"Code of Conduct Taxation 2021"

Unofficial Translation

Preamble

Swiss tax law practice is characterized by respectful interaction between taxpayers, tax representatives and tax administrations. This respectful interaction encompasses an open and factual exchange between the parties.

Therefore, the Federal Tax Administration (FTA), the Swiss Tax Conference (SSK/CSI) and EXPERTsuisse in conjunction with IFF-HSG as academic partner set out written principles and rules of conduct in the form of a Code of Conduct. The Code of Conduct is intended to facilitate the efficient application of legal provisions and to strengthen the long established relationship of trust between taxpayers, tax representatives and tax administrations. The "Code of Conduct Taxation" is directed in the sense of recommendations for employees of tax administrations and for tax representatives or company representatives professionally engaged in the field of taxation. The greater number of parties who commit themselves to its application, the more effective it will be. In any case, legal obligations take precedence over the Code of Conduct.

1. Scope of application

The Code of Conduct is addressed to persons professionally engaged in the field of taxation, in particular employees of tax administrations, tax representatives and companies.

2. General guidelines

- Treat people and factual issues separately
- Refrain from excessive formalities in discussions and proceedings
- Maintain impartiality in judgment and action
- Ensure that a dialogue can be maintained

3. Conduct during the individual steps of the proceedings

3.1 General principles of conduct

- Conduct is characterized by mutual respect, trust and fairness
  - *Respectful behavior and trust between the parties. Refrain from displaying arrogant, unnecessarily over-friendly or hostile demeanor*
  - *Disclosure of the interests pursued, no hidden agenda; complete, open, factual and transparent information*
  - *Diligent preparation by both parties and discussion based on facts and technical competence for both the analysis of the facts as well as the subsequent interpretation and application of the law*
  - *No unnecessary waste of resources of either the tax administrations or the taxpayers or tax representatives (proportionality and efficiency; file requests/meetings only if necessary)*
  - *No "answer shopping" via additional employees of the same administration*
  - *Disclosure of the authorities already involved (regulators, cantonal or federal tax authorities) in Switzerland and abroad*
  - *No public criticism of employees of tax administrations*
  - *No comment on the part of the tax administration or tax representative on the qualification/competence of employees of the tax administration or tax representative vis-à-vis the taxpayer or third parties (neutrality)*
- No undue pressure to be exerted on the other party and no threats to be made, in particular:
  - *No unrealistic time constraints, with very short deadlines only used in justified individual cases*

- *Respect for organizational responsibilities*
- *No threat of escalation within the administration (superiors, management, departmental board) or outside the administration (supervisory authority, parliament, lobbying)*
- *No attempts to exert pressure by utilizing economic consequences (moving away or relocating, layoffs, etc.)*
- *No threat of delay to the conduct of a case by the taxpayer or tax representative*
- *No threat to take legal action*

- Ensure transparency of administrative practices
  - *Systematic publication of generally accepted administrative practice*
  - *Adherence to administrative practice*
  - *Timely announcement and publication of changes in practice, insofar as they do not result from relevant court decisions*
  - *No concessions to a taxpayer that would not also be granted to the tax representative of the taxpayer and vice versa (transparency and equal treatment)*

- Deadlines
  - *Deadlines set by the authorities are generally extended once without any obligation on the taxpayer to state reasons for the extension request. No bulk requests for extension of deadlines*
  - *Documents, opening a statutory deadline, are – as far as possible and influenceable – to be sent at times that do not lead to significant disadvantages for the taxpayer or tax representative in individual cases. This does not apply to bulk mailing*
  - *Make efforts to ensure prompt processing of dossiers on the part of the tax administration and taxpayers or tax representative (e.g. submission of additional documents)*

- Digitalization
  - *Use of the existing possibilities for digital processing of the procedural steps*

3.2 Mixed procedure tax return

- Complete, true and accurate declaration (incl. obligatory supporting documents)
- Submitting the tax return as early as possible
- Only request the transmission of relevant documents
- Simple, transparent tax return process
- Acceptance of individual enclosures if the information relevant to the assessment cannot be declared in the official tax return forms

3.3 Assessment in mixed procedure

- Allow taxpayers or tax representatives reasonable deadlines when requesting documents
- Quick and complete delivery of requested documents
- Complete, true and accurate information
- Transparent, simple presentation of the assessment result
- Assessment as quickly as possible

3.4 Advance tax ruling

- Current and practical interest in a tax ruling for a genuine case, i.e. no request for purely hypothetical (i.e. not genuinely forseen) or already realized individual cases
- Complete, concise presentation limited to the issues of the case at hand: show all aspects to be considered in the tax assessment; the aspects relevant to the decision must be mentioned in the tax ruling itself and not only in the enclosures
- The determination and presentation of the facts is the responsibility of the taxpayer or the tax representative (no delegation to the tax administration)
- Presentation of the relevant legal basis (civil and tax law) and legal assessment of the facts presented by the taxpayer or tax representative
- Notification as early as possible if termination of the tax ruling by the tax administration is considered
- To the best of knowledge, disclosure of whether tax rulings have already been issued in other tax jurisdictions (incl. content), whether follow-up advance rulings are planned, or whether an identical application has been submitted
- For the procedure before the Federal Tax Administration, the currently valid Communication for Advance Tax Rulings applies (see Mitteilung-011-DVS-2019-d vom 29. April 2019 – Formelles Verfahren für Steuervorbescheide/Steuerrulings in den Bereichen direkte Bundessteuer, Verrechnungssteuer und Stempelabgaben/Communication-011-DVS-2019-f du 29 avril 2019 – Procédure formelle pour les décisions anticipées en matière fiscale/rulings fiscaux dans les domaines impôt fédéral direct, impôt anticipé et droits de timbre/Comunicazione-011-DVS-2019-i del 29

aprile 2019 – Procedura formale per gli accordi fiscali preliminari/ruling fiscali quali oggetto dell'imposta federale diretta, dell'imposta preventiva e delle tasse di bollo). For the area of VAT, art. 69 MWSTG applies

3.5 Tax audit

- Mutual willingness to cooperate and provision of true and accurate information
- Submission/provision of neatly prepared documentation
- If necessary, provision of additional information or being available for questions
- Possibility to already comment orally on the individual points
- No disproportionate requests for information

3.6 Tax payment (direct taxes)

- Allowing the possibility of adjusting the instalments calculated by the tax administration so that the advance payments realistically reflect the economic situation of the taxpayer
- To the extent legally permissible, allow the taxpayer to request a payment plan

3.7 Appeal procedure

- Taking legal action shall not affect the tax administration's conduct in dealing with the taxpayer in the assessment of other matters
- Legal documents shall be written in a succinct and concise manner

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