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USAID'S LEADERSHIP IN PUBLIC FINANCIAL MANAGEMENT

Detailed Guidelines for Improved Tax Administration in Latin America and the Caribbean

Chapter 10. Collections

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Detailed Guidelines for Improved Tax Administration in Latin America and the Caribbean

Chapter 10. Collections

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List of Acronyms and Abbreviations

Acronym	Definition
BOJ	Best of judgments
CIT	Corporate income tax
FTE	Full-time equivalent
IRS	Internal Revenue Service (United States)
IT	Information technology
LAC	Latin America and the Caribbean
LTO	Large taxpayer office
OECD	Organisation for Economic Co-operation and Development
PAYE	Pay as you earn
PIT	Personal income tax
VAT	Value added tax

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Chapter 10. Collections

This chapter contains an overview of collections and examples of legislation, tax collection procedures and processes, and suggested ways to measure the various outputs for purposes of performance management and evaluating the collections function of a tax administration. This chapter attempts to provide general operational suggestions to assist tax administrations in discussing relevant aspects of collections and developing their own tax collection policies. In addition, it contains an outline of the roles and responsibilities of tax officials connected with tax arrears collection efforts and general comments on organizational structure.

While this chapter also contains references to the applicable "legislative authority," this reference is broad and examples of legislation are a composite drawn from a number of countries. These references are intended to assist those who may not have particular provisions in their own legislation, or where a provision may not be performing as well as intended.

10.1. Leading Practice

Governments are increasingly under pressure to find sufficient funds to meet their budgetary requirements and their attention often turns to the stock of tax arrears – the tax administration's "accounts receivable."

10.1.1. Introduction

When viewed from 20,000 feet, tax collection appears to be a relatively simple task, but this initial impression is deceiving. In fact, tax collection is a complex and difficult task. It involves collecting money from tax debtors in often stressful and occasionally confrontational circumstances. For example, in Russia, "in 1996, twenty-six tax collectors were murdered, seventy-four were injured, and six were kidnapped while eighteen Russian tax offices were 'shot up.'"¹ More recently, and in various countries, there have been frequent reports of tax collectors being injured on the job while trying to seize taxpayer assets.

Approaching debt collection in a professional manner and using a series of predictable and progressively stronger measures can maximize collection results while minimizing risks of confrontation. There are some basic steps to collecting tax debts that are common to any tax organization. These basic steps are:

- Rapid identification of arrears;
- Assigning priority to cases of arrears (i.e., risk, amount, etc.);
- Increasing severity in each of a series of requests for payment; and
- Taking action using the provisions of the law to collect.

¹ Franklin (1997), p. 136.

The collection policy of any tax administration is determined by the culture of the country, political environment, business practices, judicial policies, and previous taxation experience. The above basic steps will be defined through these influences and further elaborated in the operating guidelines and procedures for the tax collection function. This chapter details the legal actions that are commonly used to collect tax debts. It outlines in sufficient detail the steps involved with each action so that a tax administration that is encountering difficulty with their particular provisions may be able to adapt these steps to achieve a solution within the bounds of their particular collection policy.

Tax Arrears Defined

Tax arrears are those liabilities that have been legally assessed through:

- Self-assessment;
- An administrative action based on objective criteria; or
- An audit of the taxpayer's records

but are not paid by the legal deadline. Arrears include: (a) outstanding tax liability; (b) penalties; (c) interest accrued, and; (d) other legally imposed amounts.² Interest is usually charged from the date the balance owing is due and extends until the date the amount is paid. The accrual of interest is a matter of statute and is a form of compensation to the government for the cost of using funds to which the government is legally entitled. As discussed in Chapter 7, the rate at which interest is charged should be reviewed regularly and reset where necessary. Interest is generally charged on the full balance, including penalties and previously charged interest, and may be compounded on a daily basis.

Modern tax administrations have a civil penalty system to ensure that taxpayers are encouraged to follow through on their obligations on a timely basis. The penalties vary in amount or severity depending on the defaulted obligation or the number of times it is repeated. Those who do not follow through may be charged a penalty for various lapses, including late filing of a tax return, late payment, not meeting deadlines for registering with a tax office, and/or not responding to a demand for information.

Depending on the legislation, refunds for overpayment of tax liability may be applied against a debt of the same tax in another year or to any taxes administered by the tax administration. Certain credits, as specified by the legislation, can become refunds and may also be applied against debt.

Where tax liability is not paid on time, the tax administration usually issues a series of warning letters that escalate in severity and normally applies a procedure of enforced arrears collection. A number of debt management powers are typical across tax administrations, including powers to:

- Grant extensions of time to pay;
- Offset taxpayers' tax debts against credits arising under other taxes;
- Formulate payment arrangements;

² Sanctions, including penalties and interest, are discussed in Chapter 7.

- Collect tax debts through third parties who owe money to a taxpayer;
- Demand payment from the bank accounts of persons with tax arrears;
- Initiate seizure action; and
- Initiate bankruptcy/ liquidation action.

Designing a Tax Collection Policy

It is important to recognize that not all of the procedures and available legal remedies to collect tax arrears are necessary or appropriate in every tax arrears case. The decision of how best to proceed is generally based on an evaluation of the risks involved in collecting the tax debt and the most cost-effective method of collecting that tax debt. The tax collection policy should be one whose procedures and policies are:

- **Selective:** It is not practical to pursue every taxpayer, as there is usually a large number of small amounts and old arrears that, if pursued with every means at the disposal of the tax administration, would overwhelm the available staff. There is simply too much non-compliance for the tax administration to address with its limited resources. Instead, the tax administration should employ a focused approach to identify and devote collection efforts to the most significant and high-risk non-compliance.
- **Inexpensive:** Tax administrations do not have unlimited budgets. Low-cost alternatives are preferable where they are available. This requires a balance between the costs of taking various actions and the expected return. The continuation of collection action cannot be justified where the costs exceed the expected benefits.
- **Prompt:** The tax administration should identify non-compliance and begin collection action as quickly as possible; and
- **Proactive/Curative:** The focus on non-compliance should, wherever possible, be to prevent future non-compliance by a taxpayer and to address the cause of the non-compliance.

Since the tax administration's resources are limited, it is important to adopt a simple, understandable collection policy with procedures that are easy to automate and use. The policy must provide guidance on which cases to pursue, as well as decide which cases to ignore.

A clearly defined and routine business process should be developed and the tax administration's management should ensure that it is, in fact, followed. Once a taxpayer is identified as being in arrears, this process should ensure that the taxpayer/debtor is notified as soon as possible. Delays in notifying a debtor result in lost revenues, as the probability of realizing the amount decreases over time. According to the Collectability Curve³ from the U.S. Internal Revenue Service (IRS), as a tax debt ages, the probability of recovery after it has been outstanding 36 months becomes negligible.

³ Internal Revenue Service (2002), p. 12. This IRS assessment of diminishing returns with the passage of time reflects the experience with private collection agencies. The Commercial Collection Agency Section of the Commercial Law League of America published the results of a survey of its members in July, 2001, indicating that on average only 10¢ of every dollar is collectible after the expiration of two years. A similar affirmation is a

Figure 10.1. IRS collectability curve – probability of collecting \$1 of debt

Current	1 Month Past Due	3 Months Past Due	6 Months Past Due	9 Months Past Due	12 Months Past Due	24 Months Past Due	36 Months Past Due
\$1.00	.97c	.72c	.53c	.43c	.28c	.13c	.0c

These statistics are from a tax jurisdiction that has all the necessary legal tools and a modern administration aided by significant automation and a properly functioning postal service. The situation in many countries could be far worse than this.

There are a number of factors that can cause a poor recovery of tax arrears. These factors can be summarized as follows:

- The legal framework is often identified as the largest impediment;
- Internal organization and coordination within the tax administration may be lacking;
- Clearly defined policies, procedures, and responsibilities, as well as sufficient oversight, may be lacking; and
- Operational resources, ranging from qualified staff to logistical support from computers, telephones, and transport, may be inadequate.

Of particular interest is the current status of the aged arrears of selected countries in Latin America and the Caribbean (LAC) in the table below. The aged arrears are shown as percent of the total outstanding arrears. Some of these may be legitimately delayed due to court appeals. However, the probability of collecting all arrears is significantly reduced as accounts continue to age. This table suggests that most countries in the LAC region would benefit from a reform of current collection law and practices. Additionally, accounts that are uncollectible should be prepared for write-off to avoid the revenue potential being presented is distorted.

Figure 10.2. Aged uncollected taxes as percent of total arrears⁴

	Less than 1 year old	Older than 1 year but less than 2 years	Older than 2 years but less than 5 years	Older than 5 years
Argentina	12.30	9.66	20.73	57.31
Chile	11.93	12.44	29.59	46.01
Colombia	22.83	27.91	17.88	31.38
Costa Rica	19.81	25.94	29.85	24.40
Ecuador	42.86	25.61	11.90	19.62
Honduras	46.44	5.59	4.10	43.87
Mexico	36.31	21.58	26.16	15.95
Peru	0.89	1.62	11.86	86.32
Average for LAC	21.2	15.83	27.20	42.37

presentation by Nina E. Olson, National Taxpayer Advocate before the Subcommittee on Oversight Committee on Ways and Means U.S. House of Representative hearing on Tax Compliance Challenges Facing Financially Struggling Taxpayers on February 26, 2009.

⁴ Inter-American Center of Tax Administrations (CIAT) et al. (2012), page 50. The average is for all reporting LAC countries, whereas the table shows only selected countries.

	Less than 1 year old	Older than 1 year but less than 2 years	Older than 2 years but less than 5 years	Older than 5 years
countries				

Organizational Risk

It is neither feasible nor cost-effective to work all tax arrears accounts simultaneously, as there simply are not enough resources available. The tax administration should apply risk principles to efficiently allocate staff to collections accounts (organizational risk) and to focus on those taxpayers that may have the largest impact on collections (compliance risk).

Organizational risk can be addressed, first, by ensuring that the hiring of collectors is appropriate to the tasks, that collectors receive the proper training, and that there is enough experienced staff available to adequately respond to the workload. In addition, the tax administration should continuously monitor workload and should produce regular reports that track:

- The number and value of accounts that come into arrears status (i.e., the 'intake' of cases);
- The number and value of arrears accounts that are collected or closed (i.e., the 'production' of cases); and
- The number and value of arrears accounts that remain in inventory.

The number and value of accounts that come into arrears status at any one time are considered the new 'intake' for a period. Normally the period would be a calendar month. New intake needs to be addressed as soon as possible while the information about the debt is still new and the taxpayer is still in a position to pay or borrow to pay the tax debt. As could be seen from the IRS experience, with each month that passes, the probability of full recovery steadily diminishes. If the debt is large, the taxpayer may be in the early stages of difficulty with the result that the assets available to recover the tax debt are diminishing as other creditors also make payment demands. As discussed earlier, compliance risk is less with new accounts, particularly if this is the first time the taxpayer is in debt. The collector still has the opportunity to change the behavior of the taxpayer and a relatively easy task of receiving full payment for the debt. Examining the composition of the intake is important.

Analyzing intake should be the role of a supervisor. It is this analysis that may assist in recognizing possible developing trends and effectively allocating staff. The supervisor should be looking for:

- Whether more accounts than usual are coming in at any one time;
- Whether there is a group of accounts that are businesses related by ownership;
- Whether accounts from any particular business sector are going into arrears (e.g., hotels, high-end retailers, construction industry);

- Whether more "Best of Judgments" (BoJ)⁵ are coming into debt status at a time; and
- Whether one type of tax is more prevalent (e.g., corporate income tax).

Depending on this intake analysis the supervisor may have to consider whether to:

- Request additional staff;
- Arrange for specific training;
- Reorganize staff so that some are dedicated to specific sectors or types of tax;
- Determine how audit assessed the BoJs to better collect them; and
- Prioritize accounts by not taking action on some small value accounts.

The number of accounts collected or closed is the 'production' for the period. The analysis of the production helps the supervisor determine how efficient or effective collectors are and what training or other corrective action, if any, is required. Tracking how long it takes to collect or close an account helps the supervisor determine how many large or small accounts a collector can work at any one time (e.g., a week, month, quarter). In this manner, the supervisor can determine how many accounts to assign to each staff member.

With experience and a base of statistics, the supervisor will be able to determine standard times for various activities and types of tax debts, such as the time required to collect an active account, close (write-off) an account which is no longer collectible, close an account when seizure of assets is initiated, collect a large account or a small account, as well as the success rate in achieving full collection for various taxpayers when they are notified within a certain number of days of entering into arrears. All of this can be considered when determining how many collectors are needed and what accounts should be prioritized. Analyzing how accounts are collected or closed can also help determine the more effective methods of achieving compliance. For example, automated notices, followed by telephone calls, are the least expensive, while visiting the taxpayer at their place of business and following enforcement procedures is considerably more costly.

Analyzing the inventory of casework is also necessary to determine the age of accounts and/or whether they are even still collectible. If IRS experience is representative, accounts older than three years should be prepared for write-off.

Finally, supervisors should select and review samples of accounts on a regular basis to determine how well the accounts are being worked. The more common types of samples of work that should be reviewed include:

- Individual collectors' inventory, particularly larger accounts;
- Different tax types in inventory, such as value added tax (VAT), pay as you earn (PAYE), personal income tax, property tax, or corporate income tax;

⁵ A "best of judgment" assessment is one in which the tax administration has reasons to believe that the statements and accounts presented by the taxpayer are not sufficient enough to assess liability. These are also called "indirect assessments."

- Accounts over a certain age, such as ones that are more than 1 year old or ones that are within 6 months of being statute barred⁶ and for which there has been not account action taken; and
- Accounts identified as uncollectible.

Compliance Risk

The above factors can also indicate if there is 'compliance risk' among various tax types, such as increased number of BoJ's in one tax type or increased numbers of large debts in any particular tax type. Collections staff should also be aware of the need to react appropriately, from a compliance perspective, to different types of accounts. For example, taxpayers who are habitually in arrears and are not forthcoming with financial information should not be allowed to continually make payment arrangements. In these cases, progressively stronger enforcement action is required.

Understanding compliance profiles and risk characteristics of certain taxpayers can assist collectors. The OECD model below illustrates factors that a tax administration might consider and approaches it may use to foster compliance among various groups of taxpayers.

Figure 10.3. OECD compliance model applied to collections accounts⁷

Percent of taxpayers	Taxpayer attitude to compliance	Compliance strategy to be used	Percent of compliance used	Application to collections of tax arrears (Examples)
Least	Have decided not to comply	Use the full force of the law	Greatest	Collector must use full enforcement provision, such as garnishment ⁸ , liens, seizure and or sale of property
Lesser	Do not want to comply, but will if the tax administration pays attention	Deter by detection	Less	Collector may need to call, send reminders, and try a long-term payment arrangement and/or one garnishment, before a payment is made and the taxpayer starts to comply
Less	Try to, but do not always succeed	Assist to comply	Lesser	Collector may need to call the taxpayer and determine ability to pay for a longer-term payment arrangement
Greatest	Willing to do the right thing	Make it easy by providing written material or a website for taxpayer to understand their responsibilities	Least	Collector may make one call and the taxpayer will make own arrangements or very short-term arrangements to pay debt

⁶ No longer subject to legal action due to statute of limitations.

⁷ Adapted from OECD (2004), p. 41.

⁸ A garnishment is legal procedure by which a tax administration can collect what a tax debtor owes by attaching the debtor's property, when it is in the hands of someone other than the tax debtor. Typically this is money owed to the tax debtor and reflected in the tax debtor's records as a trade account receivable, or it is money belonging to the tax debtor that is on deposit at a financial institution. .

Allocating Accounts for Collection

All large new accounts (intake) should be regularly identified by the supervisor and allocated to collectors. Ideally, the information technology (IT) system should provide reports on new intake, which the supervisor can allocate to staff on the computer system. Where the system is not capable of allocating accounts and tracking progress, the supervisor will need to develop a manual system. When allocating workload, new accounts should be ranked in value order, from largest to smallest, and any new unassigned accounts should be reviewed to determine compliance risk. It should be noted that larger value accounts⁹ can take longer on average to resolve, and thus fewer accounts would be allocated to a collector for action. No more than 20 large accounts should be initially allocated to establish a time baseline. As a general guide, it will take at least one day to address each large account and 20 large accounts would constitute a month of work.

Once a baseline for handling accounts has been established, it may be determined that, for example, three times as many personal income tax accounts could be distributed to collectors than corporate accounts. It is the responsibility of the supervisor to determine the taxes that comprise the largest percentage of the tax arrears. For most national tax administrations, the largest taxes will include corporate income taxes, VAT, PAYE, and personal income taxes. These taxes are handled by collections teams for each type of tax. Some taxes may be combined under one collections team. For example, as PAYE and VAT are both trust funds¹⁰ and generally a high priority, they may be combined under the same team. Other taxes are normally worked on a project basis, as described below. In some tax administrations, collectors are responsible for a number of taxes belonging to one taxpayer. This is recommended to minimize confusion both for taxpayers and the tax administration. In addition, when a collector is responsible for all tax debts, it is advisable to either align all the collections provisions that may be scattered across several laws or to consolidate them into a single law.

Allocated work, new, and aged accounts should be distributed in order of the potential of the account to generate value (e.g., the actual value of the debt multiplied by the probability of collection, which is a function of age, among other factors). To ensure fairness in the distribution and better tracking of these accounts, only supervisors should allocate taxpayer accounts for collection. This said, in most organizations new collectors are allocated smaller value accounts until they have demonstrated that they are comfortable with the different taxes and interacting with professionals, such as accountants and lawyers.

10.1.2. An Action Plan at the Production Level – the Tax Collector

The most effective system or plan for tax collectors to manage their workload involves a three-stage process: 1) analyze; 2) prioritize; and 3) act.

⁹ The 80/20 rule can be used to define 'large accounts'. That is, 80 percent of the tax arrears are usually generated by 20 percent or less of accounts.

¹⁰ These taxes are not paid by the taxpayer directly, but are rather remitted on behalf of the taxpayer. For example, the VAT is collected and remitted to the tax administration by the seller on behalf of the purchaser.

Analyze

Collectors should analyze their assigned casework inventory to determine their priorities to ensure the maximum recovery and the most efficient use of their time. Collectors must determine which files they will work and which files they will have to set aside. In order to manage the casework inventory, the collector must concentrate on files that give tangible results and/or require action on an urgent basis.

Other important planning principles, which a collector should keep in mind, are:

- Taking every opportunity to collect an account in full;
- Always working on the largest value file, unless there is an immediate danger of loss;
- Taking the most cost-effective action within the circumstances of the account; and
- Recommending "write-off" for an account when all avenues to collect have been exhausted.

Due to the level of effort required to collect some accounts, it may not be financially viable to continue with a collection action if the potential amount of money recoverable is relatively small. Although telephone calls are inexpensive, continually calling without results is not cost-effective.

As part of a systematic approach to working an entire assigned inventory, the collector should have a realistic "to do" list for the day, which places the emphasis on higher payback and more essential cases. This is usually a plan that is developed by the collector each day. The plan needs to be flexible, as new high priorities may intervene at any time. This list includes the high priority cases, the daily "bring forward" list¹¹, incoming correspondence, telephone messages, or walk-in taxpayers.

Prioritize

To properly prioritize the work for the day, a collector must be aware of specific priorities established by management and must be able to analyze files to determine risk of loss. Management priorities can change due to circumstances, but will usually include:

- Ministerial/senior management inquiries (as a result of taxpayer complaints);
- Attorney/Solicitor General or court requirements;
- Remission requests;¹²
- New intake;
- Aged accounts;
- Financial difficulty accounts;
- Write-offs; and
- Small accounts and special projects.

¹¹ Unhandled cases left over from previous days.

¹² Requests to reduce or cancel interest and/or penalties, which the tax administration can do if it deems that it is fair and reasonable to do so, usually because of taxpayer hardship or other extraordinary circumstances.

Inquiries: In modern tax administrations, taxpayers are provided the opportunity to query their accounts. It is common for taxpayers and/or their legal representatives to request account information when there is impending collection action. These requests are often made to search for reasons to challenge the impending collection action. Such requests require considerable work to ensure that all appropriate steps have been taken to collect the account and that the taxpayer has been treated fairly and professionally. To ensure that these inquiries are dealt with openly and transparently, the taxpayer file¹³ should contain the following information:

- Complete reports that provide an account summary of:
 - all financial information about the taxpayer, including an analysis of ability to pay;
 - all collections and compliance efforts taken; and
 - all efforts or non-efforts by the taxpayer to comply;
- Recommendations by the collector as to the next legal action to be taken or if there is undue hardship in paying the arrears;
- Any final decisions on action that have been approved by management; and
- Communications of supervisor decisions to the collector.

Requests from the Attorney/Solicitor General for information for court cases require the same documentation as indicated above.

Aged accounts: There are often many accounts that are old, the accrued penalty and interest on which outweigh the original tax, and for which the likelihood of realizing payment is very low. These accounts should be considered separately. If the collection case is complex and includes legal issues that are not a routine collection matter, but the case is still within the statutory time limit for collection, the case should be referred to a specialist to further examine the substantive issues and make recommendations on how best to proceed. Other routine old accounts should have their balances verified and collection action begun to prevent them from entering statutory time limitations. All accounts that are over the time limit for collection should be considered uncollectible and prepared for immediate write-off.

Write-offs and remissions: Most governments provide legislation in their financial administration acts to allow the write-off of any government debt that cannot be collected. When an account is submitted for write-off, the tax administration has made a business decision not to continue with further collection action. It is important to note that a write-off does not "extinguish" the debt and if the taxpayer is in a position to settle the debt at some future time then the tax administration can collect the debt at this later date.

A "remission" is legally different. A remission is a written request from the taxpayer requesting relief because of financial hardship or other extraordinary circumstances. A remission will permanently extinguish interest, penalty, and/or tax.

¹³ Depending on the tax administration, there can be multiple taxpayer files for registration, audit, and collection or for each tax type. Alternatively and preferable, all documents may be in a single repository.

Small balance accounts: Small accounts are most often worked on a project basis, by grouping accounts with similar characteristics and assigning such accounts to specific collectors. The benefit of this is that it can be done quickly and a certain critical mass of expertise may be developed by one or more collectors. The approach to small value accounts can also often be done by less experienced staff with a simpler policy, such as one that requires three telephone contacts within a certain period and no further action. If an account remains dormant for a certain period after the last contact and there is no indication that there is economic activity, then it would automatically be prepared for write-off. Often, the IT system can write off very small value accounts in batches and thereby reduce costs of collection for the tax administration.

Danger of loss accounts: These are accounts where the taxpayer is trying to put assets or income out of the tax administration's reach. Not taking expedient action may mean losing the account. The collection action may come under the jeopardy provisions of the tax law¹⁴, or it may be necessary to accelerate issuing garnishment, special assessments, or even asset seizure.

Act

The collectors should first review the account to determine what actions have been taken to date, and the results of those actions, before deciding on the next steps required to resolve the account. For most accounts, the collector will:

- Review the account to confirm:
 - the amount of the debt, the details about the assessment, and whether any portion of the debt is under dispute because of an appeal;
 - the taxpayer's previous payment history;
 - the reason for an assessment (e.g., unreported income, insufficient installment amount, salary remittances not made);
 - the potential for the debt to increase (e.g., no salary withholding or potential audit assessment);
 - the requirements for an audit for outstanding periods or amounts;
 - the need for a legal warning and/or the potential result of any legal action (e.g., undue hardship for the tax debtor); and/or
 - if applicable, the need to cross reference the account to any related account, such as family members or business partners.
- Contact the tax taxpayer by telephone to:
 - request payment in full and/or obtain details of any payment made, including date of payment, name of financial institution, address of financial institution, method of payment;
 - obtain additional information to update the account (e.g., current address, employment status, etc.);

¹⁴ Under 'jeopardy provisions' the tax administration will accelerate assessment (e.g., before the due date) and attempt to collect revenue that the tax administration believes is jeopardy, because the taxpayer is about to leave the tax jurisdiction, the taxpayer is about to dispose of property, or other reasons.

- make a payment arrangement, where full payment is not possible, based on a complete review of ability to pay;
- obtain the necessary information to raise an assessment of any remittances that are past due;
- advise the taxpayer of his/her rights and obligations and/or the possibility of legal action, if payment is not received.
- Where telephone contact is not possible, either:
 - send the appropriate collection letter to request payment; or
 - complete further investigation to determine the best way to contact the taxpayer (e.g., a visit).

When a collector follows up cases in an organized way, this reinforces the taxpayer's perception that the collector is professional, committed and will take the necessary and appropriate actions. Where the taxpayer has this perception, he/she is more likely to make an effort to voluntarily comply. The collector must ensure that all contacts with the taxpayer are documented in a collection log and exact dates, times, consequences, and anything agreed to, are recorded. The collector must ensure that a deadline or "brought forward" date is also recorded.

In order to ensure that accounts are worked in an efficient manner and that the taxpayer gets consistent information, some accounts will need to be associated and worked as part of a group of accounts. Accounts may be related in some way, such as when a corporation owns a number of subsidiary corporations with separate tax accounts. In such cases, one collector will take responsibility for all of the accounts, though it may be necessary for the collector to ask for assistance in complex situations.

10.1.3. Case Management

It is a management responsibility to systematically review accounts to ensure the quality and effectiveness of a collector's work. Reviewing work minimizes organizational risks. For example, poorly trained collectors can be coached and/or trained. Monitoring may also reveal whether changes or improvements are required to operational policy or procedures.

To assist in this review, the supervisor should develop a quality review checklist that follows the procedures for collecting an account. The supervisor should then conduct a workshop to explain this form to staff, and collectors could use this same form as a checklist to ensure that they have completed all necessary steps when working the account. The supervisor should review the checklist with individual collectors during meetings to discuss concerns and provide feedback. The supervisor would also use this checklist and any notes made on it as both a record of quality review and to document the performance of the collector.

Management Reports

A number of management reports should be prepared on a regular basis. Tracking the components of a debt arrears inventory, such as intake and production, is critical in measuring collection performance in order to be able to make appropriate strategic and operational decisions.

Ending inventory report at month, quarter, or year end: This report quantifies the arrears inventories by tax type relative to the total inventory. Recording the ending inventory and watching its progress from month to month is one way to determine if the inventory is decreasing. If the inventory is increasing, then the supervisor must also track intake and production to determine whether there is too much new debt or whether there is too little production by the collectors.

The ending arrears can also be compared to the projected revenue for the year to determine how much can be collected from arrears and how much is collected from current revenue.

Figure 10.4. Sample ending inventory report

Ending Tax Arrears Inventory as of Quarter 1 End								
Tax Type	Month 1		Month 2		Month 3		Percent of total	
	#	\$	#	\$	#	\$	#	\$
Corporate income tax (CIT)								
CIT – opening arrears								
Plus CIT new accounts/amounts								
Less CIT closed accounts/ collected								
CIT ending inventory								
Personal income tax (PIT)								
PIT – opening arrears								
Plus PIT new accounts/amounts								
Less PIT closed/collected								
PIT ending inventory								
Pay as you earn (PAYE)								
PAYE – opening arrears								
Plus PAYE new accounts/ amounts								
Less PAYE closed/collected								
PAYE ending inventory								
Value added tax (VAT)								
VAT – opening arrears								
Plus VAT new accounts/ amounts								
Less closed/collected								
VAT ending inventory								
Other taxes								
...								

Ending Tax Arrears Inventory as of Quarter 1 End								
Tax Type	Month 1		Month 2		Month 3		Percent of total	
	#	\$	#	\$	#	\$	#	\$
Total								100%

Intake report: The value and number of accounts added during the period allows a supervisor to know if too many accounts are defaulting. If this is the case, the supervisor can:

- Determine how many can be worked and put aside some;
- Determine if a different method of contact should be used (e.g., send notices for all and only react to those large accounts where there is no answer);
- Obtain additional staff;
- Work only on a particular non-compliant sector; and/or
- Determine how many are BoJ's and speak to the audit division about what can be done.

Aging of inventory report: This report helps determine how many accounts there are in inventory and their various ages and value. With this report, the supervisor can determine if the oldest and largest accounts have been allocated to staff and are being addressed. Since the accounts are stratified by value, the supervisor can decide whether certain groups of accounts can be considered for batch write-offs or for other actions.

Figure 10.5. Sample aging of inventory report

Ending Inventory Summarized by Age and Value												
Amount of Arrears	1-90 days		91-180 days		181-360 days		361-720 days		Over 720 days		Total	
	#	\$	#	\$	#	\$	#	\$	#	\$	#	\$
0-500												
500-5,000												
5,000-10,000												
10,000-50,000												
50,000-100,000												
100,000-500,000												
500,000-1,000,000												
Over 1,000,000												
Total												

Total production report: This report shows the total collected on arrears accounts. It is critical to know, at a minimum, how many accounts are being closed and or collected by the collectors. To ensure that the inventory does not increase, the supervisor must ensure at least that as many accounts are closed or

collected as become new intake. To prevent an inventory increase, supervisors must determine the cause, such as whether collectors:

- Have good working habits and are effective in their collection practices;
- Are being assigned too much non-collection work;
- Require training; and/or
- Are often on leave.

Tracking how accounts are either closed (e.g., written off) or collected allows management to determine the effectiveness of collectors in taking enforcement action and addressing old accounts. For example, if few enforcement actions are taken but the inventory keeps increasing, the supervisor must determine why this is happening.

The sample report below can be adapted to track the production of individual collectors. It can be combined across the team to also reflect the team performance. To determine the efficiency of collectors, the supervisor can divide the various totals on the form by the number of collectors performing the work and determine the average dollars collected for any one of those actions. This type of information can be used when preparing a business case to demonstrate what can be achieved and justify, for example, requests for additional staff.

Figure 10.6. Sample production report

Analysis of Production														
Collected or Closed By (date) Name of Collector -----														
Tax Type	Demand / Notice		Installment/ Arrangement		Remission / Hardship		Garnish- ment		Other Enforcement		Write-offs		Total	
	#	\$	#	\$	#	#	#	\$	#	\$	#	\$	#	\$
Tax 1														
Tax 2														
Tax 3														
Tax 4														
Total														
Analysis	Pre-enforcement						Enforcement				Administrative			

Write-off and remission production report: This report provides an analysis of write-offs and remissions. The intention again is to determine how many accounts are written off and/or remitted and their reasons during a reporting period. This type of report is usually required by a Ministry of Finance since most Financial Administration Acts contain a disclosure requirement.

Figure 10.7. Sample write-off report

Summary of Accounts "Written off" as "Uncollectible"										
Uncollectible	Tax 1		Tax 2		Tax 3		Tax 4		Total	
	#	\$(000)	#	\$(000)	#	\$(000)	#	\$(000)	#	\$(000)
Debtor is deceased										
Debtor is no longer resident										
Debtor cannot be located										
Debtor is incapable of paying debt (indigent)										
Debtor is bankrupt										
Debtor is an inoperative/wound-up corporation										
Cost of collections not justified										
Total										

Figure 10.8. Sample remission report

Summary of Accounts 'Remitted'								
Reason for Remission	Tax 1		Tax 2		Tax 3		Total	
Description	#	\$(000)	#	\$(000)	#	\$(000)	#	\$(000)
Financial Hardship								
Tax Administration Delay/Error								
Extraordinary Circumstances – Natural Disasters								
Extraordinary Circumstances – Accident /Illness/Death								
Extraordinary Circumstances-Civil Disturbances								
Extraordinary Circumstances - Other								
Total								

Accurate management reports similar to the above are usually the core reports for managing a debt arrears program. The sooner a tax administration can identify changes in noncompliance, the faster it can respond. Frequent and accurate reports can assist with identifying emerging revenue risks, identify internal problems, and provide management and the government advance warning to coordinate and develop an appropriate response, if necessary.

10.1.4. Tax Collection – An Organization

In order to efficiently utilize the powers provided in the tax law to collect tax arrears, an organizational framework is necessary. Most tax administrations are organized along functional lines.¹⁵ In addition to

¹⁵ The organization of the tax administration is discussed in Chapter 4.

organizing along functional lines, another recent trend is to further organize the tax administration by taxpayer size (small, medium, large).

In designing and staffing collection divisions, there are variables that affect the design and number of employees that are required including:

- Anticipated workload per employee;
- Number of taxes to be collected;
- Level of automation;
- Reliability and integrity of account information;
- Legal framework (separate and differing provisions for each tax versus a tax code);
- Supporting infrastructure;
- Cost;
- General level of taxpayer compliance; and
- Additional duties assigned to the division.

In addition to debt collection, some countries have given collection divisions responsibility for the identification of non-filers (those who should be registered for tax purposes but have failed to do so); stop-filers (those who are registered but have failed to file returns); account balance inquiries; error resolution for tax returns identified with errors during data entry; and taxpayer registration. As a result, there is no uniformity to point to when it comes to the design and indicative staffing numbers, as illustrated in the table below.

Figure 10.9. Staffing of enforced collections in the OECD¹⁶

Country	Total staff usage in 2007 (FTEs), or year end employees /1	Enforced debt collection and related functions	Percent of total
	#	#	%
Australia	20,877	2,620	12.5
Austria	7,993	853	10.7
Belgium	17,322	2,194	12.7
Canada	36,717	7,375	20.1
Czech Rep.	14,679	973	6.6
Denmark	8,026	908	11.3
Finland /2	5,913	276	4.7
Germany	111,988	12,000	10.7
Greece	12,566	-	-
Hungary	13,567	2,367	17.4
Iceland /2	78	-	-
Ireland /2	6,656	333	5.0
Italy /2	54,619	-	-
Japan /2	56,159	8,043	14.3

¹⁶ Adapted from OECD (January 2009), p. 92.

Country	Total staff usage in 2007 (FTEs), or year end employees /1	Enforced debt collection and related functions	Percent of total
Korea /2	17,179	824	4.8
Mexico /2	21,119	6,031	28.6
Netherlands /2	25,500	1,000	3.9
N. Zealand /2	5,944	583	9.8
Norway	5,849	377	6.5
Portugal /2	11,463	1,852	16.2
Slovak Rep.	5,144	323	6.3
Spain	27,153	4,452	16.4
Sweden /2	8,650	350	4.0
Switzerland	935	65	7.0
Turkey	41,525	11,112	26.8
UK /2	88,934	6,706	7.5
USA	92,017	31,793	34.5

/1. The data on distribution of resources should be treated with caution owing to differences in interpretation between countries on the functional split described and organizational arrangements in place.

/2. **Australia**—provision of written advice, marketing, education, Australian Valuation Office and others; **Finland** – Customs is not included; **Germany**—Taxpayer account management functions are included in audits and verification functions; **Iceland**—number of staff only in headquarter; **Ireland**—Figures for Staff numbers are the average for 2007, and include all serving staff who are paid for a particular period. Figures include temporary staff.; **Italy**—data for Revenue Agency and 1/3 staffs of GDF, not including outsourced debt collection function; **Japan**—inseparable from the audit, investigation and other verification function and debt collection function; **Korea**—staff in taxpayer account management and verification functions are also engaged in the work of debt collection; **Mexico**—Number of staff as of December 31st, 2007; **Netherlands**—data exclude customs and benefit division; **New Zealand**—includes components of non-tax functions that can't be isolated; **Portugal**—number of year-end employees; **Spain**—includes 3,644 staff in Customs; **Sweden**—data exclude EA staffs (around 1,850) which carries out enforced tax debt collection functions; **UK**—data includes Customs.

Nevertheless, the appendices of Chapter 4 draw on international leading practice to devise a typical structure for the collection division of functionally organized small/medium and large tax administrations. As discussed in Chapter 4, the staff of the administration's headquarters should provide planning, support, and normative guidance for all field operations, but should not actually carry out operations (should not deal directly with taxpayers). The principal role of the collections staff of district/field offices is to execute the annual collections work plans developed by the collections headquarters office. Appendix 10.A of this chapter expands on the information provided in Chapter 4 and provides additional detail on the roles and responsibilities of the typical sections in the collection division.

Effectively managing tax accounts in arrears is a shared responsibility between management and the collections staff. Both have specific responsibilities. Management must ensure that accounts are reviewed and analyzed and that accounts are properly allocated. Management must also ensure that collectors are properly trained and have a good understanding of the organization, policy, and procedures.

Collections staff must ensure that all parts of the collection process are carried out with professional and judicious care. They must ensure that they plan, organize, and act on their accounts in a timely manner.

The specific roles and responsibilities of each staff member in the processing of accounts are summarized below.

All collections staff should not only be knowledgeable about the law, policy, and procedures in collections, but should also have an understanding of the tax administration's organization. This will enable the collector to better assist any taxpayer not only in resolving their tax debt, but also in other tax issues. Collectors should be trained on recovery legislation, policy, and procedures and should also have exposure to information from and about other work areas that impact collection activities. General organization knowledge will assist the collector in directing the taxpayer to the right source for further resolution of their tax matters.

Collector

Some tax administrations may differentiate collection responsibilities by the complexity and knowledge required to perform some of the actions required in collecting debts. This provides a career path within the collections organization. They may, for example, have a senior or complex collector(s) that deals with bankruptcy, seizure, receiverships, and other situations that can require specialized knowledge. Routine collection cases may include arrangements to pay, garnishment, and liens, while a clerical level position may include routine telephone contacts. Other administrations do not necessarily divide work in this manner, and collectors are expected to follow through with a case, once assigned, from start to completion.

Most of the procedures related to conducting an investigation, preparing an investigation summary, communicating with the taxpayer, and enforcing the collections provisions of the law are the responsibility of the collector. The collector is the primary person responsible for collecting arrears on any account by following approved processes and procedures and documenting the information required. Often, the collector is also the one serving documents and generally being at the frontline of relations with the taxpayer. The collector is responsible for being aware of all policies and procedures and for keeping up to date with any changes. The collector's responsibilities are:

- Reviewing assigned accounts on a daily basis and ensuring that accounts in danger of loss are given priority;
- Reviewing all information on the file and/or other tax files, if information is lacking in the collections file, when first assigned a new account. All applicable information about the taxpayer's location, sources of income, and assets should be in the IT system. In the absence of appropriate IT support, a manually completed form that provides a "snapshot" of the taxpayer's finances and other basic information should be completed;
- Requesting information from the taxpayer or third parties, when the collector determines that he/she needs this information. This information will be obtained by telephone, letters, demands, visits to other government offices, and/or field calls to the taxpayer's premises;
- Ensuring that all compliance actions have been reviewed, such as whether all returns have been filed, whether additional tax will be owed, or whether the client cooperated in any previous collection arrangement;

- Determining the taxpayer's ability to pay or borrow;
- Developing an action plan to collect the debt, once all the above information has been reviewed and analyzed; and
- Putting the collections steps in place, after all recommendations are approved by the supervisor, and ensuring that there is an effective "bring forward" system in place to follow up on all actions.

Collectors need to have a general understanding of how the collection processes fit in the context of a self-assessment system and with the general organization where they work. For the collector, this means having knowledge about the components of tax debt, such as the types of taxes, penalty and interest, and the impact of refunds and credits on the debt owed, as well as how the taxpayer account works on the IT system and how non-compliant taxpayers are identified.

An understanding of the compliance process – encouraging taxpayers to file returns and enforcing collections through a progressive series of steps – also helps the collector in determining how this impacts on collections. Taxpayers who do not file returns often do not pay taxes. This can reinforce why enforcement procedures are required and how they ensure that the self-assessment system works across programs.

The collector must have an understanding of various financial records, including financial statements, accounting records, various sub ledgers, bank records, etc. A collector cannot confirm a taxpayer's financial position without being able to adequately review these documents. The tax administration should encourage collectors as much as possible to take courses and get other training in furthering their understanding of accounting and business practices. This understanding is critical for the collector to calculate a taxpayer's ability to pay or borrow and to identify what assets could be attached¹⁷ or seized and sold to cover an outstanding debt.

Supervisor

The supervisor is responsible for managing subordinate staff and their workload. The supervisor is concerned with work quality and is required to ensure that the staff receives any necessary training. Depending on the size of the office, this position may also be responsible for ensuring that procedures are kept updated and in electronic format.

The supervisor is also responsible for ensuring that the collection workload is properly managed on a regular basis by:

- Reviewing all new accounts and allocating them on a risk basis, assigning the riskiest accounts (e.g., the largest and oldest) to the most experienced collectors;
- Assigning accounts to collectors;

¹⁷ An "attachment" in this context is usually the process, by which a property is transferred to the tax administration or sold for the benefit of the tax administration, by a court order. The term "attachment" can also mean simply a "lien" or a "seizure" depending on the jurisdiction.

- Reviewing accounts regularly for quality;
- Coaching and/or training collectors on new or changed procedures;
- Tracking and reviewing production and ending inventory on a regular basis;
- Consulting with IT staff on the validity of information required for the management reports;
- Consulting with other work areas if their programs impact on collections; and
- Regularly discussing program results with senior management and staff.

Senior Manager

The senior manager may be responsible for a number of collection teams and should ensure that the procedures are kept updated and regular management reports are prepared. The senior manager is usually also responsible for workload management and for good communication with the IT staff so that various reports and taxpayer information are available. The senior manager is responsible for:

- Ensuring collections policies and procedures are in writing, kept up to date, and are readily available to all staff;
- Ensuring that forms are consistent with the legislation and with the standards of the tax administration, public forms are available on the website, and internal forms are available on the tax administration's internal system;
- Reviewing management reports monthly with the supervisor and making operational decisions for improvement;
- Validating information regularly with the supervisor and IT; and
- Ensuring that supervisors perform their duties.

Notification Procedures

There are certain actions that should be completed before an account is referred to a collector for follow-up and possible enforcement. The extent of these actions depends on the type and size of the account, but, in all cases, the taxpayer should be notified of pending actions. The number of possible statements or notices can include the following:

Notice of Assessment: In the general scheme of modern tax laws, with the exception of VAT and PAYE, which are trust funds, all taxpayers should initially receive a notice of assessment as soon as a tax return has been filed and assessed. For most tax administrations, this will be a computerized notice provided to the taxpayer that confirms:

- The amount of tax assessed and whether there was any change in the amount;
- Any tax owed;
- When payment is expected (i.e., payment is requested for the balance); and
- Whether penalty and/or interest have been or will be charged.

First Reminder: Depending on the administrative policy and available resources, a collection letter or reminder should be sent within 30 to 90 days after the notice of assessment to advise the taxpayer of

the amount outstanding that is due. This should be done automatically by the IT system. To allow the tax administration to address large-risk accounts first, this reminder should also be risk-based. For example, if the account is of small value and risk, the reminder may be sent within 60-90 days. If the amount owed is very small, a notice may not be sent until 90 days after the notice of assessment. If the amount is large, both a reminder should be sent and the account should be referred to a collector for follow-up.

Subsequent Notices: Subsequent to the above, if payment has not been received, there may be other notices or demands for payment. These could include a warning outlining the provisions of the law. In most countries, established collection policy requires that a tax debtor be given legal warning (by letter or by telephone contact, etc.) before legal action may begin. This warning ensures that the taxpayer is being treated as fairly as the circumstance allows and that the taxpayer has been made fully aware of the actions that can occur during collection. Depending on the size of the debt and the risk, the delivery of this notice may be accelerated. For example, for a large taxpayer covered by the large taxpayer office (LTO), the policy may require sending the notice within 15 to 30 days and also immediately referring the case to a collector.

In the general scheme of progressive and escalating actions, before an account is sent to a collector, there is an attempt to secure the missing return(s) and payment of the associated tax. In larger tax administrations, this activity is normally conducted by a special unit dedicated to getting taxpayers to file and pay outstanding current tax.¹⁸

Reviewing Books and Records

Collectors will often have to review a taxpayer's financial books and records to confirm a number of issues. These can include:

- An analysis of ability to pay or borrow sufficient money to pay the tax debt, support a longer-term payment arrangement, or possibly to confirm hardship when remission is requested; and/or
- A review of bank records and the accounts receivable of a business for the purposes of determining where a garnishment can be sent or collection enforcement action can be taken.

As much as possible the collector should obtain all the financial information that is necessary from the taxpayer to be able to determine the ability of the taxpayer to pay or borrow. Information about assets is important, as it allows the collector to determine the amount of equity a taxpayer has and how much could conceivably be recovered, if seized and sold. The liabilities note who the other creditors are and

¹⁸ Taxpayers are required to submit a return for each tax reporting period (month, quarter, or year). A taxpayer who submitted returns in the past, but did not submit one in the current period, becomes a "stop-filer" for the current period. Stop-filer procedures are discussed in Chapter 7. In general, the tax administration (a tax compliance officer in the collections division or other divisions responsible for stop-filers) will attempt to obtain a return from stop-filers through notices, telephone calls, etc. If a return or sufficient information to determine liability cannot be obtained, the account is referred to an auditor, who will attempt to estimate the amount of tax arrears a "best of judgment" assessment.

their potential priority, but can also indicate how rapidly unpaid amounts are increasing, which affects the ability to pay the tax debt. The income sources are carefully noted for potential garnishment. The comparison of the assets and liabilities can also help establish a taxpayer's net worth for purposes of calculating "ability to pay" and estimating the taxpayer's ability to borrow. Financial information about assets, liabilities, sources of income, principal customers, etc., should be extracted to a standardized form that is applicable to all tax arrears collection cases.

At times the taxpayer will not cooperate, and it becomes necessary to contact the taxpayer's financial institution directly to obtain information. A financial institution has a responsibility to keep its clients' affairs confidential or it can be subject to legal action from its clients. Financial institutions usually do not respond to informal requests for information from a collector. However, tax laws should contain a provision to issue a legal demand to third parties for information.

Personal Security

The personal security of the collector is always a concern. Collectors must always be cautious and look for any indication of the taxpayer's past attitude and or behavior, such as whether the taxpayer has been cooperative, or whether there is a history of avoidance or confrontation. If the file indicates any past problem, two collectors should be assigned to a field visit. The collector should also:

- Discuss any concern about safety with the supervisor before meeting with a taxpayer;
- Schedule meetings during business hours and not in the evening;
- Make sure someone in the office knows his or her whereabouts;
- Take another tax officer to any meeting if either the location or person is considered high risk; and
- Carry a fully charged cell phone before leaving for a meeting.

In the extreme event that a taxpayer abuses, threatens, or assaults a collector, the collector should take the following actions, in the priority order shown below:

- Immediately vacate the premises;
- Seek medical attention, if necessary, and call the police¹⁹ if in danger;
- Report the incident to the supervisor and/or a security officer so that the appropriate action can be undertaken by the tax administration as soon as possible; and
- Record the circumstances in the taxpayer's file.

This will allow any other tax officer assigned to the file to be aware of the potential danger and to plan and act accordingly in any dealings with that taxpayer. The collector should describe the events and refrain from injecting any personal feelings about the taxpayer.

¹⁹ Most tax laws contain provisions where the police are required to assist if there is an indication of confrontation.

Time Limitations

The ability to take collection action should have time limitations set by the law, during which certain actions can be done. This means that a collection action must have been started within a specified time limit, which can range anywhere from 4 to 6 years, depending on the specifics of the legislation, usually after the date of the notice of assessment and, in some cases, from the date the tax first became payable. An aged accounts receivable report is critical to ensure that these time limitations do not bar a collection action.

Objections and Appeals

The tax acts will usually have provisions that allow a taxpayer to object to or appeal an assessment, reassessment, or an administrative process, such as garnishment.²⁰ Often, the legislative provisions will direct the tax administration not to take any action on the amount in dispute. In some jurisdictions, the taxpayer may be required to post security for amounts that are unpaid and objected until the objection is resolved. However, in the majority of countries, security is not required and no action may be taken to collect disputed amounts once the notice of objection or appeal has been filed.

It is important to note that accounts under objection or appeal are usually large, and the collections organization needs to review these accounts on a regular basis. If there is any indication that the taxpayer's financial circumstances are significantly deteriorating, the collector needs to determine whether any jeopardy collection action should be considered and whether it can be accomplished under the legal framework.

10.1.5. Payment Arrangements

Collection cases are created when taxpayers fail to meet their payment obligations. The addition of penalty and interest to the debt owed creates an incentive for taxpayers to find funding to pay their tax arrears, including by obtaining a loan from a financial institution. In some cases, however, a taxpayer cannot find the funds to make an immediate payment. While the task of the tax administration is to obtain immediate payment in full without creating undue hardship for the taxpayer, this is not always possible and a payment arrangement proposal can be considered. Tax administrations will usually have the latitude to negotiate a payment arrangement that allows the taxpayer to pay a tax debt without causing unnecessary financial hardship, provided there is not a danger of default on the arrangement and the taxpayer's continued compliance is not a concern. The arrangement is a written agreement between the taxpayer and the tax administration to pay the tax debt over a specified period of time. The taxpayer's ability to pay is determined by a review of such factors as income, expenses, and capacity to borrow at a commercial lender.

Most tax laws do not make specific reference to payment arrangements. Arrangements are a matter of administrative policy and are an action to facilitate the taxpayer in paying their tax liability over a period of time. Any arrangement will be based on the circumstances of the particular situation of each

²⁰ Objections and appeals are discussed in Chapter 10.

taxpayer. The process of reviewing and/or accepting a payment arrangement proposal by the tax administration is similar to a bank providing a loan to a client. Like a bank, the tax administration has the responsibility to obtain all the financial information necessary to enable an "informed" decision on whether or not to extend a payment arrangement, as they are in effect lending the taxpayer money. Before granting a payment arrangement, the taxpayer should be expected to demonstrate that a loan from a financial institution to clear the outstanding taxes has been turned down.

The acceptability of a payment proposal is normally based on the taxpayer's ability to pay. If the taxpayer has the ability to pay in full, the taxpayer should be requested to do so. Where this is not possible, an arrangement which pays off the entire outstanding debt in the shortest time possible and at the least cost to the tax administration may be considered. The least cost consideration also requires the taxpayer to pay the established monthly amounts without any unnecessary intervention or follow-up by tax administration staff.

The arrangement should be aimed at paying the entire outstanding debt in the shortest time possible. An arrangement to pay does not normally stop interest from accruing on the outstanding balance and requires the taxpayer to remain current with all future tax returns.

Arrangements Shorter than Six Months

In some jurisdictions, payment arrangements can be established shortly after the tax has been assessed. Often, when there has been a large audit assessment, the amount cannot be paid in a single payment and the taxpayer will ask for a payment arrangement. If a proposed arrangement will pay off the outstanding debt within a few months (e.g., six months) or before the filing due date for the next return, then it may be eligible for approval under administrative policy without a review of the taxpayer's finances.

Commonly, the proposal must also meet the following conditions:

- There is no prior history of payment non-compliance;
- There is no evidence to suggest that the tax administration's interests are at risk by accepting the proposal (i.e., there is no danger of loss);
- The amount of the debt is not large (depending on the historic levels of income on the individual's account and tax authority guidelines); and/or
- The proposal is not a balloon payment arrangement (i.e., the largest payment being the last in a series of payments).

Acceptance of proposals for individual income tax accounts is established for the sake of practicality, recognizing that the individual has accepted the responsibility to pay in a reasonable period of time.

Arrangements Longer than Six Months

When considering the acceptability of a proposal over six months, generally:

- Any negotiation starts with the tax administration asking for payment in full of all arrears;
- Any proposed payment terms accurately reflect the taxpayer's ability to pay or borrow;
- The taxpayer is requested to file any outstanding returns;
- The full arrears – interest, penalty, and taxes – are included in the arrangement;
- Where possible, a down payment is taken into consideration;
- Where electronically possible, direct debit is considered;
- The maximum repayment amount and the minimum repayment period are sought; and
- Current taxes are paid at all times.

Where arrangements extend over a period of time, the tax administration's IT system should be able to calculate the expected monthly payments, record the receipt of payments, and flag those payments that do not match the required monthly payment or are not received on a timely basis. Whether the system is electronic or manual, the tax administration must follow up immediately when a taxpayer defaults on an arrangement. Often, the situation can be rectified and payments can continue. Where this is not the case, the collector must again review the case to determine the course of action.

The IT system should also assist in preparing management reports that show the effectiveness of the payment arrangement process. The data should include the following:

- Arrangement start and end dates determine the efficiency of time to collect the debt;
- The number of arrangements accepted and broken indicate how effective the arrangements are; and
- Comparing the total amount collected under a payment arrangement to the total taxes collected in any period confirms the percentage of debt collected in this manner.

During the agreement the taxpayer may request minor variation(s) in the payment schedule. For example, due to cash flow difficulties, the taxpayer might ask that a payment be delayed a few days until money is in the account, or that a particular payment be reduced, with the balance paid at a later date. A decision to agree to this variance will depend on the individual circumstances of the case. Minor variations are generally acceptable if the arrangement has otherwise been working satisfactorily and the debt is continuing to decrease.

10.1.6. Sequencing Collection Enforcement Actions

The general approach to collections enforcement is a series of steps that are taken after attempts at getting the taxpayer to voluntarily pay have not yielded results. The usual steps that are most often followed in order are:

- Offset of any refunds due;
- Garnishment on bank accounts or wages;
- Issuance of demands on accounts receivable;
- Court action for seizure of assets:
 - Movable property, and

- Immovable property;
- Notice of public auction;
- Auction or redemption of property;
- Disposition of proceeds²¹; and
- Write-off of uncollectible amounts.

10.1.7. Offsets

Most tax administrations will set up a process with the central financial government agency to "set-off" a government payment to a tax debtor and pay the amount instead to the tax administration. An internal set-off form will usually contain the following information:

- The correct name, address, and account number of the taxpayer, where the correct name is the legally registered name of the taxpayer. Although the trade name may also be indicated, usually preceded by "Known as" or "Trading as," it is important to correctly indicate the legal name; otherwise, the offset may be invalid. The address of the taxpayer is where the head office is located. This address should be the complete address as known to the tax administration;
- The correct amount of tax owed;
- The name of the government department and account from which the money is being set-off; and
- The discharge of the original liability of the government department to the taxpayer.

In all cases where a set-off is made, the taxpayer must be informed. This varies from sending the taxpayer a letter to using a multi-purpose set-off form that can also serve as a notice to the taxpayer.

In some countries, such as the United States, federal law²² indicates how a tax refund payment will be applied when a taxpayer has debts with multiple agencies. The tax refund payment will be reduced and applied to a taxpayer's debts in the following order of priority:

- IRS income tax liabilities;
- Past-due child support assigned to a state;
- Any past-due, legally enforceable debt owed to a federal agency;
- Past-due child support not assigned to a state; and
- State tax liabilities.

In other countries, the law may not be as clear, but there are workaround solutions. The taxpayer may be requested to sign an assignment of the refund, or other payment to the tax administration, authorizing the offset. Alternatively, garnishment may be sent internally to the Ministry of Finance, if there is a central payment function, or to the other government agency directly, if it is a decentralized system.

²¹ If money remains after tax, penalties, interest, and costs, such as storage, security, etc., this amount is returned to the taxpayer.

²² Payment priorities are mandated by Title 26, U.S. Code §6402(e).

10.1.8. Garnishment

Garnishment is an administrative process requiring a third party, who owes money to a tax debtor, to instead pay the money to satisfy a tax debt to the tax administration. The third party is served with a garnishment²³ to pay funds to the tax administration. For simplicity, the term 'garnishment' is used here and below. Terms used in other jurisdictions include lien, third-party demand, offset, and/or judgment. In exercising the power to garnish a payment, reasonable care (due diligence) must be exercised to avoid harm to other persons or property.

Most tax laws make provision for garnishment proceedings where all efforts have been made to collect unpaid taxes voluntarily but the tax debtor has not complied or cooperated. The power to use garnishment is usually vested with the head of the tax administration, and it may be a delegated authority in some countries where subordinate staff can be authorized to exercise this authority.

Garnishment provides the legal ability of the tax administration to intercept funds a third party owes or will owe to a non-compliant tax debtor and to pay that money toward the tax debt. The provision will indemnify the third party so that they will no longer owe the tax debtor to the extent of the money that was paid to the tax administration. In the event that the third party does not cooperate, the provision will usually make the third party liable for the debt. The third party has a responsibility to pay over to the tax administration what would have been owed to the tax debtor. In some cases, the third party will not cooperate and the collector must determine the reason. Where the third party is purposefully not cooperating, most tax legislation provides a penalty that requires the tax administration to assess the third party for the amount, and the assessment becomes collectible as though it was tax owed by the third party. This assessment can then be collected using all the collection powers in the tax law.

A properly prepared and timely garnishment is one of the most important and effective tools in the tax collection process. A garnishment can be either a legal document issued by the court to collect debts from judgment debtors, or, in some countries, it can be issued directly by the tax administration without the necessity of using the court. A garnishment issued by the tax administration has the same legal authority and effect as a court issued garnishment order or judgment.

The decision to use a garnishment must be carefully considered since the existence of a garnishment should not be public information. Other creditors could interpret the garnishment as financial difficulty, making it difficult for the taxpayer to borrow money to pay their tax arrears or to continue to operate their business.

The garnishment of third party funds is an involuntary act, meaning it does not require tax debtor approval. The collector must ensure that a number of factors have been investigated, considered, and adequately documented. Improper processing of the garnishment can result in embarrassment to the tax debtor and/or the tax administration.

²³ Garnishment is the form used to attach to funds held by a third party (the garnishee) a requirement to pay the tax administration.

All of the above steps must be documented in either electronic and/or paper format to support the execution of a garnishment. If the file cannot prove that these points have been investigated, the request for a garnishment should not be approved.²⁴ Full documentation is an integral part of the process and in most jurisdictions, where a court must issue a garnishment, proof of process is required. The same level of proof should be required where the tax administration itself has the ability to issue a garnishment.

Salaries, bank accounts and various investment incomes, cash value of insurance policies, rental income, accounts receivables of a business, government payments, and any other payment determined to be owing to the tax debtor may all be garnished. There may be different procedures that would apply to the different sources of income, and the collector must be aware of these. The collector must ensure that no more than the amount of the debt is garnished from these sources, as collecting excessive amounts can lead to investigations of abuse of power.

Some income sources, such as alimony or pensions, must be carefully reviewed as they may cause distress if garnished, and they may also be legally out of bounds. The tax debtors and the courts may object if the tax administration is overly zealous with this power.

Garnishment Process

To properly complete the garnishment process, collectors must ensure that:

- The correct amount of debt due and payable has been established and no other taxes, for which the tax administration is responsible, are also in arrears – it will be necessary to coordinate efforts with another collector, where different collectors are assigned to other taxes;
- There are no payment arrangements in place;
- The ability to pay has been determined, the tax debtor is not bankrupt and the taxpayer's financial condition, i.e., analysis of ability to pay, has been investigated and reviewed, should the garnishment involve the interception of wages or periodic payments from other sources. Where a tax debtor is a business, the collector has visited the business premises of the taxpayer to determine the severity of the financial problem first-hand. (The outcome of this visit will determine whether other actions in addition to garnishment may be warranted);
- Audit has been contacted to confirm if there is any audit in progress that could alter the taxpayer's liability and the account is not under appeal or objection that would affect part or the entire outstanding amount that is being prepared for garnishment;
- The appropriate legal amount of time, within which to pay the debt, has been provided;

²⁴ Collectors at journeyman-level or above (i.e., those who have completed all training, have had two or more years of field experience, and have been certified by their supervisors as being able to operate independently) should be delegated written authority to execute garnishments under their own signatures. This, of course, depends on the level of potential publicity. In smaller countries, approvals may be needed even from the head of the tax administration, since the potential publicity could be nationwide.

- Most importantly, all voluntary collections efforts have been exhausted, all information has been investigated, and a log of action, organized in chronological order, of steps taken from the inception of the debt to the request for garnishment has been completed, an account report has been prepared by the collector and reviewed for quality by the supervisor;
- All actions to locate the tax debtor, assets, and/or income have been carefully documented so the correct source can be garnished;
- The tax debtor has been notified at appropriate times and all notices to advise the tax debtor and or representatives have been mailed or otherwise delivered to the correct addresses of last standing;
- The garnishment forms have been carefully prepared by the collector and then signed by the delegated authority or processed by the court, as may be applicable;
- The garnishment form has been properly served;
- Follow-up procedures for receipt of the payment have been set up;
- Non-compliant third parties have been addressed;
- The garnishment form has been withdrawn as appropriate; and
- Management has reported on the number and dollar value of accounts garnished.

It is important to note that a lack of case preparation and documentation that all steps have been exhausted to get the tax debtor to pay voluntarily is often a cause for governments to suspend or place further restrictions on this power. Evidence to support previously undertaken collection efforts is an absolute necessity, as well as confirmation that the amount is legally collectible. In confirming facts, it is necessary that a record of telephone conversations is kept which, at a minimum, records the date, time, person spoken to, and details of the conversation.

Some tax administration IT systems have the ability to record the various steps in a 'collection log' or diary. Information is entered on the collection log each time there is contact with the tax debtor (e.g., returned notices or other documents that indicate the tax debtor is not responding and/or cooperating are also indicated in the log). In the absence of a computerized recording of the actions taken, a manual log listing actions in chronological order is necessary. In more sophisticated systems the actual telephone conversation can be recorded and recalled as part of the collection log.

In jurisdictions where a judgment must be obtained in court before the garnishment can be issued, the court may request to review the evidence or supporting documentation. The continuity of possession of original documentation becomes critical in the event an action is later challenged in court. It is therefore important that original documents are secure.²⁵ Often, the court will accept copies of the original documentation provided that the copies are certified as true copies of the original documents. In some jurisdictions, this may require an amendment to the evidence provisions of the applicable tax law. By producing copies of documents for court examination, continuity of possession of the original documentation is retained with the tax administration. Retention of the original file by the tax

²⁵ It is important that tax administrations review the security measures for tax files. Where continuity of possession can be challenged due to lax access procedures for tax files, a taxpayer may be successful in an appeal against a garnishment.

administration should, at least in theory, also reduce the risk that a file can become inadvertently lost while not in their possession.

Current and up-to-date information on the source of funds to be garnished is critical. Incorrect information can cause a garnishment form to be sent to a third party and cause the inappropriate disclosure of tax debtor information. The collector should obtain correct information as follows:

- **Wages and employment:** These are usually the best source for tax debtors who are employees. The exact name and address of the employer must be obtained.
- **Bank accounts:** The collector must ensure that the correct bank and/or account type and/or account number have been obtained. Banks will often reject a form if any information is incorrect. The use of garnishment on a bank is the best and quickest source of obtaining money. If the taxpayer has funds in the bank at the time the garnishment is served, then the bank must pay the funds demanded by the garnishment and must treat the garnishment as a claim for money at the moment it is served. The bank may claim to honor a competing claim when the garnishment is served, as other checks or withdrawals, or claim an offset against a loan that the bank may have with the taxpayer. The tax collector must ensure that the bank does not impose its own internal rules to circumvent the purpose of the garnishment. The collector must follow up with the bank if it fails to remit the funds that were on deposit in the taxpayer's account at the time the garnishment was served.
- **Rental income:** The name and address of the individual and/or corporation paying rent to the tax debtor must be confirmed.
- **Government payments:** The exact name and address of the employer and/or department or ministry issuing the payment should be confirmed. The collector must know which agency is responsible for payment and whether an internal form or offset process has been established;
- **Accounts receivable:** Tax collectors must be particularly careful when issuing garnishment on this source of funds. Collectors must establish the amount due at the time of service of the garnishment and obtain a commitment from the "payer" when the funds demanded by the garnishee will be paid. When reviewing the accounts receivable, it is important to select only "quality" receivables that are current. Garnishment issued on receivables that are old or in dispute is unlikely to result in success. Furthermore, the tax administration is put in the position of attempting to collect amounts that the tax debtor may have been already having a problem collecting.
- **Prepaid accounts with supplier:** If the tax debtor is a business, the collector should establish if any such accounts exist with suppliers.

The garnishment can take many forms, but, most importantly, it should contain the legal information from the tax act and accurate information about the tax debtor and third party, including:

- The correct name, address, and account number of the tax debtor. As with offsets, trade names may be indicated in addition to the legally registered name;
- The correct amount of tax owed;

- The name of the third party and address. Every effort should be made to determine the legal name of the third party, although the trade name may also be cited. Otherwise, the garnishment could be invalidated. Where the third party is also a taxpayer, the tax file should be referenced to determine the correct name;
- Declaration of agency²⁶ of the third party, if the act calls for this;
- The time frame within which to pay and a due date which does not fall on a date or dates when banks or other financial institutions do not operate;
- The discharge of the original liability of the third party's debt to the tax debtor; and
- Liability of the third party, if payment is not made.

Garnishment is normally personally served. In some tax administrations, there is a staff member who is dedicated to serving documents (i.e., bailiff). In others, this is the responsibility of the collector. Prior to serving the garnishment, information concerning the tax administration's action should be treated as confidential since a leak of information may cause the tax debtor and/or third party to take actions to put the funds out of reach of the tax administration. If a tax debtor becomes aware that garnishment action may be taken, funds may be removed from their bank accounts and deposited in institutions outside the country, or they may assign rental payments or accounts receivables elsewhere.

Serving a third party demand to pay is a legal process, and it is important that the service of the garnishment be properly executed and that the person serving the demand be able to recall the event, should this come into question in a court case. The following steps are necessary to ensure that the garnishment remains valid if challenged in the courts:

- The person serving the garnishment should have identification as an employee of the tax administration.
- The garnishment can only be served on the person to whom it is directed. The collector must establish that the person being served is a "legal" representative of the business being served. Ideally, the person being served should be the owner, officer of the company, or other senior employee. The garnishment should not be served to a clerk, assistant, etc.
- The person(s) being served must understand what is required and the implications and seriousness of non-compliance. The collector must emphasize that the garnishment must be complied with by the specified date.
- No extension for compliance should be granted under any circumstances.
- Should the person wish to comply immediately, they must be given the opportunity.
- The due date for a garnishment should not fall on a Saturday, Sunday, or legal holiday.
- The garnishment form should provide room for the third party to sign receipt on the day, month, and year served and for the signature of the collector serving the garnishment.
- If the person being served refuses to sign the receipt, the collector should put a notation on the tax administration copy to this effect and note the person's name and time of service.

²⁶ Any declaration that the third party is an "agent" for someone else (a "principal").

- When service of the garnishment has been completed, or as soon as reasonably possible, the collector should complete a report, since the collector may be called upon to testify in court. The report should be factual, complete, and include the following: a physical description of the person served; the date, time, and exact location of the service; the degree of cooperation of the persons served; and a summary of any verbal communication.
- Depending on the jurisdiction, the collector may also be required to complete an Affidavit of Service – a notarized and signed testimony with the time, date, manner of service, identity of the person served, and other information.

Upon returning to the office, the collector should ensure that a receipted signed copy of the garnishment is securely filed and that the garnishment details are entered in a log for follow-up action. The day following the service of the garnishment form, the collector should contact the third party to determine when payment will be received.

In those cases where garnishment is issued to employers or sources that will result in payments over a period of time, there should be an internal system, preferably electronic, which calculates the expected periodic payments, records the receipt of payments, and flags those payments which do not match the required payment or are not received on a timely basis.

Sample Legal Provision for Garnishment

The section of the tax law that allows for demanding payment from third parties should include provisions that:

- Give the head of the tax administration the authority to demand payment;
- Allow the head of the tax authority to declare or identify a third party as an agent or representative of the tax debtor;
- Demand that the third party pay to the tax administration the amount that it currently owes or will owe to the tax debtor;
- Specify a time frame within which the third party will pay the amount required;
- Identify the types of funds which could be garnished;
- Indemnify the third party from any legal action by the tax debtor for not paying the amount to the latter;
- Allow the tax administration to state to the third party the name of the tax debtor and the amount owed by the tax debtor, including the rate of interest thereon;
- Require the third party to continue to pay until the amount due from the tax debtor is satisfied; and
- Make the third party liable for the amount, if for some reason they do not pay as demanded.

10.1.9. Liens

A lien is an encumbrance on property, which can include real and personal property and rights to property, to secure a debt the property owner owes to the person placing the lien. A judgment lien

issued by a court can affect all real and personal property of a person who fails to pay a debt. A lien can carry with it the right of the creditor to sell property, if necessary, to obtain the money.²⁷

The use of liens to obtain settlement is not widely understood in some tax administrations.²⁸ Where a tax debtor has not paid outstanding tax debts, the tax administration may either administratively, or through the courts, register a lien in the appropriate government registry or registries on all property, whether movable or immovable, belonging to the tax debtor. The amount of the lien would include the outstanding tax and any interest and/or penalty, together with any other cost that may accrue. This is normally done after all other efforts to collect, including garnishment, have failed to secure settlement. The lien is usually taken before, or in anticipation of, a seizure and sale of property²⁹ and should generally remain in force until the tax debt is paid. In many cases, the act of placing a lien on property is sufficient to motivate the taxpayer into finding a way to settle the debt rather than having the tax administration seize and sell the property.

Where the tax law provides specific recovery legislation to file a lien, the collector will be expected to follow the steps of the law. Where there is no specific lien provision in the tax law, a process must be determined with the Attorney/Solicitor General so that the general provision of suing for a debt through any court of competent jurisdiction can be used. In this case, it would be necessary to obtain a judgment lien against the property from the court.

Similar to garnishment, the decision to file a tax lien must be carefully considered, as with the lien the taxpayer may not be able to borrow the funds with which to pay the delinquent tax liability or to continue to run the business. The intention of the lien is to encourage the taxpayer to settle the tax debt – it is a warning that further action to settle the debt is possible. The last resort is to actually seize and sell property, since this is a time consuming process and not without problems.

When a lien is registered on an immovable property, this lien becomes a public document that is available to anyone searching the property title. Some tax laws may give the tax administration priority over other creditors. Filing a lien is protection for the government's existing claim for the amount of the tax debt, but the collector must first ensure that all efforts have been made to collect the debt voluntarily and that all investigations have been completed before recommending the placement of a lien. The recommendation will be reviewed by the supervisor for quality of investigation, particularly of the assets and/or property owned by the tax debtor. The supervisor will also review the quality of the report, which will then be approved by the person with the delegated authority under the tax law to place a lien. A lien is a legal document and the forms must be reviewed for accuracy.

The basic content of a lien is similar to garnishment: it properly identifies the taxpayer, the outstanding liability, the property involved, and the government's authority for making the claim. The taxpayer's name should agree with that shown on the tax records, whereas the property identification should be

²⁷ A mortgage is also a lien. It allows the creditor to sell the mortgaged property, if mortgage payments are not made.

²⁸ A "lien" is largely a common law construct.

²⁹ A lien is a claim on the property that would usually prevent the taxpayer from selling the property him or herself.

the legal description and should, in the case of vehicles, boats, aircraft, and equipment, contain serial number(s). Deficiencies in documentation can lead to it being invalid.

The lien should, where possible, be against all taxpayer property or, at a minimum, placed on those title registers identifying property with a significant value. In some jurisdictions, the tax law can make the directors of a company jointly and severally liable for the tax debts of the company. It may also allow for liens against principle residences, which is useful in the case of a proprietorship and partnership. Normally a tax administration will not act on the lien on a principle residence, and there may be a debtor's law that prevents seizing a place of residence, but the existence of a lien may be sufficient warning to encourage the taxpayer to resolve the tax debt.

A taxpayer should have the right to appeal the filing of a lien. This would be an administrative procedure intended to correct erroneous filings, but not to challenge the validity of the underlying tax liability. Once the tax debt has been paid, or an appeal has established that it was incorrectly filed, it is incumbent on the tax administration to remove the lien as quickly as possible.

Sample Legal Provision for Liens

The legislation should contain provisions for the circumstances and creation of the lien, such as:

- The lien shall arise from the failure of the taxpayer to pay a debt by the due date;
- The lien shall be for the amount of tax liability, penalties, interest, and the cost of collection and shall take precedence over the claims of other creditors;
- The head of the tax administration should authorize the lien and have it placed in the approved government registrar and/or court registry;
- The administrative lien should have the same force as a judgment lien delivered by the court;
- The length of time the lien will stay in existence should be specified (e.g., "until the liability is satisfied");
- Any limitations should be laid out (e.g., the lien is not valid against anyone who has had a legal interest in any property before the lien was realized);
- The head of the tax administration should be required to serve a copy of the lien to the tax debtor within a stipulated time frame (e.g., 10 calendar days), and the lien should specify the time for the tax debtor to pay and have the notice removed;
- The fact that an affected person may appeal the imposition of the lien and/or apply for a release should be indicated; and
- Regulations should be developed for the filing of the notice of lien and may prescribe categories of interests against which the lien shall or shall not be valid.

Where there is no specific legislation on liens, the tax administration would usually have a provision allowing it to sue for any debt in any court of competent jurisdiction.

10.1.10. Seizure and Sale of Property

Seizure and sale of a tax debtor's asset(s) is a last resort effort in the process of escalating measures that a tax administration would use to collect a debt. It should only be used after all other efforts to collect, including garnishment and/or liens, have failed. As always, the case history must be well documented with all actions that have been taken in order to show the justification for seizing a taxpayer's assets. The decision to seize must be based on the specific facts and circumstances of each case, and the collector must follow all legal and procedural guidelines.

The seized property is sold to cover the outstanding tax, interest, and/or penalty, together with any other costs incurred by the tax administration that may have accrued, such as storage charges, maintenance, etc. In many cases, seizing a tax debtor's property will cause the taxpayer to settle the debt before the sale commences. A tax debtor should be given every opportunity to settle right up to the time before the auction begins, since the intent is to achieve a settlement rather than being in the business of selling seized property. Once the property is sold, any excess from the sale will be returned to the tax debtor.

Prior to the seizure, the collector will review the case thoroughly with the supervisor. This review provides a means of ensuring that all reasonable efforts have been made to collect the delinquent taxes before initiating seizure. The supervisor should review the entire file to ensure the quality of investigation, particularly of the assets and/or property owned by the tax debtor, and preparation of reports.

It is important to carefully research all the assets of the tax debtor and ensure that there is sufficient equity to cover the outstanding tax, penalty, interest, and the estimated other costs incurred to sell the property. A seizure should not be made if the estimated expense of the seizure and sale is more than the forced sale value of the property to be seized.

Seizing perishable goods is normally not recommended as they quickly depreciate. In many jurisdictions, a person's principal residence cannot be seized, or the legal hurdles due to other laws make it extremely difficult. In addition, most countries have specific prohibitions against seizing certain assets, such as a workman's tools and specified personal possessions.

Where the supervisor agrees with seizure, since this process has the potential to seriously damage an individual's financial abilities and may cause loss of employment, the collector would normally inform the tax debtor of the impending action and provide another opportunity to settle (in the case of property that cannot be easily moved and hidden). If there is no settlement, all paperwork, including notices of levy and/or warrants to bailiffs or other officers of the court or the tax administration to seize and sell property and/or notices of seizure and sale, are then prepared. The entire file would then be forwarded to the head of the tax administration (or other person with the delegated authority) for final approval to seize the taxpayer's property.

The seizure is a two part process. It consists, first, of a levy on the property and, second, its subsequent actual seizure of the property. This is a legal process that removes property from the possession and use of a taxpayer and it requires documentation to prove that the decision to seize property can be legally defended if challenged in the courts. As this process can have legal repercussions, the file should be reviewed by legal counsel to ensure that all forms are properly completed. Other tax administrations may have slightly different processes, but the final approval to proceed is usually with the head of the tax administration or a delegated person or group of persons. As an additional check, there is usually another review of the documents to ensure that they are correct.

The intention of seizing a taxpayer's property is to create a situation where the tax debtor will expedite efforts to resolve the outstanding tax debt. In many cases, tax debtors are able to find sufficient funds, whether from previously undetected sources, family members, or business associates, to pay the tax debt. Should the tax debtor not react, the tax administration must be prepared to sell the property.

Once the taxpayer's property has been secured, the next step in the process is to provide public notice. Public notice may include the Government Gazette or posting at the Court House, newspapers, websites, etc. to ensure that the public has the opportunity to purchase the property.

It is also critical that current and up-to-date information be available on the property owned by the tax debtor. Incorrect information can cause the seizure action to be "unenforceable" or returned "nulla bona" (no property found). The collector must determine title to the property, the book and/or potential market value, any encumbrances or liabilities, and the correct address where the property is situated and/or held. Property can include:

- Business chattels (e.g., furnishings, equipment, inventory, livestock, computer equipment);
- Exclusive rights (e.g., copyrights, patents, exploration rights);
- Licenses and/or permits (e.g., fishing rights, timber license, taxi license);
- Personal property (e.g., works of art, jewelry, antique furniture, cars, boats, recreation vehicles);
- Cash, guaranteed investment certificates, notes receivable, mortgages, bonds, safety deposit box contents, bank accounts.
- Real estate, including building and/or land, interest in property, leases, personal residence;
- Business/company;
- Joint interests/interest in partnerships; and
- Trusts.

Levy

A levy is an administrative document issued by the tax administration advising the tax debtor and other parties that the tax administration has a right to seize any property and rights to property belonging to the tax debtor. The levy can take many forms, but most importantly, it should contain the legal information from the act authorizing the administration to carry out the act of levying and accurate information about the tax debtor and debt. Where possible, the levy and other documents should be personally served.

Delegation of Authority

Most tax laws provide the head of the tax administration³⁰ the authority to issue:

- Levies, which publicly advise that the tax debtor has not paid their debt and actions will be taken to seize property;
- Warrants to an authorized party, such as a designated collection staff member, an outside party, such as a bailiff, or another person to seize and sell goods and other property, usually by public auction;
- Notices of seizure, which will advise that the property has been seized and will then be sold by public auction;
- Notices of sale, which advise interested parties of the properties which have been seized and can be bought; and
- Notices of release, which will only be issued if the taxpayer pays the debt in full with secured funds.

Seizure of Moveable Property

If moveable property is to be seized, arrangements must be made ahead of time for secure storage. Depending on the circumstances, the tax administration may make the following arrangements:

- Obtain its own premises to store and secure goods;
- Arrange with other departments, such as Customs, a government warehouse, the bailiff, local police, or an auctioning firm for the temporary storage of goods;
- Arrange to keep property secure;
- Mark and tag property appropriately; and
- Arrange if necessary, for towing, transportation, and/or refrigeration.

Goods under seizure are usually required to be kept for a certain number of days, either at the premises at which the seizure was levied or at such place as considered appropriate, at the cost of the taxpayer from whom the goods were seized. Thirty days would be appropriate and would allow sufficient time to advertise the sale and for the taxpayer to redeem the goods under seizure. The legislation (either in the act or regulations) may also stipulate when the seizure takes place, usually during daytime hours, and who should accompany the "authorized person," usually a member of the police force. It may advise whether a property can be broken into. It will also advise the collector on his or her rights and/or obligations should the tax debtor or other person become confrontational.

³⁰ As stated in Chapter 4, in the most successful tax administrations, tax officials in headquarters offices, regional offices, and district/field offices are given sufficient authority by law and delegated by the head of the tax administration to make and carry out technical and administrative decisions with a high level of independence, while being held fully accountable for their organization's performance. Modern functional tax administrations rely heavily on a system of cascading delegations of authority.

If goods are to be seized, then a list should be prepared ahead of time. If this is not possible a form similar to an inventory sheet should be taken and then completed as items are taken. The taxpayer would be asked to sign the document, if present. A copy would be provided to the taxpayer. This information would be included in the notice of seizure. The taxpayer is entitled to a copy of the notice of seizure at the earliest possible time. In all cases, the description should include the legal information, including address, type of structure, and approximate size of structure. The intended usage and other information, if useful, can also be included. The same description should be included in the notice of sale.

At the end of the seizure process, the tax debtor should be advised as to the next steps, such as storage and/or sale of property. The taxpayer should also be advised of their rights, including that they can address their concerns to the court for a judicial review of the process.³¹ Where possible, the taxpayer should be provided with a written statement to this effect.

The notice of sale should be issued within the number of days required by the law or regulations, and any deviation from the stipulated time should be documented in the collection file.

At the beginning of the public auction, the collector or an authorized person will advise all present of the details of the information as stated in the levy, warrant, and/or seizure documents. All other costs (e.g., bailiff fees, advertisement cost, and other incidental costs of sale) are also made clear and included in the disclosure.

The items being sold should be offered "as is" and "where is" without recourse against the tax administration, with no guaranty or warranty, expressed or implied, as to the validity of title, quality, quantity, size, weight, or condition of any of the property or its fitness for any use or purpose.

The proceeds of the sale are first applied towards the cost of taking, keeping, and selling the goods and chattels under seizure, including fees for a sheriff or bailiff, and then towards the tax, penalty, and interest, with any remaining proceeds paid to the taxpayer from whom the goods were seized. The seizure process continues until the liability for the tax debt is satisfied or becomes unenforceable for other reasons. However, if the debt is paid, a notice of release should be prepared and provided to the taxpayer.

Sample Legal Provision for Seizure and Sale

The following are example provisions of tax recovery legislation dealing with the seizure of property:

- Reference throughout would be to "property," as it encompasses both movable (goods and chattel) and immovable property (e.g., real estate);
- The legislation would allow the tax administration to administratively carry out a seizure. The head of the tax administration would be able to levy on the property of the taxpayer rather than

³¹ That is, the taxpayer is able to claim irregularities in the processes, but not challenge the right of the tax administration to seize, store and sell the property.

going to court to obtain a judgment. The levy would have the same force as a court issued judgment;

- By issuing a warrant, the head of the tax administration shall direct an "authorized person" to carry out the seizure. An authorized person may be designated staff within the tax administration or an arrangement with an external bailiff or sheriff or other authorized body who would carry out the seizure.
- The warrant would have the same force as a court issued judgment;
- Reference should be made to the circumstances leading to the seizure (e.g., failure of the tax debtor to pay a debt by the due date);
- If the tax debtor does not pay the debt within a stipulated time frame, the property would be seized to be sold by public auction, and a notice of seizure would be issued and published in the Gazette or other public notice that may be stipulated;
- Every sale would be held at such time and place as the head of the tax administration would direct, and notice of the sale would be published in the Gazette and/or other public places;
- Any excess from the sale would be returned to the taxpayer;
- The taxes and any other costs to carry out the seizure and sale would be charged to the tax debtor;
- The head of the tax administration would be required to serve a copy of the warrant, levy, or any other notice referred to in the provisions to the tax debtor within a stipulated time frame, which would also provide time for the tax debtor to pay and have the notice removed. This would be applicable at all stages, except when the final sale is made;
- An affected person may appeal the process within a given period of time; and
- Regulations should be developed for the filing of each levy, warrant, and/or notice. The regulations may also stipulate other parts of the process that need more detail than the tax law provides (e.g., who accompanies the "authorized officer" during the seizure and how it is carried out).

Where there is no specific legislation on seizures, the tax administration will usually have a provision allowing it to sue for any debt in a court of competent jurisdiction. The process would then be carried out through the court as is allowed any other creditor.

10.1.11. Other Tax Collection Powers

There are extreme circumstances where tax administrations may need legal counsel in order to resolve tax debts. For example, where taxpayers are trying to leave the country without paying their debts or where taxpayers are trying to make themselves judgment-proof and avoid paying their taxes. In these cases, tax collectors would work with counsel to prepare statements of facts, risk analyses, affidavits, and other briefs for counsel to be able to make an "ex-parte" application³² in court to get remedies that may not be available under the tax legislation.

³² An application made by one party to a proceeding in the absence of the other party.

Legal Counsel

Some cases may be time sensitive if the taxpayer is taking steps to put assets out of the reach of the tax administration and legislation is either limited or restrictive. Collection officers and management must work more closely with their legal counsel in order to be able to effectively recover delinquent taxes. This requires experienced collection staff and management to be aware of the following:

- The relationship with legal counsel;
- Those provisions that require involvement of counsel;
- Recovering taxes from tax debtors leaving the country;
- Recovering taxes in jeopardy situations;
- Other legal means; and
- Management reporting of these cases.

For the purpose of this discussion, and depending on the jurisdiction, counsel may be lawyers or solicitors in a Ministry of Justice, Legal Affairs, the Attorney or Solicitor General's Office, or, in some countries, lawyers or solicitors hired under contract. In the exercise of the authority to place garnishment, levy, seizure, etc., it may be possible for the tax administration not to utilize the services of counsel. However, it is advisable to use counsel, at least initially, when determining the process and forms. Cases of jeopardy are usually not handled without the use of counsel, as the normal provisions of the law, including the taxpayer's right of an appeal, are typically suspended.

Most tax laws provide for the treatment of a tax debt as a debt due to the government and it can be pursued in a court of competent jurisdiction. There can be circumstances where the only means to collect is through the court. For example, a collections organization may not have legal powers to directly place liens, instead requiring that legal counsel go to court and obtain a judgment and/or order that allows the placement of a lien. In other situations, a tax debtor may be trying to make herself/himself judgment-proof by selling or transferring assets, or even by fleeing the country. This situation is normally provided for in tax law as a "jeopardy" provision. This may require counsel taking the case to court and having liens placed against assets or immediately seizing assets.

Evidence

For any case to be successful in court, collectors must understand what evidence means in a legal context and how to obtain and preserve evidence so it is acceptable for court purposes. 'Evidence' is any species of proof, or probative matter, legally presented at the trial of an issue by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, etc., for the purpose of inducing belief in the minds of the court or jury as to their contention.

Collectors, as part of their normal routine, gather evidence to support any legal enforcement action that may be taken. There can be circumstances when the tax legislation does not provide an avenue to collect, but legal counsel may suggest, based on precedence or remedies available to creditors at large, that a legal action in court for recovery of tax debt is possible. Collectors must then be aware of the

more stringent requirements of evidence for purposes of presentation in the courts. A collector may require evidence to prove that:

- All legal enforcement avenues have been taken and no further payment was received;
- The tax debtor has assets for which others are nominees³³;
- There is a danger of loss to the government; and/or
- There is no other tax legislation that allows an option to seize and/or sell these assets.

Assistance from Legal Counsel in Jeopardy Cases

Most frequently, counsel will assist in two common jeopardy collections circumstances: (1) where taxpayers are trying to leave the country without paying; and (2) where they are attempting to liquidate assets or make themselves judgment-proof, and time is of the essence to avoid a danger of loss.

In the context of tax collection, "jeopardy" is synonymous with a loss anticipated to take place if collection action is delayed. If assets, from which to collect, have already been liquidated or removed, the loss has already occurred and the account would not meet the concept of "jeopardy." However, if an investigation reveals assets that may be used to effect collections, and if any collection restrictions under the tax acts may impede the ability to collect the account immediately, regardless of the taxpayer's intent, the tax administration may consider the need for jeopardy collection action and apply to the court for assistance.

Taxpayer Flight

Most tax legislation will account for situations where the tax administration suspects or believes that a taxpayer has left or is about to leave the country. In these cases, before the day otherwise fixed for payment, the head of the tax administration may issue a written notice, usually served personally to the taxpayer, to demand payment of the amount of all taxes, interest, and penalties for which the taxpayer is or would be liable if the time for payment had arrived. The amount is usually expected to be paid "forthwith" by the taxpayer.

Generally, where it is suspected that a taxpayer is about to flee the country, the collector would first gather evidence and prepare a report requesting legal assistance and approval for a notice to be delivered to the taxpayer, requiring payment of the tax debt. It is time sensitive for legal counsel to review the case and help with any steps to be taken after the notice is served.

Although legislation refers only to circumstances when a taxpayer may be leaving or fleeing the country, the actions described are a form of jeopardy collection action. They allow the tax administration to act without being restricted by usual time frames for collection action. These provisions vary depending on the jurisdiction. In some jurisdictions, the taxpayer may be able to post security for any tax, interest, or penalties demanded under this section. In some jurisdictions, legislation may make reference to the

³³ A "nominee" is someone who is given limited authority to act on behalf of the owner.

denial of an exit certificate³⁴ as the remedy for non-payment of tax. However, the difficulty in administering this certificate requirement, and the challenges to exit certificates within the court system, often does not make this a viable solution. Sometimes legislation will instead advise that, if the payment is not made, action will be taken to collect immediately, usually through the court, and direction may be given to seize and sell without regard to the usual time frames stipulated in the legislation. Where the tax administration has concerns about how collection can be effected and the legislation does not provide clear direction, legal counsel can help clarify the situation.

Some indicators that a tax debtor is in the process of leaving the country and not intending to pay the tax debt may include:

- The tax debtor's home is sold or being sold, sometimes below market value;
- Other assets are or have been liquidated or transferred (often in non-arm's length transactions to nominees);
- Assets have been purchased secretly in other countries;
- The tax debtor is dealing with a financial institution located in another country with respect to loans and investments;
- Substantial monetary amounts are being transferred out of country;
- The taxpayer's children are or will going to school in another country;
- The tax debtor indicates a reluctance to resolve issues pertaining to present or future tax liabilities;
- Substantial income amounts have not been reported; and/or
- There has been a request for exit/clearance certificates.

If information is available that the taxpayer has income or assets which can be attached, the collector should immediately prepare garnishment and warrants or levies for seizing any property or chattels.

Jeopardy Cases of Placing Assets beyond Jurisdictions

Normally, collectors would attempt to use the legislation "as is" to collect tax debts and follow the general provisions for levy and seizure. However, if there is the potential that a taxpayer is listing a large property and the rules for seizure and sale have time requirements for giving notice, such that the property could be sold and funds transferred beyond reach before the tax administration can take action, then it may be possible to use the jeopardy provision. An alternative would be to have legal counsel use the regular court system and rules to stop the transaction or have the money redirected to the tax administration by proving danger of loss in a civil suit. Aspects of such a court order would be similar to a "Mareva Injunction," which would stop a tax debtor from dissipating his or her assets. The Mareva injunction, known also as a freezing order, Mareva order, or Mareva regime in Commonwealth jurisdictions, is a court order which freezes assets so that a defendant to an action cannot dissipate their

³⁴ In Bangladesh a tax clearance certificate was required in 2003 to board an international flight. The desk was located after clearing security, but often the person responsible was on break or so occupied with the overwhelming crowd that travelers would walk past without reporting. Other times the administration of the requirement appeared to be arbitrary and certificates were randomly required at certain times or only for some flights.

assets³⁵ from beyond the jurisdiction of a court so as to frustrate a judgment. The Mareva injunction may be supported by legislation that states that all taxes, penalties, interest, costs, or other amounts payable under any act administered by the [head of tax administration] are debts due to the Government and recoverable as such in any court of competent jurisdiction or in any other manner provided by this Act.

Once an application has been granted and documents are served, it is important to only dispose of seized assets after confirmation that an appeal or judicial review is not pending. If jeopardy legislation exists, the taxpayer may be offered objections or appeal rights. If this is not available, the tax debtor will usually have the right to a judicial review.

Bankruptcy, Public Identification, and Imprisonment

In very rare cases, particularly where taxpayers have been blatant in their non-compliance and have shown that they will pay other creditors but ignore settling tax debts, consideration may be given to actions that are aimed at "embarrassing" the taxpayer and letting other taxpayers know that non-compliance will be addressed to the fullest extent of the law. This may entail putting a taxpayer into bankruptcy, publicly identifying the taxpayer, and imprisonment. If imprisonment is used, it should not be in lieu of settling the debt.

10.1.12. Non-Filer Identification

'Non-filers' are taxpayers who have tax liability, but are not registered with the tax administration and do not file tax returns. Sometimes, these people are not aware of their tax obligations. More often, they have made a conscious decision to remain outside of the tax regime. One of the biggest difficulties with most non-filers is that they are "hidden" and many, when identified, have poor books and records which makes the task of ascertaining the extent of their unreported income and sales in the case of VAT a time-consuming and expensive process for the tax administration. Even if tax, penalty, and interest are assessed, they may be difficult to collect, as many of these can be small, marginal operations that do not have sufficient funds to repay a large accumulation of arrears.

Box 10.1. Non-filers in the United States

In the United States, in a 2005 report,³⁶ the Inspector General for Tax Administration extrapolated from data to measure the tax gap and found that, in a three-year period from 1998 to 2001, the non-filer tax group grew by one third.

In California, it is estimated that 86 percent of persons voluntarily comply with filing their state income tax and 3 percent are discovered through compliance initiatives, which leaves a sizable 11 percent continuing to work in the underground economy.³⁷

³⁵ Dispose of, transfer, or otherwise use the assets not in the usual course of business or due to a "necessity of life."

³⁶ Internal Revenue Service (2005), p. 2.

³⁷ California Franchise Tax Board (2006), p. 4.

A recent OECD report³⁸ indicated that non-filers are an area that is not getting sufficient attention from tax administrations. One possible reason is that the number of persons participating in the underground economy is large, while the revenue to be gained from each successful identification of a new taxpayer is very small. Another problem with many tax administrations is that they have just as much difficulty retaining compliant taxpayers. Although identified, taxpayers can easily slip back into the underground, as the tax administration is slow to respond to non-compliance and may not have sufficient information on file to easily find a taxpayer again. This may be the result of a business decision, since the costs of aggressively pursuing small taxpayers outweigh the revenue to be gained. Survey responses also revealed that many revenue bodies do not have a comprehensive strategy for addressing their respective underground economies, suggesting that this area of non-compliance may not be receiving adequate attention.

Approaches to Discovering Non-Filers

Prior to computerization, the discovery of non-filers was a manual operation that would generally consist of scouring trade directories, telephone books, newspaper advertisements, and even walking the streets to identify persons who should be registered and paying taxes. Most tax administrations now have progressed to, at a minimum, a "matching operation" between various databases. For example, the taxpayer registration database of the tax administration can be compared (matched) to the business registration database of, for example, the Ministry of Industry and Trade, to identify businesses that are registered with the Ministry but not with the tax administration. In addition, all OECD countries have communications programs aimed at raising awareness of the tax system and of the consequences of non-compliance. Additionally, all OECD countries have data matching programs which accumulate and match data from a variety of sources. The purpose of data matching is both to detect those that are not registered, as well as those taxpayers who are registered and file tax returns, but who have not fully reported their income, sales, etc.

The cost of obtaining any information must always be considered. Less costly but effective sources of information will be government departments or agencies which hold information of value in their databases. If confidentiality provisions or cost become issues, the tax administration should attempt to negotiate written agreements to receive and/or exchange information, if legally permitted. As much as possible, electronic means of receiving information should be sought, as any data entry would have a significant cost. Where information is only available in hard copy, scanning it into a usable form should be investigated.

Depending on the evolution of a particular tax administration and/or its privacy and confidentiality provisions, it may or may not be able to share information. A list of potential sources of information that can be used to assist the tax administration in locating non-filers, as well as stop-filers and tax debtors, is provided in Appendix 10.B.

³⁸ OECD (January 2012), p. 2.

Contacting Persons Identified as Possible Non-Filers

Making initial contact with the potential taxpayer by the most efficient and effective means available is preferred. In most cases, this will be the telephone, but it could be a letter that is mailed, faxed, or hand-delivered and in some jurisdictions an e-mail, requesting that the taxpayer come into the office for an appointment.

- If the taxpayer cannot be located, details of the efforts to locate the taxpayer should be recorded and forwarded to the group supervisor so that he can close the case on the automated or manual control log.
- If the taxpayer claims that he/she has registered, as much information as possible is gathered (registration name which may differ from "non-filer" name, date and place of registration, form of registration, etc.) and checked against the registration database. If the registration is located, the case is closed. If not, the collector must register the taxpayer and secure tax documents.
- If the taxpayer admits that he/she has not registered and cooperates with the collector in preparing and filing the appropriate documents, the collector documents the facts in the case file and forwards the closed case to the group manager.
- In some instances, the collector will find that the taxpayer's records are too complex or too extensive to prepare the required documents and must therefore refer the case to the audit division for handling. The collector would also refer cases to audit when the taxpayer refuses to cooperate and file their tax returns. In a very few instances, the collector will find strong indications of criminal behavior and, thus, should recommend that the case be referred to the investigations division for further examination.

10.1.13. Writing off Tax Debts

Most modern tax administrations have the authority to write off tax arrears that are considered to be uncollectible. This authority is essential to proper administration, as it frees resources from attempting to collect debts that have no reasonable possibility of being collected. It is also good accounting, as it removes uncollectible tax debts from the accounts of the tax administration, and it presents the government with a more accurate picture of the amount of arrears that have some potential for collection.

A write-off procedure for uncollectible accounts should be developed and agreed to by all, including the Ministry of Finance. An example of the process could be:

- Accounts are listed by type of tax, date, principle, penalty, interest, and the reason for being considered uncollectible;
- A committee of senior tax officials reviews the list to ensure the account is uncollectible;
- The list is submitted to the head of the tax administration for approval;
- The accounts are transferred in tax administration records as uncollectible, which removes them from the general listing of receivables;
- In the interest of transparency, the list is published in a newspaper; and

- The list is submitted to the Minister of Finance as a draft bill for Parliamentary approval.

It should be stressed that a write-off process does not extinguish the debt. While writing off a debt stops interest and penalties from accruing and removes the debt from the tax administration's accounts receivable, collection actions can resume if taxpayers and/or their estates are discovered to have funds or assets. For example, the tax debt can be returned to the active receivables, subject to any statutory limitations, if:

- The debtor has returned from abroad;
- The whereabouts of the debtor becomes known; or
- Previously unknown assets are discovered.

Tax administrations should develop a write-off policy which:

- Ensures that all reasonable steps have been taken and that no further recovery action is practicable;
- Clears debts from receivables where it is not considered practicable to pursue the tax debtor any further, so that the tax administration can continue to concentrate resources on collectible debts;
- Provides tax officers with clear parameters to identify accounts as candidates for write-off; and
- Creates a consistent and transparent process where tax debts may be written off.

At a minimum, tax administrations should annually review all tax debts which are not recoverable and those that are not considered cost-effective to collect. Where the tax debts are approved as being uncollectible, the tax administration should write off these accounts and place them in a suspense account on the revenue accounting system where interest and penalty cease to accrue and there is not any further collection action.

Uncollectible accounts for the government are the equivalent of "bad debts" for private sector businesses. The decision to write off a debt is a business decision that is justified by the facts of the case, which are properly documented. No amount should be written off where there is a reasonable prospect of recovery. It is the responsibility of the tax administration to conduct "due diligence" to ensure that all efforts have been made to collect the account. A report of these efforts is submitted for review to the appropriate level of authority in the tax administration and/or Ministry of Finance. It is the responsibility of the approving authority to ensure that the process and documentation satisfy scrutiny by a third party, such as the Accountant or Auditor General. As the decision to write off an account is an internal business decision, it is not communicated to the taxpayer.

A write-off should be considered only when the liability is no longer in dispute (e.g., the amount is not the subject of an appeal or objection). In some countries, a partial write-off (or "write-down") is permissible where full recovery of the account is not possible, but there remains a reasonable chance that a portion of the account will be collected.

The following is a non-exhaustive list of indicators of when the tax administration should consider a debt for potential write-off:

- The debtor is deceased;
- The debtor has moved abroad, or all efforts to trace him/her have been unsuccessful;
- The circumstance of a particular case makes recovery unreasonable (due to age, health, extraordinary hardship, or other matters beyond a taxpayer's control³⁹);
- The debtor has been declared bankrupt;
- Taking recovery action would cost more than the outstanding debt;⁴⁰ or
- The debt is past the statute barred date.

Uncollectible cases should be coded so that the various reasons for write-off can be tracked to determine if there is a trend and what strategies could be developed to prevent or deal more effectively with some of the situations noted above.

Write-off Procedures

The general process for write-off would require that the tax administration:

- Identify an account for write-off;
- Complete all investigations;
- Prepare a write-off report documenting the above and recommending write-off, and
- Have the appropriate authorities review and approve it.

The write-off report should be initially reviewed and signed by the supervisor/manager. The number of additional signatures required for approval of the write-off usually depends on the amount of the debt. In all cases when a write-off is proposed, it should be reviewed and/or approved by the division head responsible for collections. The write-off file that is prepared should consist of the write-off report, along with supporting documentation that presents the efforts made to collect the debt. The write-off report requires documentary evidence to support:

- All appropriate notices to advise and notify the taxpayer and/or representatives have been mailed/delivered to the taxpayer's last known address;
- All actions to locate the taxpayer, assets, and/or income have been carefully documented;
- All analyses of ability to pay have been completed; and
- All possible legal actions have been taken, without success in obtaining payment.

³⁹ Cases involving extraordinary hardship due to age, sickness, and other factors beyond a taxpayer's control are usually considered for "remission," where the taxpayer has made such a request. In these cases, the requests are usually referred to the most senior level of the tax administration and/or Cabinet. These cases are reviewed on the basis of "justice" and not as an internal business decision. Once a decision has been made to approve remission, the debt is permanently extinguished.

⁴⁰ Normally, small value cases are considered uneconomical when they have been on the accounts receivable list for a few years and the cost of the salary of the officers handling the case exceeds the value of the debt.

Related or Multiple Taxes

Often, during the course of reviewing a file, there may be a number of related tax debts. In such cases, the responsibility for all related accounts should be with the collector who was first assigned the tax file with the largest debt. This collector will become responsible for all the files and for ensuring all actions have been taken on all the related accounts, and then writing the write-off report for each of the related files. If the collector does not have knowledge or experience with a particular tax – e.g., VAT or property tax – then the collector will be responsible for coordinating all actions. This will involve communicating with the collectors responsible for the specific tax, and having all investigations, reviews, and completion of the write-off report done at the same time. In addition to the tax debts, taxpayers often owe debts to other government departments (e.g., social taxes). Collectors should ensure that they have confirmed with the other departments what debts, if any, are outstanding and what efforts have been made by the latter to collect the debt. If the other department is writing off its debt, this should also be noted in the report.

In many countries a Write-off Review Committee is formed to ensure that the tax administration has appropriately carried out its "due diligence" in processing write-offs. The existence of the committee is intended to add another level of control to a process which has the potential to defer interminably the collections of an account. This committee will generally be comprised of three senior managers within the tax administration and, where possible, officials from the Ministry of Finance and/or the Accountant General's Office. There should be a recording secretary, who is responsible for ensuring that all documents and files are properly handled and decisions are documented. The meeting should be convened at least once a year and an agenda distributed in advance that states the date, time, location, and participants attending the meeting. The agenda should also list the order that files will be reviewed and any procedural issues to be discussed.

10.2. Common Trends

Given the complexity of the collection process, the variety of enforcement instruments offered by laws, and the importance of this function in the compliance strategy of the tax administration, tax administrations around the world are attempting various alternatives for improvement. The following is a discussion of common trends.

10.2.1. Data Integrity

Many tax administrations encounter data integrity and reliability issues concerning the arrears balances on taxpayer accounts. Some of the problems can be attributed to data entry where tax returns and/or payments are posted to the wrong accounts, overrides are used to ignore error messages and incorrect information is posted to accounts, there are incorrect return dates, and there are taxpayer identification number transposition errors.⁴¹ Other problems could be that a return was received and the taxpayer received a confirming receipt, but the tax administration cannot locate the return. Or, a hard copy of a return may be in the taxpayer file, but the return has not been posted to the tax account. Conversely,

⁴¹ Digits of the unique taxpayer identification number are switched.

there may be a record on the tax account, but the hard copy cannot be located. In other instances, the entire taxpayer file may be missing. There can be similar problems with payments. Often, the recommendations of the collector will resolve many of these issues.

The above set of problems results in unreliable system balances for taxpayers, causing collections staff to spend considerable time verifying and correcting account balances before contacting taxpayers about their arrears. One relatively common solution is to verify the account balance with a special notice/statement that is sent to each taxpayer to verify or provide documentation to dispute the amount within a specified time. Usually, this process is managed by a collections unit, but would use a special audit program to deal with disputed amounts, with the goal of achieving a quick resolution. The audit would set the new account balance, if there is any change. The collections unit would be responsible for changing the account balance when the taxpayer produces documentary proof, for example, of payments made but not recorded in the computer system. Notices under this program should be sent out in manageable numbers so that the tax administration is not overwhelmed with disputed balances. The largest balances should be dealt with first. More importantly, to eliminate many of the above-cited problems, countries are rapidly implementing e-filing and e-payment.

10.2.2. Transfer of Tax Debt Liability

Some tax administrations have the authority, under defined circumstances, to transfer a tax liability from a tax debtor to a third party. For example, the tax administrations in the United States and Canada can hold directors of a business personally liable for failing to remit taxes that were collected from employees or customers, such as personal income tax (PAYE), social security contributions, and value-added taxes (VAT). Generally this transfer of liability applies to taxes that were collected as trust funds.

Similarly, some tax administrations can transfer a tax debt to a person (the transferee) who has a "non-arm's length" relationship (e.g., a relative) with a tax debtor, in the event that the transferee receives property from the tax debtor at less than its fair market value or with the intention to defeat the collection of a tax.⁴²

10.2.3. Initiatives for Potential Non-Filers

Data matching involves bringing together data from different sources and comparing or matching it and is a highly effective way to process large volumes of information in order to identify specific taxpayers for further action or investigation. Larger tax administrations have this in-house capability, but smaller administrations may be handicapped by budget constraints.

Center of Data Matching Expertise

One possible solution is for smaller countries to contribute to a center of expertise that is loaned on a rotating basis to countries in the group. There are, of course, many hurdles to this approach, such as

⁴² This requires a strong rule of law and is not recommended for countries below the last level of maturity described below.

data confidentiality and cost sharing. However, if smaller countries cannot afford sufficient expertise, then variations of this resource sharing between countries may become a viable approach.

Targeted Data Matching

During targeted data matching, the tax administration would compare the tax administration's registration database to smaller datasets with very specific purpose, rather than the usual comprehensive databases of, for example, business registrations. For example, 'luxury motor vehicle registration' would be a pilot project to evaluate the use of luxury vehicle registration information from both Customs data and domestic vehicle registrations, matched against the personal income tax data base to identify non-filers. In its most simplistic form, stationing tax inspectors at busy intersections to note license plate information and run it later against the license database has been used successfully where the database cannot distinguish vehicle models and years or there are other difficulties. In some countries, working with police, the vehicles have been pulled over for immediate identification of the driver, which is then run against the personal income tax database.

Electronic filing of 'interest and dividend payments' is a requirement in many countries for withholding tax on interest and dividend payments made by trusts, partnerships, banks, and other financial institutions. Data matching this information against personal income tax data can quickly detect non-filers.

Countries have been successful in locating 'visible wealth' (high net worth individuals) by observing certain assets. The two easiest are luxury homes and expensive items, such as yachts and airplanes, but the list can also include airline tickets, especially those flying business class. Property registries are sometimes cumbersome for a computerized search for a variety of reasons. Some tax administrations have found it to be more efficient to actually walk the streets and note those homes that are relatively new and large. Then, they use a very rough proxy for estimating what amount of income it would take to own such a home and maintain that lifestyle. They would also search the records to find the legal owner and then determine if a tax return had been filed.

Box 10.2. Targeted data matching and other compliance activities in Italy

In Italy, it is estimated that there are about 2.5 million luxury cars, but, in 2009, less than two percent of Italy's 41 million taxpayers declared annual income of more than the \$260,000 which tax officials estimate is needed to maintain a lifestyle appropriate to owning a luxury car.

Also in Italy, the Tax Police patrols the marinas and search shipping registries to determine the ownership of the yacht or, even more directly, they board the yacht and speak to the crew or others on board to determine ownership. Nearly half of boats larger than 35 feet are registered to people who declare income of less than \$26,000 a year, and 604 airplane owners declared annual income between \$26,000 and \$65,000.

Increased data matching

The U.S. IRS has shown that there is a high correlation between tax compliance and third-party information reporting. It is estimated⁴³ that individuals whose wages were subject to withholding reported 99 percent of their wages for tax purposes, while self-employed individuals are estimated to report only about 68 percent of their income, and self-employed individuals operating businesses on a cash basis report just 19 percent of their income. Interestingly, income that is not subject to third-party reporting is highest among taxpayers with the highest incomes.

Various countries require a form to be completed by payers who purchase goods and services (including non-employees for whom PAYE withholding does not apply), royalties, and health care in the course of their trade or business. This reporting requirement can apply to businesses, non-profit organizations, and all levels of government, but generally would not require personal payments to be reported, such as homeowners paying a contractor for renovation work.

Box 10.3. Data matching in the United States⁴⁴

For example, the United States requires Form 1099-MISC, to be completed and submitted. For tax year 2006, more than five million payers submitted more than 82 million 1099-MISCs to IRS, reporting over \$6 trillion in payments. Payers submitting fewer than 250 completed forms may submit paper versions, but they must meet IRS specification so that they are capable of being converted using IRS scanning equipment. All other payers must submit electronically.

Payees are responsible for reporting payments they received from payers. The IRS then uses an automated process to detect information mismatches between nonemployee compensation and other payments reported on 1099-MISCs and payees' income tax returns. When a return is not filed by a payee, an exception report will identify the non-compliant taxpayer.

For tax year 2004, the IRS used data matching to assess \$972 million in additional taxes for payee underreporting that it detected using the above process. However, the IRS admitted that the program only pursued less than half the cases.

10.2.4. Tax Clearance Certificates

Tax clearance/compliance certificates are a feature of many tax administrations. The intent of the certificate is that taxpayers who are seeking public sector contracts or certain licenses, such as casino, Customs bonded warehouse, Customs broker, etc., are required to obtain a certificate from the tax administration. In order to obtain a certificate, the person must be registered as a taxpayer, all the tax affairs of the applicant must be current, or, if they are a tax debtor, there must be a valid payment arrangement to clear the debt. Some countries have extended the requirement for a certificate to importers of goods where, prior to release, the importer must have a valid certificate. Other countries require a certificate before a person is allowed to board an aircraft.

⁴³ Treasury Inspector General for Tax Administration (2006), p. 11.

⁴⁴ GAO (2009), p. 33.

The theory behind certificates as an enforcement tool is valid. However, the administration in many tax jurisdictions leaves a lot to be desired. It can be a slow tedious process taking many days even when a taxpayer is fully compliant. In the short-term, the denial of tax compliance certificates may be the most effective means of obtaining compliance from taxpayers who are non-filers or stop-filers as well as those who are tax debtors, but there are significant problems with the tax compliant certificate system in many countries. The rules can be opaque and open to the discretion of officials, and it can be a point of corruption, because tax certificates are often required urgently, allowing unscrupulous tax officials to take advantage.

The organizational structure of tax administrations has evolved mainly to a functional type organization. While this is a good structure, it does present some difficulties for the concept of single counter service when it comes to compliance certificates. Deciding whether a taxpayer is compliant in a functional organization necessitates involving the audit division, arrears collection division, returns and payments, and sometimes other separate sub-divisions within the tax administration. This can be a time-consuming process that is delayed if the responsible contact person in the division is not available.

Many tax administrations do not have adequate record systems. Physical files may not be up to date, or they may be signed out or been misplaced. In addition, the taxpayer account records on the computer system may be unreliable. In most cases, the computer system is unable to present a consolidated view across all taxes, with the result that the tax administration has to look up the taxpayer separately for each tax type to get a complete overview of compliance. This can be a time-consuming process.

In some situations, a "negative" list of non-compliant taxpayers may be useful. For example, where a taxpayer is known to be non-compliant, Customs should be informed that the taxpayer is not in possession of a compliance certificate, to ensure that the importer account is flagged and shipments are not inadvertently cleared. When Customs is informed that a taxpayer is non-compliant, a letter should be sent to the taxpayer notifying them and informing the taxpayer that Customs will require a compliance certificate to clear their shipments.

If a tax compliance certificate process is used, it should be modernized to reduce delays and minimize possible opportunities for corrupt practices. The operational target should be to process an application in 24 hours. Physical "certificates" should be abolished in favor of an electronic certificate or access to a secure database of valid certificates. In the case of importers, there should be a valid certificate computer file that the Customs clearance system references prior to releasing shipments. The approval system for certificates should be computerized, and an audit trail retained, to foster transparency and as an anti-corruption measure. In some cases, exceptions may be made where a taxpayer doesn't fully qualify, but there must be a documentary trail retained that includes the rationale for the exception.

10.2.5. Tax Amnesties

Tax amnesties are discussed in many countries as a quick "fix" to a tax compliance problem and/or to provide additional revenue that the government perceives it would not otherwise have. Contrary to this perception, amnesties are neither a fix to the problem nor do they provide sustained revenue increases.

Although an amnesty can cause a brief revenue increase, the history of tax amnesties shows they are not likely to generate sustainable new revenue unless accompanied by implementing measures to strengthen the administration and other measures that address the reasons for the problem in the first place.

If the tax law provides the necessary legal framework, and there are well-structured administrative collection and enforcement policies that are, in fact, administered, then a tax amnesty should not be necessary. In this context, an amnesty would be an admission of failure in the ability to administer the tax system and an indication that some components of the tax administration and/or law are not functioning properly. Often, the reality is that tax administrations suffer from an inability to collect taxes after they have been assessed. Sometimes, the legal system works and the tax authority wins a judgment in court. However, the debt may remain uncollected due to an overburdened and cumbersome legal system, through which all cases, no matter how small, must navigate, usually getting lost at some point along the way.

Generally the motivation for the government is to raise revenue in the short run and simultaneously induce those individuals who did not previously pay taxes (non-filers) to register, or to induce the repatriation of capital that had fled the country. After the amnesty period expires, theory suggests that these newly "discovered" taxpayers would remain in the system and continue to pay taxes. Another possible objective of tax amnesties may be to start a new tax regime, such as introducing a major organizational change and maybe a new IT system that will improve the administration. The desire is to start these changes with new accounts that have zero balances owing.

A strong motivation in favor of an amnesty is the potential for a windfall revenue gain from collecting outstanding and evaded liabilities. Thus, part of the amnesty program may be an inducement offered to taxpayers to come forward by temporarily reducing or removing penalties on outstanding or evaded tax liabilities. This type of amnesty program is usually only effective in increasing compliance and, consequentially, tax revenue when it is accompanied by enhanced audit and collection enforcement that introduces a threat that the non-compliance will be discovered. Administratively, this offer must also be combined with permanent solutions that may include organizational and operational changes, combined with possible legal reforms aimed at addressing the compliance problems that created the debts in the first place. Experience has shown that the fundamental problem(s) that caused the amnesty are rarely addressed.

The windfall gain may to some extent only be an illusion. Depending on the terms of the amnesty, it may only be accelerating payments that would have been otherwise collected. The amnesty may actually be forfeiting interest or penalties that would have been collected on the debt had the amnesty not been in place. This usually occurs when the amnesty applies to taxpayers already under investigation for delinquency or evasion.

If taxpayers perceive that an amnesty is due to a weakness in the tax administration's ability and is likely to be repeated, then they have a strong incentive not to come forward. If they do come forward, it is only to pay some nominal portion of their larger tax bill, as they believe that the tax administration is

weak and probably does not have the ability to check. In addition, since the taxpayers expect that the amnesty will be repeated, they can come forward but then disappear in the interim until the next amnesty. As a result, tax administrations also implement publicity campaigns stressing the post-amnesty enforcement program to convince taxpayers that may be wavering to come forward. Additionally, those that do come forward during an amnesty should not perceive that they will be targeted for closer scrutiny in the future. Instead, the message should be that, because they are now compliant, they will have the same audit probability as any other honest taxpayer.

Some amnesties provide a guarantee to taxpayers that they will not be audited, provided their tax payment increases by more than a specified percentage over the previous tax period. This type of measure is not without problems. Taxpayers with tax liabilities greater than the specified increase will likely reduce their tax payment to the minimum amount where they are guaranteed to escape an audit. If they are starting from a very low base of declared tax compared to their real liability, they could probably escape being audited for many years. Further, by repeatedly meeting the minimum required annual increase, they effectively preclude audits and protect these underpaid tax liabilities. In practice, this audit guarantee will also assist the tax administration since there probably are not sufficient trained audit resources (capacity) to conduct a larger enforcement program anyway. A recent example of this practice is the amnesty in Turkey where, if a taxpayer increases their income tax base by 30 percent in 2006, 25 percent in 2007, 20 percent in 2008, and 15 percent in 2009, they will be exempted from a tax inspection. In the case of VAT, the increase would be 3 percent in 2006, 2.5 percent in 2007, 2 percent in 2008, and 1.5 percent in 2009.

Another measure used in amnesty programs is a guarantee that a taxpayer's returns for previous tax periods will not be audited provided that the most recent return is correct (a "don't look back" policy). For the taxpayer to protect past underreporting, all future tax returns would have to be filed correctly, but, once again, the taxpayer must perceive that the risk of being audited will increase.

An amnesty may not only fail to address compliance problems, but may also be counter-productive, as honest taxpayers, who have faithfully paid their taxes on time, may resent the breaks given to tax debtors and evaders to the point where compliance suffers. The consequent loss in future revenue from non-compliance by those who were formerly compliant must be assessed against the potential for immediate revenue gains.

There are also negative implications that are internal to the tax administration. Both auditors and collectors can be demoralized, as the effort they put into investigations and collecting taxes could be viewed as a waste of their effort.

Amnesties can be structured and targeted to specific groups of non-compliant taxpayers. For example, an amnesty may only be applicable to individuals who are non-filers. In 2010, the U.K. announced the "Tax Health Plan" that would give doctors and dentists the opportunity to give full disclosure of any undisclosed tax liabilities and benefit from a fixed penalty of 10 percent. Those failing to take advantage of the scheme faced the risk of investigations, "naming and shaming," and stiff penalties. In Greece,

subsequent to an amnesty, the authorities published the names of around 60 doctors who were accused of failing to settle their tax bills in their efforts to target this sector.⁴⁵

From 2008 to 2011, there were at least 27 countries with amnesties, which are briefly described in Appendix 10.C. The amnesties ranged widely from a total exemption from penalty, interest, and prosecution, to only a waiver from prosecution. Despite their apparent growing adoption worldwide, the desirability of tax amnesty programs is often debated due to the difficulty in assessing their effectiveness. The rationale for introducing a tax amnesty usually has two objectives: (a) raising short-term net revenue, and (b) improving tax compliance so as to increase revenue over the medium term. The problem is assessing whether these two objectives have been achieved. Although revenues may have increased, other factors, beyond the forgiveness aspect of the amnesty, may have caused this change, such as the threat of a "name and shame" campaign, sharply increased penalties, and wider changes in the economy. While there may have been a change in compliance, it may have been caused by increased audits, harsher penalties, introducing e-filing and e-payment, etc.

If it is determined that there will be an amnesty, it is important that, if necessary, legal changes to strengthen the tax law be considered for implementation along with any announcement of an amnesty. In fact, most amnesties are accompanied by publicity campaigns emphasizing that tax enforcement is about to be toughened. In many countries, more than an announcement is needed, and the amnesty must be accompanied by specific new legal measures and a modern administrative process.

There are alternatives to an amnesty, such as granting administrative discretion to waive penalties. This approach has an effect that is similar to an amnesty, but, unless the conditions under which such discretion can be exercised are very carefully specified, opens up opportunities for corruption. For this reason, discretionary amnesties are best avoided, as they do not enhance equity.

10.2.6. Privatized Tax Collection

Privatized tax collection is when the government passes on its obligation to collect taxes to private companies, in return for a fixed or ad valorem fee. This contrasts with "tax farming," where a private individual or organization pays an amount to acquire a tax debt, and thus gives the government revenue certainty, and subsequently recoups that payment by collecting money from the people within a certain area or business.

Box 10.4. Privatized tax collection in the United States

In 2006, the U.S. IRS outsourced the collection of taxpayers' debts to private debt collection agencies, which were being paid between 22 and 24 percent of the amount collected. Opponents to this objected, as the IRS would be handing over personal information to these agencies. Other concerns were that the incentive system to collect was perverse, as collectors would earn more on amounts collected, encouraging them to use pressure tactics to collect the maximum amount.

⁴⁵ Brabant (2010), para. 1.

When the IRS dealt directly with taxpayers, it had governmental discretion to negotiate settlements with them, including the power to suspend or even cancel debts. The IRS recognized that this lack of governmental discretion was a problem with private contractors and the IRS attempted to only give them "easy" cases that it did not believe would require any discretion to resolve.

Unfortunately, many cases were not as straightforward as they initially appeared, and it soon became clear that the resolution of most cases required some form of governmental discretion. Since the private collectors were paid on the basis of success, taxpayers were pressured into paying instead of being referred to the IRS where they could have received a more beneficial settlement. Although the concept of private collectors was a well-intentioned effort, abuses occurred and the program's inefficiency led to its termination in early 2009.

Private tax collection does have some advantages. First, it enables an administratively weak tax administration to offload some administrative costs by shifting them onto the private sector. Second, privatization presumably mitigates corruption opportunities at the collection point, as private collectors do not enjoy the same protection as civil servants and can be easily terminated more easily for poor performance or for taking bribes. As illustrated by the problems in the United States, a disadvantage is the risk of overzealous collection, which could result in a deterioration of taxpayer relations.

10.3. Tax Administration Maturity

Four levels of maturity of the collection function of tax administrations are presented below to help interested officials make determinations and identify strengths and weaknesses of their respective tax administrations.

Collections: Maturity Level 1

Key word: "Reactive"

- The collection function follows up outstanding amounts when advised of such amounts, but does not proactively identify delinquent taxpayers. There are no regularized stop-filer and non-filer programs, but only pursuit of late payers and non-payers in reaction to pressure on meeting revenue targets.
- Taxpayers are treated separately under each tax for purposes of debt collection, and the legal provisions are not coordinated (there is no offsetting of tax liabilities).
- The tax administration does not have a consistent approach for selecting cases for collection action. No debt is classified as non-collectible and proposed for write-off.
- Notices are paper based and sent by mail which may not be reliable. Notices require approval by high-level management and may be delayed or not sent.
- Notices that are mailed but returned as undeliverable are not systematically followed-up.
- There are no consistent procedures for collections (e.g., collection log) and no procedures for referring cases to audit or fraud investigations. Collection information is not used to initiate BoJ audits or for fraud investigation intelligence.

- Enforced collection tools (e.g., liens and seizures) are rarely used and usually would not be successful if the taxpayer challenged them in court, as there is insufficient documentation of past collection actions or there is too much discretion in procedures.
- New employees are subject only to informal on-the-job training on related legal requirements, such as the definition of delinquency, withholding requirements, and related penalties. There is minimal training on collection procedures or on complex collection issues, such as jeopardy cases or departure prevention. Existing employees are not provided refresher courses or other training.
- There is no automation of case selection and distribution of collection cases is discretionary by the supervisor.

Collections: Maturity Level 2

Key word: "Ad hoc"

- The collection function follows up outstanding amounts, but does not systematically identify delinquent taxpayers. Ad hoc stop-filer and non-filer programs are undertaken, but the focus remains on the pursuit of late payers and non-payers as a result of pressure on revenue targets.
- Taxpayers are treated separately under each tax for purposes of debt collection, and legal provisions are not coordinated (there is no offsetting of tax liabilities).
- The tax administration uses an ad hoc approach for selecting cases for collection action. No debt is classified as non-collectible and proposed for write-off.
- Notices are paper-based and generally sent by mail which may be unreliable, although the tax administration begins to research other channels for communication.
- There are some consistent procedures for collections (e.g., collection log), but no procedures for referring cases to audit or to fraud investigations. Collection information is not used to initiate BoJ audits or for fraud investigation intelligence.
- Enforced collection tools (e.g., liens and seizures) are used occasionally, but would have limited success if the taxpayer challenged them in court, as there is an insufficient documentation of past collection actions.
- New tax administration staff receive some formal course training and on-the-job training on collection procedures and related legal requirements, such as the definition of delinquency, withholding requirements, and related penalties. Existing staff are subject to occasional, but irregular, refresher courses. There is still no training on complex collection issues, such as jeopardy cases or departure prevention, bankruptcy, and payment arrangements.
- There is no automation in the selection and distribution of collection cases.

Collections: Maturity Level 3

Key word: "Systematic"

- The collection function follows up outstanding amounts although they may not use a risk-based approach and, on an ad hoc basis, identifies delinquent taxpayers, including stop-filer and non-

filers. There is an identification of large taxpayers who are stop-filers, although it may not be systematic.

- Even with combined taxpayer accounts, taxpayers are treated separately under each tax for purposes of debt, as the collection provisions for each tax have not been harmonized (there are offsetting debits and credits with other taxes but no offsetting of tax liabilities with other government payments).
- The tax administration uses a systematic approach to identify existing taxpayer cases that are potentially easier to collect (not necessarily the ones that represent highest risk to revenue). Debt may be classified as non-collectible and submitted for write-off.
- The tax administration employs multiple channels to notify taxpayers of their outstanding tax obligations. Notices are somewhat automated.
- There are consistent procedures for collection (e.g., collection log), including for referring cases to fraud investigations and audit. Collection information is not used to initiate BoJ audits or for fraud investigation intelligence.
- Enforced collection tools (e.g., liens and seizures) are used when appropriate and are typically successful when challenged in court, because they are supported by sufficient documentation of past collection actions and there is limited discretion in procedures.
- New and existing tax administration staff are subject to formal course training and on-the-job training on collection procedures and related legal requirements, such as the definition of delinquency, withholding requirements, and related penalties, as part of their individual development plan and of a rigorous training curriculum. However, the curriculum and course content are not updated regularly. Training on complex collection issues, such as jeopardy cases or departure prevention, bankruptcy, and receiverships, is ad hoc and not a part of the curriculum, if it exists at all.
- There is no automation in the selection and distribution of collection cases.

Collections: Maturity Level 4

Key word: "Strategic"

- The collection function implements two distinct activities: 1) identifying delinquent taxpayers; and 2) following up outstanding amounts. Separate stop-filer and non-filer programs are an integral part of the collection function.
- The taxpayer is treated as a single entity for purposes of debt. Tax collection powers are harmonized if under separate laws for each tax, or there is a tax code that covers all taxes.
- A cost-benefit or "business" approach to collections is employed, and the tax administration considers potential yield before collection action. Non-collectible debt is classified and written-off.
- The tax administration employs multiple channels to notify taxpayers of their outstanding tax obligations. Notices are largely automated.

- A collection log with all collection actions is maintained, and collection cases are referred to audit and fraud investigations, when necessary. Information collected by the collection section is used to initiate BoJ audits and for fraud investigation intelligence.
- Enforced collection tools (e.g., garnishment, liens, and seizures) are used when appropriate and are typically successful when challenged in court, because they are supported by sufficient documentation and the application of consistent, transparent collection policies and procedures.
- New and existing tax administration staff are provided formal course training and on-the-job training on collection procedures, the use of software, basic accounting, and similar topics as part of their individual development plan and of a rigorous training curriculum. The curriculum and course content are updated regularly. The course curriculum addresses complex collection issues, such as departure prevention and jeopardy cases.
- Collection case selection and distribution (to collectors) is automated.

10.4. Latin America and the Caribbean

The general state of tax collection in the LAC region leaves room for considerable improvement, as evidenced by the large stock of tax arrears that are older than five years in most countries.⁴⁶ Although there has been considerable technical assistance within the region during the past few decades by various organizations, a well-functioning collections program requires a proper organizational structure, modern legislative provisions, an IT system that provides users with the necessary information, and modern management principles. In addition to these basics, the importance of an appropriate culture within the tax administration is often overlooked. In recent months, a comprehensive survey⁴⁷ of tax and customs administrations was conducted in a large sample of LAC countries. This study noted that a disproportionate share of human resources tends to be devoted to overhead activities, at the expense of providing an adequate number of trained collection staff. The other significant observation was that, on average, only 28 percent of tax liabilities assessed through audits are eventually collected. This poor collection performance was attributed to delays and other weaknesses in the judicial system, such as lack of specialized capacities, and inadequacies in the post-judicial enforcement processes. The survey noted that the stock of uncollected tax debts continues to grow, in some countries quite rapidly, and that resources are often wasted on futile efforts to collect old debts, rather than taking risk-based approaches and focusing on recent delinquencies. In addition, tax compliance and collection can be adversely affected by the difficulty taxpayers encounter in trying to pay their taxes. In this regard, concerning the ease of taxpayer compliance, the study reported that LAC countries do not fare well in comparison with countries in other regions.

LAC countries have looked to improve collection efforts with various strategies. Below are some illustrative, non-exhaustive examples:

⁴⁶ Shown in the introduction to this chapter.

⁴⁷ Ter-Minassain, Teresa (2012), "More than Revenue. Main challenges for taxation in Latin America and the Caribbean", Inter-American Development Bank, Policy Brief No. IDB-PB-175.

- Peru, Ecuador, and Suriname, among other countries, have received donor assistance focused on developing reliable taxpayer identification systems, unifying taxpayer accounts, creating special units for large taxpayers, and using the banking system for collection purposes.⁴⁸
- Brazil and Chile have undertaken initiatives to reward tax collectors based on their collection effort. When targets were exceeded in Brazil, however, it was observed that collectors may be over-zealous in order to attain their bonus payments.⁴⁹
- El Salvador received assistance from USAID to create a Fiscal Compliance Division to follow up on pending cases and assist taxpayers to become compliant and a Fiscal Compliance Call Center to make automated calls to absent and delinquent taxpayers to remind them of their obligations. In 2009, the tax administration saved \$215,000 a month in operational calls and brought 2,685 stop-filers into compliance in the first half of 2009, compared to 917 who had responded to mailed reminder notices in the first half of 2008. The call center made 34,721 robo-calls in 2009, as opposed to 3,495 letter notices in 2008, and corresponding tax collections from stop-filers rose from \$1.57 million to \$3.12 million.⁵⁰

Overall, and most significantly, while many LAC countries have modernized and strengthened their tax administrations, the effectiveness of tax collections remains problematic. The following are highlights:

- Survey statistics for LAC in 2010 revealed that new tax debt being added exceeded collection levels of existing tax debt and, thus, the stock of tax arrears was growing at a worrying rate. It was further observed that part of these increasing arrears was attributable to some taxpayers abusing the system by filing legal appeals to delay the collection of otherwise legitimate cases.⁵¹
- Countries such as Bolivia, Brazil, Colombia, and Ecuador, for example, have assigned a major role to banks in tax collection. This decision is attributed to insufficient resources in the tax administration, inefficiencies of the tax administration managing the cashier function, security, and personal safety concerns, and because these countries recognize that banks are already specialized in the handling and control of payments.⁵²

10.5. Key Benchmarks and Guidelines

An effective collection function in the tax administration is essential, but depends on many factors.

- As discussed in Chapter 3, the tax administration should have all necessary legal powers to properly manage tax debts owed to the government and be allowed to use them in accordance with established procedures. Preferably, the legislation should be a single, comprehensive tax law that defines all collection and enforcement powers and procedures for all taxes. Legal provisions and related procedures should aim to be nondiscretionary and transparent.

⁴⁸ Lledo et al. (2004), p. 23.

⁴⁹ Kahn et al., p. 189.

⁵⁰ Dod (2011), p. 8 and Murdoch et al., p. 8.

⁵¹ Inter-American Center of Tax Administrations (CIAT) et al. (2012), p. 50.

⁵² Gómez Sabaini et al. (2012), p. 52.

- There should be a consistent approach and written procedures by which tax debt should be pursued as a priority. Debt collection activities should not be reactive (e.g., with revenue targets), but rather a part of deliberate overall collection and enforcement strategies.
- Priorities for collection action, as well as tax arrears that should be written off due to limited possibility of collection, should be identified.
- As in Chapter 6, the tax reporting and payment system should be simple, and unnecessary barriers should be removed to facilitate tax compliance. This includes, but is not limited to, providing clear and timely instructions, understandable tax forms, and paying taxes at banks or implementing e-filing and e-payment. Simplification efforts should aim to reduce costs, and increase the accuracy of tax collection.
- Automation plays an important role in collections. There must be confidence in the taxpayer account balances as reflected by the IT system, and the system should:
 - Produce a consolidated current view of the taxpayer account which provides a single balance of all taxes that a person owes and the monies that may be owed to the taxpayer, including any refunds such as VAT;
 - Automatically apply penalties and interest;
 - Be capable of producing monthly management reports, including aged receivables and collection; and
 - Select cases for assignment by collection management based on risk parameters set in the system.
- Collections should be effectively organized. There should be a separate collections unit within the tax administration that is fully empowered to manage the debt collection function. The role of this unit and its responsibility needs to be clearly understood. The authority to make decisions regarding installment payments, partial payments, and mitigation should be clarified and supported by detailed, documented guidelines. The head of the tax administration, while maintaining general management oversight, should only be involved on an exceptional basis.
- Collection staff must be adequately trained and adequately compensated.
- Management supervision should be required, and managers, supervisors, and collection staff should be held accountable for non-adherence to legal provisions and procedures.

A key benchmark for collections, in the case of large taxpayers, is that virtually all taxes should be paid on time, leaving no tax arrears. Large taxpayers can materially and adversely affect a country's revenue. This is an ideal state that may be difficult to attain, but, at least in the case of taxes that are trust funds (i.e., VAT and PAYE), this should be the objective even for the short term.

With respect to small and medium countries, the relative size of debt inventories varies widely between countries. Generally, however, the approach recommended is to examine variations in overall payment compliance by applying a benchmark ratio of the aggregate year-end tax arrears (excluding disputed debt) to aggregate net revenue collections. The OECD notes that this indicator varies enormously, but that the majority of countries have a ratio of less than 5 percent (16 out of 32) or between 5 and 10

percent (8 out of 32).⁵³ For a specific country, a broad indicator of payment compliance and collection effectiveness should be developed by looking at changes in this ratio over a period of time (perhaps five years).

Another ratio, similarly examined over a time span of several years, should be computed as tax debts written off to the value of year-end tax outstanding. This ratio would determine the relative magnitude of debt written off as uncollectible. Although comparison with other countries with respect to this ratio is extremely difficult due to the different debt policies applied when writing off uncollectible tax debts, a trend may be indicative.

⁵³ OECD (January 2009), p. 97.

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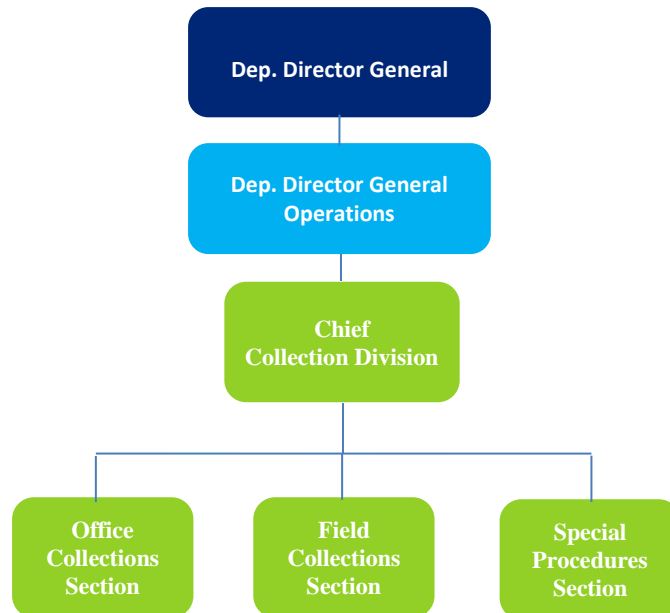
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Appendix 10.A. Organizational Structure of the Collections Division

Figure 10-A.10. Collections function organization in headquarters



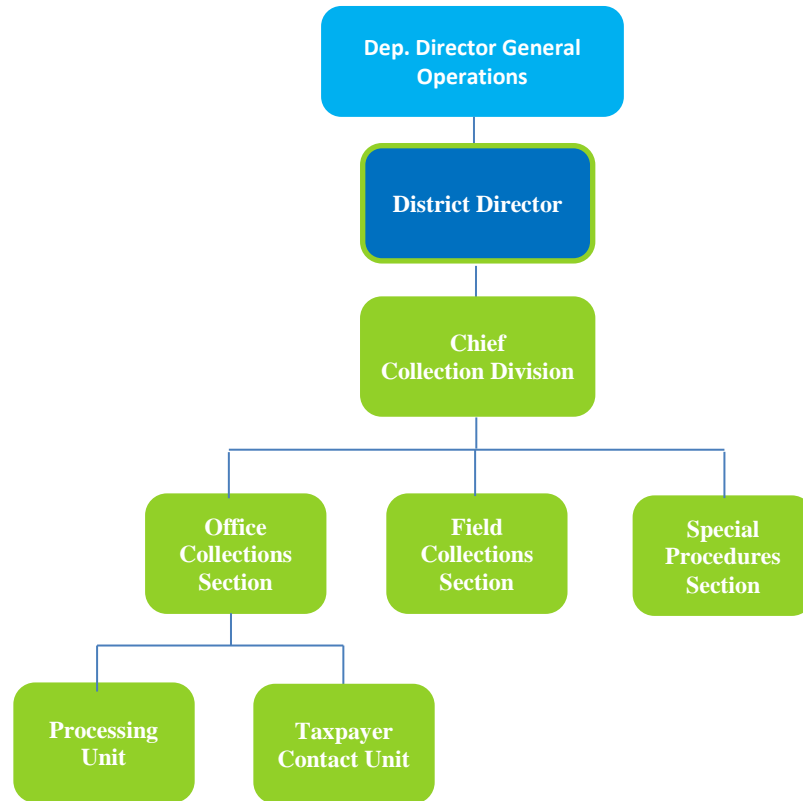
The responsibilities of headquarters offices are to:

- Develop and continually update all programs, policies, guidelines, and procedures (including manuals) for all district/field collections functions;
- Design and implement the case selection system;
- Develop consolidated strategic and annual collections work plans and similar plans for all district/field offices;
- Allocate collections resources (equitably) to district/field offices;
- Evaluate the district/field office collection programs from reviews of periodic Management Information System reports and on-site field visits;
- Perform on-site reviews of work quality of district/field offices;
- Design controls and programs to accurately account for all revenue collections;
- Determine training needs for collection staff in all district/field offices; and
- Develop employee evaluation standards for performance of all collections staff.

The responsibilities of each section are described below.

In addition, the collections division in many countries includes a cashier section. Such a section should be discontinued as soon as tax collection contracts with commercial banks can be executed, as discussed in Chapter 3 and Chapter 7.

Figure 10-A.11. Collections function organization in district/field offices



The principal role of the Chief of the collections division and his or her staff in the district/field offices is simply to perform the collections operations role and execute the annual collections work plans developed by headquarters. All collections staff is also responsible for recommending programs for preventing taxpayers from being delinquent in payment of their taxes.

The Office Collections Section is the first point of contact with those individuals or enterprises that fail to resolve their delinquent payment or delinquent return status in response to notices or letters issued to them. The contact with the taxpayer is by correspondence, telephone, or in person, when the taxpayer visits the office. For efficiency and effectiveness, there are two specialized units – the Processing Unit and the Taxpayer Contact Unit.

- The Processing Unit initiates correspondence to taxpayers and third parties in order to collect delinquent tax arrears, secures non-filer and stop-filer returns, or obtains information about taxpayers or their location. The Unit may initiate limited enforcement action to collect tax arrears or secure returns and then determine whether or not the case should be handled by the office contact section or someone in the field collection branch.
- The Contact Unit is responsible for contacting taxpayers by telephone or interviewing them in the office, when the taxpayer responds to an appointment letter sent by the Processing Unit. Personnel of the Contact Unit discuss payment of the tax in full, establish partial payment

agreements and take simple enforcement actions, such as mailing a Notice of Levy (attachment) to an individual's bank account. They secure financial statements, determine ability to pay, or identify the need for the Field Section to take further enforcement action.

The Field Collections Section is the final source of collection actions in the division. The field personnel are called collectors, or collection or revenue Officers and are organized into groups of 10 to 15 individuals, who are supervised by a manager and may have clerical support. The collectors have the responsibility to locate taxpayers and any of their assets, secure delinquent tax returns from stop-filers, identify non-filers, and estimate the tax due and sign the return, if that latter authority is delegated to them. As the title of the section indicates, major duties are carried out not in the office, but in the field, at the taxpayer's residence or business. Collectors may file tax liens, serve levies, and, with appropriate approval, seize and sell movable and immovable assets of the taxpayer.

The collector should be given broad legal and administrative authority, and is generally assigned to a specific geographic area or alphabetic section of taxpayers. He/she is expected to work all cases in the geographic area and assure compliance with all tax laws. As a result of their work in the field, collectors are exceptionally well-placed to identify fraud or cases to recommend in-depth examination to the appropriate criminal investigation or audit divisions.

The Special Procedures Section coordinates all legal and technical information, and it serves as a legal or paralegal advisor to the division and the entire district/field office on collection issues. It generally assumes the quality review function for the collection division and monitors all court cases, including bankruptcies, and files appropriate legal documents to ensure that the interests of the government are protected.

In some countries, the Non-filer/Stop-filer Section is a separate section. In others, the staff of the office and field sections have the respective responsibility to secure delinquent returns. In addition, as discussed above, the collections division in many countries includes the (now obsolete) cashier section.

Appendix 10.B. Third-Party Information on Non-Filers

The following is a list of potential sources of information that can be used to assist the tax administration in locating non-filers, as well as stop-filers and tax debtors. In addition to these, there will always be information from informants, who write or call the tax administration about non-filers, the old fashioned method of door-to-door canvassing operations (walkabouts), and scanning newspaper articles and advertisements to identify potential non-filers.

Corporate or company registry: The country's "Corporations Act" or "Companies Act" often provides that certain information pertaining to the purpose, ownership, and administration of corporations be available through the corporate registry office. A request for records, related to a particular corporation, may elicit the following:

- Corporate name, address, and date of incorporation;
- Name, address, and occupation of directors;
- Name and address of officers; and
- Number and class of shares authorized, issued, and outstanding.

The tax administration should also obtain a listing of newly registered companies and their principals and compare it to the tax registration database to ensure that these companies have also applied for a tax registration.

Court (Attorney/Solicitor General): It may be useful to obtain records on bankruptcies, liens, judgments, and court cases.

Customs: Customs can provide information on brokers and importers, what they import, whether they have paid duties regularly, current addresses, and even the bank details, when checks are drawn to pay customs duties. In many countries, clearing agents are often non-filers or stop-filers. Customs import data should be analyzed for non-filers on a regular basis. In addition, import information should be sorted and made available to audit as a regular source of information that will assist with VAT refunds and other purchase verifications.

Government suppliers (finance department): The various government departments often have supply contracts with private businesses for goods or services. Some government departments issue a list of these contracts by territory. This is a valuable work tool, since it may provide information on a taxpayer's accounts receivable, which the officer can then seize, if applicable. It may be possible to obtain the following information:

- The names, addresses, and internal numbers of the suppliers;
- The year and number of the last contract awarded; and

- The monetary value of the contract.

This information is used to identify non-filers, but should also be matched against tax records to determine if the monetary value of the contract is roughly reflected in their tax filing.

Tax returns and other documents: All types of tax returns filed by the taxpayer should be reviewed and cross-referenced for leads on addresses, assets, sources of revenue, names of relatives, and names on assets. A taxpayer's name that appears on the sale or transfer of an asset may be an indication of a fraudulent conveyance of property.

Land title/registry office: The land registry usually contains the ownership, encumbrances upon, and transactions of land. It is important to review information that can have an impact on the equity of the property and whether the property was transferred in a non-arm's length transaction. Available information may include:

- Legal description;
- Size of the property;
- Name of the owner;
- Date of purchase or sale (how long taxpayer owned property);
- Purchase or sale price;
- Records of outstanding mortgages or liens, foreclosures, seizures, etc.;
- Details of registered leases and type of ownership (joint, common); and
- Any rights or notice of sale by creditors.

Few countries have fully computerized their land registry systems, but a computerized registry can be a good source of information to detect non-filers. Where the registry remains a manual system, it is a source of information when searching for taxpayer assets.

Motor vehicle branch: Governments maintain records related to vehicles and drivers. A search can be conducted against a vehicle plate, identification, or registration number, as well as a registered owner's name, to:

- Verify the address of an individual or company;
- Find out if other vehicles are registered to an individual or company;
- Find out the registered owner of a particular vehicle; and
- Provide, for a particular car, the license plate number, year/make/model, car serial number, and information about the previous owner.

This is a good source of information when using high-value vehicles (i.e., vehicles that are less than 2 years old) as a proxy to locate non-filers. In addition, it may be worthwhile verifying if there are vehicles in the name of family members.

Municipality records: Among other responsibilities, municipalities may have the authority to issue business licenses and building permits. The amount of information available will vary from municipality to municipality. However, the response to a request may include the following:

- Name and address of the individual or business to whom the license or permit was issued;
- The job location where the license or permit will be used;
- Consumer complaints about the business;
- Applications for the license or permit;
- Any final inspection reports; and
- Any information about trades or sub-trades related to the business.

Personal property registry/registry of deeds: A government may maintain a branch or division responsible for the recording and formal registration of certain types of encumbrances against assets. Details, such as the amount of the loan or the amount of the remaining indebtedness, will probably not be provided. However, a search of records related to a particular taxpayer may produce the following information:

- The existence of encumbered assets;
- The type of security agreement;
- The date of registration and reference number;
- The name and address of the secured party;
- The name and address of the debtor(s); and
- A description of the collateral.

Postal authorities: If the taxpayer has moved or the collector is unsure as to the exact location of the address listed, the postal authorities can often provide a new address. In many jurisdictions, postal officials are required to provide other governmental agencies with taxpayer address information. If changes of address are computerized and businesses can be separated from individuals, then new business addresses can potentially be a good source of identifying non-filers.

Police: If the taxpayer has been non-compliant in filing returns and/or paying taxes, they may also have had contact with the police for other infractions. This may be another source of the whereabouts of the taxpayer.

Production/marketing agencies for natural resources and primary products: In a number of natural resource and primary product industries, such as agriculture, forestry, fisheries, dairy products, and mining, the producers must abide by the various acts and regulations instituted by the various levels of government. When it comes to determining production quotas, resource rights, or simply operating permits, there is often a government department or agency responsible for enforcing the applicable regulatory framework. This body provides information about the particular features of this type of industry and information about individuals or businesses involved in the industry.

This information can be used to identify non-filers. In addition, production quotas or resource rights are often assets, which the tax administration can seize and sell if the person is a tax debtor. The following information may be available:

- Type of operation;
- Potential buyers for the product;
- Regulations which limit the taxpayer's distribution network;
- Production quotas; and
- Application documents.

Property tax: This may be a division within the tax administration and may contain the following information:

- Legal description from a civic address;
- Name of property owner;
- Address, to which the tax bill is normally mailed (may be different);
- Payee (mortgage company or owner);
- Cross-references to other properties owned by the same owner; and
- Status (paid or in arrears).

This information is useful in locating non-filers, stop-filers, and the assets of tax debtors.

Accountants: In some instances, a non-filer may have sufficient resources to employ an accountant. The tax administration should be tactful when approaching the accountant, as the taxpayer is his/her client. Records from an accountant are useful when a non-filer, stop-filer, or tax debtor has moved and cannot be located. Information that can be acquired from an accountant may include:

- A forwarding address, if the taxpayer has moved;
- Working papers related to statement preparation;
- Financial statements; and
- The location of current accounting records.

Associations/Chambers of commerce: Professional, trade, social, tourist, hotel, or union associations can be significant sources of information. Certain types of associations are compulsory, particularly professional associations. These types of associations can be very well structured and may provide the taxpayer's employer, personal and business address, as well as membership status. The following information may be available:

- Address and other contact details;
- Whether the taxpayer is a member in good standing with paid-up dues;
- When dues were last paid;
- The taxpayer's last employer; and
- Information about specific manpower needs (e.g., large project, certain area).

Credit bureau: These organizations can provide considerable information regarding the credit viability of a taxpayer. Most large creditors, such as banks and large businesses, use these organizations to confirm the ability of the taxpayer to maintain monthly payments, before agreeing to provide the taxpayer with more credit. For example, the Caribbean Credit Bureau, located in Barbados with offices in a number of countries in the Caribbean, offers a range of credit services and, for a fee, can offer information about the credit history of specific taxpayers. Credit bureaus will not allow tax administrations to obtain general listings to go "fishing" for new potential taxpayers, but, if a taxpayer is in arrears, credit bureaus can provide good information to assist the tax administration in determining the taxpayer's revenue risk.

Dealers/suppliers: These are important sources of financial information that can assist in determining the potential size of a person's business, whether they are a non-filer for, say, VAT, which has a threshold requirement, and in determining revenue risk in the case of a tax debtor. In some instances, they can provide important insights, such as:

- Whether the taxpayer uses cash or charge and, if cash, whether checks are accepted;
- If charge, whether the account was billed, there was a credit application, and how the customer paid;
- Whether the taxpayer passes 'non-sufficient funds' checks;
- The frequency and size of orders to determine the size of the person's business, in the case of non-filers;
- Knowledge of other possible dealers or suppliers;
- Ship-to address for supplies;
- The names of the taxpayer's clients;
- Details of the taxpayer's financial situation;
- Available invoices with information on the company name or personal name;
- Balance payable by the taxpayer; and
- Collateral or liens against the taxpayer's assets.

In some countries, it is a requirement to submit lists of both sales and purchase invoices in support of VAT returns. This may only be in cases of refund returns, but this information can also be used to identify non-filers.

Telephone and other directories: More and more of these directories are now online, and some may be downloaded so that the information can be consolidated into a database when searching for non-filers.

Financial Institutions: Without either a "written authorization" from a taxpayer or the legal formality of a "requirement/demand to provide information and documents," most financial institutions will not cooperate with tax administrations, citing their confidentiality with clients. However, under money laundering legislation, the tax administration may be able to obtain some information.

Internet: Once a potential non-filer has been identified, the internet can be a good source of verifying a person's details, such as their identity and contact information.

- See if the taxpayer has a personal home page, by keying in his/her first and last names into an internet search engine.
- If the taxpayer is or was attending a college or university, visit the school's website and check the campus directory. The taxpayer may have, or have had, an email address.
- See if the taxpayer has an e-mail account through his or her job by visiting the company's website and searching its directory. If the site has no directory, try sending an e-mail message to the person at `firstname.lastname@company.com`.
- Try the taxpayer's name @ any major ISP provider's address.
- Try any of a number of online directories.
- Search social networking sites like Facebook or My Space.
- Try "Googling" the taxpayer's name (in quotations) and examine all the sites that are associated with that name.
- Use free sites, such as `mylife.com` in the United States, to go through different social networking sites and search for photos, addresses, phone numbers, and other relevant information.

Lawyer/notary: Lawyers and notaries are often reluctant to provide information about the transactions they handle for a taxpayer. Although most tax acts contain information requirement provisions, where the tax administration can consult the accounting records of lawyers and/or notaries (supporting documents or checks only), lawyers may refuse to provide copies, citing "solicitor-client privilege." It is therefore preferable to secure the cooperation of these professionals before issuing a formal demand or requirement.

The relationship between a taxpayer and his legal counsel may be quite varied in nature, depending on the relevant legal system (civil law, criminal law, commercial law, etc.). However, regardless of the nature of this relationship, the primary concern is with the financial aspect of the transactions, namely:

- The names of the parties involved;
- The purpose of a financial transaction;
- The date of the transaction, which concerns the tax administration;
- The assets in the transaction (e.g., if a building is involved, the legal registration information);
- Whether money changed hands between the parties;
- Copies of the checks issued, with information on persons, to whom amounts are payable and amounts and dates of the payments; and
- Whether these amounts were all distributed.

Information held by lawyers can only be accessed on a case-specific basis, where the tax administration is gathering information in the case of a non-filer, stop-filer, or tax debtor.

Landlord: Information from landlords can assist in identifying non-filers and may also be useful in cases of tax debtors. In identifying small and medium enterprises that are non-filers, the tax administration should keep in mind that some level of government often serves as the "landlord" of physical

marketplaces and incubator sites where businesses function. Some questions that can be asked of landlords include:

- Whether a copy of the rental application can be provided;
- What employment information was provided on a rental application;
- Whether there was any logo or business name shown on any vehicles driven;
- Whether there was any equipment (rolling stock or otherwise) that might indicate the taxpayer's line of work; and
- Whether the taxpayer moved for employment reasons.

Neighbors: Some information can be obtained from current or former neighbors. Questions should include:

- When the taxpayer moved;
- Whether their new address is available;
- How the taxpayer moved and, if a moving company was used, which one it was;
- Whether taxpayer lived alone;
- The spouse's name (whether married or common-law);
- The name of the spouse's employer;
- The type of work performed by the taxpayer (and name of employer);
- The make and year of the taxpayer's car;
- Other assets owned by the taxpayer;
- Whether the taxpayer had friends on the street or in the neighborhood; and
- The name of the school attended by the taxpayer's children.

Newspaper subscriptions: When the taxpayer has subscriptions to newspapers or magazines, this information will ensure that the address is current. This can be a very accurate source of information.

Real estate agents: When the taxpayer has recently completed a real estate transaction, it is possible to obtain certain worthwhile items of information from the real estate agent. These can include:

- The name of the notary or lawyer who handled the transaction;
- The name and address of the financial institution;
- If it was a principal or secondary residence;
- The amount of the transaction;
- The date of the transaction;
- If the property was jointly owned; and
- The taxpayer's new address, if it was a property sale.

This can be important information in determining whether the person is a non-filer and discovering assets in the case of debtors.

Religious organizations: The main purpose is to get the address and/or telephone number of the taxpayer. Questions similar to those posed to a neighbor or school can be posed to a religious organization.

Schools: The schools attended by the taxpayer's children can lead to information. This is a potentially excellent source of identifying non-filers in the case of children attending private schools. However, schools may be reluctant to provide the requested information. The following are a few items of information which may be available:

- Taxpayer's name, address, and telephone number;
- Dates and period of attendance at the school, whether full-time or part-time;
- Whether the taxpayer works at the same time and where the taxpayer works;
- Amount of tuition and terms and conditions of payment;
- Ages of the children and name and contact information of the caregiver; and
- Name and contact information of the other parent, if a former spouse.

Utilities: Utility companies, such as telephone, electricity, gas, cable, or protection services (alarm systems), may enable location of a taxpayer, particularly if she/he has just moved. The following are a few items of information they may provide:

- The type of business and owner;
- The address of the taxpayer or the place of business using the service;
- The billing name and address; and
- The financial institution where the pre-authorized payments are deducted.

Electrical consumption can be used as a proxy for estimating the size of a business.

Appendix 10.C. Recent Tax Amnesties around the World

Figure 10-C.12. Tax amnesties around the world (2008-2011)⁵⁴

Country	Amnesty regime
Argentina	In December 2008, the government launched two special regimes to facilitate payments and increase tax collection. A moratorium aimed to regularize unpaid taxes by allowing taxpayers to pay arrears in 120 installments with low interest. In addition, an amnesty law allowed taxpayers to repatriate money from abroad by paying a maximum 8 percent of the regularized amounts rather than the unpaid 35 percent income tax or 21 percent VAT.
Australia	An offshore disclosure initiative for foreign income and capital gains ran until June 30, 2010 and required the full amount of tax to be paid, but offered an elimination of interest penalties up to and including the 2002 tax year.
Belarus	In March 2010, a five-year tax exemption from income tax on dividend, interest, royalties, and securities, or from the sale of real estate, was introduced to help simplify and improve tax payment in the state. Applying to both Belarusian citizens and foreign residents, the amnesty aims to encourage taxpayers to repatriate income generated from abroad.
Belgium	In 2008, a change in Belgium law extended the statute of limitations which saw the extraordinary assessment period increased from five to seven years, enabling the Tax Authorities to more efficiently combat Income Tax Fraud. In 2010, a circular was published that clarified the tax amnesty regime and introduced an additional voluntary declaration for individuals.
Brazil	In 2009, the government expanded a program designed to facilitate the payment of back taxes including federal taxes and social security. Companies with tax debts were given up to 15 years to pay them off, with reductions to penalties and interest rates, including zero penalty and interest reduced by 45 percent for those liquidating their total debt in a single payment. In 2010, changes to the tax law included an additional federal amnesty program for debts owed to the Federal Revenue Service and the Federal Tax Attorney's Office.
France	In 2009, resident taxpayers were given the opportunity to regularize their tax position by December 31, 2009 through the creation of a new specialized unit within the French Tax Department. The cellule de regularization enabled taxpayers to disclose legal, but previously undeclared, foreign funds and assets situated in tax havens, thereby avoiding criminal prosecution and potentially benefiting from more lenient penalties.
Czech Republic	Beginning in 2011, taxpayers had an opportunity to pay tax on undeclared funds in order to avoid criminal charges and penalties.
Gibraltar	Beginning in 2011, a moratorium and amnesty was introduced to ensure advance payment of taxes and correct filing of corporate tax returns. New surcharges and penalties were introduced. There is a moratorium for 18 months, during which fines and penalties will not be incurred. The moratorium does not apply to interest on unpaid tax. In addition, an amnesty scheme with respect to past non-compliance was introduced to enable taxpayers to begin the new tax regime with a "clean slate."
Greece	In 2010, there was a six month amnesty for the repatriation of funds held in foreign banks. Taxpayers who transferred funds from foreign accounts into Greek bank accounts of at least one year could pay a 5 percent tax on the value of the funds at the time of their transfer back

⁵⁴ Ernst & Young (n.d.), n.a.

Country	Amnesty regime
	into Greece. If the funds were declared but remained abroad, an 8 percent tax applied.
Hungary	In March 2009, a partial amnesty to repatriated income accumulated in controlled foreign companies was introduced. 75 percent of the dividends derived from investment income were exempt if a taxpayer invested at least half of the repatriated income into treasury bonds held for a minimum of two years. A tax amnesty for individuals was also introduced.
Ireland	An investigation into taxpayers who have undeclared tax liabilities in trusts and offshore structures began in September 2009, with the opportunity to make a qualifying disclosure to Revenue.
Isle of Man	In 2010, a disclosure amnesty was in effect for three months, during which penalties were waived in respect of any relevant voluntary disclosures. Interest charges remained applicable.
Italy	In 2009, a "tax shield" for individuals and small-and medium-sized businesses was created. Under the scheme, taxpayers could pay a one-time 5 percent penalty on repatriated funds from offshore tax accounts and be pardoned any potential back taxes. The amnesty also introduced a rebuttable presumption for undeclared funds and assets held abroad, doubling the penalties for any failure to report or pay taxes. A new specialized audit team within the Italian Tax Authority was created to encourage international cooperation and deal with international tax evasion and avoidance.
Kyrgyzstan	In 2009, an amnesty scheme was introduced whereby movable and immovable property of Kyrgyzstani individuals and companies legalized during that period would be exempt from tax, customs, and social security. In addition, certain criminal and administrative liabilities and penalties for violations committed before December 31, 2008 would be waived.
Latvia	In 2010, a Shadow Economy Reduction Plan was introduced which included the ability to legalize undeclared savings by paying a tax amnesty. In addition, late interest and monetary penalties were waived if the outstanding tax due was paid within a certain time frame. The tax authority was granted additional administrative rights, such as access to information, and the penalty system was strengthened so that the application of penalties would be decided on the severity, frequency, and regularity of breaches.
Liechtenstein	In 2009, Liechtenstein and the U.K. agreed on a package of measures to improve tax compliance in an attempt to clear up the tax arrears of U.K. clients of Liechtenstein financial services and ensure that future tax liabilities would be properly met. Penalties on unpaid tax were capped at 10 percent of tax evaded over the last ten years, providing the taxpayer disclosed everything to Her Majesty's Revenue and Customs. Those who failed to make a full disclosure by the end of the program faced their accounts being closed down.
Mexico	A Tax Amnesty Repatriation Program was brought into operation in 2009, applicable on income earned in 2009 and preceding years. Capital returned to Mexico could benefit from the rate of 4 percent for natural persons and 7 percent for juridical persons with taxes owing at the moment of voluntary disclosure.
Netherlands	In 2009, a voluntary disclosure program enabled taxpayers to declare their money in foreign bank accounts and avoid penalty and criminal prosecution. A new law made tax advisors and tax directors, as well as the taxpayer, liable for penalties, the maximum amount of which is 100 percent of the tax which has not been paid. In July 2010, the penalty imposed upon the voluntary disclosure of foreign bank accounts was increased from 15 to 30 percent.
Netherlands Antilles	During April–June 2009, taxpayers could report without fear of penalty any interest received from an EU Member State in the years 2005 to 2007. In Bonaire, St. Eustatius, and Saba, a new tax legislation bill also contained a general tax amnesty provision, with a penalty

Country	Amnesty regime
	reduction to 15 percent if the taxpayer made a voluntary correction.
Norway	A temporary amnesty scheme for high-net-worth individuals was introduced to report on hidden wealth abroad without tax penalties.
Portugal	In 2009, taxpayers could disclose and regularize assets held abroad and were entitled to pay a tax levied at 5 percent of the value of relevant investments as disclosed in the confidential statement, but were not subject to interest payments. Payment had to be made at the same time or within 10 working days of receipt of the statement in order to qualify.
Singapore	In 2009, a program was launched that was designed to encourage taxpayers who had made errors in their tax matters without willful intent to evade taxes to come forward and voluntarily disclose any omissions. Provided certain qualifying conditions were satisfied (the disclosure had to be timely, accurate, complete, and self-initiated by the taxpayer), the penalties on the undercharged tax were reduced to 5 percent per year of delay.
South Africa	For a 12 month period, starting in November 2010, taxpayers had the opportunity to disclose their defaults, regularize their tax affairs, and receive total relief for monetary penalties. The full amount of tax was still payable, but the relief of interest was staggered from 100 percent in cases where no audit was pending or commenced, to 50 percent where an investigation had already begun.
Switzerland	In 2010, an amnesty was announced for income tax and inheritance tax evasion on condition of voluntary, spontaneous disclosure and full cooperation with the authorities. With limited scope, the scheme covered only penalties and fines and the principle amount — interest and arrears were still applicable.
Turkey	A tax amnesty set to encourage the legitimization of domestic and foreign assets was extended multiple times throughout 2009 and enabled taxpayers to benefit from reduced levels of tax and interest of either 2 percent or 5 percent of the tax base.
United Kingdom	In 2009, various disclosure schemes were announced including: 1) corporates and individuals with unpaid taxes linked to offshore accounts or assets could settle their tax liabilities at a favorable fixed penalty rate of 10 percent, subject to certain conditions; and 2) according to the Tax Health Plan, doctors and dentists were given the opportunity to give full disclosure of any undisclosed tax liabilities and benefit from a fixed penalty. Her Majesty's Revenue and Customs was obtaining information from various sources, including National Health Service trusts, private hospitals, and medical insurers, and those failing to take advantage of the scheme stood to face much larger penalties
United States	In 2009, the Voluntary Disclosure Program was set up to enable taxpayers to disclose unreported income from offshore accounts and offshore accounts not previously reported for the years 2003 to 2008. All taxes, interest, and penalties were still payable, along with any other previously assessed liabilities, but criminal prosecution would not be recommended.