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Risk-Based Approach as a Basic Element of the Tax Security of the States in the BRICS Countries

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Abstract. This study is devoted to a comparative analysis of different models of the risk-based approach used in tax administration in the BRICS countries. The risk-based approach is widely recognized as the fundamental basis for defining and legally consolidating the tasks of tax administration bodies in modern conditions. According to this approach, the objectives of the tax administration are to identify, prevent and

minimize threats to tax security in the course of the implementation of the full range of administrative functions in the tax sphere, as well as to work towards overcoming the consequences of the realization of threats. The authors propose the following points for conducting a comparison of the BRICS countries using tax risk assessment: the implementation of risk assessment in the practice of tax administration and the quality of its legislative regulation, the impact of risk indicators on the behavior of taxpayers and the impact of risk indicators on the effective implementation of tax control measures. In general, there is a high degree of similarity among all aspects of the risk-based approaches adopted in the BRICS countries. However, the methods of implementation and levels of legal certainty in laws differ from country to country.

Keywords: tax law; tax security; tax compliance; BRICS; tax administration; taxation.

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Introduction

The improvement of the system of tax control is one of the main tasks required to achieve the goals of ensuring overall economic security and, more specifically, the tax security of a state. The tax security of a state is the result of the balance between countering specific risks on the one hand and the measures taken by the government to minimize them on the other. The control and supervisory activities of executive

authorities are an important aspect of the system of measures aimed at protecting national interests in the financial and economic areas, and actively countering external and internal threats to such interests. The development of tax control as well as tax monitoring is recognized by scholars as an integral and unconditional condition for countering threats to tax security and ensuring the stable functioning of a state's financial system.¹

The need to ensure compliance with the fiscal interests of the state requires the transformation of essential approaches to the regulation of tax relations in the current conditions of dynamically changing economic relations.² Thus, the current research focuses on the risk-based approach as one of the basic practical elements of the tax security of the state.

The risk-based approach involves analyzing each planned and implemented management decision related to taxation in order to counteract a specific threat to tax security and the possibility of harming other protected interests.³ Scholars reasonably emphasize the need for a comprehensive diagnosis of tax security.⁴ Taking into account the approaches formed in the area of economic security, a "tax security risk management strategy" entails the recognition, analysis and assessment of the degree of risk and its acceptability; the development and implementation of measures to prevent, minimize and manage risk; the elimination of the consequences of threats and the setting up of management facilities (across both sectors of the economy and specific taxpayers) according to risk levels. The main factors that help us understand the implications of using a risk-based approach in the practical provision of tax security are the quality of its legislative regulation, the implementation of risk assessment strategies in the practice of tax administration, and the impact of risk indicators on the behavior of taxpayers and on the conduct of tax control measures. All of the described actions are based on a clear identification of the goals of ensuring tax security.

In this article, we shall examine these issues using the examples of the BRICS countries. Every country is of course free to approach its relationship with taxpayers in a manner that best suits its legal traditions, tax practices, historic and cultural background and economic development.⁵

¹ Ponomareva, K. A., & Maslov, K. V. (2021). National Tax Security Assessment in the Tax Administration Mechanism. *Journal of Siberian Federal University, Humanities and Social Sciences*, 14(5), 670.

² Ponomareva, K. (2023). Digital Transformation Challenges to the Tax Security of the State in Russia and Other BRICS Countries. *BRICS Law Journal*, 10(4), 142–161.

³ Maslov, K. V. (2023). *Legal Support of the Tax Security of the State* (Doctoral Thesis). Dostoevsky Omsk State University. (In Russian).

⁴ Timofeeva, I. Y. (2011). *Tax Security of the State, Business and Society: Concept and Methodology* (Doctoral Thesis, p. 40). Moscow University of the Ministry of Internal Affairs of Russia. (In Russian).

⁵ Martini, M. H., Russo, R., & Pankov, Y. (2020). An Analysis of the Russian Tax Monitoring Programme in Light of the OECD Concept of Cooperative Tax Compliance and the Experience of Other Countries. *European Taxation*, 61(1), 29.

1. The Risk-Based Approach to Tax Control in the Russian Federation

1.1. The Legal Basis of Risk Assessment as an Element of the Tax Security Strategy in the Russian Federation

As mentioned in the OECD's *Country-by-Country Reporting: Handbook on Effective Tax Risk Assessment*, risk assessment tools allow tax authorities to identify indicators that either suggest certain taxpayers or arrangements pose an increased risk to their jurisdiction, necessitating further compliance activity, or conversely, a reduced risk scenario, which may mean less compliance activity or more targeted compliance activity, is possible.⁶

Scholars and tax agencies typically allocate three levels of tax compliance risk management strategies.⁷ At the first level, which is the tax level, the majority of compliance risks with respect to each major tax are identified. At the second level, also known as the segment level, the major compliance risks that are prevalent among certain social groups of taxpayers or industries (market segments) are revealed. The third level, the taxpayer level, is devoted to the evaluation of risks posed by individual enterprises and persons. A specific tax risk management strategy must be developed for each element on every level.

For example, tax risks in Russia are divided into sectoral, intersectoral and industry-wide according to the number of sectors of the economy, the functioning of which they affect. In identifying higher-risk taxpayers, some tax authorities use a points-based system, which ranks groups based on the number of risk indicators present (with some indicators or combinations of indicators being worth more points). Alternatively, other tax authorities use size or complexity as a key indicator of potential risk and then use risk assessment tools to identify areas to focus on within these groups.⁸

In Russia, the tax risk assessment in the context of control activities is not specifically mentioned in the Tax Code of the Russian Federation. However, it is subjected to fragmented regulation by various departmental subordinate acts.

The main subjects of the state's tax security system are the tax authorities. They administer the largest amount of tax revenues in the budgets. Various other functions of the Federal Tax Service of Russia and its territorial bodies are also aimed at ensuring tax security (as the main or additional goal). The legal basis for the implementation of a risk-based approach in the tax control activities of tax authorities in Russia is provided by the Order of the Federal Tax Service No. MM-3-06/333@ of May 30, 2007

⁶ OECD. (2017, September). *Country-by-Country Reporting: Handbook on Effective Tax Risk Assessment*. <https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/cbcr/country-by-country-reporting-handbook-on-effective-tax-risk-assessment.pdf>

⁷ Lam, W. R., Rodlauer, M., & Schipke A. (Eds.). (2017). *Modernizing China: Investing in Soft Infrastructure*. International Monetary Fund.

⁸ OECD, 2017, p. 23.

“On Approval of the Concept of the On-site Tax Audit Planning System,”⁹ Decree of the Government of the Russian Federation No. 381-r of February 21, 2020 “On Approval of the Concept of Development and Functioning of the Tax Monitoring System in the Russian Federation”¹⁰ along with several other departmental orders and internal management program documents (for, e.g., the orders of the Federal Tax Service of Russia No. MMV-7-16/225@ of March 20, 2017 “On Approval of the Basic Provisions on Risk Management in the Activities of the Federal Tax Service of Russia,” No. MMV-7-16/132@ of March 14, 2016 “On Approval of the Basic Provisions on the Implementation of Internal Control of Technological Processes of the Federal Tax Service of Russia” and No. MMV-7-16/140@ of March 12, 2018 “On Approval of the Procedure for Maintaining a Document on Accounting for Information on Risks in the Activities of the Federal Tax Service of Russia”).

In the regulations of the Federal Tax Service of Russia, indicators of tax security are defined exclusively in relation to the microlevel (the financial and economic activities of specific taxpayers) under the heading “risk assessment criteria.” These indicators include, in particular, twelve publicly available criteria for conducting a self-assessment of risks for taxpayers, which, as stated, make it possible to assess the necessity of conducting an on-site tax audit.¹¹

Thus, the following risks can be mentioned:

- negative ratio of a taxpayer’s tax burden or profitability to an average industry level;
- failure to provide explanations and documents upon request from the tax authority;
- “migration” between tax authorities;
- presence of signs of tax evasion schemes in the activity (officially this indicator is called “conducting financial and economic activities with high tax risk”).

In fact, the Federal Tax Service ranks taxpayers using the automated information system – AIS “Nalog-3.” This ranking is determined according to the presence of criteria indicating possible non-payment of a particular tax in their activities. The responsibility of tax officials for the organization and implementation of risk management measures is regarded as a fundamental principle in the regulations of the Federal Tax Service of Russia.

The Federal Customs Service and its territorial bodies ensure the tax security of the state within their areas of expertise and jurisdictions by countering threats to

⁹ Order of the Federal Tax Service of Russia No. MM-3-06/333@ of May 30, 2007 “On Approval of the Concept of the On-site Tax Audit Planning System”. ConsultantPlus. https://www.consultant.ru/document/cons_doc_LAW_55729/. (In Russian).

¹⁰ Decree of the Government of the Russian Federation No. 381-r of February 21, 2020 “On Approval of the Concept of Development and Functioning of the Tax Monitoring System in the Russian Federation.” ConsultantPlus. https://www.consultant.ru/document/cons_doc_LAW_346794/. (In Russian).

¹¹ Order of the Federal Tax Service of Russia No. MM-3-06/333@.

the collection of value-added tax and excise taxes on goods that are imported into Russia from countries outside the Eurasian Economic Union.¹²

At the same time, the regulation pertaining to this service directly reflects its authority to implement a risk management system, including the development and maintenance of risk analysis methods, the application of measures to minimize them, the definition of measures based on risk assessment and the categorization of persons performing customs operations by risk level. However, the absence of similar provisions in the basic regulations governing the activities of tax authorities should be recognized as an omission. The Law on Customs Regulation generally establishes the basics of the “risk management system” in the terminology of the law and obliges customs authorities to apply it when selecting objects, forms of customs control and the measures to ensure its implementation. It covers risk assessment, including forming and updating risk profiles (which outline the description of the risk and conditions that determine the risk indicator, as well as the as measures to minimize the risk), categorizing the persons carrying out customs operations according to the level of risk, applying measures to minimize those risks and taking into account the consequences of such an action.¹³

The Bank of Russia ensures the tax security of the state by identifying signs of assistance in tax evasion or insufficient control over customer transactions involving non-payment of taxes by a credit institution during banking supervision. Money-laundering violations are often closely linked to tax evasion. The Bank of Russia is responsible for compiling a list of risks of money-laundering violations committed by customers of credit institutions and for providing automatic notifications of such persons (via the Know Your Customer platform).¹⁴ Combating money laundering in Russia is regulated by the Federal Law No. 115-FZ of August 7, 2001 “On Countering the Legalization (Laundering) of Proceeds from Crime and the Financing of Terrorism” (hereinafter Law No. 115-FZ).¹⁵ This law provides for the powers of public authorities as well as the public powers of private organizations to counteract the underestimation of the tax base in cases involving transactions that do not have a reasonable business purpose (referred to as “suspicious transactions”), including those conducted using foreign jurisdictions. Such powers, while not fully attributed to tax administration in the strict sense, significantly minimize threats to the country’s tax security. This law also describes the general methodology for countering threats

¹² Maslov, 2023.

¹³ Federal Law No. 289-FZ of August 3, 2018 “On Customs Regulation in the Russian Federation and on Amendments to Some Legislative Acts of the Russian Federation.” ConsultantPlus. https://www.consultant.ru/document/cons_doc_LAW_304093/. (In Russian).

¹⁴ Bank of Russia. (2022, July 1). *Know Your Customer platform launched*. www.cbr.ru/press/event/?id=13981

¹⁵ Federal Law No. 115-FZ of August 7, 2001 “On Countering the Legalization (Laundering) of Proceeds from Crime and the Financing of Terrorism.” ConsultantPlus. https://www.consultant.ru/document/cons_doc_LAW_32834/. (In Russian).

using the terms “national risk assessment” and “risk-based approach.” In terms of the national risk assessment, it obliges the Federal Financial Monitoring Service of the Russian Federation (Rosfinmonitoring), along with other public administration entities, to identify and prevent the risks associated with performing restricted operations (transactions) and develop measures to minimize such risks (Art. 3 of Law No. 115-FZ). Organizations engaged in transactions involving cash or other property are authorized by law to monitor customer transactions by assigning to each customer a level (degree) of risk. This level of risk determines the scope and nature of control measures and the enforcement measures that are applied to the customer. In addition, organizations that engage in transactions involving cash or other property are likewise subject to a risk-based approach, whose activities should also be categorized by risk levels of non-compliance in accordance with the requirements of the law (Art. 9.1 of Law No. 115-FZ). However, the specified law does not provide a detailed description of the methodology for countering threats, delegating this responsibility to the subordinate level of regulation.

Countering indirect threats to the tax security of the state is carried out by streamlining other financial controls and verification activities that indirectly affect the receipt of tax revenues for budgets and the related legitimate interests of taxpayers and other participants in relations that promote taxation. For example, control over the use of cash registers, licensing control, control in the field of production and turnover of ethyl alcohol, alcoholic and alcohol-containing products and municipal land control affect the tax security of the state indirectly. The general methodological foundations for countering threats are described in the Federal Law No. 248-FZ of July 31, 2020 “On State Control (Supervision) and Municipal Control in the Russian Federation,” using the category “harm risk management (damage) to legally protected values.”¹⁶ This law also obliges the assessment of such risks, including assigning a risk category to the objects of control according to the severity of harm and the probability of such harm (there may be from three to six categories in total) and determining the types and frequency of control measures according to the level of risk.

Thus, the risk-based approach also provides the conceptual basis for effective public control, which is crucial in ensuring the tax security of the state. The priority in this approach is to identify and neutralize situations, as well as business and accounting transactions that pose the greatest threat to tax revenues due to their sizes or prevalence. Nonetheless, operations that meet these criteria should not be the exclusive subject of control, since in this case the dynamics of threats are not taken into account; only the priority.

¹⁶ Federal Law No. 248-FZ of July 31, 2020 “On State Control (Supervision) and Municipal Control in the Russian Federation.” ConsultantPlus. https://www.consultant.ru/document/cons_doc_LAW_358750/. (In Russian).

1.2. Transparency of Information Regarding Tax Risks

Transparency is closely linked to the principle of cooperation between participants in tax relations and other principles, the implementation of which is ultimately aimed at creating a transparent, stable and simple tax system. Moreover, transparency in tax relations should be mutual: the rules of regulatory and individual taxation regulation should be as clear as possible for taxpayers, while their economic activities should be available for analysis by tax administration authorities.

The tax authorities present the selection of taxpayers for on-site tax audits as a transparent procedure carried out on the basis of criteria that are publicly available for independent assessment by taxpayers and aimed at, among other things, reducing administrative pressure on business.

Among the criteria included should be the deviation of the taxpayer's tax burden in comparison with the industry average as specified in the abovementioned Concept of the On-site Tax Audit Planning System. Meanwhile, the average level of the tax burden is published for very large types of economic activities (for example, administrative activities and related additional services; such as the production of food, beverages and tobacco products), which does not allow an adequate assessment of the tax risks of a particular business. Another criterion is "conducting financial and economic activities with high tax risk."

In addition to the fact that the title of the criterion category is much broader than the content, suggesting a description of actions assessed as distortion of the tax base and tax evasion, all of the "high-risk" methods listed on the official website of the Federal Tax Service of Russia are related to the interaction of the taxpayer with so-called "technical companies" (or "one-day firms") that do not carry out real economic activity. Furthermore, some methods that are particularly prone to frequently resulting in tax disputes, such as artificial "business splitting" or substitution of civil labor relations with individual entrepreneurs or payers of professional income tax, are not mentioned at all. Taking into account the transparency of tax administration and its preventive functions, it would be advisable to officially publish (along with an annual supplement based on law enforcement practice) the most common and dynamic ways of conducting entrepreneurial activities with high tax risk. The proven use of one of these above methods by a specific taxpayer should be a sufficient, unconditional basis for qualifying a tax offense as intentional.

At the same time, the taxpayers, by default, typically remain unaware of the level of risk assigned to them or their counterparties. To rectify this situation, a subsequent decentralized method that meets the principles of cooperation between public and private entities and transparency in ensuring tax security has been developed with the aim of incorporating it into the practice of tax administration.

This method entails disclosing the indicators of economic activity to the taxpayers (both their own and those related to the counterparty – with the consent of the latter), which are then assessed by the tax inspectorate as risk indicators of potential tax law violations.

1.3. Identification of Tax Risks as a Precondition for Tax Control Measures

According to the regulations of the Federal Tax Service of Russia, the identification of the most likely “risk zones” should also ensure timely response to a possible tax offense and the establishment of necessary tax control measures. At the legislative level, the grounds for implementing tax control measures are not dependent on the existence of any particular indicators of threats to tax security.

Such correlation is provided by departmental documents of the tax service, which, as recognized in judicial practice, cannot be used by taxpayers to challenge the actions of tax authorities’ officials. In recent years, an approach has emerged in judicial practice according to which the provisions of the orders of the Federal Tax Service, which utilize risk-based criteria for the appointment of tax control measures, are considered intra-organizational and do not limit tax authorities’ right to conduct on-site tax audits. That is to say, these orders are recognized in judicial practice as non-binding by tax authorities, and they do not grant any rights to taxpayers or entail negative legal consequences for the taxpayer.¹⁷

The attribution of the taxpayers and their counterparties to a particular level of risk also determines the duration of the desk tax return, which in turn in turn determines their right to a refund of the VAT amount from the budget, as well as the excise tax return.

The risk-based approach is actually used when requesting documents as part of a desk tax audit of the VAT declaration, which reflects transactions that are not subject to VAT taxation (exempt from taxation).

The risk assessment, on the other hand, is actually used by the tax authorities when determining the scope of the audit (complex or thematic) and when selecting taxpayers for inclusion in the plan of on-site tax audits, in accordance with the above-mentioned Concept. At the same time, the selection indicators are not limited to those specified in the Concept; they are provided for by departmental documents (which are non-public, like the plan itself) that are designated “for official use.”

On-site tax audits are the most resource-intensive tax control measures for both tax administration bodies and taxpayers, and they have the potential to influence changes in their financial and economic performance in the future. Therefore, the state’s tax security objectives are typically met by conducting on-site tax audits, mostly in cases when there are threat indicators in the taxpayer’s financial and economic activities (tax risks) and when the goals of minimizing them cannot be achieved through other control measures. The consolidation of the following rules

¹⁷ See, e.g., Decision of the Supreme Court of the Russian Federation No. AKPI23-1033 of April 18, 2024; Ruling of the Supreme Court of the Russian Federation No. 301-KG18-6270 in Case No. A38-5998/2017 of May 29, 2018; Resolution of the Arbitration Court of the Northwestern District No. F07-17238/2021 in Case No. A56-31859/2021 of January 10, 2022. ConsultantPlus. <https://www.consultant.ru>. (In Russian).

that are mandatory for tax authorities to apply in their relations with taxpayers can facilitate the achievement of this goal:

1. Firstly, the regulatory consolidation of the tax risk indicators as ordered by the Ministry of Finance of the Russian Federation.

2. Secondly, the right of tax authorities to demand explanations and documents from the taxpayer regarding a disputed transaction within the framework of an in-house tax audit, when determining an indicator of a tax risk regardless of the restrictions that are currently established in Article 88 of the Tax Code of the Russian Federation.

3. In addition, the right to demand any documents and explanations regarding all relations with the counterparty in which an indicator of tax risk is identified, outside the framework of tax audits.

In these cases, the guarantee of the absence of excessive interference in the taxpayer's activities should be guaranteed from excessive interference by the authorization of the request for such documents by the head (deputy head) of a higher tax authority, and the prosecutor should also authorize the identification of risk indicators based on the materials received for operational investigative measures. When the relevant rules are introduced into the legislation, it becomes possible to consolidate the reasons for initiating an on-site tax audit based on risk indicators.

Moreover, it would be advisable if the appointment of an on-site tax audit were preceded by familiarization of the taxpayer with the implications of a preliminary assessment of his risks and the refusal of the taxpayer to clarify tax obligations within the time fixed in the Tax Code of the Russian Federation. An exception should be allowed for in cases where there are sufficient grounds to believe that notifying the taxpayer could lead to the destruction of evidence or the impossibility of actually paying the tax. Currently, the practice of notifying the taxpayer of identified tax risks with a proposal to eliminate them and pay additional tax is used by the Federal Tax Service. However, this practice lacks a normative basis and is not mandatory. Despite the ambiguity surrounding the procedure of notifying a taxpayer of a possible violation of tax legislation along with the need for a consolidation of the form of such notification, the procedure for sending it has been explicitly provided for by a priority project of the Government of the Russian Federation back in 2018.¹⁸

¹⁸ Passport of the Priority Project, "Development of the Automated Information System of the Federal Tax Service of Russia (AIS 'Tax-3') in Terms of Creating an Integrated Analytical Data Warehouse and Upgrading the Information and Analytical Subsystem for the Purposes of Control Work" ("Information and Analytical Subsystem for the Purposes of Control Work of the Federal Tax Service of Russia") (approved by the Protocol of the Meeting of the Project Committee No. 2 of March 27, 2018). ConsultantPlus. https://www.consultant.ru/document/cons_doc_LAW_289283/. (In Russian).

2. Practical Elements of a Risk-Based Approach in the Area of Taxation in the BRICS Countries

The issue of tax security of a state is related to the complexity or simplicity of the tax system of the state as such. Thus, Brazil is ranked among the top countries in terms of the complexity of the tax compliance environment. Some scholars even rank Brazil in first position as the “most complex tax system” and rank the complexity of the Brazilian tax system as “very high,” in comparison to the complexity of tax systems in China, India, Russia and South Africa, which are ranked as “high.”¹⁹

Let us make a comparison of the approaches to risk management that are adopted in the area of taxation in the BRICS countries.

2.1. The Risk-Based Approach to Tax Control in Brazil

The Brazilian tax system is regarded as the most complicated in the world.²⁰ That is why it is especially complex to maintain audits and comply with all the rules of tax legislation in Brazil. However, Brazil has established multiple structures to facilitate coordination and communication across the various organization functions within the federal public administration. These factors make it extremely difficult to understand tax requirements and comply with the duty to collect and pay tax, resulting in a very high cost of compliance.

For instance, in 2018, the Federal Revenue Service introduced a proposal titled 4/2018 relating to a draft edition of an ordinance implementing a Program for Tax Compliance. The program aimed to encourage companies to adopt best practices in order to avoid deviations of conduct by establishing a classification of taxpayers according to the degree of risk they pose to the tax authorities. The proposal was based on best practices adopted by other tax administrations, following the OECD's example of encouraging tax compliance practices.²¹

In 2020, Brazil faced a severe fiscal challenge with its highest deficit in almost two decades, reaching a GDP of -11.9%, largely due to COVID-19 measures. Although fiscal conditions improved in 2021–2022, a new administration's expansionary policies in 2023 led to a projected deficit of 7.1% of GDP. Public debt, which peaked at 96.0% in 2020, fell to 85.3% in 2022; however, it is expected to rise again to 92.4% by 2025. Despite the introduction of a new fiscal framework and revised spending rules in 2023, concerns about optimistic revenue projections and potential

¹⁹ Hoppe, T., Schanz, D., Sturm, S., & Sureth, C. (2019, October). *Measuring Tax Complexity Across Countries: A Survey Study on MNCs* (arqus Discussion Paper, No. 245, pp. 64–65). EconStor. <https://www.econstor.eu/bitstream/10419/204651/1/1679097326.pdf>

²⁰ Pinto, D. (2024, May 3). *Brazil Tax Reform*. International Trade Administration. <https://www.trade.gov/market-intelligence/brazil-tax-reform>

²¹ IBFD. (2018, October 25). *Public Consultation Launched on Program for Tax Compliance*. IBFD Tax Research Platform. https://research.ibfd.org/#/doc?url=/data/tns/docs/html/tns_2018-10-25_br_2.html

overspending persist. It is expected to be challenging to achieve a balanced budget by 2024, and the public debt to GDP ratio is forecasted to reach 86% by 2028, posing macroeconomic risks even though external debt remains relatively low. Expansionary policies, revenue projection optimism and the burden of public debt are among the challenges facing this nation.²²

One can assume that these preconditions stipulate a crucial role of tax control since an increase in tax revenues can help to secure the national fiscal base.

In Brazil, the tax obligation is basically divided into two parts: the information required for the fiscal control over business operations by the government and the organization and the payment of taxes. In essence, the regulation of tax obligations is based on the management of processes using information systems.²³

In 2007, the federal government created the Public System of Digital Bookkeeping (SPED), a platform that unifies the presentation and retention of tax and accounting information.²⁴ In this context, the first step is to expand the system's scope by allowing different levels of tax authorities to access and share information through this system. The Sped system is an integrated initiative of tax administrations in the three spheres of government, namely federal, state and municipality, that collaborates with some companies to plan, identify and devise rapid solutions to the tributary obligations, and in doing so, also invites taxpayers' participation in determining means of meeting these obligations and building a new relation between the two based on transparency.²⁵ Sped is an innovative instrument that consolidates the activities of receipt, validation, authentication and storage of books and documents for accounting and bookkeeping entrepreneurs and legal entities, including those that are immune or exempt (such as by being single), using a computerized flow of information.

In the course of the operation of Sped, these books and documents will be disseminated electronically, along with a digital signature, using the Brazilian Public Key Infrastructure, known as ICP-Brasil, which was created by the "Medida Provisória No. 2.200-2/2001."²⁶ However, the taxpayers still have the obligation of keeping these e-books and e-documents in accordance with the manner and timeframe required by the law.

²² Allianz Trade. (2024, January). *Brazil Country Risk Report*. https://www.allianz-trade.com/en_US/resources/country-reports/brazil.html

²³ Castro, H. U., & Sobrinho, R. L. G. M. (2022). Tax Governance, Practices and Technologies: Examples of Shared Services in Brazil. *South Florida Journal of Development*, 3(6), 7096.

²⁴ Decreto No. 6.022, de 22 de janeiro de 2007 [Decree No. 6.022 of January 22, 2007]. Planalto. https://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6022.htm

²⁵ Ramos Junior, H. S., & Galiotto S. (2014). *Government-to-Business: The Brazilian Public Digital Bookkeeping System (Sped) and the eSocial Project* (p. 89). SADIO. <https://43jaiio.sadio.org.ar/proceedings/SID/9.pdf>.

²⁶ Medida provisória No. 2.200-2, de 24 de agosto de 2001 [Provisional Measure No. 2.200-2 of August 24, 2001]. Planalto. http://www.planalto.gov.br/ccivil_03/mpv/Antigas_2001/2200-2.htm

In addition, it is possible that representatives of business and legal companies, including immune or exempt entities representing the national professional accounting area, may participate in activities related to Sped, as and when requested by the Secretariat of the Federal Revenue of Brazil's Ministry of Finance (Art. 5r, sec. 2, Decree 6,022/2007, as amended by Decree 7,979/2013).

In this context, as a rule, tax audits are based on data made available electronically, and the analysis is carried out at the tax authority's headquarters. Generally, the request for information is made in writing, and the taxpayer is expected to provide the information in writing to the tax authorities through the electronic tax domicile. In certain exceptional situations (especially concerning large taxpayers), tax authorities may visit the taxpayer's premises in order to investigate possible irregularities.

Today, the Internal Revenue Service of Brazil (RFB) uses an internal development platform, which incorporates a set of tools for data crossing, data mining, graph analytics and the application of some artificial intelligence (AI) techniques. This platform also uses a big data environment to perform queries on large tables, with data volumes reaching "petabytes" (one million gigabytes). For example, the electronic invoice table totals trillions of records and hundreds of pieces of information about each taxpayer. In addition to ready-to-use tools, the development platform allows tax administration members to build their own tools or improve existing ones. This can be accomplished by the creation of new scripts, shared in a collaborative space and cataloged to be used as automation assets. Those who are not proficient in programming languages are able to use a "no-code" programming style created on the platform under the name of "Visual Script." This platform facilitated a strategy called "High Performance Inspection" (FAPE) in which tax intelligence was combined with the Big Data environment. This enabled multiple regional teams to collaborate and perform cross-referencing on different databases, including digital tax bookkeeping, digital accounting, electronic invoices, financial movement data, and registration data, among others. FAPE also includes the automatic generation of notifications to taxpayers for self-assessment in cases where there are divergences on the declared values from the data held. This high level of automation optimizes the use of the workforce, allowing small regional teams to dramatically increase their fiscal presence.

In recent years, an increasing number of taxpayers have been summoned using these automatic notifications. In 2021, more than 40,000 taxpayers were summoned, totaling BRL 7.4 billion in amounts subject to self-assessment, which would not have been possible without the automation provided by the FAPE work.²⁷

Furthermore, an AI tool called SISAM, a Portuguese acronym for "Customs Selection System through Machine Learning" in English, has also been implemented.

²⁷ OECD. (2022). *Tax Administration 2022: Comparative Information on OECD and other Advanced and Emerging Economies*. https://www.oecd.org/en/publications/tax-administration-2022_1e797131-en.html

This computerized tool has been in use since August 2014 to evaluate the risks posed by importations. It runs 24/7 in one of the Brazilian government's data centers. The AI tool "learns" from the history of import declarations, both through supervised and unsupervised learning – two ways in which machines (algorithms) can be set loose on a data set and expected to learn something useful from it.²⁸

Historically, the RFB managed institutional risks based on its organizational structure and operational framework, while tax compliance risks were handled in a fragmented manner by various business units according to their own criteria and understanding of the risks.

Since 2021, and with the technical support of international organizations, a strategic program was established to restructure an organization's risk management model supported by a multi-faceted, integrated approach. Program milestones included a new risk management policy, the design of a national risk management office with regional focal points and revised roles, responsibilities, delegations of authority and governance structures.

The new model is to be applied across all business areas and levels of the organization and intends to provide better coordination of the RFB's risk treatment initiatives, which are identified using an integrated risk assessment system that employs advanced technology tools. Outcomes generated by the framework are fully integrated into real-time business performance reporting.

Advanced data analytics is leveraged to collect, convert, and process large volumes of data in the RFB's databases into clear and readily understandable risk management information to inform proactive decision-making. The goal is to make this information increasingly available in real time and to staff across the organization. Ultimately, the RFB's goal is to have its risk management model embedded into its core administration values and reflected in the day-to-day activities of its employees and organizational culture.²⁹

2.2. The Risk-Based Approach to Tax Control in China

The risk-based approach is widely used in tax control in China, but there are no clear rules in the legislation regarding the grounds and procedures for risk assessment.

The Regulation on the procedure for conducting tax audits (Order of the State Tax Administration No. 52 of July 12, 2021) contains only a general statement without mentioning risks: "The Audit Bureau should strengthen the management of audit

²⁸ Lacerda Coutinho, G., & de Schoucair Jambreiro Filho, J. E. (2018, 20 June). *Brazil's New Integrated Risk Management Solutions*. World Customs Organization. <https://mag.wcoomd.org/magazine/wco-news-86/brazils-new-integrated-risk-management-solutions/>

²⁹ OECD. (2023). *Tax Administration 2023: Comparative Information on OECD and other Advanced and Emerging Economies*. <https://doi.org/10.1787/900b6382-en>

sources, comprehensively collect and systematize initial information about cases, as well as reasonably and accurately select objects for investigation.”³⁰ The Detailed Rules for the Implementation of the Law of the People’s Republic of China on the Administration of Tax Collection (Order No. 362 of the State Council of September 7, 2002)³¹ also does not specify any details about the measures that can be used for risk assessment.

Despite these shortcomings, tax risk assessment has been a significant part of tax administration in China for years.

The application of a risk-based approach to tax control began with the identification of cases of VAT evasion in 2001 when the Golden Tax Project (Phase 2), an automated system controlling the issuance of VAT invoices, was implemented nationwide. By 2022, the accuracy of identifying VAT tax gaps exceeded 90%, as a result of cross-references in machine-readable documents and appropriate monitoring of objects of transactions with goods and services, product names, prices, amounts, flows and other information recorded in invoices and other data from STA and other authorities.³² A large amount of data, such as tax reports, financial reports, invoices information, social security data, customs declarations etc., is now analyzed using a unified system in order to identify risks in the taxpayer’s reporting.

The new computer-based system, the Golden Tax Project (Phase 3), is a comprehensive tool for identifying tax risks because it combines databases of both national and provincial authorities, including a broader set of tax administration applications for all taxes in China.³³ This Chinese system and the Russian automated information system, “AIS Nalog-3,” are very similar in terms of their functions.

In addition, the State Tax Administration (hereinafter STA) has developed the “audit big data case selection and case study and judgment system” as a component of Golden Tax Project (Phase 4), which uses big data, cloud computing, and artificial intelligence, as well as machine learning and data mining, to accurately explore

³⁰ Order No. 52 of the State Tax Administration, “Regulations on the Procedures for Handling Tax Audit Cases” (has been reviewed and approved at the 2nd Bureau Meeting of the State Administration of Taxation in 2021 on June 18, 2021, and is hereby promulgated and will come into effect on August 11, 2021). State Council of the People’s Republic of China. www.gov.cn/gongbao/content/2021/content_5637950.htm. (In Chinese).

³¹ Rules for the Implementation of the Law of the People’s Republic of China on the Administration of Tax Collection (promulgated by Decree No. 362 of the State Council of the People’s Republic of China on September 7, 2002, and effective as of October 15, 2002). China.org.cn. <http://www.china.org.cn/english/DAT/214799.htm>

³² State Tax Administration. (2023, April 6). *The State Council Information Office held a press conference on “Better Play the Role of Tax Functions and Better Serve the High-Quality Development of the Economy and Society.”* <https://www.chinatax.gov.cn/chinatax/n810219/n810724/c5186224/content.html>. (In Chinese).

³³ Lam, W. R., Rodlauer, M., & Schipke, A. (2017). *Modernizing China: Investing in Soft Infrastructure*. International Monetary Fund. <https://www.imf.org/en/Publications/Books/Issues/2017/03/24/Modernizing-China-Investing-in-Soft-Infrastructure-43711>

various high-risk cases and identify the key objectives of a tax audit.³⁴ As the former STA Head, Wang Jun, acknowledged while speaking at the meeting of BRICS Tax Directors, thanks to the widespread use of these new technologies, STA is embarking on an intelligent transformation of tax collection and administration in order to create a “risk-free, trouble-free and secure tax system.”³⁵

The detection of a risk indicator in relation to a particular category of taxpayer is a common but not an exceptional reason for implementing tax control measures in China. The STA performs random checking on industries, regions, and groups of people where tax evasion and avoidance occur frequently.³⁶ General criteria, such as level of sales, industry-specificity, nationality or origin of the parent company, etc., can also influence the selection of an object for tax audit. Thus, risk management is often used at a segmented level.

At the same time, there can be indicators of high risk that are related to a specific taxpayer. However, all of these indicators that can trigger a tax audit are not legally established and are not disclosed to taxpayers; the STA only announces typical tax evasion schemes. In practice, the STA takes into account the following risks: public-to-private transactions, mergers and acquisitions, asset transfers, transactions with shell enterprises, abnormal tax burdens, discrepancies between income and cost, export tax refunds, false invoicing, arrears in individual income tax and social insurance premiums, inconsistencies in tax reports, etc.³⁷

The level of risk assigned to a particular taxpayer affects the warning notification that is issued about a potential future field tax audit, as well as the frequency of tax audits, their circumstances and the ratio between an automatic audit and an extended tax investigation.³⁸

As a general rule, before starting a tax audit, when identifying risk indicators, the STA uses the “five-step work method.” This means first issuing notifications about the risks, subsequently demanding corrections, then conducting interviews and finally, issuing a warning about the field tax audit and liability involved in the event

³⁴ OECD, 2022.

³⁵ State Tax Administration. (2021, September 17). *Deepen BRICS Tax Cooperation and Jointly Explore the Golden Road of Development – Speech at the BRICS Taxation Directors Meeting*. <https://www.chinatax.gov.cn/chinatax/n810219/n810724/c5169150/content.html>. (In Chinese).

³⁶ Guangdong Provincial Tax Service, State Tax Administration. (2022, December 10). *Opinions on Further Deepening the Reform of Tax Collection and Administration*. https://guangdong.chinatax.gov.cn/gdsw/hzsw_yhssyshj2022E_zxfb/2022-12/10/content_04a8c6ed062840b6866794104324ae8a.shtml

³⁷ Zhou, Q., & Sun, F. (2024, July 11). *Tax Audit in China: A Complete Guide*. China Briefing. <https://www.china-briefing.com/news/tax-audit-in-china-a-complete-guide/>; Zhang, Z. (2021, December 10). *China's Golden Tax System Phase IV: An Explainer*. China Briefing. <https://www.china-briefing.com/news/chinas-golden-tax-system-phase-iv-an-explainer/>

³⁸ Shanghai Municipal Tax Service, State Tax Administration. (2022). *White Paper on Shanghai's Tax Doing-Business Environment*. <https://shanghai.chinatax.gov.cn/xwdt/ztzl/zhl/yhysgj/gzbs/ndbg/202304/P020230420346130009376.pdf>

of a refusal to conduct self-inspection.³⁹ This procedure does not apply to taxpayers considered high-risk, including repeat tax offenders, who are likely to be subject to an audit directly without warning.

Risk reminders, opportunities for taxpayers to amend their tax returns and coaching taxpayers on mandatory self-inspection to avoid tax evasion are important aspects of Chinese tax control.⁴⁰ When tax risks are identified, the STA asks taxpayers to “self-inspect.” This includes offering a waiver of penalties to persuade taxpayers to declare and pay the additional taxes that they previously failed to report. Taxpayers selected for self-inspection would then be given a limited period of time to declare additional taxes (for e.g. ten days to a month). The vast majority of field audits are initiated only after a self-audit phase, with only 5% of field audits beginning right after the interview without a self-audit.⁴¹ Mandatory taxpayer self-inspections, although carried out in China on a routine basis, have no legal foundation in Chinese law. Thus, the imposition of additional tax payments following self-inspection does not exclude the possibility of a subsequent field audit in the future.

Due to the use of risk assessment methods in tax control, in 2022 the effectiveness of one tax audit in the context of additional taxes exceeded 1.5 million RMB. Thus, in 2022, tax inspections across the country conducted investigations against 128.3 thousand taxpayers who violated the law. As a result of such investigations, 195.5 billion RMB of tax losses were reimbursed, and about 900 typical tax evasion schemes were publicly exposed.⁴²

The Chinese tax administration as a whole is now in the process of implementing a new paradigm based on “credit plus risk.” The new paradigm provides for a dynamic classification of taxpayers’ credit ratings, which are based on both tax and general social indicators and intelligent control over taxpayers’ risks. The aim of this approach is “no disturbance with no risks, investigation upon violation and intelligent control for the whole process.”⁴³

According to this paradigm, the taxpayers’ risk level impacts not only tax control but a number of aspects of tax administration. Taxpayers are put on four credit levels and subjected to different service standards in the areas of communication channels, documentation, processing time and other issues of administration. High-risk “dishonest” taxpayers will have their online services cut off and access to offline

³⁹ State Tax Administration, 2003.

⁴⁰ Martini, M. H. (2022). A Review of China Approach to Cooperative Compliance in Light of the International Tax Practice and the OECD Framework. *Journal of Chinese Tax and Policy*, 12(1), 51.

⁴¹ Cui, W. (2020, November). *Taxpayer Self-Inspections, Audits, and Optimal Tax Administration: Evidence from China*. Allard Research Commons. https://commons.allard.ubc.ca/cgi/viewcontent.cgi?article=1624&context=fac_pubs

⁴² State Tax Administration, 2003.

⁴³ Guangdong Provincial Tax Service, State Tax Administration, 2022.

procedures restricted. On the other hand, for taxpayers with good credit records, documentation requirements are reduced by more than 40%, and manual approval processes for requests are being replaced by automated systems, allowing for over 90% of financial data to be automatically pre-filled in tax returns.⁴⁴

2.3. The Risk-Based Approach to Tax Control in India

The Indian legislation has set out the general provisions for the application of a risk-based approach to tax control. However, the wording of the tax legislation is rather vague. As an illustration, the clause “the risk management strategy formulated by the Board from time to time” is frequently used. For example,

the claim of the assessee for a deduction in respect of any sum referred to in sub-section (2) in the return of income for any assessment year filed by him, shall be allowed on the basis of information relating to such sum furnished by the payee to the prescribed income-tax authority or the person authorized by such authority, subject to verification in accordance with the *risk management strategy formulated by the Board from time to time*. (Sec. 80GGA of the Income-Tax Act, with effect from June 1, 2020).

Another amendment has been made in sections 148 and 148A of the Income-Tax Act:

For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means, (i) any information in the case of the assessee for the relevant assessment year in accordance with *the risk management strategy formulated by the Board from time to time*.⁴⁵

Thus, it is evident that frequent amendments to tax legislation in the parts of the regulation that employ a risk-oriented approach demonstrate the legislator’s particular attention to this issue.

The concept of “risk management strategy” is not explicitly defined in Indian law, but it is explained in the Notification of the Central Board of Direct Taxes dated December 13, 2021, which defines risk management strategy as an algorithm for standardized examination of information, utilizing suitable technological tools, including artificial intelligence and machine learning, with a view to reduce the scope of risk, as decided by the Board from time to time.⁴⁶

The notification specifies the procedures to be carried out depending on the degree of risk. Thus,

⁴⁴ Shanghai Municipal Tax Service, State Tax Administration, 2022.

⁴⁵ Finance (No. 2) Act, 2024 (15 of 2024). Income Tax Department. <https://incometaxindia.gov.in/Documents/Finance-No.2-Act-2024.pdf>

⁴⁶ Department of Revenue, Ministry of Finance. (2021, December 12). *Notification of the Central Board of Direct Taxes*. Income Tax Department. <https://incometaxindia.gov.in/News/Notification-137-2021.pdf>

in cases where the mismatch between the amount accepted by the assessee and the amount reported by the reporting entity persists, the information after such initial e-verification shall be run through a risk management strategy laid down by the Board and the information found to be no or low risk on such risk criteria, where no further action is required, shall be processed for closure.⁴⁷

The risk management strategy in India now predominantly relies on the utilization of technologies, including artificial intelligence and machine learning. In 2019, a national e-assessment center (NeAC) was created. The e-assessment procedure is aimed at minimizing the level of interaction between taxpayers and the Income-Tax Department, which leads to certain undesirable practices on the part of tax officials. The e-assessment scheme intends to facilitate faceless assessment of income-tax returns through electronic communication between tax officials and taxpayers.

In order to effectively implement tax control and identify risks in the activities of taxpayers it is necessary to determine the limits of sources of information that can be used. According to section 148(i) of the Income-Tax Act, "any information flagged in the case of an assessee for the relevant assessment year shall be in accordance with the risk management strategy formulated by the Board from time to time."⁴⁸ According to Instruction F. No. 225/135/2021/ITA-II, for effective implementation of risk management strategy, the Central Board of Direct Taxes, in exercise of its powers under section 119 of the Act,⁴⁹ directs that the Assessing Officers shall identify the following categories of information:

Information from any other Government Agency/Law Enforcement Agency, Information arising out of Internal Audit objection, which requires action u/s 148 of the Act, Information received from any Income-tax Authority including the assessing officer himself or herself, Information arising out of search or survey action and other.⁵⁰

In practice, disputes arise between the Central Board of Direct Taxes and taxpayers in terms of challenging the information that has been used by the Board to assess tax risks. In a judgment issued by the Supreme Court, in the case of *Union of India & Ors. v. Ashish Agarwal*,⁵¹ the Court declared that notices issued between January 1, 2021 and June 30, 2021 would be treated as deemed notices u/s 148A(b) of the Act. The majority of these notices were issued based on information from four sources, namely (i) from another assessing officer, (ii) from other agencies, (iii) from the investigation wing and (iv) from the insight portal. Other than the information

⁴⁷ Department of Revenue, Ministry of Finance, 2021.

⁴⁸ Income-Tax Act, 1961 (43 of 1961) as amended by the Finance Act, 2022 (6 of 2022). Income Tax Department. <https://incometaxindia.gov.in/documents/income-tax-act-1961-amended-by-finance-no.-2-act-2024.pdf>

⁴⁹ Meaning Income-Tax Act (1961).

⁵⁰ Instruction F. No. 225/135/2021/ITA-II (December 10, 2021).

⁵¹ *Union of India & Ors. v. Ashish Agarwal*, 2022 SCC OnLine SC 543.

received from the Insight Portal no other source qualified for the criterion of being flagged in accordance with the risk management strategy. Thus, the question that arose was: should the assessing officer be allowed to proceed in these cases where the information is not determined to be in accordance with the risk management strategy, as it would then not be treated as “information” at all?⁵² Almost 90,000 notices were issued by the revenue department, which led to the anticipation that this judgment would be extremely critical and far-reaching, and a total of 9000 writ petitions were filed throughout India.⁵³

As a result, it can be concluded that the Indian approach to the use of “risk management strategy” in tax control is quite variable, since it depends on the changes made to tax laws annually through the adoption of the Finance Act. At the same time, the clause “the risk management strategy formulated by the Board from time to time” is uncertain and vague, while the time frame is not defined by law. On the other hand, active utilization of modern technologies, including artificial intelligence, provides for the effective identification of tax risks of taxpayers.

2.4. The Risk-Based Approach to Tax Control in South Africa

In recent years, scholars have attempted to analyze the compliance approach used by revenue authorities in South Africa with specific reference to case selection and risk profiling.⁵⁴ Thus, according to one research author, M.N. Nel, the following are some of the issues that have been observed in relation to the various case selection methodologies used by revenue authorities: “no feedback loop exists between the actual results achieved by the audit team and the risks determined by the risk profilers; it is questionable whether the increase in the strike rate can be attributed to the implementation of the business intelligence unit; a taxpayer not receiving a refund in excess of the refund limit, has a smaller possibility of being subjected to investigation” etc.⁵⁵

The Tax Administration Act was adopted in 2011.⁵⁶ It includes a number of provisions on tax risks. The law provides for the powers of the South African Revenue Service

⁵² Hemani, T., & Hemani, S. (2022, June 24). *Clause by Clause Analysis of Provisions of Reassessment Under the Income Tax Act, 1961*. itatonline.org. <https://itatonline.org/digest/articles/clause-by-clause-analysis-of-provisions-of-reassessment-under-the-income-tax-act-1961/>

⁵³ SC Judgment Analysis. (n.d.). TaxGuru. <https://taxguru.in/income-tax/gospel-truth-reassessment-proceedings-sc-judgment-analysis.html>

⁵⁴ Nel, M. J. (2024, December). *An Analysis of the Compliance Approach Used by Revenue Authorities with Specific Reference to Case Selection and Risk Profiling* (a thesis submitted in the partial fulfilment of the requirements for the degree Masters in Commerce (Taxation)). CiteSeerX. <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=3be76030d252cd598c5a5a752730f0c1916737f8>

⁵⁵ *Id.*

⁵⁶ Tax Administration Act, 2011 (Act 28 of 2011). South African Government. <https://www.gov.za/documents/tax-administration-act>

(SARS) to make provisions with respect to tax assessments. The term “assessment” here means the determination of the amount of a tax liability or refund by way of self-assessment by the taxpayer or assessment by SARS. The tax law provides the following types of assessments: original assessments; additional assessments; reduced assessments; jeopardy assessments and estimation of assessments.

In accordance with paragraph 40 of the Tax Administration Act, SARS may select a person for inspection, verification or audit on the basis of any consideration that may be relevant for the proper administration of a tax act, including on a random or a risk assessment basis. Thus, risk assessment is only one of the bases for inspection, verification or audit along with random selection. It appears that a risk-based approach should be prioritized over a random selection of audits of taxpayers.

The principal focus of SARS is on high-risk sectors, for example, the cash and carry industry, which is one of the major high-risk sectors. The potential risks in this sector include the withholding of VAT payments from cash sales, the illegal repatriation of funds to global tax havens and fraudulent VAT refund claims.⁵⁷

High tax risks may also arise in certain cases when paying taxes on personal income received through employers. It is noted that failure to meet budget tax collection targets (for the year 2018–2019) has led to increased tax control, particularly concerning the payment of personal income taxes.⁵⁸ The SARS procedure may also include interviews with a random selection of employees. SARS is required to issue employers with a formal “Notification of Audit” letter from a specific SARS auditor. It should be noted that a payroll questionnaire from SARS does not constitute a formal “Notification of Audit.” It is also important to note that the detailed information provided to SARS by the employer during the bi-annual reconciliation process or the issuance of tax certificates may be enough for SARS to initiate a focused and specific audit of compensation and benefit items, which may be seen as having a high risk for errors to occur.⁵⁹

The fact that the law does not indicate the criteria for high or low risk for the selection of taxpayers of control measures (neither “risk” nor “risk assessment” categories are defined in the Tax Administration Act) leads to judicial disputes when taxpayers challenge decisions of tax authorities. In the case of *Carte Blanche Marketing CC and Others v. Commissioner for the South African Revenue Service*,⁶⁰ SARS used risk assessment methods to evaluate the taxpayer’s compliance with value-added tax and income tax. This process identified discrepancies between

⁵⁷ South African Revenue Service. (2015, December 10). *SARS Cracks Down on High Risk Sectors*. <https://www.sars.gov.za/media-release/10-december-2015-sars-cracks-down-on-high-risk-sectors/>

⁵⁸ KPMG South Africa. (2019, June). *Employees’ Tax Audits by SARS*. <https://assets.kpmg.com/content/dam/kpmg/us/pdf/2019/06/tnf-za-june7-2019.pdf>

⁵⁹ *Id.*

⁶⁰ *Carte Blanche Marketing CC and Others v. Commissioner for the South African Revenue Service* (26244/2015) [2017] ZAGPPHC 253 (May 26, 2017).

the turnovers declared by the taxpayers and their customs declarations. This in turn led to the selection of these taxpayers for an audit. The taxpayers decided to neither participate in the audit nor provide any of the requested information, as they contended that the decision to provide a tax audit was unlawful. The court reached the conclusion that the actions of the tax authority were legal based on the fact that an audit requested by SARS is merely the start of an investigation and the initiation thereof is not subject to review, as the decision is incomplete.

Tax risks in South Africa are not just assessed directly by tax authorities. This is the feature that demonstrates the similarities between the rules in South Africa and those of Russia. Rather, tax authorities work together within the framework to implement various types of financial control over organizations' activities, which could constitute risks affecting tax aspects. The Tax Administration Act places a significant obligation on SARS to disclose information related to money laundering or terrorist financing to law enforcement agencies or other relevant authorities.

Conclusion

The risk-based approach is the fundamental basis of a new approach to defining and legally consolidating the tasks of tax administration bodies in modern conditions. According to this approach, the objectives of the tax administration are to identify, prevent and minimize threats to tax security in the implementation of the full range of administrative functions in the tax sphere, as well as work to overcome the consequences of the realization of threats.

Risk management serves as a universal principle for ensuring the tax security of a state that should cover all of the elements of control and supervisory activities in the tax sphere, starting with the planning and establishment of control measures and ending with the implementation of law enforcement acts adopted as a result of such control.

The experience of the BRICS countries shows that most countries have recognized commonalities across organizations and management cultures endowed with enforcement powers, such as the tax administration, customs administration, as well as risk management systems.

Thus, the following points can be proposed for a comparison of the countries using tax risk assessment:

- implementation of risk assessment strategies in the practice of tax administration and the quality of each state's legislative regulation;
- impact of risk indicators on the behavior of taxpayers;
- impact of risk indicators on the conduct of tax control measures.

The risk-based approach to tax control is widely used by the tax administration authorities of the BRICS countries. At the same time, there are no clear indications in the legislation of the BRICS countries on the obligations of using risk assessment, as well as the nuances and procedures for the application of a risk-based approach.

The implementation of the risk-based approach in the BRICS countries is, as a rule, based on the use of computer databases in which information about the taxpayer is collected from disparate sources and analyzed using modern computer technologies (such as the Automated Information System “Nalog-3” in Russia and the Golden Tax Project in China).

The tax risks identified by the tax administrations of the BRICS countries are also quite similar, as are the similarities in the specific risk indicators that trigger on-site tax audits for taxpayers in these countries.

On-site tax audits in the BRICS countries are typically aimed at verifying the accuracy of the calculations and payment of taxes by all taxpayers, especially those who are more likely to commit violations of the tax legislation.

The risk-based approach is used not only in performing tax audits but also in a broader context, such as in determining the scope of tax control measures.

In general, the key aspects of the risk-based approaches employed in the BRICS countries are very similar. The Chinese experience with “credit and risk system,” which involves cutting off online services and restricting offline procedures for “low-rated” taxpayers, stands out, in particular. This experience should be applied cautiously and only after detailed discussion.

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