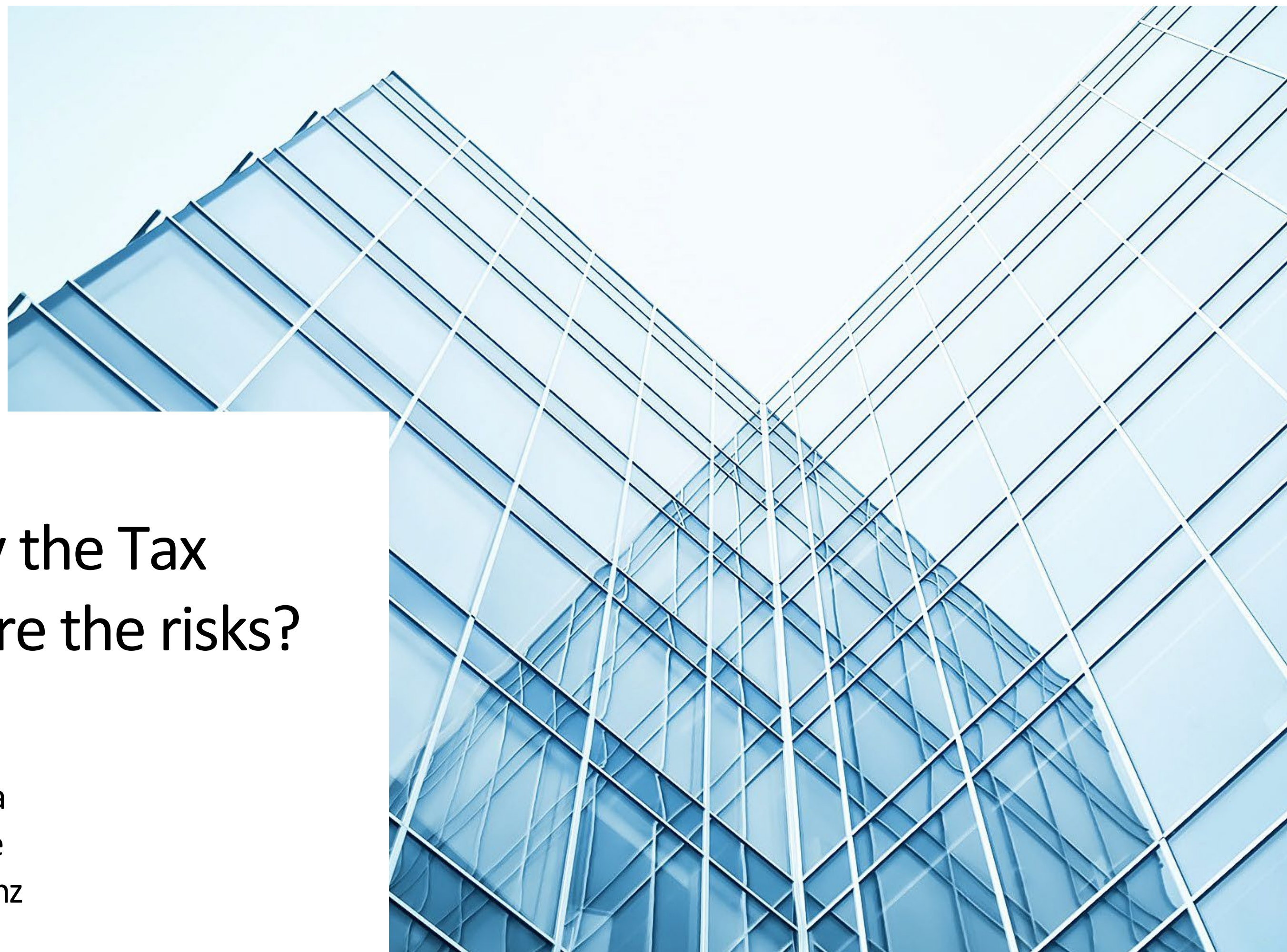


The use of AI by the Tax Authorities: what are the risks?

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Introduction

STARTING WITH THE RIGHT QUESTIONS

Opportunities, challenges, and risks posed by the use of AI by tax administrations will vary significantly depending on the answers.

1) What kind of technologies are we talking about?

- a) Those that allowed the digitalization of proceedings and interfaces of the tax authorities?
- b) Predictive AI, which allowed the human officers to process big data, obtain conclusions, patterns and follow determined actions?
- c) Generative AI, potentially allowing the tax authorities to issue automated resolutions or resolving routine proceedings with minimal human intervention?

2) For what purposes are the tax authorities using or pretending to use these technologies?

- a) Improving taxpayer experience
- b) Supporting the selection of taxpayers for audit
- c) Supporting measures for preventing tax fraud
- d) Resolving routine proceedings with minimal human intervention



COMMON OPPORTUNITIES AND RISKS



Opportunities

- Improvement on the efficiency and effectiveness of tax and customs actions
- Promote and simplify compliance
- Improvement of taxpayer experience
- More focused audits
- Aid on analysis
- Prevention of tax fraud at early stages

Risks

- **DATA BIAS**
- **DISCRIMINATION**
- **LACK OF TRANSPARENCY**
- Overreliance on AI
- IT security – Private Data risks
- Misinformation

AI IN ARGENTINA: A CLOSER LOOK

- REPORTS TO OECD AND PUBLIC INFORMATION
- **CASE STUDY 1**: NOTIFICATIONS ALLEGING DOUBLE TAX RESIDENCE
- **CASE STUDY 2**: EXCLUSION FOR CERTAIN BENEFITS



Addressing the risks

MITIGATING RISKS

There are some **ethical principles** in the use of AI that should guide any kind of risk mitigation action across the board. Especially, **transparency** is becoming the key principle to overcome non-discrimination and other bias, but there are also other relevant principles -such as **prudence**- that intends to prevent overreliance on AI and to progressively implement these tools for both the tax administrations and taxpayers to interact with them.

Building trust in AI

We need a system that is not only efficient for the tax administrations but also trustworthy for the taxpayer that has had either an assessment or enhanced customs checks. Openness -transparency- is needed not only to address potential biases in the information provided to AI, but also for the taxpayer to feel that such biases are not in place and that any inaccuracy generated by AI may be corrected.

Would the tax administrations need to **publish** the logic behind their models and how they handle sensitive taxpayer information? Will advisors and attorneys have the capabilities and resources to work with these AI models?

Fiscal secrecy

The analysis of big data and the processing of information by AI forces us to rethink how fiscal secrecy will be shaped in the future. Tax authorities could develop systems where the public can see how AI models are being applied without revealing individual taxpayer data by using of **aggregated, anonymized** data that still allows for meaningful oversight while ensuring that individual taxpayer identities remain protected.

Would it be problematic in sectors in which there are only a few actors? Would there be need to change programs that set special control standards (**AEO**)?

ACCOUNTABILITY

Even though we can think how to improve transparency and set high objectives of how should the use of AI by the tax administration be, we must also consider scenarios in which such gold standards are not met and both the tax administration and the taxpayers face negative consequences derived from the use of AI.

Accountability

Who is responsible if an AI system makes an incorrect decision, or if it is used in a way that leads to unfair outcomes?

Human-**in**-the-loop vs. Human-**on**-the-loop

Public officers should also be required to **document their decision-making processes** and any interventions made in AI-driven actions, ensuring a clear chain of responsibility. There should also be **periodic internal and external audits** to test any implemented solution.

Habeas data

Originally designed to protect individuals' right to access, correct, and delete personal data held by public and private entities, has the potential to serve as a **safeguard** against the misuse of AI in tax administration.

Does current habeas data regulation require any **changes or adaptation** to fully address the challenges AI may pose? How and how long it takes for AI to **relearn** the data setting aside prior mistakes? If there has been a wrong assessment by the AI, should there be any kind of **cooling-off** or protected period in which the taxpayer does not continue to suffer the consequences of biased information?

Worldwide trends

OVERVIEW OF AI USE BY OTHER TAs

Almost **70%** of the tax authorities in the 52 OECD countries included in the report are using artificial intelligence, including machine learning. Still at an **early**, experimental stage.

AI in Tax Analysis

Tax authorities in OECD countries are leveraging AI algorithms to analyze large datasets, revealing patterns that indicate potential tax evasion.

Identifying High-Risk Taxpayers

The use of advanced technology enables tax authorities to identify high-risk taxpayers more efficiently, ensuring better compliance.

Improving Compliance Rates

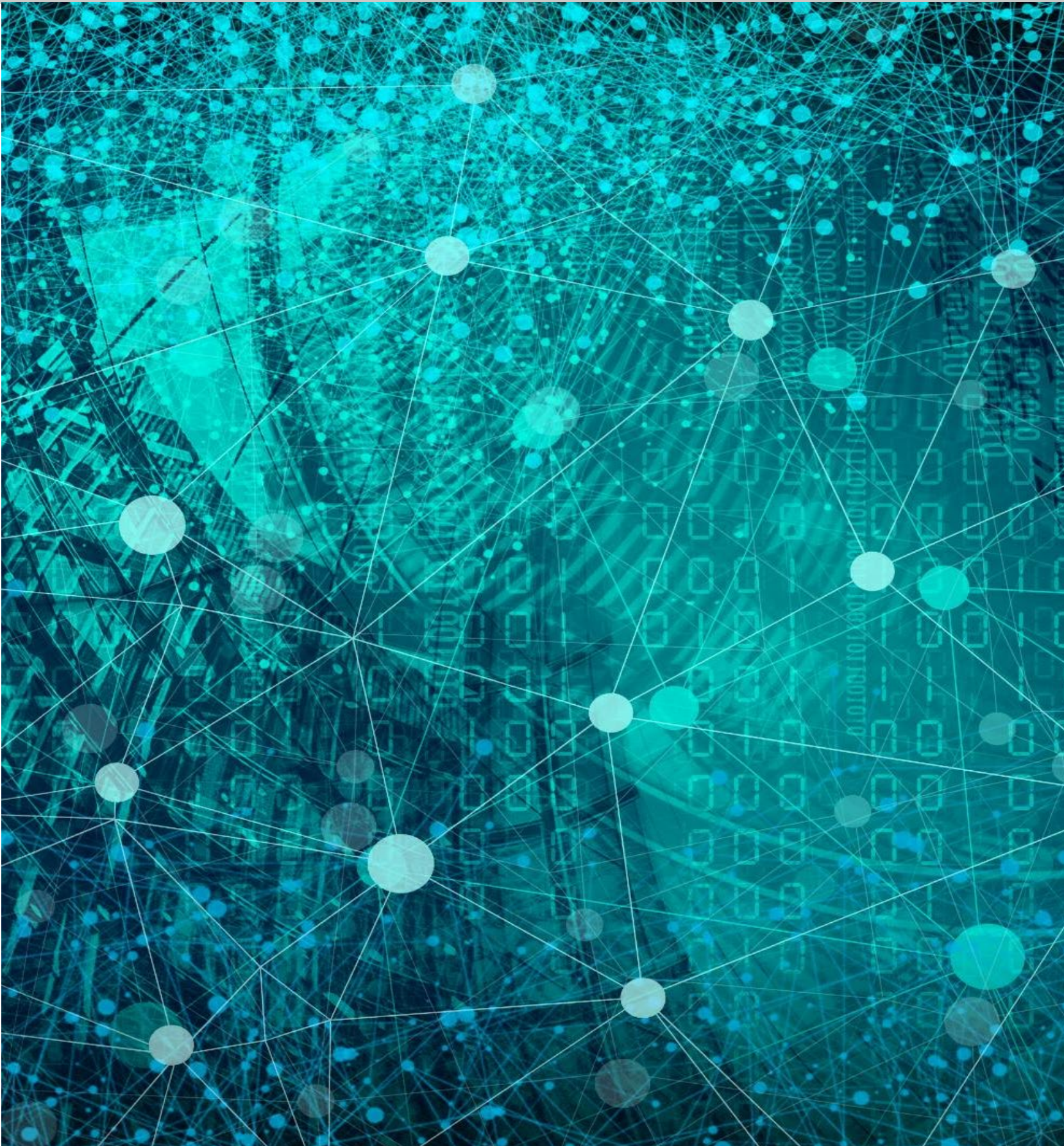
By detecting tax evasion patterns, authorities can implement measures to improve overall tax compliance among citizens.

Improving taxpayer experience

AI is also being used to improve communication with taxpayers, through generative chatbots that may speak in many languages or assist taxpayers in the preparation of their tax returns



CONTROVERSIES



The Netherlands - SYRi Case (2020): the need of *ad-hoc* norms with a high threshold of quality.

The Netherlands - The Dutch childcare benefit scandal (2021): The importance of data quality and adequate disclosure of the underlying logic of the model and (at least some of) its features.

USA - Stanford University report on the EITC audits (2023): a reminder of the importance of protecting taxpayers against biases and discrimination

Slovenia - eKasa case (2021): a legal basis with specific safeguards, particularly: i) transparency ii) individual protection iii) and collective supervision, as a requisite for the use of AI.

AI systems cannot be regulated by residual norms of tax procedure, designed prior to the use or even existence of the technology.

STATUS OF REGULATIONS

Europe

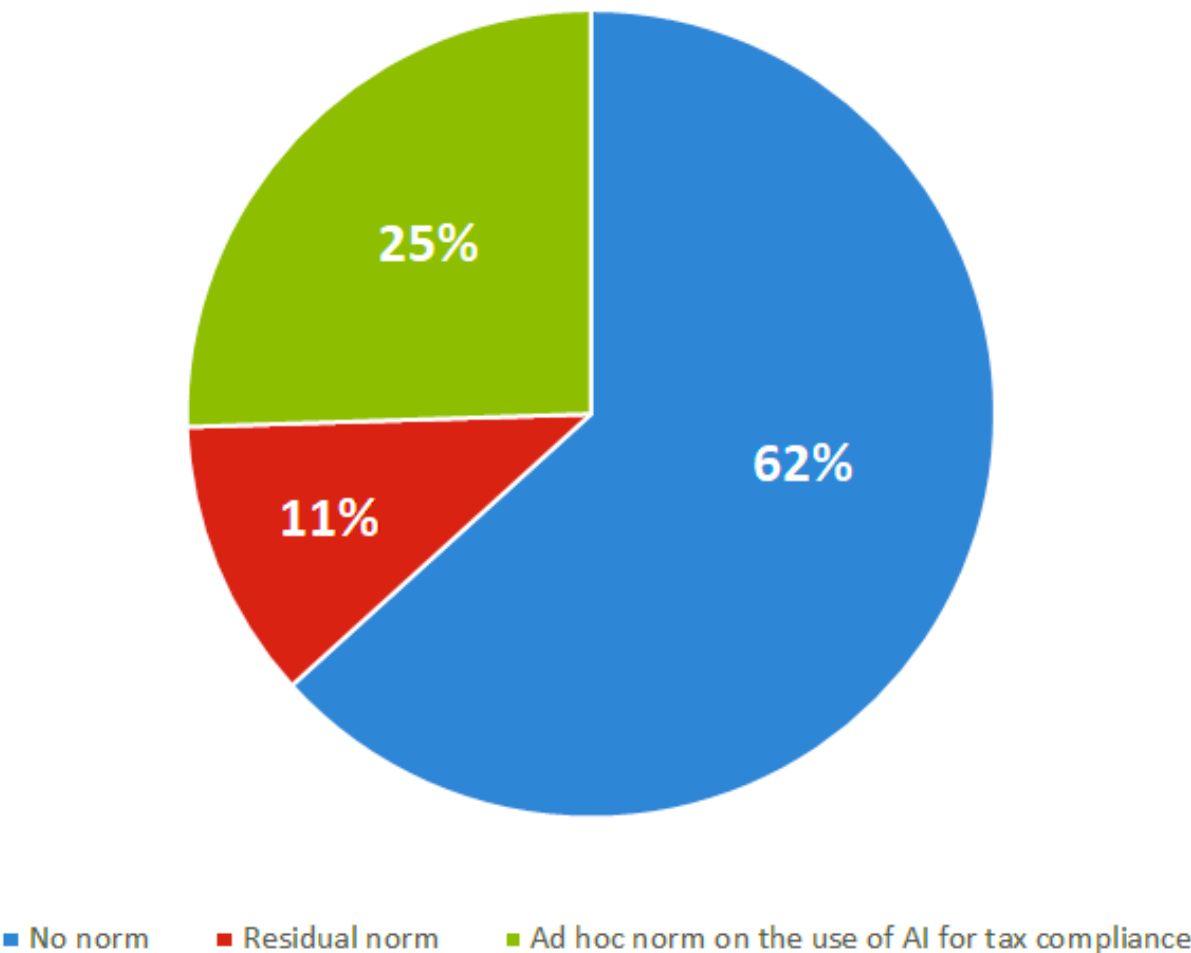
Most EU Member States either do not have any specific legislative norms regulating the use of their machine-learning risk-scoring algorithms or have laws that are neither sufficiently precise nor contain sufficient safeguards to protect taxpayers against misuse of their data or abuse of power. **Only 7 out of 27 Member States (25.9%)** have adopted norms regulating the use of AI by tax administrations.

USA

In October 2023 President Biden issued an executive order on the safe use of AI that encourages independent regulatory agencies to emphasize or clarify *“requirements and expectations related to the transparency of AI models and regulated entities’ ability to explain their use of AI models.”*

In May 2024, the IRS released interim guidance in with certain AI governance and principles. Although the guidance falls short in certain areas, it is a first step to establish certain boundaries to the Administration is regards to the use of AI.

Regulation of AI in EU Member States



Source: TaxAdmin.AI

Conclusions

CONCLUSIONS

Information and accountability

Provide clear information of the technical aspects, algorithms, and data used by these artificial intelligence systems for decision-making (with the essential restrictions to ensure their effectiveness as a mechanism to combat tax fraud) and establish audit, supervision, and accountability measures by the Tax Administration to ensure their proper functioning.

Specific regulatory and ethical Framework

Create a specific regulatory and ethical framework regarding the use of artificial intelligence by the Tax Administration that protects the rights and guarantees of taxpayers (legal certainty, data protection, privacy, fundamental rights, non-discrimination, etc.).

Supervision of AI systems

Require the supervision of artificial intelligence systems by tax authorities, along with multidisciplinary experts in the field, to ensure that the automated decisions derived from these systems are adequately motivated, explainable, and accountable to the affected citizens and, if applicable, to the corresponding judicial bodies (as is the case with any administrative act).

Transparency, proportionality and security

Use these systems with the corresponding transparency, proportionality, and security, avoiding unnecessary or disproportionate interference by the Administration and/or third parties in the most personal sphere of citizens



Thank you!

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