

RECOMMENDATIONS FOR IMPROVEMENTS ON TAX INSPECTION

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I. BACKGROUND



1.1 ASSESSMENTS FROM THE BUSINESS ON TAX INSPECTION

- ☐ Frequent changes to the fiscal legislation
- ☐ Only half of inspections are performed on legitimate reasons
- ☐ Fines are a game of bribing and political affiliations
- ☐ Albania should adopt robust administrative procedures on VAT and IT
- ☐ Unclear legislation and complex tax procedures
- ☐ If appealed, more audits are performed
- ☐ On average a taxpayer in Albania needs to perform 34 payments and spends 357 hrs/year to be compliant/pay taxes.

FIAA

DIHA

EU

CCI

WW/
IFC

OBJECTIVE

To evaluate the main concerns of the business on tax inspection, to identify main problems and provide recommendations in the decision-making process in the framework of a constructive partnership business-government.

II. Methodology – Identification of Concerns

Desk research

- Legal framework on tax;
- FIAA Survey on “Business Climate in Albania” (2015), IFC Survey on “Tax Compliance Cost” (2013), ATA Survey;
- OECD, IMF, World Bank and EBRD Reports etc.

Meetings

- Officials from the Ministry of Finance and Tax Administration;
- Representatives from business associations such as FIAA, AAB, ATA, CCI Tirana;
- Focus group with 10 fiscal experts.

Survey

- Anonymous & online on Investment Council website distributed also in cooperation with business associations such as FIAA, AAB, ATA, CCI Tirana, DIHA, etc.;
- 110 participating company, 78% large and medium companies, 22% foreign companies;
- Main Sectors: Services (32%), Tourism (24%) and Industry (22%).

III. MAIN FINDINGS



CONSIDERATIONS



LEGAL



ADMINISTRATIVE

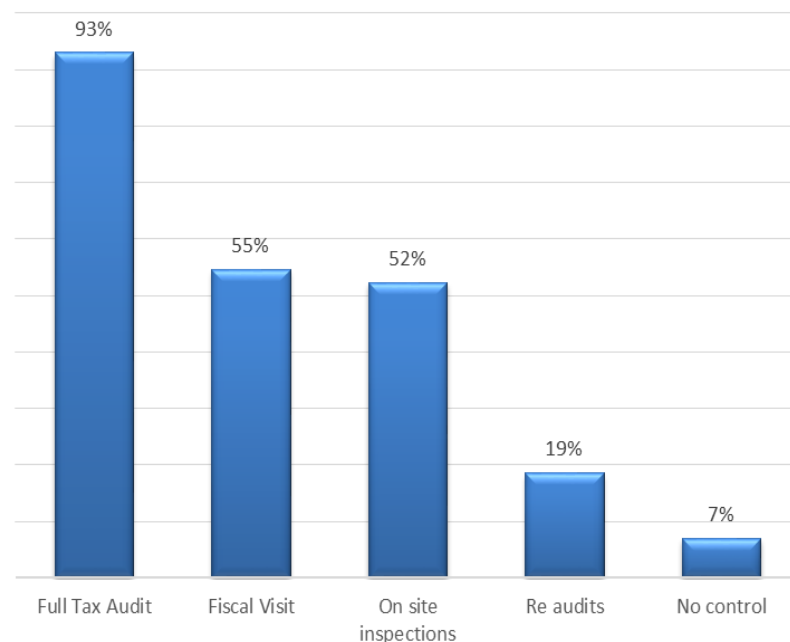
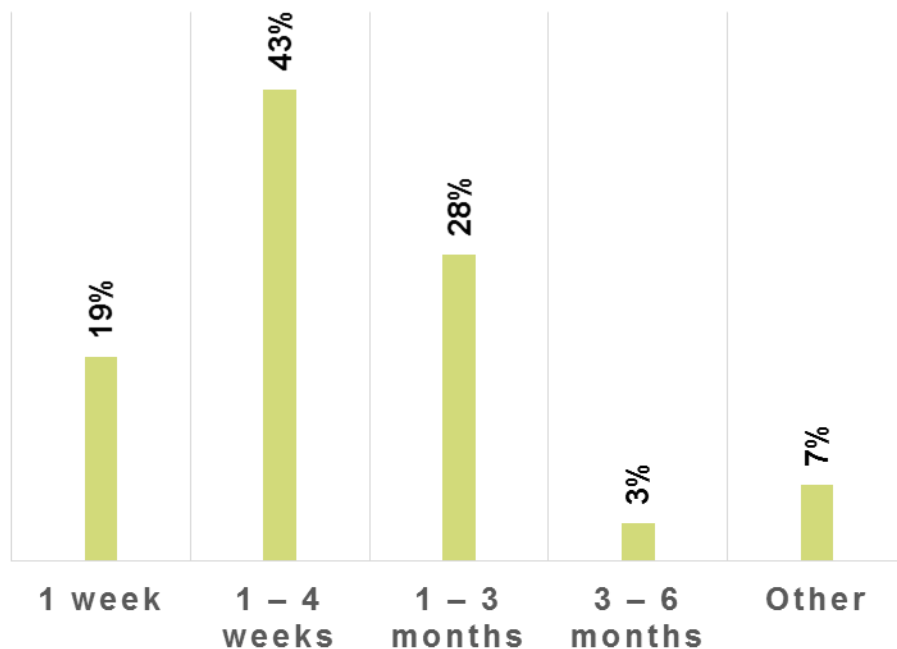


TRANSPARENCY

3.1 LEGAL FRAMEWORK– TAX AUDIT PROCEDURES

FINDINGS	RECOMMENDATIONS
<p>1. SELECTION OF TAXPAYERS</p> <p>Not transparent, leaves room for abusive interpretations, excessive number of audits.</p>	<p>RISKS CRITERIA</p> <ul style="list-style-type: none"> - Specifications of risk criteria in the Law 9920 - Detailing of criteria according to industry and size of taxpayers in the Instruction No 24 and internal bylaws - Publication of basic risk criteria and minimisation of changes in the electronic system - Designing, adoption and publication in medium term of 90 % of selection from risk based system for all kind of audits.
<p>2. TERMS OF NOTIFICATION</p> <p>It is lacking in the law the legal term of notification for taxpayers on full audit.</p>	<p>LAW 9920 “ON TAX PROCEDURES”</p> <p>To be clearly defined in the Law a timeframe of 10 calendar days for the prior notification of taxpayers, except for the on-site verification cases.</p>
<p>3. LIMITED ROLE OF TAXPAYER ADVOCATE</p>	<p>TAXPAYER’S ADVOCATE</p> <p>Enlarge the role of TA in the tax audit, in particular in re-audit procedures. Restructuring of TA Office to increase its independence in the area of cooperation and partnership with the business (Law 9920).</p>

NATURE OF TAX AUDITS & TIME DURATION OF THE LAST AUDIT DURING 2013-2015 FOR BIG ENTERPRISES



3.1 LEGAL FRAMEWORK – TAX APPEAL

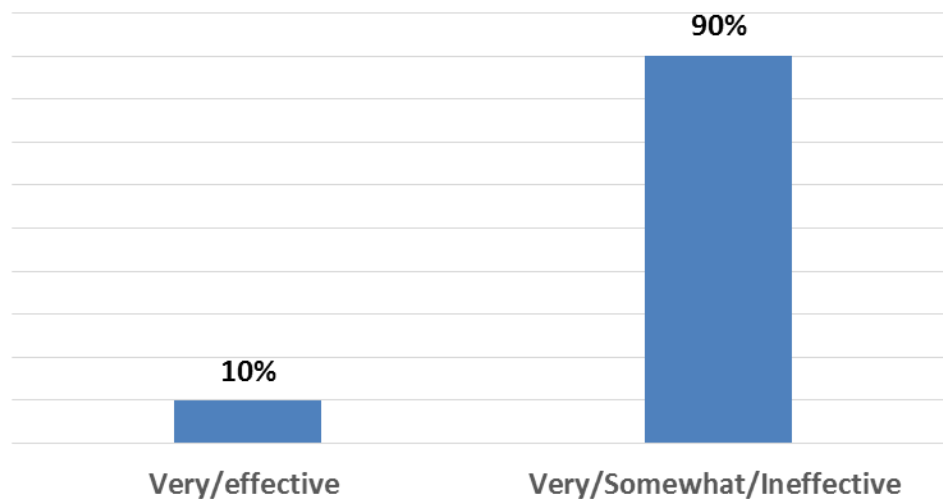
FINDINGS	RECOMMENDATIONS
<p>1. ACCESS TO APPEAL</p> <p>Appealing tax procedures are perceived as difficult and not efficient.</p>	<p>LAW 9920 “ON TAX PROCEDURE”</p> <p>Except for “Banking Guarantee” as foreseen in the law, to be defined also the payment of 50% tax due from 100% that is currently. (<i>ref. Article 107</i>).</p>
<p>2. RECOURSE AGAINST APPEAL DECISIONS</p> <p>Recourse of the Regional Tax Directorate against Tax Appeal Directorate in court is not efficient and penalizing for businesses.</p>	<p>LAW 9920 “ON TAX PROCEDURE”</p> <ul style="list-style-type: none"> - Decisions of Appeal Directorate to be automatically binding to Regional Tax Directorate (<i>ref. Article 109/3</i>); - To be considered the increase of independence of Tax Appeal Directorate and supported with necessary budgetary resources.

EFFECTIVENESS OF TAX APPEAL – EVALUATIONS FROM BIG ENTERPRISES

Have you undertaken any Tax Appeal
Procedure in the last three years?



Effectiveness of the Procedure

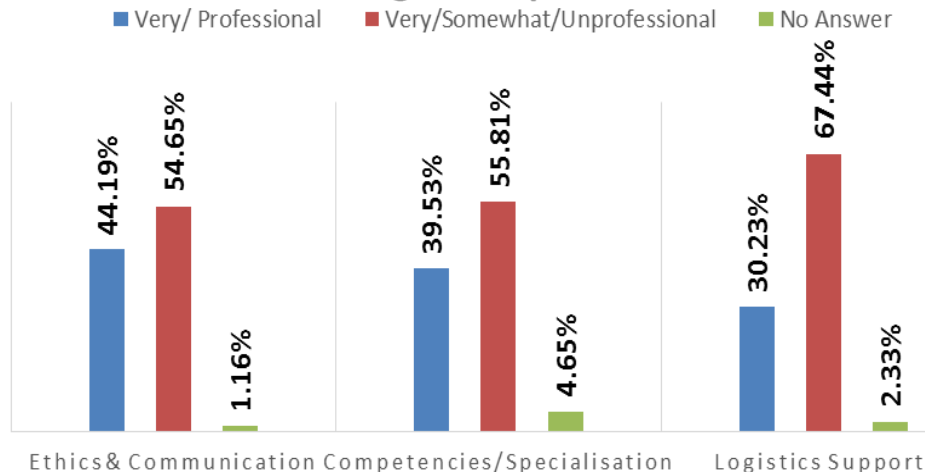


3.2 TAX ADMINISTRATION

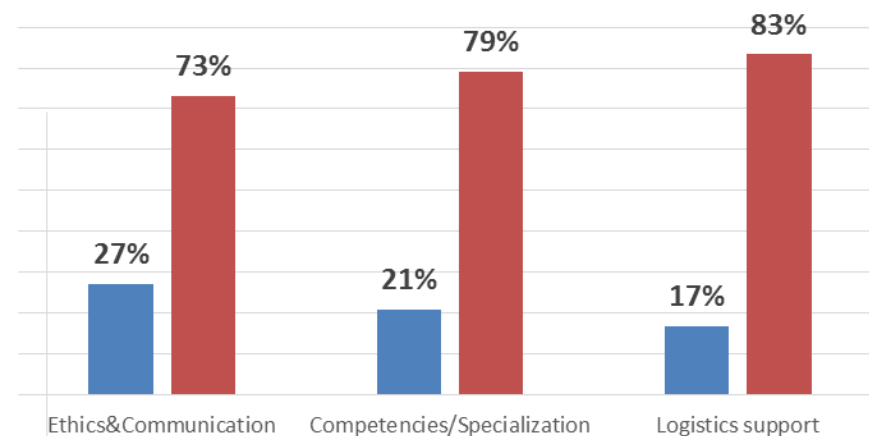
FINDINGS	RECOMMENDATIONS
<p>INSPECTORS CAPACITIES</p> <p>Concerns on:</p> <ul style="list-style-type: none"> - Ethics & communication - Professionalism & specialization - Logistical support. 	<p>INCREASE THE INSPECTORS CAPACITIES</p> <ul style="list-style-type: none"> - Appointment of the inspectors based on taxpayers' profile and on sectoral basis; - Remuneration packages based on the inspectors' results; - Specialized training sessions on tax and accounting; - Online assessment from the business.
<p>DIFFERENT INTERPRETATIONS OF THE LEGISLATION</p> <ul style="list-style-type: none"> - Non-conformity in legal interpretations for similar cases; - Legal references provided without proper interpretation on cases submitted for review. 	<p>IMPROVEMENT OF THE LEGAL ANALYSIS</p> <ul style="list-style-type: none"> - General Tax Directorate (GTD) and Tax Appeal Directorate to increase their capacities on legal analysis and make efforts to unify the practices; - GTD to prepare and publish in the website the Annual Commentary of Cases

EVALUATION ON THE CAPACITIES OF TAX INSPECTORS

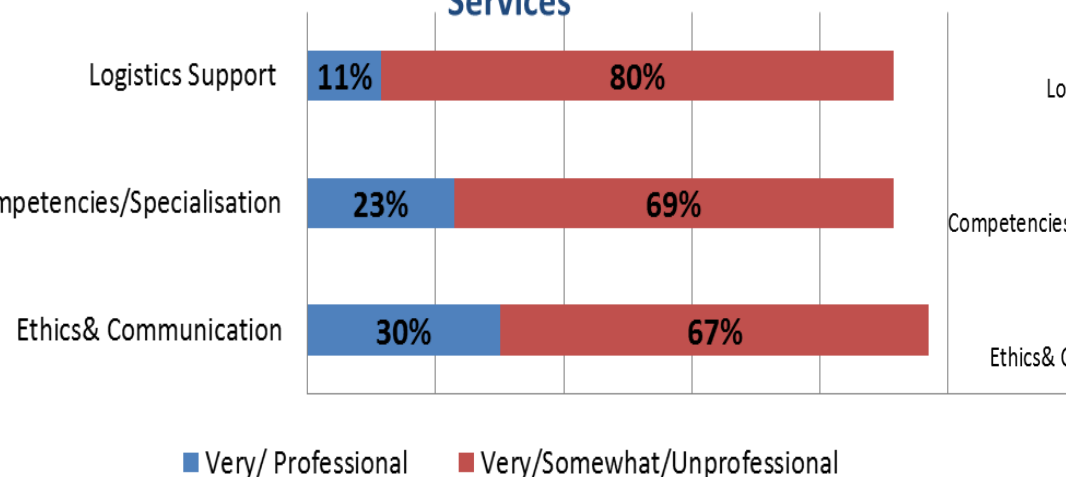
Big Enterprises



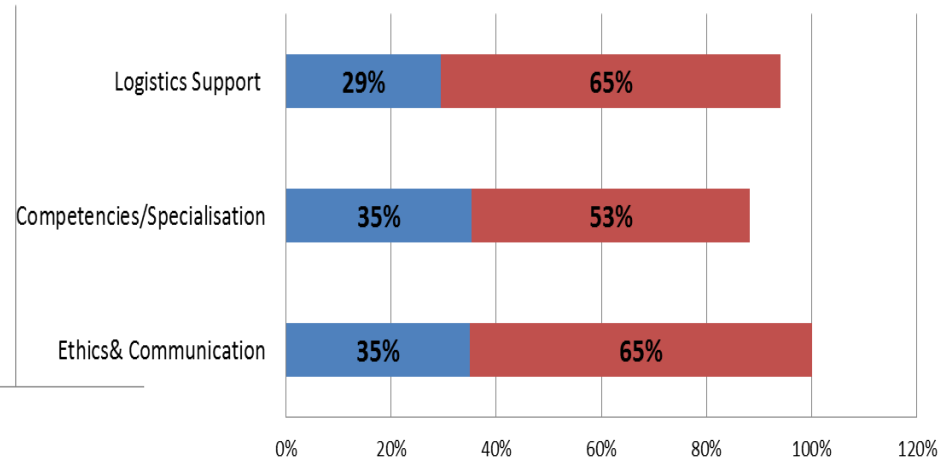
Foreign Companies



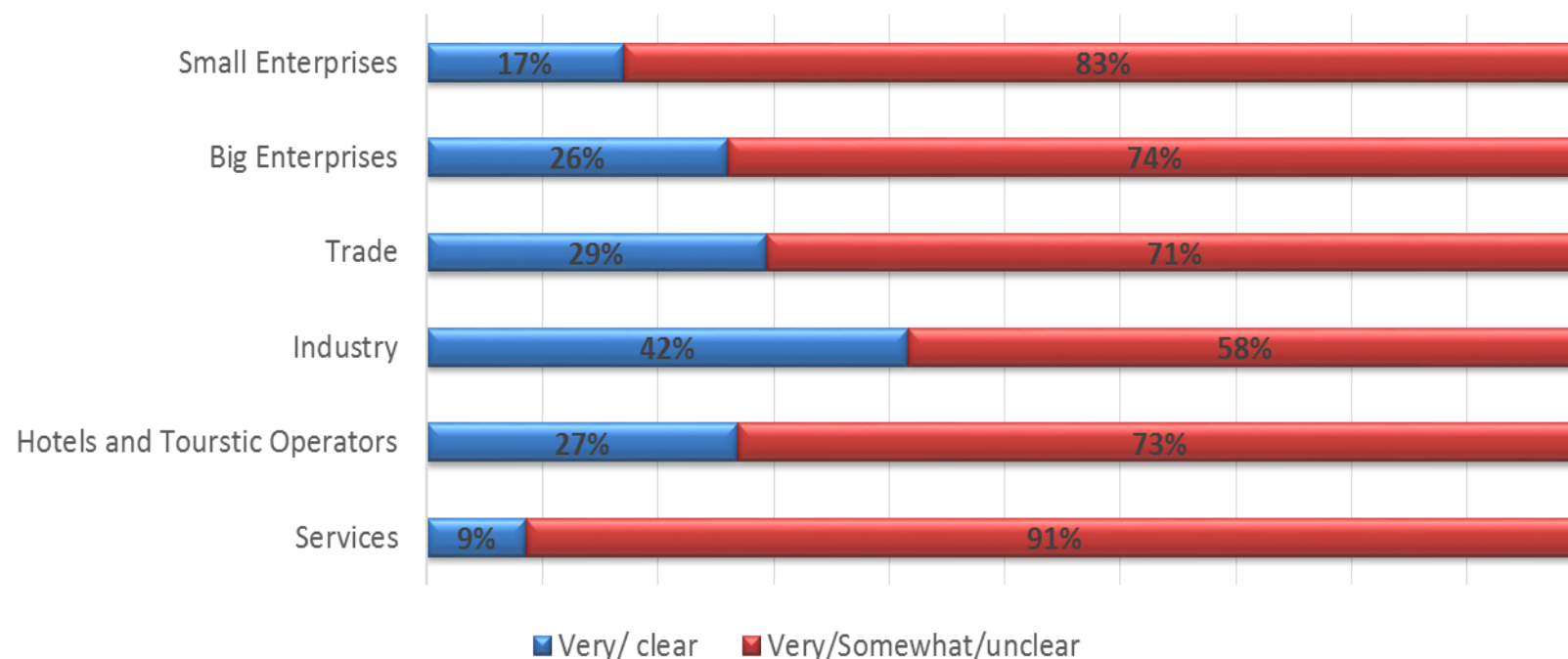
Services



Trade



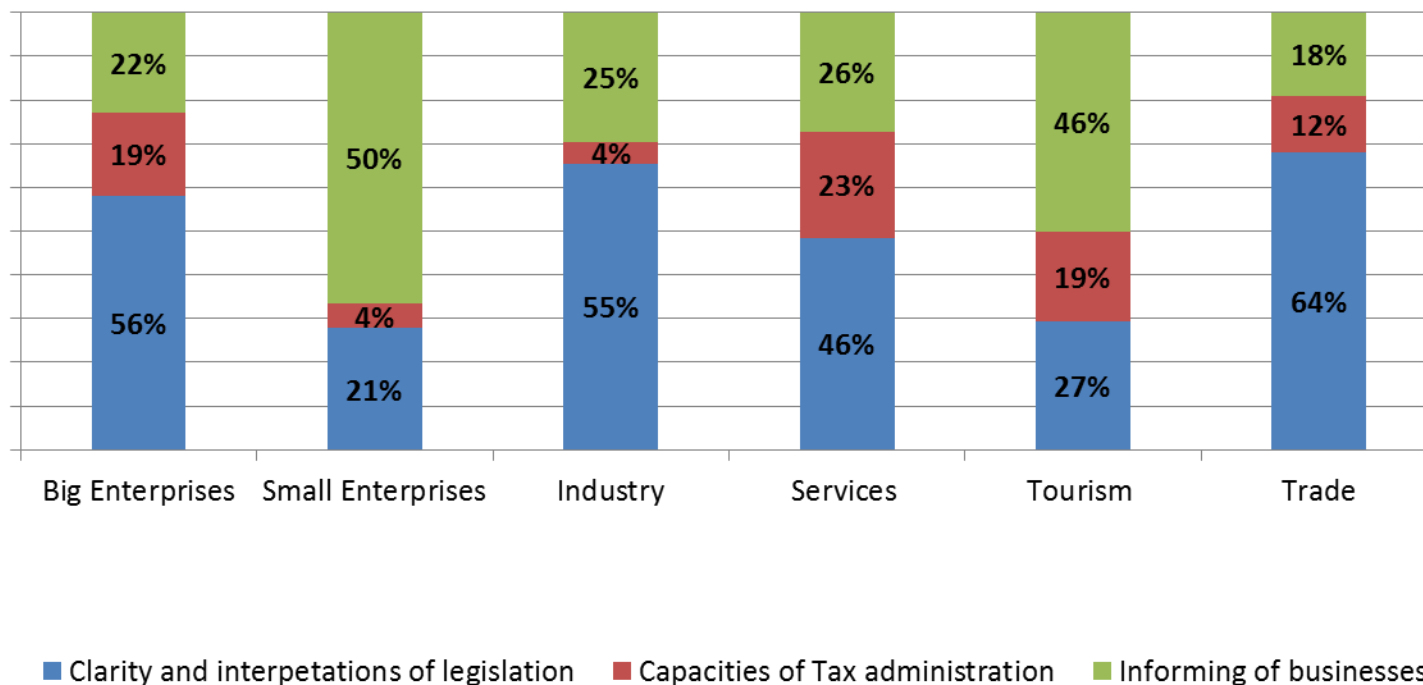
EVALUATION ON THE CLARITY OF EXPLANATIONS PROVIDED BY THE TAX ADMINISTRATION ON THE LEGISLATION



3.3 Transparency and Awareness

Finding	Recommendation
<p>1. ACCESS TO INFORMATION</p> <p>Difficulties to find data and necessary interpretations on the GTD website.</p>	<p>INCREASE OF TRANSPARENCY</p> <ul style="list-style-type: none"> - Publication of Annual Reports from GTD and DAT. Decisions should be published on regular bases; - The GTD website should be easily and fully accessible, also in English language; - Simple manuals and informing sessions for SMEs.
<p>2. FREQUENT AMENDMENTS OF LEGISLATION</p> <p>Law Nr.9920 “On TAX procedures”, has been amended about 11 times, while its latest 12th amendment approved recently in September from the Council of Minister and to enter into force soon.</p>	<p>SUSTAINABILITY OF LEGISLATION</p> <ul style="list-style-type: none"> - Public Consultations aiming business awareness on amendments so they are easily understood by them; - Development of an annual communication program with business associations on sectoral bases aiming consideration of legal and tax concerns; - GTD to consider development of a procedure to inform electronically businesses (e.g. pop up notifications) on any amendment on tax rules and regulation.

EVALUATION OF BUSINESSES ON THE FACTORS THAT IMPACT THE ADEQUATE IMPLEMENTATION OF THE TAX LEGISLATION



RECOMMENDATIONS

- 1 Defining & publishing of basic risk criteria in accordance with industry and size of the business.
- 2 Development & publication in medium term of a strategy considering 90% of selection for auditing done through the risk system.
- 3 Include in the law a minimum period of 10 days to inform the taxpayers prior to an audit, excluding on-site inspection.
- 4 Enlargement of the role of the Taxpayers' Advocate as relates to the procedures of re-audit.
- 5 Re-structuring of the Taxpayers' Advocate Office to increase its independence and cooperation with taxpayers, e.g. as an independent structure (like business ombudsman).
- 6 Apart from the "Bank Guarantee" foreseen by the law, the taxpayer should be allowed to initiate an Appeal procedure by paying only 50% of the tax liability.
- 7 Decisions of the Appeal Directorate should be binding to Regional Tax Directorates.
- 8 To consider in a medium term the increase of independence of Appeal Directorate.
- 9 Appointment of Tax Inspectors should be done based on taxpayers' profile and sector. Special training should be delivered to them in the area of tax and accounting.

- 10 Stimulating remunerations based on motivation and appreciation, not based on the penalties given, as well as considering ethics, communication, professional capacities. Online evaluation from the business about the tax audit.
- 11 GTD and ATD should increase their capacities on legal analysis and unify their practices.
- 12 GTD should develop and publish in its website the Annual Commentaries of the processed cases.
- 13 Publication of Annual Reports of GTD and ATD. ATD decisions to be published systematically. 100% access to the GTD website and information to be provided in English.
- 14 Simple manuals and information sessions for SMEs.
- 15 Public consultations for legal amendments to be understood in advance by the businesses. Development of an annual communication programme with associations on sectoral bases about problems related to tax legislation and procedures.
- 16 GTD to consider development of an electronic communication with taxpayers (e.g. pop up notifications) on tax legal amendments.

THANK YOU!