International Conference on Taxpayer Rights
Access to Justice: Judicial Review & Alternative Dispute Resolution

MAY 25, 2023 PANEL 1:
A RIGHTS BASED FOUNDATION FOR ACCESS TO JUDICIAL REVIEW
The connection between access to justice and taxpayer rights

Panelists will provide a brief statement as to why access to their courts is important to assuring justice and supports taxpayer rights

Panelists:
- Christian Allen, Judge, Tax Court Chile
- Thomas Andrieu, Conseil d’Etat, France
- Anthony D. Gafoor, Chair/Chief Judge, Tax Appeal Court of Trinidad and Tobago
- TBD, Brazil

Moderator: Diana Leyden, Special Trial Judge, US Tax Court, US
We will explore 4 broad topics today

- How do time and other barriers to accessing judicial review impact trust in the independence of the judiciary?

- Why is transparency both at the administrative and judicial levels important and how should the judiciary balance transparency with protecting sensitive taxpayer information?

- Why is the ability of the judiciary to raise new issues (issues not considered at the administrative level) or to consider administrative violations of taxpayer rights important?

- Why are procedures to allow self-represented taxpayers to litigate their cases important and how can judges maintain neutrality while at the same time recognizing challenges faced by self-represented taxpayers?
Do time and other barriers to accessing judicial review impact trust in the independence of the judiciary?

**BRAZIL**
- Must a taxpayer pay part or all of the tax before appealing an administrative decision to a court?
- How long does a taxpayer have to file an appeal with a court?
- How does the civil law system impact the right of a taxpayer to present evidence?
- What is the typical time before a court renders a decision?

**THOMAS ANDRIEU-FRANCE**
- How long does a taxpayer have to appeal to a court? If the taxpayer is pro se can that be extended?
- What is the typical time before a court renders a decision? At what cost to the taxpayer?
- Does the burden of proof weigh too heavily on the taxpayer?
- Tax litigation without tax assessment as a taxpayer’s rights protection mechanism
Transparency: Does it exist and how to balance it when sensitive information is involved

ANTHONY GAFOOR-TRINIDAD AND TOBAGO

- Are tax cases before the judiciary open to the public? Any change during COVID?
- Is a taxpayer required to redact personal identifying information in filings?
- Who has the burden of proof in an appeal from an administrative decision?
- Can a taxpayer ask a judge to consider evidence *in camera*? Can that right be waived?

CHRISTIAN ALLEN-CHILE

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Raising new issues and considering violations of taxpayer rights

ANTHONY GAFOOR-TRINIDAD AND TOBAGO

- What are the restrictions on either the taxpayer or the Revenue Authority raising new issues/tendering additional documents at the judicial level?

- If the Revenue Authority violated a taxpayer’s right can that be the basis for the court to decide in favor of the taxpayer? What other consequences may flow from such an action by a State authority?

THOMAS ANDRIEU-FRANCE

- How does a procedural mistake at the administrative level impact a review by the court? Meyer case.

- Can a court raise *ex officio* an argument not raised by the taxpayer?

- What are the restrictions on either the taxpayer or the administration in raising new issues at the judicial level?
Special concerns and issues of self-represented taxpayers

BRAZIL

- What percentage of taxpayers proceed to court self-represented?
- Are the procedural rules applied less strictly if a taxpayer is self-represented?
- How does a judge balance informing a self-represented taxpayer about procedure without advocating for the taxpayer on a substantive issue?

CHRISTIAN ALLEN-CHILE

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- Are the procedural rules applied less strictly if a taxpayer is self-represented?
- How does a judge balance informing a self-represented taxpayer about procedure without advocating for the taxpayer on a substantive issue?
For all *Conseil d’Etat* rulings, see:

[https://www.conseil-etat.fr/arianeweb/#/recherche](https://www.conseil-etat.fr/arianeweb/#/recherche)

On the consequences of administrative procedural rules violations by the tax administration, see:


Questions?