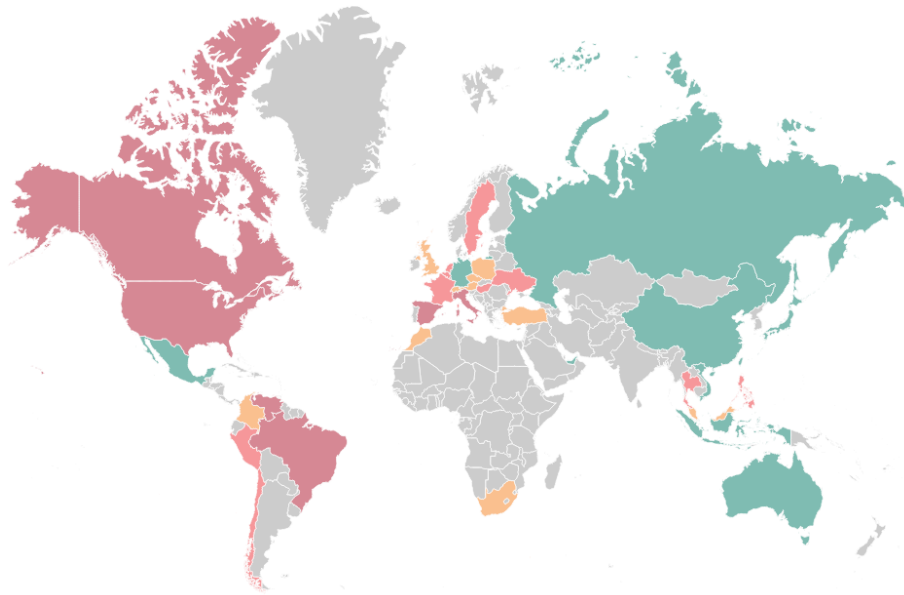


# National Tax Dispute Resolution Timelines Interactive Map



## 10+ years

### Brazil

#### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

As a rule, at the administrative and judicial levels, 30 days from the date of the assessment notice.

#### 2. What is the appealing procedure?

- **Administrative:** There are three levels of jurisdiction. The federal administrative

proceedings start when the taxpayer files a defense before the Brazilian Tax Administration. Some state and municipal administrative offices have two levels of jurisdictions.

- **Judicial:** There are three levels of jurisdiction.

### 3. What is the average time for reaching a final national decision?

If the taxpayer appeals through every level in the hierarchy of the courts, the process can take 3 to 5 years at the administrative level and 7 to 12 years at the judicial level.

### 4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?

**a. Start:** A case can be presented and be accepted for a mutual agreement procedure (MAP) while domestic remedies are still available.

**b. Conduct of the proceedings:** An ongoing MAP suspends no national proceedings.

**c. Completion of proceedings:** The outcome of the MAP may be implemented only after the taxpayer withdraws an administrative defense or lawsuit and waives its right to discuss the tax involved in the MAP.

**d. Other actions:** MAP decisions are not subject to appeal.

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## Canada

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

There are two primary avenues available for disputing an assessment or reassessment in Canada, depending on the nature of the issue in dispute, each with its own deadlines.

For the domestic appeals process, the deadline for filing a notice of objection is 90 days from the date of assessment or reassessment.

For transfer pricing matters, in addition to (or in some cases, instead of) the domestic appeals option, taxpayers may also pursue competent authority assistance pursuant to the Mutual Agreement Procedure provisions of the applicable treaty. Deadlines vary by treaty. Under the treaty with the US, notification must be provided within six years of the taxable year end in question with no specific deadline for filing the actual competent authority request. Most of Canada's other treaties have limitation periods that typically prohibit reassessing action after five or six years from the taxable year end and require the request to be filed within two or three years of such action.

### **2. What is the appealing procedure?**

For domestic appeals, taxpayers must file a notice of objection in prescribed form. For large taxpayers, the notice of objection must include all of the grounds on which the taxpayer wishes to rely.

For transfer pricing matters where taxpayers intend to pursue assistance through a Mutual Agreement Procedure under one of Canada's treaties, taxpayers may file both a

notice of objection and a request for competent authority assistance but one (typically the appeal) must be held in abeyance while the other process is pursued. Taxpayers cannot pursue both simultaneously.

In some circumstances, a taxpayer may end up reaching a settlement at the audit stage and, as part of that settlement, the taxpayer will be required to waive its right to file a notice of objection. In such a case, the taxpayer may still request competent authority assistance pursuant to the MAP procedure in one of Canada's treaties.

### **3. What is the average time for reaching a final national decision?**

For domestic appeals, given current workloads, it can take 12-24 months for an appeals officer to be assigned. Processing the appeal is a function of the complexity of the case. Cases can be resolved in 1-2 years or can take much longer if the case is particularly difficult. Taxpayers also have the option of filing a notice of appeal and proceeding directly to Tax Court if an appeals officer is not assigned in a timely manner (typically considered to be 90 days). Alternatively, taxpayers can wait for the conclusion of the administrative appeals process and, if the decision by appeals is unacceptable to the taxpayer, the taxpayer can then file a notice of appeal and proceed to Tax Court. Litigation through the courts (including appeals to the federal court of appeal and the Supreme Court of Canada) can take 10+ years.

For transfer pricing matters where assistance pursuant to a Mutual Agreement Procedure process in a treaty is pursued, cases typically take approximately 24 months to resolve.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** For notices of objection, these must be filed within 90 days (or later if the CRA grants an extension of time for filing). For MAP filings, the deadline is specified in the relevant treaty. In the Canada-US context, taxpayers must file a notification with the other state within six years from the taxation year end in question and, as long as the notification is kept live, there is no fixed deadline for filing the full MAP request. For most other treaties, the deadline for filing a MAP

request is 2-3 years from the date of the action by one of the states giving rise to the need for assistance, subject to the limitation period in the treaty for taking such action.

**b. Conduct of the proceedings:** For appeals, once an officer is appointed, each case will unfold on its own timeline based on the need to provide additional information or the nature and number of meetings or other consultations with the appeals officer.

For MAP cases, the appeals process would be held in abeyance while the MAP case proceeds. If the appeal covers multiple issues, some subject to a MAP request and others that are not, the issues can typically be bifurcated and the issues not subject to MAP can proceed at appeals while the other issues are held in abeyance while the MAP process unfolds.

**c. Completion of proceedings:** For appeals, once a decision is reached, reassessments will be issued to implement the decision. If the taxpayer disagrees, a notice of appeal may be filed to pursue remedies through litigation. At the conclusion of the litigation process, final reassessments will be issued.

For MAP cases, once the competent authorities reach a conclusion, it will be implemented through new reassessments. For taxpayers to accept a MAP resolution, they must sign a waiver of their right to object so the MAP decision will be final. If taxpayers disagree with the MAP resolution, they may reject the decision and pursue the domestic appeals route by reactivating the objection being held in abeyance, assuming that the taxpayer filed an objection.

**d. Other actions:** An increasing number of treaties contain arbitration provisions so if a MAP resolution is not reached within the specified time frame, treaty cases could be submitted to arbitration.

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## **Italy**

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Within sixty days from the notification of the tax assessment deed to the taxpayer by the tax office.

### **2. What is the appealing procedure?**

There are three instances. The last one is in front of the *Corte di Cassazione* (Court of

Cassation or Supreme Court), which is a court of legitimacy, unlike the courts of first and second instance that rule on the merit of the cases.

**-First instance:** The taxpayer can appeal the tax assessment deed by serving it to the tax office within the 60-day deadline mentioned above. Within thirty days from the service date, the appeal shall be filed with the tax court of first instance (*Commissione Tributaria Provinciale* — Provincial Tax Court).

**-Second instance:** The defeated party can appeal the decision of the tax court of first instance before the tax court of second instance (*Commissione Tributaria Regionale* — Regional Tax Court) within 60 days from the date on which the decision is served to it by the winning party or, if no notification occurs, within six months from the date on which the decision is made public through its filing with the tax court's secretary.

**-Third instance:** The decision of the tax court of second instance can be appealed before the Supreme Court, within the deadline outlined in the previous paragraph, but only under certain conditions and for specific objections; as mentioned above, the Supreme Court is a court of legitimacy.

### **3. What is the average time for reaching a final national decision?**

The average time necessary for reaching a final decision is 8-10 years.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A MAP may coexist with national proceedings. In principle, national proceedings will be established before the activation of a MAP to prevent the amounts assessed by the tax office in the tax assessment deed becoming final and not amendable.

**b. Conduct of the proceedings:** Suspending the national proceedings until the end of the MAP is possible upon the mutual request of the relevant parties (the taxpayer and tax office) and is strongly advisable so no conflicting outcome occurs. While a MAP is in progress, there is the possibility to request the suspension of tax

collection (although the tax office tends to condition it on guarantees). Interest will be due on the sums eventually confirmed at the MAP level.

**c. Completion of proceedings:** A decision originating from a MAP will generally be binding if the person directly affected accepts the decision and renounces the right to continue with the national proceedings already started and then suspended.

**d. Other actions:** There is no possibility to nationally appeal against MAP decisions.

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## Luxembourg



## **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Within three months following the notification of the tax assessment (for both direct and indirect taxes)

## **2. What is the appealing procedure?**

**First stage:** This is a compulsory administrative procedure for both direct and indirect taxes (average time is between six months and one year for both direct and indirect taxes).

### **Judicial procedures:**

- In the case of a negative decision at the administrative stage, the taxpayer has the right to file a judicial claim within three months following the notice of the administrative decision.
- In the absence of a response at the administrative stage within six months, the taxpayer has the right to file a judicial claim without any statutory deadline.
- The taxpayer/claimant has the right to appeal the decision rendered by the lower courts for both direct and indirect taxes.

## **3. What is the average time for reaching a final national decision?**

2-10 years

## **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A taxpayer should generally initiate a MAP within three years from the first notification of the action resulting in a taxation not in accordance with the provision of the relevant double tax treaty.

**b. Conduct of the proceedings:** MAP proceedings are independent from national proceedings. There is no possibility to request a suspension of tax

collection (*sursis à exécution*) in Luxembourg during the MAP proceedings.

**c. Completion of proceedings:** If the Luxembourg tax authorities cannot resolve the case unilaterally, they will take it up with their counterpart in the other contracting state. MAP decisions will be binding if the taxpayer directly affected accepts the decision and renounces the right to any other national remedy.

**d. Other actions:** Certain double tax treaties concluded by Luxembourg provide for the possibility to initiate a binding arbitration between Luxembourg and the other contracting state for unresolved double taxation issues. Unresolved cases involving EU Member States can be submitted to a specific binding arbitration procedure.

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## Spain

**1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

One month from the date of the assessment notice

**2. What is the appealing procedure?**

- first stage: compulsory administrative level
- administrative procedures have to be exhausted prior to recourse to judicial proceedings (3-6 years)
- judicial procedures

**3. What is the average time for reaching a final national decision?**

8-11 years

**4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

- a. Start:** National or international DR can coexist initially.

**b. Conduct of the proceedings:** Until the end of the MAP, any national proceedings are suspended. There is the possibility to request the suspension of tax collection with guarantees and without interest while the MAP is in progress.

**c. Completion of proceedings:** In general, an arbitration decision will be binding if the person directly affected accepts the decision and renounces the right to any other remedy (including national ones that have already commenced).

**d. Other actions:** There is no possibility to nationally appeal against MAP decisions, except for implementing actions.

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## United States

### 1. When is the first appeal deadline following the disagreement of the assessment made by the tax authorities?

Upon receipt of a 30-day letter, a taxpayer has 30 days to request that the Internal Revenue Service (IRS) Independent Office of Appeals consider the case, subject to limited extensions by agreement. The IRS generally grants extensions of time if requested in reasonable circumstances.

### 2. What is the appeals procedure?

- **Within the national tax authority:** Generally, a taxpayer must file a written protest to request administrative appeals consideration.

During the appeals process, the parties may request additional alternative dispute resolution options, including, the rapid appeals process, mediation and arbitration, or in the case of transfer pricing and treaty interpretations, competent authority review. A request to sever a competent authority issue must be made within 60 days of the opening conference with appeals under Rev. Proc. 2015-40. The taxpayer can request concurrent consideration by appeals and competent authority or seek resolution of the matter only with competent authority (see the competent authority process under question 4 below).

If a matter cannot be resolved in appeals, a 90-day letter will be issued and the taxpayer can take the issue to court, as described below.

- **Within the national court system:** If a taxpayer fails to or chooses not to pursue appeals, a 90-day letter or notice of deficiency is issued. Further, if appeals and the taxpayer cannot come to an agreement, a notice of deficiency is issued. The 90-day period is extended to 150 days if the taxpayer's address on the notice of deficiency is outside the country. The taxpayer then has the option to:

1. file a petition with the US Tax Court to contest the tax deficiency within 90 days

of the notice of deficiency

2. pay the tax assessed and file a suit for refund in a refund forum (i.e., a federal district court or the US Court of Federal Claims)

If a case is docketed without prior appeals consideration, appeals may consider the case for settlement at the taxpayer's request and with the approval of counsel.

After the trial court rules on the issue, an adversely affected party may appeal the court's decision to the appropriate US Circuit Court of Appeals and, similarly, from there may petition for writ of certiorari with the Supreme Court of the United States.

### **3. What is the average time for reaching a final national decision?**

The average time to reach a final decision for large tax cases for IRS appeals: 1-3 years.

If the taxpayer appeals through all levels of the federal court system, a "final" national decision could take 10+ years in a complex tax matter.

Mutual agreement procedure (MAP) process: 4-6 years.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** Within 60 days of the opening conference with appeals, a taxpayer may request competent authority assistance. Generally, the specific treaty provides the deadline for requesting relief. In certain cases, a taxpayer must submit a pre-filing memorandum prior to filing a competent authority request.

**b. Conduct of the proceedings:** The US competent authority conducts the competent authority process through the office of the Advance Pricing and Mutual Assistance Program ("**APMA Program**"). The APMA Program has primary responsibility for cases arising under the business profits and associated enterprises articles of US tax treaties. The APMA Program can consider cases arising under permanent establishment, transfer pricing and treaty interpretation

issues.

Subject to the arbitration provisions of US tax treaties, the US competent authority will allow a taxpayer a reasonable opportunity to present and supplement its views of the relevant facts and arguments, both in writing and orally, before and after discussions with the foreign competent authority have commenced.

A taxpayer can withdraw its competent authority request at any time, either in full or with respect to particular competent authority issues.

**c. Completion of proceedings:** If the US and foreign competent authorities reach a tentative competent authority resolution, it will be presented to the taxpayer for consideration. The taxpayer is given the opportunity to respond affirmatively in a timely manner. If the taxpayer rejects the tentative agreement, jurisdiction over the competent authority issues returns to the relevant offices within the IRS, and the taxpayer may pursue other administrative and judicial remedies. Generally, if the taxpayer accepts the tentative resolution, it must accept the resolution of that issue for all of the covered years. When the competent authority resolution is finalized, the IRS will implement the terms and may request that the taxpayer execute a closing agreement reflecting the terms.

**d. Other actions:** An increasing number of treaties contain arbitration provisions that provide that if an MAP resolution is not reached within the specified time frame (generally two years), treaty cases could be submitted to arbitration. To protect against time limits and procedural limitations in treaty countries, taxpayers may need to file protective claims in certain cases. Applicable procedures are discussed in Rev. Proc. 2015-40 § 11.

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## Venezuela

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

Upon service by the tax authorities of a preliminary deficiency assessment report, determining the deficiency tax ("**Assessment Report**"), the taxpayer has 15 business days to pay the deficiency tax voluntarily, as well as reduced fines and late payment interest. If the taxpayer decides not to pay the deficiency tax, it will have 25 business days from the expiration of the referred 15 business days to file written arguments and evidence against the Assessment Report (the terms are longer in case of transfer pricing audits). The tax administration must issue the Final Deficiency Assessment Resolution ("**Resolution**") and serve it to the taxpayer within one year after the expiration of the 25-day term mentioned above. The tax administration may follow abbreviated procedures in certain cases, in which it directly issues and serves the Resolution. The taxpayer may either pay the amounts set forth or challenge the Resolution. The taxpayer, within 25 business days of being served the Resolution, may: (a) file an administrative tax appeal before the tax administration; (b) file an administrative tax appeal with a subsidiary judicial tax appeal before the tax administration; or (c) file a judicial tax appeal directly with the tax courts. If the taxpayer files an administrative appeal or an administrative appeal with the subsidiary judicial tax appeal, the tax administration will have 60 calendar days to decide.



## 2. What is the appeals procedure?

- **Administrative:** One level of jurisdiction when the taxpayer files the administrative tax appeal with the Tax Administration.
- **Judicial:** Two levels of jurisdiction, Tax Trial Courts and the Supreme Court of Justice.

If the taxpayer files only an administrative appeal and the tax administration does not decide on it within the 60-day term, the taxpayer will have the option of either waiting for the decision indefinitely or considering that the tax administration tacitly denied its appeal and, therefore, filing a judicial tax appeal with the federal trial tax courts ("tax court"). The taxpayer must file such an appeal within 25 business days of the expiration of the 60-day term. If the taxpayer files an administrative appeal with the subsidiary tax appeal and the tax administration reaches no decision upon expiration of the 60-day term or decides dismissing the administrative tax appeal, the tax administration must then send the subsidiary tax appeal to the tax court.

Judicial procedure is:

1. The taxpayer must always file the judicial tax appeal before the tax court with jurisdiction on the taxpayer's tax domicile. There are nine tax courts with jurisdiction in as many regions of Venezuela. The tax court receives the appeal, assigns a number and orders the service of the appeal to the tax administration, the General Comptroller's Office and the General Attorney's Office. This step may take several months.
2. After the tax court completes the service of the appeal, it has five court days to decide whether to hear the appeal. This means that the court will examine the appeal to determine if the taxpayer filed it on time and if the appeal fulfills other formal requirements. If the tax court decides to hear the appeal, the tax administration will have 10 court days to appeal to the Supreme Court. Here, the Supreme Court will have 30 calendar days to rule on the hearing. If the Supreme Court confirms the tax court's decision, the procedure is terminated, the deficiency

assessment becomes final and the taxpayer has to pay it. If the Supreme Court revokes the tax court's decision, it will remand the case to the tax court for continuing the procedure.

3. After the tax court decides to hear the appeal or receives the decision of the Supreme Court regarding continuation, the parties will have 10 court days to provide evidence. Each party must file with the court a brief containing a list of the evidence they intend to use during the procedure. The parties will have three court days to challenge the evidence the other party intends to use. The court will then have three court days to decide if it will hear all the evidence the parties provided. The parties will have 20 court days to present the evidence before the court (e.g., calling witnesses and expert witnesses to the bench), but can obtain extensions in certain cases. With documents, it is very common to attach the documents to the brief that lists the evidence.

4. After the 20-day evidence term or its extensions, the parties have 15 court days to file their conclusions and, following that, eight court days to file comments to the counterparty's conclusions. Tax courts have 60 calendar days to decide and may extend the term for 30 additional calendar days, although, normally, reaching the decision takes an average of several years.

5. If the decision of the tax court is unfavorable, the taxpayer may appeal to the Political-Administrative Chamber of the Supreme Court that renders the final decision. If the decision of the tax court is favorable to the taxpayer, the tax administration may also appeal to the Supreme Court. If the tax administration files no appeal to that decision, the tax court must send the case file to the Political-Administrative Chamber of the Supreme Court that may confirm or revoke the decision.

6. Within six months of the final decision by the Political-Administrative Chamber, the taxpayer and the tax administration may challenge it before the Constitutional Chamber of the Supreme Court by filing an extraordinary constitutional review appeal only on the grounds that the Political Administrative Chamber's decision directly violates the constitution.

**3. What is the average time for reaching a final national decision?**

Approximately, between 7 to 12 years for a final decision by the Supreme Court of Justice.

**4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** See answer to question 2.

**b. Conduct of the proceedings:** See answer to question 2.

**c. Completion of proceedings:** See answer to question 2.

**d. Other actions:** Because filing the administrative or judicial tax appeal does not automatically suspend the payment of the deficiency tax assessments, the taxpayer may request the tax administration or tax court, as applicable, to suspend the payment of the assessments if it can prove that such payment can cause serious damage to it and the appeal is based on prima facie evidence. The trend of the tax administration and tax courts, however, is not to grant the suspension of the payment of assessments unless the taxpayer provides a guarantee to cover the deficiency assessment and the litigation costs. Normally, the guarantee consists of a bond posted by a local bank or insurance company, but the tax administration and tax courts will accept other guarantees, such as a cash deposit, real estate mortgage or the pledge of movable property.

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## 7 - 9 years

### Belgium

#### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

Within **six months** starting on the third working day following the date of the tax assessment

Please note that prior to issuing a tax assessment, the Belgian tax authorities will send a notice of amendment of tax return (detailing the suggested amendments to the filed tax return and the underlying justification). The deadline for responding to such notice is **one month** starting on the third working day following the date of the notice of amendment.

#### 2. What is the appealing procedure?

- Compulsory procedure at an administrative level — the administrative procedure has to be exhausted prior to the recourse to a judicial proceeding.

- Judicial proceeding — deadline: within three months of the notification of the decision rendered in the administrative procedure, there is the possibility to go to the tax court if the tax authorities have not taken a decision within six months of the receipt of the administrative appeal (nine months in case of an administrative appeal against an *ex officio* tax assessment).

#### 3. What is the average time for reaching a final national decision?

5-7 years (depending on whether an appeal before a court of appeal or Supreme Court is launched)

If the taxpayer appeals through every level in the hierarchy of the courts, the process can take 7-10 years. However, most disputes are dealt with in 2-5 years.

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A case can be presented and accepted for a MAP while domestic remedies are still available

**b. Conduct of the proceedings:** National proceedings should be stayed, in principle, until the end of the MAP.

**c. Completion of proceedings:** If a mutual agreement has been reached, the taxpayer may reject the agreement and pursue domestic remedies or accept the agreement and renounce the exercise of domestic legal remedies regarding the issues covered by the agreement.

**d. Other actions:** If the competent authorities cannot reach an agreement in the framework of the MAP within two years from the date on which they were provided with all information necessary to make a decision, some double tax treaties contain a provision allowing a taxpayer to request arbitration of unresolved issues. Belgium has also implemented EU Directive 2017/1852 on Tax Dispute Resolution that allows an advisory commission to be set up.

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## Chile

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

At the administrative level, the deadline is 30 labor days (Monday to Friday excepting public holidays) from the date of the assessment notice. At the judicial level, the deadline is 90 labor days ((Monday to Saturday excepting public holidays). If the taxpayer files administrative tax appeals, the 90-business day legal deadline is suspended. Under some circumstances, it is also possible to file a reconsideration recourse against the first administrative decision within five business days from the notification of the decision.

### **2. What is the appeals procedure?**

- **Administrative:** administrative recourse, before the tax authority
- **Judicial:** judicial procedures before the tax court, court of appeals and Supreme Court

### **3. What is the average time for reaching a final national decision?**

From the service of the assessment, and assuming the taxpayer has filed both administrative and judicial recourses, the average time for reaching a final decision is 6

to 7 years (including all the judicial steps).

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** Taxpayer affected by a measure adopted by a Double Tax Agreement (DTA) party may initiate a MAP procedure, being domestic remedies still available.

**b. Conduct of the proceedings:** Competent tax authorities conduct MAP proceedings.

**c. Completion of proceedings:** If a MAP has been resolved for the taxpayer, it is possible to request the tax authorities to return the overpaid taxes.

**d. Other actions:** N/A

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## France

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Thirty days from the date of the proposed reassessment notice, which can be extended to 60 days upon the taxpayer's request

### **2. What is the appealing procedure?**

- administrative appeal before the French tax authorities (FTA)
- administrative procedures have to be exhausted prior to recourse to judicial proceedings
- judicial procedures before courts (there are three levels of jurisdictions in France)

### **3. What is the average time for reaching a final national decision?**

7-9 years

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

- a. Start:** A taxpayer can exercise the administrative appeals and procedures before French courts at the same time and request the initiation of a MAP.
- b. Conduct of the proceedings:** The FTA can issue a tax collection notice without waiting for the outcome of the MAP. There is no suspension of the national proceedings until the end of the MAP.
- c. Completion of proceedings:** If the MAP leads to an agreement eliminating double taxation, the taxpayer can accept or refuse the agreement, but in the event of acceptance, the taxpayer will have to waive any subsequent claim and renounce



to domestic litigation.

**d. Other actions:** The competent authorities have, in theory, a two-year deadline to reach an agreement in a MAP. If no agreement is reached by the end of this period, depending on the applicable tax treaty, the competent authorities, in theory, should open an arbitration phase upon the taxpayer's request.

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## Hungary

**1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Within 30 days upon the communication of the written decision

**2. What is the appealing procedure?**

After filing an appeal against an administrative decree, the following procedure begins:

- first stage: compulsory administrative level
- administrative procedures have to be exhausted prior to recourse to judicial proceedings
- judicial procedures

**3. What is the average time for reaching a final national decision?**

3-8 years

**4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** An individual or a company resident in Hungary can initiate a MAP within three years following the action considered harmful. A MAP and national judicial procedures can coexist.

**b. Conduct of the proceedings:** Later, there must be a final decision or a suspension with regard to national procedures until the end of the procedure following the *EU-Besteuerungsstreitbeilegungsgesetz* ("EU-BStbG"). Moreover, a suspension of tax collection during the procedure is also possible.

**c. Completion of proceedings:** Proceedings are completed irrespective of the remedies provided by domestic law.

**d. Other actions:** In certain circumstances, the tax authority can perform control actions required to conduct the procedure beyond the limitation period.

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## Netherlands

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

-A taxpayer can lodge an objection against a tax assessment with the Dutch tax authorities within six weeks after the date of the tax assessment.

-If the tax inspector's decision during the objection phase is wholly or partially unfavorable, an appeal can be lodged against this decision with the district court within six weeks after the date of the decision on the objection.

-A notice of appeal has to be lodged with the court of appeal within six weeks after the date of the district court's ruling.

-An appeal to the Netherlands Supreme Court (*Hoge Raad*) can be lodged against the decision of the court of appeal within six weeks after the date of the court of appeal's decision.

## **2. What is the appealing procedure?**

**-First stage:** A compulsory objection phase (administrative appeal).

**-Second stage:** A taxpayer can lodge an appeal with the district court against a decision on the objection.

**-Possible further stages:** A taxpayer can lodge an appeal with the court of appeal against a decision of the district court and can lodge an appeal in cassation with the Netherlands Supreme Court against a decision of the court of appeal.[\[1\]](#)

## **3. What is the average time for reaching a final national decision?**

4-7 years

## **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** Mediation can be used as a dispute resolution mechanism in all phases of the proceedings. However, mediation is not included in Dutch law, and it is therefore on a voluntary basis and subject to case-by-case conditions. Parties usually agree to temporarily stay the legal proceedings during mediation. A MAP request can be submitted by the taxpayer once it has a reasonable suspicion that it will be taxed in a way that is not in line with a tax treaty to which the Netherlands is a party. The timing for submitting a MAP request is based on the applicable

treaty.

Arbitration can occur in international situations.

**b. Conduct of the proceedings:** MAP negotiations will be set up after the tax assessment becomes irrevocable, i.e., once objections and/or appeals in the Netherlands are no longer possible or have been exhausted. Taxpayers can request an extension for the payment of the assessment, which can be made subject to certain guarantees or conditions. In principle, the interest on undue payment will continue during the MAP proceeding. Exceptions may apply.

It is also possible to request an accelerated MAP proceeding, in which case the Netherlands government will set up negotiations after the tax assessment has been imposed (before the appeals phase has started). The taxpayer will have to agree with the postponement of the period for the Dutch tax authorities to decide on the objection for the duration of the accelerated MAP proceeding.

**c. Completion of proceedings:** In a MAP proceeding, the competent authorities usually come to an agreement. The taxpayer can accept or revoke the outcome of the MAP negotiations. If the competent authorities do not come to an agreement, the taxpayer can use its remaining domestic legal options, if they are still available. Arbitration decisions are generally binding on the taxpayer and the competent authorities.

**d. Other actions:** It is not possible to directly appeal a MAP decision.

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[1] Under certain circumstances, a taxpayer and the tax authorities can opt to lodge an appeal in cassation against a decision of the district court, which means that they avoid the court of appeal phase.

## Peru

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

The first appeal deadline is 20 business days (or 30 business days if the assessment refers to transfer pricing). In case the taxpayer disagrees with the first-level decision, it

has 15 business days to file the corresponding tax appeal (or 30 business days if the assessment refers to transfer pricing).

## 2. What is the appeals procedure?

- **Administrative:** There are two instances. The first instance: claim before the Peruvian Tax Administration; the second instance: appeal before the Peruvian Tax Court (higher tax authority).
- **Judicial:** There are two instances and an optional judicial review.

## 3. What is the average time for reaching a final national decision?

It could take 7 to 8 years. Tax claim: nine months; tax appeal: approximately four years; judicial procedure (two instances): approximately three years.

## 4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?

- a. Start:** After the issuing of the assessment, the taxpayer shall present a tax claim before the Peruvian Tax Administration.
- b. Conduct of the proceedings:** If the taxpayer disagrees with the resolution issued by the tax administration, the taxpayer could challenge it before the Peruvian Tax Court (higher tax authority).
- c. Completion of proceedings:** The administrative level ends with the decision of the tax court.
- d. Other actions:** After the administrative level, the taxpayer could challenge the tax court's resolution in a judicial procedure.

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## **Philippines**

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

A taxpayer may dispute the assessment contained within a Preliminary Assessment Notice within 15 days from the date of receipt.

The taxpayer may administratively appeal against a Final Assessment Notice within 30 days from the date of receipt by filing a request for reconsideration or reinvestigation (i.e., the protest procedure). If the protest is denied by the commissioner of the Inland Revenue, the taxpayer may lodge an appeal by filing a petition for review with the Court of Tax Appeals (CTA) (at division level) within 30 days from the date of receipt of the decision, or 30 days from the lapse of 180 days from the submission of the request for reconsideration or upon submission of additional supporting documents for a request for reinvestigation.

### **2. What is the appeals procedure?**

If the taxpayer's protest against the Final Assessment Notice is denied, in whole or in



part, by the commissioner of the Internal Revenue, the taxpayer may lodge an appeal by filing a petition for review with the CTA (at division level). Further appeals may be made to the CTA *en banc* and the Supreme Court.

### **3. What is the average time for reaching a final national decision?**

If the taxpayer appeals at every stage, the average proceedings should take around two to three years at the administrative level and two to three years each at the CTA and the Supreme Court.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

- a. Start:** A case may be presented to the Bureau of Internal Revenue notwithstanding the local remedies available or pending. There are some tax treaties, which the Philippines has entered into, that impose a time limit on the period of entering into a mutual agreement, while others do not impose a time limit.
- b. Conduct of the proceedings:** The mutual agreement procedure (MAP) and court process would run parallel to each other.
- c. Completion of proceedings:** The decision of the MAP will be implemented provided that the taxpayer accepts the decision and waives its right to local remedies.
- d. Other actions:** If the MAP fails, arbitration proceedings could be possible, provided that the double tax treaty includes a respective stipulation.

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## Sweden

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

The Swedish Tax Agency may notify the taxpayer of a reassessment within two years from the end of the calendar year in which the fiscal year ended. If the taxpayer has provided incorrect information or failed to provide sufficient information in the tax return that has resulted in an incorrect assessment, a reassessment may be made within six years from the end of the calendar year in which the fiscal year ended.

If the Swedish Tax Agency decides to reassess a taxpayer's taxation, the taxpayer will have the opportunity to either request a reappraisal, i.e., that the tax authorities

reexamine their decision, or file an appeal to the administrative court. Both the taxpayer and the tax authorities may initiate a reappraisal of a decision by the tax authorities. The taxpayer must file its request for a reappraisal within six years from the end of the fiscal year in question. There is a two-month statute of limitations for appeals of certain decisions, including decisions regarding tax registration, preliminary tax, documentation, tax return agents, noncompliance with FATCA/CRS and separate decisions on costs for legal representation in proceedings before the Swedish Tax Agency.

## **2. What is the appealing procedure?**

An appeal to the administrative court or a request for reappraisal has to be submitted to the Swedish Tax Agency in writing. The administrative court has written proceedings unless the taxpayer requests an oral hearing. The administrative court's decision can be appealed within two months. For decisions from the administrative court related to agent authorization, measures of constraint or compensation for costs related to legal representation, attorneys or investigation (when the decision has not been disclosed in connection with the ruling of the matter to which the costs relate), the statute of limitations for appeals is three weeks.

The administrative court of appeal's judgment may be appealed to the supreme administrative court (*Högsta förvaltningsdomstolen*), provided that leave to appeal is granted by the supreme administrative court.

## **3. What is the average time for reaching a final national decision?**

5-7 years

## **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A MAP is available to the extent that the relevant transaction or taxable event has been subject to double taxation or has otherwise been taxed in violation of a double tax treaty.

Since 2019, there are new rules on tax disputes in the EU where the taxpayer, if the dispute has not been resolved with a MAP between the Member States, can

request to set up an advisory commission. The advisory commission — composed of three independent persons and the competent authorities of the Member States in dispute — should deliver an opinion on how to solve the dispute within six months of being set up. The opinion is then communicated to the competent authorities, who should make a final decision based on the opinion of the advisory commission unless they agree otherwise.

**b. Conduct of the proceedings:** A MAP is free and the tax authority makes a discretionary reassessment of the final tax once a mutual agreement regarding taxation has been reached with the tax authority in the other country. The tax authorities may postpone negotiations with the competent authority of the other country to lower the costs of the proceedings and let the MAP case pend until the administrative court has settled the case. When the MAP and court processes run parallel to each other, this may be with the requirement that the taxpayer must withdraw its appeal prior to a resolution from the MAP.

**c. Completion of proceedings:** In general, the mutual agreement should be binding for both states unless the person directly affected does not accept the mutual agreement.

**d. Other actions:** There is no possibility to nationally appeal against mutual agreements, except for implementing actions.

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## Thailand

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

An appeal must be filed with the Appeal Committee within 30 days of receiving the notice of assessment.

### **2. What is the appeals procedure?**

Judicial tax litigation matters are generally handled by the Appeals Committee, the Tax Court, the Specialized Appeal Court and the Supreme Court:

- **Appeal Committee:** The taxpayer may file an appeal with the Appeal Committee against the notice of assessment.
- **Tax Court:** The taxpayer may make a further appeal to the Tax Court against the Appeal Committee's decision.
- **Specialized Appeal Court:** Generally, all decisions of the Tax Court with respect to either factual or legal issues can be appealed to the Specialized Appeal Court without having to ask for the permission of the Specialized Appeal Court.
- **Supreme Court:** The decision of the Specialized Appeal Court can be appealed further only by the permission of the Supreme Court. An appeal on a factual issue to the Supreme Court would be limited.

### **3. What is the average time for reaching a final national decision?**

Generally, tax litigation in Thailand takes between six months to several years, depending on the complexity of the case and the forum in which the case is pursued.

The average appeal time for the administrative level should take six months to two years.

The average appeal time for the judicial level should take five to eight years.

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A request for administrative tax litigation can be submitted by a taxpayer to the Revenue Department. Alternatively, a taxpayer can submit a mutual agreement procedure (MAP) request; it does not preclude other national legal remedies.

**b. Conduct of the proceedings:** Court decisions are binding. Notwithstanding that the MAP has been initiated, the Revenue Department cannot rule differently from court decisions.

**c. Completion of proceedings:** If a mutual agreement is reached, the taxpayer must agree in writing that it will neither proceed with all initiated legal proceedings nor initiate further legal action. Otherwise, the taxpayer's MAP case will not be finalized.

**d. Other actions:** There is no specific requirement regarding the request for arbitration; the taxpayer can seek other administrative and judicial remedies or arbitration.

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## Ukraine

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

The deadline for the first appeal depends on the type of appeal procedure:

**-Administrative procedure:** An appeal may be filed within 10 business days following the date of receipt of the tax assessment notice.

**-Judicial procedure:** As a general rule, the lawsuit may be filed within three years following the date of receipt of the tax assessment notice. However, this term is disputable due to a controversy concerning the Tax Code of Ukraine, which suggests that, if the tax notice is not contested within 10 business days, the additional tax assessment and penalties (if any) are deemed to be accepted by the taxpayer and must be settled. The taxpayer is not precluded from subsequently challenging the tax notice within the three-year period. If, however, the tax notice is contested within 10 business days following the receipt thereof (including if such is issued after the completion of the administrative procedure), the tax and penalties payment obligation does not arise until the matter is resolved in court.

### 2. What is the appealing procedure?

-Taxpayers are free to proceed with either an administrative or a judicial appeal procedure.

-By applying to the court, a taxpayer automatically loses the right to an administrative appeal.

### **3. What is the average time for reaching a final national decision?**

-For the administrative appeal procedure, it could take up to 60 calendar days (which may be final in the case of a successful decision in favor of a taxpayer).

-For the judicial appeal procedure, the time for reaching a final national decision may vary and depends on the courts' and judges' workload. The Administrative Procedural Code provides for a 7.5-month term for a case to pass all three court instances and reach a final decision. However, in practice, reaching a final decision may take years. In our experience, it takes up to seven years to obtain the final cassation court decision in extreme cases.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

#### **a. Start:**

Both the tax authorities and taxpayers are entitled to initiate a mutual agreement procedure (MAP). Taxpayers have the right to apply for a MAP either: (i) within 10 business days after the tax audit; or (ii) prior to such a tax audit commencing.

If so allowed by the applicable tax treaty, both resident and non-resident taxpayers may initiate a MAP in Ukraine.

Ukrainian residents are also allowed to initiate a MAP in Ukraine should they believe that a foreign State taxes them contrary to the provisions of the applicable tax treaty with Ukraine (provided it is allowed by the MAP procedure of the relevant tax treaty).

Upon receipt of the application from the taxpayer, the competent authority has 60 business days for deciding whether or not to commence a MAP.

#### **b. Conduct of the proceedings:**

National appealing procedures cannot coexist with the MAP.

Once a MAP has commenced, the tax assessment notice will be suspended.



The law does not prescribe an overall timeframe of a MAP.

## **c. Completion of proceedings:**

Once a MAP is completed, the decision is binding on the tax authorities.

The taxpayer cannot appeal a MAP decision via administrative procedure. However, the taxpayer has a right to appeal such a decision in Ukrainian courts.

## **d. Other actions:**

Taxpayers have the right to stop a MAP at any stage by lodging a special application to the competent tax authority.

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## **4 - 6 years**

## **Austria**

### **1. When is the first appeal deadline following disagreement of the assessment**

**made by the tax authorities?**

One month from the date of service

## **2. What is the appealing procedure?**

After filing an appeal against an administrative decree, the following procedure begins:

**-First stage:** A preliminary decision by the tax authority — at the administrative level (within six months) — is obligatory unless the complainant demands a decision by the federal fiscal court and the administrative authority submits the complaint to the mentioned court within three months. If there is no such demand, a preliminary decision will be rendered by the tax authority at the administrative level, which can be fought against by requesting that the administrative authority submit the complaint to the federal fiscal court.

**-Second stage:** A decision is made by the federal fiscal court.

**-Third stage (only in certain, narrowly defined cases):** A decision is made by the higher administrative court and/or the constitutional court.

## **3. What is the average time for reaching a final national decision?**

Should the taxpayer appeal through the second stage (including a preliminary decision by the tax authority), the process can take 2-4 years; when including the third stage, the process can take 4-6 years.

## **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** Recently, the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the EU has been transformed into national law: The *EU-Besteuerungsstreitbeilegungsgesetz* (EU-BStbG) entered into force on 1 September 2019 and laid down rules on a mechanism to resolve disputes between two or more Member States.

Initially, domestic remedies and the above-mentioned mechanism can coexist.

**b. Conduct of the proceedings:** Later, there must be a final decision or a suspension with regard to national procedures until the end of the procedure following the EU-BStbG. Moreover, a suspension of tax collection during the procedure is also possible.

**c. Completion of proceedings:** Arbitration decisions will only be binding if the affected person accepts the decision, declares a waiver of remedies and makes a statement concerning the publication of the final decision.

**d. Other actions:** There is no further possibility to nationally appeal against binding arbitration decisions, except implementing actions.

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## Colombia

## **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Once the administrative procedure before the tax office is concluded, taxpayers have four months to file a lawsuit against that procedure from the date of receipt of the tax office's decision.

## **2. What is the appeals procedure?**

- **Administrative:** Taxpayers may move for reconsideration against the official assessment issued by the tax office. Taxpayers have two months following the receipt of the official assessment. The administrative procedure is mandatory if the taxpayer wishes to take the discussion to the judicial level.

- **Judicial:** The appeal process takes place against the first instance judicial ruling and it must be completed no later than 10 days following service of the first instance ruling.

## **3. What is the average time for reaching a final national decision?**

The average time for reaching a final national decision is up to 4 or 6 years. .

## **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** The judicial procedure begins when taxpayers file a lawsuit against the administrative procedure before the Colombian courts; specifically, against the official assessment issued by the tax office.

**b. Conduct of the proceedings:** Generally, the first instance judicial controversy comprises (i) filing of the lawsuit, (ii) the tax office's response to the lawsuit, (iii) the initial hearing, (iv) the closing statements and (v) the first instance ruling. This may take between approximately two and three years. The second instance (which is highly likely, considering that both parties — the taxpayer and the tax office — may

appeal) is made up of (i) the filing of the appeal (by the defeated party), (ii) closing statements and a (iii) final ruling. In addition, this may take approximately three years.

**c. Completion of proceedings:** The judicial procedure concludes when the Administrative Supreme Court or the administrative tribunal (depending on the value of the lawsuit's motions) issues a final ruling.

**d. Other actions:** The last tax reform allowed taxpayers and the tax office to terminate by mutual agreement administrative procedures and judicial procedures related to tax controversies. If both parties terminate said procedures, taxpayers obtain a reduction of the default interests and a reduction of the penalties imposed by the tax office in the official assessments.

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## Czech Republic

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Thirty days from the date of delivery of the decision

### **2. What is the appealing procedure?**

- The taxpayer files an appeal with the tax administrator that issued the contested decision.
- The tax administrator that originally issued the tax assessment first examines the appeal. This tax office has the right to amend the additional tax assessment, provided that it satisfies the appeal in full. If this is not the case, the tax office will forward the appeal (together with the files) to the appeal financial directorate.
- The appeal financial directorate reviews the entire legal and factual background of the case and then issues its decision on the appeal, whether in favor or to the detriment of the taxpayer.
- No appeal against the decision of the higher tax administrator is admissible.
- A taxpayer may file a lawsuit with the regional court aiming to cancel the decision of the appeal financial directorate.
- The decision of the regional court may be reviewed by the supreme administrative court.

### **3. What is the average time for reaching a final national decision?**

4-5 years (meaning up to the decision of the supreme administrative court)

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**BM Prague note:** Please note that, as of 19 February 2020, the Czech Republic has not finished the implementation procedure regarding the Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the EU. The government bill proposal that implements the above-mentioned directive into Czech law is currently being discussed by Parliament. The expected implementation should occur during summer 2020. DR interaction with national proceedings is governed by bilateral agreements between relevant states and, therefore, cannot be generalized and has to be reviewed on a case-by-case basis.

- a. Start:** Please see BM Prague note.
- b. Conduct of the proceedings:** Please see BM Prague note.
- c. Completion of proceedings:** Please see BM Prague note.
- d. Other actions:** Please see BM Prague note.

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## Hong Kong

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

One month from the date of the notice of assessment.

## **2. What is the appeals procedure?**

- **First stage:** This is the compulsory administrative level. Where an assessment is issued, the taxpayer will have the right to object to the assessment within one month of the date of the notice of assessment. This requires the filing of a written notice setting out the grounds on which the taxpayer objects to the assessment. Any objections will be considered by the original assessor in the first instance. If the assessor is of the view that no changes should be made, the assessor will transfer the file to the Inland Revenue Department's (IRD) Appeal Section (a separate unit within the IRD), which will review the matter de novo and prepare a statement of facts and draft reasons for consideration by the commissioner/deputy commissioner. The commissioner/deputy commissioner will issue a determination together with reasons in writing to the taxpayer.

-**Second stage:** Judicial procedures:

If the taxpayer wishes to appeal the determination of the commissioner/deputy commissioner, the taxpayer may appeal to the Board of Review, an independent tribunal that acts as a trial court, within one month of the date of the commissioner's written determination (though it is possible for the taxpayer and the IRD to agree that the case will be heard directly by the Court of First Instance). Appeals against the Board of Review's decision can be made to the Court of First Instance and subsequently to the Court of Appeal and Court of Final Appeal on questions of law.

## **3. What is the average time for reaching a final national decision?**

If the taxpayer appeals through every level, the average proceedings should take one to two years at the administrative level and two years each for the subsequent appeals at the Board of Review and the courts.

## **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

a. **Start:** A case can be presented to the IRD while domestic remedies are still



available or pending. It is a strategic decision to identify the right point in time to start the mutual agreement procedure (MAP). The time limit specified in the MAP article in treaties concluded by Hong Kong is generally three years from the date of the first notification of the action that results or is likely to result in double taxation.

**b. Conduct of the proceedings:** The MAP is in addition to a taxpayer's rights to object and appeal an assessment (as discussed in Item 2 above). Where an objection is lodged, the IRD will concurrently consider a case presented under the MAP Article and an objection lodged under the Inland Revenue Ordinance (IRO). Where an appeal is lodged, the MPA process and appellate proceedings can run concurrently.

**c. Completion of proceedings:** The agreement reached for an issue covered by the MAP will be implemented, provided that the taxpayer accepts the agreement (such an acceptance will be regarded as a settlement agreement between the taxpayer and the commissioner).

If the taxpayer does not accept the agreement, the IRD will close the case without implementing any agreement. The commissioner will proceed to determine the taxpayer's objection under the IRO.

Where a decision or order has been made by the Board of Review or the courts, although the MAP process can still continue, the IRD will abide by the decision or order. Where, under the decision or order, taxation in Hong Kong is in accordance with the double tax treaty (DTA), any subsequent endeavors of the IRD under the MAP will be limited to demonstrating that relief should be provided in the other DTA jurisdiction.

**d. Other actions:** If the MAP fails, arbitration proceedings could be possible, provided that the DTA includes an arbitration provision.

Some of the DTAs concluded by Hong Kong provide residents with the right to refer to arbitration any issues on which no agreement is reached under the MAP

within the time limits prescribed under the MAP article, unless a decision on these issues has already been rendered by a court or an administrative tribunal of either party to the DTA.

Unless the taxpayer does not accept the mutual agreement that implements the arbitration decision, such a decision will be binding on Hong Kong and the other DTA jurisdiction. If the taxpayer rejects the outcome of the arbitration, it may continue to seek a remedy under the IRO and under the domestic laws of the other DTA jurisdiction.

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## Malaysia

**1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

A taxpayer may initiate an appeal by filing a notice of appeal (Form Q) with the director general of inland revenue (DGIR) no later than 30 days after the service of the notice of assessment. If an appeal is not filed within the stipulated timeline, an application for the extension of the time for appeal can be made by way of Form N, which is subject to the consideration of the DGIR.

## 2. What is the appeals procedure?

- **Review by the DGIR:** Upon filing a Form Q, the DGIR will have 12 months to consider the appeal internally. The Inland Revenue Board (IRB) will review the notice of assessment and the Form Q and may reach out to the taxpayer to discuss the matter in further detail. If the IRB is of the view that an amicable settlement is unlikely, the IRB will forward the case to the Special Commissioners within 12 months from the date of receipt of the Form Q.
  - **Special Commissioners:** Once the Special Commissioners receive the Form Q (upon being forwarded by the IRB), the Special Commissioners will fix the matter for mention, case managements and a hearing.}
  - **High court:** If either the IRB or the taxpayer is unsatisfied with the Special Commissioners' decision, the party may further appeal to the high court to decide whether the decision is correct in law, based on the facts found by the Special Commissioners.
3. What is the average time for reaching a final national decision?
- **Court of appeal:** The final appeal of the matter will be before the court of appeal.

An alternative or parallel remedy would be to initiate judicial review proceedings against the DGIR at the high court. However, this is a discretionary remedy by the courts, which is available only in exceptional circumstances where the public authority lacked jurisdiction or if there was an abuse of power.

## 3. What is the average time for reaching a final national decision?

Generally, the time taken to resolve tax disputes in Malaysia depends on the complexity of the dispute. Once the taxpayer files the notice of appeal (Form Q), the DGIR has a statutory period of 12 months from the date of the filing of a notice of appeal to consider the appeal. If the IRB is of the view that an amicable settlement is unlikely, the IRB will forward the case to the Special Commissioners. The hearing date is usually fixed within one to three years from when the notice of appeal is forwarded to the Special Commissioners. If the case is litigated at the highest appellate level, it may take up to three to five years to obtain a final determination. (It will take three to five years in total for an appeal to be concluded — from the Special Commissioners to the final appeal before the court of appeal.)

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A taxpayer may pursue a mutual agreement procedure (MAP), whether or not the taxpayer appeals a notice of assessment, as long as this process is provided for in a double taxation agreement between two relevant governments involved.

If an appeal has been filed against the notice of assessment and the appeal is in process before the Special Commissioners, the taxpayer may inform the Special Commissioners and ask for an adjournment until the completion of the MAP.

Invoking an MAP will not deprive a person of their right to appeal under Section 99(1) of the Income Tax Act 1967. However, while the domestic legal remedies are still available, the taxpayer must generally agree to the suspension of these remedies if an MAP request is accepted.

**b. Conduct of the proceedings:** Generally, an MAP involving Malaysia will run parallel with the court proceedings. However, as the DGIR will require that taxpayers "suspend" the appeal, taxpayers typically request for the court proceedings to be stayed pending the resolution of the MAP.

**c. Completion of proceedings:** A mutual agreement between two competent authorities is usually binding on the taxpayer only for the relevant years in question

under the MAP and it does not bind future years.

**d. Other actions:** The DGIR may insist on including all years under dispute in its negotiation for an MAP, including the years in which it was time barred. This may not always be acceptable for other countries.

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## Morocco

### 1. When is the first appeal deadline following the disagreement of the assessment made by the tax authorities?

30 days following the receipt of the second letter of notification (tax assessment notice) from the tax administration.

### 2. What is the appealing procedure?

- **First stage:** Appeal before the local or national commission of taxation.

This is the compulsory administrative level. Direct access to judicial procedures is only available once all appeals have been exhausted before the local commission of taxation or the national local commission of taxation.

The taxpayer may appeal from the assessment made by the tax administration within the deadline provided in point 1.

Before the local commission of taxation for taxpayers whose turnover declared for each fiscal year of the non-prescribed period audited, is less than MAD 10 million. The local commission must rule within 24 months from the date of introduction of the appeal.

Before the national commission of taxation for taxpayers whose turnover declared for one of the audited fiscal years is equal or superior to MAD 10 million. The commission must rule within a maximum period of 12 months as from the date of appeal. It should be noted that this commission is placed under the direct authority of the Head of Government.

- **Second stage:** The decisions issued by the local/national commission may be challenged in court within 60 days from the date of notification of the decision of the said commission.

Judicial recourse may not be brought at the same time as the appeal before the local or

national commissions.

### **3. What is the average time for reaching a final national decision?**

If the taxpayer appeals through every level, the average proceedings should take 3-4 years.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A case can be presented to the tax administration while domestic remedies are still available or pending. The taxpayer may start the MAP/negotiations with the tax administration. This is a strategic decision.

**b. Conduct of the proceedings:** If national proceedings are pending and a MAP is started, it is necessary that the tax administration grant consent to suspend the national proceedings.

**c. Completion of proceedings:** The decision of the MAP will be implemented, provided that the appellant accepts the decision and waives its right to remedy (including national and judicial recourses).

**d. Other actions:** If the MAP failed, the process will continue i.e. before the local/national commission.

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## Poland

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Fourteen days from the date of the assessment decision

### **2. What is the appealing procedure?**

- two levels of the tax authorities
- two levels of court procedures
- tax authorities procedures have to be exhausted prior to judicial procedures

### **3. What is the average time for reaching a final national decision?**

3-6 years

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**



- a. Start:** National or international DR can coexist initially.
- b. Conduct of the proceedings:** There is the possibility to request that the tax authorities suspend the national proceedings during the MAP.
- c. Completion of proceedings:** In general, an arbitration decision will be binding if the person directly affected accepts the decision and renounces the exercise of domestic legal remedies regarding the issues covered by the agreement.
- d. Other actions:** There is no possibility to nationally appeal against MAP decisions, except for implementing actions.

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## Singapore

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

A corporate taxpayer may object to an income tax assessment by filing a written notice of objection with the comptroller of income tax ("**Comptroller**") within two months from the date on which the notice of assessment is served. For individual taxpayers, the notice of objection must be filed within 30 days.

### 2. What is the appealing procedure?

The taxation appeal process in Singapore involves the following stages:

**a. Objection:** A taxpayer who has received an income tax assessment has the right to object to it by issuing a notice of objection in writing, specifying the grounds on which the objection is made. Most objections will be settled between the Comptroller and the taxpayer, and this is followed by the issuance of a notice of the revised assessment. If both parties fail to reach an agreement, the Comptroller will notify the taxpayer by issuing a notice of refusal to amend.

**b. Income Tax Board of Review ("Board"):** After the notice of refusal to amend has been issued, the taxpayer has the right to make an appeal to the Board. This right of appeal is exercised by lodging a notice of appeal with the Board, followed by a petition of appeal with the detailed grounds of appeal. The Board does not have powers to go into matters not raised by the appeal. It acts by a majority decision.

**c. General Division of the High Court:** If either party is dissatisfied with the Board's decision as being erroneous in law or of mixed law and fact, they may appeal to the General Division of the High Court, provided the disputed tax exceeds SGD 200. The General Division of the High Court will then determine any question of law or of mixed law and fact arising in the appeal and may confirm, reduce, increase or annul the assessment determined by the Board, or make such order as it thinks fit.

**d. Appellate Division of the High Court:** Decisions by the General Division of the High Court on tax issues are open to appeal. Such appeals will generally be heard by the Appellate Division of the High Court unless the appeal will raise a point of law of public importance such that the case should be heard by the Court of Appeal instead. Where the amount or value of the subject matter in dispute does not exceed SGD 250,000, leave to appeal must be obtained before an appeal may be brought

**e. Court of Appeal:** The Court of Appeal is the highest appellate court in Singapore and its decision is final. Leave must be obtained before an appeal can be made (i) from the General Division of the High Court to the Court of Appeal

directly or (b) from the Appellate Division of the High Court to the Court of Appeal. Such leave may only be granted if the appeal will raise a point of law of public importance, but the Court of Appeal is not required to grant leave under such circumstances.

### **3. What is the average time for reaching a final national decision?**

Generally, the time taken to resolve tax disputes in Singapore depends on the complexity of the dispute. Based on our experience, it takes approximately 3-18 months for a tax dispute to be negotiated successfully with the tax authorities. It may take up to 3-6 years to obtain a final determination of the case if it is litigated at the highest appellate level.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A taxpayer may apply to the Inland Revenue Authority of Singapore (IRAS) to initiate dispute resolution through the mutual agreement procedure (MAP). An MAP is generally available to the following:

1. taxpayers that are Singapore tax residents
2. taxpayers who are not Singapore tax residents but have a branch in Singapore; however, such MAP applications are to be made by the taxpayers in the jurisdiction in which they are tax residents and with which Singapore has a tax treaty

Applying for an MAP does not affect a taxpayer's right to pursue other domestic legal remedies. An MAP will have to be initiated within the time limit stipulated in the MAP article of Singapore's tax treaties (e.g., three years).

**b. Conduct of the proceedings:** The taxpayer should inform IRAS and the relevant competent foreign tax authority if the matter is being adjudicated by a tribunal or court while the MAP process is ongoing. IRAS will then make a decision on whether to continue, cease or suspend the MAP process pending a decision by the tribunal or court.

Where the matter has been subjected to litigation and determination by the Singaporean tribunals and courts, IRAS is unlikely to depart from the determination of the Singaporean tribunals and courts.

**c. Completion of proceedings:** Taxpayers are not obliged to accept the outcome agreed between the competent authorities. They may withdraw the application, terminate the process or reject the agreed outcome.

If the taxpayer accepts the outcome, IRAS and the relevant foreign competent authority will proceed to exchange letters to conclude the MAP and to implement the agreement in a timely manner in accordance with domestic procedures.

**d. Other actions:** Singapore is a signatory to the Multilateral Convention to Implement the Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI).

For tax treaties that will be amended by the MLI, the taxpayers may request for MAP cases to be resolved through arbitration if the competent authorities are unable to reach an agreement within a specified time period.

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## South Africa

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

A taxpayer may object to an assessment given by the South African Revenue Service (SARS) within 30 business days from the date of issue of the assessment.

### **2. What is the appealing procedure?**

**First stage:** This is the procedure in respect of the internal process at the SARS and involves either the alternative dispute resolution process or approaching the tax court or Tax Board:

-The tax dispute procedure begins with the SARS attending to an objection internally, by either allowing the objection or disallowing the objection. Where an objection is disallowed by the SARS, a taxpayer may either appeal it to the tax board (for amounts less than ZAR 1 million) or to the tax court (for amounts over ZAR 1 million) by service of a notice of appeal or refer it for alternative dispute resolution (ADR), with a view of concluding a settlement agreement. It should be noted that where no settlement is reached between the taxpayer and the SARS, either party may still approach higher institutions for resolution to the matter.

**Second stage:** This is the judicial process of approaching the courts.

### **3. What is the average time for reaching a final national decision?**

If the matter progressed through all the levels up to the Supreme Court of Appeal then it is estimated to be three to five years.

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

Note that the days indicated below are subject to extensions requested by either the taxpayer or the SARS.

**a. Start:**

Where a taxpayer objects to an assessment, a taxpayer may request, within 30 business days from the date of assessment, the SARS to provide reasons for the assessment.

Where reasons have not been provided, the SARS must provide such reasons within 45 business days. Where the SARS is of the view that sufficient reasons have already been provided, the SARS is required to notify the taxpayer of this within 30 business days.

Notwithstanding the above, a taxpayer may lodge an objection within 30 business days from the date of assessment. Alternatively, where reasons were requested from the SARS, within 30 business days from the date of delivery of the reasons.

The SARS is required to inform the taxpayer of its the decision in respect of the objection within 60 business days. Further, the SARS may allow all or part of the objection, or may disallow the objection in its entirety.

**b. Conduct of the proceedings:**

A taxpayer must provide detailed grounds on which the objection is founded, with supporting documents where necessary.

The SARS will either allow or disallow the objection.

**c. Completion of proceedings:**

A taxpayer is entitled to appeal any aspect of the objection that has been disallowed and must lodge the applicable appeal notice within 30 business days from the date of the disallowance of the objection.

The appeal may be referred to:

- -ADR at either the SARS branch office or SARS head office level
- -the tax board (administered at the SARS branch office level)

- -the tax court (administered at the SARS head office level)

## **ADR**

The ADR process is aimed at achieving a speedier and cost-effective resolution to a tax dispute. The ADR is typically informal and can take place via telephone or video-conferencing. Further, any representations made and documents submitted are done on a without prejudice basis.

An appointed facilitator, who must be suitably qualified and experienced, and is bound by a code of conduct to act independently, fairly and impartially, oversees the ADR process. The facilitator may not make a binding decision on behalf of either the taxpayer or the SARS; and merely attempts to reach settlement terms.

- -*Resolution by agreement*

Where the taxpayer and the SARS are able to reach an agreement, the agreement must be recorded in writing and be executed. The SARS must then issue a revised assessment reflecting the agreed position within 45 business days.

- -*Resolution by settlement*

If the taxpayer and the SARS are unable to reach agreement, they may still attempt to settle the dispute or aspects thereof. This mechanism is aimed at settling the tax payable without either party conceding as regards to their interpretation of the facts and the law. Where the SARS and the taxpayer reach a settlement, the SARS must issue an assessment to reflect the agreed position within 45 business days. Such altered assessment is final and the taxpayer may not object to the settled matters any further.

## **Tax board**

The tax board is an administrative tribunal created under the Tax Administration Act.

The tax board hears tax appeals involving tax in dispute that does not exceed ZAR

1 million. The taxpayer and the SARS must also agree that a matter is to be heard by the tax board. If the taxpayer or the SARS is not satisfied with the decision of the tax board, the taxpayer or the SARS may request that the matter be heard *de novo* by the tax court. This is not an appeal against the decision of the tax board, but a completely new trial. The sittings of the tax board are not public and the board's decisions are not published by the SARS. The decisions of the tax board are binding on the parties but have no precedent value.

## **Tax court**

The tax court is an administrative tribunal created under the Tax Administration Act. The tax court has jurisdiction over tax appeals lodged under section 103 of the Tax Administration Act and may hear interlocutory applications and procedural matters relating to objections and appeals.

The tax court consists of a judge of the high court, as well as an accountant member and a commercial member selected from a panel of members appointed by the President of the Republic of South Africa.

The tax court may also, in matters involving more than ZAR 50 million tax in dispute and with the approval of the judge-president of the jurisdiction within which the tax court sits, consist of three judges of the high court and the two members.

The judgments of the tax court must be published for general information but, if the sitting was not public, it must be in a form that does not reveal the taxpayer's identity.

A taxpayer or the SARS may appeal against the tax court's judgment to the full bench of the provincial division of the high court, or to the Supreme Court of Appeal (SCA) if the president of the tax court on request allows a direct appeal to the SCA.

An appeal heard by the full bench may be further appealed to the SCA.

The judgments of the tax court are not binding on other courts, but only between the parties. However, the judgments of the tax court are of persuasive value in other tax courts, the high courts and the SCA.



**d. Other actions:**

**High courts**

The high courts are spread throughout South Africa. They have jurisdiction over the defined provincial areas in which they are situated and over all persons residing or present in that area. These courts hear matters that are of such a serious nature that the lower courts would not be competent to make an appropriate judgment or to impose a penalty in that regard, as well as matters referred to them by law. Under section 133 of the Tax Administration Act, a taxpayer or the SARS may appeal against the tax court's judgment to the full bench of the high court, which has jurisdiction in the area in which the tax court sitting is held. The sittings of the high courts are public and its judgments are published for general information.

The judgments of the high court are binding on all lower courts and tribunals and of persuasive value in other high courts and higher courts, such as the SCA and the constitutional court.

**Supreme Court of Appeal**

The SCA is seated in Bloemfontein and is the highest court in South Africa, except for constitutional matters. It generally only deals with cases referred from the high court, but statutory provision is made in section 133 of the Tax Administration Act for direct access from the tax court.

The judgments of the SCA are binding on all lower courts and tribunals and, except for the constitutional court, no other court can overturn a decision of the SCA.

**Constitutional court**

The constitutional court is the highest court in all constitutional matters. It is the only court that may adjudicate disputes between organs of state in the national or provincial sphere of government concerning the constitutional status, powers or functions of any of those organs of state, or that may decide on the constitutionality of any amendment to the Constitution or any parliamentary or provincial bill.

The constitutional court makes the final decision on whether an Act of Parliament, a provincial act or the conduct of the president is constitutional. In the context of tax appeals, it has a limited jurisdiction to review an SCA judgment dealing with a tax appeal.

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## Switzerland

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

Thirty days from the date of the decision

### 2. What is the appealing procedure?

-The taxpayer files an objection with the cantonal (or sometimes municipal) tax administration (income tax) or with the Swiss Federal Tax Administration (withholding tax, stamp duties and VAT).

-Judicial procedures: the taxpayer appeals against the objection decision of the cantonal tax administration.

### 3. What is the average time for reaching a final national decision?

If the taxpayer appeals through every level in the hierarchy of the courts, the average appeal time can take up to 2-5 years, as not all cases are equally complex and most cases are not litigated at every level. However, if the case is more complex, it must be noted that the litigation can take more than 10 years.

### 4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?

**a. Start:** A case can be presented and accepted for a MAP while domestic remedies are still available. Most Swiss double tax treaties provide for a deadline of three years after the knowledge of a double taxation.

**b. Conduct of the proceedings:** National proceedings are independent from MAP proceedings. It is plausible that a national instance would agree, however, to stay the proceeding upon the request of a party.

**c. Completion of proceedings:** If a mutual agreement has been reached, the taxpayer is usually granted 30 days to agree to the mutual agreement. If the taxpayer agrees, they generally waive their right to appeal with respect to the points covered by the mutual agreement. The mutual agreement should be binding on the taxpayer and the tax authorities/judicial instances. If the national tax assessment has not become final yet, the mutual agreement reached should be considered in the respective national proceeding. If the national tax assessment has become final, the taxpayer should be able to claim a reopening of the national tax assessment, provided that respective deadlines are met.\

**d. Other actions:** There are a growing number of Swiss double tax treaties that provide for arbitration upon the request of the taxpayer if no mutual agreement is reached within a specific period. Most double tax treaties, however, exclude arbitration if a court has already decided on a case. Arbitration proceedings are very rare.

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## Turkey

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Thirty days from the assessment

If the taxpayer first applied for a settlement with the tax office and they could not reach a settlement, 15 days from the settlement meeting date

### **2. What is the appealing procedure?**

Settlement with the tax authority (optional)

Tax litigation consists of three instances: (i) judgment from the first-degree tax courts; (ii) first appeal before the regional administrative courts if the disputed amount is above TRY 7,000 (for 2020); and (iii) second appeal before the Supreme Court if the disputed amount is above TRY 176,000 (for 2020).

### **3. What is the average time for reaching a final national decision?**

Normally, the first-degree court process takes one year. The entire process (including first-degree court, first appeal and second appeal) takes 3-4 years.

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

- a. Start:** A case cannot be represented simultaneously before a MAP and judicial proceedings.
- b. Conduct of the proceedings:** If there is an ongoing judicial process, a MAP can still be an option if the taxpayer withdraws from its judicial process.
- c. Completion of proceedings:** A MAP is not available if there is a final court decision in Turkey. If a mutual agreement has not been reached, the taxpayer may pursue domestic remedies within the scope of legal deadlines.
- d. Other actions:** Arbitration is not available

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## United Kingdom

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

Thirty days from the date of the decision

### **2. What is the appealing procedure?**

#### **Direct tax**

- The taxpayer makes an appeal to HM Revenue and Customs ("HMRC").
- There is an optional HMRC review of HMRC's decision.
- Judicial procedures: the taxpayer discloses the appeal to the tribunal.

#### **VAT**

- The taxpayer makes an appeal to the tribunal or accepts an offer from HMRC to review the original decision.
- If the taxpayer accepts an offer of review, the taxpayer may make an appeal after the review process has concluded.

### 3. What is the average time for reaching a final national decision?

If the taxpayer appeals through every level in the hierarchy of the courts, the process can take 10-15 years on average. However, most disputes will not go through the entire court hierarchy, therefore, can be dealt with within a shorter timeframe of 2-5 years.

### 4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?

**a. Start:** A case can be presented and accepted for a MAP while domestic remedies are still available.

**b. Conduct of the proceedings:** National proceedings should be stayed until the end of the MAP.

**c. Completion of proceedings:** If a mutual agreement has been reached, the taxpayer may reject the agreement and pursue domestic remedies or accept the agreement and renounce the exercise of domestic legal remedies regarding the issues covered by the agreement.

**d. Other actions:** If the authorities cannot reach an agreement within two years from the date on which they were provided with all of the information necessary to make a decision, most double tax treaties contain a provision allowing a taxpayer to request arbitration of unresolved issues.

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## **1 - 3 years**

### **Australia**

**1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**



Generally, four years after the notice of assessment was given to the taxpayer or, in the case of amended assessments, the later of 60 days after the date the amended assessment was given to the taxpayer and four years after the date the notice of original assessment was given to the taxpayer. The Commissioner of Taxation ("**Commissioner**") can allow an objection to be lodged out of time.

## 2. What is the appealing procedure?

- **Objection:** If a taxpayer is dissatisfied with an assessment, it may object to it by lodging an objection with the Australian Taxation Office (ATO) in writing. The Commissioner may allow or disallow the objection in whole or in part.

- **Tribunal or judicial appeals:** If the taxpayer is dissatisfied with the Commissioner's objection decision, it may appeal to either the Administrative Appeals Tribunal (AAT) or the Federal Court of Australia ("**Federal Court**") for a review of the decision. If the taxpayer commences proceedings in the AAT, it has the right to appeal, on a question of law, to the Federal Court. Once the decision of the Federal Court is delivered, the taxpayer has limited rights of appeal on matters of law to the Full Federal Court. In certain circumstances, it may be granted special leave to appeal to the High Court of Australia from the decision of the Full Federal Court.

## 3. What is the average time for reaching a final national decision?

The time associated with the tax litigation process will depend on the complexity of the matter.

If the taxpayer appeals through every level, the average proceedings generally take approximately six months to one year at the initial objection stage, between one and two years at the AAT stage, and between one and two years at each of the court stages (including the appeal to the Full Federal Court).

**Judicial proceedings:** If complex factual and legal issues are involved, a matter at the Federal Court can take up to two and a half years from the commencement of the litigation to be resolved, bearing in mind the time required to gather relevant documents

and information, prepare any supporting affidavits, draft submissions, participate in mediation, conduct the hearing and obtain judgment. Then, even if a taxpayer is successful at first instance, the ATO may appeal to the Full Federal Court and then the High Court. If the taxpayer appeals through every level in the hierarchy of the courts, the judicial appeal process can take up to six years.

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** The time limit specified in the article dealing with mutual agreement procedure (MAP) in each of Australia's tax treaties varies. If the taxpayer is pursuing domestic remedies in either jurisdiction and is concerned about exceeding the time limits for presenting a MAP case, it may lodge a protective MAP request with the Australian competent authority.

**b. Conduct of the proceedings:** If the matter is subject to administrative or judicial review in an Australian court or tribunal, the Australian competent authority may choose to defer progressing the taxpayer's MAP request until a determination is made. The Australian competent authority will abide with any decision or order made by the AAT and the Federal Court. The Australian competent authority will seek to demonstrate to the other jurisdiction's competent authority that the adjustment, as considered in the decision or order, is consistent with the relevant tax treaty and that the other country should provide double taxation relief.

**c. Completion of proceedings:** The taxpayer will need to withdraw its objection in writing if: (i) the competent authorities agree to restore the taxpayer to its original tax position; or (ii) the competent authorities resolve the MAP request by wholly or partly maintaining the adjustment and the taxpayer agrees with this outcome.

If the taxpayer is dissatisfied with the competent authorities' agreement, it can continue to pursue its domestic remedies in Australia. In this circumstance, the ATO will finalize the taxpayer's MAP case without implementing the agreement that was reached by the competent authorities.

**d. Other actions:** Generally, if the competent authorities do not reach an agreement within two years (three years for certain tax treaties), the relevant tax treaty may contain a provision allowing a taxpayer to request arbitration of any unresolved issues.

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## China

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

Generally, for tax treatment decisions (e.g., imposition of taxes, imposition of late payment penalties and withholding of taxes), the taxpayer should pay taxes first and then it has 60 days to file an application for an administrative review after the tax authorities have issued a receipt for the payment of taxes or late payment interest. If the reviewing authority upholds the tax decision, the taxpayer can file a tax administrative litigation within 15 days. In the case of a dispute that does not involve a tax treatment decision (e.g., tax administrative penalty), the taxpayer has the option of applying for a judicial review directly within 15 days of the tax decision (instead of applying for an administrative review).

## 2. What is the appealing procedure?

Disputes involving tax treatment decisions must first be brought to the tax authorities for an administrative review before the taxpayer can instigate a judicial review. However, disputes involving other tax administrative decisions are not subject to this restriction and a taxpayer may choose to pursue either an administrative or a judicial review of the dispute.

In addition to seeking a judicial review of a tax treatment decision or other tax administrative decision, a taxpayer may initiate legal proceedings for a judicial review with a local people's court if the Administrative Review Office of the relevant tax authority does not make a final determination within the time limit prescribed or if the Administrative Review Office has rejected an application for an administrative review.

## 3. What is the average time for reaching a final national decision?

The time associated with the tax litigation process will depend on the complexity of the matter.

- **Administrative level:** The Administrative Review Office has, upon receipt of an application for an administrative review, 60 days to reach a decision.

- **Judicial appeal level:** The Administrative Proceedings Law provides that the court will complete its trial on the case within six months after the court has accepted the case. If a party applies for an appeal of the trial judgment, the appellate court is supposed to finish the appeal review within three months. In special cases, the trial period or the appeal period may be prolonged upon the approval of the higher court.

## 4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?

- a. **Start:** Under most of China's tax treaties, there is a provision for review and agreement between the competent authorities of the treaty jurisdictions. Under such provision, if a taxpayer considers that a tax imposition is not in accordance with the tax treaty, irrespective of the remedies provided by domestic law, the

taxpayer may present the case to the competent authority of the jurisdiction of which the taxpayer is a resident. The taxpayer must present the case within three years from the first notification of the imposition of the tax action.

**b. Conduct of the proceedings:** The mutual agreement procedure and court processes will run parallel to each other.

**c. Completion of proceedings:** If a mutual agreement is reached, the Chinese tax authorities will revise the tax decision or make a new tax decision based on the agreement. The taxpayer still has the right to reject the revised or new tax decision and pursue domestic remedies.

**d. Other actions:** China does not provide arbitration proceedings for double tax treaty matters.

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## Germany

**1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

One month from the date of receipt of the assessment notice

## 2. What is the appealing procedure?

**-First stage:** This is the compulsory administrative level. Direct access to judicial procedures is only available if the tax office approves it and specific requirements are met.

**-Second stage:** judicial procedures:

This is mainly at the state fiscal court. The right to appeal a decision of the state fiscal court is very limited.

Judicial procedures are to be initiated one month from the date of receipt of the assessment notice.

## 3. What is the average time for reaching a final national decision?

If the taxpayer appeals through every level, the average proceedings should take 2-3 years at the administrative level and two years each at the state fiscal court and at the federal fiscal court.

## 4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?

**a. Start:** A case can be presented to the Federal Central Tax Office or the local tax office while domestic remedies are still available or pending. It is a strategic decision to identify the right point in time to start the MAP.

**b. Conduct of the proceedings:** If national proceedings are pending and a MAP is started, it is necessary that either the tax office (if an administrative proceeding is pending) or the court (if a judicial proceeding is pending) grant consent to suspend the national proceedings upon the application of the appellant.

**c. Completion of proceedings:** The decision of the MAP will be implemented, provided that the appellant accepts the decision and waives its right to remedy (including national proceedings that are pending or would be possible).

**d. Other actions:** If the MAP failed, arbitration proceedings could be possible, provided that the double tax treaty included a respective stipulation or the EU Arbitration Convention is applied.

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## Indonesia

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

The deadline to submit the objection petition (i.e., the first stage of the appeal process) is three months after the delivery date of the tax assessment letter. The "delivery date" is defined as the date of the postal delivery stamp, the date of facsimile or the date when the taxpayer receives the tax assessment letter in person if the tax auditor delivers the tax assessment letter in person to the taxpayer.

## 2. What is the appealing procedure?

A taxpayer that is not satisfied with an assessment made by the local tax office may consider the following legal recourses:

- **Stage 1 — Submit an objection petition to the Directorate General of Taxation (DGT):** Within three months after the delivery date of the tax assessment letter, the taxpayer is entitled to object to a tax assessment letter by submitting an objection petition addressed to the head of the Regional Tax Office.
- **Stage 2 — Submit an appeal petition to the tax court:** If the DGT rejects the objection petition and the taxpayer wishes to appeal against the DGT's decision, it must submit an appeal petition in writing to the tax court within three months after receiving the decision.
- **Stage 3 — Submit a request for reconsideration to the Supreme Court:** The tax court's decisions are final and binding. However, under certain specific circumstances, the taxpayer may pursue an extraordinary legal proceeding and challenge the tax court's decision by submitting a request for reconsideration petition (also known as a civil review petition) in writing to the Supreme Court, which is the ultimate court under Indonesia's legal system.

## 3. What is the average time for reaching a final national decision?

The time associated with the tax litigation process will depend on the complexity of the matter.

- **Objection stage:** The DGT has to issue a decision within 12 months. If the DGT misses the deadline, the objection petition is deemed granted.
- **Appeal stage:** The tax court is required to render a decision on the appeal within 12 months from the date of receipt of the appeal petition (with a maximum extension of three months).
- **Request for reconsideration stage:** The application must be filed within three months after the tax court's decision is delivered. The Supreme Court is required



to render a decision on the request for reconsideration within six months after receiving the application. However, in practice, the process can take up to one or two years.

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** After the tax authority has conducted a tax audit and issued a tax assessment letter, the taxpayer can start its dispute resolution by filing an objection petition or by starting a mutual agreement procedure (MAP). The prevailing regulation stipulates that the taxpayer can pursue both an MAP and the objection process at the same time; whichever is completed earlier, the decision will be prevailing.

**b. Conduct of the proceedings:** The DGT has to issue a decision within 12 months. If the taxpayer disagrees with the objection decision, the taxpayer is allowed to file an appeal petition to the tax court.

The MAP can be processed simultaneously with the appeal process.

**c. Completion of proceedings:** Generally, the tax court decision is considered final and binding for both the taxpayer and the tax authorities. If the taxpayer simultaneously files an MAP, whichever (either the MAP or the appeal process) is completed earlier, the decision will be prevailing.

**d. Other actions:** If the taxpayer disagrees with the tax court's verdict that is issued prior to the conclusion of the MAP process, the taxpayer may still pursue an extraordinary legal proceeding under certain specific circumstances by submitting a request for reconsideration in writing to the Supreme Court.

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## Japan

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

A reinvestigation by the tax office concerned or a review by the National Tax Tribunal must be requested within three months after the taxpayer receives a notice of assessment.

### **2. What is the appealing procedure?**

If a taxpayer receives a notice of assessment, the taxpayer can either seek reinvestigation by the tax office concerned or directly seek review by the National Tax Tribunal.

Where the taxpayer requests a reinvestigation by the tax office concerned but the issue is not resolved, the taxpayer may request a further review by the National Tax Tribunal.

(If the taxpayer seeks a further review by the National Tax Tribunal, the request must be made within one month after the taxpayer receives the tax office's decision.)

A taxpayer who objects to the decision of the National Tax Tribunal may bring the case to a District Court. The tax office concerned cannot, however, bring a suit even if the tax office concerned disagrees with the National Tax Tribunal's decision.

### **3. What is the average time for reaching a final national decision?**

The time it takes to conclude most tax litigation matters in Japan has decreased significantly in recent years, with District Court proceedings generally taking around one-and-a-half to three years. Administrative appeals may be less time-consuming. On average, a reinvestigation by the tax office takes around three months and a review by the National Tax Tribunal takes around one year (in the case of a transfer pricing matter, it may take two to three years).

### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** A taxpayer can apply for a mutual agreement procedure (MAP) and a domestic appeal simultaneously. In practice, a taxpayer usually applies for a MAP within three months after receiving a notice of assessment (i.e., similar to a domestic appeal).

**b. Conduct of the proceedings:** In such cases, however, the taxpayer will usually request a suspension of the domestic appeal until the conclusion of the MAP. This allows the taxpayer to retain the right to a domestic appeal beyond the three-month deadline that begins to run when the taxpayer receives notification of an assessment from the Japanese Tax Authority. The taxpayer may withdraw the domestic appeal application if the MAP is successful or restart the domestic appeal if it is not.

**c. Completion of proceedings:** The taxpayer may withdraw the domestic appeal application if the MAP is successful or restart the domestic appeal if it is not. Such

an approach is taken for two practical reasons:

- MAPs offer a higher probability of resolving disputes than domestic appeals and they can eliminate double taxation; and
- A final judgement in a domestic appeal takes away the flexibility that the competent authority officers would otherwise have in MAP negotiations.

**d. Other actions:** Since the adoption of the arbitration clause in the OECD Model Tax Convention in 2008, Japan has followed the practice of negotiating for the inclusion of the arbitration clause in its tax treaties (typically, in Japan's tax treaties containing the arbitration clause, a taxpayer may request for the arbitration of tax issues that are not solved within two years after the initiation of a MAP request).

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## Mexico

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

At the administrative and administrative tax court levels, 30 business days as of the date of the notification of the tax assessment.

### 2. What is the appeals procedure?

Taxpayers are empowered to challenge the tax assessments issued by the tax authorities either through: (i) the filing of the administrative appeal before SAT's Legal Section; or (ii) the filing of the nullity petition before the Federal Court of Fiscal and Administrative Justice or Tax Court. If the administrative appeal is filed and unfavorably resolved later on, the taxpayer would be allowed to challenge it before the Tax Court. Conversely, if the taxpayer decides to challenge the tax assessment first through the filing of the nullity petition before the Tax Court, the unfavorable outcome, if any, could not be challenged through the filing of the administrative appeal. Such an outcome would be contested through the filing of an "amparo" petition before the Collegiate Circuit Courts.

- **Administrative appeal** —The administrative appeal must be filed within the following 30 business days as of the date the tax assessment is notified to the taxpayer; this remedy is to be filed before SAT's Legal Section. By filing the administrative appeal, taxpayers are allowed to provide information different or in addition to the one filed during the audit process. This possibility is not available within the context of the filing of the nullity petition before the Tax Court. In most cases, where the possibility exists to provide additional information to that presented during the audit process, it is advisable to file the administrative appeal instead

of the nullity petition as this election will permit the case a better structure and argument and even offer evidence that was not fully structured or filed during the audit process. This possibility will be available to the taxpayer during the first 30 business days as of the date of filing of the administrative appeal. Taxpayers filing the administrative appeal will be relieved from securing the tax interest through a bond or other means during the time the administrative appeal lasts. If the ruling of the administrative appeal is totally or partially unfavorable, taxpayers will be entitled to challenge the resolution through the filing of a nullity petition before the Tax Court. The administrative appeals process may last from 10 to 12 months as of the date of filing. In practice, in most cases, administrative appeal decisions confirm the outcome of the tax audit. However, it would be advisable to file first an administrative appeal instead of a nullity petition in cases where additional evidence will be filed or in cases where there is a conviction that a favorable decision can be obtained, either through direct discussions with SAT or through the assistance of the Mexican Tax Ombudsman ("Prodecon") upon the filing of a claim whereby Prodecon will intercede on behalf of the taxpayers in the discussions with SAT.

- **Administrative appeal on substantive matters** — Alternatively, the possibility exists for taxpayers to resort to this type of appeal instead of the regular one when the taxpayer's position is strong enough on the substance for the matter to be decided in its favor. This is an expeditious and efficient process and is not advisable when the tax position assumed by the taxpayer is not strong enough.

- **The nullity petition.**

See further below.

### **3. What is the average time for reaching a final national decision?**

The administrative appeal may last from 10 to 12 months whereas the nullity petition process may last from one and a half to two and a half years.

#### **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

**a. Start:** taxpayers are entitled to challenge tax assessments either through the filing of the administrative appeal or through the filing of the nullity petition. When the resolution to the administrative appeal does not satisfy the legal interest of the taxpayer, the latter could dispute it through the filing of the nullity petition, in which case the taxpayer will not be able to include concepts not raised in the administrative appeal. As such, taxpayers are entitled to file the nullity petition before the tax court within the following 30 business days as of the date the tax assessment determined upon the closing of the audit or the date when the resolution of the administrative appeal is notified.

Directly filing the nullity petition is advisable only in cases where all the evidence needed has been properly filed during the audit and a decision has been made that it is not worthy to challenge this first through the filing of the administrative appeal as no possibility would exist to overturn the outcome of the audit. If a decision has been made to file the nullity petition, taxpayers will not be able to provide additional or different evidence than the one filed during the audit process. Taxpayers will be required to secure the tax interest through a bond or any other allowed mechanism during the time the process lasts. The most common alternative to secure the tax interest is the bond, except when the amounts at stake are quite relevant; it is a costly way of securing the tax interest as bonding companies charge fees close to 2% over the amount covered. Although these fees are deductible, still they represent an important cost for taxpayers. The bond covers the tax interest, that is, the principal amount, inflationary adjustments, surcharges and penalties and needs to be renewed on a yearly basis. The Mexican Tax Court is independent from SAT and impartial decisions are theoretically made. We have noticed however that in some cases the tax courts are unjustifiably ruling in favor of SAT's interest. In practice, nullity petition processes last from one and a half to two and a half years.

##### **a.1 Nullity petition on substantive matters.**

Alternatively, the possibility exists for taxpayers to resort to this type of remedy instead

of the regular one when the taxpayer's position is strong enough on the substance for the matter to be decided in its favor. This is an expeditious and efficient process and is not advisable when the tax position assumed by the taxpayer is not strong enough.

**b. Conduct of the proceedings:** If the decision handed down is totally or partially unfavorable, taxpayers would be entitled to challenge the resolution through the filing of the "amparo" petition before the Collegiate Circuit Courts.

**c. Completion of proceedings:** The judicial stage concludes with the resolution handed down by the Circuit Court.

**d. Other actions:** In few cases, an appeal before the resolution issued by the Circuit Court can be filed before the Supreme Court of Justice and only when relevant constitutional aspects are to be decided.

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## Russia

### 1. When is the first appeal deadline following disagreement of the assessment



**made by the tax authorities?**

One month from the date of receipt of the decision by the taxpayer.

## **2. What is the appeals procedure?**

- taxpayer makes an administrative appeal to the higher tax authority;
- judicial procedures.

## **3. What is the average time for reaching a final national decision?**

Most disputes are solved within 1-2 years. However, the process may take longer, especially if the Supreme Court accepts the case for its second cassation and/or supervisory review.

## **4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

- a. Start:** A case can be presented and accepted for MAP while domestic remedies are still available.
- b. Conduct of the proceedings:** Russian legislation does not provide for the necessity of staying national proceedings until the end of MAP.
- c. Completion of proceedings:** If a mutual agreement has been reached on the terms beneficial to the taxpayer, the taxpayer may apply to the tax authorities to return the excessively paid taxes.
- d. Other actions:** Arbitration is not common for double tax treaties concluded by Russia.

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## Taiwan

### **1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?**

A taxpayer may request a redetermination by filing a petition with the collecting authority in the prescribed form stating the relevant grounds and providing documentary evidence. A petition for redetermination must be made within 30 days after the expiration of the payment period specified in the tax assessment notification.

### **2. What is the appealing procedure?**

Taiwan adopts a four-step process for tax dispute resolution. Upon receipt of the assessment notice, a taxpayer can file an application for redetermination with the competent tax authority. If the result of the redetermination is still not acceptable, a taxpayer will have to file an administrative appeal to the Ministry of Finance. If the appeal is rejected, the taxpayer will have to seek a verdict from the High Administrative Court. The Supreme Administrative Court is the final resort for the resolution of tax disputes.

### **3. What is the average time for reaching a final national decision?**

Tax litigation cases in Taiwan normally take one to three years, or even longer, depending on their complexity, to complete.

**4. How do the national tax dispute resolution proceedings interact with the international tax dispute resolution proceedings?**

- a. Start:** A case can be presented to the Taiwan tax office while domestic remedies are still processing.
- b. Conduct of the proceedings:** Refer to contact
- c. Completion of proceedings:** Refer to contact
- d. Other actions:** Refer to contact

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**United Arab Emirates**

**1. When is the first appeal deadline following disagreement of the assessment**

**made by the tax authorities?**

The taxpayer should submit an 'Application for Reconsideration' directly to the Federal Tax Authority (FTA) within 20 business days from being notified of the decision (the date stated on the FTA decision (assessment) notification).

## **2. What is the appeals procedure?**

### **Appeal procedure before Reconsideration Committee and Tax Dispute Resolution Committee**

#### **• - Reconsideration Committee**

The taxpayer may choose to submit an 'Application for Reconsideration' directly to the FTA, provided that they:

- - submit it within 20 business days from being notified of the decision — the date stated on the FTA decision notification;
- - give details of the reasons why the taxpayer believes the decision should be reconsidered, supported by legislative references and any relevant FTA publications; and
- - submit it in Arabic — English will not be accepted — via the FTA public website

If the Application for Reconsideration fulfils all of the above requirements, the taxpayer should be notified of the FTA's decision within 25 business days from receipt of the application.

#### **• - Tax Disputes Resolution Committee (TDRC)**

If the Reconsideration Committee's decision is not satisfactory, the taxpayer may object further to the relevant TDRC.

The conditions for submitting an objection to the TDRC against a decision by the FTA are as follows:

1. All tax and administrative penalties must be paid;

2. An Application for Reconsideration must be filed; and
3. The objection must be filed within 20 business days.

The taxpayer must submit to the relevant TDRC all of the following documentation:

- - a completed TDRC Objection Form (English or Arabic);
- - a petition outlining the detailed grounds of the objection (Arabic); and
- - all supporting documents

The relevant TDRC should notify the taxpayer of its decision within 25 business days. The maximum extended period is 45 business days.

If the disputed tax plus penalties is AED 100,000 or less, the TDRC decision is final and it cannot be challenged further before federal courts.

If the disputed tax plus penalties exceeds AED 100,000, the TDRC decision may be challenged before the Federal Court of First Instance. An appeal must be submitted to the Federal Court of First Instance within 20 business days of the date of the TDRC decision.

### **Appeal procedure before federal courts**

- - **Federal courts**

The competent court to which challenges against TDRC decisions can be made by either the taxpayer or the FTA is the Federal Court of First Instance, which will decide on TDRC tax challenges.

Further challenges may be sought by both the FTA and the taxpayer before the Court of Appeal and Federal Supreme Court.

The decision of the Supreme Court is deemed final and enforceable.

### **3. What is the average time for reaching a final national decision?**

The appeal procedure/process usually takes between 12 to 24 months.

### **4. How do the national tax dispute resolution proceedings interact with the**

## international tax dispute resolution proceedings?

- a. **Start:** Please see BM UAE note.
- b. **Conduct of the proceedings:** Please see BM UAE note.
- c. **Completion of proceedings:** Please see BM UAE note.
- d. **Other actions:** Please see BM UAE note.

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***Disclaimer: This tool is for informational purposes only and is not tax advice.  
Please contact the individual(s) listed for more information.***

## Vietnam

### 1. When is the first appeal deadline following disagreement of the assessment made by the tax authorities?

Taxpayers and/or any persons affected by a decision issued by the tax authorities have the right to file an administrative appeal before the appropriate tax authority. The appeal petition must be filed within 90 days from the date of receiving the decision or of acquiring knowledge of the decision.

Alternatively, taxpayers can file a petition directly with the administrative court without

pursuing administrative appeals. A taxpayer will have the right to file a petition with the competent administrative court to settle the appeal on tax issues within one year from the date of receipt of or the awareness of a decision issued by the tax offices.

## **2. What is the appealing procedure?**

The resolution of tax disputes in Vietnam takes place in two forums: administrative appeal to an administrative authority and adjudication by the administrative court.

There are two steps in the administrative appeal process. The first appeal is made to the same tax authority that issues the initial assessment. If the response to the first appeal is unfavorable, taxpayers have the option of either continuing with the second administrative appeal to a tax authority of a higher level or bringing the case to the administrative court for resolution. If the response to the second administrative appeal is still unfavorable, taxpayers remain free to bring the case to the administrative court.

Alternatively, taxpayers are not required to pursue administrative appeals and, instead, may bring their dispute directly to the administrative court.

A taxpayer who does not agree with the first instance judgment of the administrative court can appeal further to the appellate court for a final and binding decision.

## **3. What is the average time for reaching a final national decision?**

Generally, it takes 1.5-2.5 months from filing the first appeal petition to obtain the first appeal settlement, and two to three months from filing the second appeal petition to obtain the second appeal settlement.

Generally, it takes four to six months from filing a case to the administrative court to obtain the first instance judgment, and a further three months if the case is later brought to the appellate court for a final and binding decision.

In practice, it may take much longer than the timeline stipulated under the law to resolve tax disputes — through either administrative appeal or court litigation.

## **4. How do the national tax dispute resolution proceedings interact with the**

## **international tax dispute resolution proceedings?**

**a. Start:** Taxpayers need to choose either the mutual agreement procedure (MAP) or the local dispute resolution channels. The time limit for an MAP case is three years from the date of the tax assessment.

**b. Conduct of the proceedings:** Once national proceedings have been initiated and they are pending, an MAP cannot be initiated.

**c. Completion of proceedings:** If a mutual agreement is reached and the taxpayer rejects the agreement, the taxpayer should be able to pursue domestic remedies provided that the statute of limitations has not expired.

**d. Other actions:** N/A

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