



## **MANUAL ON THE IMPLEMENTATION OF ASSISTANCE IN TAX COLLECTION**

### **MODULE ON A GLOSSARY OF TAX COLLECTION TERMS USED IN THE MANUAL**

The manual currently consists of the following Modules:

General Module:

- Part I - General and legal aspects of tax collection,
- Part II - Measures of conservancy
- Part III - Practical aspects

Module 1 - Country Profile Template (re Assistance in Tax Collection)

Module 2 - Instruments and Models on Assistance in Tax Collection

Module 3 - Model Memorandum of Understanding on Assistance in Tax collection based on Article 27 of the OECD Model Convention on Income and on Capital

Module 4 - Model Memorandum of Understanding on the recovery of tax claims based on the joint OECD/Council of Europe Convention on Mutual Administrative Assistance in Tax Matters

Module 6 - Glossary of tax collection terms

Modules currently being drafted:

Module 5 - Model Form for Assistance in the Recovery of Tax Claims

The purpose of the Manual is to provide tax officials dealing with assistance in tax collection with an overview of the operation of assistance in tax collection provisions and some technical and practical guidance to improve the efficiency of assistance in tax collection.

The manual can be used for training and to design or update domestic manuals. The modular approach allows countries to choose only the parts that are relevant to their specific tax collection assistance programs.

## **MANUAL ON THE IMPLEMENTATION OF ASSISTANCE IN TAX COLLECTION:**

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#### **INTRODUCTION**

This short glossary covers terms used in the OECD Manual on the Implementation of Assistance in Tax Collection but does not replace or repeat the clear descriptions found there. The Manual seeks to avoid terms connected with a specific legal system or piece of legislation. The purpose of the glossary is to explain some of the technical terms associated with the recovery of tax debts, and as such may be a useful aide-mémoire for tax officials working in international cooperation and mutual assistance.

It is worth noting that the way in which mutual assistance in tax collection has been designed means that a knowledge of the legal processes (and the terminology) of the applicant State is not required by officials in the requested State; this is because, once the debt has been effectively transferred, the process of the requested State (and its own terminology) apply.

The Glossary does not seek to reflect the different legal systems in use across OECD Member countries.

#### **A.**

##### **Accrued interest**

Interest that has accumulated but has not yet been paid.

##### **Attachment (of salary)**

Deduction made by the employer from an employee's earnings, when required to do so by a court order. See also *Garnishment*.

#### **B.**

##### **Bankrupt**

A bankrupt is an individual who is unable to pay his debts and against whom a bankruptcy order has been made by a court. The court takes control of the individual's property which is then realised (i.e. converted into cash) for distribution amongst the creditors.

##### **Bankruptcy**

The process of dealing with a bankrupt. Where there is a domestic priority for tax debts in such proceedings, this does not apply by virtue of paragraph 5, Article 27 of the Model Convention, to a revenue claim of a Contracting State.

## **C.**

### **Closing a case**

The case is closed when **no** further actions are to be taken. This can be the result of the collection of the revenue claim, the withdrawal of the request by the competent authority of the applicant state, or the revenue claim is uncollectible in the requested state.

### **Collection period**

The period between the date of the request and the date the claim is paid.

### **Conservancy Measures**

Measures of conservancy are applied when the revenue claim is not yet enforceable, and they are aimed at preventing the taxpayer from disposing of his assets in a way that is harmful to his creditors' interests. Such measures could include the seizure or the freezing of assets of the taxpayer, or placing a *lien* on the taxpayer's property. Also known as *Interim measures* and *Precautionary measures*).

## **D.**

### **Deed of settlement**

Legally binding debt settlement arrangement or compromise agreement made by the debtor and all his creditors, which sets out how and when the debtor will pay the debt (usually a reduced amount). This effectively removes the burden of bankruptcy from the debtor, also known as *voluntary arrangement*.

### **Deferral of payment**

Administrative decision by tax authority that allows the taxpayer to postpone the payment of a tax claim.

### **Distrain (an asset)**

To take possession of the debtor's goods and then to sell those goods if the debt remains unpaid.

### **Distrain**

This is the act or process of distraining.

## **E.**

### **Enforceable tax claim**

This is a tax claim which is correct and can be legally pursued.

### **Enforcement actions**

Actions adopted by tax authorities to collect a tax debt. Means of enforcement typically include *distrain* and the application of penalties.

### **Expiry of the claim**

Date on which the collection right of a tax claim expires. See also *statute of limitations*.

## **F.**

### **Fines**

Surcharges imposed by tax authorities for either late filing of a tax return or non-payment of tax due. The surcharge can be a fixed amount, a percentage of taxes due, or a combination of these.

## **G.**

### **Garnishment**

An order by the Court that money or property that belongs to a debtor but is in the possession of another is applied to the payment of the debt owed. For example, the order can be directed to an employer to withhold all or part of an employee's wages and to send the money to the court or directly to the tax authority which brought the action. See also '*Attachment*'

## **I.**

**Interim measures** - See "*Conservancy measures*"

## **L.**

### **Late payment**

Payment made after the date by which the tax was due to be paid.

### **Lien**

The right to take and retain the debtor's property until the settlement of the tax debt.

### **Liquidation**

This is the process whereby a company has its assets realised and distributed to satisfy (as far as possible) its liabilities and to repay the creditors. This is usually followed by the dissolution of the company.

## **M.**

### **Mutual Agreement Procedure**

Procedure for resolving difficulties arising out of the interpretation or application of tax treaties, in particular where taxpayers are subjected to taxation which is not in accordance with the provisions of the treaty.

## **P.**

**Precautionary measures** - See '*Conservancy Measures*'

## **R.**

### **Remit**

To choose not to collect a tax debt. As a result, the tax debt no longer appears in the tax authority's accounts as an amount receivable. A tax debt may be remitted on a number of grounds e.g. cost, compassion or fairness. The tax is not permanently written off, but can be brought back into charge when the debtor's circumstances change. Enforceable tax claims may also be written off permanently where collection is not possible, for example because of insolvency or because the debtor cannot be found.

### **Remission**

The act or process of remitting. This is sometimes known as '*waiver of claims*'.

## **S.**

### **Seizure**

The act of taking possession of goods or property of a debtor to pay the debt. The seizure is complete when the goods are within the power of the legally authorised officer.

### **Set-off**

The setting of money cross-claims against each other to produce a balance, i.e. the tax claim is reduced by the amount of any separate tax repayment or other amount which is due to be paid to the taxpayer.

### **Statute of limitations**

A statute prescribing the time period during which legal action can be taken. If a lender allows time to pass without receiving any payment an action for recovery may become barred. If the debtor acknowledges the debt in writing or makes a part payment within the original limitation period, then the time limits generally start to run again from the date of acknowledgement or the date of payment.

## **V.**

**Voluntary arrangement** - See "*Deed of settlement*"

## **W.**

**Waiver of claims** - See "*Remission*" and "*Remit*".