



Case law – main trends

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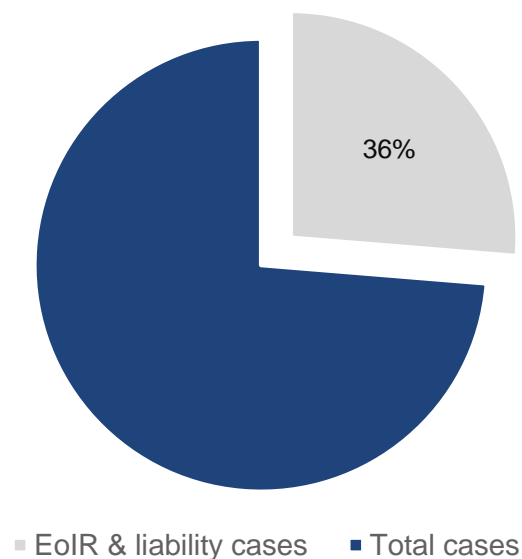
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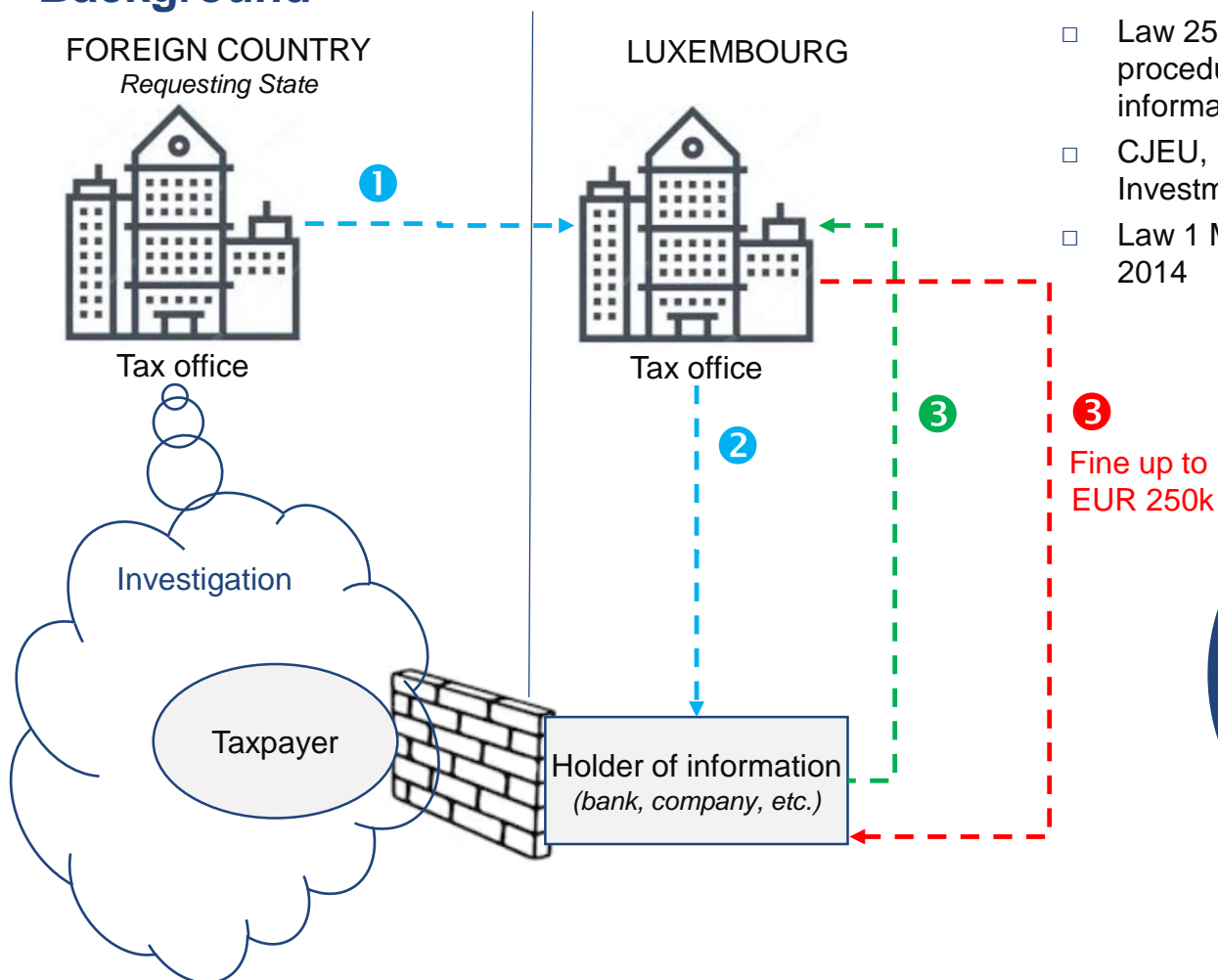
Agenda and overview

- Introduction
- Exchange of information on request
 - Background
 - Takeaways from 2020 case law:
how to deal with an information order
- Liability of representatives
 - Background
 - Takeaways from 2020 case law:
possible excuses
- Questions / Answers

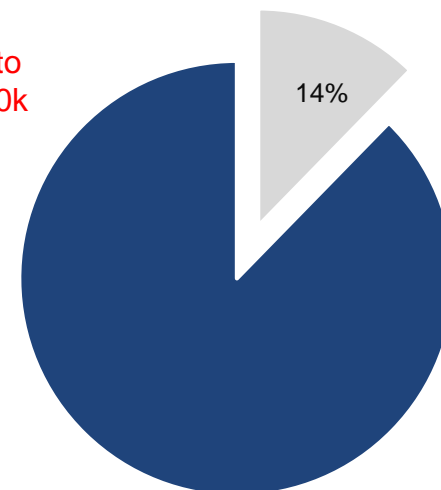


Exchange of information on request

Background



- Law 25 November 2014 laying down the procedure applicable to the exchange of information on request in tax matters
- CJEU, 16 May 2017, C-682/15, *Berlioz Investment Fund S.A.*
- Law 1 March 2019 amending Law 25 November 2014



■ EoIR cases ■ Total cases

Exchange of information on request

Takeaways from 2020 case law: how to deal with an information order

■ Regular information order

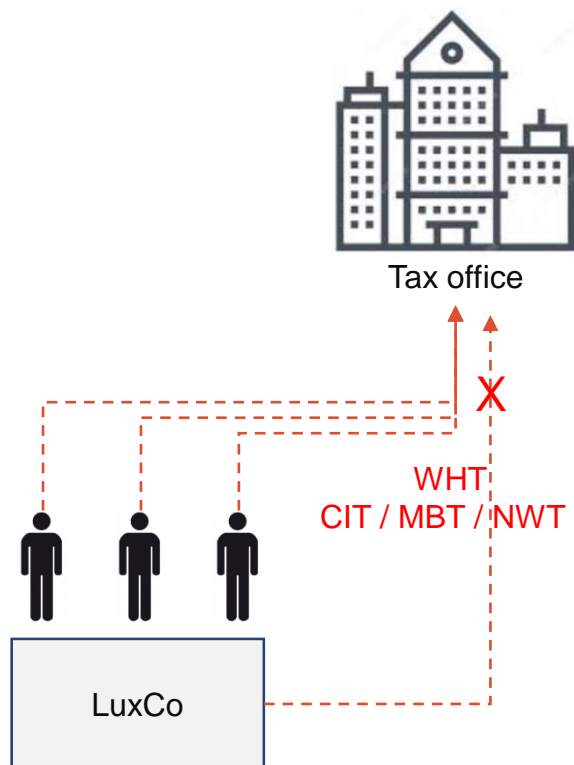
- Legal basis, identification of the requesting authority and information prescribed by tax treaties and laws
- Foreseeable relevance of information having regard to the identity of the taxpayer and the information holder as well as requirements of the tax investigation
 - ▶ CA, 27 February 2020, 43961c, 43962c and 43963c: beneficial owner
 - ▶ TA, 4 December 2020, 44982: residence of the taxpayer

■ Remedies

- Information holder
- Taxpayer
 - ▶ CJEU, 6 October 2020, C-245/19 & C-246/19: indirect challenge

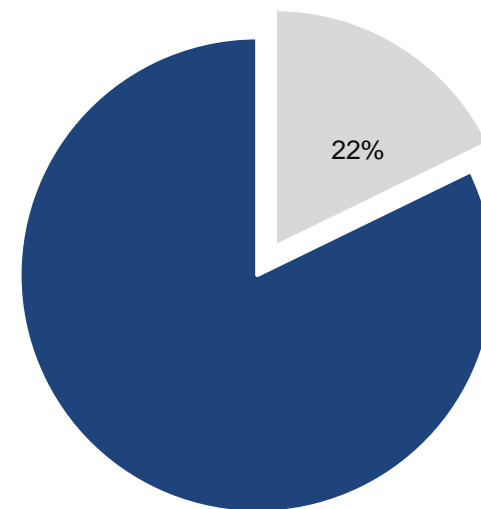
Liability of representatives

Background



§§103 and 109 General tax law

- Misconduct
- Damage



■ Liability cases ■ Total cases

Liability of representatives

Takeaways from 2020 case law: possible excuses

■ Representative

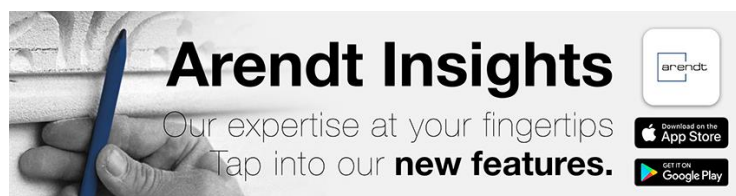
- ▶ TA, 16 November 2020, 42840: representative being a corporate body

■ Misconduct

- ▶ TA, 22 January 2020, 41896 & 41920 and TA, 16 June 2020, 41979: liability waivers
- ▶ CA, 6 February 2020, 43482c and CA, 14 May 2020, 43982c: behaviour of *de facto* representative
- ▶ CA, 7 May 2020, 43531c and CA, 20 October 2020, 43190: diligent representative

Questions / Answers

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