

# V Remedy for the Infringement of Taxpayer Rights

## Requests for Reinvestigation, Requests for Reconsideration, and Litigation: Japan's System to Address the Infringement of Taxpayer Rights and Interests

When a taxpayer disagrees with the District Director of a Tax Office concerning a correction made during a tax examination and wants to appeal, there is an appellate system that allows for an administrative review before litigation is instituted directly with the court. This review system provides simple procedures to promptly remedy infringement of taxpayer rights and interests and comprises requests for reinvestigation and reconsideration.

In principle, taxpayers who disagree with the actions taken by a Tax Office shall first submit requests for reinvestigation to the District Director of the Tax Office. On the other hand, a request for reconsideration is to be submitted to the Director-General of the National Tax Tribunal, established as an independent institute.

In addition, if the taxpayer is still dissatisfied with the disposal taken after the decision made by the Director-General of the National Tax Tribunal, the taxpayer may appeal to the court to seek remedies, as in other general administrative cases.

### (1) Request for Reinvestigation

Requests for reinvestigation represent the first stage of administrative dispute procedures regarding dispositions concerning national tax. To appeal a correction/determination or seizure made by the District Director of the Tax Office or other official, a taxpayer may lodge a request for reinvestigation with the District Director of the Tax Office or other official to request that the ruling be revoked or changed.

In recent years, requesting reinvestigation has become complicated due to the geographical expansion and globalization of economic transactions, and the difficulty associated with fact finding and legal interpretation/application in many cases. To respond to this situation, the NTA has established a Rulings

and Legal Affairs Division in each Regional Taxation Bureau and assigned a Special Officer (Legal Affairs) to the same. The NTA is also providing various forms of training to develop tax officials, who are skilled in reviewing as well as being capable of examination and collection. In this way, the NTA is endeavoring to build up an organization which can deal with requests for reinvestigation from taxpayers properly and promptly.

The NTA properly processes the administrative works involved in such requests for reinvestigation and executes the uniform tax administration under the correct interpretation of the tax laws nationwide, so that proper and fair taxation and collection are realized for taxpayers at the examination or collection stage.

### (2) Request for Reconsideration

Taxpayers who wish to appeal the decision of the District Director of the Tax Office in relation to their request for reinvestigation can lodge a request for reconsideration with the Director-General of the National Tax Tribunal.

The National Tax Tribunal is an impartial body, independent from Regional Taxation Bureaus and Tax Offices, and provides relief for any infringement of taxpayer rights and interests. Appeals judges, associate appeals judges, and tax tribunal examiners with specialized knowledge and vast experience examine and review the case from a neutral standpoint.

For the posts of the Director-General of the National Tax Tribunal as well as the Chief Appeals Judges of Tokyo and Osaka Regional Tax Tribunal, former justices and former public prosecutors have been appointed.

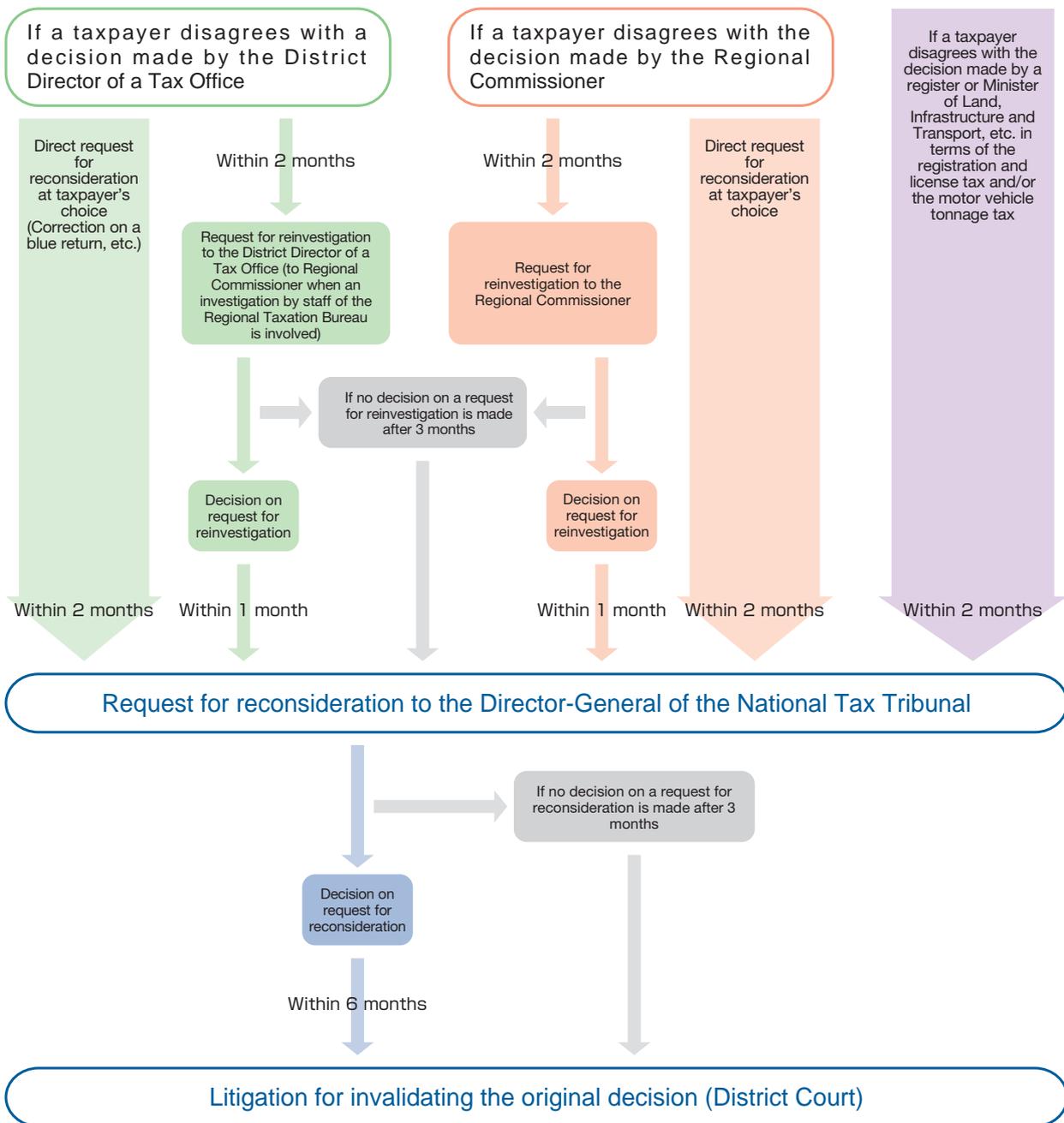
The National Tax Tribunal promptly clarifies the points at issue in a case by drafting a chart outlining the positions of each party after fully ascertaining their perspectives by contacting the party requesting reconsideration and the Tax Office. The Tribunal endeavors to quickly and speedily remedy any infringement of the rights and interests of the taxpayer

by fully listening to the views and positions of each party and conducting its own examination when necessary.

Decisions by the Director-General of the National Tax Tribunal would be no more disadvantageous to the taxpayer than those made by the District Director

of the Tax Office. Moreover, the District Director of the Tax Office cannot institute litigation, even if he or she disagrees with the ruling, because the ruling by the Director-General of the National Tax Tribunal represents the final decision of the NTA.

## Overview of the Appellate System for National Tax



### (3) Litigation

If a taxpayer wishes to appeal the decision by the Director-General of the National Tax Tribunal, he or

she is entitled to appeal to the court to seek remedy.

### (4) Case Trends

The NTA endeavors to process every request for reinvestigation within three months in principle. The total number of reinvestigation request cases processed was 4,027 (3,414 for taxation and 613 for collection) in fiscal 2006. In some 10.2% of the request cases, taxpayers' claims were totally or partially endorsed due to new findings.

As to reconsideration request cases processed, the National Tax Tribunal endeavors to complete processing within one year in principle. The number of requests for reconsideration totaled 2,945 (2,561 for taxation and 384 for collection) in fiscal 2006. In about 12.3% of the request cases, taxpayers' claims were

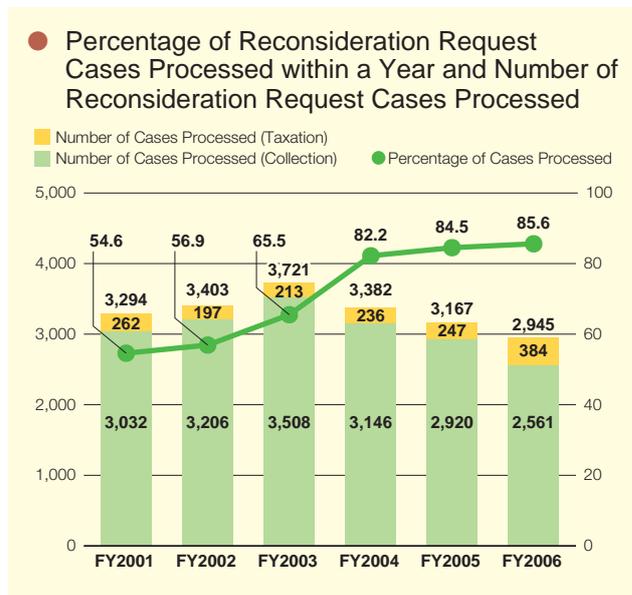
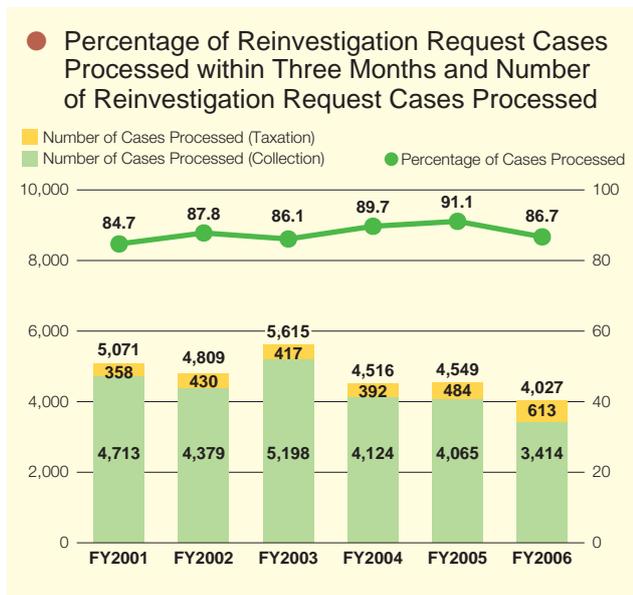
totally or partially endorsed.

As for litigation cases, there were 447 cases closed (371 cases for taxation, 75 cases for collection, and 1 case involving the National Tax Tribunal) in fiscal 2006. In about 17.9% of the cases, taxpayers' claims were totally or partially endorsed.

To gain taxpayer understanding regarding the system for remedying any infringement of taxpayer rights, the NTA and the National Tax Tribunal provide information in Japanese on case decisions via the website.

For further information, please access the website of the National Tax Tribunal (<http://www.kfs.go.jp>).

(Note) The figure represents preliminary data as of the end of May 2007.



## Reference

## Response to Complaints from Taxpayers

Not only requests for appellate of an administrative disposition but also complaints, requests, criticisms or consultation over problems, covering all aspects of tax administration, such as the attitude of the tax official having responded to taxpayers or the method of examination, may be forwarded to the NTA. The NTA responds promptly and properly by taking the viewpoint of taxpayers because we believe that responding forthrightly to taxpayers' complaints is crucial to earn their understanding and trust. Moreover, in July 2001, the position of Taxpayer Support Officer was created, with duties including explaining procedures for how to remedy infringements in cases where the taxpayer's rights or interests have been affected.