VITARA

Virtual Training
to Advance Revenue
Administration

REFERENCE GUIDE

INSTITUTIONAL GOVERNANCE

Inter-American Center of Tax Administrations
International Monetary Fund
Intra-European Organisation of Tax Administrations
Organisation for Economic Co-operation and Development

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Preamble

A series of Virtual Training to Advance Revenue Administration (VITARA) reference guides have been developed based on the content of the VITARA online modules. Readers are encouraged to enroll in the online modules. For more information on the schedule to register for the VITARA courses, scan the QR code below.

This reference guide focuses on how tax administrations can:

- Be established within the larger structures of governments
- Manage their legal powers to balance taxpayers' rights and obligations
- Earn community confidence, support operational integrity, and minimize corruption
- Establish internal organizational structures and processes that will enable transparent and effective operations

This guide is divided into five chapters. Chapters 1, 2, and 3 highlight what is meant by institutional governance, the legal status, mandate, and external oversight of tax administrations, complaint handling, and prevention of corruption vulnerabilities. Chapter 4 focuses on the internal governance structures and processes that define how a tax administration is managed. Chapter 5 provides a short summary of the key messages in this guide.

CHAPTER 1.

Introduction

This chapter introduces institutional governance and explains why it is an extremely important aspect of a tax administration's success. Institutional governance is made up of two distinct areas:

- **The external dimension:** This is composed of the elements of a tax administration's governance that arise from outside the tax administration, including the role of supervising ministries, the oversight of the tax administration by the legislature, the roles of auditors general and taxpayer ombudsmen, and, sometimes, an appointed board of management.
- **The internal dimension or internal governance:** This is established inside the tax administration such as management approaches, internal systems and processes, and organizational considerations.

What Is Institutional Governance?

Institutional governance is a set of approaches to properly administer the tax system that comes from outside and inside the tax administration. **External governance** includes laws and regulations that establish the legal requirements for collecting taxes (and sometimes also administering other programs). These laws and regulations will include the expected responsibilities and the expected contribution of the head of the tax administration.

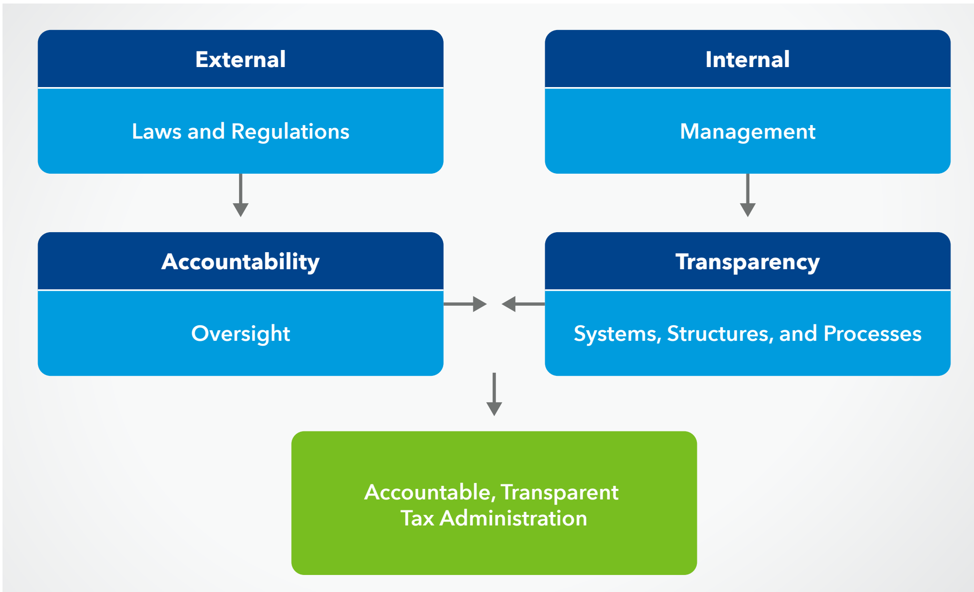
The tax administration is accountable to the public through those agencies that have oversight responsibilities, such as the legislature, or to supervising bodies such as Ministries of Finance and/or boards of directors. There are other agencies, such as an auditor general or a taxpayer ombudsman, that provide oversight of a tax administration.

Internal governance is usually established within the tax administration by the head of the organization or the head of the tax administration and the executive team. It addresses organizational design, systems and processes, committee structures, meetings and performance reporting, and any matters necessary to ensure effective management of the tax administration.

For real accountability, a tax administration must operate showing transparency regarding how it conducts its work and its results. Without transparency, it is exceedingly difficult for accountability mechanisms, such as oversight by a legislature or complaint handling by a taxpayer ombudsman, to perform their roles effectively. Transparency and accountability go hand in hand, and both elements must be present for effective institutional governance.

All these elements work together to support the effectiveness of the tax administration. Figure 1.1 illustrates the various dimensions of institutional governance of a tax administration.

Figure 1.1. Understanding Institutional Governance in Tax Administration



Taxpayers can have a limited overall understanding of how their government operates, but it is often common for taxpayers to deal directly with the tax administration. The manner of these dealings may be an important influencer on how citizens feel about their government.

A tax administration should be open to scrutiny and to hearing the concerns of the government, business, and the wider community. It should be willing to act in response to the concerns that these groups raise, which will help to maintain public trust in the tax system. When there is a high level of trust, there is a greater likelihood that taxes will be willingly paid. Conversely, when there is less trust and lower voluntary tax compliance, a tax administration must make greater effort to collect revenue, which adds costs for both government and taxpayers.

While good governance is very important, it is not always easily established and maintained. Listed below are some of the vulnerabilities that can impair good governance in a tax administration:

- Unclear tax laws may make it difficult for both taxpayers and tax administrations to operate fairly and efficiently.
- Inconsistencies among tax types and in the methods to make payments, collect debts, or dispute decisions will also make the tax system less efficient for both taxpayers and the tax administration.
- Without strong internal controls on how taxpayer information is stored and who has access to it, the tax administration will be less efficient, and taxpayer information may be compromised.
- Human resource processes for hiring and promotions should be merit based to avoid favoritism and nepotism.
- Strong guidance and supervisory oversight are important when establishing audit assessments, penalties, and fines to avoid excessive discretion and consequent corruption.
- Tax administrations should have clear, well-communicated codes of employee conduct to support ethical behavior by employees.

CHAPTER 2.

Institutional Settings of the Tax Administration

This chapter describes the characteristics of a tax administration's institutional context or settings. Tax administrations carry out activities that are authorized by legislation. The extent of a tax administration's independence and its oversight by other agencies reflect its legal form.

The Legal Form and Mandate of Tax Administration

As shown in Figure 2.1, tax administrations may take various forms including:

- **Administrative units within ministries:** An administrative unit is within the hierarchy of the ministry, such as a division or a directorate. It is not separated from the ministry.
- **Departmental agencies:** A departmental agency is an organization that is a "hybrid" between a ministry and a separate public entity. It is a more autonomous organizational unit than an administrative unit, but it remains part of the ministry. It is often established to deliver a specific function involving the implementation of policy or managing a service (e.g., collection of taxes, payment of pensions, or managing hospitals or prisons).
- **Public entities:** Unlike administrative units and departmental agencies, public entities may have a separate legal personality (a juridical person). This means that they have a distinct identity under law, similar to a corporation. A specific law is needed to establish a tax administration as a public entity, with a legal personality, to separate it from other government rules.

Figure 2.1. Tax Administration Legal Forms

	Departmental Entities		Non-departmental Entities
Form	**Administrative Unit (e.g., Directorate in the Ministry)**	**Agency**	**Public Entities**
Legal Status	No separate legal personality	Generally, no separate legal personality	May have own legal personality
Who Is Accountable?	The minister is accountable to the parliament.	The agency head may have a performance agreement with the minister who is accountable to the parliament for the tax system. The minister neither has a role nor is accountable for the day-to-day operational decisions relating to an individual's tax affairs.	The head of the tax administration reports to the board, and the board reports to the minister. The minister reports to the parliament. The board and minister are not accountable for operational decisions relating to the affairs of a taxpayer.

The difference between legal forms can be difficult to determine and depends on a country's domestic laws. The legal form of the tax administration usually reflects a country's customary approaches to government mechanisms. To change the legal form is a matter for the minister of finance and the government and not for the tax administration alone. The legal form often has implications for the level of autonomy and delegated decision-making available to the tax administration.

When deciding the most appropriate legal form for a tax administration, several factors need to be considered such as:

- **Size of the tax administration:** When the tax administration is small, it is more commonly established either as a single delivery unit or as multiple delivery units (e.g., directorates), within the ministry, but there are many exceptions.
- **Delegations:** Where formal government-wide delegation is not practiced, it is less feasible to remove tax administration from a government department.
- **Public confidence:** Tax administration decisions should be reinforced by separating them from direct political control.
- **Political sensitivity:** Because the activities related to tax administration are often politically sensitive, it is appropriate to maintain some ministerial accountability for the overall system of tax administration, but without allowing political influence on any individual's or legal person's tax affairs.

Mandate

Mandates describe what the tax administration will do and its scope of responsibility. The mandate of a tax administration describes what taxes and other responsibilities the tax administration must administer and how it must report on its performance. The mandate is sometimes defined as the description of the *core business* of the tax administration.

Mandates can be distinguished from statements of *how* the administration performs the responsibilities that are given to it. For example, "We aim to make it easier for the community to maximize the level of voluntary tax compliance" is a statement that describes how the tax system will be administered. These "how" statements are in the statements of mission, vision, and strategic planning documents of the tax administration.

A unified tax administration is commonly mandated or authorized to administer all national-level taxes at the central government level. However, not so long ago, it was more common for a central government to have multiple tax administrations. It is now widely recognized that the administration of *all* major national taxes under a single organization can provide clear benefits to the government and taxpayers (see Figure 2.2). This is because a unified tax administration allows for coordinated approaches to tax collection at a lower cost for both the tax administration and taxpayers. Importantly, under a single administration, an *integrated* view of the taxpayers' compliance across different tax obligations is easier. These advantages became clearer to countries as they introduced the value-added tax (VAT). For example, tax administrations could compare information that is provided more frequently under the VAT with information in income tax declarations.

Figure 2.2. Advantages of a Unified Tax Administration

When tax administration is unified:

There is a holistic view of a taxpayer's compliance
Unified administrations have a complete view of compliance risks across the core obligations, for example, where there is a failure to report accurately as well as a failure to pay a tax assessment. A complete view allows a tailored response to noncompliance where the full circumstances of the taxpayer are understood.

Convenience for taxpayers is enhanced
Unified administrations can coordinate their actions; for example, a single visit to a business can follow up on a number of compliance obligations. A one-stop service to a taxpayer is enabled, which provides for simplification and a reduced cost of compliance.

Accountability is clear
There is a single head of the tax administration who is responsible and accountable for managing compliance across all obligations in the tax system.

Tax Administration Governance Models

Most tax administrations are departmental entities within a government ministry and do not have a separate legal personality from the government. The preferred mandate for a country's tax administration is a unified administration covering all major national taxes.

The governance model for a tax administration is the structural framework, including its reporting requirements, that describes its responsibilities and the subsequent accountabilities. Whereas the mandate describes the scope of taxes covered by the tax administration, the governance model describes how the tax administration will be structured and how its responsibilities will be exercised. Figure 2.3 presents the common governance models.

Figure 2.3. Common Governance Models

Single Directorate of the Ministry

Multiple Directorates of the Ministry

Semiautonomous Agency Reporting to the Minister

Semiautonomous Agency with Advisory Board

Revenue Authority with Decision-Making Board

Single Directorate of the Ministry

- Powers for tax administration are vested in the minister and may then be delegated to a single manager ("director") who may subdelegate. The director of the tax administration reports to the minister, and this reporting may be through the administrative head of the ministry.

Multiple Directorates of the Ministry

- Powers for tax administration are vested in the minister who may delegate to multiple directorate heads. Exceptionally, there can be a single head responsible for multiple directorates. The head of the tax administration reports to the minister, and this reporting may be through the administrative head of the ministry.

Semiautonomuous Agency Reporting to Minister

- A head of agency is appointed by the minister. Powers for tax administration are attached to the head of the agency. There can be a performance- or service-level agreement between the head of the agency and the minister. The head of the tax administration will often report directly to the minister.

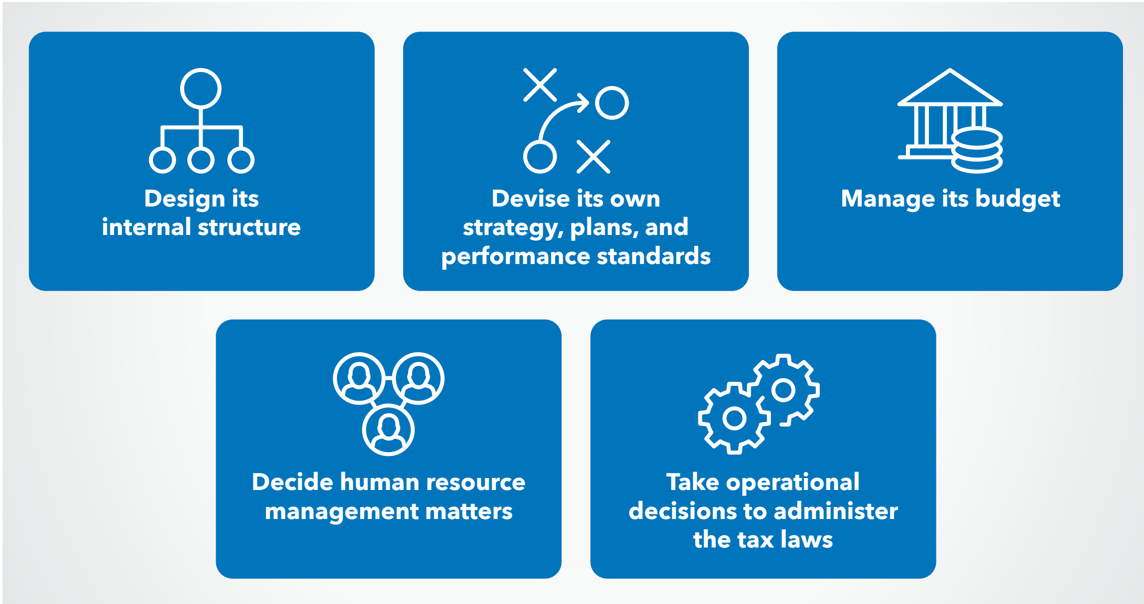
There is no single best governance model that applies everywhere. The type of model used depends on various factors, including the level of development of a country's public administration and regional influences. More complex governance models have been associated with greater autonomy for tax administration. This is often true, but there are exceptions. Perhaps this underlines that, ultimately, the choice of a governance model reflects a government's preferences.

Where Should Tax Powers Lie in a Tax Administration?

Autonomy arises from the general powers that have been granted to the tax administration to manage its core and supporting functions effectively without requiring external approvals.

Figure 2.4 introduces some examples of areas where autonomy is commonly seen among tax administrations.

Figure 2.4. Areas of Autonomy for a Tax Administration



Areas of autonomy commonly include:

- **Design its internal structure:** Able to make decisions on the internal shape of the organization (extends from divisions and departments down to internal job designs)
- **Devise its own strategy, plans, and performance standards:** Able to make decisions regarding strategic and operational plans and performance standards
- **Manage its budget:** Able to make decisions in managing its capital and operating budgets
- **Decide human resource management matters:** Able to make decisions about the appropriate mix of staff to meet workloads, skill and knowledge requirements for jobs, grading and classification of staff positions, determining remuneration levels, staff development, training, recruitment, promotion, and disciplinary matters
- **Take operational decisions to administer the tax laws:** Able to make day-to-day decisions with respect to taxpayers' affairs (covers all tasks with respect to registration, filing, payment, and correct reporting of taxes, the enforcement of tax laws, and the authority to interpret them, subject to review by judicial bodies)

Some of these powers are often shared with other parts of the government, such as appointments to very senior positions, establishing salary and wage rates, and procurements valued at over a set amount. See Figure 2.5 for more details.

It is generally accepted that operational decisions that affect an individual's tax affairs should be made within the tax administration. If some of these powers are shared with boards, or with other organizations, or are subject to an intervention by others (such as political leaders), it can make the tax administration vulnerable to improper external influences. In some countries, a specific power may be reserved for only a minister to perform, such as providing relief from a tax debt that exceeds certain threshold.

Figure 2.5. A Framework for Operational Autonomy

Ministers and Political Leadership
• May give strategic guidelines for implementing government policy • May exercise specific approvals, for example, write-off of tax debts in prescribed circumstances • No access to individual taxpayer's information and no interference in the affairs of any taxpayer

Boards
• May approve strategy documents and plans • Have no role in an individual's tax affairs • Do not have access to individual taxpayer's information

Heads of Tax Administration
• Have responsibility for operational tax matters and the compliance obligations of all taxpayers • Have power over individual case handling and tax law interpretation • Maintain strict confidentiality of taxpayer information

There is no single standard for describing when a tax administration's overall autonomy is "sufficient." There are clear standards, however, for establishing a tax administration with independence from political direction. The independence available to the tax administration should not act as an obstacle for realizing key government outcomes. Autonomy should not prevent the cooperation that is necessary between the tax administration and the responsible ministry.

Autonomy does not mean that the difficulties in applying tax laws and managing a tax system are resolved. It does, however, allow more flexibility and greater adaptability in the use of a tax administration's resources, and it promotes professionalism among staff and allows the tax administration to be more responsive and efficient.

Balancing Rights and Obligations

This section addresses how to achieve a balance between the rights of taxpayers and the powers of the tax administration. Figure 2.6 presents four approaches to tax administration that affect the rights and obligations of taxpayers.

Figure 2.6. Balancing Rights and Obligations

Taxes can be administered on either an administrative assessment basis or a self-assessment basis. A key difference between these two approaches is that self-assessment allows less intrusion by tax administration officials in the affairs of compliant taxpayers. Figure 2.7 compares administrative assessment and self-assessment approaches. In the case of self-assessment, there is an emphasis on risk-based verification rather than blanket approaches to verify all declarations and on simplified filing procedures with less documentation. Self-assessment is underpinned by more trusting relationships between tax officials and taxpayers.

Figure 2.7. Comparing Administrative Assessment and Self-Assessment

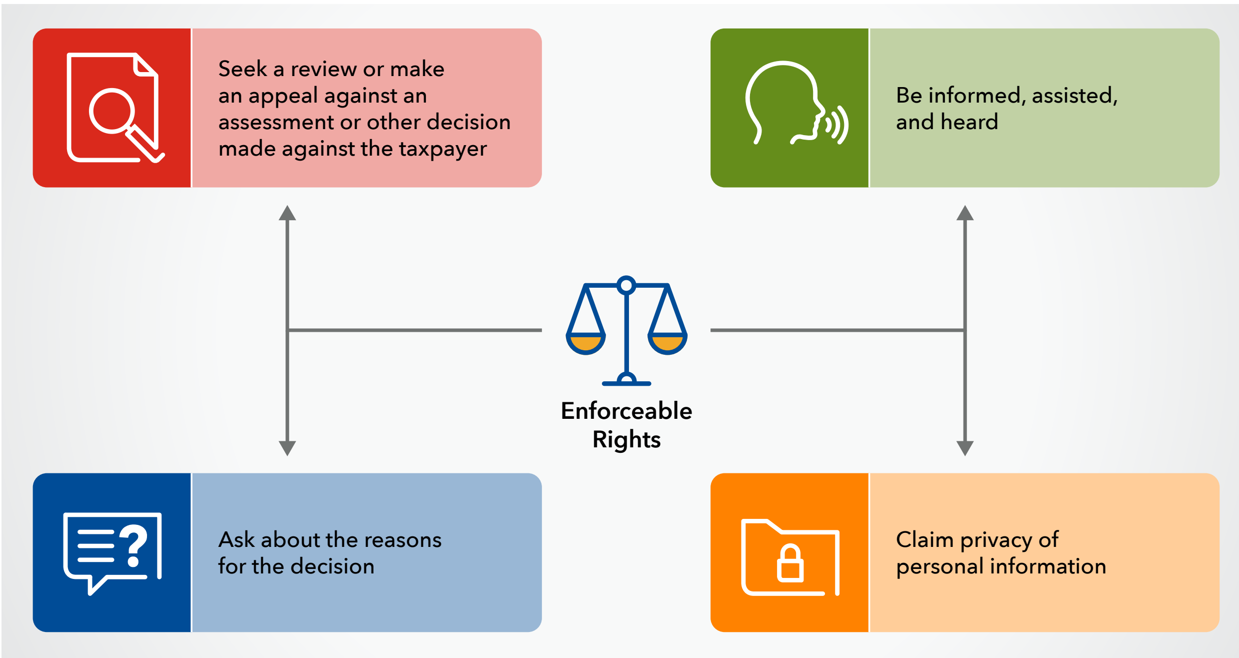
Administrative Assessment	Self-Assessment
• Significant intervention by tax officials in the assessment process • Limited or no trust of the taxpayer • Desk check of all returns before the issue of an assessment • Large amount of data presented with returns • Tax administration makes the decision on the tax liability and informs the taxpayer of what to pay • Shallow audits–resource limitations mean that checks are generally ineffective in detecting unreported income • High level of disputes • Penalties tend to be lower and more discretionary • Costly to administer	• Less intervention by tax officials in the assessment process • More trusting relationship between tax administration and taxpayers • Only simple edit checks performed • Simple filing procedure with simple forms and summary data • Taxpayers make the decision about their tax liability and payment and are then subject to risk of audit • Risk-based verification program based on an assessment of critical compliance risks • Fewer disputes–low value or frivolous claims are less likely • Consistent application of higher penalties • Costs less to administer

Establishing Taxpayer Rights

Tax systems should provide for measures to appropriately **protect the rights of taxpayers**. These measures should be accessible to all taxpayers seeking redress where they believe they have been unfairly or poorly treated, and they should also be efficient and effective in resolving matters in a timely manner.

Within tax laws, it is common to embed certain enforceable rights for taxpayers, as shown in Figure 2.8.

Figure 2.8. Common Examples of Enforceable Taxpayer Rights



In addition, taxpayers can have constitutional rights and remedies available that are in the general legal systems and can extend to tax matters such as:

- A presumption of innocence when charged with an offense
- A claim for "privilege" to prevent disclosure with respect to dealings between a taxpayer and their legal or other advisers
- A right to claim damages for economic losses resulting from negligence

Many countries have developed taxpayer charters to describe their rights and obligations in an easily understood single document. These rights and obligations may be embedded in laws or remain as administrative statements.

Dispute Settlement

Most tax administrations have formal procedures for requesting a review of a decision in relation to a tax assessment, and these may extend to other decisions of the tax administration (e.g., a tax interpretation or ruling). These procedures are described in tax laws and are critical to achieving the appropriate balance in the administration of the tax system.

It should be very clear that **disputes can, and usually should, be managed internally** through the tax administration's **dispute settlement processes**. These processes are often handled by a separate department within the tax administration that adjudicates disputes. Some countries have established independent tribunals to decide on disputes. Countries should provide recourse to the courts if a taxpayer is not happy with either the tax administration's decision or the decision of an external tribunal.

Safeguarding Obligations

Tax systems also need to establish **enforceable obligations** that taxpayers must follow.

In addition to the core tax obligations to register, file tax declarations accurately and on time, and pay taxes when they are due, tax laws may establish an obligation for a taxpayer to:

- Engage honestly with the tax administration.
- Provide reasonable assistance and complete and accurate information when formally requested.
- Maintain proper records.

Without these obligations on the taxpayer, the system is not sufficiently balanced. In addition, these obligations must be supported by sufficient penalties when the obligation is not met.

External Actors in Governance of a Tax Administration

This section introduces some common **external actors** in the governance framework of a tax administration.

Tax administrations are accountable for what they do, and they should be subject to an independent review by the auditor general. This position is usually independent and reports to the parliament. As a tax administration is usually one of the largest departments, it is important that the auditor general will undertake audits regularly.

Countries may provide an **external channel** for investigating complaints against the tax administration. The purpose of this channel is to provide an independent external investigation and opportunities for compensation in instances of wrongdoing and maladministration. This investigation channel can take many forms. When it has a specialized focus on tax complaints, it can be known as a taxpayer ombudsman, or it may be known by different names. [1] In some countries, the complaint investigator may not be dedicated to tax complaints, but the investigation function comes within the mandate of a government-wide ombudsman office that works across public administration. In either case, the ombudsman may examine:

- Whether the tax administration has acted fairly and consistently
- Whether service standards have been met

[1] For example, the Office of the Tax Ombud (South Africa), the Taxpayer's Ombudsperson (Canada), or the Taxpayer Advocate (USA). In Europe, it is known under various titles—the Tax Adjudicator (UK), the Taxpayers' Watchdog (Italy), the Council for the Defense of the Taxpayer (Spain), and Independent Office of the Ministry of Finance (France).

- How discretion was applied
- Whether there are administrative errors including unreasonable delays, mistakes, and poor or misleading advice

It is also common for countries to have an anti-corruption agency. This body oversees anti-corruption policies and may also investigate allegations of corrupt conduct by tax officials.

CHAPTER 3.

Oversight, Complaint Handling, and Reporting Obligations for the Tax Administration

This chapter introduces various ways that governments can oversee the work of their tax administration to hold it accountable.

In simple terms, the head of the tax administration must report to someone. This is usually a minister, often the minister of finance. However, a minister usually does not have enough time and perhaps does not have the necessary expertise to be able to reach informed opinions on the many activities performed by a tax administration. Therefore, it is generally accepted as good practice that the head of a tax administration should be fully responsible for all operational activities and free from ministerial interference in taxpayer cases.

External Oversight of a Tax Administration

Tax administrations interface with a large number of individual taxpayers, businesses, and not-for-profit organizations. Tax administrations generally have very significant legal powers that can be applied to enforce compliance by taxpayers. As a result, it is important to maintain a balance between the powers of the tax administration and the rights of taxpayers.

The purpose of **external oversight** is to hold the tax administration accountable for how it conducts itself. It is not intended to engage in any intervention in individual taxpayer cases. In regard to how individual taxpayer cases are managed, oversight is managed through the tax administration's dispute resolution processes, which are often handled internally through a separate department within the administration, or subsequently through a government-appointed tax disputes tribunal, or through the courts system.

Ministerial oversight can include both formal and informal channels. Informal channels often use regular briefings by senior tax administration officials to the minister of finance and ministry officials, and this channel will depend heavily on the minister's preferences. Some of the formal channels are shown in Figure 3.1 below.

Figure 3.1. How Does the Minister Oversee Tax Administration?

A Mandate Letter from the Minister

This outlines the minister's expectations for the performance of the tax administration (often this document would be prepared on behalf of the minister by officials in the Ministry of Finance, possibly in consultation with other departments), and it could form the basis of the head of the tax administration's performance appraisal.

Approval of Key Documents

This refers to a requirement for approval by the minister, or by the minister's deputy minister, of the tax administration's strategic plan and annual operating plans.

Appearances at Parliamentary Committees

This refers to obligations to appear before a parliamentary committee at set intervals to report on plans for the upcoming year and on performance in the preceding year.

Annual Report

This refers to tabling of the tax administration's annual report in parliament by the minister.

Chapter 2 describes the various legal forms that have been used to govern tax administrations. If there is a board in place, whether in an advisory capacity or as a semiautonomous governing body, the degree of ministerial oversight may be lessened. Boards have been established for various reasons, such as providing greater management autonomy to the tax administration, in search of improved performance. However, even with a semiautonomous governing board in place, the tax administration is ultimately accountable to the government through a minister.

Most governments have an independent auditor general, usually with a strong mandate to examine the financial accounts of ministries and agencies and to conduct performance and efficiency audits of operations and results. An auditor general can, and should, provide ongoing reviews of departments' business strategies, programs, and overall performance. A country's tax administration is usually one of the largest government agencies. Because of its size and the importance of its work to the success of a country, a tax administration can expect to receive regular attention from the government's auditor general.

The independence of the auditor general assures its freedom to choose areas for audit. In preparing its plans for the year, the selection of performance and efficiency audits will normally be based on the perceived level of risk. The auditor general is intended to be free of political influence, and it will normally report its findings directly to parliament. Also, the auditor general is usually required to certify the tax administration's financial accounts annually.

How to Ensure Community Confidence in a Tax Administration?

A tax administration will be more successful in encouraging taxpayer compliance and collecting revenue if the taxpaying public has confidence in it and if it has earned their trust and respect.

If taxpayers believe that the tax administration is honest and competent, they are less likely to try to avoid or evade taxation for fear of being caught. Also, if they have positive perceptions of both the government and the tax administration, they will be more likely to self-assess their tax position accurately and comply voluntarily. The most important contribution to achieving **community confidence** for a tax administration is the professionalism of tax administration employees in their dealings with taxpayers. This is an extremely important point, and therefore it requires careful, merit-based staff recruitment, training, and supervision.

Confidence in tax administration is also strongly related to the state's perceived capacity to provide high-quality public goods and services such as health care, schools, roads, defense, and so on. However, there are other ways that a tax administration can earn community confidence.

Transparency is important, and publishing documents that explain how the tax administration intends to carry out its work, and how it has performed, can provide taxpayers and other interested parties, such as accountants and lawyers, with information that will help them form realistic opinions about the tax administration. Figure 3.2 identifies types of tax administration documents that are frequently made available to taxpayers and the general public.

Figure 3.2. Examples of Common Tax Administration Public Documents

Community confidence also can be enhanced by providing timely and easily accessible taxpayer education services, including informative websites. Some tax administrations also undertake surveys to understand how they are perceived by taxpayers. It is considered good practice to have taxpayer perception surveys conducted by an independent third party either annually or at least every two years.

Complaint Management

The preferred method of handling complaints is to do so in a timely, respectful way.[2] To demonstrate fairness and independence in complaint handling, a complaint should be examined by a tax administration employee who is not the person who interacted with the aggrieved taxpayer. Ideally, this could also be done by a separate group that reviews and responds to complaints, and unresolved issues can be escalated to a more senior management level.

Several countries have established a **taxpayer ombudsman** position, tasked with seeking fairness in tax administration and ensuring impartial consideration of taxpayers' complaints. An independent and respected taxpayer ombudsman can contribute to an enhanced perception of the tax administration, by both taxpayers and their tax advisers. Generally, a taxpayer ombudsman would become involved with a taxpayer complaint after that taxpayer has concluded participation with the tax administration's complaint resolution process and remains dissatisfied. A taxpayer ombudsman can observe trends in the types of complaints and thereby assist officials to consider possible changes to tax legislation or operational procedures.

It is important that a tax administration develops efficient and effective mechanisms to respond quickly and fairly to taxpayer complaints. Figure 3.3 illustrates important considerations for how tax administrations should manage taxpayers' complaints.

Figure 3.3. Important Tax Administration Complaint Handling Considerations

Internally Resolve	Align the organization to facilitate an internal resolution quickly.
Monitor the Status	Ensure that accurate records are maintained of the success in achieving statutory time frames for tax administration decision-making.
Publish	Make public how the tax administration responds to recommendations from the ombudsman.
Report to the Minister	Report to the minister when the ombudsman has identified systemic issues.
Investigate	Have an internal affairs unit to address complaints of serious maladministration.

[2] Taxpayer complaints are often triggered by unfair treatment, procedural errors, mismanagement of taxpayer information, and subpar service delivery.

If there are allegations of maladministration, it is important that the tax administration acts fairly and quickly to determine if they are accurate.

Integrity and Corruption Assessments

Tax administrations are particularly vulnerable to corruption. This generally occurs when tax officials receive personal benefit in return for allowing businesses to pay less tax than is determined by law. Both the corrupt tax employees and the noncompliant businesses benefit, but the government revenue is diminished, resulting in a lower level of services for citizens.

Corruption also enriches criminals, creates an uneven playing field for law-abiding businesses, and reduces public trust in government institutions, including tax administrations. In addition to tax evasion, corruption is often associated with other crimes such as money laundering and financing terrorism.

A strong internal governance framework is needed to reduce opportunities for corruption.

Various ways to **address corruption** include:

- **National anti-corruption agencies**, which can mandate the preparation of anti-corruption strategies by public institutions
- **Internal anti-corruption units within tax administrations**, which have staff resources dedicated to fight corruption (they develop and communicate core values for employees, encourage respect for the values of the tax administration as well as for the codes of conduct, and are able to investigate alleged wrongdoing or corruption)
- **Reporting requirements for tax officials**, whereby officials (and their family members) may be required to provide declarations of their assets and pecuniary interests
- **External reporting**, including summary results of integrity assessments, data on the numbers of officials that have been subject to integrity breaches, and the sanctions invoked (no individual results should be published)

CHAPTER 4.

Internal Governance

This chapter describes how the head of a tax administration should design a robust **internal governance framework**. Internal governance structures and processes determine how issues are considered and how decisions are made, and consequently they are critically important to the success of a tax administration.

Essential Elements of an Internal Governance Framework

Modern tax administrations are complex organizations that usually collect most of a government's revenues. Consequently, it is essential that they are well managed through a strong internal governance framework. A tax administration must ensure that its internal governance framework promotes consistent, fair, and efficient treatment of taxpayers.

There is no single set of internal governance arrangements that is better than all others.

Matters that should be considered when establishing or modifying a tax administration's internal governance arrangements are shown in Figure 4.1.

Figure 4.1. Considerations When Deciding on Internal Governance Arrangements

Note: TADAT = Tax Administration Diagnostic Assessment Tool.

Key components of the internal governance framework include:

- **How the tax administration will make decisions**, including the use of committees to raise issues to the senior executive level for direction and decision
- **Delegation of legislated authority** and how that will be done and monitored
- **Clear accountabilities** for each member of the executive leadership team
- **A framework for monitoring operational performance**

The internal governance framework should define the competencies required of individual staff members for them to make decisions. Some decision-making authority will remain with the head of the organization; other matters will be delegated to managers at various levels, but the majority of decisions will be taken by frontline staff. The framework should clearly delegate authority to individual officers to make taxpayer case decisions. It should also separate the delegations of duties where there could be conflicts of interest, perceived conflicts of interest, or opportunities for corruption.

The internal governance framework should include appropriate monitoring of the tax administration's operations. This will include:

- Internal controls over case management systems
- Reviewing how different kinds of work are to be done
- Identifying when a tax official is permitted to access a taxpayer's file and tracking employee access to taxpayer files

It will also include an internal audit function and internal investigations capability.

The internal governance framework should determine how the tax administration will report on its plans and performance. Timely and thorough reporting can provide the transparency that is needed to give ministers, taxpayers, and other stakeholders confidence that the tax administration is honest, fair, and efficient.

The Role of the Head of the Tax Administration

The head of the tax administration is the *owner* of the internal governance framework of the tax administration. He or she is responsible and accountable for ensuring that the governance structure and processes are effective, efficient, transparent, and fair and should initiate changes as needed, if he or she believes that this is not the case. Ultimately, the internal governance framework of a tax administration is a fundamental responsibility of the head of the organization, and it cannot be ignored.

It is important that the head of the tax administration has trust and confidence in the members of the senior leadership team, and vice versa. This can be best developed by ensuring frequent and open communication among members of the team. Figure 4.2 outlines some of the key responsibilities for the head of a tax administration.

Figure 4.2. Key Responsibilities for the Head of a Tax Administration

Culture impacts organizational performance. The behavior of the head of the tax administration and other senior leaders sets a tone for the organizational culture. Managers at all levels, starting with the head of the tax administration, should be role models for the desired behavior of tax administration staff.

Organizational values can contribute positively to a tax administration but only if they are well known and understood within the organization. Most tax administrations have a strategic plan that includes mission and vision statements and a statement of core values.

Corporate values should also be presented in induction training and reinforced through regular internal communications. Discussions and exercises for staff can be designed where employees consider how the values should apply in hypothetical situations, including apparent ethical dilemmas.

It is especially important to provide strong training and support to first-level managers to build the desired culture across the organization, as first-line managers supervise most of the staff, possibly 90 percent or more. If this ratio applies in a tax administration, it emphasizes the importance of making sure that frontline managers are properly engaged in the mission of the tax administration.

Organizational Considerations

It is common practice to establish a formal **executive committee**, composed of a small number of the most senior executives and chaired by the head of the tax administration. The committee should focus on the most important issues facing the tax administration.

Ideally, this committee should meet at regularly scheduled intervals, perhaps once every two weeks. It should maintain a forward-looking agenda, typically looking about three months ahead. This agenda enables members to know what topics their groups will be responsible for and to be well prepared before the meetings. It is good practice to have papers prepared on each item on the agenda for a meeting and to have these distributed in advance. This allows other members adequate time to read and consider them and to seek advice, as needed, from their staff so that they are properly prepared for the executive committee meetings.

The executive committee should keep records of its decisions, and where actions have been decided upon, they should be included in a register of open action points. This register should be reviewed at each meeting, and after an agreed action has been completed, it should be deleted from the register. Other actions should remain on the register until they are completed. These practices allow the head of the tax administration to ensure that the executive committee operates in an effective, professional, and accountable way.

Depending on the size of the tax administration and the amount of change underway, the head of the tax administration may choose to appoint a **governance adviser.** This person would maintain formal records of the work of the executive committee and its subcommittees and monitor the degree to which committee members complete preparation for meetings on time and with high-quality papers.

Tax administrations are large organizations, and usually the head of the organization will establish several **subcommittees** to ensure that important issues receive appropriate, careful consideration.

Figure 4.3 provides examples of commonly used committees in tax administrations, and brief descriptions of these committees follow.

Figure 4.3. Committees Commonly Used by Tax Administrations

An operations committee usually oversees how tax administration core programs are performing and monitors the work being done in the field offices. A common tax administration organizational structure is a **functional model**, in which the headquarters designs how programs will be managed, while field offices carry out the operational work. This model often has a **head of operations**, who reports directly to the head of the tax administration and is responsible for supervision of the heads of the field offices. This person chairs the operations committee, which would also include the field office heads. Depending on the agenda, relevant people from headquarters may also attend the operations committee meetings.

A compliance risk management committee is found in many tax administrations. The mandate of this committee is to develop an understanding of taxpayer behavior and to prepare a staff resources deployment strategy to address the greatest risks to the tax base. This committee is normally chaired by a senior executive from headquarters and is supported by tax administration employees (from both headquarters and field offices) with relevant knowledge and skills.

A human resources committee may be established to advise on matters such as recruitment, promotion, job classification and pay levels, training, performance appraisals, discipline, and organizational design.

A reform management committee may be established by a tax administration that is planning a major reform program or a major project, such as the introduction of a new information technology system. This committee may be chaired by the person chosen to lead the reforms or even by the head of the tax administration.

An enterprise risk and assurance committee is typically established to identify key risks that the tax administration may face and to determine appropriate mitigations to prevent these risks from arising. It is normally chaired by a senior executive, and it should also be supported by a risk management specialist, who works across the tax administration to analyze risks and prepare documents for review by the committee. This committee does not focus on the details of tax compliance risks but rather on other risks that could impair the work of the tax administration.

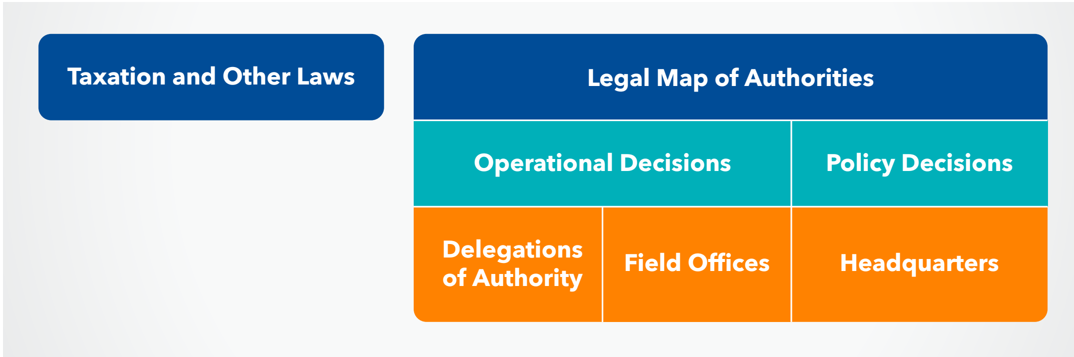
An internal audit committee is usually present in a tax administration. It prepares an annual internal audit plan and reviews the reports of completed audits in order to make recommendations to the head regarding appropriate actions to be taken. It is chaired by a senior executive and supported by a dedicated internal audit group. It is usually recommended that the head of the internal audit group should report directly to the head to ensure independence within the tax administration.

Decision-Making by Officials

Tax legislation may delegate authority to administer the tax laws to the head of the tax administration or a minister. In either case, the authority must be subdelegated by the head or minister so that staff in the tax administration can legally work with taxpayers and make decisions.

The objective of a tax administration should be to apply the laws consistently, effectively, efficiently, and fairly. To be able to do this, effective internal governance mechanisms are necessary**.** Figure 4.4 illustrates how decision-making can be delegated within a tax administration.

Figure 4.4. Decision-Making in the Tax Administration

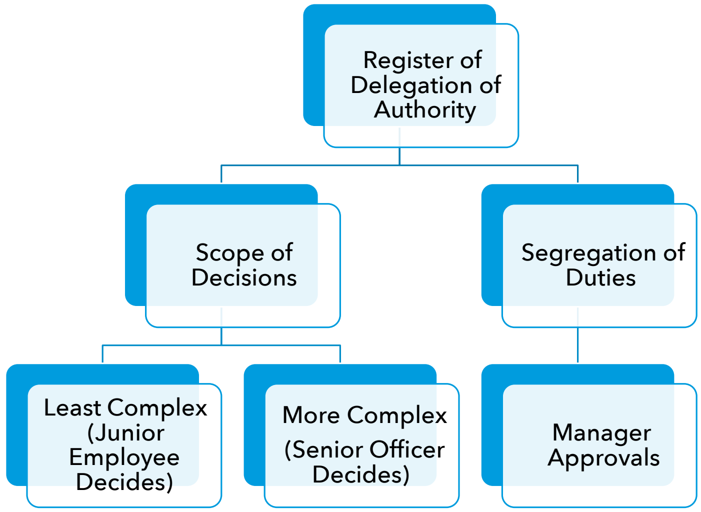


Tax administrations make a great many decisions pursuant to their legislative responsibilities, so it is extremely important that they establish clear governance processes over these decisions. Important elements of a tax administration **decision-making framework** include:

- **Taxation and other laws**, which empower a tax administration to carry out its responsibilities
- **A map of legal authorities**, which shows all the specific decision-making authorities that are delegated to the tax administration
- **Recognition that most operational decisions will be made in field offices** with appropriate direction, guidance, and oversight provided by headquarters
- **Establishing specific delegations of authority to frontline officers**, who will have the most frequent interactions with taxpayers (accordingly, the tax administration must determine what qualifications are required for officers to receive authority to make specific types of decisions)
- **Establishing a robust system to administer delegations of authority** to ensure that the tax administration is applying the law properly (delegations will vary by the types of jobs, and more complex decision-making should be delegated to employees at more senior levels)
- **Policy decisions that are typically made in headquarters** and may arise from changes in legislation, revised interpretations of legislation, or the outcomes of court cases

A **register of delegation of authority** is the tax administration's central document that assigns decision-making responsibilities. Changes to it may require a sign-off by the head of the tax administration or alternatively by deputy heads of the various tax administration functions. The register should be designed to segregate decision-making duties so as to avoid possible conflicts of interest or opportunities for corruption. Figure 4.5 illustrates a typical delegation-of-authority approach for a tax administration.

Figure 4.5. A System for Managing Delegations of Authority in a Tax Administration



A tax administration should be able to verify, in all cases, that its employees have acted appropriately in dealing with taxpayers. It is important to maintain a record of each access to taxpayer records and associated decisions. Consequently, a tax administration's information technology system should include an automatic recording of taxpayer records that have been accessed by employees. By doing so, the tax administration:

- Protects taxpayer privacy
- Can verify if employees are conducting only the work that has been assigned to them
- Can assess whether or not there may have been conflicts of interest or possible corruption

Risk Management

Tax administrations can be confronted by a wide range of risks. Consequently, it is very important that a tax administration's senior management makes an ongoing, formal effort to understand and manage the potential risks. To do this, a tax administration needs to establish a formal governance structure and processes within that structure. As mentioned previously, many tax administrations include a risk and assurance committee as part of their internal governance framework. Figure 4.6 illustrates a risk management cycle that is appropriate for a tax administration.

The following are the important steps to approach **risk management** systematically:

- **Understand the environment** (economic, social, political, physical, technological).
- **Identify the possible risks**.
- **Analyze the probability** that the identified risks may occur (high, medium, low).
- **Estimate consequences** of these risks occurring (high, medium, low), and determine an appropriate strategy to treat the risks.
- **Implement risk mitigations and monitor the risk environment regularly**, evaluating the selected risk priorities and mitigation strategies and making changes as appropriate.
- **Integrate risk planning into strategic and business planning processes**.

Figure 4.6. Steps to Approach Risk Management

Risk management for a tax administration will have three main categories:

- **Enterprise risks**, which could prevent the administration from carrying out its mandate (such as inability to attract and retain qualified staff, cuts in government funding, loss of government confidence in the tax administration, significant information technology failure, development of adverse opinion of the tax administration among the public leading to lesser compliance, natural disaster, pandemic).
- **Operational risks**, which may arise within the regular conduct of core business processes (e.g., taxpayer register is inaccurate, standard operating procedures are insufficient to ensure consistency in decision-making, monitoring and oversight of operations are inadequate to protect the integrity of the tax administration).
- **Taxpayer compliance risks**, which may arise because of weaknesses in tax laws, including overly complex legislation, or because taxpayers are able to find ways to avoid meeting their legal obligation to pay taxes. Other common causes include activities and knowledge of the tax administration being inadequate to detect noncompliance by taxpayers and tax laws making it too easy for taxpayers to avoid paying taxes properly owed.

CHAPTER 5.

Summary

For a tax administration, institutional governance is a set of approaches to properly administer the tax system that comes from outside and inside the tax administration. The external dimension includes laws and regulations that establish the legal requirements for collecting taxes (and sometimes also administering other programs). These laws and regulations will include the expected responsibilities and the expected contribution of the head of the tax administration. External oversight usually includes a supervising ministry or board and often other agencies, such as an auditor general or a taxpayer ombudsman.

Internal governance is established within the tax administration by the head of the tax administration or by the head and the executive team. It addresses organizational design, systems and processes, committee structures, meetings, scheduling, reporting and performance reporting, and any matters that are felt necessary to ensure effective management of the tax administration.

For ensuring real accountability, a tax administration must operate transparently with regard to how it conducts its work and its results. Without transparency, it is very difficult for accountability mechanisms, such as oversight by a legislature or complaint handling by a tax ombudsman, to perform their roles effectively. Transparency and accountability go hand in hand, and both elements must be present for effective institutional governance.

Taxpayers can have a limited overall understanding of how their government operates, and it is often common for them to deal infrequently with their government overall but more frequently with their tax administration. The manner of these dealings with the tax administration may be an important influencer on how citizens feel about their government generally.

Tax administrations make a great many decisions pursuant to their legislative responsibilities, so it is extremely important that they establish clear governance processes over these decisions. Important elements of a tax administration decision-making framework include:

- **Taxation and other laws**, which empower a tax administration to carry out its responsibilities
- **A map of legal authorities**, which shows all the specific decision-making authorities that are delegated to the tax administration
- **Recognition that most operational decisions will be made in field offices** with appropriate direction, guidance, and oversight provided by headquarters
- **Establishing specific delegation of authority to frontline officers**, who will have the most frequent interactions with taxpayers (accordingly, the tax administration must determine what qualifications are required for officers to be granted these receive delegations of authority to make specific types of decisions)
- **Establishing a robust system to administer delegation of authority** to ensure that the tax administration is applying the law properly (delegations will vary by the types of jobs, and more complex decision-making should be delegated to employees at more senior levels)
- **Policy decisions that are typically made in headquarters** and may arise from changes in legislation, revised interpretations of legislation, or the outcomes of court cases

As a result of its important areas of responsibility, it is desirable that a tax administration should have autonomy in the following areas:

- **Design its internal structure:** Able to make decisions on the internal shape of the organization (extends from divisions and departments down to internal job designs)
- **Devise its own strategy, plans, and performance standards:** Able to make decisions regarding strategic and operational plans and performance standards
- **Manage its budget:** Able to make decisions in managing its capital and operating budgets
- **Decide human resource management matters:** Able to make decisions about the appropriate mix of staff to meet workloads, skill and knowledge requirements for jobs, grading and classification of staff positions, determining remuneration levels, staff development, training, recruitment, promotion, and disciplinary matters
- **Take operational decisions to administer the tax laws:** Able to make day-to-day decisions with respect to taxpayers' affairs (covers all tasks with respect to registration, filing, payment, and correct reporting of taxes, the enforcement of tax laws, and the authority to interpret them, subject to review by judicial bodies)

Some of these powers are often shared with other parts of the government, such as appointments to very senior positions, establishing salary and wage rates, and procurements valued at over a set amount. Tax administrations must manage within these constraints or persuade governments to grant them greater autonomy.

It is generally accepted that operational decisions that affect an individual's tax affairs should be made within the tax administration. If some of these powers are shared with boards or with other organizations or are subject to an intervention by others (such as political leaders), it can make the tax administration vulnerable to improper external influences. In some countries, a specific power may be reserved for only a minister to perform, such as providing relief from a tax debt that exceeds certain threshold.

Many countries have developed taxpayer charters to describe taxpayers' rights and obligations in an easily understood single document. Such rights and obligations may be embedded in laws or remain as administrative statements. In some cases, taxpayer rights can extend to claiming damages for economic losses resulting from negligence by the tax administration.

It is common practice to establish a formal executive committee, comprised of a small number of the most senior executives and chaired by the head of the tax administration. It should focus on the most important issues facing the tax administration. Beneath the executive committee, the following subcommittees are frequently established to ensure that important issues receive appropriate, careful consideration.

- **An operations committee**, which usually oversees how the field offices are performing. The head of operations**,** who reports directly to the head of the tax administration, is responsible for supervision of the heads of the field offices. This person chairs the operations committee, which would also includes the field office heads.
- **A compliance risk management committee** is found in many tax administrations. This committee's mandate is to develop an understanding of taxpayer behavior and prepare a staff resources deployment strategy to address the greatest risks to the tax base. This committee is normally chaired by a senior executive from headquarters and is supported by tax administration employees (from both headquarters and field offices) with relevant knowledge and skills.

- **A human resources committee** may be established to advise on matters such as recruitment, promotion, job classification and pay levels, training, performance appraisals, discipline, and organizational design.
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