

3rd  
International  
Conference on

Amsterdam, Netherlands ▪ May 3-4, 2018

# TAXPAYER RIGHTS

## *Taxpayer Rights: The Convergence of Good Governance and Legal Remedies*

Convened by the National Taxpayer Advocate, Internal Revenue Service, United States

Hosted by the International Bureau of Fiscal Documentation (IBFD) in Amsterdam, Netherlands

Sponsored by Tax Analysts

Participating sponsors: the American Bar Association Section of Taxation, American College of Tax Counsel, American Tax Policy Institute, International Fiscal Association – USA Branch, and the International Association of Trial Judges

Wednesday, 2 May 2018

18:30-20:30

### Welcome Reception

International Bureau of Fiscal Documentation  
Rietlandpark 301, 1019 DW Amsterdam, The Netherlands

Sponsored by Caplin & Drysdale; Washington, DC, United States



taxanalysts

[www.TaxpayerRightsConference.com](http://www.TaxpayerRightsConference.com)

8:00-8:30

### Registration

Barbizon Palace, Prins Hendrikkade 59-72, 1012 AD Amsterdam, Netherlands

8:30-9:00

### Welcome & Introductory Remarks: The Current Environment for Taxpayer Rights

Nina E. Olson, National Taxpayer Advocate • Internal Revenue Service; Washington, DC, United States

9:00-10:30

### Perspectives on Taxpayer Rights: A Multidisciplinary Approach to Good Governance and Legal Remedies

The role of taxpayer rights in influencing taxpayer compliance behavior and serving as a foundation for tax administration can be analyzed from many different perspectives, including anthropology, economics, law, and psychology. Moreover, the press and other media play a vital role in protecting taxpayer rights. Applying principles and methodologies of several disciplines (*e.g.*, qualitative methods, surveys, and lab and field experiments, investigative reporting, legal analysis), this panel will explore the protection of taxpayer rights by good governance (by analyzing scenarios of voluntary compliance) and legal remedies (by analyzing scenarios of litigation involving taxpayers and tax authorities).

Moderator: Professor Erich Kirchler • University of Vienna; Vienna, Austria

Panelists: Robert Goulder, Senior Tax Counsel • Tax Analysts; Arlington, Virginia, United States  
Lotta Björklund Larsen, Research Fellow • Linköping University; Linköping, Sweden  
Jerome Olsen • University of Vienna; Vienna, Austria  
Diego Quinones • Quinones Cruz Abogados, Bogota, Colombia

10:30-11:00

### Coffee Break

11:00-12:30

### Preventing Disputes 1: Developing Early Warning and Intervention Systems

Effective and efficient tax administrations create systems and processes that not only identify suspicious situations that give rise to tax evasion but also potential taxpayer rights violations and address those problems at their outset, before they grow into major dilemmas. This panel will explore aspects of tax administration that pose long term challenges but could be mitigated through early intervention and action, *e.g.*, identifying at-risk taxpayers and interventions to avoid bankruptcy; resolving issues before they come to audit (*e.g.*, U.S. Compliance Assurance Program and cooperative compliance), and creating a tax agency culture that accepts the value of identifying situations that present significant risks not only for tax authorities but also for taxpayers (*e.g.*, agency overreaching).

Moderator: Dr. Jeffrey Owens, Professor • Global Tax Policy Center; Vienna University of Economics and Business, Austria

Panelists: Alessandro Baracco • Studio Bonivento; Padova, Italy  
Professor Karen Boll • Copenhagen Business School; Copenhagen, Denmark  
Ali Noroozi, Inspector-General of Taxation • Organization Name; Sydney, Australia

12:30-13:00

### Current Developments in Taxpayer Rights

Katerina Perrou, Post-Doctoral Research Fellow • IBFD; Amsterdam, Netherlands

13:00-14:00

### Lunch

14:00-15:30

### Preventing Disputes 2: Taxpayer Rights in the Administrative Phase

The conduct of administrative stages of a tax dispute, before issuance of a legally determinative notice, can influence taxpayer compliance behavior in the immediate instance and in the future. The imbalance of power, particularly with respect to low income taxpayers, can cause incorrect results or unnecessary disputes. Similarly, overly burdensome administrative procedures may lead taxpayers who have not violated the law to accept paying a proposed tax adjustment in order to avoid any waste of time or damage to reputation. This panel will explore how tax agencies can incorporate protection of taxpayer rights (including the taxpayer's right to be heard and to have government actions be no more intrusive than necessary) into their early administrative procedures, and how agencies can bring about such cultural change.

Moderator: George Pitsilis, Governor • Independent Greek Revenue Authority; Athens, Greece

Panelists: Liselott Kana • Ministry of Finance; Santiago, Chile  
Professor Lynne Oats • University of Exeter Business School; Exeter, United Kingdom  
Andrew Roberson • McDermott Will & Emery LLP; Chicago, Illinois, United States

15:30-16:00

### Coffee Break

16:00-17:30

### Taxpayer Protections in Cross-Border Taxation

The expansion of global data exchange between tax agencies worldwide, along with coordinated global tax enforcement initiatives, has significant taxpayer rights implications. This panel will discuss cross-border issues including data protection and ensuring the confidentiality of taxpayer information; the taxpayer's right to be informed under information exchange agreements; and taxpayer rights in the context of the Mutual Agreement Procedure (MAP).

Moderator: Chris Rizek • Caplin & Drysdale; Washington DC, United States

Panelists: Kevin M. Brown • PriceWaterhouseCoopers LLC; Washington, DC, United States  
Juliane Kokott, Advocate General • Court of Justice of the European Union, Luxembourg  
Professor Dr. h.c. Rudolf Mellinghoff, President • Supreme Finance Court; Munich, Germany

18:00

### Welcome Drinks & Gala Dinner

Tropen Museum – Marble Hall  
Linnaeusstraat 2, Amsterdam, Netherlands

8:30-9:00

### IBFD Observatory on the Protection of Taxpayer Rights (OPTR)

Presenters: Philip Baker, QC • Field Court Tax Chambers; London, United Kingdom  
Professor Pasquale Pistone, Academic Chairman • IBFD; Amsterdam, Netherlands

9:00-10:30

### Burden of Proof in Tax Disputes

Who bears the burden of proof can be the determinant in the outcome of a case, and can influence a taxpayer's perception of the fairness of the tax system and his future compliance. In what circumstances should there be presumptions of correctness or deemed facts? When should the burden work in favor of or against the taxpayer? Should the burden shift when taxpayers have engaged in abusive transactions? How should the burden operate where the tax agency has violated its own procedures or acted in abuse of discretion?

Moderator: Diana Bernal, Procuradora • Prodecon, Mexico City; Mexico

Panelists: Porus Kaka, Senior Advocate • Mumbai, India  
Honorable Paige Marvel, Chief Judge • United States Tax Court; Washington, DC, United States  
Professor Peter Wattel, University of Amsterdam; Advocate General, The Netherlands  
Supreme Court • Amsterdam, The Netherlands

10:30-11:00

### Coffee Break

11:00-12:30

### Penalties Theory and Administration: A Multidisciplinary Analysis

This panel builds on our first panel by analyzing the theory and administration of tax penalties, including the principle of proportionality, from the perspective of several disciplines. What types of penalties and initiatives, including nonmonetary penalties such as publication of names of evaders, are effective deterrents of noncompliance? Do automatic or strict liability penalties deter or increase noncompliance? What safeguards should be in place before a penalty is imposed or applied? With respect to what penalties should the tax agency bear the burden of proof for justifying penalty imposition? How does penalty administration affect taxpayers' trust in the tax system?

Moderator: Honorable Philippe Martin, President of a Section • Conseil d'Etat; Paris, France

Panelists: Eric Lopresti, Attorney Advisor • Taxpayer Advocate Service; Washington DC, United States  
João Nogueira, Adjunct Academic Chairman • IBFD; Amsterdam, The Netherlands  
Professor Jacco Wielhouwer • Vrije Universiteit Amsterdam; Amsterdam, The Netherlands

12:30-13:30

### Lunch

13:30-15:00

### The Right to Appeal to an Independent Forum: Taxpayer Access to Appeals and Mediation

Taxpayer access to administrative and judicial appeals varies across countries, although independent review of tax agency decisions is a key aspect of procedural justice. How should an administrative appellate division be designed to ensure its independence from the tax agency? Should taxpayers be required to exhaust all administrative remedies prior to accessing judicial forums? Should alternative dispute resolution, including mediation, be a precondition to litigation, and how can ADR techniques be applied earlier in the tax administration process?

**Moderator:** Honorable Eugene Rossiter, Chief Justice of the Tax Court • Ottawa, Ontario, Canada  
**Panelists:** Edson Uribe Guerrero, Subprocurator General • Prodecon; Mexico City, Mexico  
Belema Obuoforibo, Director • IBFD Knowledge Center; Amsterdam, The Netherlands  
Maria Teresa Soler, Tax Law Professor, Former Taxpayers' Advocate (Spain) • Madrid, Spain

15:00-15:30

### Coffee Break

15:30-17:00

### Good Governance and Remedies: Taxpayer Rights in Application

This panel will identify the elements of good governance practices and legal remedies and propose a model of tax administration that makes "real" the promise of taxpayer rights. The panel will explore the role of guidance, including the exercise of discretion or rule-based administration, as well as steps a tax agency can undertake to move toward a taxpayer rights-based model.

**Moderator:** Cara Griffith, Publisher • Tax Analysts; Arlington, Virginia, United States  
**Panelists:** Philip Baker, QC • Field Court Tax Chambers; London, United Kingdom  
Nina E. Olson, National Taxpayer Advocate • Washington, DC, United States  
Professor Pasquale Pistone, Academic Chairman • IBFD; Amsterdam, The Netherlands