

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

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

This set of questionnaires comprises the National Reporter's assessment of the country's practice during 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."

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# 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  $\ensuremath{\mathbb{C}}$  or Mozilla Firefox  $\ensuremath{\mathbb{C}}$ 

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Reporters' info

# Name: \*

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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? $^{\star}$
• Yes
O 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
O No

3. Is it possible in your country for taxpayers to communicate electronically with the tax authority?	*
• Yes	
O No	
4. If yes, are there systems in place to prevent unauthorised access to the channel of communication?	*
• Yes	
O No	
5. In your country, is there a system of "cooperative compliance" / "enhanced relationship"which applies to some taxpayers only?	*
• Yes	
O 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	
O No	

6. Are compliance obligations imposed on third parties subject to limits that ensure they necessary and proportionate?	are *
• Yes	
O 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 tago bligations?	* X
O Yes	
No No	
7A. Are there special arrangements in circumstances of force majeure? *	
• Yes	

O No

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

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

- O Yes
- No 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.	
<ul> <li>Yes</li> <li>No</li> </ul>	

#### 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?

$\bigcirc$	$\bigcirc$	Yes

No No

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

O Yes

O 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.
<ul> <li>Yes</li> <li>No</li> </ul>

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	
O No	

11A. Do data protection rights apply to all information held by tax authorities? *	
• Yes	
O No	

11B. If yes to 11A, does it include the tight to access data and correct inaccuracies? $^{\star}$
• Yes
O 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? *
O 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
O No

13. If yes, must the tax official identify himself/herself before accessing information about a specific taxpayer?	on held *
Not applicable (click here if you answered "No" to question 12)	
• Yes	
O No	

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

$oldsymbol{O}$	Yes
0	No

14A. If yes to 14, are victims of an unauthorised disclosure entitled to be informed and paid a * compensation?
• Yes
O 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	
O No	

15A. Are tax officials	entitled to work remotely? *	
• Yes		
O No		
15B. If yes to 15A, are	e equivalent measures taken to ensure confidentiality and data	*

protection to the ones that apply when the official is working from a tax office?

۲	Yes
0	No
0	Not applicable (click here if you answered "No" to question 15A)

15C. If yes to 15B, are those measures audited? *
• Yes
O 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
O No
16A. If yes to 16, is access limited only to those who have a legitimate interest? *
O Yes
No No
Not applicable (click here if you answered "No" to question 16)
16B. Can information held by tax authorities be supplied to other authorities? *
16B. Can information held by tax authorities be supplied to other authorities? *
• Yes

O 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	
O No	
Not applicable (click here if you answered "No" to question 16B)	

• Yes
O No

17A. If yes to 17, is personal data that places the individual at risk not disclosable? $^{\star}$
• Yes
O 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	
$\bigcirc$	No	

<ul> <li>18A. Is there legislation that protects whistleblowers that disclose confidential information * held by revenue authorities (or third parties holding data for tax purposes)?</li> <li>Yes</li> </ul>
<ul> <li>No</li> </ul>
19. Is there a system of protection of legally privileged communications between the * taxpayer and its advisors?
Please provide separately (via <u>optr@ibfd.org</u> ) 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
O 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 <u>optr@ibfd.org</u> ) 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)
O Yes
No No

20A. Are there mandatory disclosure requirements (e.g. mandatory disclosure of tax * planning arrangements)?
O Yes
No No
20B. If yes to 20A, are those mandatory disclosure obligations so drafted as not to affect the * relations with professional advisers?
O Yes
O 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.
O Yes
No No
Area 4 - Normal audits
21. Deap the principle perhis in idem apply to tay audite (i.e. that the tay payor cap only *

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 No

<ul> <li>Not applicable (click here if you answered "No" to question 21)</li> <li>Yes</li> </ul>
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)?

YesNo

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

- ) Yes
- O 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 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?		
<ul> <li>Yes</li> <li>No</li> </ul>		
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?	



28. May the opinion of independent experts be used in the audit process? *
<ul> <li>Yes</li> <li>No</li> </ul>
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
O 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.			
O Yes			
No No			
Area 5 - More intensive audits			
31. Is the principle nemo tenetur applied in tax investigations (i.e. the principle against self- * incrimination?			
• Yes			
O No			

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

\*

Ο	Not applicable	(click here if	you answered	"No" to	question	31)
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$\bigcirc$	Yes

No 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)	
O Yes	
No 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?

\*

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	l "No" to question 34	4)
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Yes

Yes

🔘 No

🔵 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? *
<ul> <li>Yes</li> <li>No</li> </ul>
<ul> <li>38. Is a court order required before the tax authority can use interception of communications * (e.g. telephone tapping or access to electronic communications)?</li> <li>Yes</li> <li>No</li> </ul>
<ul> <li>38A. Does access to bank information for tax purposes require prior judicial authorisation? *</li> <li>Yes</li> <li>No</li> </ul>
39. Is there a procedure in place to ensure that legally privileged material is not taken in the * course of a search?
<ul><li>Yes</li><li>No</li></ul>

39A. If evidence is collected as a result of a search that was not authorised by the judiciary is * that evidence admissible?
<ul> <li>Yes</li> <li>No</li> </ul>
<ul> <li>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?</li> <li>Yes</li> <li>No</li> </ul>
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.

No No

Yes

Please provide separately (via <u>optr@ibfd.org</u>) 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.

Area 6 - Reviews and appeals

40. Is there a procedure for an internal review of an assessment/decision before the taxpayer appeals to the judiciary?	*
<ul> <li>Yes</li> <li>No</li> </ul>	
40A. Do taxpayers have an alternative of taking an appeal to an arbitration tribunal in place of the tax courts?	*
<ul> <li>Yes</li> <li>No</li> </ul>	
41. Does the taxpayer need permission to appeal to the first instance tribunal? *	
<ul> <li>No</li> </ul>	
42. Does the taxpayer need permission to appeal to the second or higher instance tribunals?	*
<ul> <li>Yes</li> <li>No</li> </ul>	

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 No		
44. Are there time limits applicable for a tax case to complete the judicial appeal process? *		
O Yes		
No No		
45. If yes, what is the normal time it takes for a tax case to be concluded on *		
appeal?		
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?
<ul> <li>Yes</li> <li>No</li> </ul>
46A. Does a taxpayer have the right to request an online hearing or object to it? *
• Yes
O 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)?
O Yes
No No
48. Is the principle audi alteram partem (i.e. each party has a right to a hearing) applied in all * tax appeals?
• Yes
O No

49. Does the taxpayer have to pay some/all the tax before an appeal can be made (i.e. solve $*$ et repete)?
O Yes
No 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)
O Yes
O No
51. Does the loser have to pay the costs in a tax appeal? *
• Yes
O No
52. If yes, are there situations recognised where the loser does not need to pay the costs <b>*</b> (e.g. because of the conduct of the other party)?
Not applicable (click here if you answered "No" to question 51)
• Yes
O 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?
<ul> <li>Yes</li> <li>No</li> </ul>
54. Are judgments of tax tribunals published? *
• Yes
O No
55. If yes, can the taxpayer preserve its anonymity in the judgment? *
Not applicable (click here if you answered "No" to question 54)
O Yes
No 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.

0	Yes
۲	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)	
O Yes	
No No	
58. If the taxpayer makes a voluntary disclosure of a tax liability, can this result in a reduced or a zero penalty?	*
• Yes	
O No	
58A. Is there a legislative cap to prevent interest, penalties and surcharges to exceed the amount of tax due?	*

YesNo

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

0	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?

$\bigcirc$	Yes
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No 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			
O 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

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

YesNo

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?

YesNo

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 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

<ul> <li>65. Does the taxpayer have the right to challenge before the judiciary the exchange of information relating to him with another country?</li> <li>Yes</li> <li>No</li> </ul>	*
<ul> <li>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?</li> <li>Yes</li> <li>No</li> </ul>	*
<ul> <li>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?</li> <li>Yes</li> <li>No</li> </ul>	*
<ul> <li>66. Does the taxpayer have the right to see any information received from another country that relates to him?</li> <li>Yes</li> <li>No</li> </ul>	*

66A. In the event of a leak of confidential information, is exchange of information with that * state suspended?
O Yes
Νο
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?
O Yes
No 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.
<ul> <li>Yes</li> <li>No</li> </ul>
Area 10 - Legislation
69. Is there a prohibition on retrospective tax legislation in your country? *
• Yes
O 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)
O Yes
O No

71. Is there a procedure in your country for public consultation before the adopting of all (or most) tax legislation?	*
<ul> <li>Yes</li> <li>No</li> </ul>	
72. Is tax legislation subject to constitutional review which can strike down unconstitutional laws?	*
• Yes	
O 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.

O 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? *
O Yes
No
75. If yes, is it legally binding? *
Not applicable (click here if you answered "No" to question 74)
O Yes
O No
76. If a binding ruling is refused, does the taxpayer have a right to appeal? *
• Yes
O 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.
O Yes

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 <u>optr@ibfd.org</u>) 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.

$oldsymbol{O}$	Yes
$\bigcirc$	No

No No

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

Please provide separately (via <u>optr@ibfd.org</u>) 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.

0	Not applicable (click here if you answered "No" to the previous question)
$oldsymbol{O}$	Yes
0	No

80. Is there a (tax) ombudsman / taxpayers' advocate / equivalent position in your country? *		
<ul> <li>Yes</li> <li>No</li> </ul>		
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)		
O Yes		
O 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)		
O Yes		
O No		

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

Please provide separately (via <u>optr@ibfd.org</u>) 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.

$oldsymbol{O}$	Yes
Ο	No

84. If yes, are its provisions legally effective? * Please provide separately (via <u>optr@ibfd.org</u> ) 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.
<ul> <li>Not applicable (click here if you answered "No" to the previous question)</li> <li>Yes</li> <li>No</li> </ul>
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.	
<ul> <li>Yes</li> <li>No</li> </ul>	

88. Are taxpayers who are subject to a tax compliance procedure that involves AI/AAS informed of that fact?	*
O Yes	
No 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?

Ο	Yes
$oldsymbol{O}$	No
$\bigcirc$	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?	*
O Yes	
No	
O 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 No	

92. Does a system exist for voluntary registration of AI/AAS? *	
O Yes	
No No	
93. If yes to 92, does the tax authority register all AI/AAS tools or algorithms with that system?	*

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

O Yes

O No

94. Are decisions that may have a significant impact on a taxpayer taken exclusively by AI/AAS?	*
◯ Yes	
No 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
O No
O Not applicable
96. If an audit employs material generated by AI/AAS, is that material available to taxpayers * and their advisors?
• Yes
<ul> <li>No</li> </ul>

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 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? $^{\star}$	
• Yes	
O 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?

Ο	Yes
---	-----

No No

Not applicable

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

$\bigcirc$	Yes
۲	No
0	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 \*

rlavez@lavezcoutinho.com.br

Reporters' info

Name: \* Luí

Country: \*

Brazil

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: <u>optr@ibfd.org</u>.

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 <u>optr@ibfd.org</u>) 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

Starting in 2024, the systems of public agencies and entities should have already adapted to using the CPF as the unique identification number of citizens, according to Law 14.534/23: Art. 1 The registration number in the Individual Taxpayer Registry (CPF) is established as the unique and sufficient number for identifying citizens in public service databases. Art. 9 This Law comes into force on the date of its publication [Jan. 11, 2023], and the following deadlines are established: I - 12 (twelve) months for agencies and entities to adapt their systems and procedures for citizen service to adopt the CPF registration number as the identification number.

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

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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

In 2023, the Federal Revenue Service launched a pilot project of cooperation compliance (CONFIA). This project aimed to enhance the relationship between taxpayers and tax authorities, avoiding litigation and improving the compliance of tax obligations. In 2024, the Federal Revenue Service started a process of voluntary joining to the pilot of the program, having already ceritified 20 companies that satisfied the required criteria at this stage.

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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: <u>optr@ibfd.org</u>. Thank you.

After severe floods in the State of Rio Grande do Sul, the Brazilian Federal Revenue Service extended the deadline for the submission of the Individual Income Tax Return by 5 months (https://www.gov.br/fazenda/pt-br/assuntos/noticias/2024/maio/receita-prorroga-prazo-de-entrega-da-declaracao-do-imposto-de-renda-e-pagamento-de-tributos-para-336-municipios-do-rs).

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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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.

YesNo



Please provide separately (via <a>optr@ibfd.org</a>)

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

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

No changes

Shifted away

Shifted towards

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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.

YesNo



Please provide separately (via <a>optr@ibfd.org</a>)

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service published the "Software and Cloud Computing Services Usage Strategy Document" with many considerations about encrypt information, qualifying it as a priority to the administration. For instance: "Prioritization of Security: Security remains a fundamental priority. Robust security measures should be incorporated at all layers, from access and authentication to data encryption and continuous monitoring, depending on the specific case. The goal is to mitigate cybersecurity risks and protect the most valuable assets, especially data, against internal and external threats"; "Regarding the need for the use of cryptographic resources, the RFB should: I – verify whether the organization's data is being processed and stored in accordance with the legislation; II – assess the need to encrypt data based on legal requirements, risks, level of criticality, costs, and benefits; and III – use, whenever possible, hardware-based encryption keys".

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

- No changes
- Shifted away
- Shifted towards

7

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Ordinance No. 480/2024 determined that the activities under the telework modality "will be carried out using desktop equipment, notebook, or similar, provided by the RFB and necessary for the secure and timely transmission of information" (art. 18).

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

- No changes
- Shifted away
- Shifted towards

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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

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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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

Please provide separately (via <u>optr@ibfd.org</u>) 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 <u>optr@ibfd.org</u>) 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

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 <u>optr@ibfd.org</u>) 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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.

O Yes

🔘 No

Area 4 - Normal audits

Please provide separately (via <a>optr@ibfd.org</a>)

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

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

No changes

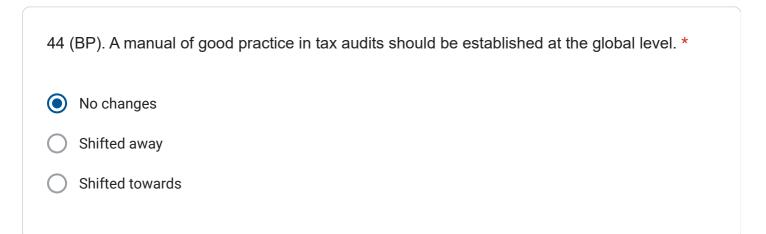
- Shifted away
- Shifted towards

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

- No changes
- Shifted away
- Shifted towards

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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.

O Yes

🔘 No

Area 5 - More intensive audits

Please provide separately (via <u>optr@ibfd.org</u>) 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

Following its case law regarding the access to bank information to federal tax authorities, the Supreme Court extended this faculty to state tax authorities (Constitutional complaint No. 7276 - "The challenged norms in ICMS Agreement No. 134/2016, from Confaz, do not violate the right to intimacy, privacy, and the confidentiality of personal data. Access to confidential data provided by financial and payment institutions to tax authorities for the purposes of tax collection and auditing does not constitute a breach of banking secrecy. Precedents"). Moreover, the Brazilian Federal Revenue Service extended to credit card administrators and payment institutions the obligation to disclose automatically information about financial transactions of individuals and legal entities above a determined threshold (RFB Normative Instruction No. 2219/2024). Before that, only banks were required to do so.

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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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.

Ο	Yes
	No

Area 6 - Reviews and appeals

Please provide separately (via <u>optr@ibfd.org</u>) 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

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

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.

$\bigcirc$	No	changes
$\smile$		

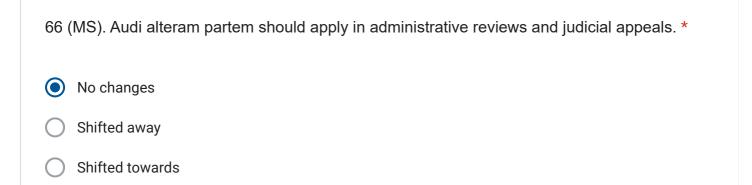
- Shifted away
- Shifted towards

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

No changes

- Shifted away
- Shifted towards

### 65 (S). Summary of relevant facts in 2024



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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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.

YesNo



Please provide separately (via <u>optr@ibfd.org</u>) 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

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

No changes

Shifted away

Shifted towards

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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.

Ο	Yes
	No

#### Area 8 - Enforcement of taxes

Please provide separately (via <u>optr@ibfd.org</u>) 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

After severe floods in the State of Rio Grande do Sul, many measures of tax relief were introduced bt the State Government, such ase exemption from ICMS (VAT) on the purchase of fixed assets; no reversal of ICMS credits for damaged or lost goods due to the floods; and refund of ICMS on the purchase of household appliances.

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

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

No changes

- Shifted away
- Shifted towards

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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

Please provide separately (via <u>optr@ibfd.org</u>) 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

#### 80 (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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

After severe floods in the State of Rio Grande do Sul, the due dates for several taxes were extended by 30 to 60 days.

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



Please provide separately (via <u>optr@ibfd.org</u>) 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

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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

85 (MS). In the case of exchange of information on request, the taxpayer should be given <sup>3</sup> 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

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

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

- No changes
- Shifted away
- Shifted towards

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

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

No changes

Shifted away

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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

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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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.

YesNo

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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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.

YesNo



Please provide separately (via <a href="mailto:optr@ibfd.org">optr@ibfd.org</a>)

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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

When judging a case regarding ICMS on subsidies from the Energy Development Fund, the 2nd Panel of the STJ (Superior Court of Justice), unanimously, decided that the change in the repeated practice of the Tax Administration not charging the tax allows the tax to be levied only on taxable events that occurred after the modification of the administrative guidance (AREsp 1.688.160/RS).

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.

YesNo

Area 12 - Institutional framework for protecting taxpayers' rights

Please provide separately (via <u>optr@ibfd.org</u>) 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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. 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

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.

YesNo

Area 13 - Artificial intelligence / Automated analytical systems

Please provide separately (via <u>optr@ibfd.org</u>) 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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service is introducing artificial intelligence aiming to improve operational performance and the quality of services provided to citizens, committing to continuous innovation in order to anticipate and respond quickly to changes in citizens' needs and tax regulations. However, it is not clear yet both the extension of the aplication of such tools and whether the taxpayer would be informed about it.

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



Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

In 2024, an automated service (chatbot) from the Federal Revenue Service was introduced to individual taxpayers with questions about the Income Tax Return. Named 'Leo,' the Federal Revenue chatbot was launched in 2021. The program uses artificial intelligence to answer the public about topics covered by the agency, such as international shipments and access to customs systems, for example. In 2024, the robot also began addressing topics related to Income Tax. When opening Leo, options of topics it can answer questions about are presented. In case of doubts regarding the obligation to file, the robot asks questions that must be answered with 'yes' or 'no' — and if the person does not understand the question, the chatbot explains. Therefore, it is clear to the taxpayer whether he or she is interacting with a chatbot or there is human intervention.

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

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service is introducing artificial intelligence, but it is not clear yet how transparent it is going to be or how much information will be provided to the taxpayer.

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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service is introducing artificial intelligence, but it is not clear yet how transparent it is going to be or how much information will be provided to the taxpayer. Nevertheless, tax authorities recognize that "It is necessary to maintain records of the operations and decisions made by AI systems and report significant incidents to the competent authorities, implementing an automated system for recording and reporting that ensures the integrity and traceability of all AI operations and decisions, facilitating auditing and incident investigation" (CTSI/RFB Resolution No. 2/2024).

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

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 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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service is introducing artificial intelligence, but it is not clear yet the extension of its applicability or the decisions which will be totally or partially based on it.

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service is introducing artificial intelligence, but it is not clear yet how transparent it is going to be or how much information will be provided to the taxpayer.

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

Although the Brazilian Federal Revenue Service has published some general aspects of the introduction of artificial intelligence (CTSI/RFB Resolution No. 2/2024), it is yet too vague and does not provide for specific criteria if its application.

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

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service stated that "[it] should not develop AI systems considered to be of unacceptable risk, such as those that manipulate human behavior in a subliminal way, social scoring systems, or the use of AI for indiscriminate mass surveillance" (CTSI/RFB Resolution No. 2/2024).

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

The Brazilian Federal Revenue Service is introducing artificial intelligence, but it is not clear yet how it is going to interact with fundamental rights. Although the Brazilian Federal Revenue Service has published some general aspects of the introduction of artificial intelligence (CTSI/RFB Resolution No. 2/2024), it is yet too vague and does not provide for specific criteria if its application.

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 nonjudgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. IN ALL CASES please back up 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: <u>optr@ibfd.org</u>. Thank you.

Although the Brazilian Federal Revenue Service has clearly subjected its AI tools to periodic oversight ("Appropriate human oversight should be implemented to ensure safety and prevent violations of fundamental rights in the use of AI, establishing a clear protocol for human intervention in cases where AI may compromise fundamental rights, including a direct communication line for complaints and rapid interventions" - CTSI/RFB Resolution No. 2/2024), this oversight is not necessarily assigned to a senior official.

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Google Forms

#### Dear Cristian,

Please find attached the sources translated to English and our comments highlighted below. All translated versions are unofficial, so, if it remains some question about the sources, we can go further in it, if it is the case.

As some files might be heavy, we would appreciate it if you could confirm to us that you received them.

Best regards,

Raphael

Dear National Reporters of Brazil, (dear Prof. Schoueri and Dr Lavez)

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 1 (MS). "Implement safeguards to prevent impersonation when issuing a unique identification number", you report a shift towards the minimum standard, however, without providing a source or evidence for that shift. Could you please provide us with an official legal source that lies at the basis of the reported shift?

The source is indicated (and already translated) in the summary of relevant facts and its official version can be accessed at the following link: <u>L14534</u>

• In questionnaire 2, under question 7 (MS). 'Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis', you report a shift towards the minimum standard, together with an explanation. We were wondering if there is any source you could provide that we could include in the report, so that this becomes accessible for readers through this corroborating evidence?

The tax administration has launched online a video explaining details of the project "Confia" (and the video has English subtitles): <u>https://youtu.be/UqOYZ8JRirg</u>. We are also attaching two Ordinances (translated) that has regulated the pilot project.

In questionnaire 2, under question 16 (MS). 'Encrypt information held by a tax authority about taxpayers to the highest level attainable.', and in the explanation you mention a document that was published by the authorities ("Software and Cloud Computing Services Usage Strategy Document"). Could you please provide us with the document for inclusion in the report?

#### We are attaching it (translated).

• In questionnaire 2, under question 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.', you report a shift towards based on Ordinance No. 480/2024. Could you please provide us with a link or a pdf document of The Ordinance No. 480/2024 so that we can include it in the report for the reader?

# We are attaching it (translated) – official version in Portuguese: <a href="http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=141342">http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=141342</a>.

• In questionnaire 2, under question 57 (BP). 'Access to bank information for tax purposes (including automatically-supplied information) should require judicial authorisation.', you report a shift towards under reference to a court case and a Normative Instruction. Could you please provide us with a link or a pdf document of those documents so that we can include it in the report for the reader?

We are attaching a translated press release issued by the Supreme Court about the decision mentioned (https://noticias.stf.jus.br/postsnoticias/entenda-decisao-do-stf-que-autoriza-bancos-a-compartilhar-com-estados-informacoes-sobre-transacoes-eletronicas/). The full decision (in Portuguese) can be accessed at the link

https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=780455739. We are attaching the Normative Instruction translated to English. The Normative Instruction was revoked at the beginning of 2025 after some political criticism, but we think it should be reported on the next report.

 In questionnaire 2, under question 76 (MS). Collection of taxes should never deprive taxpayers of their minimum necessary for living.', you report a shift towards the minimum standard under reference to several measures. Could you please provide us with a link or a pdf document of those documents so that we can include it in the report for the reader? This also goes for question 80, that deals with the same subject matter (the Rio Grande floods). All the measures taken by the Government of Rio Grande do Sul are described at the following link: <u>https://fazenda.rs.gov.br/conteudo/19812/medidas-tributarias---enchentes-2024</u>, which contains the direct link to the official version of the normative acts. We translated this page to English (attached).

 In questionnaire 2, under question 103 (MS). 'Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively.', you reported a shift towards the minimum standard, under reference to several documents. Could you please provide us with a link or a pdf document of those documents so that we can include it in the report for the reader?

#### The Court issued a press release about the decision

(https://processo.stj.jus.br/jurisprudencia/externo/informativo/?livre=@CNOT=02 1095), whose translated version is attached. The full decision (in Portuguese) can be accessed at the link

https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num\_registro=2020008146 90&dt\_publicacao=22/10/2024.

• Finally, for the section on AI/AAS, we were wondering if you have any sources (preferably legal sources, but otherwise newspaper articles or notices) that could provide the reader with a source for the claims made within that section?

There are really few sources, and the only normative act issue by tax authority can be accessed at the following link:

http://normas.receita.fazenda.gov.br/sijut2consulta/link.action?idAto=138693. There are some press releases, which can be find at the following links: https://www.gov.br/fazenda/pt-br/assuntos/noticias/2024/setembro/receitadesenvolve-ferramenta-inovadora-capaz-de-ampliar-deteccao-de-fraudestributarias-e-aduaneiras; http://intra.serpro.gov.br/noticias/a-receita-federaltesta-um-sistema-de-inteligencia-artificial. We are also sharing a sponsored newspaper notice that deals with the issue:

https://valor.globo.com/patrocinado/dino/noticia/2024/09/23/receita-federal-temnovo-aliado-na-fiscalizacao-tributaria.ghtml. All content is translated and attached. Our comments were made based on the lack of available information on how tax authorities are applying (or intending to apply) such tools.

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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#### CTSI/RFB RESOLUTION NO. 2, OF JUNE 14, 2024

#### (Published in the RFB Service Bulletin of 06/14/2024, section 1, page 5)

#### Multi- Vengent Current Original Relational

Approves the Guidelines for the Artificial Intelligence Strategy at the Special Secretariat of the Federal Revenue of Brazil.

THE PRESIDENT OF THE COMMITTEE ON TECHNOLOGY AND INFORMATION SECURITY OF THE SPECIAL SECRETARIAT OF THE BRAZILIAN FEDERAL REVENUE, in the exercise of the powers conferred upon her by Ordinances RFB No. 800 and 801, both of June 28, 2013, considering Resolution CTSI/RFB No. 1, of March 16, 2020, and considering the result of the 1st Ordinary Meeting of the Committee on Technology and Information Security for the fiscal year 2024, held on May 24, 2024,

#### **RESOLVES:**

Art. 1<sup>o</sup> The Guidelines for the Artificial Intelligence Strategy at the Special Secretariat of the Federal Revenue of Brazil are hereby approved, in the form of the Sole Annex to this Resolution.

Art. 2 This Resolution shall come into force on the date of its publication in the RFB Service Bulletin.

#### ADRIANA GOMES REGO

#### SOLE ANNEX

#### GUIDELINES FOR THE ARTIFICIAL INTELLIGENCE STRATEGY AT THE BRAZILIAN FEDERAL REVENUE SERVICE

#### Art. 1 - General Guidelines:

I. The Brazilian Federal Revenue Service (RFB) must encourage the use of artificial intelligence (AI) to improve operational performance and the quality of service provided to citizens, committing to continuous innovation to anticipate and respond quickly to changes in citizens' needs and tax regulations.

II. Al solutions developed by RFB must comply with the principles of trustworthy AI, prioritizing ethics, transparency and respect for human rights, following international best practices to ensure consistency and ethical quality of implementations.

Art. 2 - Development Principles:

I. The RFB must adopt development practices that incorporate the principles of privacy by design, security by design, human rights by design, and ethics by design, with a continuous monitoring mechanism that assesses compliance with these principles throughout the life cycle of AI systems.

II. Explainable artificial intelligence (EAI) should be prioritized to ensure that automated decisions can be understood and explained to users, establishing a clear and educational user interface that not only explains automated decisions but also provides guidance on how users can interact with AI systems more effectively.

Art. 3 - Equity, Responsibility and Transparency:

I. The production of AI solutions should be guided by research projects that promote equity, accountability and transparency.

II. Random audits by humans should be conducted to identify and correct biases or discriminations that may arise in AI solutions, implementing a continuous audit system based on explainable AI methods to detect and correct biases in real time, in addition to conducting regular manual audits.

Art. 4 - Data Management and Security:

I. It is mandatory to carry out risk assessments when using personal data in AI solutions, ensuring the appropriate use of sensitive data.

II. Data management and governance must ensure the quality, accuracy, completeness and representativeness of the data used, adopting international data quality standards.

III. Al solutions must be robust and secure, with measures in place to minimize the risk of failures and cyberattacks, including periodic penetration testing and security assessments conducted periodically.

Art. 5 - Supervision and Compliance:

I. Adequate human oversight should be implemented to ensure safety and prevent violations of fundamental rights in the use of AI, establishing a clear protocol for human intervention in cases where AI may compromise fundamental rights, including a hotline for reporting and rapid intervention.

II. The RFB must maintain detailed technical documentation on AI systems, including objectives, operating logic, architecture and algorithms used, developing a transparency platform where technical documentation and audit reports are available.

III. Al solutions will be subject to regular audits and compliance procedures to ensure adherence to current regulations, including a calendar of regular and unplanned audits, with compliance reports published annually for public review.

IV. It is necessary to keep records of the operations and decisions taken by AI systems and report significant incidents to the competent authorities, implementing an automated recording and reporting system that ensures the integrity and traceability of all AI operations and decisions, facilitating auditing and incident investigation.

Art. 6 - Limitations and Acceptable Use:

I. The RFB must not develop AI systems considered to pose unacceptable risk, such as those that subliminally manipulate human behavior, social scoring systems, or the use of AI for indiscriminate mass surveillance.

\*This text does not replace the officially published text.



Topics News 2024 September Revenue develops innovative tool capable of increasing detection of tax and customs fraud > > > > >

#### TECHNOLOGY

# Revenue develops innovative tool capable of increasing detection of tax and customs fraud

Created by tax auditors and analysts, the platform has been shared in international forums

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Published on 09/05/2024 15:3
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A new technology, which is being developed internally by the Federal Revenue Service within the scope of the Analytics Project, has brought significant results in several areas of tax administration. Created by tax auditors and tax analysts, the platform uses artificial intelligence algorithms and complex network analysis to enhance the analysis of tax data and provide a considerable increase in the capacity to detect fraud and illegalities. It also offers greater security in decision-making and increases the productivity of tax activities.

The platform has been presented in international forums — such as the one that took place in June in Sweden ( Revenue presents risk management tools at an informal OECD event in Sweden ) — as a demonstration of Brazil's capacity to process data and obtain concrete results,

 $\epsilon$  CONTENT 1 HOME PAGE 2 NAVIGATION 3 SEARCH 4 SITEMAP 5

#### Application and results

The opportunities for applying this technology are diverse and, judging by the results already achieved, they are expected to grow even more. Some examples:

• Tax irregularities in imports and with the use of economic groups:

A module was developed on the platform that enables the processing of complex structures of economic groups and business networks, facilitating the identification of suspicious patterns that, after evaluation by experts in taxpayer selection, are forwarded for further investigation by tax auditors. There are ongoing cases and completed inspections resulting from the use of this module.

This and other modules are also used in the primary zone, allowing verification of signs of fraud based on relationships between importing companies.

• Tax irregularities with the use of cryptocurrencies:

The combination of different techniques, incorporated into the Analytics Project platform, have been relevant for identifying suspicious transactions and signs of complex tax evasion and money laundering schemes using cryptocurrencies.

Em um dos casos, com o uso dessa tecnologia, autoridades tributárias identificaram um potencial esquema envolvendo R\$ 700 milhões movimentados por empresas de fachada para a compra de criptomoedas. Foram identificadas operações de importações e remessas internacionais com fortes indícios de irregularidades tributárias e de cometimento de outros crimes.

Em outro caso, detectado em função do uso da plataforma, foi possível constatar um esquema de sonegação fiscal, envolvendo também lavagem de dinheiro para o tráfico de drogas e armas, no qual foram movimentados mais de R\$ 350 milhões. Os dois casos citados estão sob investigação da Receita Federal, em parceria com outros órgãos.

Com o módulo de cripto, auditores-fiscais têm identificado visualmente empresas noteiras (criadas basicamente para emitir documentos fiscais, sem comercializar mercadorias ou sem prestar serviços, com objetivo de sonegação tributária ou compensação indevida de tributos) e

<sup>6</sup> CONTENT 1 HOME PAGE 2 NAVIGATION 3 SEARCH 4 SITEMAP 5

sido crescente o uso de *stablecoins*, como pode ser visto em **Receita Federal detecta** crescimento vertiginoso na movimentação de stablecoins.

• Irregularidades tributárias em pedidos de ressarcimento:

Um painel foi construído recentemente na plataforma para auxiliar a seleção e análises de pedidos de ressarcimento e declarações de compensação, com vistas à identificação de indícios de inconsistências e fraudes. Prospecções iniciais levaram à seleção de algumas empresas com valores suspeitos que, somados, totalizaram cerca de R\$ 11 bilhões.

O painel facilita a identificação de fraudes ao apresentar gráficos atualizados de fácil compreensão e totalmente interativos, o que possibilita reduzir o tempo de seleção e análise para trabalho do caso concreto. Essa ferramenta auxiliará muito os trabalhos de que trata a **Portaria RFB nº 439/2024**.

#### Autoregularização

O processamento combinando técnicas de inteligência artificial e métodos tradicionais também subsidia comunicação da Receita Federal destinada a estimular a conformidade voluntária (Imposto de Renda – Bitcoins e outros criptoativos precisam ser informados).

No campo da busca de distorções nas demonstrações de resultado na apuração do Lucro Real, equipe de monitoramento de grandes contribuintes utilizou a plataforma, identificou um caso concreto de possível uso indevido de prejuízo fiscal de valor relevante, alertou a empresa que, então, retificou a informação, gerando uma arrecadação adicional de milhões de reais. Uma ação sem a necessidade de abertura de procedimento fiscal, sem a instauração de litígio.

O sistema ainda facilita a comunicação com os contribuintes em relação às demonstrações de resultado, gerando gráficos e relatórios que identificam problemas de maneira clara.

#### Interação com outros órgãos

1

CONTENT

A divulgação da plataforma em fóruns especializados nacionais também tem contribuído para a parceria entre a Receita Federal e outros órgãos, como o Ministério Público, permitindo uma sinergia que possibilita iniciativas coordenadas com vistas à realização de análises mais abrangentes.

NAVIGATION 3

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SITEMAP

5

Revenue develops innovative tool capable of increasing detection of tax and customs fraud — Ministry of Finance

Em relação aos acordos, tratados e convenções internacionais firmados pelo Brasil que contenham cláusula para troca de informações para fins tributários — como ocorre no caso do CbC (IN RFB nº 1681/2016) — está sendo aprimorado um módulo para identificação de transferência de lucros para paraísos fiscais, tema de atenção de fiscos em todos os continentes.

A plataforma desenvolvida no âmbito do Projeto Analytics tem se mostrado muito útil. A forma inovadora como os dados estão sendo tratados pela Receita Federal tem propiciado resultados e despertado interesse no Brasil e no exterior (<u>Receita compartilha expertise relativa à análise</u> <u>de dados de criptoativos com outros países</u>).

#### Categoria

Finanças, Impostos e Gestão Pública

Tags:INTELIGÊNCIA ARTIFICIALATUAÇÃO FISCALCRIPTOMOEDASFÓRUNSESPECIALIZADOS

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News

# The Federal Revenue Service tests an artificial intelligence system

Technicians from the Federal Revenue Service are developing an artificial intelligence system. For now, explains Vitor Almeida, general coordinator of technology and security at the Revenue Service, the system runs in an environment that simulates customs operations.

Once it is ready, however, it will be used at customs posts to catch import and export fraud. "We started with customs because of the volume of materials and fraud, and because it is an important area for the country."

The technicians have been working on the system for two years, when they set up a working group with technicians from universities and other partners to study the concept of artificial intelligence. In 2007, the system began operating in the test environment. Part of the system runs on **Serpro servers, as it needs to search for data in Serpro** databases . When the tests are finished, the IRS will choose a location to approve the system in practice.

"The concept," says Vitor, "works well. The difficulty is keeping the databases up to date with the other systems."

The system will work like the risk assessment systems of credit card companies: when the system identifies an atypical transaction, it blocks the card and issues an alarm to the company's employees. If the IRS technicians can build a database with the history of import and export transactions, the system will be able to identify atypical transactions, says Vitor, with "all the signs of fraud".

The IRS, says Vitor, may use artificial intelligence systems at airports and in income tax.

IT & Government, issue 253, May 13, 2007

Federal Revenue has a new ally in tax inspection | Dino | Valor Econômico



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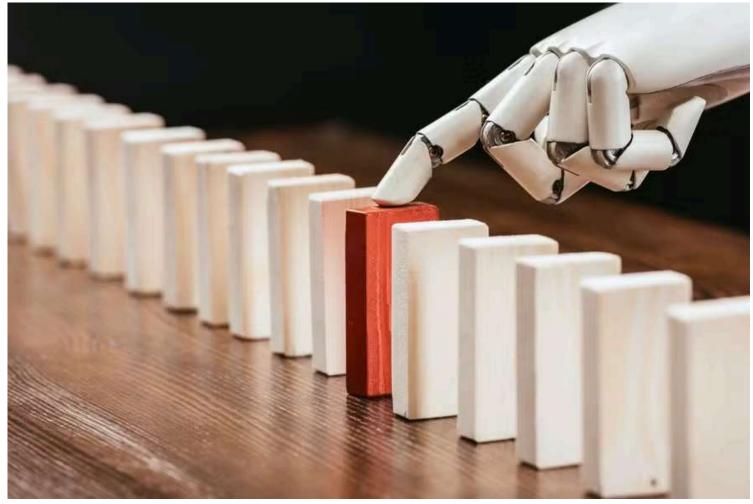
# Federal Revenue has a new ally in tax inspection

With the Analytics Project, the Federal Revenue Service is inaugurating a new phase in tax inspection in Brazil, using artificial intelligence to identify suspicious transactions and complex tax evasion schemes. And with such technological power, the tool is already raising questions about privacy and the protection of individual taxpayers' rights.



By Dino

09/23/2024 3:15 PM · Updated4 months ago



Federal Revenue has a new ally in tax inspection — Photo: Envato Elements

Nos últimos anos, a Receita Federal vem desenvolvendo ferramentas de ponta capazes de transformar a maneira como o país lida com a sonegação fiscal. E uma dessas inovações está ligada ao **Projeto Analytics**, uma plataforma com inteligência artificial, que representa uma marco em termos de tecnologia para monitorar e fiscalizar atividades em tempo real.

A ferramenta já foi usada para identificar transações suspeitas e indícios de esquemas complexos de sonegação e de lavagem de dinheiro com uso de criptomoedas, e recentemente, a **Receita Federal** divulgou informações sobre um caso que envolvia mais de R\$ 700 milhões por meio de empresas de fachada para a compra de moedas digitais. Segundo o órgão, as operações identificadas pela plataforma tinham fortes indícios de irregularidades tributárias envolvendo importações e remessas internacionais.

O grande trunfo dessa ferramenta é a capacidade de processar e interpretar um volume imenso de informações vindas de fontes diversas, como declarações fiscais, transações financeiras e dados aduaneiros. Ao correlacionar dados e identificar padrões que antes passavam despercebidos, a Receita alcançou um poder de fiscalização jamais visto no país.

De acordo com Roger Mitchel, do escritório contábil e jurídico **Contabilidade Internacional**: "Estamos presenciando uma transformação profunda no cenário fiscal do Brasil, que se iniciou com a Reforma Tributária, com a reestruturação de todos os impostos cobrados, com a decisão do **STF** permitindo o compartilhamento de dados bancários dos contribuintes com o fisco estadual, com a entrada em atividade das novas ferramentas de pesquisa como o **Sniper**, **Simba** e **Cn**ib, e também com o desenvolvimento do Projeto Analytics pela Receita. De agora em diante, portanto, com a detecção eficiente de transações suspeitas e a indisponibilidade imediata de contas bancárias e outros bens, o contribuinte que não seguir a legislação tributária à risca será certamente autuado."

Diretrizes da LGPD, o siglo bancário e os riscos de vazamento de dados

Embora seja uma tecnologia poderosa, é importante refletir sobre os desafios éticos que a ferramenta traz. O aumento da coleta e monitoramento de dados fiscais e pessoais suscita questões sobre privacidade e segurança da informação, e a Receita Federal terá que lidar com o delicado equilíbrio entre a eficiência fiscal e o respeito às garantias individuais dos contribuintes, além de ser obrigada a seguir as diretrizes da LGPD.

Além disso, atingir sua eficiência plena ainda dependerá de sua integração com outras plataformas governamentais e da capacidade de fiscalizar dados de maneira justa e transparente. Qualquer percepção de parcialidade no uso desses recursos poderia minar a confiança do público e gerar contestações jurídicas.

Ainda de acordo com Roger, "O potencial do Projeto Analytics é inegável, mas é preciso equilibrar a eficiência fiscal com a proteção dos direitos individuais. É crucial que a Receita Federal mantenha um diálogo aberto com a sociedade e que o uso dessa tecnologia seja sempre pautado pela justiça e pela transparência, a fim de evitar a percepção de parcialidade e garantir a confiança pública."

Ao final, o sucesso integral dessa ferramenta tecnológica de ponta virá não só da inovação que traz para a fiscalização tributária, mas também de sua capacidade de proteger os dados e o **sigilo bancário** dos contribuintes, garantindo que as ações decorrentes do uso da plataforma sejam transparentes, legítimas e sempre voltadas para o bem coletivo.

### Website: https://contabilidadeinternacional.com

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# Mais do Valor **Econômico**



# Moove, startup apoiada pela Uber, compra brasileira Kovi

A transação, cujo valor não foi divulgado, ampliará a frota do grupo africano para 36.000 veículos e aumentará sua receita recorrente anual para US\$ 275 milhões, disse Ladi Delano, cofundador da Moove

29/01/2025, 15:26 — Em Empresas



# Justiça volta atrás e restringe anulação do mapa de Zoneamento da cidade de São Paulo

Desembargador explicou que a liminar anterior abrangia o mapa de uso e ocupação do solo de toda cidade, e com a nova decisão, restringe a alterações em lotes específicos no Alto de Pinheiros

29/01/2025, 15:15 — Em Brasil



# Quantos imigrantes ilegais têm nos EUA?

Trump dá passos para tentar cumprir sua promessa de campanha de realizar a "maior deportação da história"

29/01/2025, 15:14 — Em Mundo



# Novo voo com deportados dos EUA chega em 7 de fevereiro a Belo Horizonte

O aviso de um novo voo ocorre dias depois de queixas públicas feitas pelo governo brasileiro relacionadas a maus-tratos cometidos contra um grupo de deportados que chegou ao Brasil no último fim de semana

29/01/2025, 15:07 — Em Brasil



# Defesa de Mauro Cid pede investigação sobre vazamento de delação

Trecho sobre Michelle e Eduardo Bolsonaro foram divulgados; advogados de Cid querem que responsáveis por vazamento sejam identificados e punidos

29/01/2025, 15:06 — Em Política



**AO VIVO** 

# Dólar tem volatilidade nesta 'Superquarta' de decisões do Fed e do Copom; Ibovespa recua

Juros futuros avançam; mercado projeta manutenção das taxas nos EUA e alta de 1 ponto percentual no Brasil

29/01/2025, 15:04 — Em Finanças



# Gleisi ministra não incomoda Centrão, que cobra mais espaço do governo Lula para empoderar bloco

Lideranças do grupo se queixam de apatia do presidente e de demora nas mudanças na Esplanada

01/29/2025, 15:04 — Em Politics



# Chainalysis Says 4.5% of Cryptocurrencies Launched in 2024 Have 'Pump-and-Dump' Evidence

Of all the tokens launched on the Ethereum, Base, and Binance Smart Chain networks, only 1.7% have been actively traded in the last 30 days

01/29/2025, 2:56 PM — Em Cryptocurrencies

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**RFB ORDINANCE NO. 402, OF MARCH 7, 2024** 

#### (Published in the Official Gazette of 03/11/2024, section 1, page 22)

#### Multivigente Vigente Original Relational

Regulates the process of joining the pilot of the Cooperative Tax Compliance Program - Confia, established by RFB Ordinance No. <del>387</del>, of December 13, 2023.

#### Change history

(Amended by RFB Ordinance No. 408, of April 2, 2024) (Amended by RFB Ordinance No. 417, of May 8, 2024)

THE SPECIAL SECRETARY OF THE BRAZILIAN FEDERAL REVENUE, in the exercise of the power conferred upon him by item III of art. 350 of the Internal Regulations of the Special Secretariat of the Brazilian Federal Revenue, approved by Ordinance ME No. 284, of July 27, 2020, and in view of the provisions of Ordinance RFB No. 28, of April 15, 2021, and in Ordinance RFB No. 387, of December 13, 2023, resolves:

#### CHAPTER I PRELIMINARY PROVISION

Art. 1 This Ordinance regulates the process of joining the pilot of the Cooperative Tax Compliance Program - Confia, established by Ordinance RFB No. 387, of December 13, 2023.

#### CHAPTER II APPLICATION FOR CONFIA PILOT

Art. 2. Taxpayers who meet the requirements and criteria set out in arts. 5th to 9th of RFB Ordinance No. 387, of 2023, provided that the following amounts of indebtedness are, each of them, equal to or less than 30% (thirty percent), calculated by the ratio:

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

II - between the consolidated debt related to taxes administered by the RFB based on data existing on December 31, 2022 and the average gross revenue for the years 2020, 2021 and 2022.

Sole paragraph. For the purposes of the provisions of this Ordinance, the following shall be considered in the calculation of gross revenue: revenue recorded in the ECF's net income statement, which includes gross revenue, other operating revenue and other discontinued revenue.

Art. 3 The application for the Confia pilot must be submitted by the interested party between March 18 and April 5, 2024, necessarily in digital format and exclusively through the Virtual Service Center - e-CAC as referred to in Normative Instruction RFB No. 2,066, of February 24, 2022 -

Art. 3 The application for the Confia pilot must be submitted by the interested party between March 18 and April 12, 2024, necessarily in digital format and exclusively through the Virtual Service Center - e-CAC as referred to in Normative Instruction RFB No. 2,066, of February 24, 2022 . (As amended by Ordinance RFB No. 408, of April 2, 2024)

§ 1 For the purposes of the caput, registration will be:

I - formalized through a Web Application, in the concentration area "Tax Compliance" and service "Programa Confia - apply for pilot"; and

II - instructed exclusively with the following documents and information:

a) Term of Adhesion, contained in Annex I of RFB Ordinance No. 387, of 2023;

b) Self-Assessment Questionnaire, contained in Annex II of Ordinance RFB No. 387, of 2023;

c) documentation proving compliance with the criteria established in item IV of the caput of art. 5th of RFB Ordinance No. 387, of 2023, in accordance with art. 7th of the aforementioned standard; and

d) designation of the taxpayer's focal point and his/her substitute, as those responsible for the relationship with the RFB.

§ 2° The other information necessary to verify compliance with the requirements and criteria mentioned in the caput of art. 2° will be obtained by the RFB based on the data contained in its own systems.

§ 3 In the event of failure or unavailability of the RFB's computerized systems that prevents the transmission of documents through e-CAC, delivery may be made, exceptionally, at an RFB unit, in digital format, in accordance with the provisions of art. 11 of RFB Normative Instruction No. 2,066, of 2022.

§ 4 In the case referred to in § 3, the interested party must prove the occurrence of a failure or unavailability of the RFB's computerized systems that prevented the transmission of documents through e-CAC.

#### CHAPTER III

#### SELECTION OF CANDIDATES

Art. 4° The RFB will communicate to the candidate, until April 30, 2024, through the Communication System with Largest Taxpayers (e-MAC), the result of the validation stage of compliance with the requirements and criteria for joining the Confia pilot, established in RFB Ordinance No. 387, of 2023, and in this Ordinance.

§ 1° Initially, 15 (fifteen) vacancies will be made available to taxpayers approved in the stage referred to in the caput, with an increase in the number of vacancies permitted, at the discretion of the RFB, observing the provisions of § 2°.

§ 1° Initially, 30 (thirty) vacancies will be made available to taxpayers approved in the stage referred to in the caput, with an increase in the number of vacancies permitted, at the discretion of the RFB, observing the provisions of § 2°. (As amended by Ordinance RFB No. 417, of May 8, 2024)

§ 2 If there are more approved taxpayers than the number of vacancies initially available:

I - the selection of taxpayers will be carried out in accordance with the following order of priority:

a) companies participating in the Procedure Test referred to in RFB Ordinance No. 210, of August 18,

2022;

b) companies participating in the Confia Dialogue Forum, established by Ordinance RFB nº 71, of October 4, 2021 ; and

c) other legal entities, classified by decreasing value of gross revenue in the year 2022; and

II - a reserve register will be created with non-selected taxpayers.

Art. 5th Taxpayers approved within the number of vacancies established under the terms of art. 4th will be called to the stage of preparing the Compliance Work Plan referred to in item IV of the caput of art. 4th of RFB Ordinance No. 387, of 2023, according to the model contained in Annex III of the aforementioned standard.

Art. 6 Certification to participate in the Confia pilot will be granted to the taxpayer approved in the validation stage, in accordance with art. 4, and whose Compliance Work Plan referred to in art. 5th has been ratified by the Coordinator of Centro Confia.

Sole paragraph. The certification referred to in the caput will have an indefinite validity period and will be granted on a temporary basis, by means of an Executive Declaratory Act issued by the Coordinator of the Confia Center and published in the Official Gazette of the Union - DOU.

#### CHAPTER IV

#### EXCLUSION OF THE CONFIA PILOT

Art. 7º The exclusion of the participant from the Confia pilot may occur at any time:

I - at the taxpayer's request, through formal communication addressed to the Confia Center Coordinator;

or

II - ex officio, by the RFB, in cases where the taxpayer:

a) fail to meet any of the requirements and criteria established in arts. 5th to 9th of RFB Ordinance No. 387, of 2023, or in art. 2nd of this Ordinance;

b) fail to comply with any of the commitments assumed in the Term of Adhesion and the Compliance Work Plan, in accordance with Annexes I and III of RFB Ordinance No. 387, of 2023, respectively;

c) act in bad faith or through fraud or simulation, including committing any of the conduct provided for in arts. 71 to 73 of Law No. 4,502, of November 30, 1964, or in § 2 of art. 44 of Law No. 9,430, of December 27, 1996;

d) use participation in the Confia pilot for the purpose of delaying compliance with tax obligations;

#### e) provide evasive or incomplete responses to RFB's requests for clarification; or

e) provide evasive or incomplete responses to RFB's requests for clarification; (As amended by Ordinance RFB No. 417, of May 8, 2024)

f) not presenting or partially presenting documents requested by the RFB, which are necessary to clarify a specific fact.

f) not presenting or partially presenting documents requested by the RFB, necessary to clarify a specific fact; or (As amended by Ordinance RFB No. 417, of May 8, 2024)

g) improperly use the Confia Program brand, in accordance with the usage manual approved by the RFB. (Included by RFB Ordinance No. 417, of May 8, 2024)

#### CHAPTER V

#### ON THE CONFIDENTIALITY OF INFORMATION

Art. 8° The following will not be published:

I - legal entities that applied for the Confia pilot; and

II - the reasons why the candidates were not selected or certified.

Sole paragraph. The information provided by taxpayers to apply for the Confia pilot program will be processed in a confidential electronic process, to which only the employees designated by the Confia Center Coordinator will have access, for the strict purposes of the Program.

#### CHAPTER VI

#### FINAL PROVISIONS

Art. 9 Companies selected to participate in the Confia pilot will have priority for entry into the definitive Program.

Art. 10. This Ordinance shall come into force on the date of its publication in the Official Gazette of the Union.

#### **ROBINSON SAKIYAMA BARREIRINHAS**

\*This text does not replace the officially published text.

**RFB ORDINANCE NO. 417, OF MAY 8, 2024** 

#### (Published in the Official Gazette of 05/09/2024, section 1, page 86)

#### Multi- Vengent Current Original Relational

Provides for procedures within the scope of the pilot of the Cooperative Tax Compliance Program - Confia and amends Ordinance RFB No. 402, of March 7, 2024.

#### Change history

(Amended by Ordinance RFB No. 467, of September 30, 2024)

THE SPECIAL SECRETARY OF THE BRAZILIAN FEDERAL REVENUE, in the exercise of the powers conferred upon him by item III and the sole paragraph of art. 350 of the Internal Regulations of the Special Secretariat of the Brazilian Federal Revenue, approved by Ordinance ME No. 284, of July 27, 2020, and in view of the provisions of Ordinance RFB No. 387, of December 13, 2023, and in Ordinance RFB No. 402, of March 7, 2024, resolves:

#### CHAPTER I PRELIMINARY PROVISIONS

Art. 1 This Ordinance provides for the procedures within the scope of the pilot of the Cooperative Tax Compliance Program - Confia.

Art. 2º The Confia pilot will have the following work processes as its object:

I - cooperative renewal of the Negative Certificate of Debts relating to Federal Tax Credits and the Union's Active Debt - CND or the Positive Certificate with Negative Effects of Debts relating to Federal Tax Credits and the Union's Active Debt - CPEND of the participating taxpayer;

II - cooperative analysis of tax issues initiated by the Special Secretariat of the Brazilian Federal Revenue Service - RFB;

III - cooperative analysis of tax issues initiated by the participating taxpayer;

IV - validation of the application for membership in the Confia pilot, using qualitative and quantitative criteria provided for in RFB Ordinance No. 387, of December 13, 2023, and in RFB Ordinance No. 402, of March 7, 2024;

V - preparation of the Compliance Work Plan, and

VI - certification of taxpayer as pilot participant.

Sole paragraph. The taxpayer will be considered a candidate for the Confia pilot program until certification, when he/she will then become a participant.

Art. 3 The RFB and the taxpayer will designate the following representatives, respectively, to act as focal points directly in the Confia pilot:

I - Auditors-Fiscal of the Federal Revenue of Brazil, one incumbent and one substitute, appointed by the Coordinator of the National Center of the Cooperative Fiscal Compliance Program - Centro Confia, who will be the point of contact between each taxpayer and the RFB, and

II - trained and updated employees, one incumbent and one substitute, who provide non-occasional services to the taxpayer, whose skills and activities directly impact tax compliance.

§ 1° The objectives of the focal points mentioned in the caput are:

I - promote tax compliance by improving corporate tax governance for each taxpayer;

II - encourage the adoption of good tax practices; and

III - ensure compliance with the commitments assumed in the Term of Accession and in the Compliance Work Plan, under the terms of Annexes I and III, respectively, of Ordinance RFB No. 387, of 2023.

§ 2 For the purposes of the provisions of § 1, the focal points designated by the RFB may count on the support of the Confia Center's Team of Specialists.

#### CHAPTER II

#### OF THE ADMISSION PROCESS

#### Section I Validation of applications

Art. 4 The Confia Center is responsible for verifying the admissibility criteria provided for in RFB Ordinance No. 387, of 2023, and in RFB Ordinance No. 402, of 2024, at the stage of validating the application for the Confia pilot.

#### Section II Compliance Work Plan

Art. 5 The Confia Center will consult the areas responsible for identifying and dealing with tax inconsistencies on tax issues of interest to the RFB, relating to each taxpayer, to be included in the Work Plan.

§ 1 A committee will be established comprising the following representatives:

I - one from the Confia Center; and

II - according to the taxpayer's jurisdiction:

a) one from the monitoring area;

b) one from the fiscal activity programming area;

c) one from the inspection area;

d) one from the tax credit management area; and

e) one from the area of credit law.

§ 2° To define the tax issues of interest to the RFB to be included in the Work Plan, the Confia Center will consolidate the tax issues presented by the areas referred to in the caput and will call a meeting with the participation of the committee referred to in § 1° and the focal point designated by the RFB.

Art. 6 The taxpayers' Work Plans for each year will be drawn up from October of the previous year.

Sole paragraph. Without prejudice to the provisions of the caput, the Work Plans applicable to the year 2024 will be prepared based on the validation of the application for membership in the Confia pilot, with validity until December 31, 2024.

Art. 7 Tax issues to be indicated by the taxpayer for inclusion in the Work Plan:

I - must have as their object a matter of their own interest; and

II - may refer to acts, businesses or operations already implemented, or that are in the process of being implemented.

Sole paragraph. The inclusion of the issues mentioned in the caput must be done with the aim of obtaining the RFB's understanding of the tax treatment to be given to the specific case.

Art. 8° The tax issues proposed by the taxpayer for the Work Plan must contain a detailed description:

I - the content of the specific act, business or operation, including the relevant business activities;

II - applicable regulatory provisions; and

III - the taxpayer's legal understanding of the proposed issue.

Art. 9 The focal point designated by the RFB will call an initial meeting with the focal point designated by the taxpayer for the collaborative construction of the definitive Work Plan, in which the following will be presented:

I - tax issues defined in the manner provided for in articles 5 to 8; and

II - issues involving the renewal of CND and CPEND, indicating their expiration dates within the period established in the Work Plan.

§ 1° At the meeting referred to in the caput, a deadline will be agreed between the parties for them to present their Work Plan proposals at a new meeting.

§ 2° At the discretion of the Coordinator of the Confia Center, after hearing the committee referred to in § 1° of art. 5°, other meetings may be held to obtain a consensual position on the Work Plan.

§ 3 All meetings will be recorded in minutes, which will be attached to the electronic application process, together with the documents presented and the Work Plan agreed between the RFB and the taxpayer.

§ 4 The agreed Work Plan will be signed by the focal points designated by the RFB and by the taxpayer, by the Confia Center Coordinator and by the company's legal representative before the RFB.

§ 5° The execution of the Compliance Work Plan will be subject to permanent monitoring by the focal point designated by the RFB.

Art. 10. The taxpayer's Work Plan cannot include issues that deal with:

I - the constitutionality of the tax law;

II - ongoing inspection procedure to which it is subject;

III - tax whose limitation period for the constitution of tax credits expires in less than 2 (two) years;

IV - customs matters;

V - matter subject to tax consultation carried out by the taxpayer;

VI - situations for which the law only allows literal interpretation;

VII - matters requiring legal or fiscal or economic policy changes; and

VIII - acts, business, operations or situations with indications of fraud or the practice of other illegalities or crimes.

Art. 11. When selecting the issues to be included in the Work Plan, the following must be considered:

I - the feasibility of dealing with the issue before the expiration of the limitation period for the constitution of the tax credit and within the validity of the plan;

II - the degrees of relevance and priority attributed to each issue by the RFB and the taxpayer, and

III - the available resources and the work capacity of the RFB and the taxpayer.

Art. 12. The establishment of procedures to verify inconsistencies that have not been included in the taxpayer's Work Plan will depend on prior analysis by the Confia Center, which will submit them for evaluation by the Committee referred to in § 1 of art. 5 for possible inclusion in said plan.

#### Section III Certification

Art. 13. Certification to participate in the Confia Pilot, when granted under the terms of art. 6 of RFB Ordinance No. 402, of 2024, will be disclosed by publication on the RFB website, at the electronic address

< https://www.gov.br/receitafederal >.

Sole paragraph. After the certification provided for in the caput, the taxpayer may use the Confia Program brand, in accordance with the user manual approved by the RFB.

#### CHAPTER III EXECUTION OF THE WORK PLAN

#### Section I Cooperative analysis of tax issues

Art. 14. The cooperative analysis of the tax issues included in the Work Plan referred to in Section II of Chapter II will cover the facts related to the inconsistencies identified, the RFB's understanding of the respective matter and the applicable legal consequences.

Sole paragraph. The discussion and cooperative analysis of tax issues within the scope of the Confia pilot program do not constitute the beginning of any procedure or inspection measure to investigate possible tax violations.

Art. 15. Once the analysis referred to in art. 14 has been completed, the following procedures may be adopted, alternatively:

I - in case of disagreement between the RFB and the taxpayer:

a) the taxpayer may formalize a consultation within the agreed period with the focal point designated by the RFB; or

b) the RFB may initiate tax proceedings; or

c) the interested party may request that the case be included in the Tax Consensuality Procedure -Consensus Revenue; or (Included by Ordinance RFB No. 467, of September 30, 2024)

II - in the event of consensus between the RFB and the taxpayer, the focal point designated by the RFB will prepare, together with the focal point designated by the taxpayer, an action plan with a view to:

a) regularize the inconsistencies identified;

b) improve the taxpayer's risk control structure and tax compliance management system; and

c) monitor the treatment of the identified inconsistency.

§ 1 If there is consensus between the RFB and the taxpayer regarding the non-existence of the inconsistency, the knowledge produced within the scope of the Confia pilot will be used to improve the RFB's risk management.

§ 2° The consultation referred to in item "a" of section I of the caput must:

I - be formulated in compliance with Normative Instruction RFB No. 2,058, of December 9, 2021 ; and

II - be prioritized by the General Coordination of Taxation - Cosit, respecting the other priorities defined in the legislation;

Art. 16. The tax issues analyzed will be forwarded to the technical area of the RFB by the Confia Center if the taxpayer:

I - does not submit the consultation within the period referred to in item "a" of section I of the caput of art. 15;

II - adopt a position contrary to the guidance contained in the Consultation Solution presented in the manner provided for in § 2 of art. 15; or

III - does not execute the action plan referred to in item II of the caput of art. 15.

Art. 17. If tax proceedings are instituted, the taxpayer's transparent and cooperative stance must be taken into account for the purposes of assuming good faith, in order to rule out:

Art. 17. If tax proceedings are instituted and the taxpayer does not request that his/her claim be included in the consensual proceedings referred to in art. 15, caput, item I, letter "c", the taxpayer's transparent and cooperative stance must be considered for the purposes of assuming good faith, in order to rule out: (As amended by Ordinance RFB No. 467, of September 30, 2024)

I - the application of a qualified fine and the formalization of a tax representation for criminal purposes as referred to, respectively, in § 1 of art. 44 and art. 83 of Law No. 9,430 of December 27, 1996 ; and

II - the liability of third parties referred to in art. 135 of Law No. 5,172 of October 25, 1966 - National Tax Code - CTN .

### Section II

#### Query formulation

Art. 18. The taxpayer may request guidance from the focal point designated by the RFB to jointly formulate a question to be submitted to the consultation provided for in item "a" of section I of the caput of art. 15.

§ 1° The focal point designated by the RFB may request additional information or documents from the taxpayer.

§ 2° Cosit may request Centro Confia to hold a meeting with the taxpayer to clarify any doubts regarding the query made.

#### Section III Of CND and CPEND

Art. 19. The tax regularity of each participating taxpayer before the National Treasury must be monitored by the Confia Center, which is responsible for:

I - demand the competent technical areas to resolve nonconformities that impact the issuance of CND or CPEND; and

II - contact the focal point designated by the RFB, if there is a pending issue to be regularized by the taxpayer that impacts the issuance of CND or CPEND.

Sole paragraph. The technical areas must treat the demands referred to in the caput as a priority.

#### Section IV Procedures relating to credit rights, collection, registration and service

Art. 20. The procedures carried out within the scope of the Sub-Secretariat of Collection, Registration and Service - Suara, especially those related to the management of tax credit and analysis of credit rights, will be adapted for taxpayers participating in the Confia pilot, observing the following rules:

I - priority issues will be included in the Work Plan referred to in Section II of Chapter II and dealt with cooperatively between the respective areas, the Confia Center and the taxpayer; and

II - the procedures common to the workflow of the Tax Credit and Credit Law Management Teams - Eqrat, dealt with within the scope of collection, installment payments, registration, credit law and declaration networks, will be carried out routinely.

§ 1° Prior to the issuance of a decision and the conclusion of the audit procedure, the issue will be dealt with cooperatively with the Confia Center.

§ 2 The Confia Center may assume jurisdiction over the procedures referred to in item II of the caput, if necessary to achieve the pilot objectives.

Art. 21. The credit law audit and enforcement teams will give preferential treatment to requests for refunds, reimbursements or reimbursements and to the compensation declaration of taxpayers participating in the Confia pilot, respecting the other priorities defined in the legislation.

Port. RFB nº 417/2024

#### CHAPTER IV MEETINGS

#### Section I

#### Ordinary and extraordinary meetings

Art. 22. Regular meetings will be held between the focal point designated by the RFB and the focal point designated by the taxpayer, with the aim of improving the relationship and communication between the parties, monitoring the progress of the Compliance Work Plan and improving it.

§ 1° At least one representative from each party must also participate in the meetings referred to in the caput, including for the preparation of the Work Plan referred to in Section II of Chapter II.

§ 2° The meetings referred to in the caput will be called in a reasoned manner, whenever necessary, by the focal point designated by the RFB or at the request of the taxpayer's focal point.

Art. 23. Extraordinary meetings may be called with the collective participation of focal points designated by the RFB and focal points designated by taxpayers, with a view to improving the Program.

Sole paragraph. The summons referred to in the caput may be made by the RFB or upon request by at least half of the taxpayers.

#### Section II Record of meetings

# Art. 24. Ordinary or extraordinary meetings will be recorded in minutes by the focal point designated by the RFB, to be made available to participants within 5 (five) business days after they are held.

§ 1 The taxpayers' representatives must, within 5 (five) business days of receiving the minutes, sign them and return them to the RFB or expressly state their disagreement.

§ 2 Failure to submit a statement in the form provided for in § 1 implies tacit agreement with the records in the minutes.

§ 3 The meetings referred to in the caput may be held in person or virtually and, when held virtually, will be recorded, without prejudice to the recording in minutes.

Art. 25. Any technical guidelines or deliberations on issues or procedures related to the Work Plan arising from the meetings covered by this Chapter must be included in an annex to the minutes of the meeting, in which the understanding presented by the focal point designated by the RFB is formalized.

§ 1° The annex referred to in the caput will be of a technical and objective nature, and must contain:

I - a brief description of the specific issue or procedure and the applicable regulatory provisions; and

II - the technical foundations that underpinned the terms of the guidance or decision.

§ 2° The focal point designated by the taxpayer will be allowed to submit comments on the technical guidance or deliberation within the period referred to in § 1° of art. 24.

### CHAPTER V

#### FINAL PROVISIONS

Art. 26. The information and documents provided or generated within the scope of the Confia pilot may be shared with other areas of the RFB:

I - in the interest of the taxpayer, to support any tax procedure, with the purpose of avoiding the request for documents and information previously shared with the RFB; and

II - in the interest of the RFB, in strict compliance with official duty, in accordance with current tax legislation and upon duly motivated request.

Art. 27. The Subsecretariats, Regional Superintendencies and technical areas of the RFB must:

I - designate employees to work in the Confia Center's work processes related to the activities of their respective areas; and

II - at the request of the Confia Center, designate employees to act in the priority processing and execution of demands, in order to make the objectives and performance of the activities covered by this Ordinance viable.

Sole paragraph. Tax Auditors or Tax Analysts of the Brazilian Federal Revenue Service may be appointed to act in the handling of the demands referred to in the caput, in compliance with their legal competencies.

Art. 28. The Special Coordination of Largest Taxpayers - Comac must consolidate normative acts and guidelines in a manual for the correct application of the Confia pilot procedures.

Art. 29. Ordinance RFB No. 402, of 2024, shall come into force with the following changes:

"Art. 4 .....

(NR) swap\_horiz

"Art. 7 .....

.....

II - .....

.....

e) provide evasive or incomplete responses to RFB's requests for clarification; swap horiz

g) improperly use the Confia Program brand, in accordance with the user manual approved by the RFB." (NR) swap horiz

Art. 30. Art. 7 of Ordinance RFB No. 209 of August 18, 2022 is hereby revoked. swap\_horiz

Art. 31. This Ordinance shall come into force on the date of its publication in the Official Gazette of the Union.

**ROBINSON SAKIYAMA BARREIRINHAS** 

**CTSI/RFB RESOLUTION NO. 3, OF JUNE 14, 2024** 

(Published in the RFB Service Bulletin of 06/14/2024, section 1, page 6)

#### Multi- Vengent Current Original Relational

Approves the Strategy Document for the Use of Software and Cloud Computing Services of the Special Secretariat of the Federal Revenue of Brazil.

THE PRESIDENT OF THE INFORMATION SECURITY AND TECHNOLOGY COMMITTEE OF THE SPECIAL SECRETARIAT OF THE BRAZILIAN FEDERAL REVENUE, in the exercise of the powers conferred upon her by Ordinances RFB No. 800 and 801, both of June 28, 2013, and considering Ordinance SGD/MGI No. 5,950 of October 26, 2023, Resolution CTSI/RFB No. 1 of March 16, 2020, and the result of the 1st Regular Meeting of the Information Security and Technology Committee for the 2024 fiscal year, held on May 24, 2024,

#### **RESOLVES:**

Art. 1° The Strategy Document for the Use of Software and Cloud Computing Services of the Special Secretariat of the Federal Revenue of Brazil (RFB) is hereby approved, in the form of the Sole Annex to this Resolution.

Art. 2 Workloads that handle information with restricted access provided for by law, such as tax, banking, commercial, corporate, accounting, industrial secret, copyright, intellectual property, industrial, police, civil procedural, criminal procedural and administrative disciplinary secrecy, must be maintained in a government cloud environment.

§ 1° The General Coordination of Technology and Information Security (Cotec) will assess the technical feasibility of government cloud solutions offered at the time of planning, development or implementation of projects that are authorized to use cloud computing technology.

§ 2 If the government cloud technology offered to projects does not meet the objectives of their respective deliveries, public clouds and their solutions and services (native or otherwise) may be used to develop and support technology solutions, including hosting and processing information with access restrictions provided for in legislation.

§ 3° The guidelines for governance, security, access control, definition of access profiles and the minimum infrastructure conditions of the RFB's computerized environment are valid, where applicable, to the cloud environment.

Art. 3 This Resolution shall come into force on the date of its publication in the RFB Service Bulletin.

#### ADRIANA GOMES REGO

#### SOLE ANNEX

#### CLOUD COMPUTING SOFTWARE AND SERVICES USE STRATEGY DOCUMENT

#### **1. GENERAL PROVISIONS**

In view of the provisions of ORDINANCE SGD/MGI No. 5,950, OF OCTOBER 26, 2023, in REGULATORY INSTRUCTION GSI/PR No. 5, OF AUGUST 30, 2021, and in RESOLUTION CTSI/RFB No. 1, OF MARCH 16, 2020, this document brings the guidelines and principles for the use of software and cloud computing services at the Brazilian Federal Revenue Service (RFB), reflecting the institution's commitment to the modernization and efficiency of its operations through the strategic adoption of innovative technologies.

With the increasing complexity of tax operations and the demand for greater agility, security and compliance, cloud computing technology is emerging as a strategic priority for the RFB. This document aims to establish a comprehensive framework to guide the adoption, implementation and responsible management of

#### CTSI/RFB Resolution No. 3/2024

cloud-based services and solutions, ensuring data integrity, protection of sensitive information and compliance with tax and information security regulations. By aligning cloud governance with the RFB's strategic objectives, it is expected to promote a more agile, efficient and transparent tax administration, able to meet the growing demands of society and the constantly evolving digital environment.

DECREE No. 10,332, OF APRIL 28, 2020, established, among the digital government strategies, the adoption of cloud-based government process and service technology as part of the technological structure of federal public administration services and sectors. A critical component for fulfilling the RFB's strategic objectives is the ability to obtain knowledge from all available information. In recent years, the volume of available data has increased substantially, mainly due to the large volume of electronic documents received from the Public Digital Accounting System (SPED).

In recent years, Platform as a Service (PaaS) and Infrastructure as a Service (IaaS) services offered by leading cloud providers – public and private – are enabling a revolution in the use of technology, enabling a better pace of innovation, more speed and agility, better governance, greater compliance, as well as greater efficiency and cost savings.

Therefore, this Cloud Computing Software and Services Usage Strategy Document seeks to reaffirm RFB's commitment to massively using cloud computing technology for the storage and processing of its data and solutions, as well as detailing the governance, roles and respective competencies in the operation of RFB's cloud environments, operation and security requirements, and the policy for the use of data and workloads that handle information with access restrictions provided for in specific legislation.

#### 2. BUSINESS OBJECTIVES, COMPETENCIES AND NEEDS

These are the main business objectives and needs to be achieved by using cloud computing technology at RFB:

• Greater control and administration over costs with storage and processing of data and RFB solutions;

- · Agility and scalability to store and process data of fiscal and economic interest;
- Improve the performance and availability of the RFB analytical environment.

• Reduce the time interval between the availability of technological innovations on the market and their effective use by the RFB, especially those related to artificial intelligence;

• Provide the development and support of solutions that support work processes modified due to structural tax reforms; and

• Provide the development and support of disruptive solutions that enable the leveraging of productivity in internal work processes and/or service offerings to the taxpayer.

These are the skills related to the implementation of the cloud strategy at RFB:

• The Information Technology and Security Committee (CTSI) is responsible for defining the cloud strategy for the RFB, as well as the annual budget to be applied to RFB cloud solutions.

• Cotec is responsible for carrying out the governance of cloud components in accordance with guidelines defined by CTSI, as well as activities related to:

o To the management of development components;

o To the management of internal development platform components;

o To the management of artificial intelligence solutions and other related resources; and

o Managing project and environment budgets, in cases provided for in the cloud usage strategy.

o To the management of infrastructure/operation components; and

o To the management of security components.

o Managing components of the cloud analytics environment.

# 3. GUIDELINES FOR DEFINING THE STRATEGY FOR USING CLOUD COMPUTING SOFTWARE AND SERVICES

a) Selection of suitable models:

The Brazilian Federal Revenue Service, based on the studies carried out (fact described and analyzed in topic "b" of this document), understands that the adoption of cloud computing is a premise for the agency to advance in the improvement of work processes and in the provision of services to the citizen.

To this end, the RFB, in line with the provisions of item 5.4.3 of Annex I of ORDINANCE SGD/MGI No. 5,950, OF OCTOBER 26, 2023, understands that:

1. Workloads that handle information with access restrictions provided for by law must be maintained in a government cloud environment, such as: tax, banking, commercial, corporate, accounting, industrial secret, copyright, intellectual property, industrial, police, civil procedural, criminal procedural and administrative disciplinary secrecy;

2. Cotec will assess the technical feasibility of the government cloud solutions offered at the time of planning, development or implementation of projects that are authorized to use cloud computing technology;

3. If the government cloud technology offered to projects does not meet the requirements of their respective deliveries, public clouds and their solutions and services (native or otherwise) may be used to develop and support technology solutions, including hosting and processing information with access restrictions provided for in legislation;

4. Projects developed or under development that fall under the previous item must be approved by CTSI before they go into production or before development begins when there is a need to manipulate information with access restrictions provided for in legislation;

5. In the case of proof of concept and pilot projects, Cotec may authorize, in a joint action with the General Coordination responsible for data curation, the development and approval of solutions in the cloud computing environment considering the use of information with restricted access provided for in the legislation, provided that it is previously defined and restricted to the data that is effectively necessary.

b) Evaluation of possible suppliers:

The Gartner Magic Quadrant (a series of market research reports published by IT consulting firm Gartner that use proprietary qualitative data analysis methods to demonstrate market trends, such as direction, maturity and participants) for Cloud Infrastructure as a Service identifies three companies that stand out most in terms of "ability to execute" and "completeness of vision." The companies that stand out are:

- Amazon Web Services (AWS);
- Google; and
- Microsoft.

As of December 2020, through NT COTEC 58/2020 and 38/2021, a proof of concept (POC) was established with the aim of measuring the performance of services offered by the clouds such as IaaS and PaaS by comparing them with Receita Data.

The tests carried out made it possible to:

• Measure the execution time of a program that simulates the data transformation and table generation process.

• Perform analytical queries using specific commands on the generated tables, measuring performance (query duration) under different conditions.

• Perform the processing of many regular expressions on a continuous stream of content, generating an output stream with indications of which expressions were satisfied on which documents.

• Perform tests on the performance of computing resources by applying own and third-party implementations.

• Perform general tests, comparing the results of your own implementation with the solutions offered by providers.

• Perform security tests to assess the risks of storing data protected by tax secrecy in a cloud.

Test results demonstrate that:

• Clouds offer several computing resource options, enabling gradual contracting, and can serve several systems that have pent-up demands for production environments at a lower cost than that charged by Serpro for hosting services (hosting solutions and applications).

• In several tests, the clouds are faster than the hosting service offered by Serpro.

• Tests with image processing have shown that clouds offer excellent performance and the possibility of additions and reductions according to our needs. This meets the growing demand of the RFB for this type of processing without the need for an oversized initial contract.

Finally, it was demonstrated during the POC that Google, Microsoft and Amazon achieved the defined goals, equaling or exceeding the performance of Receita Data and the hosting services contracted with Serpro, unequivocally demonstrating the technical feasibility of replacing Receita Data with cloud solutions, as well as the hosting of structuring solutions. It is worth noting that, as already mentioned, the three largest cloud providers at that time were evaluated during the POC. Should it become necessary to adopt a new cloud provider that was not initially evaluated, a similar evaluation procedure will be carried out to verify whether they also meet the requirements established by the RFB.

More recently, the main public information technology companies in the Federal Government – Serpro and Dataprev – launched their private (or government) cloud solutions, which use the "cloud stack" service, establishing partnerships with the main cloud provider companies to offer cloud resources hosted in their data centers.

c) Minimum security requirements:

• Whenever applicable, the controls and measures defined in the Information Privacy and Security Program must be adopted. The minimum controls and measures required will be defined according to the criticality assessment of each system;

• Failure to implement a control or appropriate measure must be done based on a prior risk assessment;

• Whenever possible, system resources should be segmented to prevent a failure or cybersecurity incident from impacting other systems;

• A minimum privilege policy must be implemented for access to resources, systems, software and services in cloud computing, prioritizing just-in-time-access processes and tools;

• Applications and workloads must implement controls to detect and protect against data exfiltration; and

• Workloads and applications should periodically run vulnerability scans on all resources.

d) Governance policy:

Cloud governance policy must be jointly established by the areas responsible for governance and management of cloud operations, which must comply with the following guidelines related to resilience and security:

· Workloads and applications must have defined metrics to assess service reliability;

• According to the criticality of the workload, plan the architecture and failure resilience requirements, in addition to the "Disaster Recovery" plan;

Identity providers must be highly available;

• Implement security mechanisms in workloads and applications: WAF, Firewall, DDoS, etc.;

cycle;

#### CTSI/RFB Resolution No. 3/2024

- Secure management of certificates, keys and secrets, ensuring backup and redundancy;
- "Break the glass" accounts tested and stored securely for environment recovery in failure or disaster scenarios;
  - Monitor the environment in relation to the quality of services;
  - · Identify and classify critical workloads and applications;
  - Define a process to identify, triage and address security threats and vulnerabilities in the development

#### • Establish a process for monitoring security-related events;

- · Define processes for connectivity security, especially for public IP addresses; and
- Define criteria for adopting encryption of data in transit and at rest.
- e) Guidelines for the safe use of cloud computing software and services:

The use of cloud software is subject to the same controls and restrictions applied to software installed on RFB computers, and must undergo the approval or authorization process, even if in a simplified procedure. The use of services not natively provided by cloud providers must preferably be preceded by a risk analysis and technical study that establishes the security guidelines applicable to the service.

The coordination responsible for each RFB system or workload must, with the support of the Technology Coordination, assess whether the system or workload can be migrated to the cloud, considering the applicable information security and cloud information processing regulations. The responsible Coordination must also prepare a risk analysis as part of the planning for the migration of systems and workloads to the cloud environment.

f) Governance guidelines and minimum ICT infrastructure conditions of the body or entity to use cloud computing services:

The governance guidelines and minimum infrastructure conditions of the RFB's computerized environment for internal network resources and those hosted by service providers are valid, to the extent applicable, for the cloud environment. The controls and parameters applied to the RFB's organizational actors, such as access control, definition of access profiles and others, must also be applied to the cloud production environment.

g) Guiding principles of the strategy:

Taking into account the strategic guidelines of the RFB, as well as the regulations that govern the topic, some guiding principles are essential, namely:

• Cloud-First: Based on DECREE Nº 10.332, OF APRIL 28, 2020, this principle recommends that, whenever possible, solutions and services should be designed and implemented in the cloud. This implies taking full advantage of the intrinsic benefits of scalability, flexibility and agility offered by cloud service providers.

• Use of a Multicloud Broker: Recognizing the diversity and complexity of the cloud ecosystem, using a "Multicloud Broker" allows you to take advantage of the best of each cloud service provider, choosing specific solutions that best meet your technical, regulatory and cost needs. In addition, the "Multicloud Broker" model offers redundancy and resilience, minimizing the risks of over-reliance on a single provider.

• Prioritizing Security: Security remains a fundamental priority. Robust security measures should be incorporated at all layers, from access and authentication to data encryption and continuous monitoring, depending on the practical case. The aim is to mitigate cyber risks and protect more valuable assets, especially data, against internal and external threats.

• Continuous Training: Continuous investment in training and development of technical skills will be recommended. The RFB must promote a culture of innovation and collaboration, encouraging experimentation and continuous learning.

h) Alignment with other strategic plans and establishment of baselines and targets for expected benefits/results:

Projects and actions related to the use of cloud computing at the RFB must be aligned with the institution's strategic guidelines, as well as with the Information Technology Master Plan (PDTI). Furthermore, new solutions to be contracted with suppliers and cloud providers must be included in the Annual Procurement Plan (PCA).

The use of cloud computing in the RFB seeks, in addition to the objectives already present in this document, greater agility in the adoption of new technologies, with optimization and transparency of costs and greater control over aspects related to the operation and security of information.

Initiatives that use or depend on cloud technology to achieve their objectives, such as a solution that modifies work processes, should preferably be preceded by a document that establishes the benefits and results expected from adopting the solution, taking into account the established baseline, respecting the specific regulations and artifacts established in the RFB.

i) Considerations on the training of the staff of the agency or entity that will manage, operate or use the software and computing resources of cloud services, identifying the necessary capabilities and skills;

The work of RFB employees in the operation and monitoring of cloud environments, as well as in the development and use of cloud solutions and services, requires a combination of technical skills and specialized knowledge necessary to ensure security and planned performance. The following knowledge is desirable, in an exemplary and variable list for each type of activity:

• General Knowledge: understanding of fundamental cloud computing concepts, including service models (IaaS, PaaS, SaaS), cloud types (public, private, hybrid) and cloud architectures.

• Cloud Platforms Mastery: practical experience with market-leading cloud platforms, especially cloud service providers provided for in contracts signed by the RFB, using or not the cloud broker mechanism.

• Virtualization and Container Skills: Familiarity with virtualization technologies and experience in container management.

• Automation and Orchestration: ability to automate repetitive processes and tasks using market tools, and ability to orchestrate cloud resources efficiently.

• Cloud Security: Knowledge of cloud security practices, including access control, encryption, security monitoring, compliance, identity management, incident response, and digital forensics.

• Data Management: Experience in cloud data management, including storage, databases, data migration, and implementation of backup and recovery strategies.

• Cloud Application Development: software development skills to create, deploy and scale applications in the cloud, using programming languages.

• Performance Monitoring and Optimization: Ability to monitor the performance of cloud resources, identify bottlenecks and optimize resource utilization to maximize efficiency and reduce costs.

• Problem Resolution and Troubleshooting: Ability to diagnose and resolve complex problems in cloud environments, including networking, security, performance and systems integration.

j) Considerations on portability and interoperability between systems, data and services, as well as the feasibility of adopting measures to mitigate technological dependence or lock-in to the provider;

The strategy for developing and supporting solutions that use cloud computing technology at the RFB must ensure flexibility and integration between platforms and services, whether cloud-based or not, in order to ensure continuity of service provision and fluidity. These are the practical measures to be considered that promote the portability and interoperability of systems and data, seeking to reduce any type of dependence on a single cloud provider:

• Open Standards: Solutions based on open standards will be prioritized in order to facilitate migration between different cloud providers.

• Multicloud Strategy: A multicloud strategy should be adopted, distributing workloads between different public or private cloud providers, taking advantage of the best that each provider has to offer, reducing the risk of dependency, considering the cost of transferring data between cloud providers.

• Migration Tools: Priority will be given to the use of migration tools and services to facilitate the transfer of applications and data between cloud environments.

• Unified Monitoring and Management: The use of monitoring and management tools that can cover multiple cloud environments should be encouraged.

k) Regulatory and compliance requirements;

Cloud computing solutions at the RFB must comply with the regulatory and compliance requirements established by the competent bodies, including the requirements established by internal and external control bodies, especially the regulations in force now established, namely:

• ORDINANCE SGD/MGI No. 5,950, OF OCTOBER 26, 2023, which establishes a model for contracting software and cloud computing services, within the scope of the bodies and entities that are part of the Information Technology Resources Management System - SISP of the Federal Executive Branch;

• GSI/PR REGULATORY INSTRUCTION No. 5, OF AUGUST 30, 2021, which provides for the minimum information security requirements for the use of cloud computing solutions by federal public administration bodies and entities; and

• CTSI/RFB RESOLUTION No. 1, OF MARCH 16, 2020 , which authorizes hosting, in the public cloud, of the RFB's computerized solutions.

I) Indication of the Exit Strategy, considering the analysis of dependencies and portability aspects:

Migrating services and data to the cloud is usually accompanied by the need for flexibility and scalability. However, circumstances may arise, such as changes in security policies, costs or regulatory requirements, that lead to the consideration of returning to the traditional model of storing and hosting data and solutions. To this end, RFB's cloud strategy considers at least the following actions:

- · Dependency Analysis:
- o Dependencies between systems, applications and data in the cloud.

o Critical interconnections that may impact migration back to on-premise.

• Portability Assessment:

o Portability of solutions and data stored in the cloud, considering open standards and avoiding blockages due to suppliers.

o Use of migration and backup tools that support efficient data transfer between the cloud and the local environment.

- Backup and Recovery:
- o Complete and up-to-date backups of all data and systems in the cloud.

o Disaster recovery strategies to ensure data integrity during return to on-premise.

m) Risk analysis:

The risks of using a cloud computing technology solution at RFB were assessed in NT COTEC 035/2021 following the RFB Risk Management Model (probability, impact, existing controls, proposed controls and residual risk) with the "Medium" classification.

The aforementioned Technical Note highlights that "all solutions tested in the proof of concept presented security elements considered essential by the RFB". The following risks were analyzed:

• Unidentified access to RFB data by the service provider, with the consequent breach of data confidentiality and even tax secrecy.

• Expansion of contact points with the internet, which can be used for attacks on the RFB and, consequently, unavailability of services or data theft

In addition to the points mentioned above, the previous mapping is complemented with the following risks and respective mitigation actions regarding cloud data hosting:

• Risk of Technology Lock-in: Technology lock-in is a significant risk associated with the adoption of cloud services. It refers to the excessive dependence on a specific cloud provider due to the deep integration of systems, data and services. This risk is mitigated by adopting a multicloud model, avoiding a single cloud provider, as well as using open standards and flexible architectures to facilitate migration and integration between providers.

• Catastrophe and Natural Disaster Risk: Cloud technology offers valuable protection against natural disasters by enabling geographic redundancy, automated backups, and rapid recovery of data and systems. Its flexible scalability enables agile response to emergency situations, while remote collaboration and enhanced security measures ensure business continuity even during crises. By adopting cloud solutions, organizations strengthen their resilience by mitigating the damage caused by natural disasters and ensuring data security and availability.

• Opportunity Cost Risk: The opportunity cost of not adopting cloud technology and not taking advantage of the most innovative technological solutions available on the market can be significant for the RFB. By choosing to remain with traditional infrastructures or outdated solutions, institutions run the risk of falling behind in offering solutions to citizens. Failure to adopt the cloud can result in higher operational costs due to the maintenance of local infrastructure, in addition to limiting the agility and flexibility needed to adapt to demands. Furthermore, by not taking advantage of the most innovative technological solutions, institutions may miss opportunities to improve operational efficiency and boost team productivity. The opportunity cost of not adopting cloud technology and not taking advantage of the most advanced solutions can result in an institutional position

The RFB must carry out a new risk mapping for new software or cloud computing service contracts in compliance with the provisions of item 23.3.2 of Annex I of Ordinance SGD/MGI No. 5,950, OF OCTOBER 26, 2023, or at any time.

#### APPENDIX

#### DEFINING REQUIREMENTS FOR SAFE USE OF CLOUD COMPUTING

The minimum requirements of this chapter must be observed for the RFB to adopt cloud computing solutions securely, with the aim of increasing the level of information protection when using this technology. This chapter complies with the obligations set forth in Normative Instruction GSI/PR No. 5, of August 30, 2021.

A) Transferring services to a cloud service provider

Before transferring services or information to a cloud service provider, the RFB must:

I - ensure that the following operations are in line with Brazilian legislation, the rights to privacy, the protection of personal data, other standards established by the RFB and the confidentiality of private communications and records:

a) collection, storage, safekeeping and processing of personal data records;

b) communications carried out by connection providers and internet applications, in which at least one of these acts occurs within national territory;

II - carry out risk management, preceded by analysis and reporting of the impact of personal data, in accordance with legislation;

III - define the cloud computing service and implementation model that will be adopted;

IV - evaluate which information will be hosted in the cloud, considering the requirements present in this document;

V - define risk and cost mitigation measures for the implementation of a cloud computing solution and for the possibility of growth of this solution; and

VI - plan the costs of migrating information and services, in cases of joining and leaving the cloud computing service.

B) The cloud service provider's ability to implement updates

Depending on the cloud service provider's ability to implement updates related to information security in its products and services, the RFB must periodically review and update the internal Information Security risk management processes.

The cloud service provider must have a software version update policy, indicating its criticality.

C) Identity and log management

In relation to identity and records management, the RFB must:

I - observe the regulations established by the RFB regarding the generation, processing, storage and recovery of event records (log) in cloud computing solutions, and the control of logical access in the RFB's computerized environment and the processing of access and user privileges;

II - deny the cloud service provider permission to use and directly access the RFB authentication environment;

III – in addition to the use of authentication resources that guarantee the individual and unequivocal identification of the user, when accessing information assets, adopt, according to the level of criticality of the information, the use of single-sign-on technology, which must be accompanied by:

a) multi-factor authentication; or

b) another alternative that increases the level of security in the authentication process of its users with the cloud service provider;

IV – require the cloud service provider to:

a) record all accesses, incidents and cyber events, including information about sessions and transactions; and

b) store, for a period of one year, all records referred to in paragraph a;

VI - store records of all accesses, incidents and cyber events, including information on sessions and transactions, for at least five years, in the cloud service provider's environment or in its own controlled environment, at the discretion of the RFB;

VII - maintain in a controlled environment, for at least five years, records of all accesses, incidents and cyber events, including information on sessions and transactions received from the cloud service provider; and

VIII - train the security team to access and use the records generated by the cloud service provider as well as to assess whether the security controls and roles and permissions assigned to each identity are appropriate to the characteristics of the workloads.

D) The use of cryptographic resources

Regarding the need to use cryptographic resources, the RFB must:

I – check whether the organization's data is being processed and stored in accordance with the legislation;

II - assess the need to encrypt data based on legal requirements, risks, level of criticality, costs and benefits; and

III - use, whenever possible, hardware-based encryption keys.

E) Data segregation and logical separation

Regarding data segregation and logical separation in cloud computing environments, the contracted cloud provider must:

I - ensure that the contracted environment is protected from external users of the cloud service and from unauthorized persons, and there must be information security controls in place to provide adequate isolation of the resources used by the RFB from other resources used by users of the public cloud service;

II - ensure that appropriate logical segregation of data from virtualized applications, operating systems, storage and the network is applied in order to establish the separation of resources used; and

III - ensure the separation of all resources used by the Cloud Service Provider from those resources used by the RFB.

Regarding data segregation and logical separation in cloud computing environments, RFB must:

I – Restrict the attack surface, especially external, of workloads to the smallest possible, avoiding exposing assets and services directly to the internet, except when strictly necessary.

F) Information processing

Regarding the processing of information in a cloud computing environment, the RFB, in addition to complying with the guidelines contained in the legislation on the protection of personal data, must observe the guidelines present in item 3.a of this Strategy Document for the Use of Cloud Computing Software and Services:

The data, metadata, information and knowledge produced or held by the RFB, transferred to the cloud service provider, must be hosted in Brazilian territory, observing the following provisions:

I - at least one updated backup copy must be kept in Brazilian territory;

II - information without access restrictions may have updated backup copies outside Brazilian territory, in accordance with applicable legislation; and

III - in the case of personal data, the guidelines set out in Law No. 13,709 of August 14, 2018, the General Personal Data Protection Law - LGPD, and other legislation on the subject must be observed.

A specific RFB rule may authorize the sharing of files in the public cloud with external users, including those protected by tax secrecy.

\*This text does not replace the officially published text.

**RFB ORDINANCE NO. 480, OF OCTOBER 29, 2024** 

# (Published in the Official Gazette of 10/31/2024, section 1, page 124)

# Multi- Vengent Current Original Relational

Establishes the Management and Performance Program within the scope of the Special Secretariat of the Federal Revenue of Brazil.

# Change history

(Amended by Ordinance RFB No. 496, of December 18, 2024)

THE SPECIAL SECRETARY OF THE BRAZILIAN FEDERAL REVENUE, using the powers granted to him by art. 350, caput, item III, of the Internal Regulations of the Special Secretariat of the Federal Revenue of Brazil, approved by Ordinance ME No. 284, of July 27, 2020, and in view of the provisions of Decree No. 1,590, of August 10, 1995, in Decree No. 11,072, of May 17, 2022, in the Joint Normative Instruction Seges-SGPRT / MGI No. 24, of July 28, 2023, in the Joint Normative Instruction SGP-SRT-SEGES / MGI No. 52, of December 21, 2023, in Ordinance ME No. 7,081, of August 9, 2022 and in Ordinance SE / MF No. 1,599, of October 7, 2024, resolves:

# CHAPTER I PRELIMINARY PROVISIONS

Art. 1 This Ordinance establishes the Management and Performance Program of the Special Secretariat of the Federal Revenue of Brazil - PGD/RFB, under the terms of the Joint Normative Instruction Seges-SGPRT/MGI No. 24, of July 28, 2023, and the Joint Normative Instruction SGP-SRT-SEGES/MGI No. 52, of December 21, 2023.

Art. 2° The objectives of the PGD/RFB, in addition to those listed in art. 2° of the Joint Normative Instruction Seges-SGPRT/MGI No. 24, of July 28, 2023:

I - promote integration, relationships and dialogue between people and the various work teams of the Special Secretariat of the Federal Revenue of Brazil - RFB;

II - foster engagement and a sense of commitment through the recognition and use of the talents of people working at the RFB; and

III - improve management tools.

Art. 3 For the purposes of the provisions of this Ordinance, the following shall be considered:

I - activity: the set of actions, synchronous or asynchronous, carried out by the participant, which aims to contribute to the deliveries of an execution unit;

II - synchronous activity: one whose execution takes place through simultaneous interaction between the participant and third parties, and may be carried out in person or virtually;

III - asynchronous activity: one whose execution is not simultaneous between the participant and third parties, or which exclusively requires the participant's effort for its completion, and may be carried out with or without physical presence;

IV - digital office: set of digital tools defined by the RFB to enable the performance of synchronous or asynchronous activities;

V - plaintiff: the one who requests deliveries from the execution unit;

VI - recipient: beneficiary or user of the delivery, which may be internal or external to the organization;

VII - delivery: the product or service of the execution unit, resulting from the contribution of the participants;

VIII - administrative unit - UA: in the case of decentralized units, the Regional Superintendencies, the Delegations, the Customs, the Inspectorates, the Agencies, the Service Points and, in the case of Central Units, the Special Secretariat of the Federal Revenue of Brazil, the RFB Office, the Deputy Secretariat, the Advisory Services directly linked to the Special Secretary and the Deputy Secretariat, the Ombudsman's Office, the Inspectorate, the Center for Tax and Customs Studies, the Sub-Secretariats, the General Coordinations, the Special Coordinations and the subunits of the Central Units located outside Brasília;

IX - execution unit: any UA or UA sector that has an agreed delivery plan,

X - external flying team: is one made up of participants from different RFB units, with the objective of working on specific projects in other bodies;

XI - internal flying team: is one composed of participants from different RFB units, with the objective of acting in specific deliveries of other execution units subject to the existence of demand and the consent of the heads involved, regulated in a specific act;

XII - unit delivery plan: management instrument that aims to plan the deliveries of the execution unit, containing its goals, deadlines, requesters and recipients;

XIII - participant's work plan: management instrument that aims to allocate the percentage of the available workload during the period to the respective activities carried out by the participant, in order to contribute directly or indirectly to the achievement of deliveries;

XIV - Term of Knowledge and Responsibility - TCR: management instrument through which the immediate superior and the interested party agree on the rules for participation in the PGD/RFB; and

XV - participant: the public agent provided for in art. 2, § 1, of Decree No. 11,072, of May 17, 2022, with participation status in the PGD registered in the Federal Public Administration's Personnel Management Structuring Systems.

# CHAPTER II OF THE PGD/RFB TYPES

# Section I Preliminary provision

Art. 4° The PGD/RFB may be executed in the following ways:

I - in person; or

II - teleworking, to be carried out through:

a) partial execution regime, when part of the working day takes place in locations at the participant's discretion and part in a location determined by the RFB; or

b) full-time work regime, when the entire working day takes place in a location at the participant's discretion.

§ 1° Teleworking must be carried out during the unit's operating hours, unless otherwise agreed with the immediate manager at the TCR.

§ 3 The management and control of the PGD/RFB will be carried out in the Administrative Activities Support System - SA3.

# Section II Partial execution regime

Art. 5 The public agent who adheres to the PGD/RFB in the teleworking modality will carry out his/her activities under the partial execution regime, except as provided in art. 7.

Art. 6 The participant in the teleworking modality under a partial execution regime referred to in this Section must carry out his/her activities in his/her physical location or exercise unit, or in a place established by the administration.

Art. 6 The participant in the teleworking modality under a partial execution regime referred to in this Section must carry out his/her activities in his/her physical location or exercise unit, or in an established location of interest to the administration. (As amended by Ordinance RFB No. 496, of December 18, 2024)

§ 1° The provisions of the caput apply to public agents who have reduced working hours, in proportion to their reduced working hours.

§ 2 The monthly hours of execution of in-person activities will be adjusted proportionally in the event of vacations, licenses, absences and other periods of absence provided for by law.

§ 3 In the case of public agents on the move, the period of the call-up will be counted for the purposes of the period of execution of activities in the unit.

# Section III Full execution regime

Art. 7° Adherence to the PGD/RFB in the teleworking modality under a full-time execution regime will be permitted, on a priority basis, to public agents of the RFB staff who fall under the following hypotheses:

I - with disabilities or who are parents or guardians of dependents in the same condition, in accordance with Law No. 13,146, of July 6, 2015 ;

II - elderly;

III - suffering from occupational disease, active tuberculosis, mental alienation, multiple sclerosis, malignant neoplasm, blindness, leprosy, irreversible and incapacitating paralysis, severe heart disease, Parkinson's disease, ankylosing spondyloarthrosis, severe nephropathy, severe hepatopathy, advanced stages of Paget's disease (osteitis deformans), radiation contamination, or acquired immunodeficiency syndrome;

IV - pregnant women;

V - lactating women with children within a period of up to twenty-four months after the birth of the newborn;

VI - with children within a period of up to twenty-four months after the birth of the newborn;

VII - adopters of children up to eight years of age, within a period of up to six months after adoption or until the child reaches twenty-four months of age;

VIII - who carry out their activities abroad, upon authorization, in accordance with articles 8 to 10; or

IX - that individually justify the differentiated treatment, due to the nature of the service, the complexity of the matter or their performance, in exceptional cases duly substantiated by the immediate superior of the public agent, forwarded through the hierarchical channel to the manager of the work process and approved by the People Management Committee - CGP of the RFB.

§ 1° The public agent who has a physical location:

I - in a unit that is to be extinguished, it will be removed ex officio or its physical location will be changed upon extinction, with the teleworking modality being permitted under a full-time execution regime until the end of the year following the date of extinction of the unit; and

II - in a unit whose activities are suspended, it will be removed or its physical location will be changed upon suspension, with teleworking being permitted under a full-time regime, while the suspension lasts.

§ 2° The Institutional Governance Committee - CGI of the RFB may foresee other situations to which the regime set out in this article may be applied.

Art. 8 Teleworking under a full-time regime may be granted to a civil servant residing abroad only in the cases provided for in art. 12 of Decree No. 11,072, of May 17, 2022, subject to authorization from the Special Secretary of the Federal Revenue of Brazil.

§ 1° The PGD/RFB participant who adheres to the full-time teleworking modality abroad will not be entitled to reimbursement of any nature or to daily allowances and travel expenses arising from in-person attendance at the exercise unit.

§ 2° The teleworking abroad referred to in the caput will occur subject to the maintenance of the rules regarding the payment of benefits, whether remunerative or compensatory, as if the employee were working in the national territory, without any burden to the RFB regarding expenses of the employee and any family members resulting from international travel.

Art. 9 The deadline for the server to perform teleworking abroad will be:

I - the period of duration of the fact that justifies it; or

II - three years, extendable for the same period or less, in the case provided for in art. 12, § 9, item I of Decree No. 11,072, of May 17, 2022.

Sole paragraph. For the purposes of the server remaining in telework abroad in the manner provided for in item I of the caput, proof of the existence of the fact that justified its granting must be sent to the personnel management unit of the server's unit of exercise by December 31 of each year or by the last business day of the month following the extinction of the fact.

Art. 10. The authorization to carry out activities as provided for in art. 8 may be revoked for technical reasons or for reasons of convenience and opportunity, by means of a reasoned decision by the Special Secretary of the Federal Revenue of Brazil.

Sole paragraph. In the event provided for in the caput, the PGD/RFB participant must continue to carry out his/her activities until his/her effective return to the country.

# CHAPTER III

# ADHESION TO PGD/RFB

Art. 11. The activities that make up the RFB work processes may be performed in the PGD/RFB, in the following percentages:

I - up to 100% (one hundred percent) in the face-to-face modality; and

II - up to 100% (one hundred percent) in the part-time teleworking modality.

Sole paragraph. The execution of teleworking activities may not harm activities for which physical presence at the unit is strictly necessary.

Art. 12. All public agents mentioned in art. 3, caput, item XV, are allowed to join the PGD/RFB, subject to the restrictions set forth in arts. 13 and 14.

Art. 13. Public agents who have committed a disciplinary offense ascertained through an investigation procedure or disciplinary administrative process in the period of two years prior to the date of request to participate in the PGD/RFB are prohibited from participating.

Art. 14. Participation in the PGD/RFB, in the form of teleworking, is prohibited:

I - of the public agent who has been appointed or designated to the position or function of head of the following administrative units of the RFB:

a) Central Units:

1. Cabinet - Cabinet;

- 2. Office Advisory Services;
- 3. Subsecretariats;

- 4. Inspectorate Coger;
- 5. Center for Tax and Customs Studies Cetad;

6. Ombudsman - Ouvid; and

7. General Coordinations; and

b) Decentralized Units:

1. Regional Superintendencies of the Brazilian Federal Revenue Service - SRRF;

2. Brazilian Federal Revenue Offices - DRF;

3. Federal Revenue Service of Brazil Judgment Offices - DRJ;

4. Specialized Delegations of the Brazilian Federal Revenue Service;

5. Customs of the Brazilian Federal Revenue Service - ALF; and

6. Inspectorates of the Brazilian Federal Revenue Service - IRF;

II - of the public agent who has been appointed or designated for the position of RFB Project Manager;

III - of a public agent who has moved from another body or entity within the period of six months after starting work at the RFB;

IV - of the public agent who has not completed the first year of probationary period; and

V - of interns.

§ 1° The designation of a substitute for the positions or functions mentioned in items I and II of the caput does not prohibit participation in the PGD/RFB in the teleworking modality, except during the period of the substitution, in which the in-person modality or attendance control must be adopted in the unit for which the substitute was designated.

§ 2° The holders of the units listed in item I, letter "b", items 2 to 6, of the caput, are authorized to participate in the telework modality exclusively under a partial execution regime, provided that the server responsible for their eventual replacement is present in the respective unit on the days in which the holder carries out his/her activities externally.

§ 3 During the first year of the probationary period, the participant's activities must be monitored in person by their immediate supervisor.

§ 4 Exceptionally and upon justification, the in-person monitoring of the participant during the first year of the probationary period may be carried out by another employee other than his/her immediate superior, as long as he/she is from the same unit and designated by the unit manager.

§ 5° The prohibition provided for in the caput does not apply to public agents who are included, simultaneously, in items III or IV of the caput and in items I to V of the caput of art. 7°.

Art. 15. All PGD/RFB participants are exempt from attendance and punctuality control throughout their working day, regardless of the modality and execution regime adopted.

§ 1º SA3 will have functionality for self-declaration, by the participant, of his/her attendance at the physical location or exercise unit, when applicable.

§ 1° SA3 will have functionality for self-declaration, by the participant, of his/her attendance at the physical location or exercise unit, or at an established location of interest to the administration, when applicable. (As amended by Ordinance RFB No. 496, of December 18, 2024)

 $\S~2^o$  The indication of attendance referred to in  $\S~1^o$  is mandatory in the following cases:

I - in-person assistance to the taxpayer;

II - execution of activities that imply the receipt of transportation assistance by the public agent;

III - execution of activities that, by their nature or place of performance, justify the receipt, by the public agent, of additional payments for unhealthiness or dangerousness, respectively; and

IV - execution of activities by the server in a strategic location, under the terms provided for in Law No. 12,855, of September 2, 2013 .

§ 3 The attendance record referred to in § 2 will be computed for the purposes of complying with the provisions of art. 6, caput.

§ 4 Public agents who do not adhere to the PGD/RFB will be subject to the attendance and punctuality control referred to in art. 6 of Decree No. 1,590, of August 10, 1995.

Art. 16. Public agents who do not adhere to the PGD/RFB, whose activities are carried out externally to the administrative units of the RFB under the terms of § 4 of art. 6 of Decree No. 1,590, of August 10, 1995, must complete the weekly bulletin, in electronic form, in which attendance and effective provision of service are recorded.

Art. 17. The duties and responsibilities of the PGD/RFB participant will be set out in the TCR registered in the SA3, which must be signed and updated for each agreed work plan, and will contain, at a minimum, the information set out in the Single Annex.

# CHAPTER IV

# WORK INFRASTRUCTURE

Art. 18. The activities of the PGD/RFB participant will be carried out using desktop, notebook or similar equipment, provided by the RFB and necessary for the safe and timely flow of information.

§ 1° The PGD/RFB participant in the telework modality must provide and maintain, at his/her own expense, the minimum physical and technological infrastructure necessary to carry out the work, when carrying out activities outside the premises of the RFB administrative units, through the use of ergonomic equipment and facilities.

§ 2 Shared workstations will be made available on the RFB's physical premises for PGD/RFB participants in the teleworking modality.

# CHAPTER V

# MANAGEMENT INSTRUMENTS

# Section I

# Of the delivery plan of the execution unit

Art. 19. Each execution unit must register its delivery plan in SA3, which will contain, at a minimum:

I - the start date and the end date, with a maximum duration of one year; and

II - the expected deliveries of the execution unit, with their respective goals, deadlines, requesters and recipients.

§ 1° The delivery plan must be agreed between the head of the execution unit and his/her hierarchical superior, who must be informed in the event of any adjustments.

§ 2° The work plans of participants affected by adjustments to the delivery plan of the execution unit must be renegotiated.

# Section II

# Participant's work plan

Art. 20. The participant's work plan, which will contribute directly or indirectly to the delivery plan, will be agreed between the PGD/RFB participant and the immediate manager, and will contain the deliveries and tasks resulting from the breakdown of the execution unit's delivery plan.

Art. 21. During the execution of the work plan, the participant will record:

I - the description of the work carried out; and

II - incidents that affected what was initially agreed, with justification.

§ 1° The registration referred to in the caput must be carried out:

I - within ten days after the end of the work plan, if this was agreed for a period of up to thirty days; or

II - monthly, until the tenth day of the month following the end of the work plan, in other cases.

§ 2 The participant's work plan will be monitored by the immediate supervisor with the possibility of adjustments and renegotiation at any time.

§ 3 At the discretion of the immediate supervisor, the participant's TCR may be adjusted in order to meet the conditions necessary for the most appropriate execution of the work plan.

Art. 22. The following absences and occurrences will be deducted from the time available for carrying out activities, as unavailability:

I - holidays;

II - holidays and optional days recognized in an act of the federal public administration;

III - licenses, absences and leaves of absence provided for by law;

IV - business trips;

V - the period of travel resulting from business travel; and

VI - training in the interest of the RFB, offered by the Institution's training program.

# CHAPTER VI EVALUATIONS

# Section I Of the delivery plan of the execution unit

Art. 23. The hierarchical superior of the head of the execution unit will assess compliance with the unit's delivery plans, taking into account:

I - the quality of deliveries;

II - the achievement of goals and expected results;

III - compliance with deadlines; and

IV - justifications in cases of non-compliance with targets and possible delays.

Sole paragraph. The assessment of the execution of the delivery plan carried out under the terms of the caput must occur within thirty days after its completion, based on the following scale:

I - exceptional, when executed with performance far above expectations;

II - high performance, when executed with performance above expectations;

III - adequate, when executed as expected;

IV - inadequate, when performed below expectations; and

V - not executed.

# Section II Participant's work plan

Art. 24. The immediate supervisor must evaluate the work plan executed by the participant within twenty days after the deadline for recording their deliveries, based on the following scale:

I - exceptional, when performed well above expectations;

II - high performance, when performed above expectations;

III - adequate, when executed as expected;

IV - inadequate, when performed below expectations or partially performed; or

V - not executed, when not executed in full.

§ 1° The assessment must consider exceptional or atypical situations that occurred during the execution of activities.

§ 2 Participants will be notified of the evaluations received.

§ 3° The assessment falling within the hypotheses provided for in items I, IV or V of the caput must be justified by the participant's immediate superior.

§ 4 The participant may request reconsideration of the assessments given under items IV or V of the caput, by presenting a justification to the immediate superior within ten days, counting from the notification referred to in § 2.

§ 5 In the event provided for in § 4, the participant's immediate superior may, within ten days of receipt of the appeal:

I - reconsider the initial assessment based on the participant's justification and adjust the assessment; or

II - maintain the participant's initial assessment, through formal manifestation.

§ 6° The assessments referred to in items IV and V of the caput will be considered final in the following cases:

I - failure to file the appeal referred to in § 4; and

II - failure to reconsider the participant's initial assessment under the terms of item II of § 5.

§ 7° The actions provided for in §§ 1° to 5° must be registered in SA3.

Art. 25. In the case of a work plan assessed as inadequate due to execution below expectations, the improvement actions to be implemented by the participant must be recorded in the TCR, in addition to other measures to be adopted.

Art. 26. In the case of a work plan assessed as inadequate due to partial or full non-execution, the participant's work plan for the subsequent period must provide for compensation for the corresponding workload.

Sole paragraph. In the case of compensation for working hours, the sum of the percentages allocated to the performance of the work may exceed the participant's ordinary working hours, observing the working hours limits established in specific regulations.

Art. 27. The participant's payroll will be discounted in the following cases:

I - failure by the server to agree on the work plan indicating the compensation referred to in art. 26; or

II - non-compensation, partial or full, of the working hours under the terms provided for in art. 26.

§ 1° The discount on the payroll referred to in the caput must be calculated based on the percentage distribution of work, and will correspond to the workload of activities not performed, partially or fully.

§ 2° In order to implement the payroll deduction referred to in this article, the participant's immediate superior must forward at least the following information to the respective personnel management unit:

I - number of hours of activities not performed or not compensated, proportional to the workload;

II - proof of the definitive assessment of the work plan as inadequate due to partial or full non-execution, in accordance with art. 24, § 6; and

III - proof of non-compensation, partial or full, under the terms set forth in art. 26.

# CHAPTER VII

# ON THE DISCONNECTION OF THE PGD/RFB

#### Port. RFB nº 480/2024

Art. 28. The participant will be removed from the PGD/RFB in the following cases:

I - upon request, at any time, regardless of the administration's interest;

II - in the interest of the administration, for reasons of convenience, service needs or resizing of the workforce, duly justified;

III - due to a change in the exercise unit;

IV - due to non-compliance with the TCR;

V - if the PGD/RFB is revoked or suspended;

VI - as a result of the participant being designated to perform an activity not covered by the PGD/RFB; or

VII - due to the supervening of the prohibition hypotheses established in articles 13 and 14.

§ 1° The participant removed from the PGD/RFB must return to the frequency control within the following deadlines:

I - in the event of termination upon request, provided for in item I of the caput, within ten business days, counted from the termination request; and

II - in the cases provided for in items II to VII of the caput:

a) within two months, counting from the act that gave rise to it, for participants in teleworking abroad; and

b) within thirty days, counting from the act that gave rise to it, for the other participants.

§ 2 The participant will continue to execute his/her work plan until the effective return to frequency control.

§ 3° The participant who is removed from the PGD/RFB due to a change in the exercise unit may rejoin the Program immediately, without having to return to the attendance control, provided that the requirements set forth in this Ordinance are met.

# CHAPTER VIII

# COMPETENCES

Art. 29. Notwithstanding the other powers provided for in this Ordinance, the work process manager is responsible for:

I - Monitor and evaluate the results of the PGD/RFB in its area of expertise;

II - supervise the application and dissemination of the process of monitoring goals and results;

III - guide the definition of the delivery plan in relation to the work process under its jurisdiction;

IV - collaborate with Cogep and the General Coordination of Planning, Organization and Institutional Assessment - Copav to improve the execution of the PGD/RFB; and

V - promote meetings with the team working in the work process, for the purposes of monitoring and controlling productivity and improving the execution of the process.

Art. 30. The head of the execution unit of participants in PGD/RFB is responsible for:

I - prepare the delivery plan;

II - assess compliance with established deliveries, goals, deadlines and indicators;

III - evaluate the quality of deliveries; and

IV - inform the hierarchical superior about the progress of deliveries related to the PGD/RFB, the difficulties identified and situations that have impacted or may impact, negatively or positively, the deliveries of the execution unit.

Art. 31. The immediate supervisor of participants in PGD/RFB is responsible for:

I - maintain permanent contact with participants to pass on service instructions;

II - agree on work plans and enter into TCR with public agents and promote the participant's dismissal in the cases provided for in this Ordinance;

III - distribute the processes, activities or tasks to be performed by the participants;

IV - monitor the quality of the work developed and the adaptation of participants to the Program;

V - assess compliance with established deliveries, goals, deadlines and indicators;

VI - promote the integration and engagement of team members;

VII - invite Program participants to in-person activities in the interest of the administration;

VIII - inform the hierarchical superior about the progress of tasks and deliveries related to the Program, the difficulties identified and situations that have impacted or may impact, negatively or positively, the deliveries of the execution unit; and

IX - inform the people management unit when it is impossible to communicate with the participant through the channels provided for in the TCR or the digital office.

Sole paragraph. The minimum advance notice period for the participant to be summoned to appear in person at the unit shall be at least two working days.

Art. 32. The human resources management units are responsible for:

I - clarify managers' doubts regarding records in personnel systems;

II - monitor, with the help of planning units, the results of the work process execution units, consolidated by activity and modality and individualized by participant.

Sole paragraph. In the absence of a local personnel management unit, the powers referred to in the caput will be executed by the units or areas responsible for administrative support activities related to personnel.

Art. 33. Cogep is responsible for:

I - annually publish the results of the PGD/RFB, via electronic address;

II - send to the Undersecretariat of Management, Information Technology and Budget of the Ministry of Finance the data on the execution of the PGD/RFB and provide information about them when requested; and

III - keep updated, before the PGD Executive Committee - CPGD, as referred to in art. 31 of the Joint Normative Instruction Seges-SGPRT/MGI No. 24, of July 28, 2023, the electronic address through which the act of institution of the PGD/RFB and the results obtained will be disclosed.

Art. 34. Copav is responsible for

I - Define tool and procedure for recording the delivery plan;

II - Guide the Units in defining their delivery plans;

III - Monitor the execution of delivery plans;

IV - Provide management information on delivery plans; and

V - Provide Cogep with information on delivery plans to comply with item I of art. 33.

# CHAPTER IX FINAL PROVISIONS

# Art. 35. Participation in the PGD/RFB in the teleworking modality under a full-time execution regime is authorized, exceptionally, by up to 100% (one hundred percent) of participants, until May 30, 2025.

Art. 35. Participation in the PGD/RFB in the teleworking modality under a full-time execution regime is authorized, exceptionally, by up to 100% (one hundred percent) of participants, until May 31, 2025. (As amended by

# Ordinance RFB No. 496, of December 18, 2024)

Art. 36. Public agents who reported residing, until May 31, 2024, in a location other than the physical location or unit of exercise, as stated in their respective functional records, may exceptionally remain in the telework modality under a full-time execution regime for a period of up to twelve months, counted from the date of publication of this Ordinance.

Art. 37. In accordance with the provisions of art. 8 of the Joint Normative Instruction SGP-SRT-SEGES/MGI No. 52, of December 21, 2023, payment to the PGD/RFB participant in the telework modality under a full-time execution regime is prohibited:

I - occupational additional payments for unhealthiness, dangerousness or ionizing radiation; and

II - bonuses for activities involving X-rays or radioactive substances.

Sole paragraph. The participant with precautionary measures and carrying an institutional firearm is exempt from the prohibition provided for in item I of the caput, specifically regarding the receipt of the occupational hazard allowance.

Art. 38. Under the terms of art. 11 of the Joint Normative Instruction SGP-SRT-SEGES/MGI No. 52, of December 21, 2023, the compensation referred to in Law No. 12,855, of September 2, 2013, will be due to PGD/RFB participants on the days in which their presence is proven at police stations, posts or units located in strategic locations, linked to the prevention, control, inspection and repression of cross-border crimes.

§ 1° In the case of performance of work activities outside the department in municipalities considered strategic locations, the employee will be entitled to the compensation referred to in the caput, provided that the activity is carried out in a location established by the administration. (Included by Ordinance RFB No. 496, of December 18, 2024)

2° The value of the compensation referred to in the caput will be adjusted, proportionally, in the case of greater or lesser hours worked on the day, in accordance with art. 2° of Law n° 12.855, of 2013 . (Included by Ordinance RFB No. 496, of December 18, 2024)

Art. 39. The night shift bonus will be granted to the public agent provided that the following requirements are met cumulatively:

I - prior authorization, duly justified, by the participant's immediate superior; and

II - proof of activity, even if teleworking, between 10 pm (twenty-two hours) of one day and 5 am (five hours) of the following day.

§ 1° The participant's immediate supervisor must forward the process to the respective personnel management unit, accompanied by at least the following documents:

I - authorization and justification of the request, with express indication of the situation that gives rise to carrying out the work at night;

II - description of the period and time of the work carried out by the participant; and

III - nominal list of participants authorized to carry out activities at night.

§ 2 The payment of the night shift allowance will only be made after a declaration by the participant's immediate superior attesting to the completion of the activity in the manner provided for in this article, specifying the name of the public agent and the dates and times of the activities performed.

Art. 40. Transportation assistance will be granted to public agents in cases where they travel between their residence and their place of work, in accordance with Normative Instruction No. 207, of October 21, 2019, issued by the central body of the Federal Administration Civil Personnel System - Sipec, regardless of the modality and execution regime.

Art. 41. For the implementation of the provisions of art. 6, a Working Group - GT will be established, composed of representatives of the RFB administration and the national unions of RFB employees, which must

present a report to the CGI, by March 2025, with a proposed methodology for the implementation of minimum periods of activities in person and cases of telework in full-time execution, starting in May 2025, observing the levels and conditions provided for in art. 4 of Ordinance SE/MF No. 1,599, of October 7, 2024, and in Section III of this Chapter, considering:

Art. 41. For the implementation of the provisions of art. 6, a Working Group - GT will be established, composed of representatives of the RFB administration and the national unions of RFB employees, which must present a report to the CGI, by March 2025, with a proposed methodology for implementing minimum periods of activities in person and cases of telework in full-time execution, starting in May 2025, observing the levels and conditions provided for in art. 4 of Ordinance SE/MF No. 1,599, of October 7, 2024, and in Section III of Chapter II, considering: (As amended by Ordinance RFB No. 496, of December 18, 2024)

I - suitability for efficiently achieving goals and results;

II - the imperative of the physical presence of the Brazilian Federal Revenue Service at the disposal of society;

III - the role of face-to-face interaction between Federal Revenue Service employees in maintaining and improving the organizational culture and in the processes of procedural innovation, selection, creation and implementation of public policies;

IV - the duties of the CGP and CGI provided for in art. 7; and

V - the duties of the immediate supervisor in decisions regarding the definition of the period of activities in person and according to convenience and the suitability of their more intense involvement in these decisions, considering the reality of employees involved in regionalized or nationalized work processes.

Art. 42. Cogep and Copav are authorized to issue complementary procedural rules necessary for the execution of the provisions of this Ordinance.

Art. 43. Omitted cases will be decided by the head of the Deputy Secretariat of the Brazilian Federal Revenue Service.

Art. 44. The following Ordinances are hereby revoked:

I - RFB Ordinance No. 2,383, of July 13, 2017; swap\_horiz
II - RFB Ordinance No. 428, of March 22, 2018; swap\_horiz
III - RFB Ordinance No. 788, of May 29, 2018; swap\_horiz
IV - RFB Ordinance No. 880, of June 18, 2018; swap\_horiz
V - RFB Ordinance No. 315, of February 13, 2019; swap\_horiz
VI - RFB Ordinance No. 389, of February 21, 2019; swap\_horiz
VII - RFB Ordinance No. 1,069, of June 17, 2019; swap\_horiz
VIII - RFB Ordinance No. 68, of September 27, 2021; swap\_horiz
VIII - RFB Ordinance No. 118, of February 4, 2022; swap\_horiz
X - RFB Ordinance No. 215, of September 5, 2022; swap\_horiz
XI - RFB Ordinance No. 269, of December 16, 2022; swap\_horiz
XII - RFB Ordinance No. 281, of December 26, 2022; swap\_horiz
XIII - RFB Ordinance No. 305, of March 15, 2023; swap\_horiz

XIV - RFB Ordinance No. 322, of May 12, 2023; swap\_horiz

XV - RFB Ordinance No. 332, of June 23, 2023; and swap\_horiz

XVI - RFB Ordinance No. 342, of August 24, 2023. swap horiz

Art. 45. This Ordinance will be published in the Official Gazette of the Union and will come into force on:

I - June 1, 2025, in relation to art. 6; and

II - November 1, 2024, in relation to other devices.  $swap_horiz$ 

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People Management Ombudsman







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TRIBUNAL



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The Plenary of the Supreme Federal Court validated, by majority, the rules of an agreement of the National Council of Tax Policy (Confaz) that oblige financial institutions to provide states with information on payments and transfers made by customers (individuals and legal entities) in electronic transactions (such as Pix, debit and credit cards) in which ICMS is collected. The decision was made in the trial of Direct Action of Unconstitutionality (ADI) 7276, in the virtual session that ended on 9/6.

## Supreme Federal Court

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the rules that regulated it.

In the prevailing vote in the trial, the rapporteur, Justice Cármen Lúcia, explained that the duties provided for in the agreement do not constitute a breach of banking secrecy, which is constitutionally prohibited, but rather the transfer of secrecy from financial and banking institutions to the state or district tax authorities. She emphasized that the data provided is used to monitor tax payments by the states and the Federal District, which must continue to ensure the secrecy of this information and use it exclusively for the exercise of their tax powers.

Cármen Lúcia also recalled that the STF, in the joint judgment of ADIs 2390, 2386, 2397 and 2859, declared that the transfer of banking data by financial institutions to the tax authorities does not violate the fundamental right to privacy. Finally, she emphasized that the rules aim to make tax inspection methods more efficient, in view of the globalized economy and the growing increase in virtual commerce.

Ministers Alexandre de Moraes, Edson Fachin, Flávio Dino, Dias Toffoli and Luiz Fux followed this understanding.

# Divergence

The dissent was opened by Justice Gilmar Mendes. In his view, the rule does not contain transparent criteria for the transmission, maintenance of confidentiality and storage of information, nor adequate requirements for the protection of the constitutional guarantees of data subjects. Justices Nunes Marques, Cristiano Zanin, André Mendonça and Luís Roberto Barroso, president of the STF, followed this line of reasoning.

(Paulo Roberto Netto/AD//CF)

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https://noticias.stf.jus.br/postsnoticias/entenda-decisao-do-stf-que-autoriza-bancos-a-compartilhar-com-estados-informacoes-sobre-transacoes-eletron... 3/3 NORMATIVE INSTRUCTION RFB NO. 2219, OF SEPTEMBER 17, 2024

(Published in the Official Gazette of 09/18/2024, section 1, page 33)

#### Multi- Vengent Current Original Relational

Provides for the mandatory provision of information regarding financial transactions of interest to the Special Secretariat of the Federal Revenue of Brazil in e-Financeira.

THE SPECIAL SECRETARY OF THE BRAZILIAN FEDERAL REVENUE, in the use of the power conferred to him by art. 350, caput, item III, of the Internal Regulations of the Special Secretariat of the Brazilian Federal Revenue, approved by Ordinance ME No. 284, of July 27, 2020, and in view of the provisions of art. 5 of Complementary Law No. 105, of January 10, 2001, in art. 16 of Law No. 9,779, of January 19, 1999, in art. 57 of Provisional Measure No. 2,158-35, of August 24, 2001, in art. 30 of Law No. 10,637 of December 30, 2002, in Law No. 12,865 of October 9, 2013, in Decree No. 4,489 of November 28, 2002, in art. 2 of Decree No. 6,022 of January 22, 2007, in Decree No. 8,506 of August 24, 2015 and in Normative Instruction RFB No. 802 of December 27, 2007, resolves:

# CHAPTER I

# PRELIMINARY PROVISION

Art. 1 This Normative Instruction provides for the mandatory provision of information regarding financial transactions of interest to the Special Secretariat of the Federal Revenue of Brazil - RFB.

Sole paragraph. The information referred to in the caput shall be provided upon presentation of e-Financeira, consisting of digital files relating to registrations, financial transactions, private pension plans and transfer of amounts received through payment instruments.

#### CHAPTER II GENERAL PROVISIONS

#### Section I

#### Mandatory presentation of e-Financeira

Art. 2° The following are required to submit e-Financeira:

I - legal entities:

a) authorized to structure and market supplementary pension benefit plans;

b) authorized to establish and administer Individual Programmed Retirement Funds - Fapi; and

c) whose main or secondary activity is the raising, intermediation or application of their own or third-party financial resources, including consortium operations, in national or foreign currency, or the custody of third-party property values;

II - insurance companies authorized to structure and market personal insurance plans;

III - financial and payment institutions authorized to manage prepaid or postpaid payment accounts and electronic currency accounts;

IV - authorized financial and payment institutions:

a) to convert physical or scriptural currency into electronic currency, or vice versa; and

b) to accredit the acceptance or manage the use of electronic money;

V - payment institutions that accredit the acceptance of payment instruments; and

VI - the participants in the payment arrangement that enable the receiving end user to accept the payment instrument.

§ 1º The obligation referred to in the caput covers entities regulated or supervised by the following institutions:

I - Central Bank of Brazil - BCB;

II - Securities and Exchange Commission - CVM;

III - Superintendence of Private Insurance - Susep; and

IV - National Superintendence of Supplementary Pensions - Previc.

§ 2 For the purposes of the provisions of the caput, the following definitions apply:

I - third-party value custody services, those provided directly to the investor, as defined by the BCB and the CVM, in relation to financial assets, securities and securities, including with regard to the maintenance of positions in derivative contracts;

II - payment institutions, the legal entities defined in art. 6, caput, item III, of Law No. 12,865, of October 9, 2013;

III - payment accounts, registration accounts held in the name of the end user of payment services and used to execute payment transactions, as provided for in art. 6, caput, item IV, of Law No. 12,865, of October 9, 2013 ; and

IV - electronic currency, the resources stored in an electronic device or system that allow the end user to carry out a payment transaction, as provided for in art. 6, caput, item VI, of Law No. 12,865, of October 9, 2013.

# Section II

#### Presentation of e-Financeira

Art. 3° The e-Financeira must be:

I - generated directly by the system itself, under the responsibility of the declarant;

II - digitally signed by the company's legal representative or appointed attorney, in accordance with RFB Normative Instruction No. 2,066, of February 24, 2022, using a valid digital certificate issued by an entity accredited by the Brazilian Public Key Infrastructure - ICP-Brasil; and

III - transmitted to the Public Digital Accounting System - SPED environment, via webservice, containing files in the extensive markup language - XML format, with the specific layouts referred to in art. 30, caput, item I.

§ 1º The e-Financeira will be considered valid after confirmation of its receipt and validation of its content.

§ 2° The generation, storage and sending of digital files do not exempt declarants from keeping the documents that gave rise to the information contained therein, in the manner and within the timeframes established by applicable legislation.

Art. 4° The e-Financeira must be submitted every six months within the following deadlines:

I - until the last business day of February, containing information related to the second half of the previous year; and

II - by the last working day of August, containing information relating to the first half of the current year.

Sole paragraph. The deadline for submitting the e-Financeira will end at 11:59:59 p.m. (twenty-three hours, fifty-nine minutes and fifty-nine seconds), Brasília time, on the day set for its submission.

Art. 5° The submission of e-Financeira after the deadlines established in art. 4°, or with inaccuracies or omissions, will subject the legal entity:

I - regarding the information that must be provided through the Financial Operations Module or the Transfer Module of amounts received through payment instruments:

a) the fines provided for in art. 30 of Law No. 10,637 of December 30, 2002, if the delay, inaccuracy or omission refers to information covered by Complementary Law No. 105 of January 10, 2001; and

b) the fines provided for in art, 57 of Provisional Measure No. 2,158-35, of August 24, 2001, if the delay, inaccuracy or omission refers to other information; and

II - regarding the information that must be provided through the Private Pension Module, the fines provided for in art. 57 of Provisional Measure No. 2,158-35, of August 24, 2001.

Art. 6° The rectification of e-Financeira may be carried out within up to five years, counting from the final term for its presentation in accordance with the provisions of art. 4°.

Art. 7 The declarant is solely responsible for carrying out the necessary steps to verify the users who must be included in the declaration, in accordance with the rules established by the respective regulatory bodies, as well as for the correction of the data transmitted in the manner provided for in this Normative Instruction.

# CHAPTER III

## OF THE FINANCIAL OPERATIONS MODULE

Art. 8 For the purposes of the provisions of this Chapter, the following definitions apply:

I - financial applications:

a) fixed income transactions, or equivalent transactions, and swap transactions;

b) variable income operations; and

c) investment funds and clubs of any kind, except investment funds set up exclusively to receive resources from supplementary pension benefit plans or personal insurance plans;

II - balance on the last working day of the year:

(a) in the case of prepaid or postpaid deposit, savings or payment accounts and electronic money accounts, the amount available on the last business day of the year, except in the case of term deposits, for which the original amount shall be considered;

b) in the case of investment funds whose taxation occurs only upon redemption of shares or distribution of profits or income, the acquisition value of the shares;

c) in the case of other investment funds, the following amounts:

1. if the beneficiary did not acquire or redeem shares after the date on which the last periodic incidence of income tax occurred, the amount relating to the balance of shares on said date; and

2. if the beneficiary acquired or redeemed shares after the date on which the last periodic incidence of income tax occurred, the value relating to the balance of shares remaining on said date, in the case of redemption, plus the value of the acquisition of shares;

d) in the case of other fixed income financial investments, the original acquisition values;

e) in the case of shares, the updated value based on the closing price on the last business day of the year, or on the date of the last trade, or, if it is impossible to determine the updated value, the value declared by the owner of the share; and

f) in the case of mathematical provisions for benefits to be granted and Fapi, referred to in art. 10, caput, items IV and V, respectively, the amount available on the last business day of the year;

III - income, any gross amounts earned as a result of the financial investments mentioned in item I of the caput; and

IV - transfers of the same ownership, those made between accounts that have exactly the same holders, regardless of the order of the names in each account.

Art. 9º The following are responsible for providing information in the Financial Operations Module:

I - the financial institution holding deposit or savings accounts and the financial or payment institution authorized to manage prepaid or postpaid payment accounts and electronic currency accounts, in relation to the information referred to in art. 10, caput, item I;

II - the custodian institution of the custody accounts of financial assets linked to the financial investments referred to in art. 10, caput, items II and III;

III - the administrator, in the case of investment funds and clubs whose shares are linked to the financial investments referred to in art. 10, caput, items II and III, except:

a) investment funds set up exclusively to receive resources from supplementary pension benefit plans or personal insurance plans; and

b) funds whose shares are traded on a stock exchange or must be or are registered on an organized counter;

IV - the distributor of investment fund shares distributed to third parties on behalf of and by order of the third party, linked to the financial investments referred to in art. 10, caput, items II and III;

V - the intermediary institution, in the case of shares, derivatives, or investment fund shares traded on the stock exchange or that must be or are registered on an organized counter, linked to the financial investments referred to in art. 10, caput, items II and III;

VI - the institution authorized to carry out operations in the foreign exchange market, for the operations referred to in art. 10, caput, items VIII to X;

VII - the legal entities referred to in art. 2, caput, item I, subparagraphs "a" and "b", and item II, in relation to the information referred to in art. 10, caput, items IV to VI;

VIII - the legal entity managing consortia, as defined in art. 5 of Law No. 11,795, of October 8, 2008 , for the information referred to in art. 10, caput, items XI and XII; and

IX - the institution that holds the final relationship with the client, in other cases, in relation to the information referred to in art. 10.

§ 1° The institution authorized to carry out operations in the foreign exchange market, when contracting legal entities through an agreement to carry out foreign exchange operations, is responsible for declaring the information relating to the contractors.

§ 2° The obligation regarding the information referred to in art. 10, caput, items VIII to X, extends to the Brazilian Post and Telegraph Company - ECT.

Art. 10. The following information must be provided regarding the financial transactions of users of the services of the entities referred to in art. 9:

I - balance on the last business day of the year of any deposit, savings or payment account of the prepaid or postpaid type and electronic currency accounts, based on any transactions, such as payments made in current currency or by check, issuance of credit orders or similar documents or redemptions in cash and in installments, detailing the total gross monthly income paid or credited to the account, accumulated annually, month by month;

II - balance on the last business day of the year of each financial application, as well as the corresponding monthly credit and debit sums, based on any movements, such as those relating to investments, redemptions, sales, assignments or liquidations of said applications made, month by month, throughout the year;

III - gross income, accumulated annually, month by month, by financial investment, throughout the year, individualized by type of income, including amounts arising from the sale or redemption of assets under custody and from the redemption of investment funds;

IV - balance, on the last business day of the year or on the closing day, of mathematical provisions for benefits to be granted, relating to each supplementary pension benefit plan or each personal insurance plan, detailing, month by month, the total of the respective movements, credit and debit, that occurred during the year, in the manner established in the layouts referred to in art. 30, caput, item I;

V - balance, on the last business day of the year or on the closing day, of each Fapi, and the corresponding movements, broken down month by month, by credit and debit, occurring during the year, in the manner established in the layouts referred to in art. 30, caput, item I;

VI - values of benefits or insured capital, accumulated annually, month by month, paid in the form of a single payment or in the form of income;

VII - releases of transfers made between accounts of the same holder;

VIII - acquisitions of foreign currency;

IX - conversions of foreign currency into national currency;

X - transfers of currency and other values abroad, excluding the operations referred to in item VIII;

XI - the total amounts paid up to the last day of the year, including the amounts of bids that resulted in contemplation, deducted from the amounts of credits made available to the quotaholder, and the corresponding movements, which occurred during the year and broken down, month by month, into credits and debits, in the manner established in the layouts referred to in art. 30, caput, item I, by consortium quota; and

XII - value of credits made available to the member, accumulated annually, month by month, per consortium share, throughout the year.

§ 1º Balances arising from credits in transit must also be reported, considering the amounts invested or redeemed in financial investments in the last days of the calendar year, and which have only been converted into financial assets or credited to deposit or payment accounts of the prepaid or postpaid type and electronic currency accounts in the subsequent year.

§ 2 In the case of closing accounts or financial investments, the balance of the business day immediately prior to the closing must be reported.

§ 3 In the event of termination of the group or consortium contract, the amount specified in item XI of the caput must be reported on the date immediately prior to termination.

§ 4 For the purposes of the provisions of this article, balance information will be mandatory when relating to the last business day of the year or in the cases referred to in §§ 2 and 3.

§ 5 When transfers occur between accounts at different financial or payment institutions, verification of the same ownership may be carried out based on a declaration provided by the customer at the time of each transaction.

§ 6° In relation to the provisions of items VIII to X of the caput, acquisitions, conversions and transfers are independent of the financial transaction that motivates them.

§ 7° The following amounts are included in the transactions referred to in item XI of the caput:

I - on credit, relating to payments made for the quota and bids that resulted in consideration; and

II - on debit, referring to the value of the contemplated asset, as well as referring to amounts returned to the shareholder.

Art. 11. The inclusion of any element that allows the identification of the origin or destination of the resources used in the financial transactions referred to in art. 10 is prohibited.

Art. 12. The information referred to in art. 10, caput, items I to III and VII to XII, includes the identification of the holders of the financial transactions and final principals, and must include:

I - name, nationality, tax residence, address and account number or equivalent, individualized by account or contract at the reporting institution;

II - registration number in the Individual Taxpayer Registry - CPF or in the National Registry of Legal Entities - CNPJ;

III - Tax Identification Number - NIF abroad, if adopted by the country of tax residence;

IV - company name;

V - balances and overall amounts moved monthly;

VI - currency used; and

VII - other registration information.

§ 1° The full name or company name, the corresponding CPF or CNPJ registration number and the address of any person authorized to operate the accounts referred to in item I of the caput, including legal or conventional representatives, must be provided, in accordance with BCB regulations.

§ 2° The final principal and non-resident investors must be identified in accordance with the regulations of the CVM and the National Monetary Council - CMN.

§ 3 If the legal entity holding the financial transactions is classified as a passive Non-Financial Entity - ENF, under the terms of the Agreement between the Federative Republic of Brazil and the United States of America to Improve Tax Compliance and Implement the Foreign Account Tax Compliance Act - FATCA, the information referred to in the caput must also be provided in relation to the natural person, regardless of nationality, who controls it or holds at least 10% (ten percent) of direct or indirect participation in its capital.

Art. 13. The information referred to in art. 10, caput, items IV to VI, includes the identification of clients or beneficiaries of the resources, including when they are paid in the event of the death of the holder of a supplementary pension benefit plan or personal insurance plan, or Fapi, and must include:

I - name, nationality, tax residence, address, proposal number and approval process number of the plan or Fapi, by the relevant regulatory body, individualized by plan or Fapi in the reporting institution;

II - registration number in the Individual Taxpayer Registry - CPF;

III - Tax Identification Number - NIF abroad, if adopted by the country of tax residence informed;

IV - balances of mathematical provisions for benefits to be granted and Fapi balances;

V - global amounts moved monthly;

VI - currency used; and

VII - other registration information.

Sole paragraph. If the legal entity holding the financial transactions is classified as a passive Non-Financial Entity - NFE, under the terms of the Agreement between the Government of the Federative Republic of Brazil and the Government of the United States of America to Improve Tax Compliance and Implement the Foreign Account Tax Compliance Act - FATCA, the information referred to in the caput must also be provided in relation to the individual, regardless of nationality, who controls it or holds at least 10% (ten percent) of direct or indirect participation in its capital.

Art. 14. The following shall be considered, separately, as the overall monthly amount moved:

I - for the purposes of the provisions of art. 12, the sum:

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a) credit entries and debit entries made in the month, in the financial transactions referred to in art. 10, caput, items I, II, V and VII;

b) gross income and amounts arising from sales or redemptions, in the financial transactions referred to in art. 10, caput, items I and III;

c) purchases referred to in art. 10, caput, item VIII, made in the month, in national currency;

d) sales referred to in art. 10, caput, item IX, made in the month, in national currency;

e) the amounts referred to in art. 10, caput, item X, in national currency, transferred in the month, covering all modalities, regardless of the exchange market in which they operate; and

f) as a credit, of the amounts paid by the quota holder, such as those made as a bid or contribution, and as a debit, of the amounts made available to the quota holder, such as contemplations, for the operations referred to in art. 10, caput, item XI; and

II - for the purposes of the provisions of art. 13:

a) the respective sums of the credit and debit entries made in the month, in the transactions referred to in art. 10, caput, items IV and V; and

b) the value of benefits or insured capital, paid by the entity in the form of a single payment or in the form of income, in the case provided for in art. 10, caput, item VI.

§ 1° When calculating the overall amounts moved monthly, entities must not consider debit or credit entries relating to accounting reversals, as well as the entries that gave rise to them.

§ 2 If the individual or legal entity holds more than one account or is related to more than one account, in the same financial institution or payment institution, including consortium administrators, information on annual balances and on the overall amounts moved monthly must be provided individually, by account number.

§ 3 If the individual is related to more than one supplementary pension benefit plan, more than one Fapi or more than one personal insurance plan, in the same entity, the information on the balances of mathematical provisions for benefits to be granted and Fapi and on the overall amounts moved monthly must be provided individually, by proposal number and approval process number, or equivalent, by the relevant regulatory body.

§ 4° In relation to each account, information on annual balances and on the overall amounts moved monthly, including in consortia, must be provided in the name of all persons linked to it, individually.

Art. 15. The entities referred to in art. 9 are required to provide information regarding the financial transactions mentioned in art. 10, caput, items I, II and VIII to XI, when the overall amount moved or the balance, in each month, by type of financial transaction, is greater than:

I - R\$5,000.00 (five thousand reais), in the case of individuals; and

II - R\$15,000.00 (fifteen thousand reais), in the case of legal entities.

§ 1° The limits established in the caput must be applied in an aggregate manner to all financial transactions of the same type maintained at the same financial institution or payment institution.

§ 2 If any of the limits established in the caput are exceeded, institutions must provide information relating to all annual balances and other global amounts moved monthly, even if the monthly sum for these is less than the aforementioned limits.

§ 3° The provision of information referred to in this article will cover all months from the month in which the limit was reached, in relation to the reference period.

§ 4º In relation to the accounts of the Severance Pay Guarantee Fund - FGTS, as referred to in Law No. 8,036, of May 11, 1990, only those whose annual deposits are greater than R\$100,000.00 (one hundred thousand reais) must be reported.

Art. 16. The entities referred to in art. 9 are required to provide the accumulated information annually relating to the financial transactions mentioned in art. 10, caput, items I, II, III, VII, XI and XII, when:

I - the limits set forth in art. 15 are not reached; and

II - the financial transactions are not characterized as "Excluded Account", as provided in the Sole Annex, Section VII, items of C.17, of Normative Instruction RFB No. 1,680, of December 28, 2016.

Sole paragraph. The information accumulated annually referred to in the caput:

I - must be provided only in relation to the month of December or the month in which the account is closed; and

II - include, regardless of tax residence, all information provided for in art. 12, except for credit and debit entries made in the month.

Art. 17. The entities referred to in art. 9 are required to provide information regarding the transactions mentioned in art. 10, caput, items IV to VI, when:

I - the balance, in each month, of the mathematical provision of benefits to be granted or of the Fapi is greater than R\$50,000.00 (fifty thousand reais); or

II - the overall monthly amount moved, considering separately the sum of credit entries and the sum of debit entries and the value of benefits or insured capital, paid in the form of a single payment or in the form of income, is greater than R\$5,000.00 (five thousand reais).

§ 1º The limits established in the caput must be applied in an aggregate manner to all operations of the same type maintained by the same entity.

§ 2 If any of the limits established in the caput are exceeded, the entities must provide information relating to all balances and other global amounts moved monthly, even if the monthly sum for these is less than the aforementioned limits.

§ 3° The provision of information referred to in this article will cover all months, starting from the month in which the limit was reached, in relation to the reference period.

Art. 18. The entities referred to in art. 9 are required to provide annual information regarding the financial transactions mentioned in art. 10, caput, items IV to VI, when:

I - the limits set forth in art. 17 are not reached; and

II - the financial transactions are not characterized as "Excluded Account", as provided in the Sole Annex, Section VII, items of C. 17, of Normative Instruction RFB No. 1,680, of December 28, 2016.

Sole paragraph. The annual information referred to in the caput must be provided only in relation to the month of December or the month in which the account is closed, and includes, regardless of tax residence, all the information provided for in art. 13, except for credit and debit entries made in the month.

Art. 19. Legal entities classified as Non-Reporting Institutions of the Common Declaration Standard, as provided for in the Sole Annex, Section VII, item B.1.b, of Normative Instruction RFB No. 1,680, of December 28, 2016, are exempt from providing information in the Financial Operations Module.

#### CHAPTER IV OF THE PRIVATE PENSION MODULE

Art. 20. The following legal entities are responsible for providing information in the Private Pension Module:

I - authorized to structure and market supplementary pension benefit plans;

II - authorized to establish and administer Individual Programmed Retirement Funds - Fapi; and

III - insurance companies authorized to structure and market personal insurance plans.

Art. 21. The entities referred to in art. 20 must provide the following information regarding the operations of users of their services:

I - receipt of contributions, premiums and contributions intended to cover the costs of pension benefit plans and redemption payments to participants and beneficiaries;

II - the CNPJ registration number of the pension benefit plan, the life insurance plan with a survival coverage clause or the Fapi, or the registration process number with the respective regulatory body;

III - the date on which the participant joined the plan, including in the event of portability or transfer from another plan or fund; and

IV - options for the exclusive taxation regime referred to in articles 1 and 2 of Law No. 11,053, of December 29, 2004, formalized by participants in pension benefit plans, by Fapi quotaholders or by policyholders of life insurance plans with a survival coverage clause.

§ 1° The information referred to in the caput includes:

I - the identification of the holders and beneficiaries indicated in the pension benefit plans by their CPF registration number;

II - the proposal and process number;

III - the type of product and plan;

IV - the overall amounts moved monthly; and

V - other registration information required by means of an Executive Declaratory Act of the RFB.

§ 2 The obligation set out in this article does not exempt the legal entity from recording the Financial Operations Module if the operation or fact falls within the provisions of Chapter III.

#### CHAPTER V

#### OF THE MODULE FOR TRANSFER OF AMOUNTS RECEIVED BY MEANS OF PAYMENT INSTRUMENTS

Art. 22. The following are responsible for providing information in the Transfer Module regarding amounts received through payment instruments:

I - the payment institution that accredits the acceptance of the payment instrument; and

II - the participant in the payment arrangement that enables the receiving end user to accept the payment instrument.

Art. 23. The entities referred to in art. 22 must present the following information regarding the operations carried out by the user:

I - identification of users of its services by their CPF or CNPJ registration number;

II - the overall amounts of transfers made to accredited users in the month and accumulated annually, month by month; and

III - the overall amounts of commissions retained from accredited users in the month and accumulated annually, month by month.

Art. 24. For the purposes of the provisions of art. 23, caput, item II, the total monthly amount moved is considered to be the sum of the transfers of amounts received through payment instruments made in the month to all accredited establishments, whether individuals or legal entities, deducting the amounts corresponding to commissions, rents, fees and charges due to the credit card administrator.

§ 1º When determining the amount referred to in the caput, the following must be considered:

I - transactions carried out using credit cards, private label cards and debit cards;

II - electronic transactions carried out through the BCB's Instant Payment System - SPI; and

III - transactions carried out using other electronic payment instruments.

§ 2° Private label cards are understood to be purchasing cards issued by a legal entity whose use is restricted to the acquisition of products and services in its establishments or in linked companies.

Art. 25. The entities referred to in art. 22 are required to present the information mentioned in art. 23, caput, item II, when the overall amount moved in the month is greater than:

I - R\$5,000.00 (five thousand reais), for individuals; or

II - R\$15,000.00 (ten thousand reais), for legal entities.

Sole paragraph. For the purposes of the provisions of item II of the caput, the limit must be considered in relation to all establishments of the same legal entity.

Art. 26. The entities referred to in art. 22 are required to present the information mentioned in art. 23, caput, items II and III, accumulated annually, even if the monthly limits provided for in art. 25 are not reached.

Sole paragraph. The information accumulated annually referred to in the caput must be provided only in relation to the month of December or the month in which the relationship with the accredited party ends.

## CHAPTER VI

# TRANSITORY PROVISIONS

Art. 27. For the purposes of the liability provided for in art. 9, caput, item I, the provision of information:

I - by payment institutions it will be mandatory for operations carried out from January 1, 2025; and

II - by financial institutions, relating to post-paid accounts and electronic currency accounts, will be mandatory for transactions carried out from January 1, 2025.

Art. 28. The provision of information regarding the transfer of amounts received through the payment instruments referred to in Chapter V will be mandatory for transactions carried out from January 1, 2025.

Art. 29. The submission of the Credit Card Transactions Declaration - Decred, as set out in SRF Normative Instruction No. 341 of July 15, 2003, is waived in relation to events occurring as of January 1, 2025.

Sole paragraph. The delivery of a late Decred or a rectifying statement relating to facts prior to the date provided for in the caput is permitted until December 31, 2026.

Art. 30. From the publication of this Normative Instruction, the General Coordination of Inspection - Cofis must publish, in relation to e-Financeira:

I - the layouts, within a period of up to fifteen days; and

II - the layout guidance manual, within a period of up to thirty days.

CHAPTER VII FINAL PROVISIONS

Art. 31. The following are hereby revoked:

I - SRF Normative Instruction No. 341, of July 15, 2003;

II - Normative Instruction RFB No. 1,452, of February 21, 2014;

III - Normative Instruction RFB No. 1,509, of November 4, 2014;

IV - Normative Instruction RFB No. 1,571, of July 2, 2015;

V - Normative Instruction RFB No. 1,580, of August 14, 2015;

VI - articles 1 and 2 of Normative Instruction RFB No. 1,764, of November 22, 2017;

VII - Normative Instruction RFB No. 1,779, of December 29, 2017;

VIII - Normative Instruction RFB No. 1,835, of October 3, 2018; and

IX - art. 1 of Normative Instruction RFB No. 2,073, of March 23, 2022.

Art. 32. This Normative Instruction shall come into force:

I - on January 1, 2025, in relation to items I and IX of art. 31; and

II - on the date of its publication in the Official Gazette of the Union, in relation to the other provisions.

ROBINSON SAKIYAMA BARREIRINHAS

\*This text does not replace the officially published text.

29/01/2025, 15:22

IN RFB nº 2219/2024

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# Tax Measures - Floods 2024

Since the beginning of the meteorological tragedy in Rio Grande do Sul, the State Treasury (Sefaz) has adopted a series of tax measures to support taxpayers. Implemented in dialogue with the Federal Government, city governments and on its own initiative, the actions seek to help in the fulfillment of tax obligations, promote the rapid recovery of businesses and boost the state economy.

Below are details of the measures and the procedures for accessing them:

# **COMPANIES**

## Extension of the deadline for payment of ICMS

Following a decision by the National Council for Tax Policy (Confaz), the State Revenue Service authorized the payment of ICMS guides in a period longer than the original, without interest or fines.

Due between April 24th and May 31st -> June 28th

June due dates -> July 31st

July salaries -> August 30th

Target audience: companies from all over the state.

Legal basis: ICMS Agreement 54, of May 7, 2024 and Decree 57,636, of May 27, 2024 .

# More details

# Extension of the deadline for payment of Simples Nacional taxes

Following a request from the State Revenue, the Simples Nacional Management Committee (CGSN) postponed the payment date for taxes required by the tax regime that covers micro and small businesses.

April count -> until June 20th

May count -> until July 22nd

Target audience: municipalities listed in the CGSN ordinance.

Legal basis: GCSN Ordinance 45, of May 6, 2024 .

# More details

# ICMS exemption on the purchase of fixed assets

Following a decision by the National Council for Tax Policy (Confaz), the State Revenue Service decided to exempt purchases of goods destined for fixed assets, which are durable goods necessary for company operations – such as machinery, equipment and vehicles used in the production process or in the provision of services – from ICMS. The measure also applies to parts, pieces and accessories.

In the case of domestic acquisitions, the seller maintains the credit. In the case of interstate acquisitions, the exemption is related to the difference between the domestic and interstate tax rates.

To enjoy the benefit, establishments must declare that they were affected by the climate events.

Validity: until December 31, 2024.

Target audience: companies headquartered in municipalities in a situation of public calamity or emergency, in accordance with Decree 57,600/2024 and its subsequent updates.

Legal basis: ICMS Agreement 54, of May 7, 2024 , and Decree 57,632, of May 24, 2024 .

### More details

#### No refund of ICMS credits for damaged or lost goods

Following a decision by the National Council for Tax Policy (Confaz), the State Revenue Service is exempting taxpayers from the requirement to refund ICMS credits if their goods were misplaced, lost, stolen, robbed, damaged or destroyed during the floods.

To enjoy the benefit, establishments must declare that they were affected by the climate events.

Validity: until December 31, 2024.

Target audience: companies headquartered in municipalities in a situation of public calamity or emergency, in accordance with Decree 57,600/2024 and its subsequent updates.

Legal basis: ICMS Agreement 54, of May 7, 2024 , and Decree 57,632, of May 24, 2024 .

# More details

#### Extension of the deadline for submission of ancillary obligations

The State Revenue has extended the deadline for delivery of accessories.

ICMS Collection Guide (GIA-ICMS) Due between April 24 and June 10, 2024 -> until June 15

Substitute Tax Collection Guide (GIA-ST) Due in April -> until June 10th

Digital Tax Accounting (EFD) Due April -> until June 15th

Tax Substitution, Differential Rate and Anticipation Declaration (DeSTDA) Due April -> until June 28th

Target audience: companies throughout the state.

Legal basis: Normative Instruction 36/2024 and Normative Instruction 40/2024 .

## More details

## Facilitation in the import of goods

To speed up the process of importing goods, the State Revenue Service has started to waive the need for prior approval from the tax authorities for the delivery of imported products through customs areas, such as ports, airports and bus stations.

Due to the temporary suspension of the issuance of the Foreign Goods Release Guide (GLME), imports exempt from state tax may be sent to buyers without the need for GLME

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verification. After the guide issuance is resumed, the State Revenue Service will contact the companies to regularize the situation.

Validity: until May 29th

Legal basis: Normative Instruction 37/2024, of May 10th, 2024 .

## More details

# Extension of deadlines for tax installments

A new installment payment due date calendar was established in Rio Grande do Sul, valid for any active Installment Program, with the State of Rio Grande do Sul, carried out until 05/27/24.

Installments due on 04/25/2024 -> Extended to 07/25/2024

Installments due on 05/25/2024 -> Extended to 08/25/2024

And so on, without accumulating installments, until the end of the installment plan.

Target audience: all companies and individuals in the State.

Legal basis: Decree 57.640/2024 .

More details

#### **Extension of deadlines**

Between July 6 and 31, the suspension of hearings, defense deadlines and appeal deadlines for processes, including the administrative tax process, was determined throughout Rio Grande do Sul.

In the case of State Revenue, it is valid for the presentation of objections, responses, appeals and other requests, requirements, notifications and documents related to administrative-tax processes.

Legal basis: Decree 57,609 .

## New conditions for payment of tax debts in installments

The State Revenue Service and the State Attorney General's Office have made available a program for refinancing ICMS debts in up to 60 installments. The measure applies to all taxpayers and covers administrative and judicial debts. Those who join are exempt from collateral and the minimum down payment of 6%, as long as the application is made online.

Legal basis: Normative Instruction RE 61/2024 and Resolution 254/2024 .

More details

## ICMS exemption for airport restructuring

Aimed at assisting in the reconstruction of the Rio Grande do Sul air network - especially Salgado Filho airport in Porto Alegre -, the exemption covers domestic and imported operations and services of goods, machinery, equipment, parts, pieces, aeronautical components, tools, metal structures and installations - whether these items are new or used -, in addition to transportation services. The tax measure also applies to leasing contracts. The system extends to the concessionaire that provides airport services and to service providers, as per instructions from the State Revenue Service. The exemption also covers the portion related to the difference in ICMS rates in interstate operations. In addition, the tax credit will not be required to be reversed.

#### Legal basis: Decree 57.684/2024 and ICMS Agreement 69.

More details

# **CITIZEN**

# ICMS refund on the purchase of household appliances

The State Government is studying the creation of a program to refund ICMS paid on the purchase of household appliances in Rio Grande do Sul. It is valid for the purchase of refrigerators, stoves and washing machines/dryers by affected people.

## More details

## Extension of the deadline for payment of IPVA 2024

The State government, through the State Revenue, announced the extension of the payment deadline for the 2024 Motor Vehicle Property Tax (IPVA) in a single installment and in installments.

Taxpayers continue to benefit from the Good Driver and Good Citizen discounts, whose reduction can reach 20% of the tax amount, if the maximum quota of each benefit is obtained.

Single installment Payment in full – due date 6/28/2024

Installment Payment April, May and June installments (unified) – due on 6/28/2024

Legal basis: Decree 57,367/2024

More details

## Inhibition of negative listing with Serasa

The State Revenue Service has temporarily suspended all existing negative entries of taxpayers with Serasa. The submission of new debts for negative entries has also been suspended.

#### More details

## Flexibility in proving ITCD payment

Adoption of exceptional procedures to prove payment of the Tax on Transfers "Causa Mortis" and Donations (ITCD) when drafting public deeds.

Until May 31, 2024, notaries must use the number of the collection guides for the tax paid and the number of the ITCD Declaration (DIT) instead of the number of the ITCD Clearance Certificate and its authentication. Therefore, the number of the collection guides and the proof of payment are accepted as proof of payment of the tax for the purposes of drawing up a public deed.

Notaries must keep records and provide information to the State Revenue, upon request, about acts performed as instructed.

Validity: until May 31, 2024

Legal basis: Normative Instruction RE No. 041/24

# Extension of ITCD due dates

Extension of the payment deadline for the Tax on Transfers of Goods or Rights by Death and Donation (ITCD) bills whose due dates were scheduled for the end of April or during the months of May and June.

Payments due between April 24th and May 31st -> Payment by June 28th

Payments due between June 1st and June 30th -> Payment by July 28th

Legal basis: Decree No. 57,650/2024 (https://www.diariooficial.rs.gov.br/diario? td=DOE&dt=2024-06-04&pg=6)

# **RURAL PRODUCERS**

# Exemption from invoices for rural producers on internal sales

Rural producers in Rio Grande do Sul are exempt from issuing internal exit invoices for their products, when destined for taxpayers registered in the General Taxpayer Registry (CGC/TE). This only applies when they are unable to issue the Producer's Invoice. In this situation, the recipient of the items – such as cooperatives, unions, production companies or others – must issue the entry invoice to cover the transportation of the goods. The measure by the State Revenue Service is valid indefinitely.

Legal basis: Decree 57,619, of May 14, 2024 .

# Extension of the mandatory issuance of electronic invoices by rural producers

The National Council for Tax Policy (Confaz) has postponed the mandatory issuance of the Electronic Tax Invoice (NF-e) and the Electronic Consumer Tax Invoice (NFC-e) by rural producers in the country until January 2, 2025. Both would replace model 4 of the Tax Invoice, known as the Producer's Tax Invoice.

The measure takes effect from May 1, 2024, the date on which the rule would begin to apply to those who had revenues exceeding R\$1 million in 2022. The postponement of the deadline was requested by Sefaz due to the number of people affected in the State.

Legal basis: Sinief Adjustment 10, of May 7, 2024 .

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	Process	AREsp 1,688,160-RS , rapporteur Justice Francisco Falcão, Second Panel, unanimously, decided on 10/17/2024, E-DJ 10/22/2024.
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16 PAZ, JUSTIÇA E INSTITUIÇÕES EFICAZES	Theme	ICMS. Electric energy. Energy distribution cooperative. Taxation on the portion of the subsidy from the energy development account fund. Change in the repeated practice of not charging the tax. Assessment on past period. Impossibility. Art. 146 of the CTN.

# **EMPHASIS**

If there is a change in the Tax Administration's repeated practice of not charging a certain tax, this may only be charged from the triggering event subsequent to the change in administrative guidance, in compliance with the principle of non-retroactivity.

# FULL CONTENT INFORMATION

The controversy is limited to whether the absence of collection of the Tax on Circulation of Goods and Provision of Services - ICMS on the subsidy arising from the Energy Development Account (CDE) implies a change in repeated guidance for the purposes of art. 146 of the National Tax Code (CTN).

In this sense, for the aforementioned analysis, it is necessary to jointly interpret art. 146 of the CTN, with art. 100 of the same legal diploma.

Article 100 of the CTN is as follows: "The following are complementary standards to laws, treaties, international conventions and decrees: I - normative acts issued by administrative authorities; II - decisions of individual or collective bodies of administrative jurisdiction, to which the law attributes normative effectiveness; III - practices repeatedly observed by administrative authorities; IV - agreements entered into between the Union, the States, the Federal District and the Municipalities. Sole paragraph. Compliance with the standards referred to in this article excludes the imposition of penalties, the collection of interest on arrears and the updating of the monetary value of the tax calculation basis."

In this case, the appellant State did not charge ICMS on the aforementioned subsidy, which implies the characterization of a repeated practice by the tax administration, that is, a complementary rule for the purposes of item III of art. 100 of the CTN.

In turn, art. 146 of the CTN has the following content: "The modification introduced, ex officio or as a consequence of an administrative or judicial decision, in the legal criteria adopted by the administrative authority in the exercise of the assessment may only be carried out, in relation to the same passive subject, with regard to a taxable event that occurred after its introduction".

The sole paragraph of art. 100 of the CTN adds the provision that penalties, interest and monetary correction should be excluded from the tax calculation basis. However, the thesis that only these portions should be excluded, with the payment of tax on taxable events occurring when that practice is repeated being mandatory, goes against the provision of the aforementioned regulation to characterize this administrative practice as a complementary rule, since as a tax rule it must comply with the principle of non-retroactivity, preventing changes to these practices from affecting events already carried out under the aegis of that complementary rule.

Thus, with the analysis of the two devices transcribed above, it is clear that the change in the collection of a tax that was not being charged, in view of an administrative decision, determines that the tax can only be levied on a taxable event subsequent to the administrative modification.

# ADDITIONAL INFORMATION

# LEGISLATION

National Tax Code (CTN), art. 100 and art. 146

