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Panel Discussion 1400 -1630 (Option B)

The Role of a Tax Ombudsman in the Era of Exchange of Information and Tax Terrorism



EXCHANGE OF INFORMATION AND TAX TERRORISM



- Experience has demonstrated that the **most efficient way to protect Taxpayers' rights** is to **insert empowered autonomous institutions between Taxpayers and the Tax Authorities.**
- An independent **third party acting as a watchdog** of the relationship between Taxpayers and Tax Authorities **provides a level playing field and assures everybody abides by the rules.**
- The best alternative to protect Taxpayer's rights **in real time** are **flexible non-judiciary methods that can pressure the Tax Authority to halt illegal conducts.**

EXCHANGE OF INFORMATION AND TAX TERRORISM



- **Tax terrorism can begin at a very early stage:** Unbalanced tax rules drafted by the Tax Authorities can serve as the foundation for conducts that will harm Taxpayer's rights.
- **Rules allowing excessive information** requests far-off from the spirit of the law can be harmful and **burdensome for businesses and the economy.**
- A Tax Ombudsman can safeguard Taxpayers' rights by serving as an intermediary during the rules drafting process to **provide a voice to all stakeholders.**

EXCHANGE OF INFORMATION AND TAX TERRORISM



- **PRODECON** was involved in the implementation of **BEPS Action 13** in Mexico.
- **PRODECON** issued a **public consultation** and **held a public hearing** for all stakeholders to **express their opinions** with respect to the draft tax rules that detailed the information to be provided according to the Local file, Master file and CbC Report.
- **PRODECON** acted as an **impartial intermediary** between the Taxpayers and the Tax Administration. Ultimately, the final version of the rules **took into account the Taxpayers' input**.

EXCHANGE OF INFORMATION AND TAX TERRORISM



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- Tax terrorism can also be caused by **un-authorized disclosures** of the information of Taxpayers, or by the failure to provide the necessary safeguards to protect such information.
- What can a Taxpayer do if it learns that an officer of the Tax Administration has breached his responsibility of **absolute secrecy**? How can the Taxpayer know with certainty about the breach?
- What can a Taxpayer do if he wants to know if his tax information has been exchanged with a foreign government?

EXCHANGE OF INFORMATION AND TAX TERRORISM



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- **The Complaint** procedure of **PRODECON** allows the agency to act as Tax Ombudsman **to investigate any conduct of the Tax Authority** or to request information from the Tax Authority.
- Once **PRODECON** issues its investigation request, the Tax Authority will have **72 hours** to provide a reasoned answer to the Taxpayer's complaint.
- If **PRODECON** considers the answer provided to be illegal, **it can issue a non-binding recommendation** advising the Tax Authority to remedy the violation of rights.

➤ WHAT IF THE TAX AUTHORITY IGNORES THE RECOMMENDATION?

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PONER A TRABAJAR A LOS REYES MAGOS.
Una gran cantidad de niños, acompañados de sus padres, acudió ayer al Palacio Postal para entregar sus cartas con las listas de deseos para el 6 de enero. Asimismo, la Cámara de Comercio de la Ciudad de México anticipa una derrama económica de mil 500 millones de pesos por el tradicional festivo. Mañecas de moda, figuras de acción, bicicletas, patines y pañuelos, entre los juguetes más solicitados. Foto: Jorge Castellón/Infobase

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- **Tax audits are the main channel** through which Tax Authorities can subject Taxpayers **to tax terrorism.**
- What can a Taxpayer do if the Tax Authority is **supporting its findings** during the tax audit **on incorrect exchanged information?**
- Will the Taxpayer have to **wait until a tax assessment is issued** based on the incorrect information?
- Is the only alternative for the Taxpayer to challenge the tax assessment is to **spend years in tax litigation?**

EXCHANGE OF INFORMATION AND TAX TERRORISM



- The Taxpayer can come to **PRODECON** and **request a tax mediation that will automatically suspend the audit.**
- **PRODECON** will act as an **impartial mediator** between the Taxpayer and the Tax Authority and provide an amicable environment **to resolve the controversy.**
- Any **absurd positions** of the parties during the mediation **will be called out by PRODECON.**
- If an agreement is reached, the **audit is concluded.** If not, the suspension is lifted and the audit continues.

THANK YOU