

# CHARTER OF RIGHTS OF THE AUDITED PARTY

## LEGAL BASIS

Art. 281-292 of the Tax Ordinance  
Art. 45-65 of the Entrepreneurs' Law

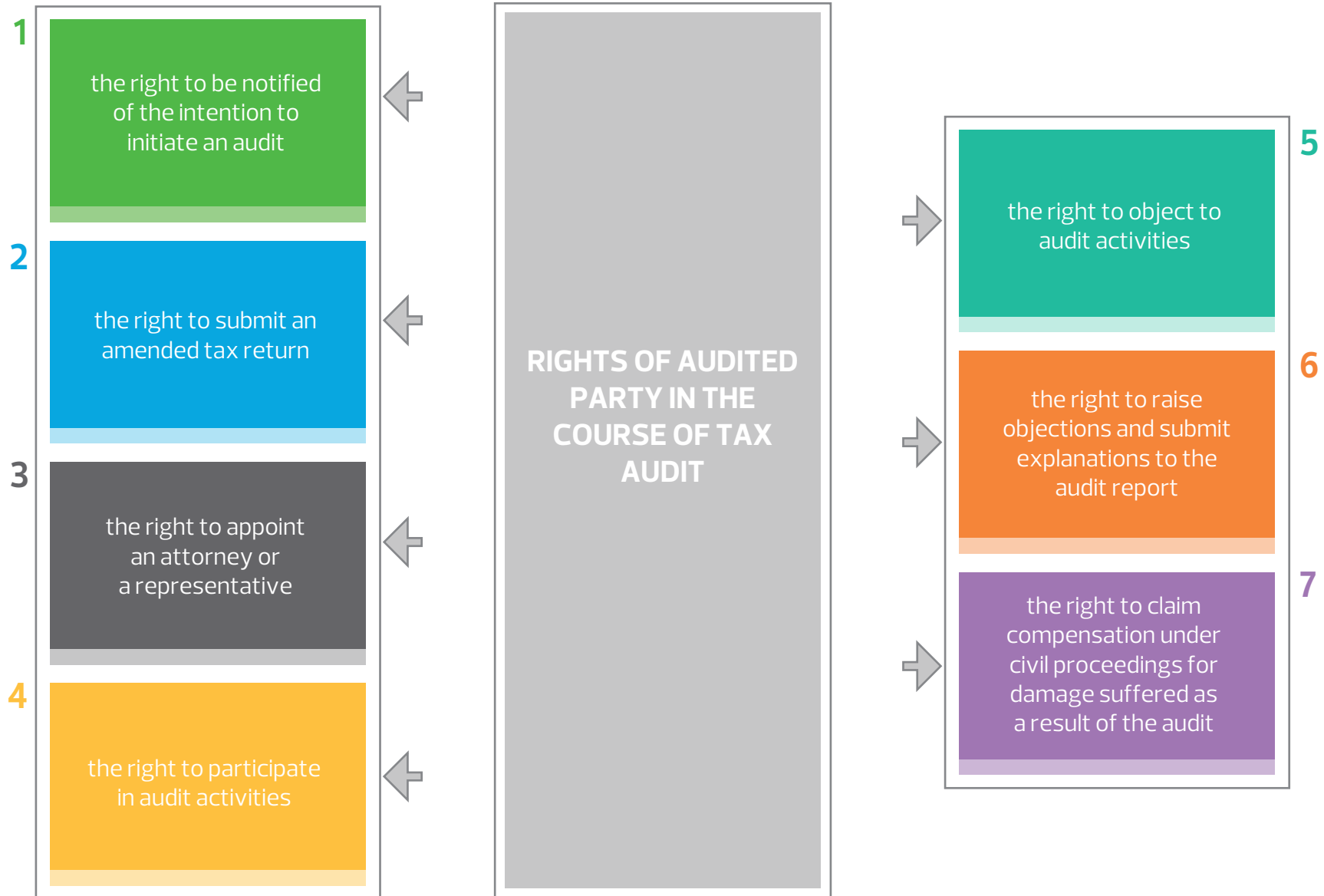
## TAX AUDIT: KEY INFORMATION

- it is always initiated ex officio;
- it is conducted by tax authorities of the first instance;
- these are not only taxpayers who are subject to an audit but also withholding agents, tax collectors and their legal successors;
- the tax audit is carried out in order to determine whether the audited parties perform the obligations arising from the provisions of tax law;
- it may be carried out once – in the event of cases that have been resolved by a tax authority's final decision, a tax audit shall not be resumed (there are few exceptions stipulated in the Tax Ordinance);
- it is usually carried out in the audited party's registered office (this includes residential premises if the audited party conducts business activity there) or other locations related to the audited party's business activity;
- the audit is concluded with the issuance of a report including, i.a., a description of the facts of the case established by the tax authority as well as a legal assessment of the matters under audit.

## AUDITEE AS A PARTY IN THE COURSE OF TAX AUDIT

Individuals authorised to act as a party in the course of a tax audit:

- audited parties – natural persons;
- in the event of legal persons and organisational units without legal personality: members of the management board, partners, other persons authorised to represent the audited party (agents, proxies) – the so-called representatives;
- special or general attorneys.



# 1

## AUDIT NOTICE

- it shall be delivered to the taxpayer no later than 7 days prior to the date of the initiation of the audit;
- it indicates the date and place of issue, the auditing authority and the audited party, specifies the scope of the audit and includes information on the right to submit an amended tax return and a signature of the person authorised for notification;
- in cases stipulated in the Tax Ordinance, the taxpayer does not have to be notified of the intention to initiate an audit.

Receiving a notification of the intention to initiate an audit gives the taxpayer the opportunity to prepare and organise the relevant documents.

# 2

## RIGHT TO SUBMIT AN AMENDED TAX RETURN

The audited party is entitled to submit an amended tax return due for the relevant period before the initiation of the audit. In such case, however, the audited party must bear in mind that amending the tax return after receiving the notification of the intention to initiate tax audit shall deprive them of the right to be charged interest for late payment at a reduced rate.

# 4

## RIGHT TO PARTICIPATE IN AUDIT ACTIVITIES

The right to actively participate in audit activities includes the right to:

- participate in the activity of taking evidence from a witness statement or expert opinion, of which they shall be notified 3 days\* before its date, at the latest;
- participate in the inspection activities of which they shall be notified at least immediately before their initiation\*;
- submit a request for taking evidence;
- view files, make notes and copies;
- submit explanations and objections to the audit report.

\* These deadlines shall not apply if the audited party is absent and the circumstances of the case justify the immediate taking of evidence by the authority.

# 3

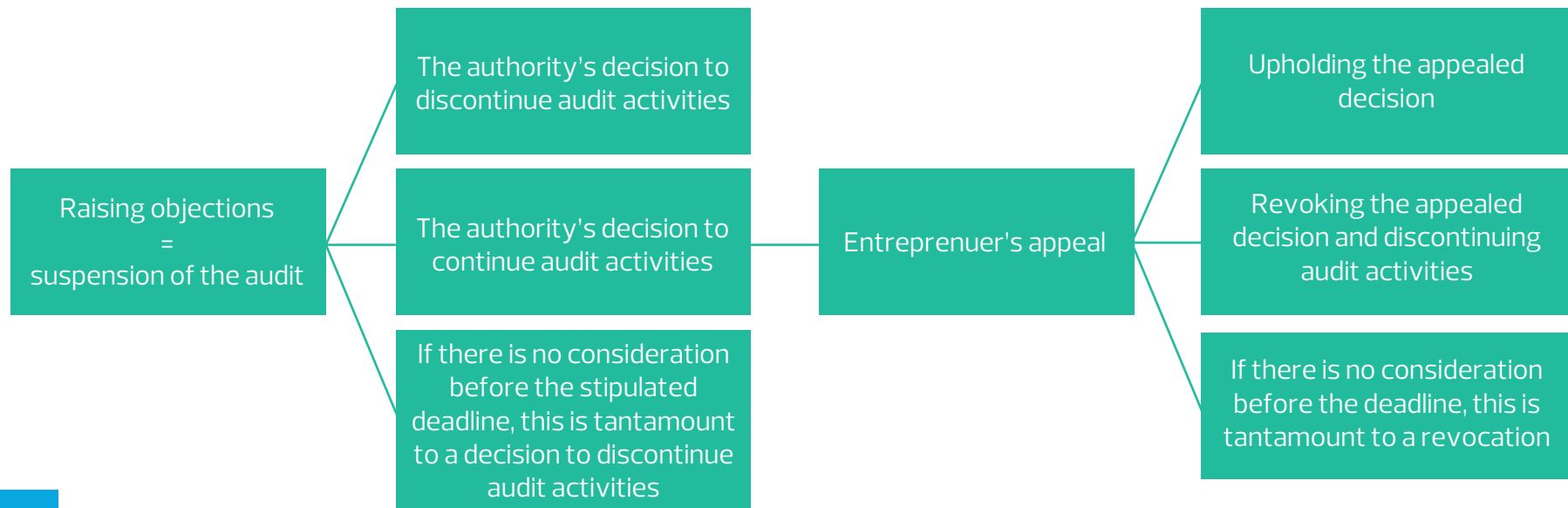
## RIGHT TO APPOINT AN ATTORNEY OR A REPRESENTATIVE

- a representative shall be appointed in writing;
- the power of attorney may be submitted in writing or orally;
- the attorney holds a much broader scope of powers than the representative.

# 5

## RIGHT TO OBJECT TO ACTIONS VIOLATING LEGAL REGULATIONS

- the audited party has the right to object to the initiation and performance of audit activities by the auditing authority if they violate the provisions of Entrepreneurs' Law;
- objection to the initiation and performance of tax audit by tax authorities may concern, in particular, violations of the provisions regarding:
  - failure to notify the audited party of the intention to initiate tax audit;
  - undertaking the tax audit without presenting an official ID and authorisation to carry out an audit;
  - carrying out the tax audit in the absence of the audited party or the person authorised to represent them;
  - violation of the prohibition on initiating more than one tax audit of the same business entity;
  - exceeding the permissible duration of the audit;
- the deadline for submitting an objection together with a justification falls on the 3rd business day counting from the day of initiation of the audit or the date of occurrence of the grounds for objection;
- the objection shall be submitted to the authority that initiates and performs the audit;
- the tax authority shall consider the objection within 3 business days from its receipt.



# 6

## RIGHT TO RAISE OBJECTIONS AND SUBMIT EXPLANATIONS

- the tax audit is concluded with a report delivered to the audited party;
- if the audited party disagrees with the findings contained in the report, they are entitled to raise objections against and submit explanations to the report;
- the deadline for submitting objections and explanations falls on the 14th day following the delivery of the report to the audited party;
- the tax auditor is obliged to consider the objections of the audited party and to notify the audited party of the manner of addressing them within 14 days from the day of their receipt;
- if the audited party fails to submit explanations or objections, it is assumed that they do not contest the findings of the tax audit.

# 7

## RIGHT TO CLAIM COMPENSATION

In the event that the audit activities were carried out in violation of the legal provisions on the audit of business activity, the audited party is entitled to claim compensation under civil proceedings for the losses incurred.

## USEFUL HINTS

Evidence procured by the competent authority over the course of the audit in violation of law shall not constitute evidence in administrative, tax, penal or fiscal penal proceedings against the business entity under audit. The maximum duration of the audit is determined by law.

Should you have any questions, please contact us at: [ekspert@rsmpoland.pl](mailto:ekspert@rsmpoland.pl)