

GILS

GRATA INTERNATIONAL
LEGAL SERIES

TAX LAW



The GRATA International Legal Series (the “GILS”) is a distinctive legal handbook, offering essential legal insights and practical tips for conducting business across jurisdictions where GRATA International operates.

Legal experts within the GILS framework have meticulously prepared a review of the legislative framework on the topic: Tax control and appealing its results.

The fourth edition of GILS is dedicated to Tax law and covers the key issues of tax control in 10 jurisdictions: Belarus, Georgia, Kazakhstan, Moldova, Mongolia, Russia, Turkey, Turkmenistan, UAE, Uzbekistan.

In this edition of GILS you will find information about tax control, its various types and forms, as well as procedures for the judicial settlement of tax disputes.

GRATA International team consists of specialists with solid experience of working in tax authorities, who have established themselves as top lawyers in interacting with government bodies on various tax matters, including tax audits and appealing their results.

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TAX CONTROL AND APPEALING ITS RESULTS IN BELARUS



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Belarusian legislation regulates the procedure of tax control actions with two legal acts:

- Tax Code of the Republic of Belarus (General Part) - Chapter 10 (hereinafter - TC);
- Edict of the President of the Republic of Belarus of October 16, 2009 No. 510 "On Improving Control (Supervision) Activity in the Republic of Belarus" (hereinafter - Edict No. 510).

1. TYPES AND/OR FORMS OF TAX CONTROL, THE PROCEDURE FOR CONDUCTING:

There are four types of tax control under Belarusian legislation:

OFF-SITE CONTROL

(including monitoring matching accounting expenses and income of individuals)

For reference: Tax authority carries out off-site control at its location and without issuing a tax control notice. Such type of tax control includes reviewing the tax returns (calculations), other available documents and (or) information about the taxpayers. The main purpose of off-site control is to give the taxpayers the right to cure the law violation detected by the tax authority and to pay the extra tax, fee (duty) themselves. At present, this is the main type of out-of-court tax control.

ON-SITE CONTROL

For reference: Tax authority conducts on-site control at a company's (hereinafter - inspectee) location.

CROSS-CONTROL

For reference: Cross-control is carried out to establish (confirm) the credibility and legitimacy of transactions between the inspectee and its contractors or third parties related to transactions under control.

THEMATIC OPERATIONAL CONTROL

For reference: Tax authority conducts thematic operational control to individuals (who are not individual entrepreneurs) at the place of their activity to promptly detect and suppress law violations while they are committing in a limited territory. This type of tax control also carries out to objects, vehicles, and other places of activity to find out the cases of unregistered business activities, to collect operational information, to check the applications and appeals from entities and individuals.

The basic type of tax control carried out with the inspectee is on-site control.

The document on the basis of which the tax control begins:

The **tax control notice** is the document upon which the control actions are based. It indicates the reason for the tax control, a list of the issues to be inspected, the inspected period and the tax control duration.

Nevertheless, no notice is required for the off-site control.

The main rights and obligations of the tax authority and the taxpayer:

The **taxpayers** have the basic rights during the tax control as follows:

- to represent their interests in the tax authorities, either personally or with a representative;
- to be present during the tax control, to explain issues related to the scope of the control and to receive a tax control act (statement);
- to submit clarifications concerning the calculation and payment of taxes, fees (duties) and objections concerning a tax control act (statement) to the tax authorities and to their officials;
- to appeal against the tax authority's decisions and the actions (inactions) of their officials;
- to fail to execute the tax authority's decisions and requests of their officials not complying with TC and other legislation;
- to get acquainted with tax declarations (calculations), other documents and (or) tax information, if it does not affect the third parties' rights, freedoms and (or) lawful interests, and the materials do not contain information constituting state secrets, commercial and (or) other protected secrets.

During the tax control, the **taxpayers** are obliged:

- to submit the documents (copies thereof), tax information and other data concerning the inspectees' activities and property to the tax authority;
- to sign the tax control act (statement);
- not to disturb tax officials to carry out the tax control, to keep their premises suitable for the tax control open.

The **tax authority** has the right:

- to receive documents (copies thereof), tax information and other data concerning the inspectees' activities and property to the tax authority;
- to verify documents confirming the identity and (or) authorities from the taxpayers and their representatives, to request and obtain the documents (copies thereof) and other information concerning their activity and property from the taxpayers;
- to summon the inspectees, their representatives as well as third parties who have the documents and (or) information on the inspectees' activities;
- while conducting the tax control, except for off-site control:
 - A) to check cash in the cash desk and with accountable officials, securities and other property;
 - B) to inspect the taxpayer's territories, premises or other objects used for determining whether the actual data on the objects correspond to the documentation provided by the taxpayer;
 - C) to demand property inventory, as well as to verify its results and seal the register, premises, places of document storage and (or) property of the taxpayer;

D) to confiscate original documents of the taxpayer or to demand extracts or copies thereof;

E) to inspect the taxpayer and its representatives personally, to inspect the things, documents, values and means of transport in their possession.

Carrying out the tax control the tax authority must:

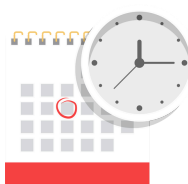
- recover unpaid (not fully paid) amounts of tax, fee (duty), penalties and enforce the unfulfilled tax obligation by charging penalties;
- demand the taxpayers cure the law violations and monitor compliance with the legal requirements;
- send (hand in) decisions to the taxpayers or their representatives;
- transfer tax control and other materials on tax crimes to the criminal prosecution authorities;
- revoke the decisions of lower tax authorities not complying with the legislation.

The timing of the tax audit:

As a general rule, the on-site control must be conducted within 30 working days. The tax control term can be extended by the tax authority's head (deputy head). If additional control is appointed, its term must not exceed 10 work days.

The term for the thematic operational control of one inspectee or its branch must not exceed 3 work days.

For reference: The specified time limits do not apply if the control is carried out by order of criminal prosecution bodies.



There is no deadline set for off-site and on-site control due to the specifics of their conduct.

The documents (acts) that are handed over to the taxpayer at the end of the tax audit:

The tax authority draws up [an act or a certificate](#) based on the results of the tax control (except for off-site control). If there are no tax violations, a certificate is drawn up (for off-site control - none). If there are any, an act describing the violations detected is drawn up.

If the tax authority identified errors (incompleteness) in the submitted documents during the off-site control, it sends [a notice](#) to the taxpayer suggesting amendments within 10 work days. If the taxpayer didn't make the amendments within this period, the tax authority can request supporting documents. If such assessment reveals a tax violation, the tax authority informs the taxpayer of information and (or) explanations, documents are not accepted and send an off-site control act.

The act (certificate) must be signed by the head of the inspectee (person responsible for accounting management), an official of the tax authority and third parties (if necessary).

If there are any [objections](#) to the act (certificate), it is indicated at the time of signing. They must be submitted to the tax authority not later than 15 work days from the date of signing the act (certificate). After the expiry of this period, no objections are accepted.

Tax authority reviews the inspectee's objections within 15 working days and draws up a [written opinion](#). The additional control on the objections analysis may be appointed within 10 working days from the date of their submission.

Within 30 working days from the date of tax control act delivery to the taxpayers or from the date of filing objections the tax authority makes the decision. It is handed in personally or sent by registered mail to the taxpayers or their representatives.

In addition, a protocol for an administrative offence and (or) a resolution on an administrative offence may be drawn up.

The deadlines for the fulfilment of the results of the tax audit:

As a rule, taxpayers could execute the tax control decision by themselves within 7 days.

2. PROCEDURE FOR APPEALING THE RESULTS OF TAX CONTROL:

2.1. Pre-trial settlement

Whether the pre-trial settlement is mandatory:

Pre-trial settlement (administrative appeal procedure) is not mandatory. Taxpayers can file a claim directly to the court.

The authority where the appeal on the results of the tax audit should be filed:

A tax authority's decision may be appealed against:

- to a higher tax authority;
- to a court.

However, filing an appeal to a higher tax authority or a higher official does not exclude the right to file an appeal in court.

The time frame for filing the appeal:

The taxpayer can appeal the tax authority's decision to a court within 1 year from the date of the decision.

The deadline for filing an appeal to a higher tax authority is shorter - 30 days from the date of the tax authority's decision.

The appeal procedure is multi-stage.

1 An appeal against the decision of the tax office of the Ministry of Taxes and Duties (hereinafter - tax office) in a district, city or district in a city can be filed with the regional or Minsk city tax office (according to territoriality) or with the Ministry of Taxes and Duties (hereinafter - MTD). It must be filed within 30 days from the date of the decision.

2 An appeal against the decision of the regional or Minsk city tax office may be filed with the MTD within 30 days from the date of its adoption.

The decision may be appealed directly to the court without filing an appeal to a higher authority.

Failure to submit an appeal is a ground to reject it. In this case, the term for filing a complaint (missed for a valid reason) may be renewed.

The time period for consideration of the appeal:

The appeal must be reviewed within one month from the date of its receipt.

The powers of the authority considering the appeal; the decision on the appeal:

Following the results of the appeal review, the higher tax authority or a higher official (if there is no higher tax authority) to whom the officials issued the decision are directly subordinated, could:

- leave the decision unchanged and the complaint - without satisfaction;
- revoke the decision in full or in part;
- revoke the decision and order the additional control;
- make amendments to the decision.

The tax authority sends the decision on the complaint to the appellants (their representatives) within 3 work days from the date of the decision.

2.2. Court settlement of tax dispute

Regulation of tax disputes:

Tax disputes resolution, where the taxpayer is the company, are regulated by the Economic Procedural Code of the Republic of Belarus (Chapter 25). Such a company should file an application to the economic court located in a region where the company operates.

Time frame for going to court:

An application to the economic court may be filed within 1 year from the date of the decision.

The state fee amount:

The state fee is 20 basic values (BYN 800 or approximately USD 250 as of June 7, 2024).

The time period for consideration of the claim:

In general, the first instance court tries tax disputes within 2 months from the date of the court's order on the case appointment for hearing, which is not later than 15 days from the date of the application receipt by the court.

Court decision:

If the court finds the appealed tax authority's decision does not comply with the legislation and violates the taxpayer's rights and lawful interests, it is adjudicated to invalidate the tax authority's decision.

In addition, the court makes a decision on the tax authority's obligation to cure the violation of the company's rights and lawful interests in full.

When the decision comes into force:

The court decision comes into force 15 work days after its making unless it is appealed.

Appealing the decision of the court of first instance in higher court instances:

An appeal (protest) can be filed within 15 work days after the court's decision to the appeal instance.

A cassation appeal can be filed with the Supreme Court within one month after the judgement entered into force.

A supervisory appeal may be filed within one year after the judgement entered into force.





TAX CONTROL AND APPEALING ITS RESULTS IN GEORGIA



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TYPES AND/OR FORMS OF TAX CONTROL, THE PROCEDURE FOR CONDUCTING

Tax control can be performed only by tax authorities. Tax control procedures shall not reasonably disturb the ordinary course of business of a taxpayer and shall not suspend its activity. The types of tax control are current control and tax audit.

Re-audit of an already audited matter is prohibited without a judge's order except matters for which a person files an adjusted tax return for an already audited period.

a. Current Control Procedures

Current control over a taxpayer's activity is performed during working hours or during the actual work of a taxpayer.

The procedures of current control are implemented without any prior notice.

The Tax Code of Georgia considers the following current control procedures:

- [Tax monitoring](#): by assigning the authorized person for a term of up to 6 months to the place of economic activity of a taxpayer, the tax authority may conduct tax monitoring and use the information obtained to determine the taxpayer's tax obligation at the moment of a tax audit. The period of tax monitoring may be prolonged in agreement with the Head of the Revenue Service.
- [Controlling purchase](#): the purpose of controlling purchase of goods/services shall be to determine the actual volume of revenue earned from the supply of goods or services of services or reveal a violation of the Laws of Georgia.
- [Control over observance of rules for using cash registers](#): an authorized official of the tax inspection may, without a court decision, in accordance with procedures established by the Minister of Finance, exercise control over the observance of rules for using cash registers.
- [Visual inspection](#): To exercise tax control, an authorized official of the tax authority may visually inspect the premises, buildings, fixed assets and inventory holdings of a person.
- [Time study](#): to determine the level of a taxpayer's revenue, the volume of supplied goods/delivered services and the number of hired individuals, the tax authority may survey the taxpayer's economic activity and conduct a time study of the taxpayer's activity.

- **Taking inventory:** The head of the tax authority may, without a court decision, issue an order for taking stock of inventory holdings or fixed assets of a person holding excisable goods. The head of the tax authority may issue an order for taking stock of inventory holdings or fixed assets of a taxpayer holding non-excisable goods for a maximum of two times in a calendar year, and an inventory may be checked for a third time by an order of the Head/Deputy Head of the Revenue Service. To have an inventory checked within a reasonable time, the taxpayer's manager (director) shall set up an Inventory commission within 2 working days after being served with such an order. The inventory commission shall be obliged, in full and on time, to take stock of inventory holdings or fixed assets at the place of their production and storage, compare the obtained inventory with the respective accounting data, and record the results in the Inventory Report.

Field tax audit: a field tax audit shall be conducted based on an order of an authorized person of the tax authority. The taxpayer shall be sent a written or electronic notice of a field tax audit at least 10 working days prior to the commencement of the audit. In case of an urgent tax audit field tax audit is conducted without prior notification.

The audit shall commence no later than 30 days after serving the notice upon the taxpayer. If the audit cannot be started within that time, the notice shall be invalid. A field tax audit may not continue for more than 3 months. If necessary, the audit period may be prolonged for a maximum of 2 additional months, in agreement with the Head of the Revenue Service.

The findings of a tax audit shall be reflected in a report. The tax authority shall make a decision on assessing or not assessing taxes or fines, based on the tax audit report. A copy of such a decision shall be presented to the taxpayer along with the relevant tax notice.



b. Tax Audit

A tax audit may be a **correspondence audit** or a **field audit**:

Correspondence tax audit: a correspondence tax audit shall be conducted by an order of an authorized person of the tax authority, for auditing specific matters defined by the order. During a correspondence tax audit, the tax authority may request that accounting documents or taxation-related information be presented.

A correspondence tax audit is conducted without visiting the taxpayer's place of activity, based on the person's taxation-related information available at the tax authority, as well as on clarifications and accounting documents provided by the taxpayer.



PROCEDURE OF APPEALING THE RESULTS OF TAX CONTROL

A. Dispute within the System of the Ministry of Finance

The tax authority decision can be appealed within the system of the Ministry of Finance or directly to court.

The authorities having the competence to resolve a tax dispute within the system of the Ministry of Finance of Georgia shall be the Revenue Service and the Dispute Resolution Council under the Ministry of Finance of Georgia.

A tax dispute within the system of the Ministry of Finance of Georgia shall include two stages, and it shall start with filing a complaint with the Revenue Service. The complaint shall be filed within a 30-day period from the moment of serving a decision on the taxpayer.

The decision of the Revenue Service shall be appealed within 20 days either in the court or to the Dispute Resolution Council under the Ministry of Finance.

Resolving the appeal shall take up to 20 days in each instance. Though, in practice this period may last several months and even up to a year.

B. Dispute within the court system

The dispute resolution terms within the court system are as follows:

- The first instance court - 2 months.
- The Appeal Court - 2 months.
- The Supreme Court - up to 6 months.

In practice the period of dispute settlement may last up to 3 years and even longer depending on the complexity of the case.

Court state fees on taxpayers' claims are as follows:

The first instance court - 3% of the disputed amount, not less than GEL 100 and not exceeding GEL 5 000.

The Appeal Court - 4% of the disputed amount, not less than GEL 150 and not exceeding GEL 7 000.

The Supreme Court - 5% of the disputed amount, not less than GEL 300 and not exceeding GEL 8 000.

TAX AGREEMENT

The Tax Code of Georgia provides possibility for a taxpayer to enter a tax agreement with the Revenue Service for purposes of reducing:

- Tax arrears.
- Sum of a duty or the related penalty and surcharge which is administered by a tax authority.

The taxpayer submits an application for a tax agreement to the Revenue Service. The decision of the Revenue service might be one option from two: either it may refuse to sign a tax agreement with the taxpayer or submit the application, along with appended documents, to the Minister of Finance of Georgia for consideration at the Government of Georgia meeting.

The Government of Georgia shall make a decision on signing a tax agreement, defining the amount payable and the time limit of payment under the tax agreement. The taxpayer shall be obliged to discharge the liabilities under the tax.





TAX CONTROL AND APPEALING ITS RESULTS IN THE REPUBLIC OF KAZAKHSTAN



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The Tax Code of Kazakhstan [1] provides for a wide range of tax control forms, with the main ones being cameral tax control and on-site tax inspections.

Tax control is carried out by tax authorities, as well as customs authorities in relation to VAT on imports and excise duties payable in connection with the movement of goods across the border.

Any act as well as action (inaction) of the tax authority can be appealed by the taxpayer to a higher tax authority and/or courts, if they consider them unlawful and unjustified.

CAMERAL TAX CONTROL

Due to the digitalization of tax administration, tax authorities have widely implemented cameral tax control. Within the framework of cameral control, tax authorities remotely monitor and analyse tax reporting and other documents submitted by taxpayers, as well as other information about taxpayers received from government agencies and other sources.

If any discrepancies, errors, or violations are detected as a result of cameral control, the tax authority notifies the taxpayer about them for self-correction.

The notification from the tax authority regarding violations identified during desk control must be

executed by the taxpayer within a 30-day period through self-correction of the violations. For example, this can be done by submitting additional tax reporting with the calculated tax amount or by correcting the electronic invoice.

If the taxpayer disagrees with the notification, they have the right to submit a written explanation to the tax authority with supporting documents and/or appeal the notification to higher tax authority. If the taxpayer and the tax authority do not reach a consensus, the tax authority must conduct an on-site tax inspection of the taxpayer to verify the issue and make a final decision.

If the tax authority's notification requires the adjustment of tax amounts or payments due to court rulings declaring transactions invalid, invalid state registration of a counterparty, or the determination that goods were not actually supplied and services were not rendered, then in case of disagreement, the taxpayer can appeal such a notification only in court.

If the taxpayer does not respond to the notification within the 30-day period (does not fulfil or appeal), the tax authority has the right to arrest their bank accounts or restrict the issuance of electronic invoices, and later appoint an on-site tax inspection.

It is important to note that the taxpayer is not subject to administrative or criminal liability in case of violations discovered based on the results of cameral control.

[1] Code of the Republic of Kazakhstan «On taxes and other obligatory payments to the budget (Tax Code)» (25 December, 2017 № 120-VI).

Cameral control is part of a risk management system for categorising taxpayers into different levels and selecting them for on-site tax inspections.

ON-SITE TAX INSPECTION

An on-site tax inspection is usually conducted at the taxpayer's location to verify the accuracy and completeness of the taxpayer's compliance with tax obligations and social payments, as well as on issues of transfer pricing and government regulation of the production and turnover of excisable goods (crude oil, alcohol, tobacco, petroleum products, etc.).

The tax inspection is carried out based on a prescription issued by the tax authority that assigned the inspection. The prescription for conducting the inspection, as well as notifications of suspension, resumption, and extension of the inspection, must be registered with the prosecutor's office. The taxpayer has the right to refuse entry to the office or premises of tax authority officials if they do not present the prescription.

Types of tax inspections:

By regularity:

- [Periodic tax inspections](#), for which taxpayers are selected based on the risk management system at the beginning of each half-year. Lists of taxpayers subject to inspection are published by tax authorities;
- [Unscheduled tax inspections](#), which are appointed, for example, based on the taxpayer's request, within the framework of criminal proceedings, etc.

By subject matter:

- In the framework of a comprehensive tax inspection all types of taxes and obligatory payments are subject to inspection;
- Thematic tax inspection - separate types of taxes, obligatory payments or separate issues are inspected;

- Counter tax inspections - mutual settlements with counterparties are checked to confirm the fact and nature of transactions;

- A chronometric inspection is carried out to establish the actual income and expenses of the taxpayer during the period of the inspection.

The duration of a tax inspection is up to 30 business days from the date of issuing the prescription, with the possibility of extension up to 180 business days. The tax authority is authorised to suspend the inspection period during the collection of requested documents and information.

In the framework of a tax inspection, the tax authority has the right to require the taxpayer to submit accounting and primary documentation, written explanations, including from employees, access to view the information software used to automate accounting and tax accounting, to inspect property and conduct inventories, request information about the taxpayer and their activities from government agencies, banks, and other organisations, including information protected by law as confidential, send requests to foreign states, etc.

Following the tax inspection, the tax authority issues a tax inspection report, which includes information about the taxpayer, a description of the conducted inspection, including identified violations, and conclusions drawn by the tax authority based on the results of the tax inspection.

If a taxpayer has undergone a periodic tax inspection, the tax authority must first hand over a preliminary tax inspection report to the taxpayer. The taxpayer has the right to submit objections to higher tax authorities if they disagree with the conclusions drawn in the preliminary tax inspection report. After considering the objections, the tax authority issues a final tax inspection report.

If a periodic tax inspection has been conducted, the tax authority must first deliver a preliminary tax inspection act to the taxpayer. The taxpayer has the right to file objections to the higher tax authorities if he disagrees with the conclusions made in the preliminary act of the tax inspection. After considering the objections, the tax authority issues a final tax inspection report.

If violations are revealed as a result of the tax inspection, in addition to the tax inspection report, the tax authority issues a notice based on the results of the tax inspection. In this notice, the tax authority may, for example, assess additional amounts of taxes, payments, and penalties against the taxpayer, and/or reduce the amount of loss, confirm or refuse the refund to the budget of excess VAT claimed by the taxpayer, etc.

It is important to note that the taxpayer will be subject to administrative or criminal liability for violations revealed by the results of the tax inspection.



Notification on the results of a tax inspection must be either executed by the taxpayer or appealed by him to the Appeals Commission of the Ministry of Finance within 30 business days.

For the period of appealing the notice on the results of a tax inspection the tax authority restricts the taxpayer's disposal of fixed assets by a value equal to the appealed amount.

PRE-TRIAL SETTLEMENT OF A TAX DISPUTE

The complaint must be reviewed, as a general rule, within 30 business days, with the possibility of extending the deadline to 90 business days. When reviewing the complaint, the Ministry of Finance has the right to appoint a thematic tax inspection to examine specific issues. The Ministry is also entitled to send inquiries to government agencies, organisations, and foreign countries. The review period of the complaint is suspended during the period of conducting a thematic tax inspection, as well as during the

process of sending inquiries and receiving responses to them. Based on the review of the complaint, the Ministry issues a reasoned decision.

The taxpayer has the right to appeal the notice on the results of the tax inspection in court, if they disagree with the results of the complaint review by the Ministry of Finance.

JUDICIAL SETTLEMENT OF A TAX DISPUTE

There is a three-tier judicial system in Kazakhstan. Tax disputes are considered within the framework of administrative court proceedings.

The deadline for filing an administrative lawsuit regarding the results of a tax inspection in the first instance court is 1 month from the date of receiving the decision of the Ministry of Finance. To file an administrative lawsuit, the taxpayer must pay a state fee of 1% of the disputed amount of taxes, payments, and penalties, but not exceeding 20 000 monthly calculation indexes [2]. The administrative lawsuit is heard by a single judge with the participation of the parties involved: the taxpayer as claimant, the tax authority as respondent, representatives of the prosecutor's office, as well as third parties if necessary (such as representatives of the local executive body, Ministry of National Economy, etc.). The total period for considering an administrative lawsuit in the first instance court cannot exceed 3 months. Based on the review of the lawsuit, the court issues a decision.



The decision of the court of first instance can be appealed to the court of appeal by filing an appeal within 2 months from the date of its delivery to the taxpayer in writing. The appeal shall be considered by judges collegially within 3 months. Based on the results of the appeal, the court shall issue a resolution.

[2] In 2024, this threshold is 73,840,000 tenge or approximately 157,955 US dollars.

The decision of the court of appeal comes into force within 1 month from the date of its delivery in written form. Within this period the taxpayer may appeal it in cassation to the Supreme Court of the state. In order to file a cassation appeal the taxpayer must pay the state duty in the amount of 0,5% of the appealed amount of accrued taxes, payments and penalties, but not exceeding 20 000 monthly calculation indexes. The cassation appeal is considered by judges collegially (not less than three judges). The cassation appeal shall be considered within 6 months from the date of receipt by the Supreme Court of the court case materials of the lower courts. Based on the results of consideration of the cassation appeal, the Supreme Court shall issue a resolution, which enters into legal force from the date of its announcement.

Resolution of the Supreme Court issued as a result of consideration of cassation appeals may be reviewed in exceptional cases on the proposal of the Chairman of the Supreme Court or a protest of the Prosecutor General, if the decision violates public interests, the uniformity of the application of law norms by the courts.





TAX CONTROL AND APPEALING ITS RESULTS IN MOLDOVA



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1. TYPES AND/OR FORMS OF TAX CONTROL, THE PROCEDURE FOR CONDUCTING

The need to know the types and/or forms of tax control is important for legal entities. It is very important for the party under verification to know its rights and obligations as a taxpayer in the event of a tax audit. Failure to comply with them can result either in the violation of rights, or in the application of coercive measures by the control authorities (by applying fines, stopping operations on company's bank accounts, etc.). On the other hand, the taxpayer's very good knowledge of his rights can help to avoid abuse by the authorities.

Art. 129 para. 11 of the Fiscal Code provides for the notion of **tax control** - verification of the correctness with which the taxpayer fulfills the fiscal obligation and other obligations provided for by fiscal legislation and other normative acts, including verification of other persons in terms of their connection with the taxpayer's activity through methods, forms and operations provided for of the Fiscal Code. The purpose of the tax control is to check how the taxpayer complies with the fiscal legislation in a certain period or in several fiscal periods.

Tax control can be carried out by representatives of the fiscal authorities only on the basis of a written decision issued by the management of the fiscal authority.

The main rights and obligations of the taxpayer in the event of a tax control.

The main rights of the taxpayer:

- the right to a fair attitude on the part of the authorities with fiscal administration attributions and their representatives;
- the right to represent its interests before the concerned authorities either personally or through a representative;
- the right to appeal the decisions, actions or inactions of the tax administration authorities or their officials;
- the right to a fair fiscal treatment and the interpretation of doubts arising from the application of fiscal legislation in favor of the taxpayer, etc.

The main obligations of the taxpayer:

- to keep accounting records according to the forms and manner established by the legislation;
- to present truthful information about the income resulting from entrepreneurial activity, as well as about other objects of taxation;

- ⦿ to present at the first request of the authorities record documents, fiscal statements, other documents and information regarding the activity of the entrepreneur, taxes and fees calculated and paid, etc.;
- ⦿ to ensure the authorities free access to the company's premises (e.g. production premises, warehouses, commercial premises, etc.);
- ⦿ to assist in the performance of the fiscal control, to sign the act regarding the result of the control and to give explanations in writing or orally;
- ⦿ to comply with the decisions of the authorities with fiscal administration attributions on the results of the control carried out, etc.

Types of tax control.

Tax control can be exercised in two forms:

- ⦿ **Tax control at the office of the tax body (chamber tax control).** Chamber tax control consists in verifying the correctness of the preparation of fiscal reports, of other documents presented by the taxpayer, which serve as the basis for the calculation and payment of taxes and fees, of other documents at the disposal of the fiscal body or other body with fiscal administration powers (hereinafter – “control body”), as well as in the verification of other circumstances related to compliance with fiscal legislation.

When it reveals errors and/or contradictions between the indications of the reports and the documents presented, the control body is obliged to communicate this to the taxpayer, asking him to modify the respective documents within the established term.

The control body carries out the fiscal control without adopting a written decision on the targeted objective. If the detection of the fiscal violation is possible within the framework of the

chamber tax control, and the on-site audit is not necessary, the control body can draw up the fiscal audit report.

- ⦿ **On-site tax control.** The purpose of the onsite tax control is to verify compliance with the fiscal legislation by the taxpayer or another person subject to control, which is carried out by the control body at their location. The on-site tax control related to a taxpayer may include one or more types of taxes and fees. On-site tax control can be carried out only on the basis of a written decision of the management of the control body.

At what time can the company be subject to tax control?

Tax control is carried out during the hours of the body exercising tax control and/or those of the taxpayer. **The duration of an on-site tax control must not exceed 2 calendar months.** In exceptional cases, the management of the control body can decide to extend the duration of the control by no more than 3 calendar months or stop the control. The period of suspension of the control and presentation of documents is not included in the duration of the control, the latter being calculated from the day of its commencement until the day of signing the respective act, inclusive.

In the framework of tax control, the bodies empowered with the right to carry out tax control draw up a series of documents:

- 1 **Subpoena** is a written document in which the person is invited to the fiscal body to submit documents or to present another kind of information, relevant for the determination of the fiscal obligation. The tax authority has the right to subpoena any person to testify or produce documents. The subpoena indicates the purpose of the subpoena, the date, time and place where the subpoenaed person must appear, his obligations and responsibility.

This act describes the findings of the control, the period subject to the control, the taxes and fees verified, as well as other information that was the basis of the control / finding of fiscal violations.

The control act itself is not binding in order to exercise obligations / pay taxes, but serves as a basis for issuing the decision on the results of the control. The taxpayer is obliged to sign the control document, including in case of disagreement with the results of the control. The control act is signed by the head of the company and/or another representative delegated in this regard.

2 The **tax control act** is a document drawn up by the fiscal officer or other responsible person of the body exercising the control, in which the results of the fiscal control are recorded. The act will objectively, clearly and accurately describe the violation of fiscal legislation and/or the method of recording the objects of taxation, with reference to the respective recording documents and other materials, indicating the violated normative acts. Each fiscal period will be reflected in the act, specifying the fiscal violations detected in it. The control act is drawn up regardless of the fact of finding fiscal violations.

3 The **report** is a document drawn up by the tax officials or another responsible person of the body that exercises the control, in which the fact of picking up the documents and/or the control machines is recorded. The report is signed by the person who drew it up (representative of the fiscal inspectorate) and by the person from whom the documents and/or control machines were collected or by the assisting witnesses.

If the person from whom the documents and/or control machines are collected refuses to sign the report, the refusal will be recorded in it.

4 The **decision** is an act issued by the fiscal body or by the tax and local tax collection service related to the exercise of the powers of these bodies and is issued when a fiscal control is initiated. The decision regarding the initiation of the fiscal control will contain

the list of persons proposed for the control, taking into account the decreasing value of the difference between the estimated taxable income and the declared one and the ability to carry out a number of controls.

2. PROCEDURE OF APPEALING THE RESULTS OF TAX CONTROL

2.1. Pre-trial settlement

A. What should be done in case of disagreement with the control results?

If you do not agree with the results of the tax audit, you have the right to appeal them by submitting a written disagreement to the authority that performed the tax audit, citing all the facts and evidence that justify your position. This disagreement is to be submitted within 15 calendar days, from the date of signing the fiscal control act. The disagreement presented with the expiration of this term will not be taken into consideration when examining the case of fiscal violation and adopting the decision.

B. In what term will the tax violation case be examined?

The authority that carried out the fiscal control is obliged to examine the case of fiscal violation within 15 days from the date:

- presenting the disagreement (if it was presented in time),
- or the expiration of the deadline for presenting the disagreement (if it has not been presented).

This term can be extended by 30 days by the decision of the fiscal authority, including in the case of presenting the reasoned approach of the taxpayer. The disagreement submitted to the hierarchically superior control authority will not be examined, and in the end it may generate the omission of the 15-day deadline for its submission to the authority that performed the control.

In the case of submitting a reasoned disagreement with the annexation of supporting documents, the fiscal authority may order an additional verification of the information provided. When examining the case of fiscal violation, the results of both the initial and the additional control will be taken into account (through which, for example, based on the submitted disagreement, the circumstances that attest to the absence of fiscal violation can be ascertained).

In the case of controls carried out by the tax authority, the latter is obliged to notify the preventive taxpayer (by subpoena) about the place, date and time of the examination of the tax violation case. The case of fiscal violation can be examined without the presence of the responsible persons of the taxpayer or his representative only in the situation where there is information regarding the notification to the taxpayer about the place, date and time of the examination of the case and no requests have been received from him to postpone the examination.

Appealing the sanctioning decision. What should be done if a sanctioning decision has been issued?

If the tax authority has issued the decision to apply a tax penalty, without taking into account the arguments brought to the disagreement, you have the right to appeal this decision. The appeal is submitted to the fiscal authority that issued the decision, within 30 days from the date of its receipt. In case of missing the mentioned term, the appeal will not be examined. If the deadline for filing the appeal was missed for valid reasons, the fiscal authority can reinstate the sanctioned person and examine the appeal. In this case, the appeal must contain the statement of the reasons for skipping the deadline and the request to reinstate it within the deadline. Filing the appeal does not suspend the execution of the appealed decision. The taxpayer must expressly request the suspension of the execution of the decision based on relevant arguments.

Courts return summons requests regarding the annulment of the fiscal body's decision, if the plaintiff did not comply with the prior procedure for resolving the dispute out of court (did not appeal the decision to the issuing authority).

The fiscal authority examines the appeal within 30 days. This term can be extended by no more than 30 days, a fact about which the taxpayer must be notified. When examining the appeal, the taxpayer is invited to give explanations, having the right to submit confirmatory documents. The case can be examined in the absence of the taxpayer if he was summoned in the established manner and, for unfounded reasons, did not appear or if he requested examination of the appeal in his absence.

After examining the appeal, the tax authority can order:

- 1** rejecting the appeal and maintaining the appealed decision;
- 2** partial satisfaction of the appeal and modification of the contested decision;
- 3** satisfaction of the appeal and annulment of the contested decision;
- 4** suspending the execution of the appealed decision and performing a repeated control.

During the examination of the appeal, the obligation to prove the incorrectness of the decision issued by the tax authority is placed on the person who is contesting.

2.2. Court settlement of tax dispute

What should be done if the appeal against the sanctioning decision was rejected or partially satisfied?

If the tax authority rejected or only partially satisfied the appeal, you have the right to appeal the respective decision either administratively (to the higher hierarchical body - the Main State Fiscal Inspectorate) or in court. The request to sue against the decision of the fiscal authority is

submitted to the competent court within 30 days from the date of receipt of the decision to reject the appeal.

The summons request is not subject to a state fee

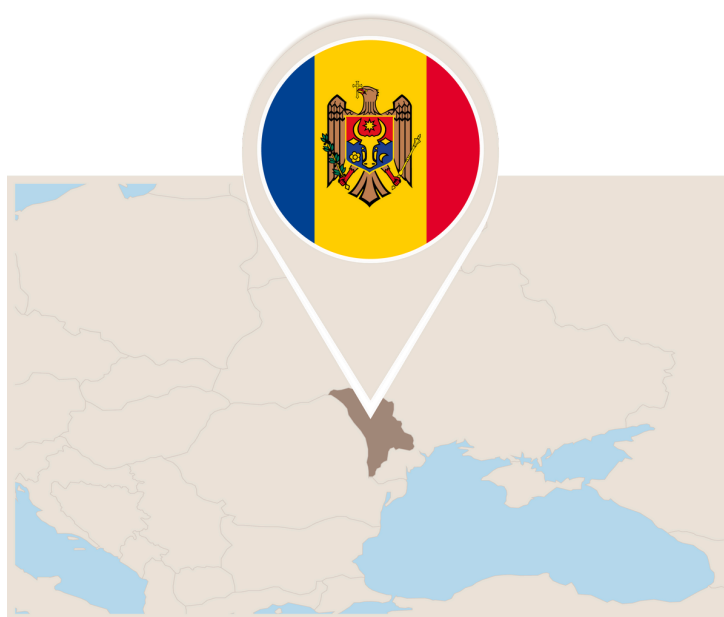
You have the right to request the collection from the fiscal body of the damage caused by the contested sanctioning decision. When examining in court the action regarding the annulment of the tax authority's decision, the burden of proof of the legality of the decision rests with the tax authority. Simultaneously with the filing of the summons, you have the right to request the suspension of the execution of the contested decision.

How can the court decision by which the request to annul the decision of the fiscal body was rejected be appealed?

If you consider that the court's decision is illegal or unfounded, you can appeal it to the Court of Appeal. The appeal request is submitted to the court that adopted the decision. The appeal period is 30 days from the pronouncement of the decision. The appeal exercised within the deadline is suspensive of the execution of the decision.

The decisions of the Courts of Appeal become final from the moment they are pronounced and are subject to enforcement. If you consider that the decision of the court of appeal is illegal, you have the right to appeal it to the Supreme Court of Justice. The appeal is submitted within 2 months from the date of communication of the full decision. The declaration of appeal against the decisions of the court of appeal does not suspend the execution of the decision.

To sum up, the subject of tax controls proved to be a complex one, both from the perspective of fiscal authorities concerned with combating tax evasion, and from the perspective of taxpayers interested in ensuring fair treatment and non-admission of abuses by inspectors. The experience of Grata International Moldova has demonstrated over time that the involvement of a mixed team of qualified tax and legal consultants, especially from the initial phase of tax control, can contribute decisively to ensuring a fair tax treatment and to preventing violations of the taxpayer's rights.





TAX CONTROL AND APPEALING ITS RESULTS IN MONGOLIA



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In Mongolia, tax control procedures are governed by the General Tax Law and Appendix 1 of Order No. A/70 issued by the Director of the General Department of Taxation, a procedure for conducting tax control. Under the General Tax Law, the Tax Administration conducts audits to verify the accurate determination of tax liabilities and timely payments by taxpayers.

TYPES OF TAX CONTROL, THE PROCEDURE FOR CONDUCTING

The tax office reviews taxpayer obligations based on:

- risk assessment of the taxpayer;
- taxpayer-initiated requests.

Tax audits are conducted in accordance with general and specific guidelines, either comprehensively or partially assigned, adhering to international standards and domestic legislation. A comprehensive audit is performed on all types of tax levies and payment statuses, while a partial audit focuses on one or more types of tax levies and payment statuses.

Additionally, tax audits are categorized based on the scope of work as follow:

- Simple inspection include audits other than simplified and complex tax audits



- Simplified inspection are conducted electronically and through other means using data from tax registers, unified databases, and other relevant information;
- Complex inspection involves intricate operations, such as cooperation with experts in other fields, foreign authorities, and the implementation of general rules against transfer pricing and tax evasion.

The Tax Administration shall exercise the following powers for carrying out tax audits:

- To summon taxpayers and their counterparts on reasonable grounds, and obtain explanations regarding their activities;
- To conduct general operations specified in Chapter 5 of the General Tax Law, including accessing premises and warehouses, collecting data, information, and documentation, conducting inspections, and performing inventory audits;
- To obtain explanations and references pertaining to tax returns, accounting reports, account records, other financial documents, and information from the integrated tax registration and information database.

Taxpayers shall have the following rights and obligations in relation to tax audits:

- To protect their rights and legitimate interests personally and/or through their authorized representative or technical adviser, to be present during a tax audit, and to provide evidence and justification;
- To obtain or provide an explanation on tax assessments and payments, and on the progress and outcome of audits.
- To provide the Tax Administration with the financial and other documents necessary for the tax audit, electronically or in paper as required, and to undergo the tax audit.

Taxpayers shall receive at least 10 business day advance notice of any scheduled tax audit.

Procedure for conducting tax audits: The tax audit will proceed through three stages: preparation, execution, and completion. A work plan will be drafted for each stage, and the activities will be documented in the tax register and unified database. Daily work records will be maintained to track progress.

- 1 During the preparation stage, the state tax inspector will send inspection information to the telephone and email addresses of taxpayers registered in the tax and database. In the simplified inspection, the tax authority will submit a request to correct the report and inform the taxpayer about the submission of documents, news, and information necessary for the inspection. During this stage, relevant information regarding the taxpayer's personal affairs, finances, tax returns, disclosures, and activities will be gathered from internal and external sources. Comparative research and analysis will be conducted based on this information. Subsequently, the state tax inspector will prioritize inspection activities according to their significance, establish a detailed sequence, and issue a "Tax Inspection Work Plan" (hereinafter referred to as "work plan") to be followed during the execution phase.

- 2 During the implementation stage, the state tax inspector will conduct inspections according to the work plan. Throughout the inspection process, the taxpayer will clarify any information deemed in violation of tax levies and payments, reconcile discrepancies, verify facts, obtain additional documents and calculations, and if necessary, collect and document information from third parties to substantiate any violations. The inspector will conduct inspections based on the relevant documents gathered during the process, meticulously documenting each detected violation with detailed lists and notes, making copies of necessary documents, and providing clarifications. At this stage, confirmed violations will be recorded, and additional taxes, fines, and penalties may be imposed.

- 3 During the finalization stage, the detected violation, its legal basis, and calculations will be presented to the head of the inspection unit for review. Based on the inspection results, a certificate of adjustment, a certificate of Value Added Tax (VAT) imposition and payment, and a report will be drafted, signed, and stamped by the state tax inspector conducting the inspection. These documents will then be verified and confirmed by the head of the inspection unit, and the decision will be signed and stamped to become effective. The tax re-assessment act, the validation of assessment and payment of VAT, and the notification sheet will be delivered to the taxpayer and their authorized representatives within 7 working days.

PROCEDURE OF APPEALING THE RESULTS OF TAX CONTROL

In accordance with the General Tax Law, a tax act refers to the tax reassessment act, the validation of assessment and payment of Value Added Tax (VAT), and the tax refund act prepared by the state tax inspector. Based on the results of the tax audit, the Tax Administration shall conduct a tax reassessment act and validate the assessment and payment of VAT.

The tax re-assessment act and the report must be delivered within 7 business days from the date of effectiveness, with a record of such delivery noted. If the taxpayer does not accept the tax re-assessment act in whole or in part, a complaint can be filed with the Dispute Resolution Council within 30 days of receipt. When filing a complaint concerning the re-assessment act, the taxpayer must pay 10% of the disputed amount stated in the reassessment act in advance, not exceeding MNT100 million.

Regarding the validation of assessment and payment of VAT: The relevant tax office will receive the taxpayer's request for validation of the value-added tax assessment and its payment. Upon review and validation, the office will transfer the request to the Major Taxpayers' Office operating under the state administrative body responsible for tax matters. The Major Taxpayers' Office will review the VAT assessment and issue a validation report. If the taxpayer disagrees with the decision of the Major Taxpayers' Office, a complaint can be filed with the Dispute Resolution Council.

A taxpayer, an authorized representative of the taxpayer, or a professional tax consultant shall have a right to file a complaint to the respective Dispute Resolution Council within 30 days after receiving the tax act. A complaint shall be settled by the following jurisdictions:

- Complaints from taxpayers under the jurisdiction of a Province, Capital City, or a city with state-grade status shall be resolved by the Dispute Resolution Council of the respective tax administration.
- The Dispute Resolution Council at the state administrative body responsible for tax matters shall resolve complaints from taxpayers under the jurisdiction of the Major Taxpayers' Office.

The Tax Dispute Resolution Council (hereinafter referred to as the "Dispute Resolution Council") operates under the Tax Administration and reviews complaints and requests from taxpayers regarding tax acts.

The Dispute Resolution Council shall resolve a complaint within 30 days from its filing and deliver the decision to the parties involved. The Council may extend the deadline for issuing a decision once, for a maximum period of 30 days.

If a taxpayer disagrees with the decision of the Dispute Resolution Council, the taxpayer has the right to appeal to the court within 30 days after receiving the Council's decision. Additionally, a decision made by the Council can only be changed by a court.





TAX CONTROL AND APPEALING ITS RESULTS IN THE RUSSIAN FEDERATION



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1. TYPES AND FORMS OF TAX CONTROL. THE PROCEDURE FOR CARRYING OUT A TAX AUDIT.

Conducting a tax audit can be a significant test for any business. In addition, such an audit can greatly affect the financial position of your company. Therefore, it is important to know how the selection of candidates for audits is carried out and how to prepare for this procedure in order to protect your company and its interests.

In the Russian Federation today there are several forms of tax control.

The tax legislation of the Russian Federation provides that tax control is carried out by tax officials through tax audits, obtaining explanations from taxpayers, verification of accounting and reporting data, inspection of premises and territories used for the extraction of income (profit), as well as in other forms provided for by the Tax Code of the Russian Federation of 31.07.1998 N 146-FZ (hereinafter - the Tax Code of the Russian Federation).

Calling a taxpayer to a commission.

In the structure of tax authorities there are various commissions: commissions on legalisation of the tax base, commissions on VAT, commissions on underpayment, etc. The task of these commissions is to prevent tax offences and

correct violations by the taxpayer voluntarily. Failure to appear without a valid reason may lead to administrative liability in accordance with paragraph 1 of Article 19.4 of the Code of Administrative Offences of the Russian Federation.

A desk tax audit (DTA).

The period of desk tax audit is 3 months from the date of submission of the returns. If a desk audit reveals errors, discrepancies or inconsistencies in information, the tax authority informs the taxpayer thereof with a requirement to submit explanations (documents) and/or make corrections to the tax declaration. The deadline for providing explanations: **5 working days** from the date of receipt of this requirement. Amendments to the declaration are made by submitting a revised declaration.

If irregularities are detected, a DTA act is drawn up within 10 working days from the date of completion of the desk audit. The term for filing objections to the tax audit report is 1 month.

On-site tax audit (OTA).

On-site tax audit is conducted on the territory of the taxpayer on the basis of the decision of the head (deputy head) of the tax authority.

The audit is subject to 3 years preceding the year

of the decision to audit, and reporting periods of the current year.

The audit period is **2 months** from the date of the decision to conduct an audit. The Federal Tax Service (FTS) has the right to extend this period up to 6 months in exceptional cases stipulated by the Tax Code of the Russian Federation.

Tax authorities select taxpayers for field tax audits in accordance with the Concept of the Field Tax Audit Planning System and the Publicly Available Criteria for Self-Assessment of Risks to Taxpayers (Appendices No. 1 and No. 2 to Order No. MM-3-06/333@ of the Federal Tax Service of Russia dated 30.05.2007).

In accordance with the main objectives and principles of the above Concept, the selection of taxpayers for field tax audits is carried out after a thorough and comprehensive analysis of all information available to the tax authorities on taxpayers, including information obtained from external sources.

The tax authorities analyse:

- 1) amounts of calculated and paid taxes;
- 2) indicators of taxpayers' statements (tax, accounting) in order to identify significant deviations from the indicators of previous periods and contradictions (inconsistencies) between the data in the statements;
- 3) factors and reasons affecting the formation of the tax base.

In the process of field tax audit the following tax control procedures are possible: inventory, interrogation, inspection, summoning as a witness, requesting documents (information), seizure, involvement of an interpreter, examination.

On the last day of the audit a certificate is issued, the date of which fixes the end of the tax audit. And then within a period of up to 2 months the tax authorities draw up an Act. This Act is delivered to the taxpayer within 5 days.

Objections to the Act of tax audit are filed **within 1 month** from the date of receipt of the act. The tax authority has the right to make a decision to conduct or refuse additional measures of tax control.

Additional measures are: requesting documents, questioning witnesses, conducting an expert examination.

Objections to additions to the act of tax audit can be filed by the taxpayer within **15 days** from the date of receipt of the act.

Following the results of a review of tax audit materials by a tax authority, the tax authority issues a decision which comes into force **after 1 month** from the date of delivery to the taxpayer.

Repeated on-site tax audit (ROTA).

As a general rule, tax authorities may not conduct two or more on-site tax audits for the same taxes for the same period.

However, under certain circumstances it is possible to conduct a repeated on-site tax audit (ROTA), irrespective of the time of the previous audit, for the same taxes and for the same period. The audited period in this case is also limited to 3 years preceding the year in which the decision to conduct a second tax audit was made.

In accordance with Article 89 of the Tax Code of the Russian Federation, a ROTA may be conducted both as a control over the activities of the body that conducted the audit and in the event that a taxpayer submits a revised tax declaration, in which the amount of tax indicated is less than the amount previously declared. Within the framework of this ROTA, the period for which the revised tax declaration was submitted is audited.

All the requirements set forth by the Tax Code of the Russian Federation for the procedures of the OTA apply to the procedure and procedures of the ROTA.

However, there is one significant difference: in accordance with subparagraph 7, paragraph 10, Article 89 of the Tax Code of the Russian Federation, if the taxpayer is found to have committed a tax offence that was not detected during the initial tax audit, the taxpayer is not subject to tax penalties, except for when the failure to disclose the fact of a tax offence during the initial OTA was the result of collusion between the taxpayer and an official of the tax authority.

Tax monitoring.

Tax monitoring is an audit based on remote access to the taxpayer's information systems and its accounting and tax reporting. A significant advantage of this mechanism is that, as a general rule, OTA and DTA for the period being audited in tax monitoring are not carried out.

A company has the right to apply for tax monitoring under the following conditions:

- 1) the aggregate amount of taxes is not less than RUB 100 million;
- 2) the total amount of income received according to the accounting statements is not less than RUB 1 billion;
- 3) the aggregate value of assets as of 31 December of the last financial statements is not less than RUB 1 billion.

The tax authority has the right to request the necessary documents and explanations from an organisation, to engage an expert and a specialist, and to conduct an inspection.

If a company disagrees with the results of tax monitoring, a [mutual agreement procedure](#) is provided for.

2. PROCEDURE FOR APPEALING THE RESULTS OF TAX MONITORING.

Every person has the right to appeal against the results of actions of tax services.

However, it is possible to appeal to the court only after the appeal stage to a higher tax authority.

Appeal to a higher tax authority.

When appealing to a higher tax authority, the taxpayer has the right to submit additional documents, but it will be necessary to explain the reasons why these documents were not previously provided. The appeal is considered without the participation of the person who filed it. Until a decision is made on the complaint, it can be withdrawn.

According to the results of consideration of the complaint Decision of the higher tax authority is delivered to the taxpayer within 3 days from the date of its adoption.

Appeal to the judicial authorities.

When pre-trial methods of settlement of tax disputes are exhausted, the taxpayer has the right to appeal to the court.

Court cases in the sphere of entrepreneurial and other economic activities are considered by the arbitration court according to the general rules of claim proceedings provided for by the Arbitration Procedure Code of the Russian Federation:

- The statement of claim must be filed within **3 months**;
- Term of consideration: up to **3 months**;

This term may be extended on the basis of a reasoned statement of the judge - up to 6 months (due to the special complexity of the case, with a significant number of participants in the arbitration process).

- The decision of the arbitration court of the first instance may be appealed in the court of appeal instance. The appeal may be filed within 1 month (from the date of adoption of the motivated court decision).
- In case of disagreement with the Resolution of the arbitration court of appeal - taxpayers have the right to appeal to the cassation arbitration court within 2 months from the date of adoption of the Resolution.

- Judicial acts entered into legal force, specified in part 3 of Article 308.1 of the APC RF, may be reviewed by the Presidium of the Supreme Court of the Russian Federation by way of supervisory review on supervisory appeals of persons participating in the case and other persons specified in Article 42 of the APC RF.

Conclusion.

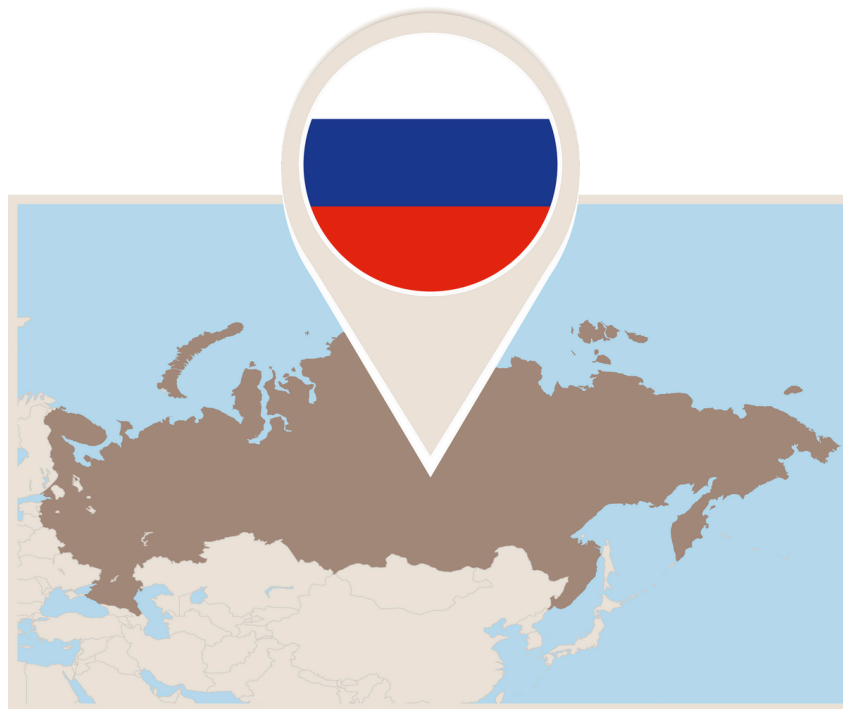
In 2022 the Russian Federation adopted additional measures to support business, in particular, field tax audits for accredited IT-companies were suspended until 3 March 2025 (Letter of the Federal Tax Service of Russia No. СД-4-2/3586@ dated 24.03.2022).

Other business representatives are subject to tax audits in accordance with the general procedure.

The system of tax control in the Russian Federation is multi-stage and quite complex. Assess the risks correctly, and we will help you minimise them.

Engaging GRATA International's tax specialists will allow you to:

- interact effectively with tax and judicial authorities, which allows you to significantly reduce the risks of additional charges and fines in case of tax offences;
- conduct a financial audit to identify and prevent cases of financial embezzlement in the organisation;
- set up an effective accounting system and prepare for any state audit in advance.





TAX CONTROL AND APPEALING ITS RESULTS IN TURKEY



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In Türkiye, tax authorities regularly conduct audits over Companies, whether upon a complaint or a reasonable suspicion arising from the financial statements and/or activities of a company. As a result of the audit, the tax authority may accrue additional taxes, as well as penalties and/or criminal proceedings subject to the conditions laid out in the relevant legislation. However, there are legal and administrative remedies along the process.

1. TAX AUDIT

All the companies established in Türkiye are subject to tax audits. The primary audit happens with the establishment of the company. The tax authority inspects the company's headquarters to determine whether the company is physically established in the address.

Following the establishment, a company is obligated to provide monthly, quarterly, and annual tax declarations arising from its operations. Even if no commercial operations are conducted, the company should provide its declarations, and pay the associated stamp duty and fees. Not providing these declarations will cause penalties to arise.

If a company is suspected to have falsified their financial statements, or the tax authority deems that there are issues that need to be clarified regarding the statements, it may request the company to provide an "explanation" on the

subject, at any time. Based on the explanation provided by the company, the tax authority may decide to conduct an audit. In such a case, a tax inspector is tasked with the audit.

The tax inspector will request any documents that they may deem necessary and will issue a tax report based on their findings. If the report issued by the inspector indicates that there are irregularities in the financial statements and/or declarations, or in any of the company's books and/or invoices, and thus there is a loss of tax revenue and/or any other issue that require reporting, (e.g. [falsified invoices](#) etc.) the tax authority will start an internal process to issue a penalty and petition for the criminal proceedings to start. The tax audit report issued by the inspector is uploaded to the "taxpayers' system" which is a digital system accessible to the company.

If the tax authority decides that there is an irregularity that needs to be addressed, they will calculate the lost tax revenue, add accumulated interest, and apply the penalty amounts as per the legislation, and provide a "tax notification order" to the company. The order should include a copy of the tax audit report, as a basis for the tax notification order. The tax notification order will indicate the amount due, and the deadline for the payment, as well as the legal remedies available and the deadline for the application to these remedies.

Following the tax notification order, if the payment has not been made or a lawsuit is not petitioned, a “payment order” will be issued.

2. LEGAL REMEDIES

There are two main remedies against a tax penalty. The first one is the pre – trial settlement, where the taxpayer may apply to receive some form of discount or a payment plan for the tax penalties, and the second one is petitioning for a lawsuit before a court and requesting that the tax notification order as well as the tax audit report as its basis to be annulled by the court.

a. Pre – Trial Settlement

As a legal remedy, a pre – trial settlement may be requested from the tax authority. It is not mandatory the request it but requesting it may prove beneficial for the taxpayer depending on the specific situation. For example, if the taxpayer believes that the findings in the tax audit report are correct, and that the penalties are in order, pre – trial settlement may allow a lower penalty amount to be paid.

The taxpayer, or their authorised representative, who has the authority to apply to tax authorities for settlement in their power of attorney, may request a settlement from the tax authority, which has issued the tax notification order. The deadline for application is 30 days following the receipt of the notification. As a result of the application, a date and time regarding the meeting is scheduled by the tax authority.

The decision on settlement, if reached, is signed between the tax authority and the taxpayer. The decision is definitive for each party and no appeal processes are available for the settlement. As such, the taxpayer cannot apply to the court or any other legal authority, and the tax authority may not accrue additional taxes or penalties arising from the period subjected to the inspection.

b. Lawsuits

As per the legislation, a lawsuit against a tax notification order will automatically stop their enforcement, creating a de facto “stay.” However, in practice, the tax authorities will send a payment order even if a lawsuit has commenced against the tax notification order. In such cases, it is imperative to start another lawsuit to request cancellation of the payment order. Otherwise, the tax authority may move forward with the collections process. Lawsuits against the payment order do not stop the collections process on its own, and unlike the lawsuits against the tax notification report, a decision on stay must be issued by the court to stop the collections procedures.

The timeframe for starting a lawsuit against the tax notification orders are 30 days following the notification, like the duration for settlement application. For the payment orders however, the timeframe is 15 days following the notification.

The court decision rendered as a result of the proceedings will not be final, and will be subject to appeal before Regional Courts, and if depending on the subject – matter of the penalty, before the High Administrative Court as well. Depending on the appeal process, the total duration for the procedures may take up to 2 – 3 years. However, from the perspective of the taxpayer, if the court decides on a stay, and the decision on stay is not overturned at any point, the collection process will have stopped.

However, if the decision on stay is overturned, or the first instance court decides in favour of the tax authority, then collections procedure may move forward. In such cases, it may be a beneficial method to pay the penalty fees to the tax authority with a “reservation” indicating that the payment is made due to the risk of collections, and that it does not mean a forfeiture or a waiver from the lawsuit and its results, so that if the decision is overturned in favour of the taxpayer,

the taxpayer may request the payment of the already paid amount. In accordance with the jurisprudence, if the taxpayer does not pay with a reservation, then they will be deemed to have forfeited their rights arising from the lawsuit, so it is imperative to provide the payment with the reservation.

c. Settlement During Lawsuits

In practice, it is a common sight where the taxpayer both files a lawsuit before a court and applies for a settlement at the same time. In these cases, the court will wait for the results of the settlement procedure.

3. CRIMINAL CONSEQUENCES

In accordance with the Turkish Law on Tax Procedure, causing a loss of tax revenue is a punishable crime. In general, the punishment occurs in the form of a penalty, as described above. However, there are certain specialised instances where the loss of tax revenue can be punished by prison. These instances are indicated as “tax crimes” and are generally committed by fraudulent acts such as issuing fake invoices,

holding “dual” books, destruction of company books, refusal to provide the company books to the tax authority etc. If all the monetary penalties are paid in some form, whether by settlement with the tax authority or by directly paying them, the criminal court will consider this fact, and will reduce the penalty.

4. OBSERVATIONS

The Turkish tax regime and its applications are very complex and ever – changing. Aside from the laws and regulations regarding the taxation, the regime is also regulated by the numerous communiques issued by the Turkish Revenue Management Authority, Presidential Decrees and numerous other pieces of legislation. In addition to those, it is a common occurrence to see “temporary clauses” added and removed to and from the legislation in place.

As such, it is imperative to work in conjunction with a certified public accountant and a lawyer so that these regulations and changes are always adhered to, and proper declarations are provided to the tax authorities. Otherwise, not following the current rules will not be regarded as a legitimate excuse, and the penalties could be applicable.





TAX AUDIT AND APPEAL OF ITS RESULTS IN TURKMENISTAN



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The Tax Code of Turkmenistan (TCT) provides for three types of tax audits, namely – desk tax audits, documentary tax audits, as well as tax inspections and raid tax audits. The first part of the article outlines the objectives and procedures for conducting the aforementioned audits, as well as the powers of tax authorities and taxpayers.

1.1. Desk (Camerai) tax audit

A desk tax audit is carried out on the basis of documents submitted by the taxpayer, such as [tax declarations and financial statements](#), without checking primary accounting documents. The period for this audit is [30 days](#), and no special decision is required from the management of the tax authority.

As part of a desk tax audit, the tax authority verifies the completeness and compliance of the submitted documents with the requirements, as well as the correctness of all data entries.

Shall any additional information be needed to verify the correctness of tax accounting and timely payment of taxes the tax authority has the right to request additional data from the taxpayer. The provision of such data should occur within 5-10 days, depending on its nature. However, the requested documents cannot relate to the entire operational activity of the taxpayer, which means only documents that are directly related to the detected errors in the reporting documents submitted by the taxpayer can be requested by the tax authority.

Upon completion of the audit, an [Act \(report\)](#) is prepared, signed, and approved by the tax authority's management within 5 days of its submission. The taxpayer is required to correct errors related to the completeness of the reporting and/or the accuracy of the documents within 5 days of receiving the notification. If errors leading to [tax underpayment](#) are identified, the taxpayer will receive a notification of the required tax amount, which must be paid within [5 days](#) of receiving the notification. If additional information related to the calculation and payment of taxes is needed after the completion of the desk audit, a documentary audit is scheduled.

1.2. Documentary tax audit

Documentary tax audits are conducted by tax authorities to monitor compliance with tax laws, correct payment of taxes and other payments, identify and prevent violations, as well as to verify compliance with previous instructions of tax authorities. Documentary tax audits, based on the grounds for their appointment, are divided into [scheduled](#) (conducted according to approved work plans) and [unscheduled](#) (conducted according to instructions of law enforcement agencies); and based on the form and methods of conducting them, into [comprehensive](#) (on issues of payment of all taxes and obligatory payments), [thematic](#) (about payment of certain taxes and other obligatory payments) and [counter audits](#) (for additional information from third parties).

The audit is conducted [on the basis of an order from the tax authority](#), signed by its head or deputy head. The taxpayer is notified of the documentary tax audit no later than five working days before its commencement, provided there are no signs of tax evasion.

The audit period cannot exceed [2 months](#), but in exceptional cases, the higher tax authority can extend it up to 1 year.

Rights of tax authorities during an audit:

- ① involve specialists to resolve tax-related issues;
- ① inspect production, warehouse, trading and other premises related to business activities;
- ① determine the amount of tax if the taxpayer fails to provide the necessary documents.

Obligations of tax authorities:

- ① comply with the rules for storing tax secrecy and information about taxpayers;
- ① avoid actions that harm the reputation and dignity of taxpayers.

Upon identifying violations of tax legislation, the tax authority may demand certified copies of documents or seize them on the basis of a resolution, in the presence of a taxpayer's representative; a copy of the protocol is transferred to the taxpayer, and the documents are returned after the complaint is considered or after a year, with the possibility of extension.

Upon completion of a documentary tax audit, [an Act \(report\)](#) is prepared, which includes the facts of tax violations and proposals for their elimination, which must be ready no later than the end of the audit, and [familiarisation with it must not exceed 3 working days](#); after the consideration of the Act by the head of the tax authority, a decision is made on bringing to responsibility or on additional checks, which comes into force from the moment of approval.

1.3. Tax inspections and raid tax audits

Tax inspections and raid tax audits are conducted on the basis of an [order](#) issued by the head of the tax authority or their deputy, specifying [the purpose and timeframe](#). The tax legislation of Turkmenistan provides for the procedures for conducting raid tax audits, which are detailed further below.

Conducting raid inspections is possible both on a scheduled and unscheduled basis (on behalf of law enforcement agencies). These checks can only be carried out on working days and times, otherwise checks are carried out with appropriate compensation to tax authority personnel.

Rights and Obligations:

Tax Authority:

- demand corrections of violations and monitor the use of cash registers;
- engage employees from other departments.

Taxpayer:

- provide documents and rectify violations within specified deadlines;
- receive an audit report detailing the findings and identified violations.

Inspections are completed with the issuance of [an Act \(report\)](#) and related documents, which are sent to the tax authority within 5 calendar days. The taxpayer is obliged to rectify the identified violations within the established time frame.

Restrictions:

- ① Inspections are prohibited for tax officials if they or their close relatives have direct or indirect financial dependence on the taxpayer. Auditors are required to notify management of such cases prior to the inspection;
- ① Tax authorities are obliged to observe tax secrecy and act in accordance with the legislation and approved work plans.

2. Procedure for appealing the results

The taxpayer has the right to appeal the decision of the tax authority following a desk (cameral), documentary, tax inspection, or raid tax audit. This right is regulated by Article 22 of the Tax Code of Turkmenistan, which stipulates that taxpayers may appeal the demands of tax authorities (or customs service regarding tax payment, as well as other decisions, actions, or inaction of authorised bodies and their officials involved in tax legal relationships. Additionally, Articles 85-87 of the Tax Code provide for as well as the order on "Methodological instructions on the procedure for considering complaints submitted to the Tax Authority," approved by the Chief of the State Tax Service of Turkmenistan on December 18, 2006, and registered by the Ministry of Justice of Turkmenistan on March 28, 2007, under registration number 433 indicates the specific procedure for appealing decisions of the tax authority. In particular, taxpayers can file a complaint with the higher tax authority or appeal to court.

2.1. Complaints submitted to the tax service

A complaint can be filed against a decision of the tax service, the action of a tax official, or in a case of an administrative offence.

2.1.1. Complaint about the decision, actions of the tax authority

A complaint against a decision of the tax authority is filed with the higher tax authority, while a complaint against the actions of tax authority employees is submitted to the head of that authority. There is no specific time limit for filing such complaints. The period for reviewing and making a decision on a complaint about a [decision or actions of the tax authority](#) is limited to 1 month from the date of its submission.

Complaints are not considered in the following cases:

- on tax obligations independently determined by the taxpayer in their tax declaration;

- in the absence of specific indications for appeal and substantiation of the claimed demands;
- filed by individuals not authorised to act on behalf of the taxpayer;
- on decisions for which criminal cases have been initiated or the tax service is subject to judicial proceedings;
- on decisions for which there is already a court decision.

Additionally, repeated complaints that do not give new arguments or newly discovered circumstances are not considered.

It should be noted that the tax service has the right to demand a pledge of property or guarantee regarding the disputed amount if there is information suggesting that the taxpayer intends to evade taxation, or if the disputed amount exceeds TMT 3 000 for individuals (physical persons) and TMT 7 500 for legal entities.

If the issues raised in the complaint fall outside the authority of the tax authority, the complaint is forwarded within 5 days to the appropriate tax authority or official, and the complainant is notified accordingly.

When considering a complaint, the tax authority makes one of the following decisions:

- Leaves the appealed decision unchanged and does not uphold the appeal;
- Cancels the appealed decision in a certain part and does not uphold the taxpayer's appeal in a certain part;
- Cancels the appealed decision and upholds the taxpayer's appeal;
- Increases the amount of tax liability (penalties, fines).

2.1.2. Complaint on administrative offences

The procedure for appealing decisions on [administrative offences](#) in Turkmenistan is regulated by the Code of Administrative Offences.

The complaint is filed with the higher tax authority. Complaints regarding administrative offences must be filed within 10 days from the date of the decision. The tax service is required to review the complaint within 10 days and make one of the following decisions:

- ⦿ uphold the decision without changes, denying the complaint;
- ⦿ overturn the decision and refer the case for reconsideration;
- ⦿ overturn the decision and dismiss the case, or modify the enforcement measure within the limits provided by the regulatory act on administrative offence liability, ensuring that the penalty is not increased.

If an unauthorised decision is identified, it is overturned and the case is referred to the competent authority for review. A copy of the decision on the complaint is sent to the person against whom the decision was issued within 3 days. The overturn of the decision entails the return of collected monetary amounts, reimbursed seized and confiscated items, and the cancellation of other restrictions related to the previously issued decision.

2.2. Appeal to the Court: Timeline and Procedure

The Tax Code also provides in its norms the right of the taxpayer to go to the court to appeal the actions and decisions of the tax authority and its officials, but the judicial process itself is governed by procedural rules applicable to the resolution and / or consideration of tax disputes by the courts of the relevant jurisdiction, however, first it is necessary to determine this jurisdiction. Evidently, disputes arising in the sphere of public relations should be resolved in the order of administrative proceedings in accordance with the norms of the Administrative Procedure Code of Turkmenistan (hereinafter - "APC").

2.2.3. Establishment and Calculation of Procedural Deadlines

In accordance with the norms of the APC (Article

22), the calculation of the time limit for filing a claim begins from the moment of announcement of the appealed administrative act or the decision on the complaint. In the case of filing a complaint against an administrative act under the administrative procedure, the calculation of the time limit for filing a claim begins only from the moment of announcement of the decision on the complaint adopted by a higher executive authority. If the administrative act or decision on the complaint does not contain information on the procedure of legal protection, then filing a lawsuit is permissible [within 1 year from the date of announcement of the administrative act](#), the commission of an action (inaction) on the part of the administrative body. As stated in Article 23 of the APC, a claim for contesting must be filed [within 1 month from the date of announcement of an administrative act](#).

2.2.4. The procedure for legal proceedings in administrative cases in the courts of Turkmenistan

is based on the Constitution of Turkmenistan and is determined by the Administrative Procedure Code (APC), the Civil Procedure Code of Turkmenistan, and other laws of Turkmenistan. According to the provisions of Article 2, [if the APC does not establish provisions for legal proceedings, the norms of the Civil Procedure Code of Turkmenistan](#) and other laws are accordingly applied, provided they do not contradict the fundamental principles and objectives of the APC. For instance, based on the content of this provision, the duration of administrative proceedings is comparable to the timeframes stipulated in the Civil Procedure Code for civil cases, which is 2 months. Additionally, the period for a decision to take effect is 1 month from the date the decision is delivered to the party.

2.2.5. State Fee

One of the main issues in the implementation of the administrative process is the size and payment of state fee, set at 5% of the base amount. The base amount for calculating the state fee is set at TMT 300, and when calculating the state duty, it is TMT 15 for this category of cases. The state fee is paid when filing a claim, after which the court of first instance accepts the statement of claim for its proceedings.

2.2.6. Cases Considered in Administrative Proceedings

The plaintiff may file one of the following claims to court, depending on the situation caused by the actions or inactions of the administrative authority:

- Claim to challenge;
- Claim for enforcement of an obligation;
- Claim for regulator control;
- Claim for establishing or recognizing the actions (inaction) of the administrative authority as illegal.

After the case is heard, the court issues a decision that comes into effect within a month, unless it is appealed in the cassation procedure.

2.2.7. Proceedings in courts of cassation and higher cassation instances

If the participants in the proceedings object with the conclusions of the court as stated in the decision, they have the right to file a cassation complaint against judicial rulings. The cassation complaint is reviewed by the higher court. A cassation complaint against a judgement on the substance of the case is filed with the competent court within 1 month, and against a determination within 10 days from the date of receipt of the judicial rulings, except in cases where the appeal against the determination is excluded by law.

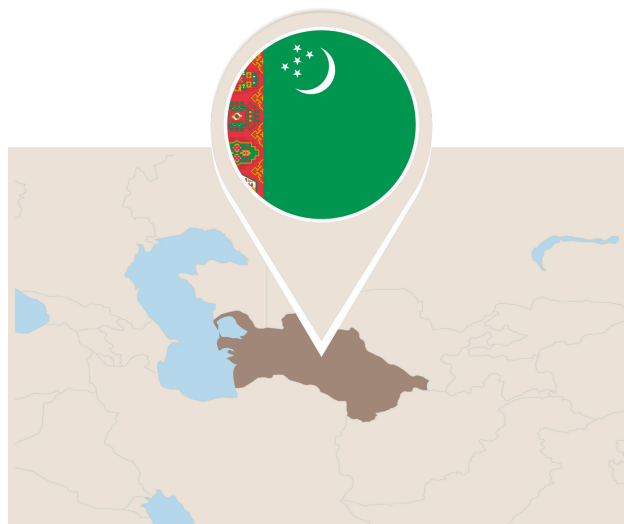
2.2.8. Highest cassation authority. Admissibility of appeal to a higher cassation authority

Participants in the process have the right to file a complaint in the manner of the highest cassation instance to the administrative board of the Supreme Court of Turkmenistan against the decision of the cassation court, if the Supreme Court of Turkmenistan allowed the highest cassation on the grounds specified below.

Higher cassation is allowed only in cases where: (a) the court case is of fundamental importance for an indefinite number of persons, (b) this decision deviates from the judicial practice of the Supreme Court of Turkmenistan, (c) there is a procedural error on which this decision may be based. If the highest cassation appeal is justified, then the administrative board of the Supreme Court of Turkmenistan for Administrative Cases may:

- 1) dismiss decisions of the existing courts and make a new judicial decision on the case;
- 2) if the case is not ready for judicial decision, dismiss the disputed decision and send the case for re-examination and resolution to the previous court in a different composition.

The provisions of cassation proceedings, including timeframes, are accordingly applied to higher cassation proceedings. Court decisions that have become legally effective are not subject to appeal.





TAX CONTROL AND APPEALING ITS OUTCOME IN THE UAE



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Taxation is a critical aspect of any country's economic framework. The tax regime in the United Arab Emirates offers a distinctive framework for businesses, highlighted by various appealing tax incentives. In the United Arab Emirates (UAE), a region traditionally known for its tax-friendly environment, the introduction of value-added tax (VAT) and other fiscal measures has marked a significant shift in the economic landscape. This article explores the mechanisms of tax control in the UAE, focusing on the processes and legal frameworks that govern tax assessments and dispute resolution. It also delves into the procedural aspects and legal avenues available for appealing tax decisions, providing a comprehensive overview of the rights and obligations of taxpayers within this evolving regulatory environment. By examining the intricacies of tax control and the appeal process, this Article aims to shed light on the challenges and opportunities faced by businesses and individuals in navigating the UAE's tax system.

Central to the corporate tax landscape is the newly implemented 9% corporate tax for taxable income above AED 375 000 marking a significant shift in the UAE's fiscal strategy. As is quite popular, the UAE does not levy income tax on individuals, which distinguishes it from many other jurisdictions. Instead, the focus is on Corporate Taxes, indirect taxes, such as VAT and excise taxes. A bird's eye view of the United Arab Emirates' Tax Rates may include Corporate Income Tax - 9%,

Value Added Tax (VAT) - 5% Excise Tax - 50% on carbonated beverages and 100% on tobacco products and energy drinks.

Federal Decree-Law No. 47 of 2022 ("the Decree Law") on the Taxation of Corporations and Businesses was enacted on October 3, 2022, establishes the legal framework for the imposition of a federal tax on corporate and business profits within the UAE, with its provisions set to take effect for tax periods starting on or after June 1, 2023.

It's pertinent to mention that despite the absence of income taxes in the UAE, the country's tax legislation imposes [corporate tax on both individuals and legal entities](#). According to [Article 11 - Taxable Person](#), corporate tax shall be imposed on a [Taxable Person](#) at the rates determined under the Decree-Law. The term "Taxable Person" is defined as [any person](#) subject to corporate tax in the UAE under this law. And the term 'Person' is defined as "[any natural person or juridical person](#)." Additionally, Article 2 clarifies that a Taxable Person can either be a resident or a non-resident Person. Notably, Section 3(c) stipulates that [any natural person engaged in a Business or Business Activity in the UAE](#) meets the threshold for corporate tax liability. However, corporate tax does not apply to various categories of income received by individuals. This includes interest and other earnings from bank deposits or savings schemes, income from dividends, capital

gains, interest, royalties, and other returns on investments made by foreign investors. [Personal investments in real estate](#) and income generated from owning shares or securities in a personal capacity [are also not subject to corporate tax](#).

REGULATORY AUTHORITY

The Federal Tax Authority (FTA), instituted by Federal Decree-Law No. 13 of 2016, is the regulatory authority which aids in diversifying the UAE's economy and enhancing non-oil revenues. The FTA's mandate includes the administration and collection of federal taxes, aligning with international best practices and standards. Since its operational commencement in 2017, the FTA has collaborated with relevant authorities to develop a comprehensive and balanced tax system. This system aims to position the UAE as a leader in implementing a fully electronic tax infrastructure, fostering voluntary compliance through straightforward procedures grounded in high standards of transparency and accuracy. These processes encompass everything from taxpayer registration and the filing of tax returns to the payment of due taxes.

LEGAL FRAMEWORK FOR TAX AUDITS

A tax audit, conducted by the FTA, is essentially an evaluation of a company's compliance with its tax obligations. This audit ensures that all liabilities are settled and all due taxes are collected and remitted to the government within the prescribed deadlines. Additionally, the audit assesses whether businesses are adhering to their responsibilities under various tax laws, including the VAT Law and the Excise Tax Law.

[Cabinet Decision No. \(74\) of 2022 on the Executive Regulation of Federal Decree-Law No. \(28\) of 2022 on Tax Procedures](#) provides comprehensive legal provisions for tax audits conducted by the Federal Tax Authority (FTA). As per [Article 15](#), before deciding to conduct a tax audit, the Authority must evaluate several important factors. First, it must determine if the

audit is necessary to protect the integrity of the tax system. Ensuring that the system remains fair and reliable is a primary consideration. Second, the Authority needs to assess whether the individual or entity in question, or anyone associated with them, has a responsibility to comply with the Tax Law and Decree-Law. Third, the expected amount of tax revenue to be collected from the audit should be taken into account. Lastly, the Authority must consider the compliance and administrative burdens that the audit will impose on both the taxpayer and the Authority itself. These factors help ensure that the decision to conduct a tax audit is justified and balanced.



As per [Article 16](#), the Authority must notify the person of a tax audit at least 10 business days before the audit begins. This notification will include information about the potential consequences of obstructing the Tax Auditor in performing their duties. According to [Article 17](#), for the purposes of conducting a tax audit, the Authority is allowed to inspect various elements related to the person being audited. This includes examining the premises, documents, and assets available at the premises, as well as data and records stored electronically, and the accounting systems used by the person. As outlined in [Article 18](#), the Tax Auditor, while carrying out their functions, has the authority to take certain actions. These actions include making copies of documents, marking original documents and assets to show they have been inspected, seizing documents and assets, and obtaining and recording information related to the premises, assets, documents, and accounting systems that have been inspected. Finally, [Article 19](#) stipulates that the person subject to the tax audit must be informed of the audit results within ten business days from the conclusion of the audit.

An FTA VAT audit can result in various outcomes depending on the thoroughness and accuracy of the audit findings. These outcomes may include:

- assessment and penalties imposed for non-compliance or underpayment of taxes.
- initiation of further procedures and additional penalties if new issues are discovered during the audit process.

These consequences underscore the importance of thorough preparation and compliance with VAT regulations to mitigate risks associated with audits conducted by the Federal Tax Authority.

APPEAL-DISPUTE RESOLUTION

Reconsideration: The FTA allows individuals to request the authority to reconsider any decision related to them. To do this, they must submit their request, detailing the reasons, within 40 business days from when they were notified of the decision. Once the authority receives the reconsideration request, they are required to review it and issue a decision, complete with reasons, within 40 to 60 business days. The authority must then inform the applicant of this decision within five business days from the date the decision was issued.

Objection: There are specific procedures and conditions for submitting an objection to the Authority's decision on a reconsideration request. First, any objection must be submitted within 40 business days from the date the person was notified of the Authority's decision.

However, there are situations where an objection will not be accepted by the Committee. These include instances where a reconsideration request was not previously submitted to the Authority, where the tax related to the objection has not been fully paid, and where the objection is not submitted within the specified forty-day period.

The committee's decision on the objection shall be deemed as final if the total amount of the due

tax and administrative penalties determined accordingly does not exceed 100 000 Dirhams. For the penalties above this threshold, the applicants may file a case before the competent courts within 40 business days commencing from the date of the committee's decision.

OTHER KEY TAX CONTROL REGULATIONS IN THE UAE

General Anti-Abuse Rules (GAAR)

In the UAE, General Anti-Abuse Rules (GAAR) are crucial to preventing tax avoidance. Chapter 15 – Anti-Abuse Rules, [Article 50](#) of the Decree Law, introduces a general anti-abuse rule. These rules stop companies from creating deals just to get tax benefits that go against the purpose of the tax laws. GAAR allows tax authorities to ignore or change such deals, ensuring tax benefits are only for real business activities. This promotes fairness and transparency in the tax system.

Transfer Pricing Rules

The UAE's transfer pricing rules ensure that transactions between related companies are priced as if they were between independent parties. This prevents companies from setting prices to lower their tax bills. These rules help maintain fair competition and ensure that profits are taxed where the business activities happen, protecting the country's tax revenues. [Chapter Ten – Transactions with Related Parties and Connected Persons, Article 34 – Arm's Length Principle](#), of the Decree Law, stipulates that transactions between related parties must adhere to the arm's length standard. This means such transactions should yield results comparable to those between unrelated parties under similar conditions. The arm's length result is determined using methods like the comparable uncontrolled price method, resale price method, cost-plus method, transactional net margin method, or transactional profit split method.

Economic Substance Rules

The UAE's Economic Substance Rules (ESR) ensure companies have substantial activities within the country, aligning with OECD standards to prevent harmful tax practices. ESR applies to specific sectors like banking, insurance, and shipping, requiring adequate employees, operating expenditures, physical premises, and core income-generating activities within the UAE. [Resolution No. 57 of 2020](#), issued by the Cabinet of Ministers outlines these Economic Substance Regulations, specifying requirements for entities operating within the UAE. Following the issuance of Resolution 57, the concerned ministry issued new Guidance by way of Ministerial [Decision No. 100 of 2020](#), which also includes an updated Relevant Activities Guide. As per the regulations companies carrying out the relevant activities must file annual reports demonstrating compliance. Non-compliance can result in fines, information disclosure to foreign authorities, and licence revocation. These rules prevent companies from setting up just to take advantage of tax benefits without actually doing significant business in the UAE, aligning the country with international standards.

Whistleblower Programme-Raqeeb

The 'Raqeeb' whistleblower program encourages individuals to report tax violations and evasion, aiming to enhance tax compliance and decrease instances of tax evasion within the UAE.

The program invites anyone to report irregularities or non-compliances to the Federal Tax Authority (FTA). Upon receipt of reports, the

FTA thoroughly investigates each case and provides financial rewards to informants, where appropriate, as a gesture of appreciation for their contribution to maintaining tax integrity.

These initiatives not only strengthen market controls but also contribute to a fair and transparent tax environment in the UAE, reinforcing its position as a responsible global financial hub committed to regulatory excellence.

[The FTA Report 2020](#) highlights the UAE's robust efforts in enhancing tax compliance and enforcement through rigorous audits and inspection campaigns. With over [14 000 field inspections](#) conducted to safeguard consumer rights and combat tax evasion, the authority's proactive measures underscore its commitment to upholding tax legislation and procedures across local markets.

As the country continues to refine its tax policies and enforcement mechanisms, businesses and individuals navigating the UAE's tax regime can expect a framework that promotes accountability and sustains its role as a global commercial hub.

Our expert team from Grata International, UAE (the law firm of Mai Alfalsai Advocates & Legal Consultancy) well-versed in UAE tax laws, provides strategic counsel tailored to meet client needs. With a global presence and deep local expertise, we ensure thorough representation, advice, and effective advocacy for favourable resolutions in tax disputes. Partner with Grata International, UAE for comprehensive support in navigating the complexities of UAE tax jurisdiction.





TAX CONTROL AND APPEALING ITS RESULTS IN UZBEKISTAN



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1. TYPES AND/OR FORMS OF TAX CONTROL.

Tax legislation of the Republic of Uzbekistan envisages 2 types of tax control, which include tax inspection and tax monitoring. The former will be subject to further discussion in the following paragraphs.

1.1. Types of tax inspections and the conducting procedure:

Tax inspections envisaged under the Tax Code of the Republic of Uzbekistan are conducted to monitor compliance with tax laws by taxpayers, payers of levies and tax agents. Tax authorities are entitled to conduct the following 3 types of tax inspections:

1. a cameral (in-house) tax inspection;
2. an on-site tax inspection;
3. an audit of tax operations.

Please see the in-depth description of the abovementioned tax inspection types:

Pre-verification analysis. Prior to the start of the cameral tax inspection, the tax authorities have a right to conduct a pre-verification analysis, which is an automated analysis of submitted tax reports and other information about the taxpayer's activities without the taxpayer's participation and any order of the head (deputy head) of the tax

authority. If, there have been revealed discrepancies and (or) errors in the submitted tax reports during the pre-verification analysis, the taxpayer is obliged to submit an updated tax report or justification of the identified discrepancies within 10 business days upon receipt of the notification. If a taxpayer fails to fulfil such an obligation, a cameral (in-house) tax inspection is the next step of the tax control. The pre-verification analysis is completed once the updated tax reports or justification of the identified discrepancies are filed or a cameral (in-house) tax inspection is appointed.

1.1.1. A cameral (in-house) tax inspection.

Tax authority conducts a cameral tax inspection on the basis of an analysis of tax reporting, financial statements filed by a taxpayer / tax agent, as well as other documents regarding a taxpayer's activities which are in the possession of the tax authority. A cameral tax inspection is performed on the basis of a specific order issued by the director (deputy director) of the tax authority. In particular, the order shall contain the following:

- the name and identification number of the taxpayer;
- the full name, patronymic and position of the inspectors;
- the timing of the inspection;
- the inspected period;
- the types of taxes to be inspected.

In the course of a cameral tax inspection, the tax authority is no longer entitled to the following actions:

- entering the territory of the taxpayer;
- inspecting its territory and buildings;
- requesting/demanding documents from the taxpayer;
- seizing documents and items.

The cameral tax inspection is considered as completed when:

- the amendments / corrections to the tax reports are required;
- no discrepancies and (or) errors have been identified.

The taxpayer shall be obliged to submit the updated tax report(s) or a conclusion of the organisation of tax consultants on the corresponding taxes and levies or justification for the revealed discrepancies with the submission of supporting documents, within 10 days from the date of request for amendments / corrections. The review period of the filed document is 15 days and if the tax authority accepts and agrees with the provided justifications then a previously sent request or an updated request to amend the tax reports will be cancelled. If no updated tax reports (including after the updated request) or justification for the discrepancies are provided or the provided justifications have been deemed insufficient, then an audit of tax inspection might be assigned.

1.1.2. An on-site tax inspection.

Tax authority conducts an on-site tax inspection with regard to certain obligations of taxpayers in the area of the calculation and payment of taxes and levies. An on-site tax inspection includes checking of the following:

- accounting documents;
- the movement of inventories and monetary resources and
- other information related to the taxpayer's activities.

During the on-site tax inspections, the tax authorities are entitled to implement preventive measures and time-keeping surveys, to check the use of cash registers and payment terminals and other tax control measures.

An on-site tax inspection is performed on the basis of a specific order issued by the director (deputy director) of the tax authority. In particular, the order shall contain the following:

- the name and identification number of the taxpayer;
- the full name, patronymic and position of the inspectors;
- the timing of the inspection;
- the inspected period;
- the types of taxes to be inspected and
- purpose of the inspection.

The beginning of an on-site tax inspection is the date of the order while the end date is the receipt of the conclusion in the form of act with respect to the on-site tax inspection, which in summon shall not exceed 10 days.

1.1.3. An audit of tax operations

Tax authority conducts an audit of tax operations for the purposes of verification of the correctness of the calculation and payment of taxes and levies for a certain period. The notice for the planned audit of tax operation is sent to the taxpayer 30 days prior to the inspection (if there are no signs of tax evasion). The notification shall contain the following information:

- the date of the start of the audit of tax operations;
- a list of issues to be verified;
- a preliminary list of requested documents and other data required for conducting an audit of tax operations.



An audit of tax operations is conducted on the basis of the order and the program approved by the director (deputy director) of the tax authority, which shall include the following details:

- the name and identification number of the taxpayer which is being audited;
- full name, patronymic and position of the inspectors;
- the time limits and purpose of the audit of tax operations.

The period for an audit of tax operations shall be 30 days, which might be extended for the period not exceeding 6 months. The results of an audit of tax operations shall be provided to the taxpayer in the form of act on tax audit within 3 days after completion of the inspection.

General rights of taxpayers during the mentioned above inspections:

- not to fulfil the demands of representatives of tax authorities unrelated to the inspections;
- to participate in tax inspections in person or through a representative;
- to give explanations to the inspecting tax authorities related to the execution of the tax legislation;
- not to file to the tax authority the requested documents (copies thereof) provided during the previous inspections or field tax inspections or during tax monitoring;
- to challenge the expert and request the appointment of an expert of his/her choice;
- to be present during the expert examination upon the permission of the tax authority's official and give explanations to the expert and get acquainted with the expert's report;
- to get acquainted with the materials of the tax inspection and receive conclusions in the form of an act;
- to appeal against unlawful acts of tax officials.

To submit the opinion of a tax consultant organisation as substantiation of inconsistencies indicated in the statement on the results of a cameral tax audit.

2. PROCEDURE OF APPEALING THE RESULTS OF TAX CONTROL:

The Tax Code of the Republic of Uzbekistan entitles taxpayers with a right to appeal the results of an on-site tax inspection as well as an audit of tax operations in a pre-trial settlement and through the court settlement. In particular, the court settlement of the appeal can be applied once the results of the pre-trial settlement do not meet the expectation of the taxpayer.

2.1. Pre-trial appealing

In the pre-trial appealing procedure, the taxpayer can contest the results of the tax inspections to a higher tax authority within 1 month period from the day on which the taxpayer concerned became aware or should have become aware of the violation of his rights. The results of the tax inspections conducted by the district tax authority can be contested to the city tax authority once the taxpayer files an appeal. District tax authority is obliged to transmit the filed appeal along with provided material to the city tax authority within 3 business days.

Tax legislation also stipulates the basis for a higher tax authority to dismiss the appeal:

- signing of the appeal by unauthorised party;
- filing the appeal after the expiry of the time limit and if no restoration basis is applicable;
- in the event of withdrawal in whole or in part of the appeal;
- filing of an appeal, which was previously filed on the same grounds;

- filing of an appeal, which violates the set order as well as requirements prescribed in the Tax Code;
- filing of an appeal as part of an initiated criminal file, or if the subject matter of the appeal is addressed to the court.

A taxpayer receives notification on whether the appeal was accepted or dismissed within 5 business days and if the appeal is accepted then further decision of the higher tax authority shall be issued within 3 business days.

A higher tax authority on the basis of the considered appeal and its supporting materials issues one of the following decisions:

- dismiss the appeal;
- rescind the non-normative act of the tax authority;
- rescind the decision of the tax authority in whole or in part;
- rescind the decision of the tax authority in full and adopt a new decision on the case;
- declare the actions or inaction of the tax authorities’ officials unlawful and issue a substantive decision.

2.2. Court settlement procedure

Taxpayers are entitled to appeal the results of the tax inspections at the Administrative courts of the Republic of Uzbekistan within 6 (six) months period from the moment when the taxpayer concerned became aware of the violation of his/her rights, freedoms and legitimate interests. The fees for the appealing at the Administrative courts including, but not limited to 10 Basic Calculation Value [1], the postage expenditures associated with the sending of court notices and court acts, the amounts to be paid for the expert examination appointed by the court, the summoning of the witness, the examination of

evidence on the spot, the costs associated with holding the court session via videoconferencing, as well as other costs related to the consideration of the case.

The Administrative court considers the filed appeal of the taxpayer within 5 business days and issues one of the following decisions:

- accept the appeal;
- refuse the appeal;
- return or transfer to another court according to jurisdiction.

The Code of the Republic of Uzbekistan on Administrative Proceedings stipulates that the court proceeding at the Administrative court shall be completed within no more than 2 months period. The court decision comes into force after 1 month and the taxpayer has a right to file an appeal during this period to the higher court instances. In particular, the decision of the inter-district courts is considered at the Administrative courts of regions and Tashkent city, while the highest authorised instance is Judicial Board for Administrative Cases of the Supreme Court of the Republic of Uzbekistan.

3. OTHER DETAILS.

The tax legislation of the Republic of Uzbekistan divides the taxpayers into the following categories, on a scale from 1 to 100:

1. 81% — 100% – highest risk;
2. 30% — 80% – average risk;
3. 1% — 29% – low risk.

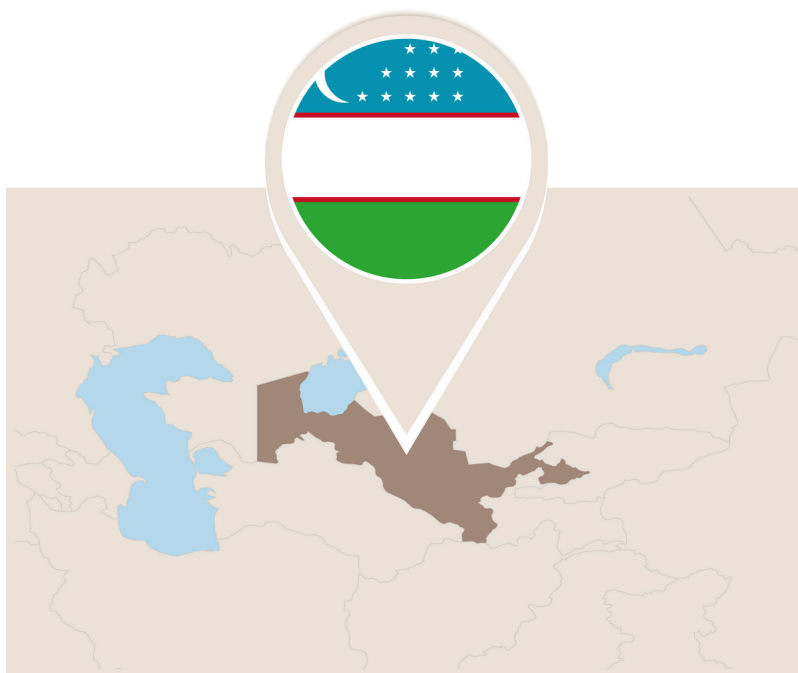
The level of tax risk is determined once every six months. However, the risk level of taxpayers who do not have a high level (if the unpaid tax debt leaves no more than 30 days) is determined once a quarter. Tax authority use one the following information to analyse the tax risk of taxpayer:

- tax and financial reports submitted by taxpayers; information reflected in personal account cards;

[1] Calculating amount of charges amounting 340 000 Uzbek soums on May 2024 (equivalent to approximately 27 US Dollars).

- information submitted to the tax authorities by government agencies, institutions and organisations;
- information provided by competent authorities of foreign countries within the framework of agreements on information exchange;
- information from mass media;
- information from the materials of audits of the tax operations;
- information on tax violations discovered by courts and law enforcement authorities;
- appeals of individuals and legal entities regarding the facts of tax violations;
- statistical data;
- information obtained from other sources not prohibited by law.

Tax authorities assign an audit for tax operations to the taxpayers with a high level of tax risk, and other tax inspections can be applied to the remaining risk categories. In the latest amendment to the Tax Code, the limitation period for a tax liability has been reduced from 5 to 3 years, i.e. a tax authority or other authorised body may conduct a tax audit only within 3 years - after the end of a tax period or from the date of an event or action if the tax liability is related to that event or action. From the perspective of taxpayers, the tax legislation of the Republic of Uzbekistan is fair, which is the main incentive for the taxpayers to comply with the provisions of tax legislation.



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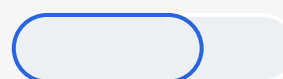
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professionals



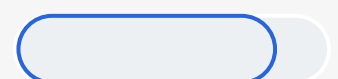
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