

## *Public Sector Integrity in Brazil*

### *Case Study 1*

#### **Secretariat of Federal Revenue, Federal Ministry of Finance**

There is growing awareness in Brazil for the need to enhance integrity, and not just the efficiency of revenue collection, as part of efforts to modernise the federal tax administration and promote fiscal legitimacy. Brazil's Secretariat for Federal Revenue collects approximately two-thirds of total government revenue (24.8% of GDP out of total government revenue of 36% GDP). This case study examines actions taken to enhance integrity and prevent fraud and corruption in Brazil's Secretariat for Federal Revenue. The case study provides proposals for action for the Secretariat for Federal Revenue to promote transparency in the tax system and its operations, implement risk-based approach to internal control and embed high standards of conduct among federal tax officials.



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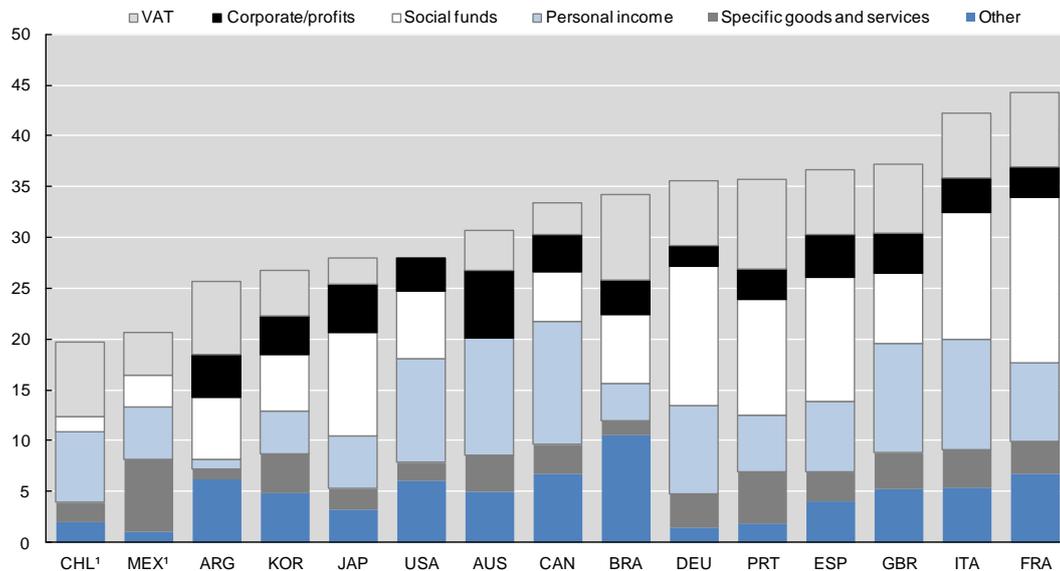
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## Introduction

Revenue receipts have been rising steadily in Brazil since the mid-1990s and are crucial for financing improvements in public service delivery. Government revenue accounts for 36% of Brazil's gross domestic product (GDP) and it is approaching the average in OECD member countries (see Figure B.1). Approximately two-thirds of total revenue (24.8% of GDP) is collected by the federal government, with revenue receipts accounting for 9.4% of GDP collected by the 26 states and 1.6% of GDP by 5 564 municipalities. Much of Brazil's revenue growth during the early 2000s has stemmed from ongoing fiscal consolidation by means of tax increases rather than reductions in government expenditure. Reforms now aim to simplify and streamline indirect taxation and alleviate the tax burden on labour income. However, at close to 36% of GDP, Brazil's tax take is high in relation to other similar emerging-market countries (OECD, 2009a).

Figure B.1. **Government revenue**  
% of GDP, 2009



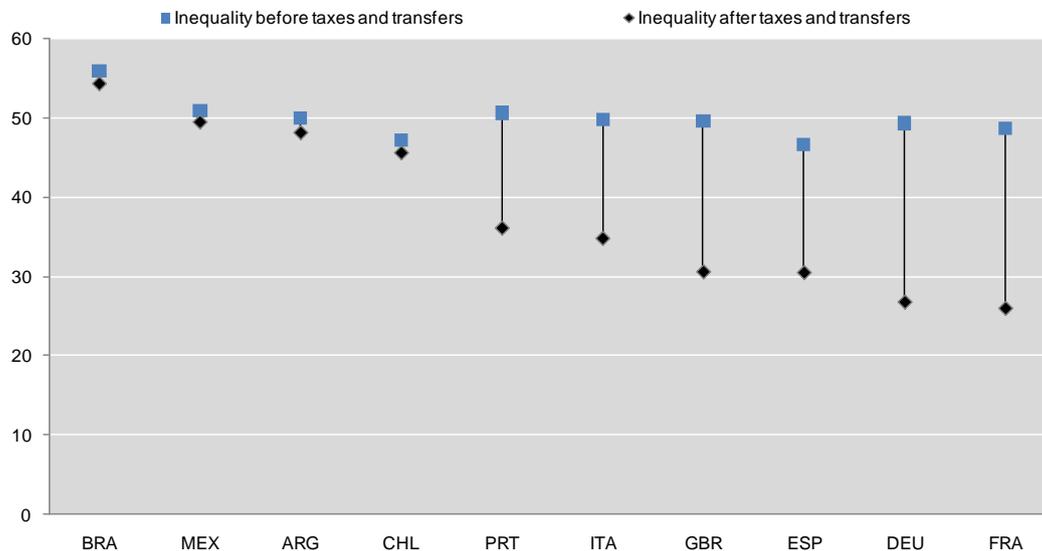
Notes: Chile and Mexico: personal income tax collection includes revenue from taxes on corporate income/profits.

Source: Adapted from OECD (2009), *OECD Economic Surveys: Brazil 2009*, OECD Publishing, Paris, [http://dx.doi.org/10.1787/eco\\_surveys-bra-2009-en](http://dx.doi.org/10.1787/eco_surveys-bra-2009-en)

Brazil's federal tax authority, the Secretariat of Federal Revenue (*Secretaria da Receita Federal Brasil*), has been a leader in enhancing public sector integrity in Brazil. This reflects a growing awareness in Brazil for the need to enhance integrity, and not just the efficiency of revenue collection, as part of efforts to modernise the federal tax administration and promote fiscal legitimacy. Enhancing integrity in Brazil's federal tax administration can support formal business activities, investment and economic growth. Promoting integrity can also increase co-operation between the federal tax authority and other Brazilian public organisations, including its counterparts in other countries. However, fiscal legitimacy is also shaped by the extent to which the tax system achieves

fiscal distribution. In comparison to many OECD and Latin American countries, fiscal redistribution through the tax system is limited in Brazil (see Figure B.2).

Figure B.2. **Income inequality and fiscal redistribution**



Source: Adapted from OECD (2008), *OECD Latin American Economic Outlook 2009*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/leo-2009-en>

Moreover, the Secretariat of Federal Revenue has been actively involved in promoting integrity in tax administration in North and South America. For example, it participated within the Inter-American Tax Administration in the development of a manual on internal audit in the tax administration (together with Argentina, Bolivia, Chile, Costa Rica, Spain and the United States) and a model code of conduct for tax officials (together with Argentina, Canada, Peru, Spain, and Trinidad and Tobago). These activities are considered by senior Brazilian federal tax officials to have positively shaped practices within their own organisational management systems.

This case study examines actions taken to enhance integrity and prevent fraud and corruption in Brazil's Secretariat for Federal Revenue. It is structured in four parts. The first part provides an overview of the Secretariat of Federal Revenue. The second part focuses on efforts to increase transparency in the operations of the Secretariat of Federal Revenue as well as on efforts to strengthen taxpayer's rights. The third part focuses on efforts to adopt a risk-based approach to internal control. The fourth part focuses on efforts to create and evaluate actions to promote high standards of conduct among individual federal tax officials.

## Overview of the Secretariat of Federal Revenue

The Secretariat of Federal Revenue is the principal revenue authority in Brazil. It has exclusive authority to levy and administer taxes on personal income, corporate income, payroll, wealth, foreign trade, banking, finance and insurance, rural property, hydroelectricity and mineral resources. As noted previously, federal revenue collection

accounts for approximately two-thirds of total government revenue (24.8% of GDP out of total government revenue of 36% GDP). State governments levy a general consumption tax (a form of value-added tax), motor vehicle and estate taxes and are allowed to levy supplementary rates of personal and corporate income taxes of up to 5% of federal levels. Municipalities levy taxes on services, urban properties, retail sales of fuel and property transfers.

The Secretariat of Federal Revenue is located in a single directorate within the Federal Ministry of Finance (see Table B.1). It has a functional structure, much like the tax authorities in Canada, Italy, Korea and Portugal (see Table B.2). As in almost all OECD member countries, the Secretariat of Federal Revenue has a Large Taxpayer Division.<sup>1</sup> In Brazil, large taxpayers are defined according to net profit, gross revenue, wages and debt. In 2010, there were approximately 10 600 large taxpayers, accounting for 69% of collected federal revenue.<sup>2</sup> Together with the introduction of taxpayer audits, such a unit sends a clear message to non-compliant large taxpayers that they face a real risk of being pursued by the tax administration (OECD, 2009b).

Table B.1. **Location of the central government tax authority**

Within the Finance Ministry		Unified semi-autonomous authority	
Multiple directorates	Single directorate	Without management board	With management board
Chile, <sup>1</sup> Germany, <sup>2</sup> Italy, <sup>3</sup> Portugal	<b>Brazil</b> , France	Australia, Japan, Korea, South Africa, Spain	Argentina, Canada, Mexico, United Kingdom, United States

Notes:

1. Chile: the *Servicio de Impuestos Internos* is responsible for tax compliance procedures, audit and the enforcement of internal taxes. Tax collection is the responsibility of the *Tesorería General de la República*.
2. Germany: major taxes are administered separately by 16 state (*Länder*) Ministries of Finance and are subject to co-ordination and supervision by the Federal Ministry of Finance. Additionally, the Federal Central Tax Office, subordinate to the Federal Ministry of Finance, performs certain central functions.
3. Italy: tax administration functions are carried out by a number of separate government and partly government-owned bodies: *i*) *Agenzia Entrate* (main stream operations); *ii*) *Guardia di Finanza* (tax fraud); *iii*) *Agencia delle Dogane* (Customs Agency: excise and value-added tax on imports); *iv*) *Equitalia Spa* (tax debt collection); *v*) SOGEI (information processing); and *vi*) *Agenzia del Territorio* (Territorial Agency: property registration and property valuation).

Source: Adapted from OECD (2009), *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

Table B.2. **Main criteria for the organisational structure of central government tax authority**

Functional	Taxpayer	Function, taxpayer and tax-type
Canada, <b>Brazil</b> , Italy, Portugal	France, Germany, <sup>1</sup> Mexico, <sup>1</sup> United States, United Kingdom	Argentina, Australia, Chile, Japan, South Africa, Spain

Notes: 1. Germany and Mexico: both functional and taxpayer criteria.

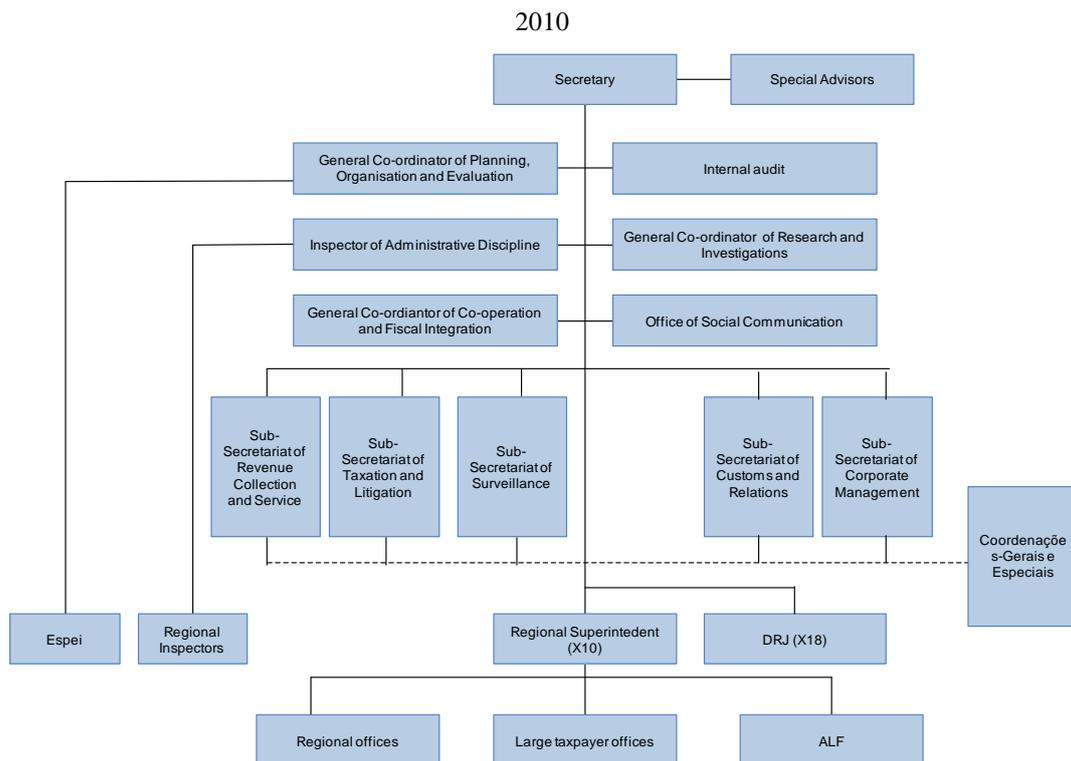
Source: Adapted from OECD (2009), *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

The Secretariat of Federal Revenue has been responsible for administering customs duties and excise since 1968. Ten OECD member countries, including Mexico and Spain, have aligned the administration of tax and customs operations by bringing them within a single management structure. Such institutional arrangements also exist in several other

emerging economies such as Argentina and South Africa. The integration of tax and customs administration can be traced to a number of factors, including synergies between tax and customs operations over the collection of value-added tax on imports, the latter being a major source of revenue in emerging economies. This is combined with efforts to obtain economies of scale in their administrative functions (e.g. human resources and information technology).

The integration of tax and social security administration in Brazil in 2007 was driven by moves to optimise revenue collection and efficiency. Previously, social security administration was the responsibility of the Secretariat of Social Security Revenue (*Secretaria da Receita Previdenciária*) within the Federal Ministry of Social Security (*Ministério da Previdência Social*). The Federal Ministry of Social Security retains responsibility for social security policy. The integration of tax and social security administrations in Brazil is similar to 11 OECD member countries, including Canada, Italy and the United Kingdom – as well as non-member countries such as Argentina and South Africa. Within OECD member countries, the integration of these two administrations is driven by a commonality of core systems and the emergence of social security contributions as the largest single source of government revenue.

Figure B.3. Organisation of Brazil's Secretariat of Federal Revenue



Source: Secretariat of Federal Revenue, Federal Ministry of Finance.

The Secretariat of Federal Revenue also plays a key role in fighting corruption within the public and private sectors. It participates in repressing smuggling, embezzlement, trafficking of narcotics and money laundering. The Secretariat of Federal Revenue guides

and co-ordinates the production and dissemination of information used in joint operations aimed at preventing and combating fraud and criminal practices. In 2009, the Secretariat of Federal Revenue explicitly clarified that bribes paid to foreign public officials are not tax deductible in compliance with practices of OECD member countries (OECD, 2010a). Moreover, the secretariat participates in the National Strategy Against Corruption and Money Laundering and the Council for Public Transparency and Combating Corruption.<sup>3</sup> These efforts to fight corruption both within the public and private sectors raise citizens' expectations for high levels of integrity within the Secretariat of Federal Revenue.

***The Secretariat of Federal Revenue is investing in strategic planning and goal setting as key instruments for performance and accountability***

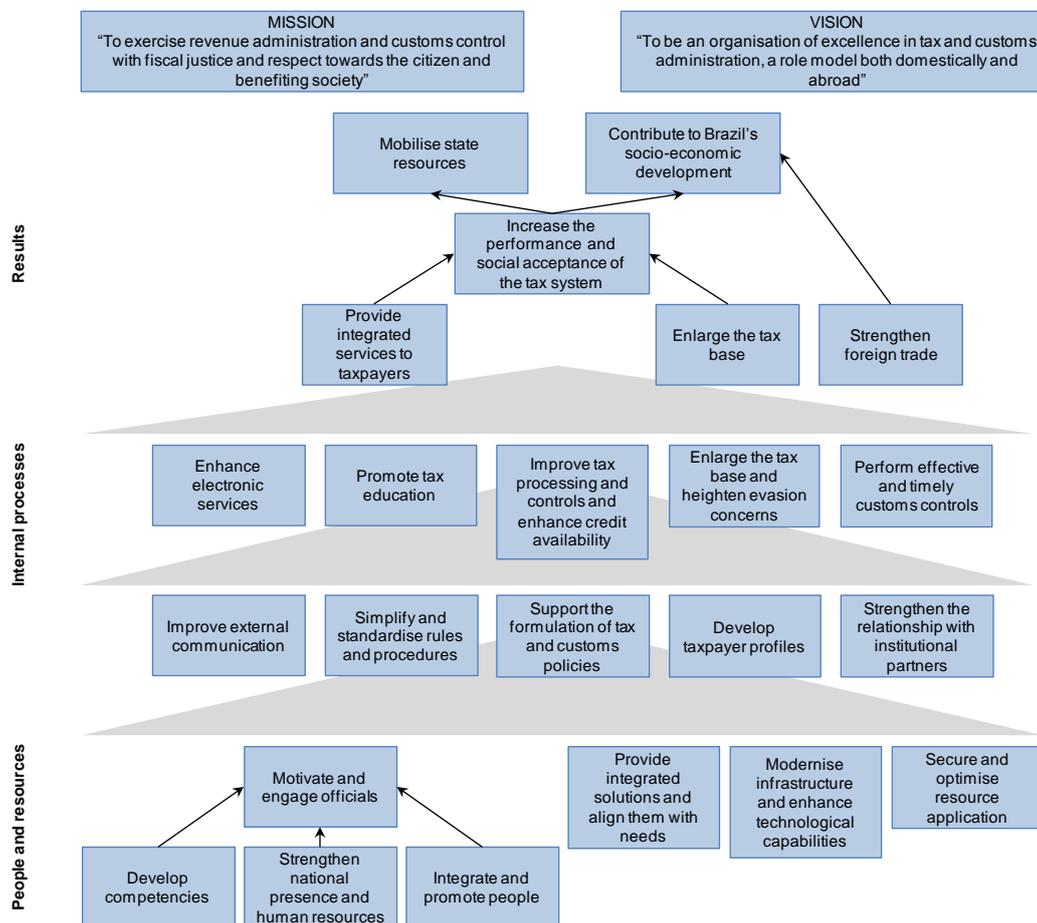
Strategic planning involves clarifying an organisation's mission and values, developing a vision for the future, analysing external opportunities and risks, assessing internal strengths and weaknesses, evaluating alternative strategies, and developing monitorable action plans. Strategic planning was introduced within the Secretariat of Federal Revenue in 2001, and a variant of the balanced scorecard has been adopted since 2007. Senior officials from the Secretariat of Federal Revenue consider that a balanced scorecard can become a key element for refining its strategic plan, communicating and linking monitorable goals, avoiding information fatigue and minimising initiative overload. They noted, however, that the main differences between earlier strategic plans (i.e. not using a balanced scorecard) and those since 2007 is not in terms of substance but the approach to its development and dissemination.

The development of a balanced scorecard is considered by senior federal tax officials to have built internal confidence in the strategic planning process. Prior to 2007, strategic planning followed a bottom-up approach and did not follow a uniform approach, resulting in a fragmented plan. The formulation of a strategic plan using a balanced scorecard has, in contrast, been considered a more uniform and interactive process. Senior officials were involved in the definition of organisational mission and vision. Operational managers were involved in the preparation of the strategic map (see Figure B.4). Defining performance indicators and strategic targets involved technical officials but with final validation by senior management. Senior federal tax officials note that although this process has required a lot of energy it has given internal legitimacy to the strategic plan

The current strategic plan articulates the Secretariat of Federal Revenue's organisational mission and vision, and links it to objectives and indicators. As part of the strategic planning process the Secretariat of Federal Revenue renewed its core values: respect for citizens, integrity, loyalty, legality and professionalism. These principles are closely aligned to those articulated in the 1988 Federal Constitution, Federal Law no. 8 027/1990 regarding the Code of Conduct for the Federal Administration and Federal Law no. 8 112/1990 regarding the Federal Public Administration.

The Secretariat of Federal Revenue strategic plan has 23 objectives, each accompanied by performance indicators focusing on results, processes and resources. Currently, 22 of 43 proposed indicators have been developed, among which those for "results" are more developed (see Table B.3). Whereas some indicators are new, many are historic in nature, for example: *i*) index of achieving the overall goal of revenue collection; *ii*) real evolution of revenue collection; *iii*) average waiting time to be attended to/served in tax offices; *iv*) average time for import customs clearance; and *v*) average time for export customs clearance. Information on when the full set of proposed indicators will be ready and operational was not available.

Figure B.4. Brazil's Secretariat of Federal Revenue Strategic Plan for 2009-11



Source: Secretariat of Federal Revenue, Federal Ministry of Finance.

Existing Secretariat of Federal Revenue performance indicators focus more on quantitative than on qualitative metrics. For example, promoting taxpayer education and raising the awareness of taxpayers' rights (Objective 8) is measured by the number of awareness-raising events conducted every semester. Simplification and standardisation of rules and procedures (Objective 13) is measured by the number of public and private tax rulings during a quarter relative to that of the previous quarter as a proxy for the clarity, simplicity and precision of tax rules. A second indicator for this objective, currently being developed, is intended to measure the number of procedures simplified during a specific quarter divided by the number of procedures identified for simplification.

The Secretariat of Federal Revenue proposes to include an indicator to measure standards of conduct among federal tax officials as part of "motivating and engaging tax officials" (Objective 17). It is proposed that this will be achieved using an organisational survey once every two years. Although this survey has been developed, no information was available on its design. Surveys are recognised as an effective way to assess the

adoption of standards of conduct by public officials in OECD member countries. Surveys of federal tax officials may also be complemented by focus group discussions or by surveying other actors such as taxpayers. Input from taxpayers can help to avoid conflating outputs and outcomes that can take place using internal surveys. However, it must be recognised that one of the critical weaknesses of surveying taxpayers is the need to distinguish between perceptions of and actual experiences. Failure to do so runs the risk of such a survey being captured by public perception regardless of actual practices.

Objectives and goals are supported by strategic initiatives at various levels within the Secretariat of Federal Revenue. National (or level 1) initiatives are led by the Secretary (i.e. the head of the Secretariat). These are supported by level 2 initiatives managed by the Inspector of Administrative Discipline, the various general and special co-ordinators, and level 3 initiatives by regional Federal Secretariat of Revenue offices and the tax courts. To maintain focus and supporting monitoring, the total number of initiatives is capped at six, four and eight, respectively. The Office of Planning, Organisation and Institutional Assessment supports the process, providing guidance and technical support on project management and assessing the management of strategic initiatives. A Projects Division was established in 2009 under the general co-ordinator to provide dedicated resources for project monitoring and evaluation.

**Table B.3. Indicators for monitoring Brazil's Secretariat of Federal Revenue Strategic Plan**

As of December, 2010

Objectives	Number of indicators proposed	Number of indicators developed
<b>Results</b>		
1. Mobilise state resources	1	1
2. Contribute to Brazil's socio-economic development	1	0
3. Increase the performance and fiscal legitimacy of the tax system	1	1
4. Provide integrated taxpayers services	4	1
5. Enlarge the tax base	1	1
6. Strengthen foreign trade	2	2
<b>Processes</b>		
7. Enhance electronic services	1	1
8. Promote taxpayer education and raise awareness of taxpayers' rights	1	1
9. Improve tax processing and controls and enhance credit availability	4	1
10. Enlarge the tax base and target evasion	4	4
11. Perform effective and timely customs control	2	2
12. Improve external communication	4	1
13. Simplify and standardise rules and procedures	2	1
14. Support the formulation of tax and customs policies	2	0
15. Develop taxpayer profiles	1	1
16. Strengthen relationships with institutional partners	2	0
<b>Resources</b>		
17. Motivate and engage tax officials	1	0
18. Develop competencies	2	2
19. Strengthen national presence and human resources	1	0
20. Integrate and promote officials	1	0
21. Provide integrated solutions and align them with needs	1	0
22. Modernise infrastructure and enhance technological capabilities	2	0
23. Optimise resource application	2	2
<b>Total</b>	<b>43</b>	<b>22</b>

Source: Secretariat of Federal Revenue, Federal Ministry of Finance.

***The Secretariat of Federal Revenue considers itself to be well resourced relative to other federal public organisations***

There are approximately 27 000 officials within the Secretariat of Federal Revenue (see Table B.4A). Some 22 000 of these officials are located in municipal offices, 3 500 in state offices and 1 500 in the headquarters in Brasília. Moreover, the Federal Ministry of Finance – in which the Secretariat of Federal Revenue is located – reports to have among the highest qualified officials within the federal public administration. Over 70% of Federal Ministry of Finance officials have higher education qualifications compared to 64% in the Federal Ministry of Foreign Affairs and, at the other end of the spectrum, 5% in the Federal Ministry of Sports. The high level of education among federal tax officials is considered to have a positive impact on the secretariat’s strategy to modernise its management practices, enhance integrity and prevent corruption.

The Secretariat of Federal Revenue has begun implementing competency management. Competencies are mapped to four areas of specialisations: *i*) customs; *ii*) tax policy and administration; *iii*) tax audit; and *iv*) tax appeals. Competency management is supported by the Secretariat of Federal Revenue’s Training and People Development Programme (*Programa de Capacitação e Desenvolvimento de Pessoas*). This programme aims to renew and refine the skills and knowledge used by federal tax officials in conducting their duties through an annual assessment of training and development needs. The 2010 OECD Review of Human Resource Management in Government in Brazil notes that competency management is still in its infancy, having only been introduced in 2006. Only half, 13 of 24, of federal ministries have begun competency mapping (OECD, 2010b).

Table B.4B presents the annual budget appropriation of the Secretariat of Federal Revenue. A lump-sum appropriation for operating expenditure grants the Secretariat of Federal Revenue a high degree of budget flexibility. However, much of its budget is absorbed by information technology and other services.<sup>4</sup> The Secretariat of Federal Revenue has reportedly developed two performance indicators to measure its budget performance: a quarterly index of the cost of revenue collection; and a monthly ratio of budget execution. Information performance against these two indicators was not available.

**Table B.4. Resourcing within Brazil’s Secretariat of Federal Revenue**

A. Public officials							
Category	2001	2005	2006	2007	2008	2009	2010
Advisory and management officials	850	898	898	1 323	1 317	1 317	1 317
Other public officials	16 635	16 769	18 911	23 074	24 196	25 369	25 450
Total active public officials	17 485	17 667	19 809	24 397	25 513	26 686	26 767
Retirees and pensioners	11 358	11 245	10 840	10 518	10 239	10 418	10 915
Total public officials	28 843	28 912	30 649	34 915	35 752	37 104	37 682

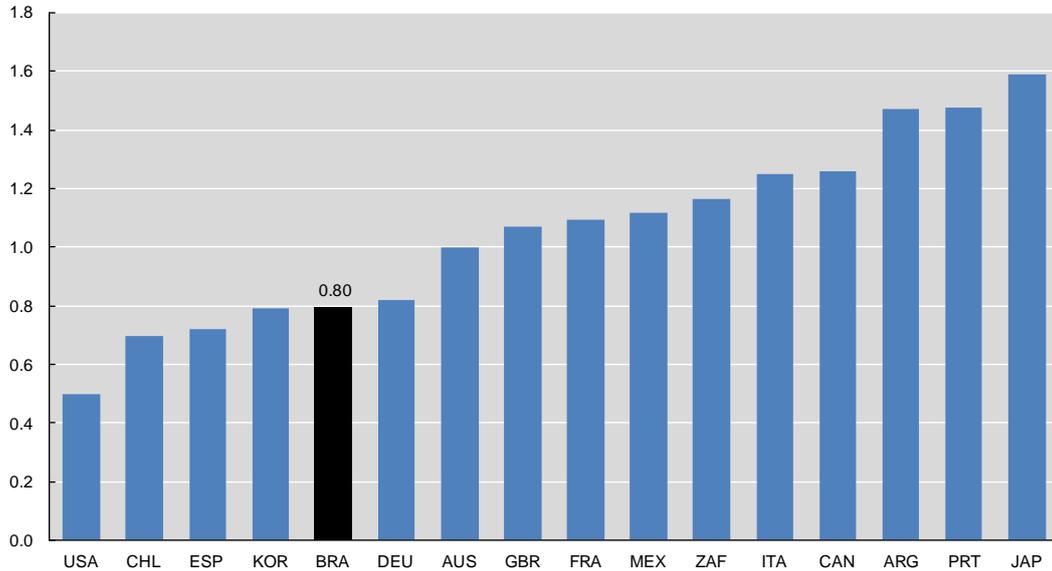
  

B. Budget appropriation (in millions BRL)							
Type	2001	2005	2006	2007	2008	2009	2010
Personnel	34.0	2 155.7	2 322.3	3 847.4	4 575.9	5 189.2	4 966.3
Material	881.7	1 530.0	1 597.3	1 971.4	2 050.4	2 371.5	2 250.0
Capital	68.2	299.6	272.9	151.6	100.3	130.9	176.6
Other	2 932.5	26.2	19.7	15.7	12.9	15.0	13.3
Total	3 916.4	4 012.5	4 212.2	5 986.1	6 739.5	7 706.6	7 406.2

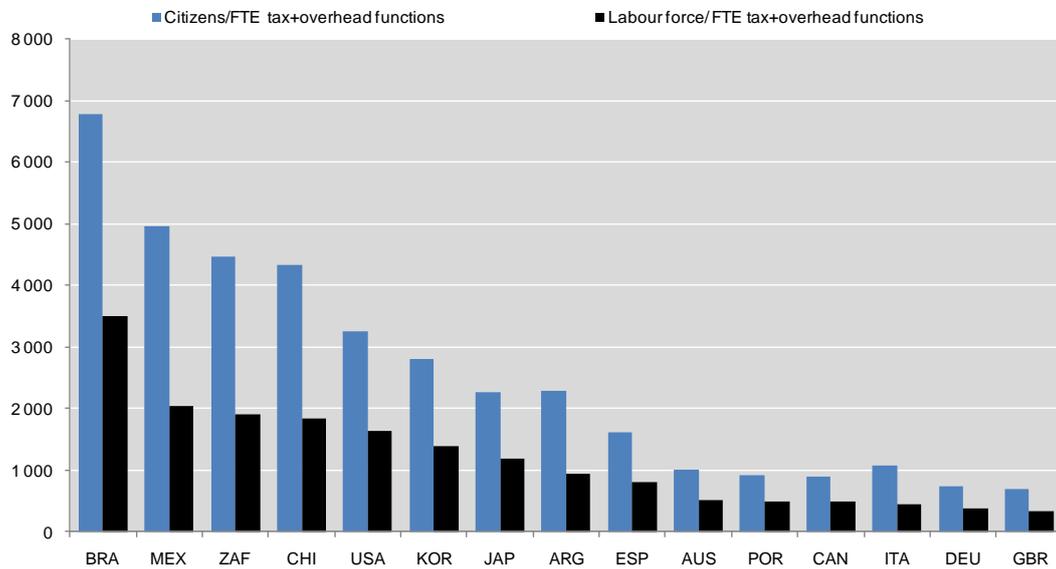
Source: Secretariat of Federal Revenue, Federal Ministry of Finance.

Figure B.5. Efficiency of the tax administration

A. Average tax administration efficiency, 2004-07  
Ratio of administrative cost to net revenue collected, % of GDP



B. Staff-related efficiency measures, 2008  
Ratio of full-time equivalent (FTE) and overhead functions to different measures of population



Source: Adapted from OECD (2009), *OECD Economic Surveys: Brazil 2009*, OECD Publishing, Paris, [http://dx.doi.org/10.1787/eco\\_surveys-bra-2009-en](http://dx.doi.org/10.1787/eco_surveys-bra-2009-en) and OECD (2009), *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

Brazil’s federal tax administration is relatively efficient in comparison with OECD member countries when measured using the ratio of administrative costs to net revenue

collection and the ratio of full-time equivalent tax officials to citizens – conventional albeit rudimentary indicators (see Figure B.5).<sup>5</sup> Low administrative costs stem, in part, from the lean organisational structure of the Secretariat of Federal Revenue and its extensive use of e-government tools for tax filing and payments. Almost all personal income tax, corporate income tax and state value-added tax (*Impostos Sobre Circulação de Mercadorias e Prestação de Serviços*) is filed electronically. Several features of the Brazilian tax code also contribute to efficiency, despite its complexity, such as the presumptive regime for collecting indirect taxes at the manufacturing stage of production, specifically in sectors with a small number of producers. The consolidation of the management of social security contributions into the Secretariat of Federal Revenue in 2007 is likely to result in further efficiency gains.

### **Promoting transparency and taxpayers' rights**

Promoting transparency is considered essential for enhancing the accountability and external oversight of public organisations (see e.g. OECD, 2001; 2003a; 2005a; 2009d). In addition, the role of transparency in fighting corruption is recognised in international conventions against corruption.<sup>6</sup> Transparency provides citizens with information to oversee and evaluate government decision making, public policies and service delivery. Increasingly, OECD member countries are adopting proactive transparency to provide citizens with immediate access to public information and to avoid the cost of engaging in administrative procedures to access the information. These same countries are recognising the inherent risks associated with increasing transparency and citizen engagement. Like any actions undertaken by the government, careful risk management is required. These risks can inadvertently undermine public governance and trust in government.

Transparency is also a key issue for tax authorities. Taxpayers must have a high degree of trust in their dealings with tax authorities. This can only be achieved when tax laws, regulations and procedures are made publicly available, easily accessible and consistently applied. Informing taxpayers of their rights and obligations, as well as the avenues available for redress, narrows the scope of possible misconduct by tax officials and supports taxpayers in paying the right taxes on time. An unbiased, quick and transparent appeal process also provides a channel for redress against administrative decisions and helps taxpayers develop trust in the overall system.

#### ***The Secretariat of Federal Revenue established a Transparency Programme in 2002 to institutionalise the disclosure of information***

The Secretariat of Federal Revenue Transparency Programme emphasises making information on the tax system and general tax administration publicly available. Information specific to the tax system includes tax legislation and rules, details on processing tax declarations and payments and indicators on the performance of revenue collection. General administrative information relates to the Secretariat's management of human resource, procurement and administrative contracts and administrative agreements (*convênios*), as well as annual management reports and financial accounts. This information is disseminated through the Secretariat of Federal Revenue website: the Receitanet ([www.receita.fazenda.gov.br](http://www.receita.fazenda.gov.br)). Each secretariat division is responsible for maintaining up to date information online. Compliance is monitored by the Service Coordination Division (*Coordenação Atendimento*).

Information on Receitanet, however, is not kept up to date. For example, the Secretariat of Federal Revenue's annual management reports and annual financial accounts were available only for fiscal years 2000-02 and 2005-07 at the time this case study was written. A periodic review of Receitanet content and its use could help to reaffirm the Secretariat of Federal Revenue's commitment to transparency.

Receitanet is complemented by Receitafone: an automated phone service that provides convenient and secure information to taxpayers. The Receitafone plays a vital role in promoting transparency given the relatively low level of Internet penetration in Brazil. According to the Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística*), only 35% of Brazil's population had access to the Internet in 2008. Though this has increased from 20% in 2005, it is still far below many OECD member countries. In comparison, Internet penetration is over 90% in Korea and around 40-45% in Portugal and Spain. Brazil's figures are more on par with Chile (32%) but much higher than in Mexico (10%) (OECD, n.d.). As in many Latin American countries, the adoption of mobile technologies has largely outpaced the Internet in Brazil. In 2008, more than 50% of Brazil's population had mobile phones, whereas this number was below 35% in 2005.

Even citizens with Internet access rarely use it to access government services and information online. A 2009 survey by the Brazilian Internet Steering Committee noted that only 27% of Brazilians surveyed had used the Internet during the previous 12 months to obtain information on taxes (27% in urban areas and 21% in rural areas) (CGI, 2010).

*The Secretariat of Federal Revenue's Transparency Programme has been shaped by government-wide initiatives to promote expenditure transparency*

As part of these initiatives, the Secretariat of Federal Revenue has created a dedicated transparency page ([www.receita.fazenda.gov.br/transparencia](http://www.receita.fazenda.gov.br/transparencia)) containing information on its budget expenditure. Information contained in the transparency page has been standardised by the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management. Transparency pages are required to include information on: *i*) general budget expenditure; *ii*) procurement and administrative contract expenditure; *iii*) administrative and transfer agreement expenditure; and *iv*) travel and *per diem* expenditure. Data available on the transparency page are automatically extracted and published from existing government back-office management information systems, removing the need for any specific action by federal public organisations to publish information. In addition, transparency pages are required to include a glossary and to use easy-to-understand language.<sup>7</sup>

Standardisation of the transparency pages by the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management means that the Secretariat of Federal Revenue's page is identical in appearance and content to the transparency pages of these and over 400 other federal public organisations. Standardisation and compliance with the transparency page requirements across the federal public administration is achieved because almost all transparency pages are managed by the Office of the Comptroller General of the Union.

In addition to the Secretariat of Federal Revenue transparency page, information on government budget execution is publicly available through the Transparency Portal of the Federal Public Administration ([www.portaldatransparencia.gov.br](http://www.portaldatransparencia.gov.br)). Established in 2004, the Transparency Portal provides free real-time access to information on revenue and expenditure as a basis to support direct social control of federal government programmes.

Access to the portal is available without registration or password. As in the case of the Secretariat of Federal Revenue's transparency pages, data are automatically extracted and published on the portal from existing management information systems. Since May 2010, revenue and expenditure data are updated daily.

Whereas most OECD member countries do not have an online government budget execution reporting system, Brazil has three – raising some questions concerning duplication. In addition to the Transparency Portal, two other portals exist within the federal government for monitoring federal government budget expenditure: *i*) SIGA Brasil (meaning “to follow up” in Brazilian Portuguese) is run by the Federal Senate (*Senado*); and *ii*) *Fiscalize* (meaning “to monitor”) is run by the Chamber of Deputies (*Câmara dos Deputados*). There are two portals within the legislature due to co-existing budget research units within the two chambers of the National Congress (i.e. the Federal Senate and Chamber of Deputies).

A strong publicity campaign and emphasis on usability by the Office of the Comptroller General of the Union, however, has positioned the Transparency Portal as the most well-known online government budget execution reporting system. The Transparency Portal features a direct mail system that allows citizens to receive email notifications on specific revenue and expenditure data. This system began with about 1 500 subscribers in April 2007 and has increased to more than 34 500 subscribers in December 2010. Information on the Transparency Portal is also available through a quarterly bulletin produced by the Office of the Comptroller General of the Union since December 2008. The bulletins provide statistics on access as well as new features available through the Transparency Portal. It also includes select information on actions and results of other transparency policies of the federal government.

Finally, the Office of the Comptroller General of the Union, together with the Secretariat for Social Communication (*Secretaria de Comunicação da Presidência*) of the Office of the President of the Republic, has released three television commercials as part of a campaign titled “The Right to Know.” These commercials were televised 550 times during different time slots between August 2009 and January 2010 on 18 open and cable television channels. In addition, information on the Transparency Portal is disseminated by press releases and in the federal government's interaction with the media.

#### *The Secretariat of Federal Revenue Transparency Page and the Transparency Portal contribute to budget transparency*

Brazil has long been recognised for the strength of its budget transparency in comparison to both OECD member countries and other emerging economies (see e.g. IMF, 2001; Blöndal *et al.*, 2003; IBP, 2006, 2008, 2010). Brazil's Law on Fiscal Responsibility is similar in many respects to fiscal responsibility legislation that exists in a number of OECD member countries. For example, Australia's Charter of Budget Honesty Act 1998, New Zealand's Fiscal Responsibility Act 1994 and the United Kingdom's Code for Fiscal Stability 1998. Brazil's Law on Fiscal Responsibility includes an obligation for the federal government to publicly disseminate, including electronically *i*) the four-year Pluri-Annual Plan (*Plano Plurianual*); *ii*) the three-year Budget Guidelines Law (*Lei de Diretrizes Orçamentárias*); *iii*) the draft Annual Budget Law (*Projeto de Lei Orçamentária Anual*); *iv*) the Annual Budget Law (*Lei Orçamentária Anual*); *v*) in-year budget execution reports; and *vi*) year-end government accounts.

Some with access to the Secretariat of Federal Revenue Transparency page and the Transparency Portal, however, have found their usability and functionality challenging. For example, they do not offer the possibility to search more than one year in order to allow for time-series analysis. Nor do they allow users to generate graphs for analysis. Supporting citizens to do additional analysis can contribute to better accountability and control. In the immediate future, the portal could be changed to allow online comparisons of revenue and expenditure data across years. Revenue and expenditure data from the Secretariat of Federal Revenue Transparency Page and the Transparency Portal could also be made downloadable. At the time this case study was written, the Office of the Comptroller General of the Union was considering making data from the Transparency Portal downloadable. In the medium-term, online analytic tools could be developed and expenditure data could be complemented with non-financial performance data. This could be supported, in part, by the launch of the Cost Information System of the Federal Public Administration (*Sistema de Informação de Custos na Administração Pública Federal*) discussed in the part “Implementing risk-based internal control”.

#### Box B.1. The impact of Receitanet on public trust in the federal tax administration

Avgerou *et al.* (2006) examined the contribution of Receitanet to build citizen trust in government drawing upon individual and group interviews with Brazilian citizens and a study of government documents. They found that making the filing and payment of tax obligations more convenient through Receitanet does not have a significant positive impact on public trust in Brazil. This was explained because Receitanet has no direct influence on the large majority of Brazilians who are poor and have no experience of the benefits associated with using the portal. Rather, public trust is shaped more by perceptions of fairness of the tax system. In Brazil, the tax system is perceived as deeply unfair, obliging hardworking salaried earners to bear the burden of development while leaving the rich relatively untouched.

*Source:* Adapted from Avgerou, C., C. Ciborra, A. Cordella, J. Kallinikos, and M. Longshore Smith (2006), “E-Government and Trust in the State: Lessons From Electronic Tax Systems in Chile and Brazil”, *Department of Information Systems Working Papers Series*, No. 146, London School of Economics, London, <http://is2.lse.ac.uk/wp/pdf/wp146.pdf>.

*Measuring the impact of these government-wide transparency initiatives is the responsibility of the Office of the Comptroller General of the Union*

Rather, this is the responsibility of the Office of the Comptroller General of the Union. It measures the average time spent on the Transparency Portal as well as its bounce rates (i.e. the percentage of visitors leaving the site after viewing only the page on which they landed), pages per visit, number of visitors, most demanded queries, among other data. Access numbers have been used to identify demands for different queries and the depth of information researched by users. This analysis allows web managers to prioritise the most requested information in the layout of the site. Bounce rates can be used to improve the frequently asked question section, for example. The current measures do have limitations, however. The Office of the Comptroller General of the Union notes that more detailed monitoring of the use of the Transparency Portal would require registration and passwords and that this may result in diminished use. Information on the use of the Secretariat of Federal Revenue’s transparency page was not available. The Secretariat of Federal Revenue does not itself measure the impact of its transparency programme.

While the Office of the Comptroller General of the Union has decided not to introduce registration and passwords that could support monitoring activities, a number of other channels are available. For example, and as mentioned above, there are currently more than 30 000 subscribers to the Transparency Portal direct mailing system (as of July 2010). They could be periodically surveyed, using online instruments, on their use of the Transparency Portal and the transparency pages of the federal public administration. This would allow an assessment of existing users but not necessarily those that do not use the portal. Capturing such information could be achieved by working in partnership with other organisations that conduct annual household surveys of the use of e-government or information and communications technologies more generally. Such partnerships have the potential to reduce the cost of surveys while capturing the views of citizens that do not currently use, or are not necessarily aware of, the transparency page and Transparency Portal.

***The Secretariat of Federal Revenue – and broader Federal Ministry of Finance – is changing its transparency policy to focus on service delivery***

In July 2010, the Federal Ministry of Finance published a Charter of Citizens' Services that covers the Secretariat of Federal Revenue.<sup>8</sup> Almost all OECD member countries have established taxpayers' rights in one form or another using a combination of legislation and administrative documents, the latter sometimes referred to as taxpayer charters (see Table B.5). Charters provide a framework in which public organisations are able to change the culture of their relations with citizens and a means by which the performance of the public organisation may be measured and benchmarked over time.

Table B.5. **Articulation of taxpayers' rights**

Not articulated	In legislation only	In administrative tax documents only	In both legislation and administrative tax documents
Argentina, United Kingdom <sup>1</sup>	<b>Brazil (2009)</b> , Germany, Japan	South Africa	Australia, <b>Brazil (2010)</b> , Canada, Chile, France, Italy, Korea, Mexico, Portugal, Spain, United States

Notes: 1. United Kingdom: consultation on a taxpayer's charter was announced in 2008.

Source: Adapted from OECD (2009), *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

The move to establish a charter within the Federal Ministry of Finance is in compliance with efforts led by the Secretariat of Public Management within the Federal Ministry of Planning, Budget and Management. Since 2009, all federal public organisations are obliged to publish a Charter of Citizens' Services as a means of orienting their activities to better serve citizens and to promote accountability.<sup>9</sup> The Charter of Citizens' Services is one element of Brazil's National Programme for Public Management and De-bureaucratisation (*Programa Nacional de Gestão Pública e Desburocratização*) and the development of a Model of Excellence in Public Management (*Modelo de Excelência em Gestão Pública*).<sup>10</sup> As part of the National Programme for Public Management and De-bureaucratisation, the Federal Ministry of Planning, Budget and Management is also to provide public organisations guidance on: *i*) evaluating quality and user satisfaction; *ii*) measuring performance and developing performance indicators; and *iii*) simplifying internal management protocols and procedures. By the end of October 2010, however, only eight federal public organisations had published a charter.<sup>11</sup>

Information contained in the transparency page has been regulated by the Federal Ministry of Planning, Budget and Management. Charters are required to include: *i)* the types of services provided and ways citizens may access them; *ii)* the necessary documentation and information to be provided by citizens to access services; *iii)* the main steps and maximum time for the delivery of services; and *iv)* channels through which the Secretariat of Federal Revenue communicates with citizens. Two additional obligations exist in relation to the Charters of Citizens' Services. First, federal public organisations are obliged to access information from existing official federal government databases where available instead of from citizens, as a means of cutting red tape. Second, these public organisations are obliged to evaluate user satisfaction of their services and to publish the results of these surveys on an annual basis.

The current Charter of Citizens' Services go beyond the basic rules of protecting citizens' rights and supporting service delivery outlined in Federal Law no. 9 784/1999 regarding Public Administrative Procedures. This law outlines the principles that the federal public administration should recognise, including legality, proportionality, morality and efficiency. Federal Law no. 9 784/1999 gives citizens the right to be treated with respect by public officials and to be informed of administrative proceedings in which they have an interest. Moreover, it obliges taxpayers to provide truthful information in good faith, to be courteous and to divulge all necessary information and comply with requests for clarification when interacting with the federal public administration.

*The Secretariat of Federal Revenue's charter has been launched in parallel with changes to the Virtual Taxpayer Service Centre*

Beginning in 2009, the Secretariat of Federal Revenue has sought to expand service delivery by making available a Virtual Taxpayer Service Centre (*e-Centro de Atendimento ao Contribuinte*) for Brazil's 25 million individual taxpayers. Previously, only corporate taxpayers had access to this online service. This has been accompanied by a new layout of Receitanet, delineating services for companies and individuals to facilitate navigation and better target and structure information. Additional tools have been launched allowing individual taxpayers to monitor the processing of their tax filing and refunds using SMS. By the end of 2009, approximately 5.5 million users (1.6 million corporate and 3.9 million individual taxpayers) were using the Virtual Taxpayer Service Centre. This is intended to further minimise the need for taxpayers to visit Brazil's Taxpayer Service Centres (*Centro de Atendimento ao Contribuinte*).

Beginning in 2010, additional functionalities have been made available on the Virtual Taxpayer Service Centre. The system can now check tax declarations in real time against information already contained in Secretariat of Federal Revenue and other government systems to identify possible disparities or incomplete information. Where the system identifies possible disparities or incomplete information, it notifies the taxpayer outlining the necessary documentation that must be submitted. The Secretariat of Federal Revenue reports that in 70% of cases, taxpayers are able to resolve the issue online. Where taxpayers are not able to do so, they can schedule an online consultation at the over the counter Taxpayer Service Centres between 7am and 7pm within a 6-month period. The introduction of scheduled appointments at over the counter Taxpayer Service Centres has reduced waiting times by around 35%.

*A number of opportunities exist to strengthen and increase the relevance of the Federal Ministry of Finance's Charter*

The current charter does not explicitly: *i)* commit federal tax officials to maintain professional excellence and high levels of technical knowledge; *ii)* articulate taxpayers' rights and obligations in interacting with the Secretariat of Federal Revenue; *iii)* include information on existing channels of recourse for taxpayers if service standards are not met; or *iv)* establish service standards for the Federal Ministry of Finance Ombudsman in handling taxpayers' complaints. These elements are considered as good practice for service charters in other OECD countries and are achievable in the Secretariat of Federal Revenue. For example, the Federal Ministry of Finance Ombudsman, which serves as the ombudsman for the Secretariat of Federal Revenue, measures its effectiveness through monitoring the reoccurrence of specific reports received and whether proposed actions are adopted or not. In 2010, the Ombudsman sought to improve its effectiveness by reducing the maximum processing time of reports received to 30 days and by improving the quality of its responses to taxpayers.

In revising the current charter, consultation could be used to ensure that the charter is understood and considered relevant to stakeholders' respective needs, as well as to raise awareness of stakeholders' rights and obligations. The Federal Ministry of Finance's charter was prepared over a period of eight months by a working group of 21 officials from different areas within the ministry. It included three Secretariat of Federal Revenue officials working in the ombudsman function. There was no consultation with the general public, businesses, community groups, tax practitioners or other public organisations. Nor was there any formal obligation to hold a consultation. Federal Ministry of Planning, Budget and Management guidance refers to the creation of a "working team" that must have knowledge of the organisation's service delivery processes.

In addition, the Secretariat of Federal Revenue could link disseminating information on the charter to its broader taxpayer education activities. Taxpayer education is a means of disseminating information on taxpayers' rights and obligations, supporting taxpayer compliance and improving integrity within the tax administration. A 2011 review of National Programme for Taxpayer Education (*Programa Nacional de Educação Fiscal*) materials by the Working Group on Taxpayer Education provides a perfect opportunity to do so. The National Programme for Taxpayer Education, established in 1996, aims to raise awareness among citizens about their rights and obligations with respect to taxes and the application of public resources.

There is a need to develop strategies to increase awareness and understanding of the charter's content among federal tax officials. A critical weakness of taxpayer education in Brazil, as identified by the Working Group on Taxpayer Education, has been that federal tax officials themselves are not sufficiently trained on citizens' rights and obligations. As a consequence, federal tax officials have not always had the same understanding as taxpayers. To date, the charter is available on the secretariat's Intranet and publicised through its internal bulletin. Federal tax officials need to receive training on an ongoing basis to support the implementation of the charter. This could be complemented by periodically surveying federal tax officials on their understanding of the charter. This does not necessarily need to be designed as a stand-alone survey and it could also address issues of standards of conduct. In designing such a survey it would be beneficial to capture information about the functions and levels of federal tax officials while keeping respondents' identities anonymous.

*Ultimately, however, trust is created through the effective implementation of the charter and efforts to improve service standards over time*

There is currently no framework in place within the Secretariat of Federal Revenue or the Federal Ministry of Finance to assess the implementation of the charter. This includes efforts for ensuring business process support charter commitments and performance against these commitments. Formally, responsibility for monitoring the implementation of the charter has been placed in the Office of the Comptroller General of the Union. At the time this case study was written, the Office of the Comptroller General was still deciding on what would be the best procedure to monitor the adoption and efficiency of the policy. However, the Secretariat of Federal Revenue and Federal Ministry of Finance could also monitor and evaluate the implementation of the charter and allocate responsibility internally for doing so. In this respect, the Office of the Comptroller General of the Union could serve as a source of independent evaluation of the Secretariat of Federal Revenue’s evaluation activities.

Publicly reporting performance against service standards can also help to support the effective implementation of the Federal Ministry of Finance’s charter. Many tax authorities in OECD member countries publicly report performance against their respective service standards, such as Australia, Canada and Chile (see Table B.6).

**Table B.6. Existence and report of service delivery standards in tax administration**

Formal service delivery standards do not exist	Formal service delivery standards exist but performance against these standards is not made publicly available	Formal service delivery standards exist, with performance against these standards made publicly available
Argentina, Germany	<b>Brazil</b>	Australia, Canada, Chile, France, Italy, Japan, Korea, Mexico, Portugal, South Africa, Spain, United Kingdom, United States

Source: Adapted from OECD (2009), *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

### ***The Federal Ministry of Finance Ombudsman provides a channel for feedback regarding the Secretariat of Federal Revenue and the conduct of tax officials***

Established in 2001, the Federal Ministry of Finance Ombudsman was one of the earlier ombudsman units in Brazil. In 2002, there were 40 ombudsman units within the federal government; in 2010 there were 157, including one in each federal ministry. Many OECD member countries have established a special authority to deal with taxpayer complaints (see Table B.7). This is illustrative of views that the management of taxpayer feedback is critical to both the performance of the tax authority and public trust in it. Feedback can act as an early warning mechanism of future problems and can provide valuable information about an organisation’s performance and taxpayer expectations. An effective feedback management system provides the opportunity to avoid incurring higher costs that can result from the escalation of taxpayer feedback beyond the first point of contact.

**Table B.7. Special authority to deal with taxpayers’ complaints**

Yes	No
Argentina, Australia, <b>Brazil</b> , <sup>1</sup> Canada, France, Italy, Japan, Korea, Mexico, South Africa, Spain, United Kingdom, United States	Chile, Germany, Portugal

Notes: 1. Brazil: Federal Ministry of Finance.

Source: Adapted from OECD (2009), *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

The Federal Ministry of Finance Ombudsman is appointed by the Federal Minister of Finance. Only in a small number of public organisations in Brazil, such as regulatory agencies, are ombudsman nominated by the President of the Republic and approved by the Federal Senate. In 2010, 189 federal tax officials were working in the ombudsman function: 4 in each Secretariat of Federal Revenue sub-secretariat and 1 in each regional tax office. In comparison to other ombudsman units within the federal public administration, the Federal Ministry of Finance Ombudsman is relatively large. In 75% of federal public organisations ombudsman units have fewer than 6 officials. The largest ombudsman unit is located in the Federal Ministry of Health Ombudsman with 272 officials. However, only 15 of the officials in the Secretariat of Federal Revenue's ombudsman function work on a full-time basis in the ombudsman function.

Within the various tax regions, the ombudsman function is integrated in the Taxpayer Education Unit but not directly linked to the Tax Superintendent (i.e. the head of the regional Secretariat of Federal Revenue office). Senior Secretariat of Federal Revenue officials acknowledged this as a weakness and plan to change these reporting relations in the future.

*The Federal Ministry of Finance Ombudsman is part of the Ombudsman System of the Federal Public Administration*

The Ombudsman System of the Federal Public Administration is headed by the Office of the Ombudsman General of the Union (*Ouvidoria-Geral da União*) located within the Office of the Comptroller General of the Union. As the central unit of the system, the Ombudsman General of the Union also provides guidance to ombudsman units by facilitating the exchange of information and articulating good practices. The Office of the Ombudsman General of the Union includes 24 officials (including 8 contractors and interns) with a budget of BRL 350 000 (USD 210 000; EUR 150 000). Within the Ombudsman General of the Union, an ombudsman relations unit manages training for public officials working in ombudsman units and develops educational programmes to promote direct social control. In 2009, the Office of the Ombudsman General of the Union held its first annual ombudsman workshop. The workshop was technical in nature with 80 participants from ombudsman units of federal public organisations.

Brazil's Ombudsman General of the Union together with the ombudsman units function as organisational ombudsmen (or a citizen's relations unit) rather than a classical (parliamentary) ombudsman as found in many OECD member countries. An organisational ombudsman provides an alternative means of dispute resolution. In this regard, both the Ombudsman General of the Union and ombudsman units have only informal methods for helping to resolve complaints or reports by citizens. They do not have any powers of investigation or organisational independence from the management of the public organisation to which they are attached. Rather, it is the Office of the Federal Public Prosecutor that fills the responsibility of a classical ombudsman in Brazil through its public-interest litigation function. Consumer rights and environmental issues have been top priorities in protecting the public interest. Moreover, the Office of the Federal Public Prosecutor can intervene proactively in court to protect individual and collective

rights and interests. If criminal behaviour is present, federal public prosecutors can also bring the alleged offenders to court.

The Ombudsman General of the Union does not establish common procedures or minimum standards for ombudsman units within federal public administration organisations. To encourage better case management within ombudsman units, one option would be for the Office of the Ombudsman General of the Union to provide tools to help ombudsman units manage interactions with citizens.

*Taxpayer feedback is channelled through the central unit of the Federal Ministry of Finance Ombudsman in Brasília by post, telephone or the Internet*

When lodging a report using the Internet, taxpayers are provided with the option to select how they would like to be updated on the progress of their report, either by email or post. Taxpayers are requested to provide information on their identity, including whether they are a current or former Federal Ministry of Finance official. While anonymous reports are accepted and processed, they may not constitute sufficient evidence to trigger an investigation. The Federal Ministry of Finance Ombudsman does not publish a statement on its website or elsewhere informing citizens that filing complaints will not result in discrimination. Fear of retribution can be a powerful disincentive for citizens considering making a complaint. In order to attempt to eliminate fear of retribution, the Secretariat of Federal Revenue could inform taxpayers that they will not be discriminated against as a result of filing a complaint. This could be built into training guidelines and procedural documentation for ombudsman officials.

Upon receiving reports from taxpayers, the Ombudsman classifies them by “message type” (i.e. complaint, compliment, request for information, etc.) and “type of service” to allow for their effective handling. The reports are distributed to the representatives of the ombudsman in the respective units of the Secretariat of Federal Revenue headquarters or its regional units, as appropriate. Reports received related to possible ethical breaches and administrative misconduct by federal tax officials are automatically forwarded to the ethics committee and Secretariat of Federal Revenue Inspectorate of Administrative Discipline, respectively. Where reports of possible ethical breaches and administrative misconduct relate to a high public official (i.e. federal ministers, executive secretaries and secretaries, together with other level 6 managerial and supervisory officials), reports are forwarded to the Public Ethics Commission or the Office of the Inspector General of Administrative Discipline, respectively. Reports pertaining to the misuse of public funds are forwarded to the Secretariat of Federal Revenue Office of Internal Audit.

Ombudsman officials within the Secretariat of Federal Revenue are responsible for monitoring the resolution of reports forwarded to them by the central ombudsman unit in the Federal Ministry of Finance. As noted previously, the Federal Ministry of Finance Ombudsman has sought to improve its effectiveness by reducing the necessary time for processing reports and to improve the quality of responses to taxpayers. In May 2010, only two regional ombudsman offices could not process reports within the 30-day target. This figure compares to an average response time of approximately 53 days a year earlier. A proposal is still under development to improve the quality of responses through training, case studies and standardised responses. This is especially relevant for requests for information, which represent nearly 50% of messages received by the Ombudsman.

*The Federal Ministry of Finance Ombudsman publishes monthly reports on the Secretariat of Federal Revenue's interactions with taxpayers*

The first monthly activities report was published by the Federal Ministry of Finance Ombudsman in 2002. The report was revamped in 2005 to provide more detailed information, including comparisons between the Secretariat of Federal Revenue and other Federal Ministry of Finance secretariats and the ministry as a whole. Complaints and requests for information are the main issues handled by the Federal Ministry of Finance Ombudsman with respect to the Secretariat of Federal Revenue, accounting for 50% and 33% respectively. The Secretariat of Federal Revenue accounts for a large share of the issues handled by the Federal Ministry of Finance Ombudsman. Complaints against the Secretariat of Federal Revenue account for 84% of total complaints against the Federal Ministry of Finance; requests for information account for 56% of total requests. The monthly report also presents the status of interactions with citizens. Nearly all (99%) of the more than 210 000 cases filed with the Federal Ministry of Finance Ombudsman regarding the Secretariat of Federal Revenue between February 2009-10 were resolved.

There is further scope for improving reporting by the Federal Ministry of Finance Ombudsman, particularly in relation to the quality of the “resolution” and in relation to requests for information. For example, ombudsman reports do not provide any indication how requests for information are resolved (e.g. full information provided, partial information provided), the time taken to conclude interaction with citizens, the “type of service” or organisational unit they relate. In some cases this information is already available internally, such as the average time for processing reports and responding to taxpayers and “type of service”. Similarly, given that a large number of interactions regard requests for information, it is not clear whether the information is provided by the Secretariat of Federal Revenue. Not providing requested information because the information is unavailable, for example, may be classified as a “concluded” response. Moving forward, the Ombudsman should link monitoring to the Charter of Citizens’ Services. OECD member countries collect far more detailed information on the status of processing feedback from citizens.

**Table B.8. Federal Ministry of Finance Ombudsman statistics and analysis**

Horizontal and vertical analysis of the Secretariat of Federal Revenue compared to the Federal Ministry of Finance, February 2010

Type of citizen interaction	Previous month					Previous 12 months				
	Secretariat of Federal Revenue			Federal Ministry of Finance		Secretariat of Federal Revenue			Federal Ministry of Finance	
	Quantity	Vertical analysis (%)	Horizontal analysis (%)	Quantity	Vertical analysis (%)	Quantity	Vertical analysis (%)	Horizontal analysis (%)	Quantity	Vertical analysis (%)
Accusation	279	7.6	75.0	372	7.8	17 224	8.0	42.6	40 465	12.3
Not classified	0	0.0	0.0	0	0.0	1 941	0.9	68.2	2 847	0.9
Suggestion	64	1.8	88.9	72	1.5	14 114	6.6	54.7	72	7.8
Compliment	36	1.0	87.8	41	0.9	2 318	1.1	63.2	41	1.1
Complaint	1 408	38.6	91.1	1 546	32.5	108 086	50.3	84.0	1 546	39.8
Information request	1 863	51.0	70.6	2 638	55.4	71 104	33.1	55.6	2 638	55.4
Total	3 650	100.0	82.7	4 762	100.0	214 787	100.0	65.2	4 762	100.0

Status										
Registered	0	0.00	0.0	84	1.8	0	0.0	0.0	85	0.0
Concluded	2 346	64.3	72.7	3 227	67.8	211 869	98.6	65.7	322 260	97.9
Ongoing	1 304	35.7	90.4	1 443	30.3	1 563	0.7	39.0	4 007	1.2
Excluded	0	0.0	0.0	8	0.2	1 355	0.6	45.8	2 957	0.9
Total	3 650	100.0	76.7	4 762	100.0	214 787	100.0	65.2	329 309	100.0

Source: Federal Secretariat of Revenue Ombudsman, Federal Ministry of Finance.

### *Administrative appeal and review structures have been consolidated to improve timely redress for taxpayers*

Taxpayers may appeal tax decisions to the Secretariat of Federal Revenue Judgement Precincts (*Delegacias de Julgamento*) within the Secretariat of Federal Revenue itself. Precincts, of which there are 17 spread across Brazil's 10 tax regions, have the power to analyse and waive taxpayer debt. The period for filing administrative appeals may not exceed 30 days. Administrative appeals do not suspend the collection of tax liabilities. If a precinct rules against the taxpayer in favour of the government, taxpayers may subsequently appeal the decision to the Administrative Council of Tax Appeal (*Conselho Administrativo de Recursos Fiscais*).<sup>12</sup> Specific appeals may be directed to the Superior Chamber of Tax Appeals (*Câmara Superior de Recursos Fiscais*). This authority typically deals with issues that do not have any legal or procedural precedence. Thus, it serves to take decisions that may possibly create procedural norms and regulations.

Table B.9. **Dedicated appeals dispute function within the tax authority**

Yes	No
Argentina, Australia, <b>Brazil</b> , Chile, Germany, Italy, Japan, Korea, Mexico, Portugal, South Africa, United Kingdom, United States	France, Spain <sup>1</sup>

Note: 1. Spain: the Tax Appeals Courts (central and regional level) are part of the Ministry of Finance, independent of the tax authority.

Source: Adapted from OECD (2009) *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

The Administrative Council of Tax Appeal, established in mid-2008,<sup>13</sup> combined the earlier first, second and third Taxpayers' Councils (*Conselho de Contribuintes*) into a single body as the focal point of all administrative tax appeals. Previously, the three levels of taxpayers' councils had different administrative structures but overlapping tasks and workflows. The creation of the Administrative Council of Tax Appeal aims to rationalise administrative processes and increase efficiency. The council receives an average of 3 000 appeals per month worth around BRL 80 million. It decides on approximately 300 appeals every month. Older appeals have priority but other criteria are considered as well such as appeals made by elders or people with serious illness, appeals of high value and those related with criminal acts. The Superior Chamber of Tax Appeals receives an average of 550 appeals every month, of which only around 220 are admitted. It decides on around 250 appeals every month. Performance standards have been established in the Charter of Citizens' Services but information was not available on actual performance against these standards as in many OECD member countries.

Table B.10. Selected features of tax disputes of assessment or rulings

	Administrative review				Existence of special tax court	Collection of disputed tax	
	Mandatory before court review	Initial appeal period	Legal decision period	Performance standards exist		Possible during administrative review	Possible during court review
Argentina	o	15 days	15 days	●	●	o	●
Australia	●	Various <sup>1</sup>	Limited <sup>1</sup>	● <sup>1</sup>	o <sup>1</sup>	●	●
<b>Brazil</b>	o	30 days	–	●	o	●	●
Canada	●	90 days	90-180 days <sup>2</sup>	● <sup>2</sup>	●	In certain cases	In certain cases
Chile	o	60 days	6 months	● <sup>3</sup>	o	o	●
France	●	– <sup>4</sup>	6 months	–	o	– <sup>4</sup>	●
Germany	●	1 month	None	o	o	●	●
Italy <sup>5</sup>	N/A	N/A	N/A	N/A	●	N/A	●
Japan	●	2 months <sup>6</sup>	–	● <sup>6</sup>	o	●	●
Korea	●	90 days	90 days	o	o	●	●
Mexico	o	45 days	3 months	● <sup>7</sup>	●	●	●
Portugal	o	30 days	6 months	o	●	●	●
South Africa	●	30 days <sup>8</sup>	60 days <sup>8</sup>	o	●	●	●
Spain	●	–	–	–	●	o	o
United Kingdom	o	30 days	None	None	o	o	● <sup>9</sup>
United States	●	30 days	– <sup>10</sup>	– <sup>10</sup>	●	● <sup>10</sup>	● <sup>10</sup>

Notes: ● = yes; o = no; – = no response; N/A = not applicable

1. Australia: initial appeal period for income tax matters for individuals and small businesses: 2 years; for income tax matters for all other entities: 4 years; for most other reviewable decisions and private rulings: generally 60 days. Extensions to these appeal periods may be granted in some situations: decision period (taxpayers have the ability to expedite proceedings to external review upon request. A deemed unfavourable decision is generally made if, after 60 days from that request, the administrator has not made a decision); target period: objections to private rulings (28 days from receipt of all information to take a decision); other objections (56 days from receipt of all information to take a decision); the Administrative Appeals Tribunal and Federal Court both handle tax appeals in addition to appeals in many other areas of the law. Both bodies have members/judges with tax expertise.

2. Canada: taxpayers have the right to proceed to court if the Canada Revenue Administration does not complete its review within the legislated timeframes. For all Canada Revenue Administration dispute programmes, there is a published service standard requiring the taxpayer to be provided with an initial contact letter within 30 days of receipt of the objection or appeal to the minister. The ability of the Canada Revenue Administration to settle a risk-based dispute is limited to settling solely on the facts of the case. There is no ability to negotiate a settlement based on amounts owed or a taxpayer's ability to pay.

3. Chile: Circular no. 26/2008 regulates the Administrative Review Procedure. It is a special administrative review procedure, initiated at the request of a taxpayer. There is no time limit to make such a request. It can be used when an administrative act has an obvious error. The head of the local legal department is in charge of the procedure and requests a report from a lawyer of his/her own department. The lawyer can ask for the support of an auditor, if necessary. After presenting the report, the head of the legal department has 20 days to give a ruling.

4. France: the time limit is 31 December of the year following the assessment. Risk-based settlement for certain cases. Suspension of payment can be requested during the administrative review.

5. Italy: administrative review is not allowed for tax cases.

6. Japan: two forms of administrative review exist: reinvestigation and reconsideration. The second must be requested within one month after the decision of the first administrative review. Performance standard: requests for reinvestigation must be handled within three months and requests for reconsideration within one year.

7. Mexico: same as the legal decision period (three months).

8. South Africa: extension possible when specified criteria are met.

9. United Kingdom: when a court has found for Her Majesty Revenue and Customs even if further appeal is made.

10. United States: appeal officers are urged to consider tax disputes in a timely manner. Internal Revenue Code 6 501 requires a tax assessment within the statute of limitations. Appeals consideration is finalised before the expiration of the statute of limitations which is generally three years from the due date of the tax return. Internal Revenue Code 7 429 provides for a 16-day time frame to consider a jeopardy levy or assessment. Internal Revenue Code 6 404 provides for interest abatement due to unreasonable errors or delay by the Internal Revenue Service. Whether the Internal Revenue Service unreasonably delayed a tax dispute may be brought before the Tax Court. The Appeals Quality Measurement System (AQMS) is the appeals' quality review organisation. The AQMS review data is used to assess the performance of appeals as an organisation. The review data is compiled, analysed and explained in an AQMS Annual Report. It is also used to identify trends on procedural concerns and training needs. In this way, closed case reviews provide information and benefits to customers, appeals management and appeals employees. Collection during the appeals process is generally possible, except for jeopardy and termination assessments under Internal Revenue Code sections 6 851, 6 852, 6 861, and 6 862.

Source: Adapted from OECD (2009), *Tax Administration in OECD and Selected Non-OECD Countries: Comparative Information Series (2008)*, OECD, Paris, [www.oecd.org/dataoecd/57/23/42012907.pdf](http://www.oecd.org/dataoecd/57/23/42012907.pdf).

### ***The Secretariat of Federal Revenue's Transparency Programme has been implemented in the absence of a comprehensive Freedom of Information Law***

At present, various pieces of primary and secondary legislation define the rights of citizens to request information from the public administration and identify information that cannot be disclosed. For example, Federal Law no. 8 159/1991 defining the National Policy for Public Archives establishes citizens' right to access information contained in administrative documents except those considered vital to national security or that violate the privacy of an individual. Federal Law no. 9 784/1999 regarding Administrative Procedures establishes citizens' right to access and obtain copies of documents containing administrative decisions in which they have a proven interest. Federal Decree no. 4 553/2002 establishes rules for safeguarding information, documents and other materials considered sensitive to the security of the society and the state. More recently, Federal Law no. 11 111/2005 defines the exceptional circumstance for extending the classification of secrecy of a federal public act and establishes the Commission for Investigation and Analysis of Confidential Information (*Comissão de Averiguação e Análise de Informações Sigilosas*) within the Civil House of the Office of the President of the Republic to do so.

However, this legislation is based on traditional notions of passive rather than proactive transparency and does not establish well-functioning mechanisms to process requests for information. Freedom of information legislation is recognised as a key component of good governance. In this regard, the 2004 United Nations Convention Against Corruption urges all governments take necessary measures to enhance transparency in the public administration, including with regard to its organisation, functioning and decision-making processes, where appropriate.<sup>14</sup> Freedom of information legislation exists in all OECD member countries. This figure increased from only 3 (out of 20) OECD member countries in 1961, to 7 (out of 22) in 1970, 13 and 19 (out of 24) in 1980 and 1990 respectively, 24 (out of 28) in 2000 and 34 (out of 34) in 2010.

A Freedom of Information Bill (no. 41/2010) is currently under discussion within Brazil's Federal Senate; it was approved by the Chamber of Deputies in April 2010. This bill replaced an earlier proposal submitted by President Lula in May 2009 and its revisions which benefited from a 2005 study by the Council on Public Transparency and Combating Corruption. The bill, as it currently stands before the Federal Senate, is broad in scope. It covers all three branches of government (the executive – including both the

direct and the indirect public administration – legislative and judiciary) at federal, state and local levels. In addition, all private not-for-profit organisations receiving public funds from the budget or through social programmes, partnerships, etc. will be subject to the freedom of information requirements in connection with those funds.

Concern is often raised that freedom of information legislation is passed without giving sufficient ongoing attention to its implementation. This concern applies equally to countries that have a long history of freedom of information such as Australia, Canada and the United Kingdom (see e.g. Commonwealth Ombudsman, 1999; Australian National Audit Office, 2004; Solomon *et al.*, 2008; New South Wales Ombudsman, 2009; Government of Western Australia, 2010; Government of Canada, 2002; Worthy, 2010).

In preparing for an eventual freedom of information law, the Secretariat of Federal Revenue/Ministry of Finance may consider undertaking a number of preparatory actions. First and foremost, the Secretariat of Federal Revenue/Ministry of Finance could conduct an assessment of its current records and archives management systems. This could be complemented by evaluations of the functioning of existing channels for citizens to request information, through the Federal Ministry of Finance Ombudsman.

Once a freedom of information law is passed attention can focus on internal protocols for the Secretariat of Federal Revenue and Federal Ministry of Finance more generally. Adequate attention and resources will need to be allocated to formulate internal systems and resources to monitor and evaluate the functioning of internal protocols and the effectiveness of responding to citizens requests for information. Finally, and as in the case of the charter of citizens' services, formulation of internal protocols will need to be accompanied with activities to inform managers and officials about the obligations created by freedom of information in order to create a culture of proactive provision of information. These actions will, however, inevitably be shaped by the content of the eventual freedom of information law.

### **Implementing a risk-based approach to internal control**

Internal control is commonly recognised as the set of means put in place to mitigate risks and to provide reasonable assurance that public organisations: *i*) deliver quality services in an efficient manner and in accordance with planned outcomes; *ii*) safeguard public resources against misconduct and (active and passive) waste; *iii*) maintain and disclose through timely reporting, reliable financial and management information; and *iv*) comply with applicable legislation and standards of conduct (see e.g. INTOSAI, 2004). Reasonable assurance is achieved through management systems and practices that mitigate risks and an independent and objective assessment of their functioning. Effective internal control, no matter how well conceived and operated, can provide only reasonable – but not absolute – assurance to decision makers and public managers about the integrity of their organisation's operations. The role of internal control in preventing corruption in public organisations is also recognised in international conventions against corruption.

Implementing a risk-based approach to internal control purports to ensure that control measures are proportionate to the potential vulnerabilities facing individual public organisations. Rather than simply regulating internal practices and procedures, organisations must put in place a systematic process and adequate capability (i.e. knowledge, resources, etc.) to assess and use assessment results to adjust

management systems in a cost-effective manner to prevent risks from (re-)occurring. It also necessitates an *ex post* assessment of risk-mitigating actions, recognising that earlier diagnosis and actions may not always have the desired effect. Although internal auditors can provide valuable input into internal control, the internal auditor should not be a substitute for a risk-based approach to internal control. Finally, to be effective, internal control needs to be integrated with other organisational systems that feed directly into management frameworks and decision-making processes as a means of strengthening public governance.

***Internal control within the Secretariat of Federal Revenue is shaped by government-wide policies and systems***

Federal Law no. 10 180/2001 articulates the aim of internal control as evaluating government actions and the management of public officials, and supporting the function of external control. It describes the internal control function as responsible for: *i*) assessing the achievements of the targets set in the federal government's Pluri-Annual Plan; *ii*) evaluating the implementation of government programmes with respect to their objectives and quality of management; *iii*) providing information on the physical and financial status of projects and activities in the federal budget; *iv*) creating the conditions for the exercise of direct social control over federally funded programmes; and *v*) preparing the Annual Rendering of Accounts of the President of the Republic to be sent to the National Congress. Federal Law no. 10 180/2001 thus emphasises internal control more as an *ex post* rather than *ex ante* activity.

Government-wide policies on internal control are formulated by the Office of the Comptroller General of the Union, the central internal control authority of the federal public administration. Within the Office of the Comptroller General of the Union it is the Secretariat for Federal Internal Control, in particular, that establishes policies and guidelines on internal control. In addition, policies and guidelines on general management, human resource management, information management and procurement management – that also contribute to a sound system of internal control – are the responsibility of the Secretariats of Secretariats of Management, Human Resources and Logistics and Information Technology within the Federal Ministry of Planning, Budget and Management. Policies and guidelines on financial management and accounting are the responsibility of the Secretariat of Treasury within the Federal Ministry of Finance.

While there are instances where these three federal authorities work closely together, it does not appear to always be the case. For example, the Secretariat of Management is working with federal public organisations to re-engineer their internal practices and processes to improve service delivery. Business process re-engineering is as much about making changes to mitigate operational risks and administrative wrongdoing as retooling for efficiency gains and cutting administrative red tape. Office of the Comptroller General of the Union involvement, however, is limited to evaluating, rather than providing constructive input into the design of business process re-engineering. Mechanisms for closer co-ordination in the modernisation of the internal control framework between the Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management (in particular the Secretariat of Management, Logistics and Information Technology) and the Federal Ministry of Finance (in particular the Secretariat of the National Treasury) could be explored – though this is beyond the scope of the Secretariat of Federal Revenue.

*Internal control is supported by government-wide back-office information systems that provide for the segregation of duties and documentation of decision making*

Core among these is the Federal Government Financial Administration System (*Sistema de Administração Financeira do Governo Federal*), an accounting and financial reporting system. All budget transactions – including commitment, verification and payment – must be performed and recorded through this system. At the commitment (*empenho*) stage, proposed expenditure is verified to ensure that it has been approved by an authorised official, that the expenditure is correctly categorised, that there is a corresponding budget appropriation and that sufficient funds are available. At the verification (*liquidação*) stage, documentation that goods have been received or that the service has been performed is verified. Before the payment (*pagamento*) stage, confirmation is needed that an invoice and other documents requesting payment are correct and that the supplier has been correctly identified. Individual users must provide their identity number to access the system and all transactions are recorded.

In parallel with the Federal Government Financial Administration System, a number of other common management information systems exist for budgeting, procurement, administrative agreements and human resources. The Integrated General Services Administration System (*Sistema Integrado de Administração de Serviços Gerais*), operated by the Federal Ministry of Planning, Budget and Management, supports procurement internal control. Its Commitment Registration Module (*Subsistemas de Minuta de Empenho*) automatically records expected payments associated with awarded contracts in the Federal Government Financial Administration System facilitating control in contract payment. Its Contract Management Module (*Sistema de Divulgação de Contrato*) presents the necessary information to facilitate contract monitoring by procurement officials and supports electronic archiving of all procurement files.<sup>15</sup>

Most of the core government management systems are integrated into the Federal Government Financial Administration System. Some, such as the Integrated Human Resource Administration System (*Sistema Integrado de Administração de Recursos Humanos*) and the Administrative Agreement and Transfer Contract Management System (*Sistema de Gestão de Convênio, Contrato de Repasses e Termo de Parceria*) are, however, not yet fully integrated. Together, these systems directly support internal control by ensuring that all transactions and significant events are documented, authorised and only executed by officials acting within the scope of their authority. Moreover, automation also assists in creating reliable and timely data that can be captured and communicated to various levels within public organisations for management decision making. Similarly, these systems serve as direct input into programme evaluation and audit necessary for supporting policy learning and adjustment.

The Secretariat of the National Treasury is currently in the process of introducing the Cost Information System of the Federal Public Administration to measure the efficiency of government programmes. This system will automatically combine information from various management systems (e.g. Federal Government Financial Administration System, Integrated Human Resource Administration System, Information Management and Planning System, Integrated General Services Administration System, etc.) in order to assess and evaluate options for the delivery of public functions and services. In the system's management module provides pro-forma reports to enable users to extract information in a structured and quick manner. The Secretariat of the National Treasury

has a team that is responsible, among other activities, for creating new reports to meet the needs of the system's users.

*At an operational level, an Internal Control Manual lays down the main concepts, guidelines and rules regarding internal control*

The manual, issued in 2001 by the Secretariat of Federal Internal Control describes the general planning of control activities within the “Internal Control System of the Federal Public Administration”. It also sets forth some general guidelines on the use of benchmarks and indicators. The manual provides an overview of the main steps in planning internal control actions and the key documents involved. It lays out procedures and sources of information for preparing planning documents and for monitoring compliance with the recommendations and determinations of the internal and external control bodies. The current manual is more theoretical than operational in nature, as reiterated by senior officials within the Secretariat of Federal Revenue. There are, at present, no plans to revise the current Internal Control Manual by the Office of the Comptroller General of the Union.

In 2003, the Secretariat of Federal Revenue published an Institutional Security Manual containing protocols for safeguarding documents, communications, information systems and facilities. The manual presents the content of various laws and administrative instructions in an easy-to-access format for Secretariat of Federal Revenue officials. It aims to create awareness among officials about the importance of the activity they carry out and the care they should exercise in performing their respective tasks. The manual emphasises the need for appropriate division of tasks among work teams and specific control actions to prevent corruption and negligence of officials, protect confidentiality of information and assure the personal safety of officials in all activities. A dissemination process was carried out in 2004 and 2005, with the creation of a series of cartoons describing situations related to institutional security, followed by the dissemination of questions and answers and objective messages accessible via the Secretariat of Federal Revenue Intranet. The manual has not been revised since it was first issued.

***In 2009, the Secretariat of Federal Revenue introduced an operational risk management policy to develop more responsive internal control***

Secretariat of Federal Revenue Administrative Instruction no. 1 645/2009 provides the general rules and methodology for operational risk management within Brazil's federal tax authority. It defines risk as vulnerabilities in legislation, procedures and systems that may compromise the Secretariat of Federal Revenue's strategic objectives and institutional mission. The current definition does not, however, specifically include reference to the potential for administrative misconduct. This issue is considered the responsibility of the Secretariat of Federal Revenue Inspectorate of Administrative Discipline and not related to internal control. Operational risk management is distinct from risk management activities related to taxpayer audits that can play a major role in managing taxpayer compliance. This is the responsibility of the Offices of Strategic Processes and Customs Administration.<sup>16</sup>

Box B.2 presents an outline of the Secretariat of Federal Revenue operational risk management methodology. While the methodology focuses on identifying, assessing and treating risks, it omits an *ex post* explicit reference to evaluation of the impact of actions undertaken by Secretariat of Federal Revenue managers to mitigate risks. This would be a meaningful addition to ensure that risk management has had the desired impact.

### Box B.2. The Secretariat of Federal Revenue's risk management methodology

The Secretariat of Federal Revenue's operational risk management methodology comprises the following steps:

1. **Understanding the context**, both internal and external factors necessary to ensure that the organisation's objectives are achieved. Internal factors include, among other things, the organisational structure and culture. External factors include the external operating environment or factors that may influence the organisation's operations.
2. **Identifying potential risks** that may prevent, diminish, delay, impede or harm the institutional mission of the organisation. For every risk identified there must be a cause associated with it, i.e. an individual, a situation, a system failure, legislation, etc.
3. **Analysing and evaluating** possible risks that are measured and classified according to the negative impact they may have. Identified risks are bracketed in relation to different degrees of harm they could have in the overall strategy of the organisation.
4. **Treating risks** by identifying a matrix of possible actions for managing identified risks, including which risks are high priority and which are not, in order to allow managers to develop strategies to effectively manage them.
5. **Communication and external consultation** between managers and other stakeholders involved in the different stages of risk mapping. This includes the maintenance and development of the risk strategies of the Secretariat of Federal Revenue.

*Source:* Secretariat of Federal Revenue Administrative Instruction no. 1 645/2009.

*The operational risk management methodology was developed with input from other tax authorities and other federal public organisations in Brazil*

In particular, the Secretariat of Federal Revenue benefited from technical input from senior internal audit officials from Argentina's tax authority and co-operation with the government of Spain. The Secretariat of Federal Revenue also drew upon operational risk management experience of the Secretariat of Social Security Revenue, which was integrated into the Secretariat of Federal Revenue in 2007. Moreover, it benefited from the experiences of Brazil's Central Bank, the Bank of Brazil (*Banco do Brasil*) and the Federal Savings Bank (*Caixa Economica*). Input on risk management was solicited through workshops on internal control and internal audit held during the establishment of the Secretariat of Federal Revenue Office of Internal Audit. The Secretariat of Federal Revenue did not, however, interact with the Office of the Comptroller General of the Union that was developing, at the time, a generic corruption risk mapping methodology for using by federal public organisations.

Nor was there any collaboration internally within the Secretariat of Federal Revenue between the Office of Internal Audit and Inspectorate of Administrative Discipline. As noted above, the current Secretariat of Federal Revenue definition of operational risk management does not include reference to the potential for administrative misconduct. This weakness has been recognised by the Secretariat of Federal Revenue – particularly given the relatively longer history of the Inspectorate of Administrative *vis-à-vis* the Office of Internal Audit.

*Secretariat of Federal Revenue units are individually responsible for applying operational risk management methodology*

The Secretariat of Federal Revenue Office of Internal Audit has three functions with respect to operational risk management (see Table B.11). First, it identifies good practices and disseminates information on, and provides technical assistance in applying, its methodology. Second, it disseminates the Secretariat of Federal Revenue’s methodology through various types of events such as seminars, workshops and lectures delivered at meetings with senior Secretariat of Federal Revenue officials and regional training events. Finally, it supports management units implementing risk management. Among these activities, the Office of Internal Audit has experienced a number of difficulties to identify good practices for risk management. Its officials note that available information on risk management typically emphasises the principles and general methodology rather than proposing specific information on how to identify and measuring operational risk, as well as how to assess whether risk mitigating have had the desired effect.

Table B.11. **Secretariat of Federal Revenue risk management activities**

	2009	2010
Studies and research of best practices and methods in risk management	3	4
Dissemination of Secretariat of Federal Revenue risk management methodology	18	9
Support risk management within Secretariat of Federal Revenue divisions	3	6

Source: Office of Internal Audit, Secretariat of Federal Revenue, Federal Ministry of Finance.

The Secretariat of Federal Revenue Office of Internal Audit places responsibility on individual Secretariat of Federal Revenue divisions to apply its risk management methodology. Allowing individual divisions to decide whether or not they will apply the methodology, however, runs the risk that those managers who are most exposed to operational risks abstain from participating. Centralising the application of the methodology could provide a strong baseline for monitoring the implementation of risk management, support investments in supporting risk management information systems and support a whole-of-organisation snapshot of the risks. Taking a more centrally led approach for implementing the methodology could also allow for a quick roll-out of the methodology. Over time, and as the risk management activities within organisational divisions mature, the role of the Office of Internal Audit could focus on providing an independent assurance of the effectiveness of risk management strategies and frameworks.

*The Secretariat of Federal Revenue could formulate a risk management policy, integrated with other governance, planning and management processes*

An operational risk management policy could form a framework for the implementation of a risk management methodology. A policy defines and communicates an organisation’s approach to risk, and provides high level guidance on how processes and procedures integrate risk with the everyday activities of the organisation. An organisation’s risk management policy can also provide guidance to staff on the organisation’s commitment to: *i)* integrate operational risk management principles into existing procedures and practices; *ii)* communicating the organisation’s approach to managing operational risk; *iii)* co-ordinating the interface between operational risk management, compliance and assurance programmes within the organisation;

*iv*) incorporating operational risk management training into internal staff development programmes; and *v*) ensuring that internal review and evaluation programmes consider operational risk management when developing annual audit plans.

Key elements of an organisation's operational risk management policy are: *i*) the objective and rationale for managing risk in the organisation; *ii*) clear links between the operational risk management policy and the organisation's strategic and business plans; *iii*) an outline of internal accountabilities for managing risk; *iv*) guidance on the organisation's operational risk tolerance or appetite for risk; *v*) details of the support and expertise available to help staff undertake effective operational risk management practices; *vi*) a statement on how risk management performance will be measured and reported; and *vii*) a commitment to the periodic review of the organisation's operational risk management framework.

The successful integration of operational risk management with an organisation's overarching governance, financial, assurance and compliance frameworks is reliant on ensuring that the accountability and responsibility for risk management is clearly defined both centrally within the organisation and within organisational divisions. Roles and responsibilities for those charged with implementing the risk management function need to be clearly articulated. At a central level, responsibility is needed to develop a whole-of-organisation understanding of risk and to implement supporting operational risk management infrastructure (e.g. supporting information systems) for monitoring and reporting on risks. While senior officials are ultimately accountable for risk management, it is the responsibility of all managers and staff to manage risk. Responsibility for managing specific policy, project and programme risks generally rests with individual line managers across the organisation. In this regard, senior management must also play an active role in creating a positive risk management culture within their organisation.

*Additional risk management tools could be developed by the Office of Internal Audit for federal tax officials*

An inventory of operational risks can serve as a starting point for identifying process improvements and developing key risk indicators. Inventories are best established through self-assessment involving both management and rank-and-file federal tax officials. These officials know their operating environment and risks best. Information necessary for developing an inventory of operational risks can be collected using structured questionnaires and/or (moderated) workshops. Information collected through self-assessment activities can be peer reviewed by senior and other public officials including the special advisor on internal control and audit authorities to identify risks that may have been deliberately omitted by officials. Structured questionnaires, which could also be distributed through the Secretariat of Federal Revenue Intranet, offer the advantage of easy data recording, particularly given the large number of officials and dispersed geographic location of offices. Moderated workshops, however, can also contribute to raising awareness and communicating risks across different organisational units. Risk inventories are best updated periodically but keeping in mind the costs (time and money) of conducting such an exercise.

Business process maps can help to link information on macro-processes, activity flows, risks and internal control as a means of improving integrity and cutting administrative red tape. Sound documentation of business processes is a basic requirement for a well-functioning process organisation. Process mapping also makes

establishing links between cause and effect possible and, due to the improvements it triggers, in process management. Through the documentation of processes and the identification of the organisational units involved in them, processes can be made more transparent with improved effectiveness and efficiency. Furthermore, it is crucial not only that the documentation exists, but that it is accessible to officials in as simple a format as possible. Undocumented or poorly documented processes increase risks. Appropriate process descriptions also help new officials become acquainted with their tasks. It is recommendable to first define the processes that are especially critical with regard to operational risks then to prioritise them. Where business process maps are not available, they can sometimes be quickly sourced from internal audit, developed as part of audit and inspection activities.

Key risk indicators make it possible to identify areas with elevated risks early on and to take appropriate action. They allow trends to be identified and can serve as indicators in early-warning systems, e.g. in combination with a traffic-light system (i.e. red, yellow and green). Risk indicators are frequently defined specifically for a service area by creating an inventory of operational risks and business process mapping. They can also benefit from other sources such as performance against service delivery standards, reports originating from taxpayers (e.g. ombudsman, media, etc.), internal audit findings and administrative disciplinary procedures.

***The Secretariat of Federal Revenue is one of the few organisations in the direct public administration with an “in-house” internal audit unit***

The Secretariat of Federal Revenue established an Office of Internal Audit in 2007. Internal audit for Brazil’s direct federal public administration is highly centralised within the Secretariat of Federal Internal Control (see Table B.12). This centralisation, implemented in 2000/2001, represents a deliberate policy shift, though its roots can be traced back to the early 1990s. Previously, all organisations of the direct federal public administration (i.e. federal ministries) had their own Secretariat of Internal Control (*Secretaria de Controle Interno*). These secretariats were responsible for internal control, and internal audit, of administrative units within their respective federal ministry and agencies and foundations under the ministry’s direct supervision.

The policy shift regarding internal audit was driven by concern over the independence of the secretariats of internal control from undue influence of high officials, as articulated by a 1992 audit report by the Federal Court of Accounts. This triggered centralisation in the 1990s, with the secretariats of internal control progressively losing significance as the Secretariat of Federal Internal Control located within the Office of the Comptroller General of the Union consolidated its influence. The secretariats of internal control within organisations of the direct public administration were discontinued altogether in 2001.

**Table B.12. Brazil’s models of internal audit within the direct federal public administration**

Centralised (under the Secretariat of Federal Internal Control)	Decentralised (in federal ministries or functional secretariats)	Collaborative (i.e. Secretariat of Federal Internal Control, Federal Court of Accounts)
Agrarian Development Agriculture Cities Communications Culture Development and Trade Education	<b>Post-2001 centralisation of internal audit</b> Secretariat of Federal Revenue	Specific programmes (e.g. Family Grant Programme)
	<b>Pre-2001 centralisation of internal audit</b> Office of the President Defence Foreign Affairs	

Environment	Unified Health System (DENASUS)
Finance	
Fisheries	
Justice	
Labour and Employment	
Mines and Energy	
National Integration	
Planning, Budget and Management	
Science and Technology	
Social Development and Fight Against Hunger	
Transport	

Source: OECD.

### *Secretariat of Federal Revenue Office of Internal Audit activities focus on compliance of internal procedures*

In 2010, the Secretariat of Federal Revenue Office of Internal Audit conducted 116 audits, of which approximately half focused on tax procedures (see Table B.13). A Control and Audit System (*Sistema de Auditoria e Controle De Sistemas*) enables the Office of Internal Audit to conduct many of its activities remotely (i.e. without physically visiting the administrative unit under inspection or audit). Through this system, the Office of Internal Audit can examine data entry and amendments made in the Secretariat of Federal Revenue and other government systems (e.g. Federal Government Financial Administration System, Integrated Human Resource Administration System, etc.). Possible irregularities that are identified can be used as input into discussions with Secretariat of Federal Revenue management and in internal audit activities. In addition, automated “tracks” are run through data on a period basis to identify possible irregular transactions that trigger multiple risk indicators.

In parallel, the Secretariat of Federal Revenue ALERTA system allows Secretariat of Federal Revenue internal audit officials to send instant messages to units of potential risks. The purpose of the use of computerised tools is to increase the reliability of the evidence and to reduce the execution time of the audit at the local unit.

To implement these activities, the Office of Internal Audit has a total of 13 officials in the Secretariat of Federal Revenue headquarters in Brasília and another 18 officials in regional units. Officials working in internal audit within the Secretariat of Federal Revenue are not part of the federal government’s financial and control career as in the Secretariat of Federal Internal Control. They are from the tax analyst and tax auditor career. Officials working in the Secretariat of Federal Revenue Office of Internal Audit are being trained in internal control, risk management and internal audit.

**Table B.13. Secretariat of Federal Revenue Office of Internal Audit activities**

	2007	2008	2009	2010
Audit of tax surveillance procedures	34	55	63	58
Audit of technology and management procedures	0	3	3	14
Audit of service and credit control procedures	48	80	40	24
Audit of customs procedures	0	0	42	20
Total	82	138	148	116

Source: Office of Internal Audit, Secretariat of Federal Revenue, Federal Ministry of Finance.

### Box B.3. The internal audit process within the Secretariat of Federal Revenue

The Office of Internal Audit must notify the head of any unit that it will audit at least 15 days in advance. This must be accompanied by an explanation of the objective of the audit and the criteria that were used in selecting the unit.

During the audit, the Office of Internal Audit has full access to officials and documents of the units being audited. The head of the audited unit must also be formally kept up to date on developments.

Once an audit is performed, a preliminary report is drafted containing the findings and preliminary recommendations. This report is sent to the head of the audited unit as a starting point for discussion.

Audited units must prepare a written response to the preliminary report, including whether they agree or not with the findings and recommendations. A preliminary report may only be finalised once an agreement is reached between the audited unit and the Office of Internal Audit.

Once an audit is completed, all audit documents are archived in the Communication and Protocol System (*Sistema de Comunicação e Protocolo*). These includes: *i*) the motivation and selection criteria for the audit; *ii*) information on the audit team; *iii*) copies of notifications given to the audited unit; *iv*) copies of documents used to conduct the audit; *v*) the preliminary audit report and recommendations; *vi*) the audited unit's response to the preliminary report; and *vii*) the final audit report.

*Source:* Secretariat of Federal Revenue Administrative Instruction no. 1 645/2009.

### ***Secretariat of Federal Revenue Office of Internal Audit activities are complemented by the Secretariat of Federal Internal Control***

The Secretariat for Federal Internal Control provides a shared internal audit and inspection service for organisations of the direct federal public administration. Each organisation of the direct federal public administration is supported by a dedicated “internal audit division” within the Secretariat of Federal Internal Control. One division is responsible for auditing, among others, administrative units of the direct administration that are under the authority of the Federal Ministry of Finance, both in Brasília and in Brazil's 26 states, including the Secretariat of Federal Revenue. As such, the Secretariat of Federal Internal Control maintains a dedicated internal audit division responsible for auditing the Secretariat of Federal Revenue.

The Secretariat of Federal Internal Control conducts three main types of audit in the Secretariat of Federal Revenue. These are: *i*) programme audits; *ii*) financial audits; and *iii*) investigative audits. Programme audits analyse financial, non-financial and compliance activities, with particular attention to performance against the targets set in the Pluri-Annual Plan and the Annual Budget Law. Public organisations are selected for programme audits based on a risk model. Financial audits verify information provided by federal public organisations as input into the external rendering of accounts. Public organisations are selected for financial audits by the Federal Court of Accounts, with the participation of the Secretariat of Federal Internal Control, based on materiality and relevance. Investigative audits aim to ascertain and quantify individual liability for damages and losses to the federal public administration.

Between 2005 and August 2010, the Secretariat of Federal Internal Control conducted 544 audits on the Secretariat of Federal Revenue with a further 319 follow-up activities.

There is no information on the number of audits by audit type conducted by the Secretariat of Federal Internal Control and involving the Secretariat of Federal Revenue. The Secretariat of Federal Internal Control also increasingly plays an advisory role to support public managers in implementing effective internal control. Information on the Secretariat of Federal Internal Control's advisory activities to the Secretariat of Federal Revenue was not available.

More recently, the Office of the Comptroller General of the Union has introduced permanent monitoring of expenditures (*acompanhamento permanente dos gastos*), a form of remote audit. Included in the Office of the Comptroller General of the Union's 2007-10 Institutional Integrity Plan (*Plano de Integridade Institucional*), the permanent monitoring of expenditures involves continuous monitoring of public policies and programmes using expenditure data and knowledge of management processes. The Office of the Comptroller General of the Union reports that the outputs of this activity enable better understanding of: *i*) the structure, capacity and workforce of administrative units; *ii*) the profile and evolution of expenditure and costs of government programmes; *iii*) the main suppliers and their participation in procurement and administrative contracts; *iv*) actual expenditure in respect to market price, the good or service that was received or how it was used for the intended purposes; *v*) areas for improvement for management and internal control; and *vi*) situations that deserve clarification or further investigation.

*Secretariat of Federal Internal Control activities are, in turn, complemented by the Secretariat for Corruption Prevention and Strategic Information*

The Secretariat for Corruption Prevention and Strategic Information (*Secretaria de Prevenção da Corrupção e Informações Estratégicas*) like the Secretariat of Federal Internal Control is located within the Office of the Comptroller General of the Union. It manages the Public Spending Observatory (*Observatório da Despesa Pública*), tracking government expenditure as a basis for identifying possible irregularities and misconduct. Through the Public Spending Observatory, expenditure data is crossed with other government databases as a means of identifying atypical situations that require further examination. Possible irregularities are identified by running automatic “tracks” through data on a daily basis, resulting in “orange” or “red” flags that are shared with managers of the federal public organisations to which the data relates. Once a suspicious pattern has been detected, it is loaded into the Online Analytical Processing tool for regular monitoring. A number of working themes have been established within the Public Spending Observatory, including public procurement, Federal Government Payment Cards, per diem and travel allowances.

***Co-ordination between the Office of Internal Audit and the Secretariat of Federal Internal Control occurs through two channels***

First, internal audit units are required to submit an Annual Plan of Internal Audit Activities (*Plano Anual de Atividades de Auditoria Interna*) and an Annual Report of Internal Audit Activities (*Relatório Anual de Atividades de Auditoria Interna*) to the Secretariat of Federal Internal Control as a basis for evaluation. Second, internal audit units are required to periodically meet with the Secretariat of Federal Internal Control to monitor the implementation of the Permanent Plan of Measures.

An Annual Internal Audit Activities Plan of is submitted for review by the Secretariat of Federal Revenue Office of Internal Audit to the Secretariat of Federal Internal Control before end-October. The plan includes information on planned internal audits and their objectives as well as planned institutional development and capacity-building actions. Within 20 days of receipt of the plan, the Secretariat of Federal Internal Control issues comments on the planned activities and can recommend additional internal audit actions, as appropriate. The annual internal audit plan is subsequently approved by the Secretary Federal Revenue and shared with the Office of the Comptroller General of the Union. Information on the observance of these deadlines was not available. From 2009, the Secretariat of Federal Revenue has required that planning by its Office of Internal Audit also be based on the results of audits conducted in previous years and information contained in its risk evaluation registry (*fichas de avaliação de riscos*). A risk evaluation registry, however, has yet to be created within the Secretariat of Federal Revenue.

At the end of every budget year, the Secretariat of Federal Revenue's Office of Internal Audit prepares an Annual Report of Internal Audit Activities by end January. The Annual Report of Internal Audit Activities includes: *i*) a description of actions undertaken by the Office of Internal Audit; *ii*) recommendations made by the Office of Internal Audit and Secretariat of Federal Internal Control; *iii*) information on organisational or administrative factors that impacted on internal audit; and *iv*) the status of institutional development and capacity-building activities of internal audit. The content of these reports is protected and subject to banking, tax or business confidentiality. It is proposed that this report will be used by the Office of Internal Audit to update its risk registry.

The Secretariat of Federal Revenue Office of Internal Audit has created a specific unit to interact and co-ordinate with the Secretariat of Federal Internal Control as well as the Federal Court of Accounts (Brazil's Supreme Audit Institution). The External Audit Co-ordination Division (*Divisão de Atendimento Aos Órgãos de Controle Externo*) co-ordinates, monitors and evaluates the implementation of audit recommendations as well as requests for diligence and audit by other audit authorities (see Table B.14). The External Audit Co-ordination Division also manages the rendering of the Secretariat of Federal Revenue's annual year-end financial accounts.

**Table B.14. Secretariat of Federal Revenue Office of Internal Audit collaboration with the Office of the Comptroller General of the Union and the Federal Court of Accounts**

Activities	2007	2008	2009	2010
Actions to implement Federal Court of Accounts audit recommendations	2	1	2	3
Actions to conduct diligence requested by the Federal Court of Accounts	16	66	83	87
Actions to conduct audits requested by the Federal Court of Accounts	0	0	3	0
Actions to implement Office of the Comptroller General of the Union audit recommendations	2	2	2	2
Actions to conduct diligence requested by the Office of the Comptroller General of the Union	0	0	10	13
Actions to conduct audits requested by the Office of the Comptroller General of the Union	3	4	40	45
Actions to conduct diligence requested by other public organisations	5	6	9	8

*Source:* Office of Internal Audit, Secretariat of Federal Revenue, Federal Ministry of Finance.

Since the end of 2008, the Secretariat of Federal Revenue is obliged to meet three times per year with the Secretariat of Federal Internal Control (typically January, March-June and October). These meetings help the Secretariat of Federal Internal Control to monitor the implementation of the Permanent Plan of Measures. Information on progress

in addressing recommendations is entered into an internal database to support the activities of the Secretariat of Federal Internal Control. Recommendations may be given one of the following statuses: *i*) fulfilled; *ii*) revised; *iii*) postponed at the request of the public manager; *iv*) reiterated, recommendation only partially implemented; *v*) reiterated, recommendation refused by the public manager but not accepted by the Secretariat of Federal Internal Control; and *vi*) refusal of the recommendation accepted by the Secretariat of Federal Internal Control. The Permanent Plan of Measures does not include audit recommendations from the Federal Court of Accounts.

***Internal audit activities are subject to various levels of evaluation to address issues of quality and impact***

All internal audits conducted by the Secretariat of Federal Internal Control are subject to three levels of quality control: first, by the co-ordinator of the audit team; second, by the supervisor of the audit team (typically the official in charge of a regional office or a division in the central unit); and third, by the central division that requested the audit or inspection work. Reviews focus on a variety of issues, such as the formal aspects of the report, consistency of the audit findings (i.e. are the findings supported by adequate evidence?), appropriateness of the recommendations (i.e. are they appropriate and feasible?) and the verification of audit documentation. Co-ordinators of the audit team must also complete an assessment on the participation of their audit team as input into professional development. The assessment takes into account the professional conduct of auditors such as organisation and compliance with professional confidentiality standards. Information was not available on quality controls conducted by the Secretariat of Federal Revenue Office of Internal Audit.

The Secretariat of Federal Internal Control is currently developing a web-based monitoring system – “Monitor-web” – to support the effective monitoring of internal audit recommendations. The software is intended to allow managers to more easily implement, and internal audit authorities (including decentralised and network internal audit) to monitor, internal audit recommendations. It is expected that Monitor-web will also reduce the paperwork necessary for public managers to comply with internal audit recommendations, allowing public managers to respond to recommendations and register their “action plans” online. The Monitor-web system will replace the manual monitoring of internal audit recommendations.

Besides the regular reviews, inspections of compliance are carried out by the Secretariat of Federal Internal Control Department of Planning and Co-ordination to evaluate internal audit activities. These inspections focus on audit planning, quality of audit reports and the role of team co-ordinators and supervisors.

***Performance indicators relating to internal audit in Brazil are limited to quantitative targets and evaluated on a semi-annual basis***

OECD member countries are moving forward in the development of performance indicators for internal audit. Such analyses can be used for continually improving programmes in business re-engineering. Drawing on these measures allows for structured practitioner dialogue to improve effectiveness and efficiency in government operations. Yet the measurement of these dimensions – particularly outputs (i.e. the final products of public organisations) and outcomes (i.e. the desired results from delivering outputs) –

is frequently crude or simply missing. While the arguments for measuring government operations are very strong, there are also risks. For example, measurement can divert scarce political, managerial and practitioner resources. Equally important, these measures only represent one contribution to managerial decision making and their designers must consider how to prevent gaming or unintended perverse outcomes from being stimulated by the presence of measurement. Discussions and initiatives on the measurement of internal audit outputs and outcomes are being undertaken by the Office of the Comptroller General of the Union.

### **Embedding high standards of conduct**

Standards of conduct are recognised as essential for guiding the behaviour of public officials in line with the public purpose of the organisation in which they work. The “OECD Principles for Improving Ethical Conduct in the Public Service” acknowledge the critical role of, and provide guidance for decision makers and public managers to achieve, high standards of conduct (OECD, 1998). In recognition of the emerging risks at the interface of the public and private sectors, OECD member countries have since adopted “Guidelines for Managing Conflict of Interest in the Public Service” (OECD, 2003). Moreover, standards of conduct are considered a key component of sound internal control and efforts to fight against corruption. The International Organisation of Supreme Audit Institutions, for example, has revised its “Guidelines for Internal Control Standards for the Public Sector” to include ethics management (INTOSAI, 2004). The inclusion was justified because of the importance of standards of conduct for the prevention and detection of fraud and corruption. Standards of conduct are also articulated in international conventions against corruption such as the United Nations Convention Against Corruption and the Inter-American Convention Against Corruption.<sup>17</sup>

Defining standards of conduct and creating administrative structures for their effective implementation are recognised as pre-conditions for effectively guiding standards of conduct among public officials. A concise, well-publicised statement of principles and standards, i.e. a code of conduct, can provide easily interpretable guidance for public officials to apply in their daily activities. It can also make it easier for public officials to identify conduct that breaches these standards as a basis for reporting it to the appropriate authority. Subsequently embedding high standards of conduct, however, requires: *i*) developing and regularly reviewing practices and procedures influencing standards of conduct; *ii*) promoting government action to maintain high standards of conduct and to address risks; *iii*) incorporating ethical dimensions into management frameworks to ensure that practices are consistent with the public administration’s values; and *iv*) assessing the effects of public management reforms on standards of conduct.

### ***Federal tax officials currently fall under the same standards of conduct as other federal public officials in Brazil***

Standards of conduct for Brazil’s federal public officials are articulated in a combination of primary and secondary legislation. Core among these are the Code of Conduct for the Federal Public Administration (Federal Law no. 8 027/1990), Federal Law no. 8 112/1990 regarding the Public Administration and the Code of Professional Ethics for Public Officials in the Federal Administration (Federal Decree no. 1 171/1994). This legislation defines the obligations and duties of public officials and detailed sanctions for ethical breaches and administrative misconduct.<sup>18</sup> Together, these translate the principles of the public service as promulgated in the 1988 Federal Constitution into

standards for public officials to follow in their daily activities. These principles are legality, morality (i.e. ethics), impartiality, effectiveness and publicity (i.e. transparency). In many respects, Brazil's principles of public service are similar to those of OECD member countries and widely considered as the basis for establishing a cleaner public administration and for building trust in government.

In addition, Federal Law no. 8 429/1992 defines what constitutes administrative misconduct by public officials. For example, public officials are prohibited from, among other actions: *i*) accepting, either for oneself or someone else, money, personal or real property, or any kind of direct or indirect economic advantage, in the form of a commission, gratuity or gift from any party that has a direct or indirect interest that can be accomplished or furthered with an act or omission by the public official; *ii*) accepting any employment or commission or engaging in consulting or advisory work for any natural person or legal entity that has an interest that can be achieved or furthered by an act or omission committed in the performance of a public official's functions; *iii*) accepting any economic advantages in exchange for arranging the use or investment of any public funds; *iv*) revealing or allowing any third party to gain access to information regarding any political or economic measure that can affect the price of a commodity, good or service, before that measure is officially announced.

*A separate code focuses on high, but not all senior, officials in the federal public administration*

The Code of Conduct for High Officials in the Federal Public Administration applies to the President and Vice-President of the Republic, federal ministers, executive secretaries, secretaries and other level 6 supervisory and management officials (*direção e assessoramento superiores*). Within the Secretariat of Federal Revenue there is only one high public official, the Secretary of Federal Revenue. There are a total of 438 officials under the Code of Conduct for High Officials in the Federal Public Administration. The rationale for a separate code for high officials reflects a number of factors including: *i*) the position of these officials at the political-administrative interface and their authority as decision makers; *ii*) the heightened risks of conflicts between these officials' public and private interests, especially in cases where these officials were appointed from outside the public administration; and *iii*) the leadership role and visibility of these officials to other public officials and citizens more generally.

The Code of Conduct for High Officials in the Federal Public Administration does not, however, specifically address a unique characteristic of the federal public administration's human resource management system: namely the role of supervisory and management officials. As discussed in the 2010 OECD Review of Human Resource Management in Government in Brazil, these officials fulfil many of the decision-making and management functions within federal public organisations. The appointment, and removal, of these officials is made directly by the President of the Republic and federal ministers. Moreover, supervisory and management positions may be recruited externally from the federal government. In comparison, other federal public officials cannot be recruited externally. There is no ceiling on the number of persons who may be recruited externally at the most senior levels of the supervisory and management positions (i.e. levels 5-6). Limits, however, do exist for middle and lower level supervisory and management positions: 75% of junior supervisory and management positions (i.e. levels 1-3) and 50% of those in middle supervisory and management positions

(i.e. level 4) must be filled by career public officials, retired public officials or employees of state-owned enterprises (OECD, 2010b).<sup>19</sup>

Only level 6 supervisory and management officials are, however, guided by the Code of Conduct for High Officials in the Federal Public Administration. Levels 4 through 6 supervisory and management officials, which correspond to senior public officials in OECD member countries, are regulated by the same code of conduct as career public officials: the Code of Professional Ethics for Public Officials in the Federal Administration (Federal Decree no. 1 171/1994). There is, thus, no distinction between the risks associated with the decision-making powers of many of these officials or the fact that they may be recruited externally from the private and not-for-profit sectors. Information on the number of level 5 and level 4 supervisory and management officials within the Secretariat of Federal Revenue was not available.

### ***Brazil's legal framework establishes sanctions for ethical breaches and administrative misconduct, including illicit enrichment***

Sanctions for ethical breaches and administrative misconduct include written warnings, suspension for up to 90 days, dismissal and possible forfeiture of retirement benefits. Violations of the Code of Conduct, absenteeism and refusing to perform duties are subject to a written warning. In the case of recurring violations of the Code of Conduct or more serious misconduct such as engaging in activities incompatible with one's public office or function, a suspension of up to 90 days applies. During the suspension period, remuneration to the public official is automatically forfeited.<sup>20</sup> Written warnings and suspension remain in a public official's personnel file for three and five years respectively. More serious forms of administrative misconduct, such as using one's public office or function for any direct or indirect advantages, expressing grievous insubordination on the job and irregular expenditure of public funds and corruption may result in dismissal. Dismissal may also prohibit an individual from employment within the federal public administration for a period of five years or more. Thereafter, the employment of an individual previously dismissed from office may only take place after all losses to the national treasury have been paid in full.

In addition to administrative sanctions, acts of misconduct by federal public officials are subject to criminal and civil sanctions. Administrative, criminal and civil penalties may be cumulatively levied independently of one another. The Criminal Code outlines penalties for embezzlement, misuse of public funds, facilitation of smuggling and embezzlement, malfeasance, dereliction of duty and breach of confidentiality, including in public procurement. These penalties range from 1 month for the misuse of public funds to 12 years for passive bribery, entering false data into government information systems and embezzlement.

### ***Efforts in recent years have sought to clarify and maintain the relevance of existing standards across the public administration***

The continual modernisation of Brazil's federal public administration has given rise to new forms of potential vulnerabilities and conflicts of interest for public officials. The need to clarify questions concerning the interpretation of standards of conduct in Brazil has been achieved, in part, through the activities of the Public Ethics Commission. The commission issues binding resolutions and guidance notes to support the implementation of the Code of Conduct for High Officials in the Federal Public Administration. Topics covered by the commission's resolutions include participation in

external activities, the receipt of gifts and measures to prevent conflicts of interest. While these resolutions focus in particular on the activities of high officials, they indirectly serve as guidance for all officials.

A bill regulating conflict of interest and the use of privileged information, including in post-public employment contexts, is currently under discussion in the National Congress. Originally proposed by the Office of the Comptroller General of the Union, the federal executive advocates the bill as necessary for enhancing integrity and bringing Brazil in line with international standards. Bill no. 7 528/2006, as it was drafted at the time this case study was written, defines a conflict of interest as a situation that is generated by the diverging stakes between the private and public sectors that might compromise the public interest and performance of public functions. It defines privileged information as information that entails a high level of secrecy or information that is relevant to the decision-making processes in the federal public administration that may have economic or financial repercussions.

If passed in its current form, Bill no. 7 528/2006 would bring about three main changes to existing rules for high officials and those in working in regulatory agencies. First, it would broaden the application of conflict of interest rules to include level 5 supervisory and management officials and other officials holding positions with access to privileged information. Second, it would broaden the scope of application of conflict-of-interest rules according to responsibilities instead of grade, i.e. it would include a lower level official acting on behalf of a higher level official. Third, it would extend the cooling-off period to one year following the departure of regulated officials from office in order to avoid the possibility of a post-employment conflict of interest. Current rules in Brazil only establish a four-month cooling-off period compared with between one and two years in OECD member countries (OECD, 2010b).

Beyond these efforts of the Public Ethics Commission and the Office of the Comptroller General of the Union, few public organisations have sought to clarify and renew the relevance of their own standards of conducts. For example, a 2010 Public Ethics Commission survey indicated that only 44% of all federal public organisations perceived their routines for identifying areas, processes or functions susceptible to misconduct as satisfactory or above satisfactory. There are two caveats to this survey, however. First, there are no formal guidelines or good practice notes issued by the Public Ethics Commission or the Office of the Comptroller General of the Union, as to what constitutes a routine or how these organisations could identify areas, processes or functions susceptible to misconduct. Second, the survey was completed by public organisations themselves and has not been independently verified by either the Public Ethics Commission or the Office of the Comptroller General of the Union.

#### Box B.4. Examples of Public Ethics Commission recommendations: participation in external activities, receipt of gifts and managing conflicts of interest

The Public Ethics Commission issues binding recommendations concerning the interpretation of the Code of Conduct for High Officials in the Federal Public Administration. For example:

**On participation in external activities:** Resolution no. 2/2000 guides high public officials on participating in external activities such as seminars, conferences and lectures both in Brazil and abroad, particularly when the payment of travel, accommodation, meals and registration fees is not borne by the federal public administration. As a general rule, high public officials may not accept payment or reimbursement of travel and accommodation expenses incurred by an individual, organisation or association that maintains a business relationship with the federal public organisation in which the official is employed. Exceptions exist when the event is organised: *i*) as part of a prior contractual obligation with the official's public organisation; *ii*) by an international organisation of which Brazil is a member; or *iii*) by a foreign government, academic, scientific or cultural institution. High public officials may, however, accept discounts provided that it does not constitute a personal benefit. The resolution states that, when attending in a personal capacity, expenses may be borne by the sponsoring organisation provided that the official makes information on the conditions of their participation publicly available, including the amount received or borne by the sponsoring organisation, if any; as well as a statement that the sponsoring organisation is not interested in individual or collective decisions that can be taken by the official. Participation in an external activity in a personal capacity may not, however, be undertaken to the detriment of an official's public duties.

**On the receipt of gifts:** Resolution no. 3/2000 guides high public officials on the receipt of gifts. As a general principle, high public officials are prohibited from accepting gifts of any value from an individual, organisation or association (or third-party representative) that: *i*) is subject to regulatory jurisdiction of the public organisation to which the official belongs; *ii*) has a personal, professional or business interest in the public organisation's decisions; or *iii*) maintains a business relationship with the public official or the organisation to which the public official belongs. Exceptions exist when a gift: *i*) is made out of kinship or friendship provided that the cost is borne by the individual making the gift and not another person, organisation or association; *ii*) is made by a foreign official where there is reciprocity protocol or reason of diplomatic engagement; *iii*) has no commercial value and as a courtesy as long as it does not exceed BRL 100 (USD 60; EUR 43) in value; *iv*) is a general giveaway whose distribution is not more than once every 12 months; and *v*) includes prizes, money or goods granted to the public official by an academic, scientific or cultural organisation in recognition of the official's intellectual contributions; awards granted on competitive grounds for academic, scientific, technological or cultural work; and scholarships for professional development, provided that the sponsoring organisation has no interest in decisions taken by the official. In the event that refusal or immediate return of a gift is not feasible, high public officials must either hand over the gift to the National Institute for Historical and Artistic Heritage in the case of historical, cultural or artistic value or donate the gift to a charity or a philanthropic organisation recognised by the federal government.

**Box B.4. Examples of Public Ethics Commission recommendations: participation in external activities, receipt of gifts and managing conflicts of interest (cont.)**

**On managing conflicts of interest:** Resolution no. 8/2003 guides high public officials in managing potential conflicts of interest, both in terms of assets and activities (e.g. volunteer work in not-for-profit organisations). It outlines the general actions that may be taken, noting that the Public Ethics Commission should be informed by high public officials and will issue an opinion with regards to the adequacy of the measures adopted. General actions include disposing of property and assets that may give rise to a conflict of interest, transferring the administration of the assets that may create a potential conflict of interest to a blind trust or giving up any activities or licenses for the period in which a conflict may arise. In the case of possible specific and temporary conflicts, officials should notify their superior or other members of the advisory body to which they belong, refraining from voting or participating in any discussions on the subject until the potential conflict ceases.

*Notes:* Conversion has been done using the exchange rate from 8/10/2010: BRL 1.0000 = USD 0.5979; BRL 1.000 = EUR 0.4294.

*Source:* Adapted from Public Ethics Commission Resolutions no. 2/2000, 3/2000 and 8/2003.

***The Secretariat of Federal Revenue has begun developing its own code of conduct to provide specific guidance to federal tax officials***

The draft code for the Secretariat of Federal Revenue is proposed to be structured around principles, professional values and professional conduct. It addresses interactions with citizens, external actors (i.e. taxpayers and suppliers of goods and services), internal actors (i.e. superiors, colleagues and subordinates), other public organisations and the media. In terms of professional conduct, the draft code touches upon issues of harassment, conflict of interest, gifts, professional confidentiality, management of public property/assets and conduct outside of work. The current draft does not contain any reference to the Federal Ministry of Finance Charter of Citizens' Services largely because of the timing of the development of these respective documents. Nor does the code reflect risks identified in operational risk management activities, which too is still in its early phases of development with the Secretariat of Federal Revenue. It may be beneficial to do so before the code is eventually promulgated.

The draft code has been developed as the basis for launching a consultation process involving officials at various levels within the Secretariat of Federal Revenue. To support the consultation process, the Secretariat of Federal Revenue Inspectorate of Administrative Discipline has created an electronic tool to allow federal tax officials to review the proposed code's text and amend it as they see fit. Consultations were originally planned for the second semester of 2008 but, due to changes within the Secretariat of Federal Revenue's leadership, has yet to be conducted. The Secretariat of Federal Revenue Inspectorate of Administrative Discipline still intends on launching a consultation process to understand the concerns and expectations faced by federal tax officials as input into finalising the code. There are no plans to include other stakeholders, i.e. taxpayers, in the consultation process, although this could be conceived as a means to communicate its efforts to strengthen integrity.

The use of consultation, including the involvement of external stakeholders, to define standards of conduct is a fairly recent development, but its benefits are increasingly

understood and emphasised in OECD member countries. However useful consultation may be, its limitations must be kept in mind. First, while stakeholders may help to define standards of conduct, they should not have the final word. Their input, while very useful and important, is not the ultimate criterion for defining standards of conduct. Second, and more practical in nature, consultations may require substantial resources, time, energy and possibly funds. If stretched too long, the process of defining standards of conduct may lose momentum and its impact. Some pragmatic limitation in the consultation process – considering the best use of available resources – may, therefore, be appropriate.

***The Secretariat of Federal Revenue Inspectorate of Administrative Discipline is responsible for enforcing standards of conduct among federal tax officials***

The Secretariat of Federal Revenue Inspectorate of Administrative Discipline is one of four inspectorates within the Federal Ministry of Finance. The others serve the Federal Ministry of Finance as a whole, the Central Bank of Brazil and the Superintendence of Private Insurance. The Secretariat of Federal Revenue was one of the first federal public organisations to have an inspectorate of administrative discipline. Established in 1997, it existed even before the establishment in 2001 of the Office of the Inspector General of Administrative Discipline. At the end of 2010 there were 32 inspectorates within the federal public administration, 7 were in process of being established and a further 23 were under consideration. These inspectorates are responsible for investigating possible administrative misconduct and engaging in disciplinary proceedings. As part of this responsibility, the inspectorates are required to maintain updated information of the progress and outcome of all investigations and disciplinary proceedings. Consolidated information is subsequently shared with the Office of the Inspector General of Administrative Discipline.

The Inspector of Administrative Discipline reports directly to the Secretary of Federal Revenue. The Inspector is appointed by the Federal Minister of Finance upon the recommendation of the Secretary of Federal Revenue for a period of three years with the possibility of renewal for a second three-year term. The Inspector can only be removed following an indictment through an administrative disciplinary proceeding, the decision of a court of justice or upon direct request of the Inspector.<sup>21</sup>

The Inspectorate of Administrative Discipline is located at the Secretariat of Federal Revenue headquarters in Brasília and has representation in all 10 regional tax offices.<sup>22</sup> In addition, a second inspectorate office – the Centre for Internal Affairs – is located in Manaus (Tax Region 2), a free trade zone. The centre was established in 2007 because of the volume of customs activities in the region. Tax Region 2 accounts for 8% of total reported imports (*Despachos de Impors*) and 2.5% of total reported exports (*Despachos de Exportação*), figures surpassed only by São Paulo (Region 8) and Rio de Janeiro (Region 7). Moreover, Tax Region 2 has 12 000 kilometres of borders with 7 countries (Bolivia, Colombia, French Guiana, Guyana, Peru, Suriname and Venezuela).

In 2010, there were 235 federal tax officials working within the Secretariat of Federal Revenue Inspectorate of Administrative Discipline. Officials working within the Secretariat of Federal Revenue Inspectorate of Administrative Discipline cannot be removed from their position for a period of two years as a means to achieve independence. After three years of service, these officials are given the option to relocate to any Secretariat of Federal Revenue division. This is similarly considered as an incentive to enable these officials to fulfil their tasks without fear of any reprisal. Every 3 years about 40% of the officials working in the inspectorate leave and are

replaced by through a competitive internal process. During the last competition in 2009, approximately 500 officials competed for 80 vacancies. Those that leave the inspectorate usually go to a regional tax office – which is also considered as a means of spreading a culture of integrity within the Secretariat of Federal Revenue.

*The Secretariat of Federal Revenue Inspectorate is part of the Administrative Disciplinary System of the Federal Public Administration*

The Office of the Inspector General of Administrative Discipline (*Corregedoria-Geral da União*) is the central unit of the Administrative Disciplinary System of the Federal Public Administration (*Sistema de Correição do Poder Executivo Federal*). Launched in June 2005, this system aims to promote integrity by proposing measures to: *i)* harmonise of administrative discipline within the federal public administration; *ii)* integrate administrative discipline with internal control and audit activities; and *iii)* standardise and improve administrative disciplinary procedures (i.e. investigation and sanctioning). The system is supported by the Co-ordinating Commission for Administrative Discipline, an advisory body to the Administrative Disciplinary System of the Federal Public Administration. In addition to the Inspector General of Administrative Discipline, the commission's membership includes the Executive Secretary of the Office of the Comptroller General of the Union, the Inspector General, three Deputy Inspector Generals and representatives of inspectorates from federal public organisations. The Secretariat of Federal Revenue Inspectorate of Administrative Discipline is not represented on the commission.

As part of its activities, the Office of the Inspectorate General of Administrative Discipline has established mechanisms for integrating data on investigations and sanctions into administrative misconduct. The Inspectorate General has issued a Correctional Inspection Manual (*Manual de Inspeção Correctional*) and published hypothetical case studies and a full text of opinions issued by the Attorney General of the Union (*Advocacia-Geral da União*) relating to administrative discipline. It also conducts a training programme for officials working in inspectorates within federal public organisations and those involved in conducting administrative investigations. The programme was conducted in partnership with the National School of Finance Administration. Within this partnership, the inspectorate general develops the curriculum and provides instructors and the National School of Financial Administration provides all the logistical support. The inspectorate general is also developing a distance learning programme. No data was available on the number of Secretariat of Federal Revenue inspectorate officials that had participated in this training.

Finally, the Office of the Inspector General of Administrative Discipline may initiate or intervene in administrative investigations and administrative disciplinary procedures when it considers a specific case to be too complex or questions the independence of an inspectorate. It may also investigate the failure of public organisations to establish an investigation or disciplinary procedure.

***In 2009, an Ethics and Integrity Unit was established within the Secretariat of Federal Revenue Inspectorate responsible for enhancing standards of conduct***

The decision to establish the unit was driven by a change in leadership in the Secretariat of Federal Revenue during 2008. The unit was also created to comply with Federal Decree no. 1 171/1994 regarding the Code of Professional Ethics for Public

Officials in the Federal Public Administration. This federal decree requires all federal public organisations to establish an ethics committee. Previously there was no ethics committee within the Secretariat of Federal Revenue; the Inspector of Administrative Discipline fulfilled this function. The Ethics and Integrity Unit receives and examines reports from the Secretariat of Federal Revenue about possible breaches by federal tax officials of the Code of Professional Ethics for Public Officials in the Federal Public Administration. No data was available on the number of reports received by the Ethics and Integrity Unit since its creation.

Ethics committees are required to have three members and three deputies chosen from among permanent public officials and appointed by the head of the respective public organisation. Members are appointed for a staggered term of three years, with the possibility of extension for one additional three-year term and presided by the longest serving member. Restrictions exist on who can occupy a position on an ethics committee. For example, the head or an executive secretary of a public organisation cannot be a member of an ethics committee. Members meet at least once a month and extraordinarily at the initiative of the president, members or executive secretary of the committee. Deliberations of the committee are taken by majority vote of its members. Committees may also appoint local representatives to assist in disseminating and communicating its work. It is the responsibility of the head of the public organisation to ensure adequate working conditions for the committee to fulfil its function, including the exercise of the committee members' duties.

Information was not available on the effective functioning of the Ethics and Integrity Unit. Surveys by the Office of the Comptroller General of the Union and Public Ethics Commission have in the past found that not all ethics committees comply with the minimum statutory requirements of Federal Decree no. 1 171/1992. For example, a 2008 Office of the Comptroller General of the Union survey of 206 federal administrative units found that only 151 (73%) had established an ethics committee. Moreover, of these 151 ethics committees, only 115 (76%) had 3 permanent members and 3 substitute members. Only 92 (61%) had members participate in capacity building activities related to their committee responsibilities. A 2010 Public Ethics Commission survey indicated that only 81% of federal public organisations perceived their ethics committee complied with the requirements of Federal Decree no. 1 171/1994. As mentioned, the 2008 survey was completed by individual public organisations and responses were not independently verified by the Public Ethics Commission or another federal public authority. In addition, differences between the design of the two surveys make it difficult to assess whether there has been improvements between 2008 and 2010.

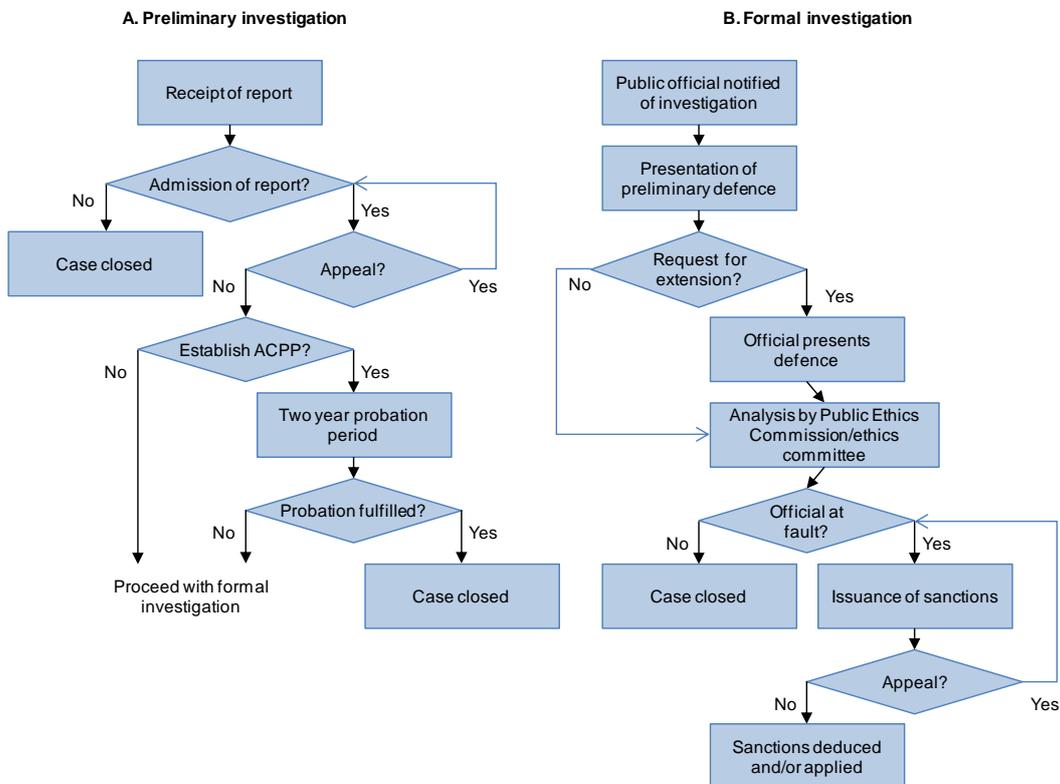
***Procedures to investigate possible ethical breaches and administrative misconduct have been designed to guarantee an official's right of defence***

Federal Decree no. 6 029/2008 establishing the Ethics Management System of the Federal Public Administration defines the general procedures for investigating a possible ethical breach by a federal public official. Public Ethics Commission Resolution no. 10/2010 provides additional guidance. Figure B.6 provides a summary of this procedure. During a preliminary investigation the Public Ethics Commission/ethics committee may offer a public official with the opportunity to recognise their own ethical breach. In such cases, an Agreement for Professional Conduct (ACPP) is formulated between the official and the Public Ethics Commission/an ethics committee highlighting the ethics breach and actions to be taken by the official to prevent a recurrence of the same ethical breach. The agreement also establishes a probationary period of two years

after which, if the public official follows the terms of the agreement, the case is closed. If an official does not accept an ACPP, or where the Public Ethics Commission/an ethics committee consider it inappropriate to offer one, a full investigation is launched. Information on the number of ACPPs issued within the Secretariat of Federal Revenue was not available.

In guiding a full investigation, Federal Decree no. 6 029/2008 and Public Ethics Commission Resolution no. 10/2010 establish that the Public Ethics Commission/an ethics committee must perform investigations in a timely, independent and impartial manner. The Public Ethics Commission/an ethics committee must notify an official under investigation, give the official the opportunity to present a written defence, to list up to four witnesses and to provide any supporting evidence within ten days. A ten-day extension may be granted to the official under investigation when considered necessary by the Public Ethics Commission/an ethics committee. Further, Public Ethics Commission/ethics committee members are obliged to take necessary actions to protect both the reputation of the official under investigation and the identity of the reporting person during the investigation. Upon completing an investigation and issuance of sanctions, case files are no longer deemed confidential. As the files include documents covered by legal confidentiality, access to the documents is restricted to individuals with the minimum required legal by the public organisation originally charged with their custody.

Figure B.6. General procedure for investigating possible ethical breaches

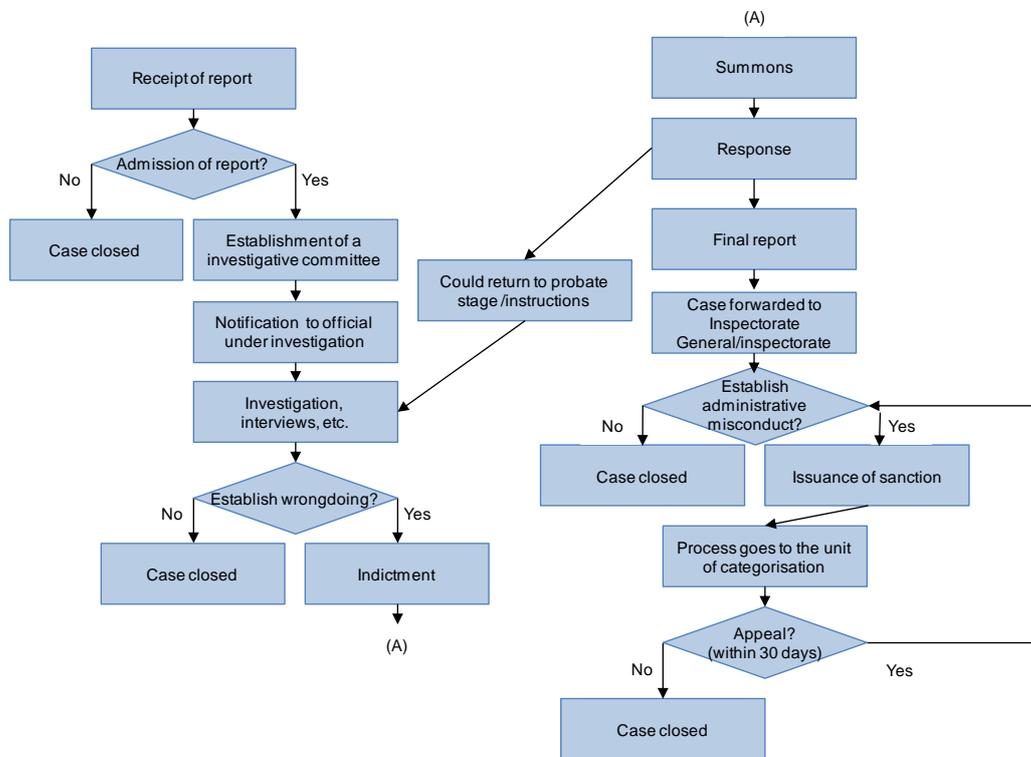


Source: OECD

Federal Law no. 8 112/1990 defines the general procedure for investigating possible administrative misconduct by a federal public official. Figure B.7 provides a summary of this procedure. In general, the admissibility of initial information is contingent on a precise indication of the alleged irregularity connected to the performance of the public office. If the report includes sufficient information, the inspectorate opens a preliminary investigation or an administrative disciplinary proceeding, in accordance with the specific case. In the absence of sufficient evidence to open an investigation, the information is filed. In all cases, the documentation submitted remains confidential and the identities of the reporting person and the official are to be protected. Investigations into possible administrative misconduct are subject to a statute of limitations of: *i*) 180 days for disciplinary action with maximum sanction of written warning; *ii*) 2 years for suspension of up to 90 days; and *iii*) 5 years for dismissal. This does not include the statute of limitations for criminal investigations that are regulated by the Criminal Code.

Investigations into possible administrative misconduct are conducted by a committee composed of three career public officials. The chair of the committee must be of equal or higher grade, or have an equal or higher level of education, than the official under investigation. Spouses, partners or relatives of the investigated official or any other person with interests at stake cannot participate in the committee. Federal public organisations must give priority to requests from investigative committees and cannot claim confidentiality as a means of withholding information. Where witnesses are public officials, a summons by the committee is addressed to the official’s immediate superior, together with information on the date and time scheduled for the hearing.

Figure B.7. General procedure for investigating possible administrative misconduct



Source: Office of the Inspector General of Administrative Discipline, Office of the Comptroller General of the Union.

The committee is obliged to perform its activities in an independent and impartial manner, and maintain the necessary level of confidentiality to protect the public interest. The meetings and hearings of the committee are closed and attendance is restricted to interested parties. Investigative committees have 60 days to conclude their reports, extendable under justification of another 60 days. The ruling authority subsequently has 20 days to render its decision, together with a report of facts established and the penalty. Members of the investigative committee may be relieved of their regular duties for the duration of the proceedings and until the release of a final disciplinary report. Courts have decided that expiration of this legal deadline cannot stop investigations nor preclude the ruling authority from imposing sanctions. In the event that the investigation concludes there has been a breach of criminal misconduct, the inspectorate of administrative discipline must send a copy of the case files to the Office of the Federal Public Prosecutor.

Public officials under investigation for possible administrative misconduct have a number of rights. This includes the right to be notified of an investigation into their conduct, to access and obtain copies of the documents related to the investigation and to be present a full defence against the allegations. The official under investigation may follow the proceedings in person or through a proxy, introduce and cross-examine witnesses and produce counter-evidence provided that it does not interrupt the proceedings of the investigation. The committee chair may, however, deny requests by the investigated official where it is considered irrelevant. An official under investigation continues to receive full remuneration during the investigation. As a precautionary measure, officials under investigation may be granted leave from their post for up to 60 days, extendable for another 60 days if the investigation is extended, in cases where their presence in their workplace can be harmful to the investigation.

***Standards of conduct have been a core element of training activities both among new entrants and existing federal tax officials***

Standards and rules on administrative conduct are taken into account in all three stages of the recruitment process for entry into the Secretariat of Federal Revenue. In the first stage of recruitment, a candidate's knowledge of administrative law is tested using competitive entrance exams. Competitive entrance exams into the Secretariat of Federal Revenue – required under the 1988 Federal Constitution – minimise the possible scope for nepotism and patronage in the recruitment process. Criminal background checks of candidates are also conducted during this stage. During the second stage, candidates participate in an eight-hour course on ethics and administrative discipline addressing the values of the Secretariat of Federal Revenue and the federal public administration, a review of legislation and case studies touching upon daily situations faced by federal tax officials. In the third stage, the Training and People Development Programme focuses on the institutional frameworks for ethics management and administrative discipline, as well as the duties and obligations of federal tax officials in reporting possible ethical breaches and possible administrative misconduct.

In addition to the induction training programmes, ongoing training activities and lectures on standards of conduct and administrative discipline are led by the Secretariat of Federal Revenue Inspectorate of Administrative Discipline. Although the frequency of this training varies, senior federal tax officials report that there are at least six training activities for each official per year. Lectures on the standards of conduct and disciplinary discipline for federal tax officials serve to raise awareness of the role of officials in the

prevention and reporting of possible misconduct. More specifically for managers, these lectures address their responsibilities to further educate managers about their own obligations and duties, including communicating the expected standards of conduct to their staff. Beyond the integrity training during the recruitment process, the results of such training are not linked to an official's career progression.

In comparison with other federal public organisations in Brazil, a 2010 Public Ethics Commission survey indicated that standards of conduct were integrated into training programmes and activities targeted at public officials in approximately 72% of all federal public organisations. In some cases, satisfactory completion of these training programmes and activities was linked to an official's career progression, though the extent of this practice was not measured. As mentioned, this survey was completed by public organisations themselves and responses have not been independently verified by the Public Ethics Commission or another federal public authority.

In addition, Secretariat of Federal Revenue managers also regularly make reference to standards of conduct and the codes of conduct in speeches and day-to-day operations and information on the codes is posted within the workplace. This is one element of leadership by senior federal public officials. In comparison with other federal public organisations in Brazil, a 2010 Public Ethics Commission survey indicated that high officials effectively demonstrated leadership and compliance in approximately 97% of all federal public organisations (efforts in the remaining 3% were considered unsatisfactory). This survey was completed by public organisations themselves and responses have not been independently verified by the Public Ethics Commission or another federal public authority.

*While integrity training has in the past been “rule-based”, the Secretariat of Federal Revenue has begun adopting variants of dilemma-type training*

Rule-based training typically involves trainers explaining what is expected from federal tax officials according to the laws, rules and codes and the consequences of not following these directions. Dilemma-type training includes the use of case studies and hypothetical situations that provide an opportunity for more interactive discussion. For example, in the “check case” a federal tax official receives a tax payment directly rather than through the typical online format; in the “shoe case” a federal tax official personally verifies export goods where the obligation to do so has been waived. In both cases the emphasis appears to be that there are ways in which such behaviours are detectable rather than the dilemma of what an official should do.

Secretariat of Federal Revenue officials report to receive tabulated post-training questionnaire results from which they can extract information on training activities. These questionnaires help to assess whether the training objectives were achieved, any doubts held by participants that were not answered during the training and teaching performance. Reports available to Secretariat of Federal Revenue officials focus only on the feedback from participants and not that from trainers – another valuable source of information. Trainers have the ability to perform qualitative assessments of the participation they receive in classes, such as whether participants take it seriously, whether participants are simply choosing the right answer on a test or whether they are gaining a better understanding of the right behaviour.

It is unclear the extent that the results of training is used by Secretariat of Federal Revenue management. Such information can also be used as a baseline for structured follow-up activities. This could include regular up-to-date training where new elements of

the normative framework are presented and techniques are practiced again. Follow-up activities could also be of a more structural nature. For example, trainers could be asked to assemble all integrity problems and suggestions that emerge from the training sessions and report them to management. Management could then respond to these concerns and adapt the integrity management framework if appropriate. Another type of follow-up would be to institutionalise discussions about integrity in daily communication, for example, by regularly discussing an ethical dilemma in staff meetings using the techniques learned in the training session.

***Integrity counselling is available to federal tax officials as required to resolve any dilemmas related to standards of conduct***

Counselling and advice is available to federal tax officials from the recently established Ethics and Integrity Unit. Specific counselling is also available to senior federal tax officials as required to support their role of leading by example and providing guidance to their staff. While all queries are treated as confidential, information on concerns of federal tax officials are often used to develop guidance notes. In such cases, identifying names or places, which may compromise confidentiality, are excluded. Questions concerning the implementation and interpretation of standards of conduct are also addressed, in part, through the Public Ethics Commission. The commission issues binding resolutions to support the implementation of the Code of Conduct for High Officials in the federal public administration. Topics covered by the Public Ethics Commission resolutions include measures to prevent conflict of interest, participation in external activities and gifts. While these resolutions focus in particular on the activities of high officials they also serve as input for the ethics committees within individual public organisations in guiding the conduct of other public officials.

In comparison with other federal public organisations in Brazil, a 2008 Office of the Comptroller General of the Union survey identified that, of the 151 administrative units with an ethics committee, 93 (62%) maintained communication channels for public officials to seek integrity counselling and advice. Of the organisational units with an ethics committee, the main communication channels were email (36%) and telephone (26%). Data on face-to-face counselling and advice was not measured. Counselling and advice from the ethics committees of individual public organisations were not, however, binding. The 2010 Public Ethics Commission Survey found that approximately 80% of all federal public organisations considered that they have fully implemented or established satisfactory channels for officials to receive guidance on the application of standards of conduct in specific situations. Of the remainder, 9% considered that the channels were unsatisfactory and could be improved and 10% had not established any such channels. As mentioned, the 2010 survey was completed by public organisations themselves and responses have not been independently verified by the Public Ethics Commission or another federal public authority. In addition, difference between the design of the 2008 and 2010 surveys make it difficult to assess whether improvements have occurred over time.

***All federal tax officials are required to submit an assets and income disclosure as a tool for monitoring illicit enrichment***

Federal Law no. 8 429/1992 regarding Government (Administrative) Impropriety establishes mandatory disclosures of assets and income by all federal public officials. It

requires that disclosures be updated annually and before officials change position or function or leave office. Disclosures must be submitted to the human resource unit of the public organisation where the official works or is employed. Failure to file, deliberately delay or intentionally submit an inaccurate disclosure constitutes an administrative misconduct with the possibility of dismissal and ineligibility for any position within the public administration for a period of up to five years. The obligation for high officials to disclose information on their income and assets was reinforced in 1993 by Federal Law no. 8 730. Under this law, high officials must file a signed disclosure with the public organisation in which they perform their activities and forward a copy to the Federal Court of Accounts. Intentional submission of an inaccurate disclosure by a high official constitutes a criminal offence.

The implementation of private interest disclosures in Brazil did not, however, really come into effect until 1999 for high public officials and 2005 for other public officials. In 1999, the Public Ethics Commission was established to oversee the standards of conducts of high public officials. It subsequently issued templates and guidance for high public officials to file their private disclosures (see Resolutions no. 1/2000, no. 5/2001 and no. 9/2005). A Confidential Information Disclosure must be submitted within 10 days of taking office or within 30 days of any significant changes to the respective financial information. In 2005, Federal Decree no. 5 483/2005 allowed for public officials to authorise the federal authorities to access data from their tax returns in lieu of a formal disclosure. The adoption of tax data for private interest disclosures reduces the burden on public officials insofar that they do not have to produce the same data in two different formats – one for the tax administration, the other for the officials’ human resources unit. Approximately 90% of all federal public officials opt to give access to their income tax statements.<sup>7</sup>

The Secretariat of Federal Revenue has only reported one case of a federal tax official submitting incorrect information since 2000, although this was only one of a number of other irregularities concerning the same official. In most cases, information provided by federal tax officials is correct although further information is often required for newly acquired assets, such as property.

Table B.15. Private interest disclosures for tax officials

Country	Income		Assets	Liabilities	Gifts	Outside positions		Previous employment
	Source	Amount				Paid	Unpaid	
Australia	●	●	●	●	●	●	●	0
<b>Brazil</b>	●	●	●	●	0	0	0	0
Canada	0	0	●	●	●	●	●	0
Chile	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
France	0	0	0	0	0	0	0	0
Germany	●	●	0	●	●	●	●	0
Italy	●	●	0	0	0	●	●	●
Japan	●	●	0	0	●	0	0	0
Korea	●	●	●	●	●	●	●	●
Mexico	●	●	●	●	●	Prohibited	●	0
Portugal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Spain	0	0	0	0	0	●	●	0
United Kingdom	0	0	0	0	Prohibited	0	0	0
United States	●	●	●	●	0	●	●	●

Notes: ● = yes; 0 = no, N/A = not applicable.

Source: OECD (2011), *Government at a Glance 2011*, OECD Publishing, Paris.

*The Secretariat of Federal Revenue Inspectorate conducts its own periodic investigations of federal tax official's income and assets*

Monitoring of federal tax official's disclosures is based on general criteria and objective parameters to determine whether there is any evidence to suggest possible illicit enrichment. In 2007, the Secretariat of Federal Revenue Inspectorate of Administrative Discipline examined the income and assets of a sample of 1 900 from a total of 22 000 federal tax officials (i.e. the numbers before the integration of Secretariat of Pension Revenue into the Secretariat of Federal Revenue). Through this process, approximately 250 Secretariat of Federal Revenue officials were identified as possibly being involved in illicit enrichment. Information on the outcome of these cases was not available.

Since 2009, an annual cycle of asset investigations has been conducted of approximately 150 officials. Of the 150 cases, 99 were analysed and, of these, 95 were investigated as a basis for opening an administrative disciplinary proceeding. Only four have begun administrative investigation, although the Secretariat of Federal Revenue Inspectorate of Administrative Discipline notes that this number is expected to significantly increase because of the time needed to analyse evidence. Through these investigations, the Secretariat of Federal Revenue has identified a number of operational areas at risk of misconduct. Export operations are considered more at risk because controls are considered less developed compared to import operations. In the long run, the inspectorate plans on developing a complete mapping of the areas at the greatest risk. In this regard, there is little co-ordination between the Secretariat of Federal Revenue's Inspectorate of Administrative Discipline and the Office of Internal Audit.

The activities of the Secretariat of Federal Revenue Inspectorate of Administrative Discipline are complementary to the sampling of disclosures by the Office of the Comptroller General of the Union and the Federal Court of Accounts. Within the Office of the Comptroller General of the Union, the Secretariat for Corruption Prevention and Strategic Information verifies the disclosures based on a risk assessment and using a sampling of both federal public organisations and public officials. Federal public organisations are selected based on materiality (both expenditure and revenue) and issues raised in the annual audit. Individuals are selected based on their decision-making powers (i.e. level 3-6 supervisory and management positions) or if the official occupies a vulnerable position (i.e. officials in charge of procuring goods and services, overseeing the private sector or granting licenses). The Office of the Comptroller General of the Union and the Secretariat of Federal Revenue held joint training courses for their officials on identifying illicit enrichment using officials' private interest disclosures. However, each organisation carries out their risk assessment and selection independently of one another.

To access the disclosures, the Secretariat for Corruption Prevention and Strategic Information visits the human resources unit of the involved public organisation to access the original disclosure forms. The Secretariat's officials do not remove the disclosure forms but, rather, scan and re-key the information from the scanned files as required. Once digitalised, data is crossed with other government databases to identify potential orange and red flags to be investigated. The current data-crossing has evolved since 2006, when the Office of the Comptroller General of the Union first began examining income and asset disclosures. The Office of the Comptroller General of the Union considers that

it has only developed a more systematised search method in the last year. In 2010, various government systems and databases were accessed including the Federal Government Financial Administration System for contract payments, the Integrated General Service Administration System for contracts awarded data and property registry databases maintained by the judiciary, among others.

The Federal Court of Accounts also maintains a register of disclosures to facilitate efforts to: *i*) monitor public officials' private interests; *ii*) exercise control, with the support of Office of the Comptroller General of the Union, over the legality and legitimacy of the disclosures; *iii*) detect irregularities or abuse of public office; *iv*) periodically report in the *Official Gazette of the Union* excerpts of data contained in the disclosures; *v*) report to the National Congress, or its commissions or committees, as requested; and *vi*) respond to submissions by the public concerning suspected misconduct by public officials.

### ***Federal tax officials are obliged to report ethical breaches and administrative misconduct***

This obligation is articulated in the Code of Conduct for the Federal Public Administration and the Legal Framework for the Federal Public Administration (Federal Law no. 8 112/1990). It applies to a broad range of wrongdoing, including: misconduct for material gain such as fraud and receipt of illegal payment; conflict of interest, either perceived, potential or actual; maladministration and the waste of public resources; perverting transparency and accountability.

Multiple pathways exist for public officials to report misconduct – differentiated by the type of official and the type of report. Ethical breaches involving a high public official should be submitted to the Public Ethics Commission. The commission's website<sup>23</sup> provides contact information – address, telephone and fax numbers, email addresses – through which reports can be channelled. Ethical breaches involving other public officials should be referred to the ethics committee of the public organisation where the official works. Administrative misconduct should be reported to the competent superior or directly to Office of the Inspector General of Administrative Discipline. Public officials may also report misconduct as a citizen to the Federal Court of Accounts, Office of the Federal Public Prosecutor and the Department of Federal Police. In each case, reports may be filed over the Internet, by telephone or in person.

Federal public officials who fail to report misconduct may face administrative discipline, including dismissal for dereliction of duty and acting in a negligent manner. Moreover, under Brazil's Criminal Code (Decree-Law no. 3 688/1941) it is an offence if an official fails to report crimes occurring in the public administration of which he/she has knowledge in the course of his/her public functions. It establishes a sanction of 15 days to 1 month, or a fine, for public officials who, by indulgence or leniency, fail to hold subordinates accountable who commit a violation in the performance of their functions or – if they do not have the authority to do so – who fail to report such a case to the competent authority.

### ***Continued job stability represents a key protection designed to ensure public officials are able to report misconduct of which they have knowledge***

Public officials may only be terminated following an administrative or court decision following an investigation that establishes wrongdoing and a full defence. In both cases,

public officials have the right to appeal the decision to a higher court. This guarantee also applies to public officials during their mandated three-year probationary period and officials in supervisory and management positions. The latter, however, can be dismissed at any time as their relationship with the federal public administration is based on trust with the nominating authority. Protection is also provided against grievous threats for officials who voluntarily co-operate with police investigations and criminal proceedings. Typically, however, witness protection-type programmes are only for serious cases of misconduct.

There is, however, no dedicated legislation on protected disclosures in Brazil, such as that which exists in Australia, Canada, Korea, South Africa, the United Kingdom and the United States. While reporting is considered confidential, public officials filing unfounded disclosures against another official, or in respect to any event determined not to have occurred, are subject to administrative, criminal and civil sanctions. The Criminal Code establishes penalties ranging from six months to one year imprisonment or a fine for falsely reporting a criminal offense, infractions leading to official action arising from the notification of a criminal offense or infractions the reporting person knows was not verified. The Civil Code establishes remedies, including compensation for damages, defamation or libel. Bill no. 41/2010 on Freedom of Information, currently under discussion within the National Congress, proposes to amend Federal Law no. 8 112/1990 on the Federal Public Administration, to prohibit the application of administrative, criminal and civil liability for public officials who report possible misconduct or crimes.

*In 2006, the federal government tabled a bill to the National Congress for the creation of an Incentive Programme for Public Interest Disclosures*

Bill no. 228/2006 originally provided cash compensation of up to 10% of the total assets, rights and securities – or up to 10% of the total value of the proceeds of the criminal offense – effectively recovered by the national treasury as a result of disclosure to any individual coming forward to report misconduct. The proposal for cash compensation created a lot of debate within the Federal Senate. Critics argued that the cash compensation would stimulate unfounded disclosures. The latest version of the bill provides compensation only for disclosures offered by citizens. The compensation does not apply to public officials since they are already obligated by law to disclose information of wrongdoing. The last version of the text was approved by the Committee on Constitution and Justice (*Comissão de Constituição e Justiça*) of the Federal Senate in June 2009. The text now needs to be considered in a plenary, approved by the Federal Senate and then considered and approved by the Chamber of Deputies. According to the Federal Senate, this bill has yet to be included in the order of the day since June 2009.

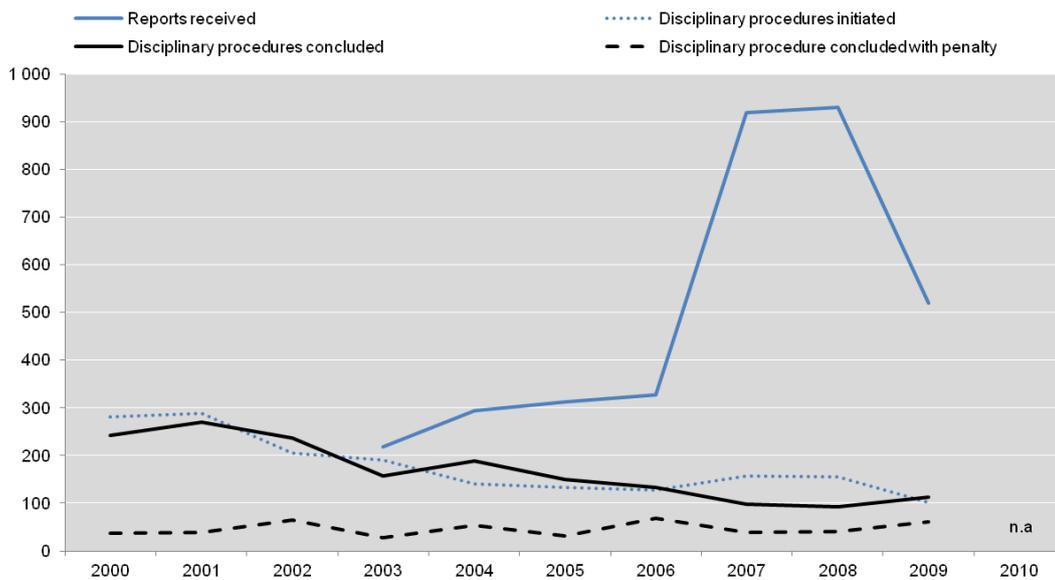
***The Secretariat of Federal Revenue Inspectorate has sought to strengthen its investigation of reports concerning possible administrative misconduct***

Efforts to verify reports have been scaled up to ensure administrative investigations are only initiated when sufficient material evidence exists. In this regard, the inspectorate of administrative discipline seeks to differentiate between misconduct and excusable error, providing Secretariat of Federal Revenue officials with the benefit of a doubt. This change aims to use the limited resources of the Secretariat of Federal Revenue Inspectorate of Administrative Discipline in an efficient and effective manner, and to ensure that federal tax officials do not fear real cases of excusable error being pursued.

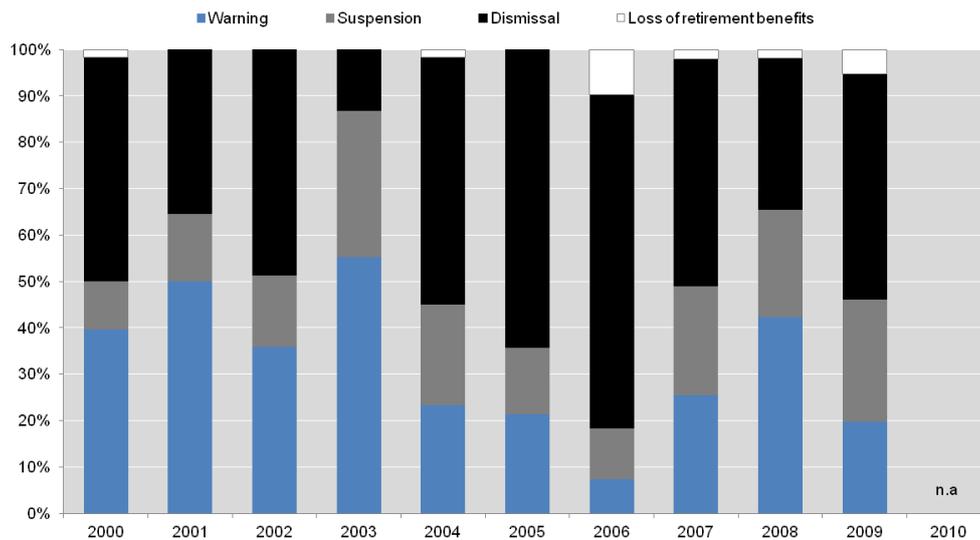
This was prompted by the rapid increase in the number of reports in 2007 and 2008 following the merger of the Secretariat of Federal Revenue with the Secretariat of Pension Revenue – and a backlog of reports since 2005 in the former Inspectorate of the Secretariat of Pension Revenue. The Secretariat of Federal Revenue considers that this backlog was overcome in 2009, although there has been an increase of about 70% in the number of reports received since the merger (see Figure B.8A).

Figure B.8. Secretariat of Federal Revenue administrative disciplinary procedures

A. Reports received, disciplinary procedures initiated and concluded



B. Type of administrative sanctions  
As a % of total



Notes: n.a = information not available.

*Source:* Secretariat of Federal Revenue Inspectorate of Administrative Discipline, Federal Ministry of Finance.

Despite a reduction in the number of cases initiated, the number of cases concluded with the imposition of sanctions has increased over the last few years. Whereas in 2000 only around 15% of cases investigated resulted in sanctions, this number grew to around 50% in 2009 (see Figure B.8A). Evidence of more targeted selection of cases by the inspectorate – together with the creation of the Ethics and Integrity Unit – is also visible from the types of administrative sanctions imposed (see Figure B.8B). The number of administrative disciplinary procedures resulting in warnings has decreased from around 40% to 20% between 2000 and 2009. During the same period, the number of procedures resulting in suspension increased from 10% to 20%. The number of dismissals has remained relatively stable over time. No information was available, however, about the impact of improvements in administrative investigations on the number and success of judicial appeals of administrative sanctions.

***The Secretariat of Federal Revenue does not comprehensively assess its institutions and systems for promoting high standards of conduct***

Monitoring and evaluation activities are compartmentalised within various units of the Secretariat of Federal Revenue. For example, ethics training activities are evaluated by the National School of Finance Administration and the results shared with the Secretariat of Federal Revenue Inspectorate of Administrative Discipline. Administrative investigations and disciplinary procedures are monitored by the Inspectorate. In other cases, data has yet to be collected. For example, the Ethics and Integrity Unit has yet to begun collecting information and data on reports concerning ethical breaches. However, in comparison, monitoring and evaluation of efforts to promote high standards of conduct is not commonly adopted by individual public organisations in Brazil's federal public administration. The 2010 Public Ethics Commission Survey found that approximately one-quarter of all federal public organisations considered that they had established satisfactory systems in place to monitor their institutions and systems for promoting high standards of conduct. A further 16% report to have begun and approximately 60% have yet to begin monitoring. As mentioned, this survey was completed by public organisations themselves and responses have not been independently verified by the Public Ethics Commission or another federal public authority.

The effectiveness of the institutions and systems for promoting high standards of conduct can be monitored and verified using a number of methods. For example, data can be collected on training, the number of proceedings to investigate ethical breaches or administrative misconduct and the resulting sanctions. In creating a system to measure efforts to embed high standards of conduct, the Secretariat of Federal Revenue should consider how this fits into its balanced scorecard. As mentioned previously, the Secretariat of Federal Revenue has proposed to include an indicator to measure standards of conduct among federal tax officials as part of balanced scorecard. It is proposed standards of conduct will be measured using an organisational survey once every two years.

*Monitoring activities of the Secretariat of Federal Revenue are complemented by Brazil's central integrity authorities*

A key instrument for evaluating efforts to embed high standards of conduct in the federal public administration is the annual ethics management survey commissioned by the Public Ethics Commission. Since 2001, 12 surveys have been commissioned, conducted biannually for the first three years then annually thereafter. This case study draws upon the results of the “2010 Public Ethics Commission Ethics Management Survey”. In 2009, the commission also conducted its first public opinion survey of ethics within the federal public administration. The surveys and their results, however, are not published on the Internet and only limited reference to their results can be found in the Public Ethics Commission’s annual reports.

The Office of the Comptroller General of the Union conducts surveys related to institutions and systems for embedding high standards of conduct. This case study draws upon the results of a 2008 Office of the Comptroller General of the Union survey on the existence and functioning of public organisations’ ethics committees. Since 2008 the Office of the Comptroller General of the Union has, in addition, sought to collect good practices from federal public organisations regarding efforts to embed high standards of conduct. Such examples can support management improvements in federal public organisations by highlighting where good practices are being employed in the public administration. To date, however, much of the activities of the Office of the Comptroller General of the Union have focused on the existence of measures and systems rather than on their functioning. Moreover, there has been no effort to verify the good practices self-proclaimed by public organisations.

A number of challenges exist in relation to the survey work conducted by the Public Ethics Commission and the Office of the Comptroller General of the Union. First, there appears to be little continuity in the topics covered and, as such, surveys do not show the changes in trends over time. This is particularly an issue facing the surveys of the Public Ethics Commission. The ability of the federal government to measure the progress made in embedding high standards of conduct could benefit substantially by standardising the annual ethics management surveys conducted by the Public Ethics Commission to allow monitoring of developments regarding standards of conduct over time. It may not be necessary to conduct the same survey every year. Alternative surveys may be conducted on a rolling basis. In addition, attention could focus on leveraging new technologies by conducting the surveys through officials email accounts, for example. This would reduce the cost of conducting the survey and increase the speed with which results can be processed.

## **Main findings and proposals for action**

In order to strengthen integrity within the Secretariat of Federal Revenue could consider the following proposals for action:

*Proposals for action to promote transparency and taxpayer rights*

- Work together with the Office of the Comptroller General of the Union and Federal Ministry of Planning, Budget and Management to examine the possible integration of information available through the Secretariat of Federal Revenue Transparency Page and Transparency Portal.

- Work together with the Office of the Comptroller General of the Union and Federal Ministry of Planning, Budget and Management to develop tools for citizens to analyse data available through the Secretariat of Federal Revenue Transparency Page and Transparency Portal.
- Work together with the Office of the Comptroller General of the Union to monitor what data and information citizens access regarding the [National STD/AIDS Programme-federal tax administration](#) through the Secretariat of Federal Revenue Transparency Page and Transparency Portal.
- Explore, together with the Office of the Comptroller General of the Union, partnerships with organisations that conduct household surveys on the use of e-government services to collect information on the use of tax administration data and information made available through the Secretariat of Federal Revenue Transparency Page and Transparency Portal.
- Include within the Charter of Citizens' Services additional information to guide the interaction between taxpayers and the Secretariat of Federal Revenue, build confidence and increase the relevance of the charter, including: i) information on the service and standards for the Federal Ministry of Finance Ombudsman; ii) information on taxpayers' rights and obligations in interacting with the Secretariat of Federal Revenue or the Board of Tax Appeals; and iii) a commitment that federal tax officials maintain their professional excellence, including technical knowledge and understanding.
- When revising the current Charter of Citizens' Services, conduct a consultation with different taxpayer groups, tax practitioners, citizens and other public organisations (e.g. Office of the Federal Public Prosecutor) to establish whether the charter is understood and considered relevant to taxpayers' needs. This can provide support in ensuring that: i) stakeholders are aware of their rights and obligations; ii) the charter is understood and considered relevant to their respective needs; and iii) the charter has been appropriately applied. In doing so, all necessary actions should be taken to ensure the timely completion of a consultation process and amendment/revisions to the charter.
- Document how strategic initiatives supporting the implementation of the Secretariat of Federal Revenue strategic plan support the implementation of the charter to align its principles with strategic planning and organisational renewal.
- Develop protocols and procedures to inform taxpayers of information contained within the charter as a normal part of Secretariat of Federal Revenue activities. To maintain a consistent and co-ordinated approach, consider incorporating protocols relating to the charter into taxpayer education activities and other awareness-raising activities.
- Develop strategies and training activities to increase awareness and understanding of the Federal Ministry of Finance Charter of Citizens' Services among federal tax officials.
- Periodically survey federal tax officials on their understanding of the Federal Ministry of Health Charter of Citizens' Service. This could be done as either a stand-alone survey or as part of other human resource or ethics management surveys.

- Develop a systematic approach within the Secretariat of Federal Revenue to monitor, evaluate and communicate the results of the implementation its Charter of Citizens' Services, including publishing both quantitative and qualitative measures as part of the ministry's annual management reports.
- Place responsibility and allocate resources within the Secretariat of Federal Revenue to monitor conformity with service standards outlined in its charter, and to bring the results to the attention of senior tax officials
- Make explicit at each point for citizens to submit a complaint or report possible misconduct by federal tax officials their complaint/report will remain confidential and that they will not be discriminated against as a result of it.
- Include in the Secretariat of Federal Revenue reports more detailed information to issues by service area, organisational unit, response time and response type (e.g. released in full, denied in part, denied, no records, time extension, etc.). This would also require modifying the Federal Ministry of Finance Ombudsman management system to record the necessary information.
- Evaluate current records and archives management within the Secretariat of Federal Revenue to inform preparation needed for an eventual freedom of information law.
- Allocate adequate resources to formulate internal policies and protocols and to inform federal tax officials about obligations created by freedom of information in order to create a culture of proactive provision of information.

#### ***Proposals for action to implement a risk-based approach to internal control***

- Formulate a risk management policy to define and communicates the Secretariat of Federal Revenue's approach to risk, and provides high level guidance on how processes and procedures integrate risk with the everyday activities.
- Centralise responsibility for conducting operational risk identification within the Office of Internal Audit to allow for the development of a whole-of organisation understanding of risk and supporting operational risk management infrastructure (e.g. supporting information systems) for monitoring and reporting on risks.
- Map business processes in collaboration with work units as a means to identify the causes and effects of the operational risks identified. It may be beneficial to limit business process mapping to particular units or processes in the beginning rather than for the Secretariat of Federal Revenue as a whole.
- Conduct periodic (e.g. once every two years) online surveys of federal tax officials' opinions about operational risks within the respective areas of work as a basis for updating an inventory of operational risks. It may be beneficial to first pilot the survey in a limited number of divisions rather than to expand it to the Secretariat of Federal Revenue as a whole.
- Develop key risk indicators based on the results of periodic online surveys of federal tax officials' opinions about operational risks, business process mapping and select audits to allow ongoing monitoring of risks by the Secretariat of Federal Revenue Office of Internal Audit.

- Revise the Secretariat of Federal Revenue risk management methodology to explicitly evaluate the impact of actions undertaken by federal tax officials to mitigate identified risks.
- Strengthen co-ordination between the Secretariat of Federal Revenue Office of Internal Audit and the Inspectorate of Administrative Discipline with respect to operational risk identification, analysis, treatment and evaluation.
- Develop mechanisms, in partnership with the Office of the Comptroller General of the Union, to exchange experiences and lessons learnt between organisations of the direct and indirect federal public administration with respect to operational risk management.

***Proposals for action to embed high standards of conduct***

- Work together with the Public Ethics Commission and Office of the Comptroller General of the Union to ensure that members of its ethics committee develop and periodically refresh the knowledge and skills they require to satisfactorily conduct their duties. Protocols could also be established to ensure new ethics committee members receive necessary training promptly upon taking their responsibilities.
- Take action to ensure systems and protocols are quickly established upon the creation of its inspectorate of administrative discipline to ensure investigations into possible administrative misconduct by federal tax officials are handled promptly and with confidence of federal tax officials.
- Improve the quality of dilemma-type training for federal tax officials and more closely align with the risks associated with officials' tasks and level of management.
- Periodically evaluate federal tax officials' understanding of standards of conduct to assess their retained knowledge and understanding, and to inform the design of ongoing training activities on standards of conduct.
- Develop a framework for evaluating the functioning of the Secretariat of Federal Revenue's systems and activities to embed high standards of conduct among federal tax officials.

## Notes

1. The Large Taxpayers Management Division (*Divisão de Administração dos Maiores Contribuintes*), together with a Large Taxpayers Follow-up Service (*Serviços de Acompanhamento dos Maiores Contribuintes*) in the regional offices, was established in 2005 as a means of raising the efficiency and effectiveness of tax collection. Since 2010, Special Largest Taxpayers Precincts (*Criação de Delegacias Especiais de Maiores Contribuintes*) have been established in Rio de Janeiro and São Paulo.
2. Definition of a large taxpayer in Brazil:

Number of "large" taxpayers	2008	2009	2010
	10 094	10 501	10 568
Determination of net profit, annual revenue declared in the Declaration of Economic and Fiscal Information ( <i>Declaração de Informações Econômico-Fiscais da Pessoa Jurídica</i> )	> BRL 60 million	> BRL 65 million	> BRL 80 million
Annual gross revenue reported in the Statements of Income of Social Contributions ( <i>Demonstrativo de Apuração de Contribuições Sociais</i> )	> BRL 60 million	> BRL 65 million	N/A
Annual rates reported in the Statement of Charges and Federal Tax Credits ( <i>Declaração de Débitos e Créditos Tributários Federais</i> )	> BRL 6 million	> BRL 6 million	> BRL 8 million
Annual wage bill reported in the Payment of the Guarantee Fund for Employees and Social Security Information ( <i>Guia de Recolhimento do Fundo de Garantia do Tempo de Serviço e Informações à Previdência Social</i> )	> BRL 7 million	> BRL 9 million	> BRL 11 million
Total annual debt reported in the Payment of the Guarantee Fund for Employees and Social Security Information	> BR L2 million	> BRL 3 million	> BR 3 million

Notes: N/A = Not applicable.

Source: Secretariat of Federal Revenue Administrative Instruction no. 2 923/2009; Secretariat of Federal Revenue Administrative Instruction no. 2 521/2008; Secretariat of Federal Revenue Administrative Instruction no. 11 213/2007.

3. The National Strategy Against Corruption and Money Laundering (*Estratégia Nacional de Combate à Corrupção e à Lavagem de Dinheiro*) was established in 2003. Co-ordinated by the Federal Ministry of Justice, the National Strategy aims to foster co-ordination among public authorities in the various stages of preventing and combating money laundering and, since 2005, corruption. The Integrated Management Cabinet for Prevention and Combat Against Corruption and Money Laundering is composed of 60 public organisations of the executive, the Office of the Public Prosecutor of the Union, the National Congress and the judiciary. These authorities meet once a year to review the effectiveness of co-operation and co-ordination in combating organised crime and corruption. In addition, a core group of National Strategy members meets every three months. The annual meeting also determines the main objectives and targets for the National Strategy for the following year. In the context of the National Strategy, a major effort has been made to improve the co-ordination between the Office of the Comptroller General of the Union, the Office of the Public Prosecutor of the Union and the federal Court of Accounts.

4. Operational expenditure, including outsourced information technology services, account for BRL 2.12 billion. Within this group, a large part is absorbed by the information technology services provided by the Federal Service of Data Processing (SERPRO) and Enterprise Information Technology and Social Security (Dataprev) which account for BRL 1.1 billion and BRL 0.1 billion respectively. The dual system, while ideal, was inherited from the Secretariat of the Social Security in FY 2007. Postal services and banking fees account for the other large share of Secretariat of Federal Revenue procurement: BRL 67.6 million and BRL 173.0 million, respectively. Other operating expenditure, such as supplies, rent, utilities (water, electricity and telephones) account for approximately BRL 650 million. Investment spending, such as customs scanners, accounts for BRL 160 million.
5. Comparisons of this nature are naturally subject to some of the qualifications referred to concerning “cost of collection” ratios – in addition to efficiency considerations, exogenous factors such as the range of taxes administered (e.g. social contributions, motor vehicle and property taxes) and the performance of non-tax related roles (where these cannot be isolated) all impact on the magnitude of the reported ratio. For some countries, demographic features (e.g. country age profile and rate of unemployment) are also likely to be relevant. Tax authorities in a number of countries also have major restructuring programmes underway, some of which project significant planned staffing reductions over the coming years.
6. See, for example, 2004 United Nations Convention against Corruption, Article 10:  
Taking into account the need to combat corruption, each state party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organisation, functioning and decision-making processes, where appropriate. Such measures may include, inter alia: *i*) adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organisation, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public; *ii*) simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and *iii*) publishing information, which may include periodic reports on the risks of corruption in its public administration.
7. See Office of the Comptroller General of the Union and the Federal Ministry of Planning, Budget and Management Inter-ministerial Decree no. 140/2006.
8. Along with the Secretariat of the National Treasury (*Secretaria do Tesouro Nacional*), the Secretariat of International Affairs (*Secretaria de Assuntos Internacionais*), the Secretariat of Economic Monitoring (*Secretaria de Acompanhamento Econômico*), the Attorney General of the National Treasury (*Procuradoria-Geral da Fazenda Nacional*) and the Undersecretary of Planning, Budget and Administration (*Subsecretaria de Planejamento, Orçamento e Administração*).
9. See Federal Decree no. 6 932/2009 regarding the simplification of public services, the waiver of the notarisation of documents and establishment of Charter of Citizens’ Services.
10. The concept of the Charter of Citizens’ Services first began in 2000 with efforts to establish benchmarks of quality control for services performed by the federal

government to citizens under the Quality of Service Provided for the Citizen Project (*Projeto de Padrões de Qualidade do Atendimento ao Cidadão*) (see Federal Decree no. 3507/2000). In 2005, this project was replaced by the National Programme for Public Management and De-bureaucratisation (*Programa Nacional de Gestão Pública e Desburocratização*).

11. This includes the Federal Ministry of Finance (*Ministério da Fazenda*), the Department of Federal Police (*Polícia Federal*) (within the direct public administration), as well as the Federal Savings Bank (*Caixa Econômica Federal*), the National Institute of Social Security (*Instituto Nacional do Serviço Social*), the Inactive Service Pensioners and Navy of Brazil (*Serviço de Inativos e Pensionistas da Marinha do Brasil*), the National Health Surveillance Agency (*Agência Nacional de Vigilância Sanitária*) (within the indirect public administration) – as well as the federal Justice Court in Mato Grosso and the Brazilian Army. The government’s objective is to eventually expand the Charter of Citizens’ Service to sub-national public organisations. To date, however, charters had been published in four states: Mato Grosso (Legislative Assembly), Pará (Hemope Foundation of the State Health Secretariat), Paraná (Regional Management Board and Regional Labour Court) and Maranhão (Municipal Institute of Urban Landscape [Impurities], Municipal Planning and Development, State Secretariat for Planning and Budget).
  12. The Administrative Council of Tax Appeals is divided into three Sections of Judgement (*Seção de Julgamento*), each with its own staffing, administrative secretariat and four Chambers (*Câmara*). The responsibilities of the three sections are arranged according to tax type. The first section is responsible for cases related to personal income tax (IRPJ) and social contribution on net corporate profits (CSLL). The second section is responsible for company income tax, rural property and land (ITR) taxes as well as social security and pension contributions. The third is responsible matters that relate to the contribution to the Public Service Asset Formation Programme (PASEP), the contribution to the Social Integration Programme (PIS), the contribution for financing social security (Cofins), the contribution for the Social Investment Fund (FINSOCIAL), industrial products tax (IPI), the tax on financial operations (IOF), the contribution for the intervention in economic domain (CIDE), export and import duties (IE and II), merchandise tariff categorisation and bracketing, customs duties, tax omission due to commercial malpractice, anti-dumping and compensatory measures, additional tax, contributions, and duties relating to imports, exports, and currency exchanges.
  13. The Administrative Council of Tax Appeal was established in December 2008 by Provisional Measure no. 449/2008 and converted into Federal Law no. 11 941/2009.
- largely identical. The latter builds the former into the framework for human resource management within the public service. See Federal Law no. 8 027/1990, Article 2, and Federal Law no. 8 112/1990, Article 116. Two additional articles are included in Federal Law no. 8 112/1990, namely: *i*) the requirement “to inform the superior authority of the irregularities that have knowledge by virtue of office”; and *ii*) the requirement “to meet promptly...the requisition for the defence of the state”.
14. See Federal Decree no. 5 497/2005. Efforts are being made to increase the proportion of positions reserved for public officials and a draft bill to this effect is currently in the National Congress. Suspension may, however, be converted into a fine, on the basis of 50% of the remuneration of the public official for the period of the original suspension. The decision over whether a suspension can be converted into a fine is

left to the discretion of the federal public administration. See Public Ethics Commission, [www.presidencia.gov.br/estrutura\\_presidencia/cepub/suges](http://www.presidencia.gov.br/estrutura_presidencia/cepub/suges)

15. Federal Law no. 8 666/1993 obliges procurement officials to document the procurement procedures with a view to gauging their regular agents of control. It enumerates that every procurement procedure should record: *i*) justification of hiring; *ii*) a reference guide containing detailed description of the object, budget estimate of costs, and physical and financial schedule of disbursements, if any; *iii*) cost spreadsheets; *iv*) guarantee of budgetary reserve, with an indication of the respective items; *v*) authorisation to open the bidding; *vi*) designation of the auctioneer and support staff; *vii*) legal advice; *viii*) tender and its annexes, if applicable; *ix*) the draft of the termination of employment or equivalent, as appropriate; *x*) original of the written proposals and supporting documents; *xi*) the minutes of the trading session, the registration of bidders approved, the submitted written and verbal proposals in order of ranking and the analysis supporting the decision, and *xii*) proof of publication of notice of the announcement of the outcome of the bidding, the extract of the contract and other actions relating to advertising of the event, as appropriate.
16. Planning and monitoring of tax audit and fraud investigations are managed and reported by the Secretariat of Federal Revenue according to documented audit plans with clear risk assessment criteria for all major taxes that apply self-assessments. At the end of 2008, 14 978 tax audits were in progress, of which 9 885 involved corporate taxpayers and 5 093 involved individual taxpayers. In 2007, the Secretariat of Federal Revenue introduced new software to better manage the selection for taxpayer audits and monitor compliance risks (World Bank, 2009).
17. The United Nations Convention Against Corruption draws reference to: *i*) the promotion of integrity, honesty and responsibility among its public officials; *ii*) the application of codes of conduct to articulate the standard of conduct of public officials for the correct, honourable and proper performance of public functions; *iii*) the establishment of measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities; *iv*) measures and systems requiring public officials to make declarations of their private interests that can give rise to a conflict of interest with respect to their functions as public officials; and *v*) disciplinary or other measures against public officials who violate the codes or standards (Article 8). This is in addition to maintaining and strengthening systems for the recruitment, hiring, retention, promotion and retirement of public officials (Article 7).

The Inter-American Convention Against Corruption notes, Article 3:

[To promote and strengthen the development by each of the states parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and to promote, facilitate and regulate co-operation among the states parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance] the states parties agree to consider the applicability of measures within their own institutional systems to create, maintain and strengthen: ...*i*) standards of conduct for the correct, honorable, and proper fulfillment of public functions. These standards shall be intended to prevent conflicts of interest and mandate the proper conservation and use of resources entrusted to government officials in the performance of their functions. These standards shall also establish measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions. Such measures should help preserve the public's confidence in the integrity of public servants and government processes; *ii*) mechanisms to enforce these standards of conduct; *iii*) instruction to government personnel to

ensure proper understanding of their responsibilities and the ethical rules governing their activities; *iv*) systems for registering the income, assets and liabilities of persons who perform public functions in certain posts as specified by law and, where appropriate, for making such registrations public...*viii*) systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with their constitutions and the basic principles of their domestic legal systems; *ix*) oversight bodies with a view to implementing modern mechanisms for preventing, detecting, punishing and eradicating corrupt acts.

18. The obligations and duties, as well as sanctions, outlined in the Code of Conduct for the Federal Public Administration (Federal Law no. 8 027/1990) and Federal Law no. 8 112/1990 regarding the public administration are largely identical. The latter builds the former into the framework for human resource management within the public service. Two additional articles are included in Federal Law no. 8 112/1990, namely: *i*) the requirement “to inform the superior authority of the irregularities that have knowledge by virtue of office”; and *ii*) the requirement “to meet promptly...the requisition for the defence of the state”.
19. See Federal Decree no. 5 497/2005 regarding the appointment of career public servants to level 1 to 40 supervisory and advisory positions within the federal public administration. Efforts are being made to increase the proportion of positions reserved for public officials and a draft bill to this effect is currently in the National Congress.
20. Suspension may, however, be converted into a fine, on the basis of 50% of the remuneration of the public official for the period of the original suspension. The decision over whether a suspension can be converted into a fine is left to the discretion of the federal public administration.
21. The first Secretariat of Federal Revenue Inspector of Administrative Discipline, José Oleskovicz, served from 1998-2001 (first term) and again from 2001 until June 2002 when, upon his own request, he left to work at the Office of the Comptroller General of the Union. José Moacir Ferreira Leão, the then Deputy Inspector, served as Inspector between June 2002 and June 2005. Marcos Rodrigues de Mello served from June 2005 until February 2007. The fourth Inspector is Antônio Carlos Costa d’Ávila Carvalho who served from February 2007 until February 2010 and has since begun a second term as the Secretariat of Federal Revenue Inspector of Administrative Discipline.
22. The Secretariat of Federal Revenue Inspectorate of Administrative Discipline is composed of five units. The Disciplinary Co-ordination Unit is responsible for administering and supervising disciplinary investigation and internal audit (through its Audit and Disciplinary Research Division), activities related to the functional discipline (through its Correctional Analysis Division) and monitoring legal proceedings (through its Judicial Service Monitoring and Control Division). The Administrative Disciplinary Unit is responsible for managing information concerning administrative and disciplinary procedures; assisting the inspector in drafting, monitoring and evaluation planning activities; promoting co-ordination and integration of planning activities within the inspectorate as well as co-ordinating consolidation and analysis of management indicators within the inspectorate.
23. See Public Ethics Commission,  
[www.presidencia.gov.br/estrutura\\_presidencia/cepub/sugest](http://www.presidencia.gov.br/estrutura_presidencia/cepub/sugest).



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