

THE CONDUCT OF AUDITS AND
INTERSECTION WITH TAXPAYER RIGHTS:
Case Study of the Greek Tax System

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Types of audits

- Issues covered
 - Complete audits
 - Partial audits
- Procedure
 - Field audits
 - Office audits
 - No correspondence audits
 - Automated audit verifications
 - ▶ Cross-checking through MyDATA platform
 - ▶ Prepopulated tax returns
 - ▶ Notices of failure to file a tax return

Taxpayer rights protection

- Elaborate legal framework
 - Greek Constitution
 - Code of Tax Procedure
 - Code of Administrative Procedure
 - Statute of the Tax Administration
 - Case-law

Burden of proof

- In principle, the tax administration bears the burden of proof
- However, there are numerous legal presumptions
- In effect, the burden of proof shifts to the taxpayer

Case Study: Investigation of False/Fictitious Invoices

- Legal presumptions
 - Invoice issuer was not registered
 - Invoice issuer was not capable of performing the transaction
- Legal presumptions are intended as an alternative
- In many cases, the auditors rely on legal presumptions and disregard factual evidence about the transaction

Case Study: Inability to provide documentation

- The auditors have a vast authority to request all kinds of information and documentation from the taxpayer or third parties
- In certain cases, it is impossible for the taxpayer to acquire documentation
 - Example: A bank no longer maintains old account records
- The courts have laid down the principle that the taxpayer should not be held accountable, if he is objectively unable to provide the documentation requested
- In practice, legal presumptions prevail, if the taxpayer is unable to rebut them, regardless of the taxpayer's inability to collect evidence

Case Study: Deadline for Providing Documentation

- The law prescribes a deadline of 5 business days for providing the documentation requested by the auditors
- The 5-days deadline is almost always inadequate
- However, it is possible to get one or more extensions, if the taxpayer provides evidence that he has difficulties collecting the requested documentation
- Granting the extension lies at the discretion of the tax administration
- In practice, if the end of limitation period is imminent, all extension requests are rejected

Case Study: Second Audit

- In principle, second audit of the same matter/case is prohibited
- Exception: when new information arises
 - Allowed only against the taxpayer
 - Not in favor of the taxpayer