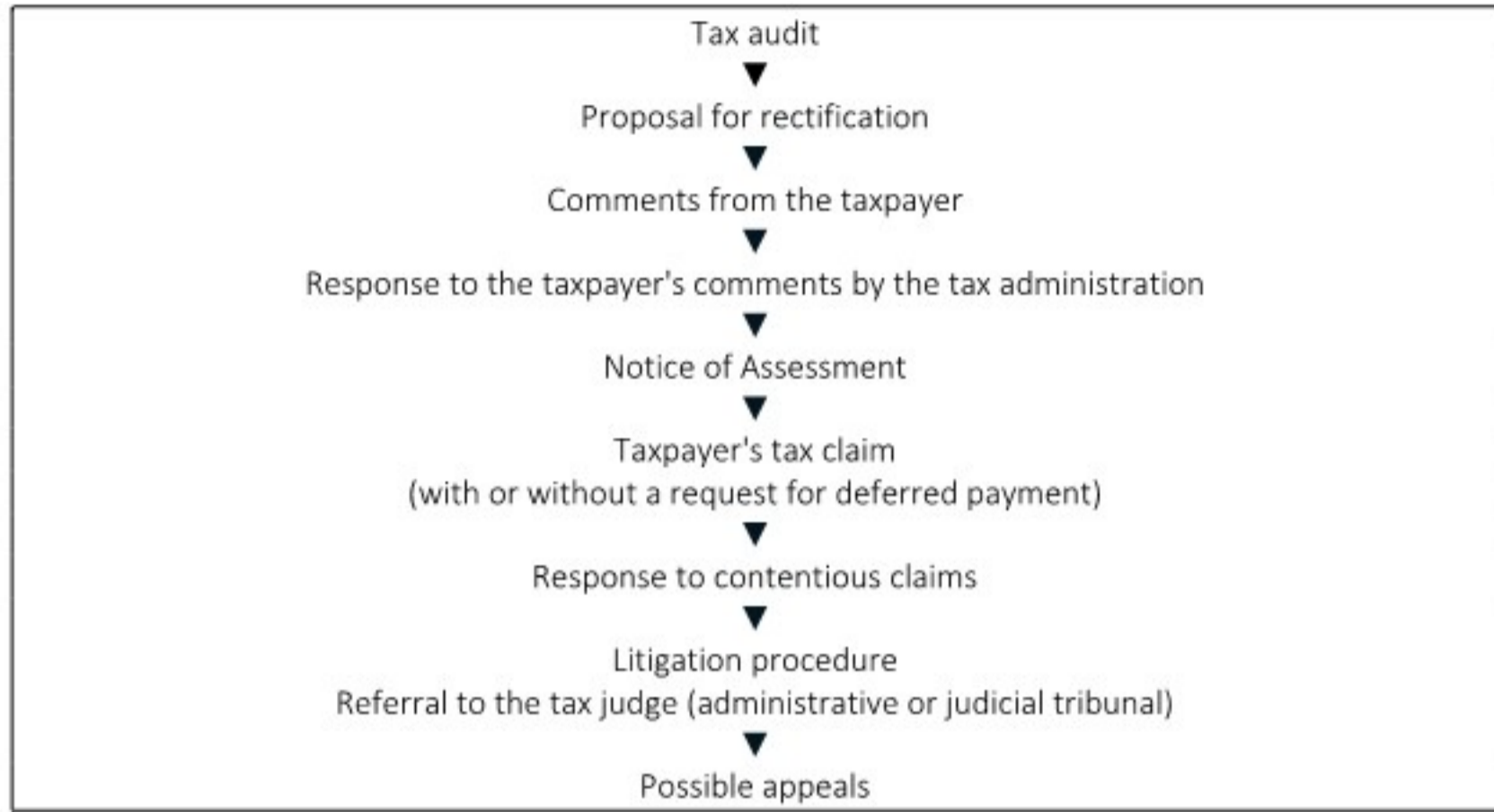


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## Litigation and pre-litigation – Practical information

- ❖ The various practical phases of tax pre-litigation and litigation



- ❖ What penalties apply if I fail to file my tax return or pay tax late?

	<b>Insufficient tax returns</b>	<b>Failure or delay in filing tax returns</b>	<b>Non-payment or late payment</b>
<b>Penalties and surcharges</b>	Deliberate failure to comply: 40% Fraudulent practices: 80%	10% in principle (in the absence of formal notice)	5% or 10% surcharge
<b>Interest on arrears</b>	0.20% monthly or 2.40% a year (since 01/01/2018)	0.20% monthly or 2.40% a year (since 01/01/2018)	0.20% monthly, i.e. 2.40% a year (since 01/01/2018) (if the 5% surcharge is applied)
<b>When should I consult a lawyer?</b>	To carry out a precise calculation for each type of tax, to check the rules governing payment, base and rate, the rules governing the accumulation of different penalties, the existence of tolerance or duty reduction mechanisms, etc.		

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❖ What is the difference between tax optimisation, tax fraud, tax evasion and abuse of tax law?

Legal		Illegal		
Actions	Definition	Actions	Definition	Penalties
<b>Tax optimisation</b>	Tax reduction through legal mechanisms;	<b>Tax fraud (1741s. CGI)</b>	Fraudulent and intentional evasion of tax (omission, concealment, fraudulent dealing, etc.)	€500,000 fine and 5 years' imprisonment
<b>Tax "evasion"</b>	Relocation of taxation to another State through legal mechanisms (e.g. change of tax residence)	<b>Abuse of tax law (L64 and L64 LPF)</b>	Questioning of an act qualified as fictitious or fraudulent by the tax authorities and justified by the sole or main motive of evading tax	40% or 80% penalty  Can be combined with criminal penalties

❖ How do I challenge a tax assessment?

	Legal appeal	Informal appeals
<b>Shape</b>	Making a prior claim to the tax authorities (by post or online)	Appeal to the relevant tax office, depending on the amount (by post or online)
<b>Deadlines</b>	Generally, until 31/12 of the 2 <sup>nd</sup> year following the tax assessment	No time limit
<b>Content</b>	Challenging the validity of the taxation  Application for deferment of payment possible	Application for reduction/tax moderation/penalties without contesting their legitimacy