

# Survey on legal remedies in tax disputes

## Unexploited opportunities

Hungarian courts hearing public administration cases and the European Court of Justice play an increasingly important role in establishing the judicial practice in the field of tax controversies. The analysis of potential legal remedies and being aware of court cases are becoming increasingly important for taxpayers in taking an effective stand against authority resolutions in contested matters.

Deloitte Hungary conducted its second survey among Hungarian companies regarding legal remedy proceedings launched in connection with tax issues to have a clearer view of Hungarian legal practice and potential unexploited opportunities.

In addition to analysing the lessons learnt by Hungarian companies, the survey allows for comparison with the circumstances that existed two years ago.

### MISCONCEPTIONS

### FACTS

Judicial procedures are extremely long

A typical tax lawsuit reaches its conclusion in half a year, which means that it is shorter than the majority of tax audits.

Judicial procedures are extremely costly

Court fees are payable subsequently and only if the suit is lost, and the fees are capped at HUF 1.5 million.

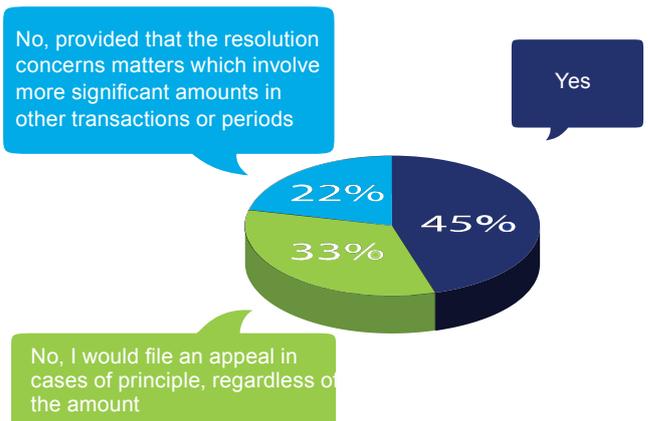
Taxpayers do not stand a chance in tax lawsuits

Around one third of all cases are won by taxpayers, even though initially the chance of success is slim in many cases (e.g. the taxpayer did indeed fail to meet the tax requirements or did not engage a legal representative with experience in tax matters).

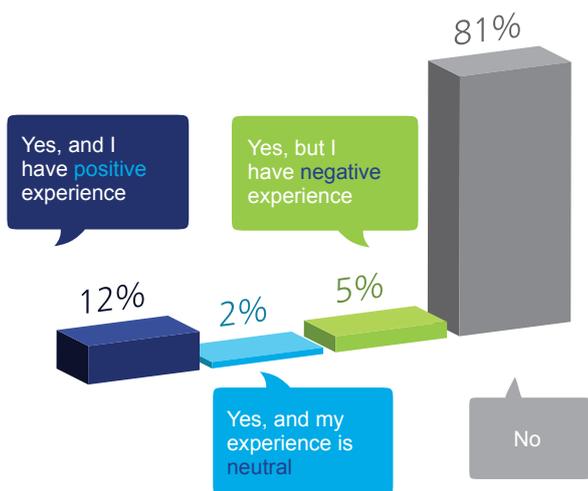
### Appeals against the tax authority's resolutions

Almost two thirds of the companies surveyed have already received tax authority resolutions that they found unlawful and worthy of appeal to the higher tax authority. Even though taxpayers often disagree with the tax authority's positions, **nearly half of all companies only file an appeal when the amount contested is high.** Few are considering an appeal against resolutions involving smaller amounts, even though this may translate into larger sums in the long term. Another point to consider is that, **when a taxpayer does not file an appeal against a resolution involving a smaller amount, but the authority issues a resolution on similar grounds but for a more significant amount and with similar conclusions, there is a risk that the taxpayer may end up in a considerably worse position.**

If you disagree with the tax authority's resolution, is it only in the case of a considerable tax difference/fine that you (would) file an appeal?



Have you ever filed a request for a supervisory procedure to a higher tax authority?



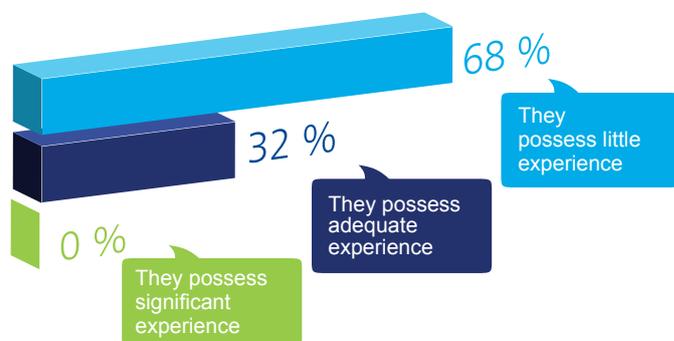
## Judicial review and supervisory procedure

The survey reveals that taxpayers consciously take advantage of their opportunities to mitigate risk (e.g. requesting a position statement from the tax authority, a binding ruling or a professional opinion) but, for the time being, still doubt that the courts would overrule the opinion of the tax authority. Although practical experience suggests that the duration of court proceedings is significantly shorter in the case of tax issues than for other types of lawsuits and costs are typically lower and more predictable as well (for instance, fees are payable subsequently and only of the case is lost), **nearly 40% of those surveyed are still averse to taking legal action in tax issues than in the case of other matters.**

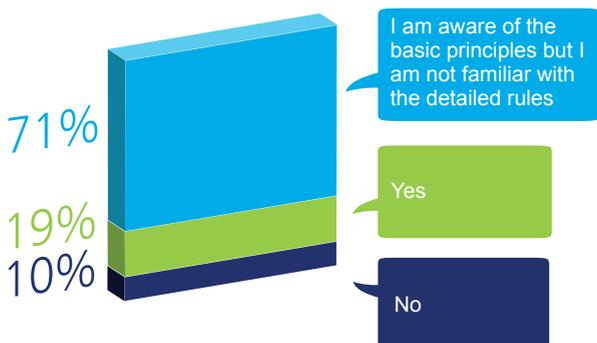
Regardless of this, around half (50%) of all respondents have requested a judicial review of tax authority resolutions at least once. Nevertheless, only a small portion of companies have taken advantage of the option of requesting a supervisory procedure; what's more, there has been a decline in the percentage of those respondents that have filed a request for a supervisory procedure at least once, despite the fact that **the majority of those who used this form of legal remedy were mostly satisfied with the proceedings.**

Do you think that courts have sufficient experience in judging tax issues?

In the Hungarian judicial practice the significance of tax issues is clearly increasing, as is the professional quality of decisions. In spite of this, the results of the survey reveal that Hungarian companies tend to have a negative opinion about the courts' expertise in terms of tax issues. Nearly three quarters of respondents that have already initiated court proceedings are of the opinion that courts have little experience in evaluating tax matters.



Are you aware of the differences between the various types of legal remedies?



## Awareness of legal remedies

Less than 20% of the companies surveyed are aware of the differences between the various types of legal remedies in detail, while 71% of them know the fundamental regulations but are unaware of the detailed rules, although this would be essential for taking an effective stand against tax authority resolutions.

In addition to the substantial part of the resolution, companies should also focus on procedural issues (e.g. limitation periods, reasons for exclusion). Also, provided that adequate expertise and knowledge is at hand, the judicial review of unlawful resolutions and the review of the tax authority's resolutions in the light of EU law might also be worth considering. Almost all respondents are aware that the provisions of EU law apply to tax issues as well; however, similarly to the above, only 50% of them possess detailed information in spite of the fact that, in recent years, Hungarian taxpayers have won numerous important tax lawsuits before the European Court of Justice.

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