji ve bilgi arayışına yönelik araştırma ve geliştirme harcamaları tutarının %40'ı oranında hesaplanacak Ar-Ge indirimi kurumlar vergisi matrahının tespitinde kurum kazancından indirilmekte ve matrahın yetersiz olması nedeniyle indirilemeyen tutar da sonraki döneme devredebilmekteydi. Bu itibarla bendin yürürlükte olduğu dönem itibarıyla indirim konusu olan anılan meblağ ek vergiye tabi olacaktır.

10. Ek vergiye tabi diğer bir indirim tutarı ise söz konusu fıkranın (ğ) bendine göre bulunan tutardır. Anılan bende göre Türkiye'de yerleşmiş olmayan kişilerle, işyeri, kanuni ve iş merkezi yurt dışında bulunanlara Türkiye'de verilen ve münhasıran yurt dışında yararlanılan mimarlık, mühendislik, tasarım, yazılım, tıbbi raporlama, muhasebe kaydı tutma, çağrı merkezi, ürün testi,

sertifikasyon, veri saklama, veri işleme, veri analizi ve ilgili bakanlıkların görüşü alınmak suretiyle Hazine ve Maliye Bakanlığınca belirlenen mesleki eğitim alanlarında faaliyette bulunan hizmet işletmeleri ile ilgili bakanlığın izni ve denetimine tabi olarak eğitim ve sağlık alanında faaliyet gösteren ve Türkiye’de yerleşmiş olmayan kişilere hizmet veren işletmelerin münhasıran bu faaliyetlerinden elde ettikleri kazancın, elde edildiği hesap dönemine ilişkin kurumlar vergisi beyannamesinin verilmesi gereken tarihe kadar tamamının Türkiye’ye transfer edilmesi şartıyla %80’i kurum kazancından indirilebilecektir.

11. Yine (1) bendinde finans, bankacılık ve sigortacılık sektörlerinde faaliyet gösteren kurumlar ile kamu iktisadi teşebbüsleri hariç olmak üzere sermaye şirketlerinin ilgili hesap dönemi içinde, ticaret siciline tescil edilmiş olan ödenmiş veya çıkarılmış sermaye tutarlarındaki nakdi sermaye artışları veya yeni kurulan sermaye şirketlerinde ödenmiş sermayenin nakit olarak karşılanan kısmı üzerinden Türkiye Cumhuriyet Merkez Bankası tarafından indirimden yararlanan yıl için en son açıklanan *Bankalarca açılan TL cinsinden ticari kredilere uygulanan ağırlıklı yıllık ortalama faiz oranı* dikkate alınarak ilgili hesap döneminin sonuna kadar hesaplanan tutarın %50’sinin kurum kazancından indirilmesi hükme bağlanmıştır. Bu itibarla indirimde konu anılan meblağ da ek verginin konusunu oluşturacaktır.

12. (i) bendi uyarınca da 22/6/2022 tarihli ve 7412 sayılı İstanbul Finans Merkezi Kanunu hükümlerine göre katılımcı belgesi alarak İstanbul Finans Merkezi Bölgesinde faaliyette bulunan kurumların, münhasıran bu faaliyet kapsamında yurt dışından satın alınan malları Türkiye’ye getirilmeksizin yurt dışında satmalarından veya yurt dışında gerçekleşen mal alım satımlarına aracılık etmelerinden sağladıkları kazancın %50’si indirim konusu yapılabildiğinden bu meblağ da ek vergi hesabında dikkate alınacaktır.

13. Öte yandan 7440 sayılı Kanun’un (27) numaralı fıkrasının beşinci cümlesine göre 6/2/2023 tarihi itibarıyla, Adana, Adıyaman, Diyarbakır, Elâzığ, Gaziantep, Hatay, Kahramanmaraş, Kilis, Malatya, Osmaniye ve Şanlıurfa illeri ile Sivas ilinin Gürün ilçesinde kurumlar vergisi mükellefiyeti bulunanlar ek vergiden muaf tutulmuştur.

C. İtirazın Gerekçesi

14. Başvuru kararında özetle; itiraz konusu kuralla öngörülen ek verginin kurumlar vergisinin mükelleflerinin tamamını değil sadece bazılarını kapsadığı, yapılan vergilendirmede tüm istisna ve indirim unsurlarının dikkate alınmadığı, dolayısıyla vergilendirmede genellik ve eşitlik ilkesine aykırı davranıldığı, ayrıca doğrudan beyannamede yer alan istisna ve indirim tutarları üzerinden vergilendirme yapılmak suretiyle mali güce göre vergilendirme ilkesinin ihlal edildiği, ek vergiye muhatap olacak vergi mükelleflerinin kuralda sayılan illerde kayıtlı olmamakla birlikte faaliyetlerinin bir kısmının veya tamamının bu bölgelere yönelik olabileceğinin gözetilmediği, öte yandan ek vergi ihdas eden kuralın vergiyi doğuran olaydan sonraki bir tarihte yürürlüğe girdiği ve geriye yürütüldüğü belirtilerek kuralın Anayasa’nın 13., 35. ve 73. maddelerine aykırı olduğu ileri sürülmüştür.

Ç. Anayasa’ya Aykırılık Sorunu

15. 6216 sayılı Kanun’un 43. maddesi uyarınca kural, ilgisi nedeniyle Anayasa’nın 2. maddesi yönünden de incelenmiştir.

16. Anayasa’nın anılan maddesinde belirtilen hukuk devleti eylem ve işlemleri hukuka uygun, insan haklarına saygılı, bu hak ve özgürlükleri koruyup güçlendiren, her alanda adil bir hukuk düzeni kurup bunu geliştirerek sürdüren, hukuki güvenliği sağlayan, Anayasa’ya aykırı durum ve tutumlardan kaçınan, hukuk kurallarıyla kendini bağlı sayan ve yargı denetimine açık olan devlettir.

17. Hukuk devletinin ön koşulları arasında yer alan hukuki güvenlik ilkesi kanunların geriye yürütülmemesini de zorunlu kılar. Daha önce tesis edilmiş bulunan işlemlerin doğurduğu hukuki sonuçlarını ortadan kaldıracak şekilde yasama tasarrufunda bulunulması, hukuki güvenlik ilkesine aykırılık oluşturur. “*Kanunların geriye yürümezliği ilkesi*” uyarınca kanunlar, kamu yararı ve kamu düzeninin gerektirmesi, kazanılmış hakların korunması, mali hakların iyileştirilmesi gibi ayrık durumlar dışında ilke olarak yürürlük tarihlerinden sonraki olay, işlem ve eylemlere uygulanmak üzere çıkarılır. Yürürlüğe giren kanunların geçmişe ve kesin nitelik kazanmış hukuksal durumlara etkili olmaması, hukukun genel ilkelerindendir (AYM, E.2018/103, K.2019/4, 13/2/2019, § 15; E.2018/108, K.2019/5, 13/2/2019, § 20).

18. Anayasa Mahkemesinin çeşitli kararlarında, kanunların geriye yürümezliği ilkesi ile ilgili olarak gerçek geriye yürüme ve gerçek olmayan geriye yürüme ayrımı yapılmaktadır. Gerçek geriye yürüme, yeni getirilen kuralın eski kural döneminde tamamlanmış ve hukuki sonuçlarını doğurmuş hukuksal durum, ilişki ve olaylara uygulanmasıdır. Gerçek olmayan geriye yürüme ise yeni getirilen kuralın eski kural yürürlükte iken başlamakla beraber henüz sonuçlanmamış hukuksal durum, ilişki ve olaylara uygulanması anlamına gelmektedir (AYM, E.2016/150, K.2017/179, 28/12/2017, § 310; E.2010/93, K.2012/20, 9/2/2012). Buna göre yeni kuralın eski kural yürürlükte iken başlamakla beraber henüz sonuçlanmamış hukuksal durum, ilişki ve olaylara uygulanması kanunların geriye yürütmesi olarak nitelendirilemez.

19. Anayasa Mahkemesi vergiyle ilgili kanunların geriye yürüdüğü iddiasıyla yapılan başvurularda öncelikle vergiyi doğuran olayın tespitini yapmakta ardından vergiyi doğuran olayın gerçekleşmesinden sonra yapılan düzenlemelerin ilgili döneme etki edecek şekilde uygulanıp uygulanmadığını incelemektedir (AYM, E.2023/105, K.2023/208, 30/11/2023, § 30).

20. 4/1/1961 tarihli ve 213 sayılı Vergi Usul Kanunu’nun “*Vergiye doğuran olay*” başlıklı 19. maddesinde “*Vergi alacağı, vergi kanunlarının vergiyi bağladıkları olayın vukuu veya hukuki durumun tekemmülü ile doğar./ Vergi alacağı mükellef bakımından vergi borcunu teşkil eder.*” denilmektedir.

21. Vergiyi doğuran olay, vergi türlerine göre değişmekle birlikte, ek verginin kapsamına kurumlar vergisi mükellefleri girdiğinden değerlendirmenin bu çerçevede yapılması gerekmektedir.

22. 31/12/1960 tarihli ve 193 sayılı Gelir Vergisi Kanunu’nun 1. maddesinde gerçek kişilerin gelirlerinin gelir vergisine tabi olduğu, gelirin bir gerçek kişinin bir takvim yılı içinde elde ettiği kazanç ve iratların safi tutarından oluştuğu hükme bağlanmıştır. 5520 sayılı Kanun’un “*Safi kurum kazancı*” başlıklı 6. maddesinde “*Kurumlar vergisi, mükelleflerin bir hesap dönemi içinde elde ettikleri safi kurum kazancı üzerinden hesaplanır./ Safi kurum kazancının tespitinde, Gelir Vergisi Kanununun ticarî kazanç hakkındaki hükümleri uygulanır...*” denilmek suretiyle ticari kazançla ilişkin vergiyi doğuran olayın tespitinde 193 sayılı Kanun’a atıfta bulunulmuştur. Anılan Kanun’un 38. maddesinde ise “*Bilanço esasına göre ticari kazanç, teşebbüsteki öz sermayenin hesap dönemi sonunda ve başındaki değerleri arasındaki müspet farktır*” denilmektedir. Buna göre gelir vergisi ve kurumlar vergisinin konusunu oluşturan kazanç açısından vergiyi doğuran olayın tespitinde hesap dönemi sonunun esas alınması gerekmektedir. 213 sayılı Kanun hesap dönemini takvim yılı olarak belirlediğinden hesap döneminin sonu ilke olarak 31 Aralık günüdür. Dolayısıyla kurumlar vergisi açısından vergiyi doğuran olay, mükelleflerin bir takvim yılı itibarıyla öz sermayelerindeki artış miktarı olup bu kazanç 31 Aralık gününde yapılan dönem sonu kapanış kayıtlarıyla ortaya çıkmaktadır (AYM, E.2018/103, K.2019/4, 13/2/2019, § 20).

23. İtiraz konusu kuralın yürürlüğe girdiği tarih itibarıyla kurumlar vergisi hesap döneminin kapandığı ve kapanan hesap dönemine ait indirim tutarlarına yönelik ek verginin öngörüldüğü

anlaşılmaktadır. Bu itibarla kuralın geriye yürütüldüğü söylenebilse de beklenmedik doğal felaketler, savaş ve seferberlik hâli, siyasi, ekonomik ve sosyal krizler gibi toplumu temelden sarsabilecek olaylar nedeniyle yapılacak kanuni düzenlemelerle kanunların geriye yürütülmesinin mümkün olduğunun kabulü gerekir (AYM, E.1999/51, K.2001/63, 28/3/2001; E.2003/73, K.2003/86, 7/10/2003).

24. Anayasa'nın 35. maddesinde "*Herkes, mülkiyet ve miras haklarına sahiptir./ Bu haklar, ancak kamu yararı amacıyla, kanunla sınırlanabilir./ Mülkiyet hakkının kullanılması toplum yararına aykırı olamaz.*" denilmektedir. Anayasa'nın anılan maddesiyle güvenceye bağlanan mülkiyet hakkı, ekonomik değer ifade eden ve parayla değerlendirilebilen her türlü mal varlığı hakkını kapsamaktadır.

25. Mülkiyet hakkı; kişiye başkasının hakkına zarar vermemek ve kanunların koyduğu sınırlamalara uymak şartıyla sahibi olduğu şeyi dilediği gibi kullanma, semerelerinden yararlanma ve üzerinde tasarruf etme imkânı veren bir haktır. Bu bağlamda malikin mülkünü kullanma, semerelerinden yararlanma ve mülkü üzerinde tasarruf etme yetkilerinden herhangi birinin kısıtlanması veya mülkünden yoksun bırakılması mülkiyet hakkına getirilmiş bir sınırlama niteliğindedir (AYM, E.2017/21, K.2020/77, 24/12/2020, § 137).

26. Kuralla 2022 yılına ilişkin kurumlar vergisi beyannamesinde gösterilmek suretiyle 5520 sayılı Kanun uyarınca kurum kazancından indirim konusu yapılan bazı indirim tutarları üzerinden ek vergi hesaplanması öngörülmektedir. Bu itibarla kural, kurumlar vergisi mükelleflerinin ek vergi yüküne maruz kalmasını öngörmek suretiyle mülkiyet hakkına yönelik bir sınırlama oluşturmaktadır.

27. Anayasa'nın 13. maddesinde "*Temel hak ve hürriyetler, özlerine dokunulmaksızın yalnızca Anayasanın ilgili maddelerinde belirtilen sebeplere bağlı olarak ve ancak kanunla sınırlanabilir. Bu sınırlamalar, Anayasanın sözüne ve ruhuna, demokratik toplum düzeninin ve lâik Cumhuriyetin gereklerine ve ölçülülük ilkesine aykırı olamaz.*" denilmektedir. Buna göre temel hak ve özgürlüklere sınırlama getiren düzenlemelerin kanunla yapılması, Anayasa'da öngörülen sınırlama sebebine uygun ve ölçülü olması gerekir.

28. Mülkiyet hakkını sınırlamaya yönelik bir kanuni düzenlemenin şeklen var olması yeterli olmayıp yasal kuralların keyfiliğe izin vermeyecek şekilde belirli, ulaşılabilir ve öngörülebilir düzenlemeler niteliğinde olması gerekir.

29. Esasen temel hak ve özgürlükleri sınırlayan kanunun bu niteliklere sahip olması Anayasa'nın 2. maddesinde güvenceye alınan hukuk devleti ilkesinin de bir gereğidir. Hukuk devletinde kanuni düzenlemelerin hem kişiler hem de idare yönünden herhangi bir duraksamaya ve kuşkuyla yer vermeyecek şekilde açık, net, anlaşılır, uygulanabilir ve nesnel olması, ayrıca kamu otoritelerinin keyfi uygulamalarına karşı koruyucu önlem içermesi gerekir. Kanunda bulunması gereken bu nitelikler hukuki güvenliğin sağlanması bakımından da zorunludur. Zira bu ilke hukuk normlarının öngörülebilir olmasını, bireylerin tüm eylem ve işlemlerinde devlete güven duyabilmesini, devletin de yasal düzenlemelerinde bu güven duygusunu zedeleyici yöntemlerden kaçınmasını gerekli kılar (AYM, E.2015/41, K.2017/98, 4/5/2017, §§ 153, 154). Dolayısıyla Anayasa'nın 13. maddesinde sınırlama ölçütü olarak belirtilen kanunilik, Anayasa'nın 2. maddesinde güvenceye alınan hukuk devleti ilkesi ışığında yorumlanmalıdır.

30. Nitekim Anayasa'nın 73. maddesinin üçüncü fıkrasında da "*Vergi, resim, harç ve benzeri malî yükümlülükler kanunla konulur, değiştirilir veya kaldırılır*" denilerek verginin kanuniliği ilkesi benimsenmiştir. Verginin kanuniliği ilkesi, takdire dayalı keyfi uygulamaları önleyecek sınırlamaların kanunda yer almasını gerektirmekte ve vergi yükümlülüğüne ilişkin düzenlemelerin konulması, değiştirilmesi veya kaldırılmasının kanun ile yapılmasını zorunlu kılmaktadır.

31. Kuralla verginin kapsamındaki indirim tutarlarının ve verginin hesaplanma usulünün herhangi bir tereddüde yer vermeyecek biçimde açık ve net olarak düzenlendiği gözetildiğinde kuralın belirli ve ulaşılabilir nitelikte olduğu ve bu yönüyle kanunilik şartını taşıdığı anlaşılmaktadır.

32. Anayasa'nın 35. maddesinin ikinci fıkrasında mülkiyet hakkının kamu yararı amacıyla sınırlanabileceği belirtilmiştir.

33. Deprem gibi olağanüstü hadiseler nedeniyle oluşan kayıpların giderilmesi ve toplumsal dayanışmanın sağlanması maksadıyla ek vergi yükümlülüğü getirilmesi mümkün olup kuralla ek vergi getirilmesinde kamu yararına yönelik meşru bir amacın olmadığı söylenemez. 6 Şubat 2023 tarihinde yaşanan ve çok sayıda ili etkileyen depremlerin büyüklüğü ve yıkıcı boyutu da dikkate alındığında kuralla güdülen meşru amacın daha belirgin hâle geldiği anlaşılmaktadır (benzer değerlendirme için bkz. AYM, E.2023/131, K.2023/160, 28/9/2023, § 20).

34. Diğer yandan Anayasa'nın 13. maddesinde güvence altına alınan ölçülülük ilkesi *elverişlilik*, *gereklilik* ve *orantılılık* olmak üzere üç alt ilkeden oluşmaktadır. *Elverişlilik* öngörülen sınırlamanın ulaşmak istenen amacı gerçekleştirmeye elverişli olmasını, *gereklilik* ulaşmak istenen amaç bakımından sınırlamanın zorunlu olmasını, diğer bir ifadeyle aynı amaca daha hafif bir sınırlama ile ulaşılmasının mümkün olmamasını, *orantılılık* ise hakka getirilen sınırlama ile ulaşmak istenen amaç arasında makul bir dengenin gözetilmesi gerekliliğini ifade etmektedir.

35. Kuralla 2022 yılı kurumlar vergisi beyannamesinde kurum kazancından indirim konusu yapılan indirim tutarı üzerinden ek verginin hesaplanarak ödenmesinin öngörülmesinin 6/2/2023 tarihinde yaşanan depremlerin etkilerinin azaltılması için ihtiyaç duyulan finansmanın sağlanmasına katkı sağlayacağı gözetildiğinde kuralın anılan meşru amaca ulaşma bakımından *elverişli* olduğu anlaşılmaktadır.

36. Gereklilik, hedeflenen amaca ulaşılması için hakka en az müdahale teşkil eden aracın seçilmesini ifade etmektedir. Deprem nedeniyle oluşan ekonomik kayıpların hangi vergilendirme araçlarıyla giderileceğinin takdiri yasama organına aittir. Esasen vergilendirme devletin takdir yetkisinin geniş olduğu alanların başında gelmektedir. Deprem yol açtığı ekonomik kayıpları telafi etmek ve sosyal dayanışmayı sağlamak amacıyla mevcut vergilerin artırılması ya da yeni bir verginin ihdas edilmesi kanun koyucunun takdir yetkisi kapsamında başvurabileceği araçlardandır. Bu nedenle ek vergi alınması yolunda düzenleme yapılmasının *gereklilik* ölçütünü karşıladığı değerlendirilmiştir.

37. 7440 sayılı Kanun'un 10. maddesinin (27) numaralı fıkrasına göre 5520 sayılı Kanun'un 10. maddesi uyarınca kurum kazancından indirim konusu yapılan tutarlar üzerinden %10 oranında ek vergi hesaplanacak ve hesaplanan tutar da biri kurumlar vergisinin ödeme süresi içinde diğeri ise bu süreyi takip eden dördüncü ayda olmak üzere iki taksitle ödenecektir. Öte yandan kanun koyucunun takdir yetkisi kapsamında başvurduğu bu araç ile kazancın bulunması hâlinde indirilecek tutarları güncel kurumlar vergisi oranının çok altında bir oranla vergilendirdiği de açıktır. Ayrıca 6/2/2023 tarihinde Kahramanmaraş ilinde meydana gelen depremler nedeniyle Adana, Adıyaman, Diyarbakır, Elâzığ, Gaziantep, Hatay, Kahramanmaraş, Kilis, Malatya, Osmaniye ve Şanlıurfa illeri ile Sivas ilinin Gürün ilçesinde deprem tarihi itibarıyla kurumlar vergisi mükellefiyeti bulunanlar ek vergiden muaf tutulmuştur. Bunun yanı sıra ek vergi geçici nitelikli ve bir defalığa mahsus alınan bir vergidir. Bu itibarla ek vergiye muhatap kişilere aşırı bir külfet yüklenmediği, yaşanan depremler nedeniyle oluşan maddi kayıpların büyüklüğü karşısında bu kayıpların giderilmesi neticesinde elde edilecek fayda ile katlanılacak külfet arasında makul olmayan bir dengesizliğin bulunmadığı ve bu nedenlerle sınırlamanın *orantılı* olduğu sonucuna ulaşılmıştır.

38. Öte yandan Anayasa'nın 73. maddesinde herkesin kamu giderlerini karşılamak üzere mali gücüne göre vergi ödemekle yükümlü bulunduğu, vergi yükünün adaletli ve dengeli dağılımının maliye politikasının sosyal amacı olduğu öngörülerek Anayasa'nın 2. maddesinde nitelikleri belirtilen hukuk devleti ilkesi vergilendirme ilkeleri yönünden somut biçimde dile getirilmiştir (AYM, E.2003/73, K.2003/86, 7/10/2003).

39. Verginin mali güce göre alınması ve genelliği ilkeleriyle vergilendirmede eşitlik ve adaletin gerçekleştirilmesi amaçlanmıştır. Ekonomi ve vergi hukuku alanında mali güce ilişkin göstergelerin gelir, servet ve harcamalar olduğu kabul edilmektedir. Mali güç; ödeme gücünün kaynağı, dayanağı, nedeni ve varlık şartıdır. Kanun koyucunun vergilendirmede, kişilerin sahip olduğu ekonomik değer ile mali güçlerini gözönünde bulundurması gerekir. Vergide genellik ilkesi, herhangi bir ayırım yapılmaksızın mali gücü olan herkesin vergi yüküne katılmasını ve vergi ödemesini ifade eder. Mali güce göre vergilendirme, verginin yükümlülerin ekonomik ve kişisel durumlarına göre alınmasıdır (AYM, E.2017/117, K.2018/28, 28/2/2018, § 22). Bu ilke, aynı zamanda vergide eşitlik ilkesinin sağlanmasının uygulama aracı olup mali gücü fazla olanın mali gücü az olana göre daha fazla vergi ödemesini gerektirir. Vergide eşitlik ilkesi mali gücü aynı olanlardan aynı, farklı olanlardan ise farklı oranda vergi alınması esasına dayanır (AYM, E.2003/73, K.2003/86, 7/1/2003).

40. Anayasa'nın anılan maddesinin ikinci fıkrasında ise vergi yükünün adaletli ve dengeli bir biçimde dağılımı öngörülmüştür. Vergilendirilecek alanların seçimi ve vergi yükünün adaletli ve dengeli dağılımı için yükümlülerin kişisel durumlarının kanunlarda gözetilmesi gerekir. Sermaye iratlarının ücretlere göre farklı vergilendirilmesi; en az geçim indirimi, artan oranlı vergilendirme, çeşitli istisna ve muafiyet uygulamaları, vergi yükünün adalete uygun dağılımı ile mali güce göre vergilendirmenin araçlarından (AYM, E.2017/117, K.2018/28, 28/2/2018, § 23).

41. 26/11/1999 tarihli ve 4481 sayılı 17.8.1999 ve 12.11.1999 Tarihlerinde Marmara Bölgesi ve Civarında Meydana Gelen Depremın Yol Açtığı Ekonomik Kayıpları Gidermek Amacıyla Bazı Mükellefiyetler İhdası ve Bazı Vergi Kanunlarında Değişiklik Yapılması Hakkında Kanun'un 17 Ağustos 1999 tarihinde yaşanan deprem felaketi neticesinde ortaya çıkan kamu finansman ihtiyacının giderilmesi amacıyla 1998 yılında beyan edilen gelir veya kurumlar vergisi matrahları ile bu yılda elde edilen ve belirli bir miktarın üzerindeki ücretler, bina, arsa, araziler, motorlu taşıtlar ve cep telefonları üzerinden bir defalık ek vergi ödenmesini öngören 1., 6., 7. ve 9. maddeleri iptal davasına konu olmuştur. Bu kapsamda Anayasa Mahkemesi, deprem nedeniyle oluşan ekonomik kayıpların giderilmesi ve toplumsal dayanışmanın sağlanması gibi sosyal ve ekonomik şartların zorunlu kıldığı nedenlerle ek vergi getirilmesinde kamu yararının gözetildiğini, 1998 yılına ait Gelir ve Kurumlar Vergisi hesaplanırken kişilerin özel durumları ile mali güçlerinin gözönünde bulundurulduğunu, 29/7/1970 tarihli ve 1319 sayılı Emlak Vergisi Kanunu'nda yer alan bina ve arazi vergilerine ilişkin muaflık ve istisnaların bu vergi yönünden de geçerli kılındığını ve motorlu taşıtlar vergisi mükellefleri için de aynı hususların geçerli olduğunu belirterek mali güce göre vergilendirme ve vergi yükünün adaletli dağılımı ilkelerinin esas alındığı sonucuna ulaşmış ve bu yöndeki düzenlemelerin iptalleri talebini reddetmiştir (AYM, E.1999/51, K.2001/63, 28/3/2001).

42. Benzer değerlendirmeler 6/2/2023 tarihinde yaşanan depremlerin etkilerinin azaltılması amacıyla 2023 yılında ödenen motorlu taşıtlar vergisi kadar ek motorlu taşıtlar vergisinin bir defalığına ödenmesini öngören düzenlemenin anayasallık denetiminde de yapılmış ve iptal talebinin reddine karar verilmiştir (AYM, E.2023/131, K.2023/160, 28/9/2023, § 25).

43. Aynı şekilde Anayasa Mahkemesi, 3/4/2003 tarihli ve 4837 sayılı Ekonomik İstikrarı Sağlamak İçin Ek Vergiler Alınması Hakkında Kanun'un ek emlak vergisi ihdasını öngören 2. maddesinin anayasallık denetiminde 1319 sayılı Kanun'da öngörülen muaflık ve istisnaların ek

vergiler için de uygulanacağını gözeterek emlak sahibi kişiler yönünden kimi olumsuzlukların giderilmeye çalışıldığını, bu suretle vergi yükünün adil ve dengeli dağılımının sağlanmasının amaçlandığını belirterek hükmün iptal talebini reddetmiştir (AYM, E.2003/48, K.2003/76, 23/7/2003).

44. Anılan kararlar gözetildiğinde Anayasa Mahkemesinin deprem gibi olağanüstü olayların yaşandığı dönemlerde oluşan ekonomik kayıpların telafisi amacıyla -ölçülü olmak kaydıyla- ek vergilerin öngörülmesinin mali güce göre vergilendirme ve vergi yükünün adaletli dağılımı ilkelerine aykırı olmadığına hükmettiği anlaşılmaktadır.

45. Kurumların kazançlarından indirim konusu yapmak suretiyle sağladıkları vergisel avantaj yoluyla elde ettikleri tutarın gelir niteliğindeki mali gücün göstergelerinden biri olduğu açıktır. Kuralda kurum kazancından indirim konusu yapılan indirim tutarları kadar elde edilen avantaj %10 oranında ek vergiye tabi tutulmuştur. Dolayısıyla indirim tutarına bağlı olarak ödenecek ek vergi de değişecektir. İndirim imkânından yararlanan tutarlara göre hesaplanacak ek verginin muhatapları orantısız bir vergi yüküyle karşı karşıya bıraktığı söylenemez. Ayrıca kuralın da yer aldığı fıkra da ek vergiye konu olmayan indirim unsurlarının bazılarının bağış ve yardım niteliğinde bazılarının da ilgili alanların teşvikine yönelik tutarlar olduğu gözetildiğinde bu unsurlar üzerinden ek vergi hesaplanmamasının kanun koyucunun takdir yetkisi kapsamında başvuruabileceği vergilendirme araçlarının seçimiyle doğrudan ilgili olduğu anlaşılmaktadır. Tüm bu hususlar gözetildiğinde kuralın mali güce göre vergilendirme, vergi yükünün adaletli dağılımı ve eşitlik ilkeleriyle çelişmediği sonucuna ulaşılmıştır.

46. Açıklanan nedenlerle kural, Anayasa'nın 2., 13., 35. ve 73. maddelerine aykırı değildir. İtirazın reddi gerekir.

IV. HÜKÜM

9/3/2023 tarihli ve 7440 sayılı Bazı Alacakların Yeniden Yapılandırılması ile Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun'un 10. maddesinin (27) numaralı fıkrasının;

A. 1. Birinci cümlesinde yer alan “...ile diğer kanunlarda yer alan düzenlemeler...”, “...istisna ve...”, “...ile aynı Kanunun 32/A maddesi kapsamında indirimli kurumlar vergisine tabi matrahları...” ve “...5520 sayılı Kanunun 5 inci maddesinin birinci fıkrasının (a) bendinde düzenlenen istisna ile yurt dışından elde edilen ve en az %15 oranında vergi yükü taşıdığı tevsik edilen istisna kazançlar üzerinden ise %5 oranında...” ibarelerinin,

2. İkinci, üçüncü, dördüncü, beşinci, altıncı ve yedinci cümlelerinin,

itiraz başvurusunda bulunan Mahkemenin bakmakta olduğu davada uygulanma imkânı bulunmadığından bu ibarelere ve cümlelere ilişkin başvurunun Mahkemenin yetkisizliği nedeniyle REDDİNE,

B. Birinci cümlesinin kalan kısmının esasına ilişkin incelemenin “...5520 sayılı Kanun...” ibaresi ile sınırlı olarak yapılmasına,

C. Birinci cümlesinde yer alan “...5520 sayılı Kanun...” ibaresinin Anayasa'ya aykırı olmadığına ve itirazın REDDİNE,

14/3/2024 tarihinde OYBİRLİĞİYLE karar verildi.

Esas Sayısı : 2023/169

Karar Sayısı : 2024/82

Başkanvekili
Hasan Tahsin GÖKCAN

Başkanvekili
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Üye
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Üye
Kenan YAŞAR

Üye
Muhterem İNCE

Üye
Yılmaz AKÇİL