

United Nations Subcommittee on Dispute and Avoidance Resolution.

Draft of the UN Handbook on Dispute Avoidance and Resolution.

Chapter Number 3: Domestic Procedures.

Subchapter Number 3.4: Tax Ombudsman.

**TAX OMBUDSMAN'S DOMESTIC EXPERIENCE: COUNTRY REPORT IN TAX
OMBUDSMEN EXPERIENCE.**

The objective of this Report is to detect and analyze the relevant aspects that arise from the domestic experience in countries where the institution of the Tax Ombudsman has been operating through different models, such as an Agency, Unit, Department or Office, but in every case as the governmental entity in charge of the defense of the rights of taxpayers in their relationship with the tax authorities.¹

This concentration of data and experiences will be summarized for two main objectives:

- a) Detect the best practices at worldwide level that make a Tax Ombudsman a key institution to avoid and solve domestic tax disputes in a timely and efficient manner.
- b) Ultimately, propose the “Golden Standard Model” to be followed in case member countries of the United Nations Organization are interested in creating or improving the Tax Ombudsman in their respective jurisdictions.

In the following lines the rapporteur will find the fundamental issues that support this report and a brief explanation on what is the core issue or purpose behind them.

Please note that the **first five inquires** refer to aspects essentially related to the nature, autonomy and relevant administrative matter of the Tax Ombudsman. The **last five inquires** refer to its substantive powers, influence and communication with tax authorities and the representative achievements on behalf of taxpayers.

In case the rapporteur considers that additional information is needed to clarify the answers provided, the rapporteur is free to present it.

If you have any doubt or questions regarding this Report, please email:

¹ It is important to note that this report is focused on the functions of the Tax Ombudsman **exclusively related to federal taxes**. State or Local taxes procedures aimed to protect taxpayers rights are intentionally excluded.

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Same email addresses are available to submit the Report, once completed.

1. When and how the Tax Ombudsman was created?

Please indicate the official name of the Tax Ombudsman, when and how it legally emerged in the country, as well as the legal or administrative framework that regulates it. On this issue, it is highly relevant to know if the institution has constitutional support and whether it was created by law or by an administrative-governmental decision, since this is what regularly defines the nature of this monitoring bodies.

2. How and who appoints the Tax Ombudsman?

It will be useful and illustrative to understand what is the legal procedure for the appointment of the individual leading the Tax Ombudsman Agency, as well as the requirements that must be fulfilled by the individuals who aspire to this position. The length of this tenure and possibility for reelection will be very useful information as well.

3. Tax Ombudsman's Autonomy.

The objective is to know if the Tax Ombudsman is independent of the tax administration in two main aspects:

- a) **Self-Governance:** That is, to be able to make administrative and personnel decisions within the Agency/Department/Office/Unit.
- b) **Substantive criteria:** That is, to have the capacity to develop its substantive powers without previous consultation with the tax authorities.

A fundamental fact is whether the Tax Ombudsman enjoys budgetary autonomy. Regardless of whether this autonomy is enjoyed or not, it would be very illustrative to know the amount of the budget that the Ombudsman exercises per year.

4. Whom does the Tax Ombudsman report to?

It is important to know if the Tax Ombudsman has the obligation to report the results of its activities to Congress or to any government agency of the Executive branch, as well as the periodicity of this report.

A relevant fact to be addressed is if the individual leading the Tax Ombudsman Agency may be removed before the end of his legal period and why.

5. Operational tools: personnel, facilities and degree of presence within the Country.

Please inform how many people work for the Tax Ombudsman Agency/Department/Office/Unit and if its offices are physically located within the tax administration facilities or not.

Please mention if the Tax Ombudsman has representation offices all over the Country or just in some regions.

6. Description of Substantive Attributions.

Please describe the substantive attributions that the Tax Ombudsman has according to its legal and administrative framework in order to achieve its goals.

For a better understating of such powers, please identify if the functions are directed to solve singular taxpayers' problems or systemic taxpayers' issues.

A vital matter to understand is the accessibility that taxpayers have to the services provided by the Tax Ombudsman, so please indicate if the Ombudsman, its staff or any other third party must perform an admissibility analysis or pre-selection process before the Ombudsman can intervene in a specific matter.

Please advise if there are any subjects or conflicts that the Ombudsman is legally barred to know or intervene in.

7. Communication with the tax authorities.

Please inform the form, quality and fluency of the communication that the Tax Ombudsman has with the tax authorities, since this is key on obtaining beneficial results on behalf of taxpayers.

It will be very useful to know if this interaction between the Ombudsman and the tax authorities is limited to the specific procedures derived from the exercise of the legal attributions of the Ombudsman, or if the communication between both entities could be informal and flexible.

8. Use of digital resources in the performance of its functions.

It will be useful to know if the Tax Ombudsman uses digital resources on its day to day operation when protecting taxpayers' rights. Please report if the Ombudsman has a webpage to provide general information about the institution, its activities and the specific services it offers to taxpayers.

Report if the Tax Ombudsman has an on-line chat, email account or social media to attend taxpayers' inquires.

Indicate if formal communications with taxpayers and the tax authorities when providing a specific service can be done by digital means, or if the communications must be done written and formally served in person.

9. Tax Ombudsman, Transparency and Media.

Due to the non-binding nature of the actions taken by the Tax Ombudsman, a useful tool to persuade and achieve its goals before the tax administration is to expose the violation of taxpayers' rights by using mass media.

Therefore, it is important to know if in the reported jurisdiction the Tax Ombudsman exposes to the general public the harm committed to the rights of taxpayers through press releases, social networks, specialized tax magazines or interviews with the mass media with the purpose of inhibiting the repetition of similar cases.

Please report if the decision to perform this public exhibition of the tax authority's misconduct depends exclusively on the Tax Ombudsman.

10. Representative achievements on behalf of taxpayers.

Please describe what the rapporteur considers is the main achievement(s) of the Tax Ombudsman in the defense of the taxpayer's rights.