

IATJ 5th Assembly,
Washington, 23-24 October, 2014

Protection of Taxpayer in Court

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Protection at and during the
Institution of Proceeding Phase

Overview

1. Early Proceeding Stages
2. Costs of Litigation
3. Suspension of Enforcement
4. Examination of Facts of its Own Motion
5. Summons to Appear in Court

1. Early Proceeding Stages

- Filing of claim
 - ✓ Instruction about legal remedies available
- Representation
 - ✓ No compulsory representation at tax court of first instance
- Time limit for filing of claim
 - ✓ Restitution to the previous condition

1. Early Proceeding Stages (cont.)

- Inspection of Files
 - ✓ Electronic access for legal representatives
- Time limit for presentation of arguments
 - ✓ Possible extension

2. Costs of Litigation

- Legal Aid
 - ✓ Taxpayer with no or little income and assets
 - ✓ Official form for computation of wealth
 - ✓ Proposed claim will most probably be successful
 - ✓ General summary examination of credible facts and legal situation
 - ✓ Court decision before cost-incurring measures in main legal action

3. Suspension of Enforcement

- Administrative appeals and court claims no suspensive effects
- ✓ Application for interim means for the duration of administrative appeal and/or court claim
- ✓ Rejection of application by IR or enforcement has already begun
- ✓ Tax assessment is most probably unlawful or enforcement causes an undue hardship for taxpayer
- ✓ General summary examination based on present means of proof
- ✓ Risk of interest payment at 6 %

4. Examination of Facts of its Own Motion

- Court to find facts and clarify matters of its own motion
 - ✓ Communicate with the parties
 - ✓ Investigate files present and ordered, contact witnesses and expert witnesses
 - ✓ Help for clear and complete formulation of application and presentation of facts and witnesses
 - ✓ Breach of right to a fair hearing

5. Summons to Appear in Court

- Date for hearing scheduled ex officio
- ✓ Two/four weeks notice to parties
- ✓ Postponement possible
- ✓ Application by taxpayer making credible reasonable grounds
- ✓ Right to hearing can be waived

Thank you for your attention.



"Answer the question with a simple yes or no. You may not 'say it with flowers' in a court of law."