

4th
International
Conference on
Minneapolis, Minnesota ▪ May 23-24, 2019

TAXPAYER RIGHTS

Taxpayer Rights in the Digital Age: Implications for Transparency, Certainty, and Privacy

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

Hosted by the University of Minnesota School of Law

Technical Assistance by International Bureau of Fiscal Documentation

Sponsored by Tax Analysts and American College of Tax Counsel

Wednesday, May 22, 2019

5:30 PM

Welcome Reception

University of Minnesota Law School
Walter F. Mondale Hall | Auerbach Commons
229 19th Avenue South
Minneapolis, MN 5455

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

Agenda Day 1 Thursday, May 23, 2019

8:30 to 9:00 Registration & Continental Breakfast

9:00 to 9:30 Welcome and Introductory Remarks: The Current Environment for Taxpayer Rights

Nina E. Olson • National Taxpayer Advocate • Washington DC, United States

9:30 to 11:00 The Status and Effect of Taxpayer Rights Charters and Bills of Rights in the 21st Century

As more tax agencies and countries adopt taxpayer charters of rights and taxpayer bills of rights, the question of what is their significance and legal effect arises. This panel will include a survey of existing taxpayer rights charters and taxpayer bills of rights, examine their constitutional basis and their derivation from customary law and human rights conventions, and explore the value of international charters and their interplay with international law principles.

Moderator: Carlos Weffe • International Bureau of Fiscal Documentation • The Netherlands

Panelists: Stjepan Gadzo and Sime Josipovic • Croatia • *Taxpayers' Right to an Equal Treatment: The Practice of European Constitutional Courts and the ECHR between a Subjective and an Objective Standard*

Leslie Book • Villanova University School of Law and Keith Fogg • Harvard Law School • United States • *Taxpayer Rights: A 21st Century Perspective*

Shelley Griffiths • Faculty of Law • University of Otago • Dunedin, New Zealand

Rodelio Dascil and Norberto Vilanueva • Philippines • *Institutionalizing the Taxpayer's Bill of Rights and Creating the Office of the National Taxpayers' Advocate in the Philippines through Legislation*

11:00 to 11:30 Coffee Break

11:30 to 1:00

Administrative Law and Taxpayer Rights

In administering the tax laws, taxing authorities communicate their views regarding tax law requirements in a variety of ways. What is the availability of administrative guidance (including the limits of legislative interpretation and interpretive guidance), its role in fostering compliance, and administrative or statutory vehicles for obtaining access to that guidance, as well as the methods to bring stakeholders into a constructive discussion with authorities and legislative bodies? What is the ability of taxpayers to legitimately rely on published administrative guidance in its various forms, how is such reliance treated by tax authorities, the judiciary, and legislative bodies, and what remedies exist for taxpayers when they relied on such guidance, to their detriment? As international organizations increasingly play a role in tax administration, how should taxpayers perceive communications from such agencies regarding tax law requirements?

Moderator: Kristin Hickman • University of Minnesota Law School • Minnesota, United States

Panelists: Stephen Daly • Dickson Poon School of Law, Kings College • London, United Kingdom • *The Virtues of Tax Authority Advice*

Stephanie McMahon • University of Cincinnati College of Law • Ohio, United States

Alice Abreu and Richard Greenstein • Temple University Beasley School of Law • Pennsylvania, United States • *The TBOR and Taxpayer Reliance on Published IRS Guidance: A Case for Estoppel*

Aleksandra Tychmanska • Warsaw, Poland • *Taxpayer Rights in the Era of Tax Law Internationalization and Ways of their Protection by International Organizations*

1:00 to 1:30

Boxed Lunch

1:30 to 2:00

The Role of the Administrative State: A Debate

Lilian Faulhaber • Georgetown University Law Center • Washington DC, United States

Philip Baker QC • Field Court Tax Chambers • London • Visiting Professor • Oxford University • United Kingdom

2:00 to 2:30

Current Developments in Taxpayer Rights

Katerina Perrou • International Bureau of Fiscal Documentation • Amsterdam, The Netherlands

2:30 to 3:00

Coffee Break

3:00 to 4:30

Big Data and Taxpayer Privacy

The advent of intergovernmental data exchange agreements and information sharing between tax agencies creates a conflict between taxpayers' legitimate expectation of privacy and the government's need to collect the taxes that are due under its laws. What is the scope of tax privacy in the 21st century, how have governments acted to protect taxpayer information, and what remedies exist for violations of taxpayer data protections? This panel will review data protection efforts and remedies in Europe and the United States.

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

Panelists: Viktoria Wöhrer • Vienna University for Business and Economics • Rödl & Partner • Vienna, Austria • *Legal Restrictions on Tax Transparency: The Right to Privacy and Data Protection*

William McGeeveran • University of Minnesota Law School • Minnesota, United States

Gianluca Mazzoni • University of Michigan • Michigan, United States • *(Re)defining the Balance Between Tax Transparency and Tax Privacy in the Big Data Analytics*

Ewa Prejs • Torun, Poland • *Use by the Tax Authorities of Evidence that was Obtained Illegally or Evidence of which the Legality Has Not Been Confirmed – Standards of Evidence*

4:30 to 6:00

Other Challenges to Tax Administration in the Digital Age

Tax agencies are increasingly using big data, data mining techniques, and artificial intelligence to identify taxpayers, transactions, and strategies that pose risks to tax compliance. This panel will explore the challenges to tax administrations that arise as a result of market innovations furthered by the digital revolution and the challenges to taxpayers that arise as a result of an increasingly automated and risk-assessment based agency approach to compliance.

Moderator: James Creech • The Law Offices of James Creech • California, United States

Panelists: Alan Rozenshtein • University of Minnesota Law School • Minnesota, United States

Iryna Stepanova • Graduate Institute • Ukraine • *Taxation and Legality of Crypto Currencies: Effectiveness of Tax Administrations from the Human Rights Perspective*

Emer Mulligan • National University of Ireland • Galway, Ireland • *Empirical Investigation of Effective Adoption of Digital Technologies for Citizen-Centric Tax Administration*

Pavel Martinik • Czech Republic • *Taxing Sharing Economy: What Are the Principles to Govern the Taxpayers' Rights?*

6:30

Reception/Dinner

Weisman Museum of Art
University of Minnesota Campus
333 E. River Pkwy
Minneapolis, MN 55455

8:30 to 9:00

IBFD Observatory on the Protection of Taxpayer Rights (OPTR)

Presenters: Philip Baker QC • Field Court Tax Chambers • London • Visiting Professor • Oxford University • United Kingdom

Professor Pasquale Pistone • Academic Chairman • International Bureau of Fiscal Documentation • Amsterdam, The Netherlands

9:00 to 10:30

Whistleblowers: Protections and Privacy

This panel will explore the role of whistleblowers in tax administration, including the whistleblower's access to information about the taxpayer and progress on the investigation, and the taxpayer's access to information about the whistleblower's proffer. The panel will provide a comparative analysis of the law, including the proposed European Union directive, as well as issues raised by whistleblowers in non-tax areas of the law.

Moderator: Caroline Ciralo • Kostelanetz & Fink • Washington DC, United States

Panelists: Dennis Ventry • UC Davis School of Law • California, United States

Carika Fritz and Monray Marsellus Botha • University of Pretoria • South Africa
• *Whistle-blowing for Reward, Friend or Foe? Exploring a Possible Whistle-Blowing Programme in South Africa*

Wei Cui, Director • Center for Asian Legal Studies • University of British Columbia • Canada

Ylva Larsson and Eleonor Kristoffersson • Oroburo University • Sweden • *The Role of Whistleblowers in Tax Administration*

10:30 to 11:00

Coffee Break

11:00 to 12:30 **A Conversation with the Judiciary**

Throughout the world, the judiciary is the final arbiter and interpreter of the legality of government action. This international panel of judges will engage in a conversation about their respective roles in protecting taxpayer rights and ensuring transparency and consistency of government action, as well as increasing access to the courts, especially in countries where taxpayers are either afraid of seeking assistance or relief or are reluctant to bring a case against tax authorities because of cultural reasons.

Moderator: Honorable Tamara Ashford • United States Tax Court • Washington DC, United States

Panelists: Honorable Mark Holmes • United States Tax Court • Washington DC, United States

HH Judge Anthony D. J. Gafoor • Tax Appeal Board • Republic of Trinidad and Tobago (invited)

Honorable Eui Young Lee • High Court Judge at the Seoul High Court • South Korea

12:30 to 1:30 **Lunch**

1:30 to 3:00 **The Impact of the Digital Economy and Big Data on Vulnerable Taxpayer Populations**

Big Data, artificial intelligence, and other information technologies are often discussed in the context of detecting noncompliance, and these techniques may be helpful in promoting compliance or protecting compliant taxpayers from a tax agency's erroneous assumptions. On the other hand, the trend of delivering key taxpayer assistance digitally and tax agencies' move away from person-to-person assistance for budgetary reasons has ramifications for vulnerable taxpayer groups and tax compliance in general. This panel will explore the use of technology and the efficacy of different modes of communicating with taxpayers in order to promote tax compliance.

Moderator: Caleb Smith • University of Minnesota Law School Low Income Taxpayer Clinic • Minnesota, United States

Panelists: Adrian Sawyer • University of Canterbury • New Zealand • *The Impact of Digital Delivery of Taxpayer Assistance – A New Zealand Perspective*

Edi Bassey • National University of Ireland • Galway, Ireland • *Taxpayer Rights: Vulnerable Groups and E-Taxation*

Sherra Profit • Taxpayer Ombudsman • Ontario, Canada • *Taxpayer Rights in the Digital Age: The Benefits and Risks of Digitization on Vulnerable Populations in the Canadian Context*

Stephanie Hoffer • The Ohio State University Moritz College of Law • Ohio, United States • *Taxpayer Reliance and the Robot IRS*

3:00 to 3:30

Coffee Break

3:30 to 5:00

Taxpayer Rights in the Digital Age: Reflections and Best Practices

This panel will identify key issues that were raised during the conference and suggest avenues for further exploration and potential best practices for tax agencies, legislative bodies, and the judiciary to protect taxpayers' rights in the digital and information age.

Moderator: Cara Griffith • President and CEO, Tax Analysts • Virginia, United States

Panelists: Nina E. Olson • National Taxpayer Advocate • Washington DC, United States

Professor Pasquale Pistone • Academic Chairman, International Bureau of Fiscal Documentation • Amsterdam, The Netherlands

Kristin Hickman • University of Minnesota Law School • Minnesota, United States