

# TAX CONTROVERSY

## Luxembourg



# Tax Controversy

Consulting editors

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Quick reference guide enabling side-by-side comparison of local insights, including into the legal and regulatory framework; compliance and enforcement; involvement/investigation of third parties; cooperation between tax and other authorities; special procedures, voluntary disclosure, and amnesties; rights of taxpayers; court actions; and recent trends.

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## OVERVIEW

### Legislation

What is the relevant legislation relating to tax administration and controversies? Aside from legislation, are there other binding rules for taxpayers and the tax authority?

The relevant legislation concerning tax administration and controversies includes the following laws:

- the amended income tax law of 4 December 1967;
- the amended general tax law of 22 May 1931;
- the amended tax adaptation law of 16 October 1934;
- the law of 21 June 1999 on the rules of procedure in administrative courts;
- the law of 7 November 1996 on the organisation of the administrative courts; and
- the amended law of 25 November 2014 on the exchange of information upon request.

Beyond legislation, Luxembourg is a party to several double tax treaties with other states, and has ratified the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). The heads of the Luxembourg tax authorities regularly issue circulars setting out the administration's official position on certain tax issues. Circulars are doctrinal opinions of the tax authorities, and are therefore enforceable in proceedings involving them.

For VAT, the relevant legislation is the amended law of 12 February 1979 on VAT.

*Law stated - 01 July 2022*

### Relevant authority

What is the relevant tax authority and how is it organised?

There are three tax authorities in Luxembourg that are competent for different types of taxes. Luxembourg Inland Revenue (ACD) is responsible for direct taxes, the Customs and Excise Agency is responsible for collecting customs and excise duties and the Luxembourg Registration Duties, Estates and VAT Authority is responsible for registration duties and VAT. Each tax authority is administratively independent of the others and applies specific legislation.

The most relevant tax authority for the purposes of this questionnaire is the ACD, which is divided into departments. Taxpayers generally have contact with the following two: the taxation department, which determines the tax rate, and the revenue department, which collects the tax. Taxpayers may also have contact with the audit department if their tax situation is examined in detail.

*Law stated - 01 July 2022*

## ENFORCEMENT

### Verification of compliance with tax laws

How does the tax authority verify compliance with the tax laws? Does this vary for different taxpayers or taxes?

The tax authorities verify tax returns to assess the tax due, and also make sporadic tax assessments at will. In so doing, the authorities can send taxpayers requests for additional information (which may also be addressed to third

parties), as well as for clarification (to remove doubt about a specific item on the tax return), proof (of facts alleged by the taxpayer) or supporting documents. The authorities also have a 'right of communication' by virtue of which they can examine all documents held by the taxpayer or by third parties that may reasonably be requested in the situation (although this right only applies to professional documents, and is limited by the professional secrecy of certain taxpayers). The tax authorities must also observe the principle of proportionality throughout the verification process, and all taxpayers have a duty to cooperate with them. Finally, for corporate taxpayers, the authorities can carry out tax audits on their professional premises.

There are different tax offices responsible for different types of taxpayer, and different types of taxpayer must complete different tax forms.

*Law stated - 01 July 2022*

### **Tax return review procedure and limitation periods**

What is the typical procedure for the tax authority to review a tax return and how long does the review last? What limitation periods apply?

The tax authorities generally assess income tax on the basis of tax returns.

For corporate taxpayers, such assessments are of a temporary character, and the tax authorities may make further verifications within a five-year period. Thus, an income tax assessment only becomes final after those five years have elapsed (unless a rectified assessment is issued). Corporations subject to direct taxes must file their tax returns electronically.

For individuals, tax offices first check the tax return, and may investigate using the various control tools at their disposal, before issuing a final tax assessment.

After the five-year period, inaction on the part of the tax authorities extinguishes their right to recover the relevant tax. However, a longer limitation period of 10 years may apply in respect of direct taxes if no tax return was filed, or if the tax return filed was incorrect or incomplete (with or without fraudulent intention).

*Law stated - 01 July 2022*

### **Tax authority requests for information**

What types of information may the tax authority request from taxpayers? Can the tax authority interview the taxpayer or the taxpayer's employees? If so, are there any restrictions?

Taxpayers have certain obligations to cooperate with the tax authorities for the purpose of enabling the correct assessment of taxes. These include obligations to provide additional information, relevant documentation and proof. Subsequently, the accuracy of the tax return is verified internally by the tax authorities, without consulting the taxpayer further.

For corporate taxpayers, the tax authorities may opt to perform an in-depth audit of the taxpayer's financial documents. A tax audit is only admissible when used exclusively to analyse the particular tax situation of the taxpayer in question, and must not be used to collect information on the financial situation of other taxpayers. The only exception to this is the taxpayer's employees, whose situations may be verified during an audit of their employer. The extent of such verification, as well as the information and documents to which the taxpayer must grant access, are at the discretion of the tax authorities, which must nevertheless apply the principles of legality, proportionality and utility. Professional secrecy rules must also be complied with.

*Law stated - 01 July 2022*

## **Taxpayer failure to provide information**

What actions may the tax authority take if the taxpayer does not provide the required information?

If the required information is not provided, the tax authorities may serve the taxpayer with an order to clarify the tax situation under scrutiny, and may involve or investigate third parties as part of their review of the taxpayer's tax returns. Ultimately, the tax authorities may decide on unilateral taxation on the basis of a lump-sum estimate.

*Law stated - 01 July 2022*

## **Protecting commercial information**

How may taxpayers protect commercial information, including business secrets or professional advice, from disclosure? Is the tax authority subject to any restrictions concerning what it can do with the information disclosed?

Taxpayers can protect commercial information through professional secrecy, which is imposed on certain professionals (eg, lawyers, auditors and bankers). Professional secrecy is enforceable against the tax authorities. However, it may be lifted for requests of international exchanges of information. The Luxembourg tax authorities are subject to very strict fiscal secrecy that prohibits them from disclosing any information regarding a taxpayer to third parties. This mechanism also contributes to proper tax return processing. However, the primary aim of fiscal secrecy is not to protect taxpayers' personal confidentiality, but to serve the general public interest of raising tax revenue. Fiscal secrecy may only be lifted in very limited circumstances.

Tax authorities are subject to data protection laws, meaning there are restrictions on what they can do with the information disclosed to them (eg, limited data retention periods).

*Law stated - 01 July 2022*

## **Alternative dispute resolution**

What (if any) alternative dispute resolution (ADR) or settlement options are available

A mutual agreement procedure (MAP) can be initiated under the MAP clause of Luxembourg's double tax treaties in the event of double taxation and under the EU Directive 2017/1852 of 10 October 2017 (as implemented into Luxembourg law). This procedure obliges the contracting states to settle the dispute in accordance with that Directive. The MAP allows for the resolution of tax disputes arising from the interpretation and application of agreements and conventions concluded between Luxembourg and other member states that provide for the elimination of double taxation of income (and, where applicable, capital).

As an alternative, taxpayers can request that the mediator (ombudsman) settle a dispute with the tax authorities. International tax arbitration is also available. For the elimination of transfer pricing adjustments, corporate taxpayers can also use the EU Arbitration Convention of 1990 (90/436/EEC, Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises).

*Law stated - 01 July 2022*

## **Collecting overdue payments**



## How may the tax authority collect overdue tax payments following a tax review?

To collect overdue tax payments, the head of the direct tax authorities may issue a summons that allows the tax authorities to execute the tax assessment notice. Tax authorities can seize a taxpayer's real estate properties or realise a mortgage. Moreover, the authorities also have a chattel lien on all of the taxpayer's movable property, to be exercised ahead of any other creditor. Finally, they may proceed to make a third-party seizure – for example, against a bank (on the taxpayer's bank account) or the taxpayer's employer (on the taxpayer's salary) – without the prior court authorisation required for ordinary creditors.

*Law stated - 01 July 2022*

## Penalties - scope of application

### In what circumstances may the tax authority impose penalties?

Luxembourg tax authorities may impose a penalty payment or a tax surcharge for late filing of various returns and declarations, and for non-compliance with payment deadlines, or both. They may also impose administrative fines in certain contexts, in particular in the exchange of information (eg, CRS, FATCA and DAC 6), and for incomplete or inaccurate tax returns, failure to file a return, simple tax fraud, involuntary tax fraud or criminal tax offences (aggravated tax fraud as well as tax swindle).

However, penalties will not be imposed if there is reasonable justification for the taxpayer's non-compliance. Tax authorities will also reduce penalties, or will rescind or refrain from issuing tax surcharges, if there are good reasons for the failure to comply.

*Law stated - 01 July 2022*

## Penalties – calculation

### How are penalties calculated?

Penalties are calculated on the basis of a percentage or by reference to a maximum amount that the tax office cannot exceed, or both. For example, a tax surcharge will apply in the event of non-compliance with any of the various deadlines for filing different tax returns, but it will not exceed 10 per cent of the tax due.

The amount of penalties is a discretionary decision by the tax authorities. As such, these decisions are subject to the principles of legality, proportionality and utility: the penalties imposed on the taxpayer must be reasonable, and must be executed by measures that are necessary to achieve the aim pursued and proportionate to the situation.

*Law stated - 01 July 2022*

## Penalties – defences

### What defences are available if penalties are imposed?

All discretionary decisions taken by the tax authorities can be contested by the taxpayer. For many penalties, the taxpayer may submit a claim within three months to the head of the direct tax authorities; if the decision taken in response to the claim is negative, or if no response decision is taken within six months, the taxpayer then has three months to refer the matter to the administrative court if desired. Taxpayers may also file an appeal with the administrative court against decisions of the head of the tax authorities imposing administrative tax fines.

Finally, taxpayers may submit a request for an ex gratia appeal within three months to the head of the direct tax authorities. Here, too, the decision of the head of the direct tax authorities may then be appealed in the administrative courts.

*Law stated - 01 July 2022*

## **Collecting and calculating interest**

**In what circumstances may the tax authority collect interest and how is it calculated?**

A distinction is made between interest penalties for late payment of 0.6 per cent per month in the event of failure to pay a tax debt by the due date, and interest penalties for late payment of between 0.1 per cent and 0.2 per cent per month when the taxpayer has been granted additional time to pay (up to three years). However, there are several exceptions to interest penalties for late payment:

- full or partial discharge of late penalty interest where the interest has not reached a certain amount by the time it is paid;
- full or partial waiver in individual cases;
- additional time to pay granted in individual cases interest-free or with interest not exceeding 0.6 per cent per month; and
- granting a reduced interest rate.

*Law stated - 01 July 2022*

## **Criminal consequences**

**Can criminal consequences arise as a result of tax non-compliance? Are these different for different types of taxpayers?**

Here, two main types of criminal offence exist that are prosecuted and subject to judicial sanctions. The first is aggravated tax fraud, which depends on the amount of annual tax evaded or irregularly paid. Aggravated tax fraud requires the relevant amount unpaid or received in an undue refund to be at least €10,000 and above one quarter of the annual tax actually due, or to be greater than €200,000.

The second is tax swindle, which is defined as fraud in respect of an amount of tax that is considered significant, either in total or in comparison to the annual taxes due, committed by the systematic use of fraudulent manoeuvres to conceal relevant facts from the tax authorities or to persuade them of inaccurate facts.

Aggravated tax fraud and tax swindle are also on the list of primary anti-money laundering offences, and can be punished with imprisonment.

Consequences for criminal tax offences are also provided for in the domain of VAT, with the same penalties for all types of taxpayer.

*Law stated - 01 July 2022*

## **Tax avoidance**

**Are there specific rules or provisions regarding perceived tax avoidance?**

Luxembourg is an active member of several institutions in the fight against tax avoidance, in particular the OECD, the EU institutions and the Global Forum on Transparency and Exchange of Information for Tax Purposes. It is also strongly

committed to the global standards for greater tax transparency, and EU provisions on tax avoidance are swiftly implemented into Luxembourg law.

*Law stated - 01 July 2022*

## **Enforcement record**

What is the recent enforcement record of the authorities?

The activity report published by the Luxembourg tax authorities for 2021 showed a slow but steady increase over the last 10 years. After a slight decline in 2020, likely as a result of the covid-19 pandemic, the number of new cases is similar to that recorded for 2019.

*Law stated - 01 July 2022*

## **THIRD PARTIES AND OTHER AUTHORITIES**

### **Third-party involvement with tax reviews**

Can a tax authority involve third parties as part of the authority's review of a taxpayer's returns?

Tax authorities can involve or investigate third parties as part of their review of a taxpayer's tax returns. However, they may only request information from third parties to the extent that the tax office has exhausted all other means at its disposal to engage in dialogue with the taxpayer.

*Law stated - 01 July 2022*

### **Cooperation with other authorities**

Does the tax authority cooperate with other authorities within the country? Does the tax authority cooperate with the tax authorities in other countries? (Describe, for example, tax information exchange agreements.)

In order to allow for the proper collection of VAT, an inter-administrative exchange of information exists between the Luxembourg Registration Duties, Estates and VAT Authority and other local authorities or supervisory authorities, such as the Ministry of Transport or Luxembourg's financial sector regulator, the Commission de Surveillance du Secteur Financier (CSSF). The protection of the data transmitted to the Luxembourg Registration Duties, Estates and VAT Authority is guaranteed by virtue of the tax secrecy to which it is subject.

Laws on exchange of information apply to the Luxembourg tax authorities, and between Luxembourg tax authorities and tax administrations of other EU member states or treaty states, on specific matters. In particular, these matters include: the implementation of exchange of information (on request, spontaneous and automatic) with foreign tax authorities under tax treaties and the European Council Directives on administrative cooperation in the field of taxation in relation to reportable cross-border arrangements (DAC 6), the OECD Common Reporting Standard as implemented by European Council Directives and in Luxembourg law, and the implementation of the automatic exchange of FATCA (Foreign Account Tax Compliance Act) information between the tax authorities of Luxembourg and the US.

*Law stated - 01 July 2022*

## FINANCIAL OR OTHER HARDSHIP

### Voluntary disclosure and amnesties

Do any special procedures apply in cases of financial or other hardship, for example when a taxpayer is bankrupt?

Taxpayers have the option to file a duly justified ex gratia appeal. The head of the direct tax authorities may then choose to grant full or partial relief from direct taxes

A request for an ex gratia appeal must be made to the head of the direct tax authorities if tax collection (of uncontested legal character) causes the taxpayer to suffer a degree of hardship incompatible with fairness. The taxpayer may challenge the decision of the head of the direct tax authorities in the administrative court within three months of being notified of it. The administrative court's ruling may be appealed before the administrative court of appeal within 40 days of notification.

For individuals in a state of over-indebtedness and whose situation is irreparably compromised, a settlement procedure may be initiated and taxes due may be written off.

*Law stated - 01 July 2022*

### Are there any voluntary disclosure or amnesty programmes?

Amnesty can only be established by law. It does not lie within the discretionary powers of the tax authorities. For the time being, there are no voluntary disclosure or amnesty programmes.

*Law stated - 01 July 2022*

## RIGHTS OF TAXPAYERS

### Rules protecting taxpayers

What rules are in place to protect taxpayers when dealing with the tax authority?

The tax procedure provided by Luxembourg law is characterised by a constant dialogue between the taxpayer and the tax authorities in order to protect the taxpayer's rights. The tax office is bound to observe the fundamental principle of due process *audiatur et altera pars* (let the other side be heard) at every step of the assessment process. Accordingly, the tax authorities must invite taxpayers (generally in writing) to close any informational gaps needed to resolve doubt before taking further action. If doubts as to the correctness of the tax return remain, the authorities must investigate further. If the taxpayer does not respond in writing to the tax office's requests, it may summon the taxpayer. Finally, if the tax office intends to deviate from the tax return, it must submit the points on which a substantial deviation will result in a less favourable position for the taxpayer to that taxpayer in advance for comment.

*Law stated - 01 July 2022*

### Requesting information from tax authority

How can taxpayers obtain information from the tax authority? What information can taxpayers request?

Tax litigation is a written procedure. The taxpayer's right to obtain access to the documents in their file can therefore be

exercised in compliance with the principle of adversarial proceedings – meaning that any document or argument presented by one party must be open to comment by the other. The claimant may examine all the documents and exhibits filed by the tax authorities in the case, including those containing information on the profits or income of third parties.

*Law stated - 01 July 2022*

## **Oversight of tax authority governance**

### **Is the tax authority subject to non-judicial oversight?**

The Luxembourg tax authorities are supervised by the Ministry of Finance. However, among the essential principles laid down in the country's constitution is that of the legality of taxation, which implies that only Parliament can create taxes. Indeed, ultimate competence in tax matters lies exclusively with Luxembourg's Chamber of Deputies. Tax laws are binding on both the taxpayer and the tax authorities.

*Law stated - 01 July 2022*

## **COURT PROCEEDINGS**

### **Competent courts**

#### **Which courts have jurisdiction to hear tax disputes?**

Jurisdiction for tax litigation in Luxembourg is divided between the administrative courts (regarding direct taxes) and the judicial (civil) courts (regarding indirect taxes and recovery of taxes). In both systems, it is possible to appeal initial decisions to a higher court. Furthermore, civil court rulings may sometimes be appealed a second time, before the Supreme Court (Cour de Cassation). Actions that challenge the formal regularity or validity of enforcement in tax matters always fall within the competence of the judicial (civil) courts.

The judicial (civil) courts are also competent for VAT-related litigation.

With respect to criminal tax offences, judicial courts have jurisdiction.

*Law stated - 01 July 2022*

### **Lodging a claim**

#### **How can tax disputes be brought before the courts?**

With respect to direct taxes, taxpayers who wish to contest their tax assessment must first lodge a complaint with the head of the direct tax authorities (however, although this is procedurally mandatory, it remains an extrajudicial administrative act). The taxpayer must submit such a claim in writing within three months of being notified of the relevant tax assessment. The taxpayer may act alone, and is not obliged to secure representation (eg, a lawyer, accountant or auditor). The head of the direct tax authorities must then provide the taxpayer with a formal answer within six months. As regards VAT-related litigation, which is brought before civil jurisdictions, the claim must be brought by a lawyer.

The decision of the head of the direct tax authorities may be challenged in the administrative court within three months of notification. Moreover, if no decision has been issued six months after the claim was filed with the head of the direct tax authorities, the taxpayer may refer to the administrative court directly. The administrative court's decision can be appealed before the administrative court of appeal within 40 days of notification.

Criminal proceedings usually start with the transfer of the file from the tax authorities to the public prosecutor.

*Law stated - 01 July 2022*

### **Combination of claims**

#### **Can tax claims affecting multiple tax returns or taxpayers be brought together?**

Tax claims affecting multiple tax returns or taxpayers may be brought together under certain conditions. For example, a tax claim concerning multiple tax returns over a given period can be submitted to the head of the direct tax authorities, or to the courts if the former does not issue a response within six months. A taxpayer who is entitled to lodge an appeal (in particular, one with a personal interest to act) can also join a tax claim validly introduced by another taxpayer.

In the interest of the proper administration of justice, judges (either on their own motion or upon the taxpayers' request) may join multiple cases. This may be done where it is in the interest of the court to take a single decision on the cases, and provided that there is a sufficient link between the different tax claims.

*Law stated - 01 July 2022*

### **Pre-claim payments**

#### **Must the taxpayer pay the amounts in dispute into court before bringing a claim?**

The taxpayer must pay the amounts in dispute into court before bringing a claim, unless a suspension of execution or payment period is requested by the taxpayer and granted by the tax authorities. In certain cases, a suspension of execution may also be requested by the taxpayer in the course of litigation, in urgent proceedings before the president of the administrative court.

*Law stated - 01 July 2022*

### **Cost recovery**

#### **To what extent can the costs of a dispute be recovered?**

The costs will be borne by the taxpayer if the appeal is not admissible or is unjustified, and by the state if the taxpayer is successful. The court may also rule otherwise by means of a special and justified decision.

*Law stated - 01 July 2022*

### **Third-party funding**

#### **Are there any restrictions on or rules relating to third-party funding or insurance for the costs of a tax dispute, including bringing a tax claim to court?**

There are no specific tax provisions relating to third-party funding or insurance for the costs of a tax dispute, including bringing a tax claim to court. Regard is generally had to the law of 27 July 1997 on insurance contracts, which provides a general legal framework for insurance contracts covering disputes and claims made to administrative, civil or criminal courts. For instance, insurance cannot cover settlements in tax matters.

If the taxpayer does not earn sufficient income, the government may provide free and full legal aid, subject to certain conditions.

*Law stated - 01 July 2022*

## **Availability of jury trials**

**Who is the decision maker in the court? Is a jury trial available to hear tax disputes?**

Tax litigation may be brought either to the administrative courts or to the judicial courts, depending on the nature of the tax disputed.

The administrative courts are competent to rule on litigation regarding the assessment of direct taxes such as corporate income tax, municipal business tax or net worth tax, whereas the judicial courts are competent for matters regarding the assessment of VAT, criminal tax offences or registration duties.

The judicial courts (regarding tax matters) are divided into the lower district court and a court of justice, which may rule either as a court of appeal or as a supreme court. The administrative courts are divided into a lower administrative court and an administrative court of appeal. The administrative court and the administrative court of appeal each sit with three judges.

There is generally no jury trial to hear tax disputes.

*Law stated - 01 July 2022*

## **Time frames**

**What are the usual time frames for tax hearings?**

There is no specific legal timeframe for tax disputes, but judgments are rendered within a reasonable timeframe as a rule. In practice, for disputes on direct taxes, the judgments of the administrative court (first instance) and the court of appeal (second instance) are usually rendered within one or two years (each).

*Law stated - 01 July 2022*

## **Disclosure requirements**

**What are the requirements concerning disclosure or a duty to present information for trial?**

The taxpayer must file the claim and the tax authorities must provide their answer together with any supporting documents, which are accessible to all parties. The taxpayer has also access to its tax file.

*Law stated - 01 July 2022*

## **Permitted evidence**

**What evidence is permitted in tax hearings?**

The evidence submission procedure is completed in writing. The taxpayer and the tax authorities must attach all supporting documents to the claim and responses thereto. Evidence may be provided by any means, except by oath.

*Law stated - 01 July 2022*

## Permitted representation

### Who can represent taxpayers in a tax trial? Who represents the tax authority?

In the first instance (administrative court), the taxpayer can represent itself, or be represented by a chartered accountant, an auditor or a lawyer. In the second instance (administrative court of appeal), the taxpayer must be represented by a lawyer.

In judicial (civil) courts (VAT-related litigation), representation by a lawyer is compulsory in both instances.

*Law stated - 01 July 2022*

## Publicity of proceedings

### Are tax hearings public?

Tax trial proceedings are generally public.

*Law stated - 01 July 2022*

## Burden of proof

### Who has the burden of proof in tax hearings?

The burden of proof of the facts that trigger the tax liability lies with the tax authorities. The burden of proof of the facts releasing the taxpayer from the tax liability or reducing the tax assessed lies with the taxpayer. The burden of proof of the regular character of the tax procedure lies with the tax administration.

*Law stated - 01 July 2022*

## Case management process

### What is the case management process for a tax hearing?

With respect to direct taxes, before filing a claim with the administrative court, the taxpayer must first file a claim with the head of the direct tax authorities within three months of being notified of the tax assessment it seeks to challenge. The taxpayer may file a claim with the administrative court within three months of receiving a negative response from the head of the direct tax authorities, or after six months following the initial claim if the head of the direct tax authorities does not issue a decision. The trial proceedings include an exchange of conclusions between the parties within certain deadlines, as well as a hearing of the parties, at the end of which the administrative court (first instance) will render its decision.

For VAT-related litigation, before filing a claim with the civil court, the taxpayer must first file a claim with the head of the VAT administration within three months of being notified of the VAT assessment it seeks to challenge. If the head of the VAT administration responds with a decision, the taxpayer may challenge that decision in the lower civil court within three months; if the head of the VAT administration does not issue a decision (in which case the claim is deemed to have been rejected), the taxpayer has an indefinite period to file a claim with the lower civil court. The court proceedings include an exchange of conclusions between the parties within certain deadlines, at the end of which the lower civil court (of first instance) will render its decision. This civil procedure is a written procedure.

*Law stated - 01 July 2022*



## Appeal

### Can a court decision be appealed? If so, on what basis?

The taxpayer or the tax authorities can appeal the decision of the administrative court within 40 days. The judgment of the administrative court (first instance) does not have suspensory effect, unless the court decides otherwise. This phase also includes an exchange of conclusions between the parties within certain deadlines, as well as a hearing of the parties' representatives. The respondent has one month from the appeal application to file its response; thereafter, the appellant and respondent have one month each to reply and rejoin. The deadlines can be shortened or extended under certain conditions. Then the administrative court of appeal will render its decision, which cannot be appealed. In practice, this decision is generally rendered within a year of when the appeal is made.

In civil courts (VAT-related litigation), an appeal may be lodged within 40 days by means of a request, which must be sent by a bailiff. The appeal suspends the execution of the judgment of the lower district court, unless the lower district court decides otherwise. The appeal procedure includes exchanges of conclusions between the parties within certain deadlines.

*Law stated - 01 July 2022*

## UPDATE AND TRENDS

### Key developments of the past year

What are the current trends in enforcement of tax controversies? What are the current concerns of the authorities and taxpayers in relation to the enforcement and handling of tax controversies and are these likely to change? Are there proposals to change the relevant legislation or other rules?

There has been a recent, significant increase in litigation on tax matters (especially transfer pricing). In particular, this is due to a lack of communication with the tax authorities, which itself results from the highly formalistic advance tax clearance procedure and new tax developments. The new court decisions provide welcome guidance to taxpayers and shed light on questions of interpretation.

Criminal tax litigation in particular will probably increase in the near term due to the addition of tax crimes to the list of primary anti-money laundering offences.

*Law stated - 01 July 2022*

## Jurisdictions

	<b>Australia</b>	Gadens
	<b>Austria</b>	bpv Hügel Rechtsanwälte GmbH
	<b>Canada</b>	McCarthy Tétrault LLP
	<b>Ecuador</b>	CorralRosales
	<b>European Union</b>	Freshfields Bruckhaus Deringer
	<b>Germany</b>	Freshfields Bruckhaus Deringer
	<b>Greece</b>	Dryllerakis & Associates
	<b>Ireland</b>	Matheson
	<b>Italy</b>	Chiomenti Studio Legale
	<b>Japan</b>	Anderson Mōri & Tomotsune
	<b>Luxembourg</b>	Arendt & Medernach
	<b>Netherlands</b>	De Brauw Blackstone Westbroek
	<b>Norway</b>	KPMG Law
	<b>Portugal</b>	Durham Agrellos
	<b>Spain</b>	Ashurst LLP
	<b>Switzerland</b>	Bär & Karrer
	<b>Taiwan</b>	Chien Yeh Law Offices
	<b>Ukraine</b>	GOLAW
	<b>United Arab Emirates</b>	Wasel & Wasel Ltd
	<b>United Kingdom</b>	Macfarlanes LLP