

Evaluation of the procedural tax law in Portugal to increase the efficiency of the tax courts

Mapping/inventory of main trends – Phase 2 Report

Technical Support Instrument

Supporting reforms in 27 Member States



Funded by
the European Union



This document was produced with the financial assistance of the European Union. Its content is the sole responsibility of the author(s).

The views expressed herein can in no way be taken to reflect the official opinion of the European Union.

The project is funded by the European Union via the Technical Support Instrument, managed by the European Commission Directorate-General for Structural Reform Support (DG REFORM).

This report has been delivered in September 2022 under the EC Contract No. SRSS/2018/01/FWC/002. It has been produced as part of the project “Increasing the effectiveness and efficiency of Tax Courts in Portugal”.

© European Union, 2024



The Commission's reuse policy is implemented by Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents (OJ L 330, 14.12.2011, p. 39 – <https://eur-lex.europa.eu/eli/dec/2011/833/oj>).

Unless otherwise noted, the reuse of this document is authorised under the Creative Commons Attribution 4.0 International (CC BY 4.0) licence (<https://creativecommons.org/licenses/by/4.0/>). This means that reuse is allowed, provided that appropriate credit is given and any changes are indicated.

Directorate-General for Structural Reform Support

REFORM@ec.europa.eu
+32 2 299 11 11 (Commission switchboard)
European Commission
Rue de la Loi 170 / Wetstraat 170
1049 Brussels, Belgium

Index

| | | |
|----|------------------------|----|
| 1. | Background and purpose | 03 |
| 2. | Mapping and inventory | 09 |
| 3. | Summary Conclusions | 32 |
| 4. | Main trends | 40 |
| 5. | Identified risks | 64 |
| 6. | Annexes | 66 |

1

Background and purpose

1. Background and purpose

1.1 – Project background

This project – “Evaluation of the Procedural Tax Law in Portugal to Increase the Efficiency of the Tax Courts” – follows the request for support made by Portugal to the European Commission under Regulation (EU) 2021/240.

The specific objective of this project is to provide expert assistance to the Cabinet of the Secretary of State for Tax Affairs and the Portuguese Tax and Customs Authority (the “Beneficiary”) concerning the evaluation of the procedural tax law in Portugal to increase the efficiency of the tax courts.

With this objective in mind, the PwC/CCR team has prepared and presented a methodology that allows the analysis of the decisions of higher courts and arbitration courts and, concomitantly, the suggestion of recommendations to improve the efficiency of tax courts.

This methodology was reviewed by DG Reform and the Beneficiary, who, after some non-material changes, gave their consent to its implementation.

1. Background and purpose

1.2 – Specific objective and methodology overview

Phase 2 is crucial to the project as it constitutes the basis for Phase 3 – “Recommendations for legislative reform to increase the efficiency and effectiveness of tax courts in Portugal”.

The specific objective of Phase 2 is to evaluate the existing procedural tax legislation and to map the main trends. This analysis is key to provide insights that can objectively inform legislative reform where it would effectively and impartially prevent or resolve sources of litigation and/or reduce unnecessary and time-costly decisions from the courts.

The initially projected tasks for Phase 2 were as follows:

1. Analysis of documentation (e.g. legislation, jurisprudence, official statistics, previous studies on the subject);
2. Collection and analysis of statistical data (e.g. official data, items from the *Inforfisco* database);
3. Questionnaires and stakeholder meetings;
4. Identification of procedural acts or information that are not necessary or where they could be simplified;
5. Scheduling meetings to discuss the findings and data resulting from the questionnaires and the stakeholders feedback.

1. Background and purpose

1.2 – Specific objective and methodology overview (cont.)

According to the methodology designed, the basis for the evaluation of the existing procedural tax legislation would essentially rely on a quantitative analysis, gathering information and figures objectively from the matters most contested by taxpayers (those that have reached the higher courts or have been decided in arbitration courts).

As intended by both PwC/CCR and the Beneficiary, the methodology applied in Phase 2 should ensure the data-driven nature of the project and avoid any unconscious bias that could affect the results and conclusions reached.

However, such quantitative methods should also be complemented by qualitative methodologies designed to analyse and identify procedural acts or information within proceedings that are not necessary or where they can be simplified to speed up proceedings.

That analysis cannot be done through an analysis of court decisions and even more so only regarding arbitration courts and higher courts' decisions. This is because the necessary information is not reflected in the decisions, on the one hand, but also because in the first case (arbitration) the proceedings already benefit from a simpler regime. In addition, arbitration courts cannot decide on most and the more burdensome matters/proceedings.

1. Background and purpose

1.2 – Specific objective and methodology overview (cont.)

The proposed methodology and tasks pertaining to Phase 2 were adapted and the questionnaires and related tasks (meetings with the stakeholders and analysis of redundant acts within proceedings) were postponed to Phase 3.

Therefore, Phase 2 has been carried out and all conclusions are based exclusively on the information revealed by the data extracted from all court decisions published until 20 January 2022:

1. Court decisions rendered from 1 January 2017 to 31 December 2021;
2. Court decisions issued by the Supreme Administrative Court, the South Central Administrative Court, the North Central Administrative Court and the Arbitration Courts;
3. Court decisions categorised as (i) Personal Income Tax; (ii) Corporate Income Tax; (iii) Value Added Tax; (iv) Property Transfer Tax; (v) Municipal Property Tax; (vi) Stamp Duty; (vii) Charges; (viii) Financial Contributions; (ix) Vehicle Taxes; (x) Excise Duties (xi) Tax Penalties and Procedural Issues.

1. Background and purpose

1.3 – Purpose of this document

Under the agreed methodology and deadlines, this document consists of the report of Phase 2, detailing the tasks and practical work performed during this phase and summarising the conclusions drawn.

This document contains:

- Data collection and analysis;
- Graphical representation of the collected data;
- Mapping/inventory of up to 15 main trends per matter;
- Summary conclusions drawn from the analysed data;
- Risks/limitations.

2

Mapping and inventory

2. Mapping and inventory

2.1 – Initial analysis and preparation

At the beginning of Phase 2, PwC/CCR team analysed the official statistics available on the websites of the Portuguese Tax Authorities and the “*Direção-Geral da Política de Justiça*”. This task allowed the PwC/CCR team to compare official data with the information collected and thereby test its consistency.

As the *Direção-Geral da Política da Justiça* official statistics shows:

| Closed section | Court | Year | | | | |
|----------------------------------|-------|--------------|--------------|--------------|--------------|--------------|
| | | 2021 | 2020 | 2019 | 2018 | 2017 |
| Plenary | | 4 | .. | 4 | 6 | 5 |
| | STA | 4 | .. | 4 | 6 | 5 |
| Administrative section | | 2,499 | 2,442 | 2,296 | 2,051 | 2,035 |
| | STA | 273 | 245 | 223 | 236 | 225 |
| | TCAN | 1,145 | 1,022 | 1,067 | 788 | 764 |
| | TCAS | 1,081 | 1,175 | 1,006 | 1,027 | 1,046 |
| Tax section | | 3,040 | 2,673 | 2,582 | 2,044 | 2,594 |
| | STA | 942 | 963 | 754 | 759 | 1,134 |
| | TCAN | 967 | 729 | 920 | 678 | 663 |
| | TCAS | 1,131 | 981 | 908 | 607 | 797 |
| Conflict-resolution court | | 43 | 40 | 40 | 66 | 61 |
| | STA | 43 | 40 | 40 | 66 | 61 |
| Total | | 5,586 | 5,155 | 4,922 | 4,167 | 4,695 |

2. Mapping and inventory

2.1 – Initial analysis and preparation (cont.)

In the period under analysis, as the *Direção-Geral da Política da Justiça* official statistics shows, the higher administrative and tax courts resolved a total of 24,525 cases.

Of these, a total of 12,933 cases relates to tax matters. This figure may vary 19 cases up to 12,952 cases as the data does not indicate whether the cases resolved by the Plenary of the Supreme Administrative Court relate to tax or administrative matters.

In the arbitration courts, the total amount of decisions in the same period amounts to 3,501.

Bearing these figures in mind and after a cross-check with *Inforfisco* database, the PwC/CCR team started a full collection of court decisions of the period under analysis. As per the following sections, the figures show consistency on the data collected when compared with the official statistics. The discrepancies detected are mainly the result of two factors:

- a. Not all decisions are made public in www.dgsi.pt; and
- b. The decisions are published with a delay (in some cases of years) on both www.dgsi.pt and www.caad.org.pt.

2. Mapping and inventory

2.2 – Collection and selection of court decisions

As detailed at the 1Q Steering Committee meeting and also at the technical meeting no. 1, the collection of the decisions took place using a software developed by PwC – *Aplicação de Jurisprudência*.

This software (“Robot”) was specifically designed to extract data from court decisions available in any public and accessible database (such as www.dgsi.pt and www.caad.org).

The use of this technology was fundamental for several reasons. Firstly, it allowed for much faster and more reliable data extraction. Secondly, it allowed such data to be stored and accessed in a usable and standard format. Thirdly, the automatic/mechanised data extraction ensures that no subjective criteria or unconscious bias is applied and that human error poses as low a risk as possible.

2. Mapping and inventory

2.2 – Collection and selection of court decisions (cont.)

Several tests using the Robot were performed and, in January, the PwC/CCR team started collecting data from the public databases.

The Robot has been programmed to extract data from all court decisions published by 20 January 2022 (court decisions issued from 1 January 2017 to 31 December 2021).

A total of 20,279 court decisions were collected.

From the total amount of decisions collected, the Robot extracted data regarding:

- hiperlink to the source;
- court;
- proceedings number;
- decision date;
- topic/summary;
- tax.

2. Mapping and inventory

2.2 – Collection and selection of court decisions (cont.)

After analysing the data and comparing it with the existing information in *Inforfisco* database, the PwC/CCR team noted some inconsistencies in the results (regarding the taxes contested in the decisions) and also that there was a relevant percentage of decisions that was not related to tax matters.

As a result, the Robot was reprogrammed to extract for each court decision information regarding (i) the section of the court that rendered the decision and also (ii) the legal provisions cited in the decision.

This data was key to the tasks to be performed:

- a. In what regards the sections of the court, that information allowed the PwC/CCR team to exclude courts decisions that were not related to tax matters (1st Section – Administrative Section), refining the universe of decisions under analysis from the initial 20,279 to a total of 11,660 (by the exclusion of 8,619 court decisions regarding administrative matters).
- b. The information regarding the legal regimes was important to categorise each court decision by tax, allowing the PwC/CCR team to allocate the decisions to the correct specialised teams from the outset.

2. Mapping and inventory

2.2 – Collection and selection of court decisions (cont.)

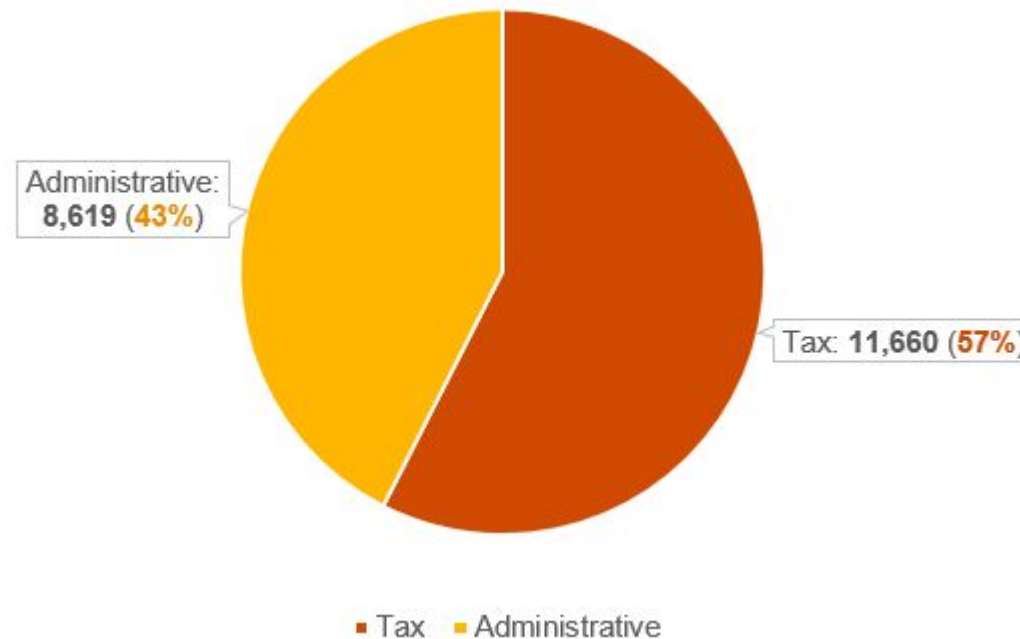
The described process allowed the PwC/CCR team to conclude the following regarding the distribution of the decisions by court and year:

| Court | 2017 | 2018 | 2019 | 2020 | 2021 | TOTAL |
|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| TCAS | 622 | 538 | 1,001 | 1,515 | 1,486 | 5,162 |
| TCAN | 995 | 903 | 770 | 866 | 1,135 | 4,669 |
| STA | 1,407 | 1,221 | 1,305 | 1,545 | 1,728 | 7,206 |
| CAAD | 721 | 598 | 740 | 647 | 536 | 3,242 |
| TOTAL | 3,745 | 3,260 | 3,816 | 4,573 | 4,885 | 20,279 |

2. Mapping and inventory

2.2 – Collection and selection of court decisions (cont.)

The segregation of decisions by section allowed the PwC/CCR team to conclude that of the universe of decisions (20,279) 57% were related to tax matters and 43% to administrative matters, as shown below:



2. Mapping and inventory

2.2 – Collection and selection of court decisions (cont.)

The table below reflects the distribution of the total number of decisions by court, year and matter:

| Court | Subject | 2017 | 2018 | 2019 | 2020 | 2021 | TOTAL |
|--------------|-----------------------------|--------------|--------------|--------------|--------------|--------------|---------------|
| TCAS | Tax | 286 | 202 | 594 | 839 | 957 | 2,878 |
| | Administrative | 336 | 330 | 407 | 673 | 543 | 2,289 |
| TCAN | Tax | 340 | 265 | 196 | 280 | 503 | 1,584 |
| | Administrative | 655 | 638 | 569 | 586 | 632 | 3,030 |
| STA | Tax | 819 | 646 | 660 | 909 | 922 | 3,956 |
| | Administrative | 588 | 575 | 645 | 636 | 806 | 3,250 |
| CAAD | Tax | 721 | 598 | 740 | 647 | 536 | 3,242 |
| SUBTOTAL | Administrative | 1,579 | 1,543 | 1,621 | 1,895 | 1,981 | 8,619 |
| | Tax | 2,166 | 1,711 | 2,190 | 2,675 | 2,918 | 11,660 |
| TOTAL | Tax + Administrative | 3,745 | 3,254 | 3,811 | 4,570 | 4,899 | 20,279 |

2. Mapping and inventory

2.2 – Collection and selection of court decisions (cont.)

The data collected was organised and the decisions categorised automatically by the Robot per tax and, then, automatically compared with the *Inforfisco* database for inconsistencies.

These tasks allowed the PwC/CCR team to draw the following provisional information:

| Tax | Decisions |
|-------------------------|-----------|
| Personal Income Tax | 1,568 |
| Corporate Income Tax | 2,367 |
| Value Added Tax | 1,505 |
| Property Transfer Tax | 362 |
| Property Tax | 788 |
| Stamp Duty | 507 |
| Charges | 99 |
| Financial Contributions | 426 |
| Vehicles Taxes | 319 |

2. Mapping and inventory

2.2 – Collection and selection of court decisions (cont.)

Tax Penalties: 1,032 decisions

Others: (i) Social Security: 1,021 decisions; (ii) tax benefits: 769 decisions

A total of 10,763 decisions were categorised by tax (from the total of 11,660 tax decisions), which constituted the basis of the work and analysis to be performed by each PwC/CCR specialised team.

The difference between the universe of the tax decisions and those where the Robot did not identified a material legal provision/regime (897 decisions) were left for analysis and categorisation through the topic/summary as described in following section of this document – “2.4 – Analysis and categorisation refinement – Procedural issues”.

2. Mapping and inventory

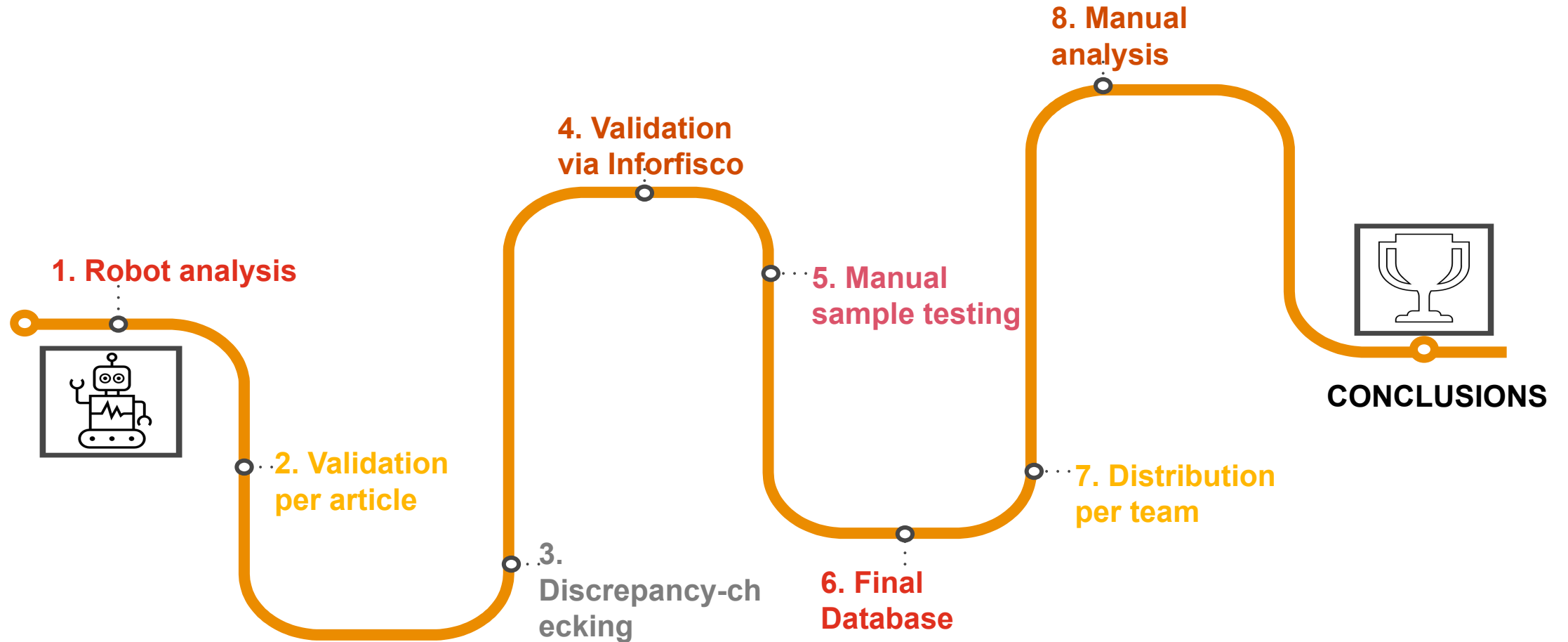
2.3 – Analysis and categorisation refinement – Material issues

After the initial automatic categorisation of the decisions by tax, they were allocated to specialised teams in each tax.

Each team applied the same methodology for the analysis of the decisions, as per the following flow chart:

2. Mapping and inventory

2.3 – Analysis and categorisation refinement – Material issues



2. Mapping and inventory

2.3 – Analysis and categorisation refinement – Material issues (cont.)

After the automatic data collection and uniformisation carried out by the Robot, the teams began the processes of manual verification, analysis and categorisation.

The categorisation of decisions implied the use of uniform criteria to determine the descriptors to be used in order to eliminate potential divergences and biases in the results.

In this context, a multi-level descriptor approach was used. In effect, each level of descriptors represented different and increasing levels of detail of the issues identified.

At a first level, the descriptors represented the chapters of the different legal diplomas/codes and, at a second level, the respective sections under those chapters. This criterion proved to be less biased and easier to adopt by the different team members.

Between two and three levels of descriptors were attributed to each decision.

2. Mapping and inventory

2.3 – Analysis and categorisation refinement – Material issues (cont.)

Therefore, level 1 descriptors allowed for the identification of the main trends of topics in dispute (in a broad sense) and level 2 descriptors allowed for a more refined representation of the issues.

Taking the VAT decisions as an example, the chapters of the Value Added Tax Code were generally identified as level 1 descriptors and the different sections of the Value Added Tax Code as level 2, as such: “Chapter 1 – Incidence – level 1 descriptor; Inversion of the taxable person – level 2 descriptor”.

However, given the specificities of some taxes and the small number of decisions, there were some exceptions to the multiple descriptor approach. In these cases, a single descriptor was used.

2. Mapping and inventory

2.3 – Analysis and categorisation refinement – Material issues (cont.)

Although the basis of the categorisation process was automated, a manual validation and categorisation dependant on the specific analysis of the decisions was carried out involving several professionals with different levels of experience by each team. At least, two team members manually categorised the decisions and three levels of review by three team members with increasing levels of experience.

In addition to the main review process, which was based on a comparison between the descriptors assigned by the team and the descriptors resulting from the Robot and the *Inforfisco* database, the results were also subject to an additional review process, based on random sampling, which consisted in consulting the content of around 100 decisions regarding each tax.

After identifying and attributing the descriptors, the results and tasks were performed:

- Decisions regarding taxes duly classified with level 1 descriptors and, when applicable, level 2 and 3;
- Decisions referring to other taxes and erroneously attributed were expunged from the analysis and assigned to other (respective) teams;

2. Mapping and inventory

2.3 – Analysis and categorisation refinement – Material issues (cont.)

- Decisions referring only to procedural issues, were expunged from our analysis and assigned to the respective team;
- Decisions referring to taxes/provisions that are no longer in force (e.g. Automobile Tax and SISA), as they are no longer relevant for the purposes of the present study were purged.

In summary, the categorisation and review process was conducted using the following information (in the order mentioned below):

1. Descriptors identified through the DGSI Portal and synthesised through *Aplicação de Jurisprudência* database;
2. Descriptors identified by the *Inforfisco* database;
3. Articles of the legal diploma in question referenced throughout the decision;
4. Analysis of the summary of the decision;
5. Full reading of the decision.

2. Mapping and inventory

2.3 – Analysis and categorisation refinement – Material issues (cont.)

All inconsistencies identified during the review process essentially boiled down to some typing and categorisation errors which, in the context of the project, proved to be immaterial. However, any inconsistencies identified have been rectified.

2. Mapping and inventory

2.4 – Analysis and categorisation refinement – Procedural issues

Procedural issues constitute one of the most frequently discussed matters in Portuguese courts (especially in higher courts). In fact, irrespective of the material issue that constitutes the basis of the proceedings, it is very likely that some procedural issue is also raised before the court, even if the case ends with a decision rendered on a material subject.

Moreover, in line with PwC/CCR's understanding of the Service Request and in accordance with the Proposal, addressing procedural issues is central to the objectives of this project. Rationalising and promoting the efficiency and effectiveness of tax courts requires avoiding and reducing tax disputes (and the length of proceedings) on the basis of issues of a mere procedural nature.

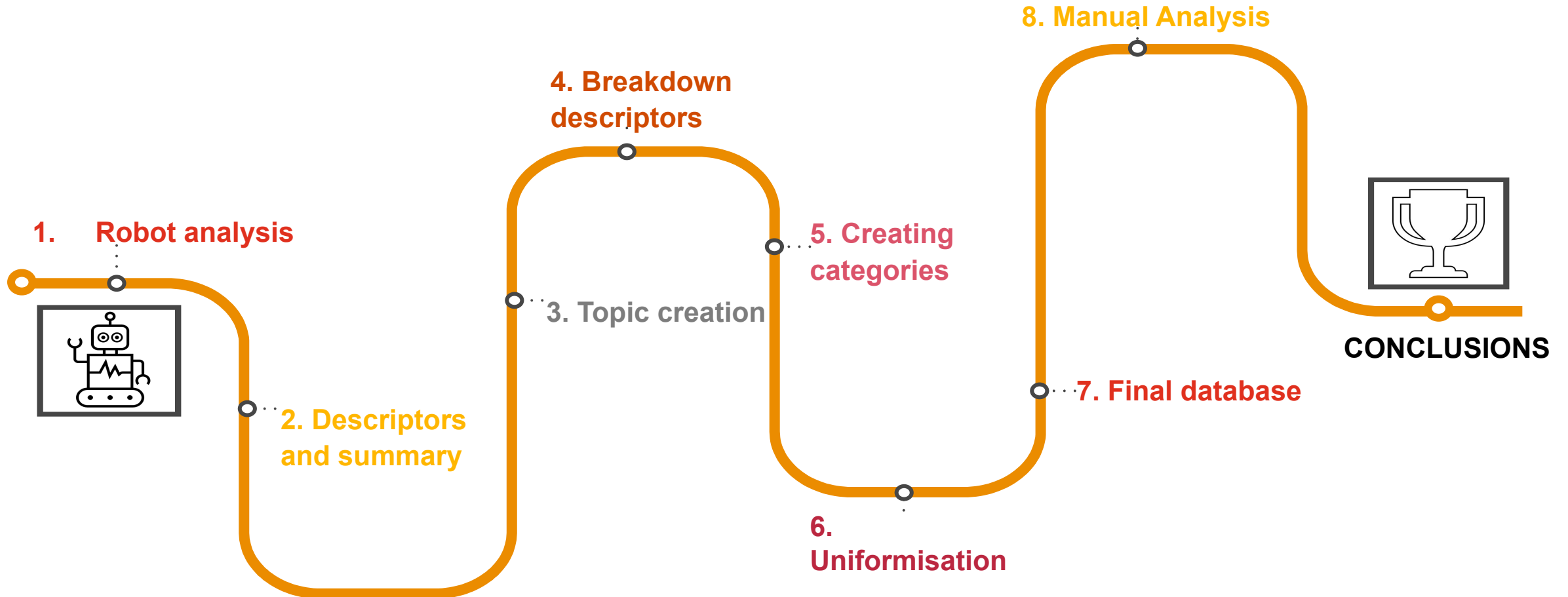
Bearing that in mind, the PwC/CCR team chose to analyse the decisions not only on the basis of the material issues raised (tax being challenged and respective tax regimes), but also on the procedural issues decided by the courts.

To that effect, the methodology applied was different from the analysis of material issues and covered the universe of 11,660 decisions.

The chart that follows better illustrates the steps taken in this regard.

2. Mapping and inventory

2.4 – Analysis and categorisation refinement – Procedural issues (cont.)



2. Mapping and inventory

2.4 – Analysis and categorisation refinement – Procedural issues (cont.)

Considering the universe of the decisions and also keeping in mind the objective of maintaining the project as data-driven as possible, the Robot was programmed so that it could sanitise decision topics/summaries – eliminating extra spaces between words, redundancies, uniform punctuation, etc.

Further refinement allowed the PwC/CCR team to automatically break down decision topics/summaries and attribute descriptors (keywords or phrases) - which totalled 25,410 descriptors/keywords.

These descriptors (the data) had subsequently to be sanitised (for uniformisation purposes), which was also done automatically – for instance, eliminating unnecessary punctuation and spaces.

From the 11,660 decisions considered [irrespective of court and matter (tax/charge/other)], the PwC/CCR team identified 11,113 different topics/summaries, resulting in 12,103 individual descriptors/keywords regarding procedural matters.

To avoid inoperable descriptors (e.g. generic references to legislation/code, “CPPT”) and to validate them, the PwC/CCR team manually checked all descriptors.

2. Mapping and inventory

2.4 – Analysis and categorisation refinement – Procedural issues (cont.)

At this point, the PwC/CCR team started categorising the decisions, based on the descriptors (considering the full topics/summaries and also, in most cases, reading the decisions to avoid doubts).

These procedures resulted in over 900 categories/matters which, after standardisation, 506 procedural categories (issues) were identified.

As the categories were created considering the individual descriptors, most categories had one or more descriptor derived from the same court decision. Therefore, the count of decisions within each category was influenced by the same decision more than once (one count). As a result, the PwC/CCR team had to eliminate duplicates within categories/matters to obtain the real count of decisions in each of them.

After that, the PwC/CCR Legal team reached the final figures for the categories and their relative position regarding their recurrence in the universe of relevant decisions.

In the total amount of matters identified, there are a number of 6,657 individual court decisions with procedural issues/matters.

2. Mapping and inventory

2.4 – Analysis and categorisation refinement – Procedural issues (cont.)

A final cross-check was made against the decisions identified by each team (by tax categorisation) that identified cases as having any procedural issues.

Final adjustments were made (circa 200 decisions) and are reflected in the figures that established the trends presented in section 3 of this report.

3

Summary
Conclusions

3. Summary Conclusions

3.1 - Background and purpose

- As intended by PwC/CCR and the Beneficiary, the methodology applied in Phase 2 should ensure the data-driven nature of the project and avoid any unconscious bias that could affect the results and conclusions reached.
- Nevertheless, quantitative methods should be complemented by qualitative methodologies, as the necessary information to assess some bottlenecks and redundancies in the proceedings might not be reflected in the decisions *per se*, but also because in arbitration the proceedings follow a simpler regime (and most matters cannot be decided) than regular courts.

3. Summary Conclusions

3.2 - Mapping and inventory

- As shown, the figures reflect consistency of the data collected when compared to official statistics. The differences detected are mainly the result of two factors:
 - Not all decisions are made public in www.dgsi.pt; and
 - Decisions are published with a delay (in some cases of years) on both www.dgsi.pt and www.caad.org.pt.
- The use of *Aplicação de Jurisprudência* (“Robot”) was crucial, as it allowed (i) much faster and more reliable data extraction, (ii) access to such data in a usable and standardised format, and (iii) the non-application of subjective criteria or unconscious biases, reducing the risks of human error.

3. Summary Conclusions

3.2 - Mapping and inventory

- After analysing the data and comparing it with the existing information in the *Inforfisco* database, the PwC/CCR team noted some inconsistencies in the results, in particular:
 - Regarding the taxes challenged in the decisions; and
 - A relevant percentage of decisions that was not related to tax matters.
- The Robot was reprogrammed to extract for each court decision information regarding (i) the section of the court that rendered the decision and also (ii) the legal provisions cited in the decision, which allowed the PwC/CCR team to:
 - Using the sections of the courts, to exclude courts decisions that were not related to tax matters, refining the universe of decisions from the initial 20,279 to a total of 11,660 (by excluding 8,619 court decisions relating to administrative matters);
 - Using the legal regimes to better categorise each court decision by tax, allowing the PwC/CCR team to allocate the decisions to the correct specialised teams from the outset.

3. Summary Conclusions

3.2 - Mapping and inventory

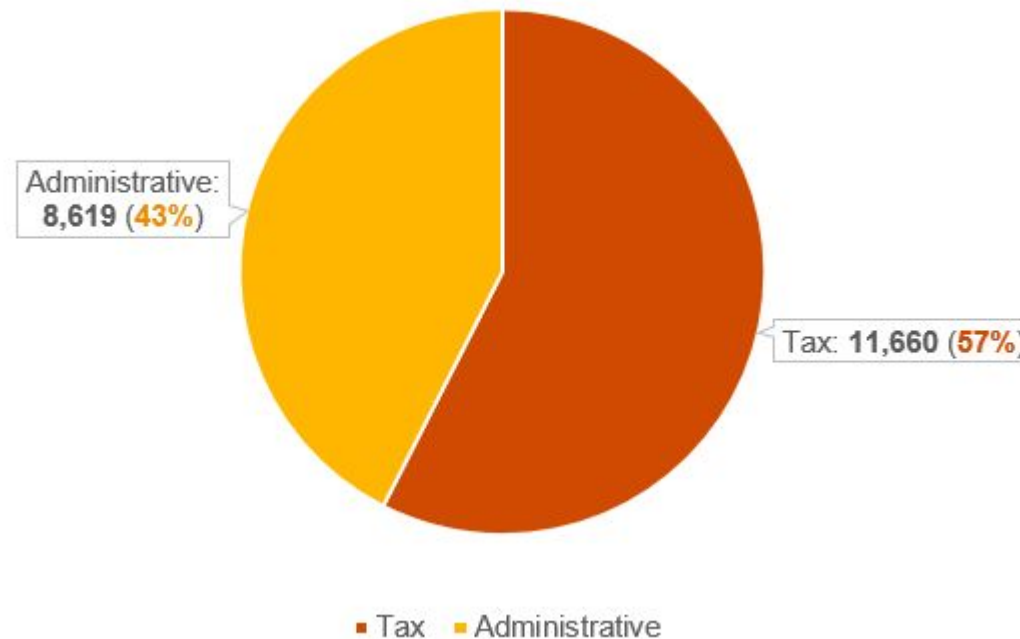
- Distribution of the decisions (tax and administrative) by court and year:

| Court | 2017 | 2018 | 2019 | 2020 | 2021 | TOTAL |
|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| TCAS | 622 | 538 | 1,001 | 1,515 | 1,486 | 5,162 |
| TCAN | 995 | 903 | 770 | 866 | 1,135 | 4,669 |
| STA | 1,407 | 1,221 | 1,305 | 1,545 | 1,728 | 7,206 |
| CAAD | 721 | 598 | 740 | 647 | 536 | 3,242 |
| TOTAL | 3,745 | 3,260 | 3,816 | 4,573 | 4,885 | 20,279 |

Summary Conclusions

3.2. Mapping and inventory - page 16 (cont.)

- The segregation of decisions by section allowed the PwC/CCR team to conclude that, of the universe of decisions (20,279), 57% were related to tax matters and 43% to administrative matters, as shown below:



3. Summary Conclusions

3.2 - Mapping and inventory

- After automatic collection and standardisation by the Robot, the teams began the manual verification, analysis and categorisation processes. This was performed using an uniform criterion to eliminate potential divergences and biases:
 - A multi-level descriptor approach was used, where each level of descriptors represented different and increasing levels of detail of the identified issues.
 - First level descriptors represented the chapters of the legal diplomas/codes;
 - Second level descriptors represented the sections under those chapters; and
 - Third level descriptors represented a specific matter.
- Given the specificities of some taxes and the small number of decisions, there were some exceptions to the multiple descriptor approach. In these cases, a single descriptor was used.
- This criterion proved to be less biased and easier to adopt by the different team members.
- Inconsistencies identified during the review process essentially boiled down to some typing and categorisation errors which, in the context of the project, proved to be immaterial. However, any inconsistencies identified were rectified.

3. Summary Conclusions

3. 2. Mapping and inventory

- Procedural issues are the most frequently discussed matters in Portuguese courts (especially in higher courts). This is true regardless of the substantive issue at the basis of the proceedings, even if the case ends with a decision rendered on a substantive matter.
- Rationalising and promoting the efficiency and effectiveness of tax courts make it possible to avoid and reduce tax disputes (and the length of proceedings) based on issues of a purely procedural nature, which required the use a different methodology applied in the analysis of substantive matters. Therefore, in this respect, our analysis covered the universe of 11,660 decisions.
- The Robot identified over 900 categories/matters which, after standardisation, resulted in a total of 506 procedural categories (issues).

4

Main trends

4. Main Trends

4.1 – Selection criterion

In this section, the PwC/CCR team presents the main trends identified both regarding material and procedural issues.

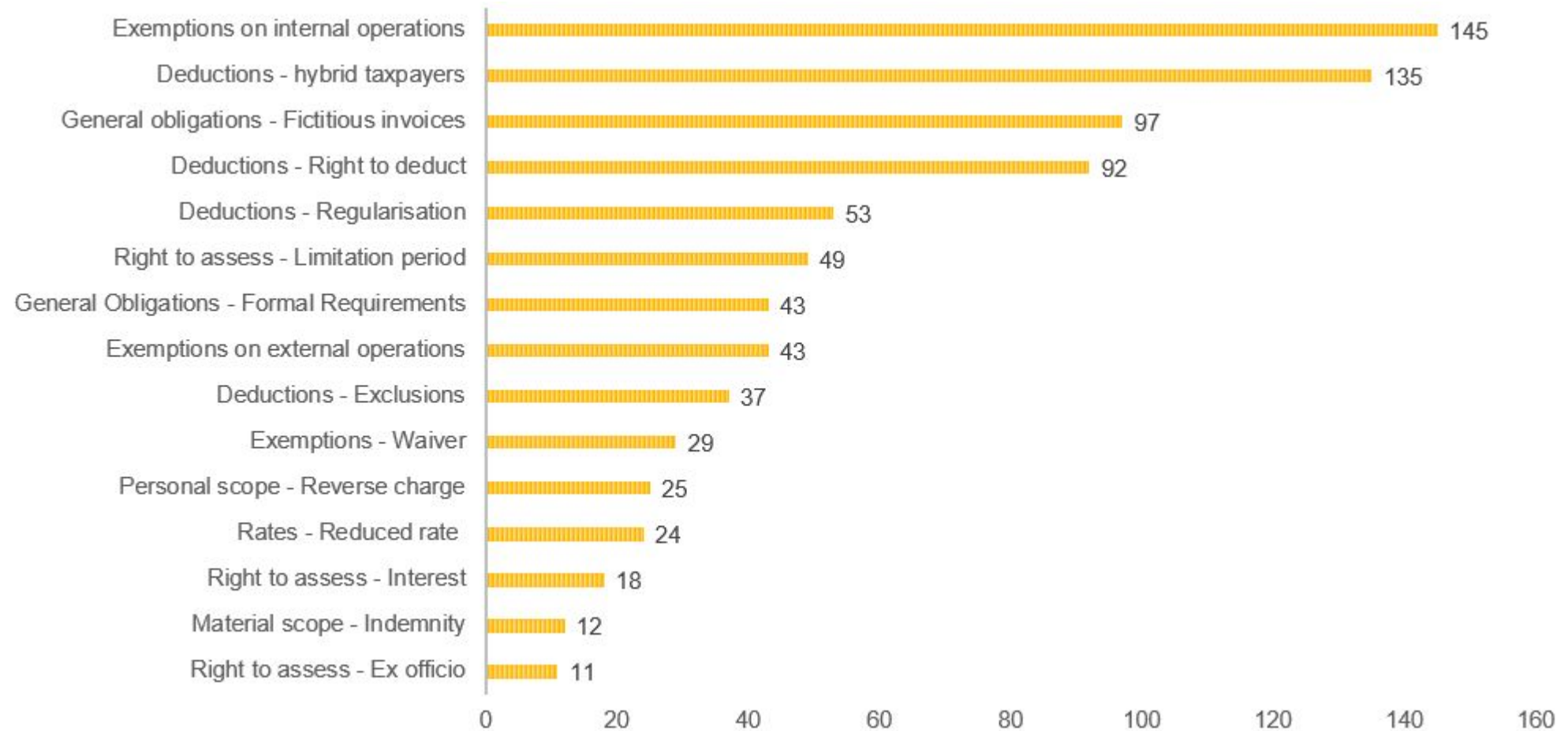
The trends presented were selected using the following criteria:

1. Recurrence of the issue in courts (15 most common issues identified by the number of decisions in which they were raised/analysed by the court);
2. Minimum of 35 decisions per issue to be considered as a trend.

The second criterion was applied as a result of the evidence extracted from the work carried out in Phase 2. In fact, as the analysed data showed, the trends are very specific and related to certain themes/taxes. Therefore, the PwC/CCR team needed to establish a materiality criterion which implied a minimum number of times where an issue is raised in court to be considered a trend.

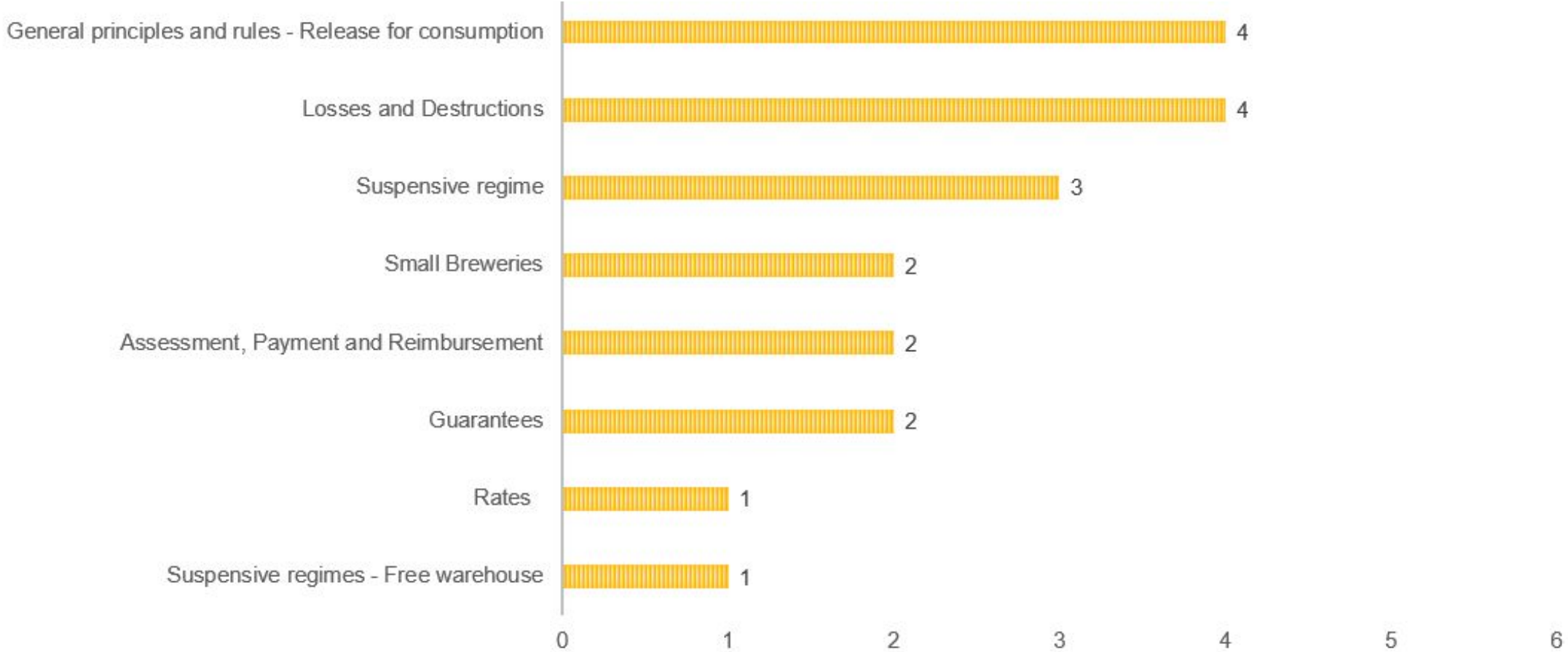
4. Main Trends

4.2 – Subjects – Value Added Tax



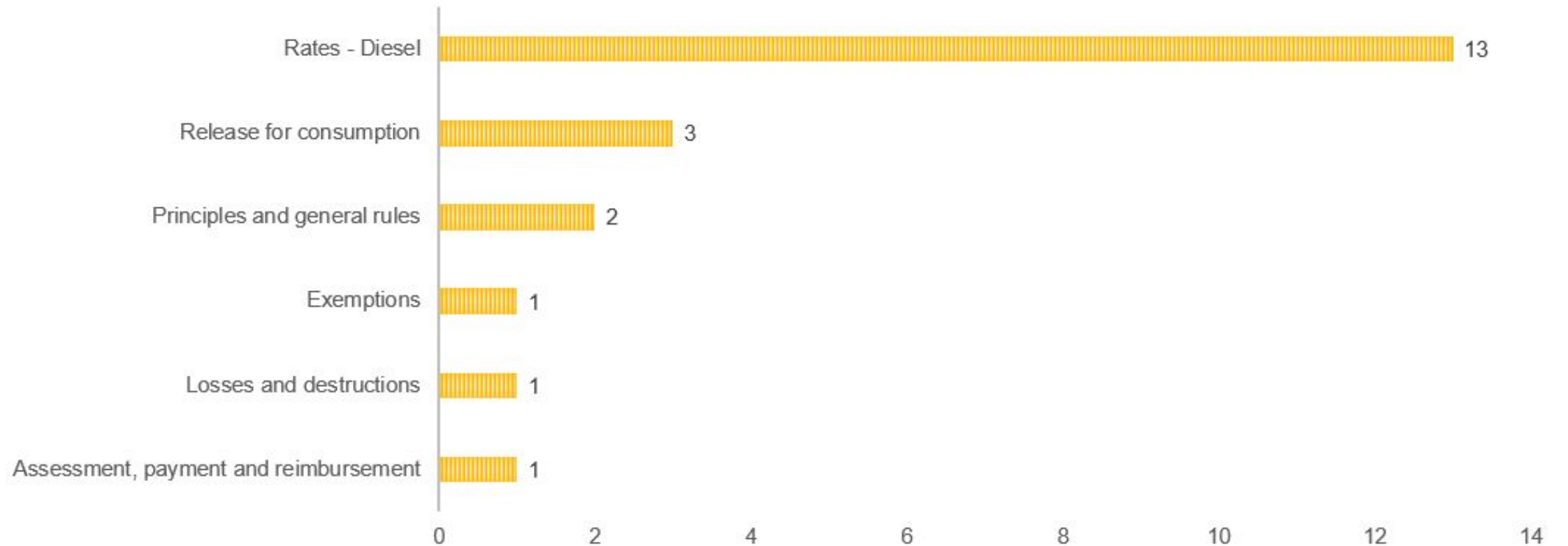
4. Main Trends

4.2 – Subjects – Excise Duties (Alcohol and alcoholic beverages) (“IABA”)



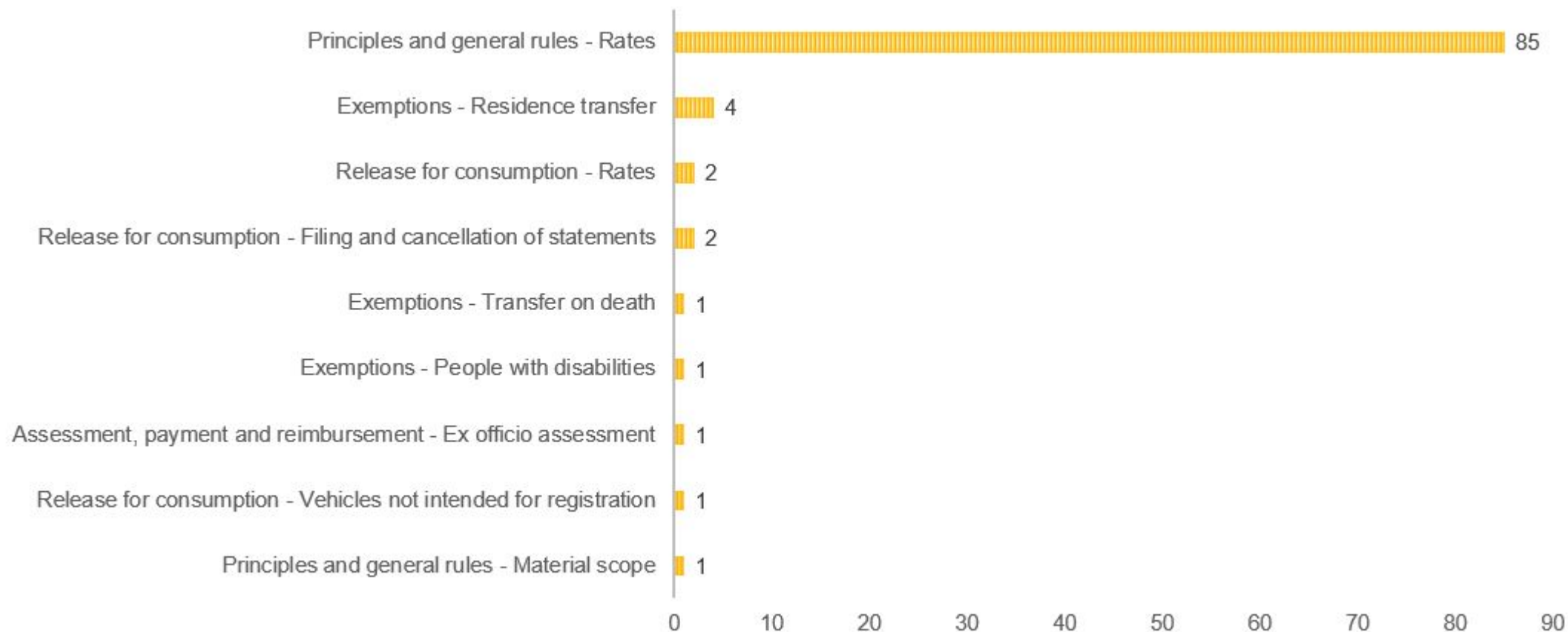
4. Main Trends

4.2 – Subjects – Excise Duties (Petroleum products) (“ISP”)



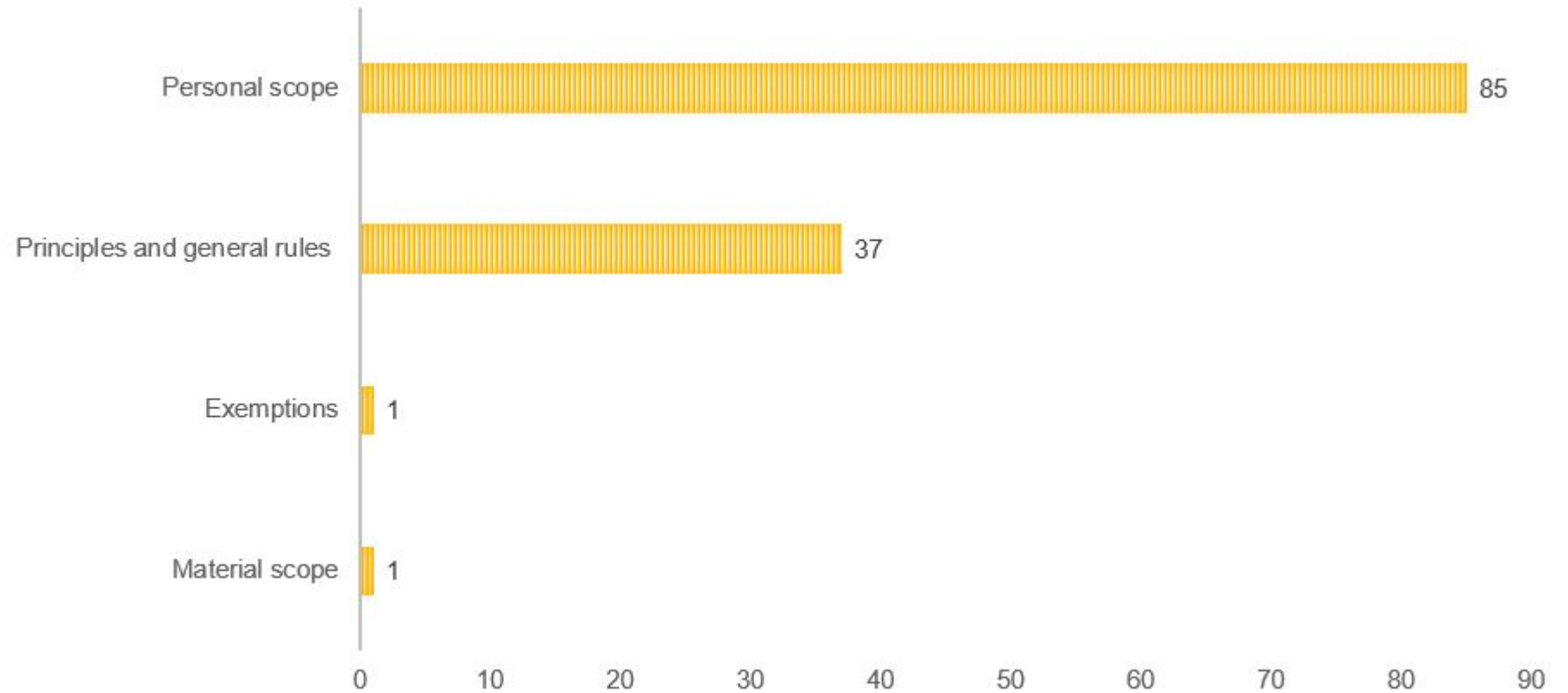
4. Main Trends

4.2 – Subjects – Vehicle tax (Registration) (“ISV”)



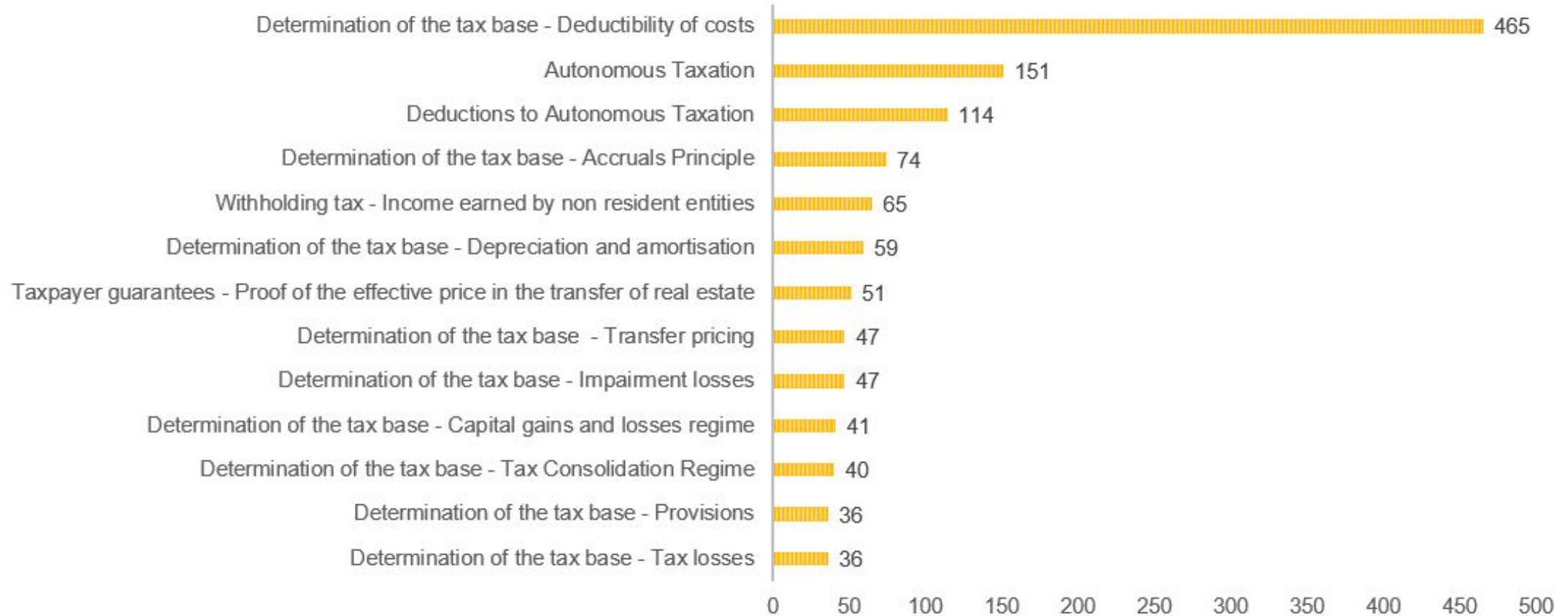
4. Main Trends

4.2 – Subjects – Vehicle tax (Circulation) (“IUC”)



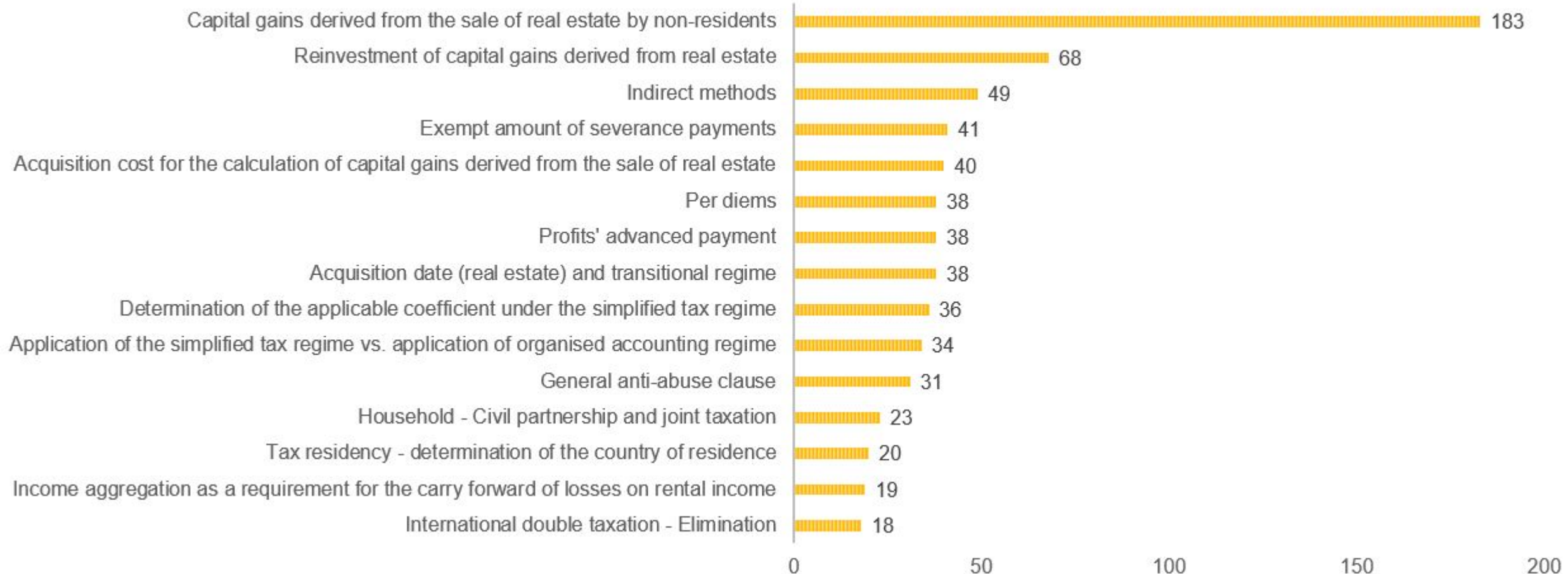
4. Main Trends

4.2 – Subjects – Corporate Income Tax (“IRC”)



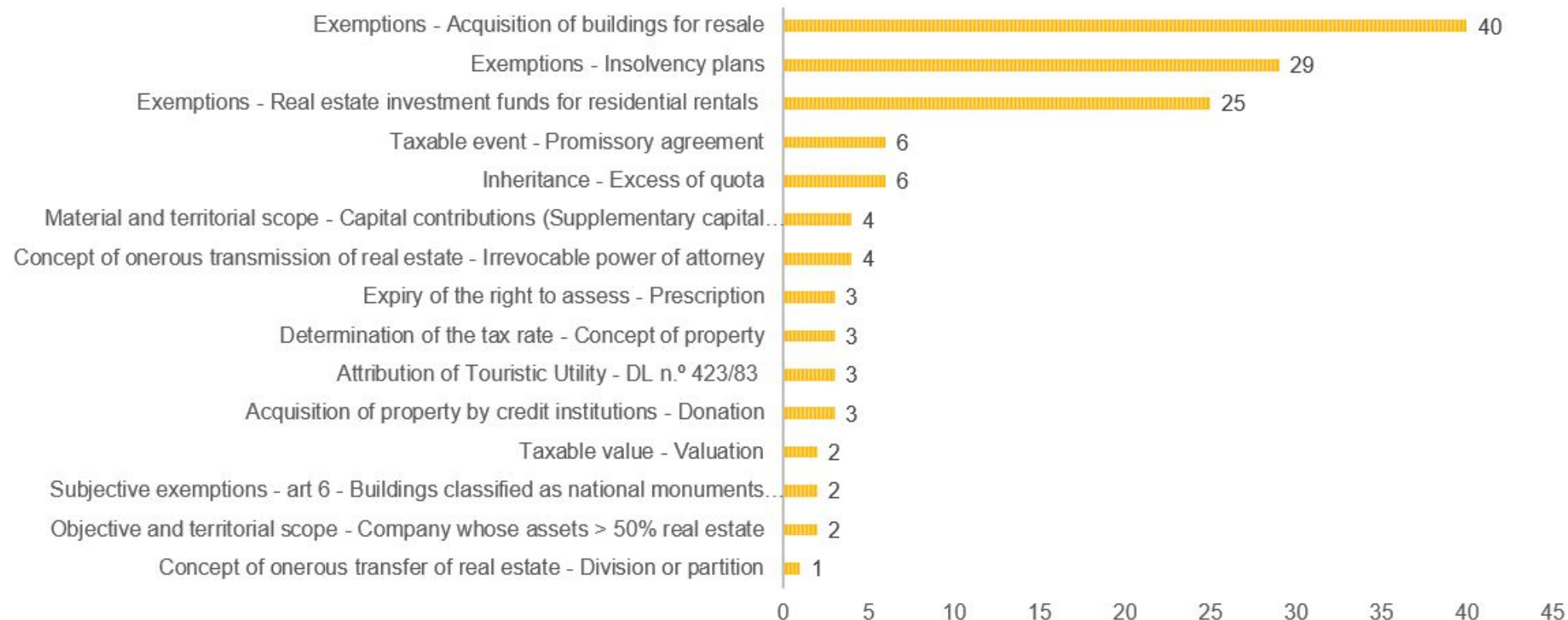
4. Main Trends

4.2 – Subjects – Personal Income Tax (“IRS”)



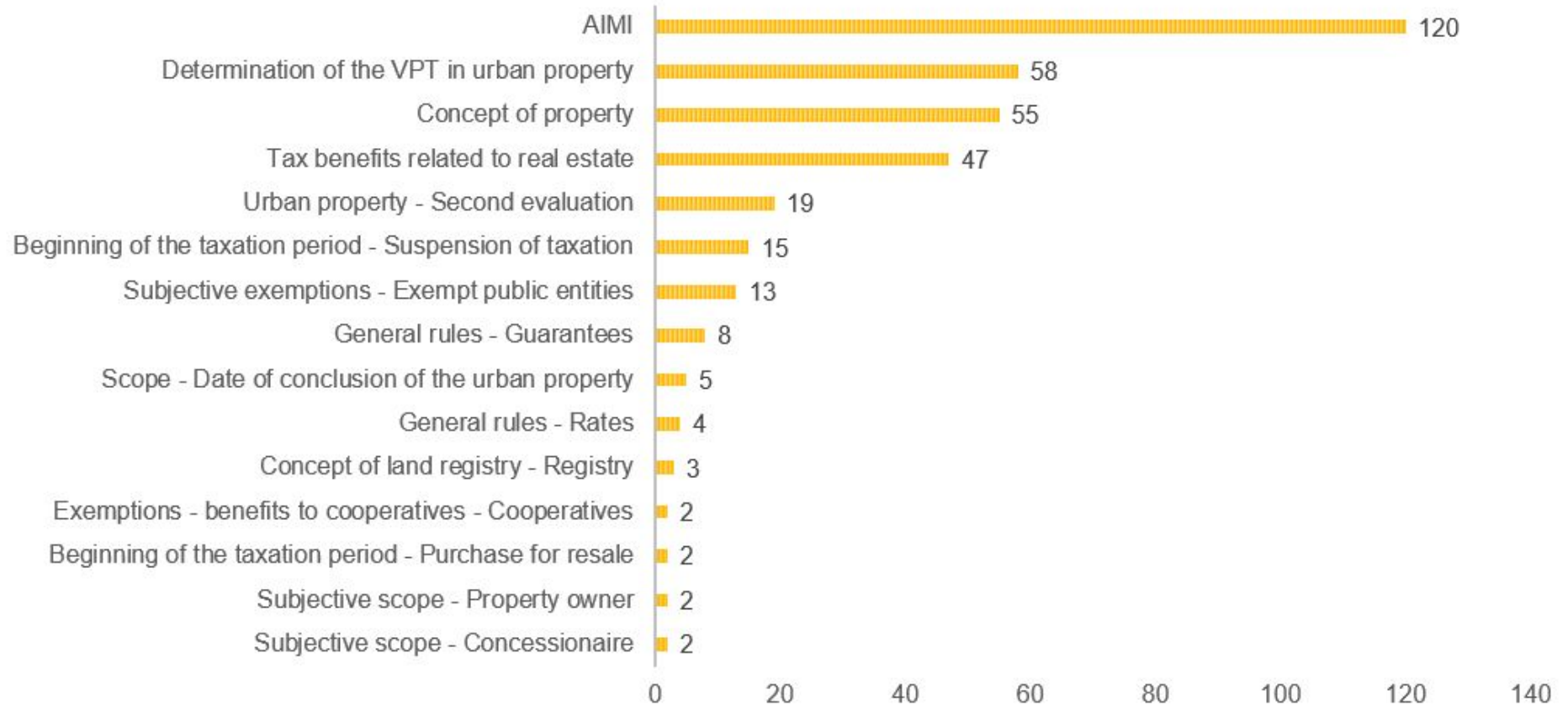
4. Main Trends

4.2 – Subjects – Property Transfer Tax (“IMT”)



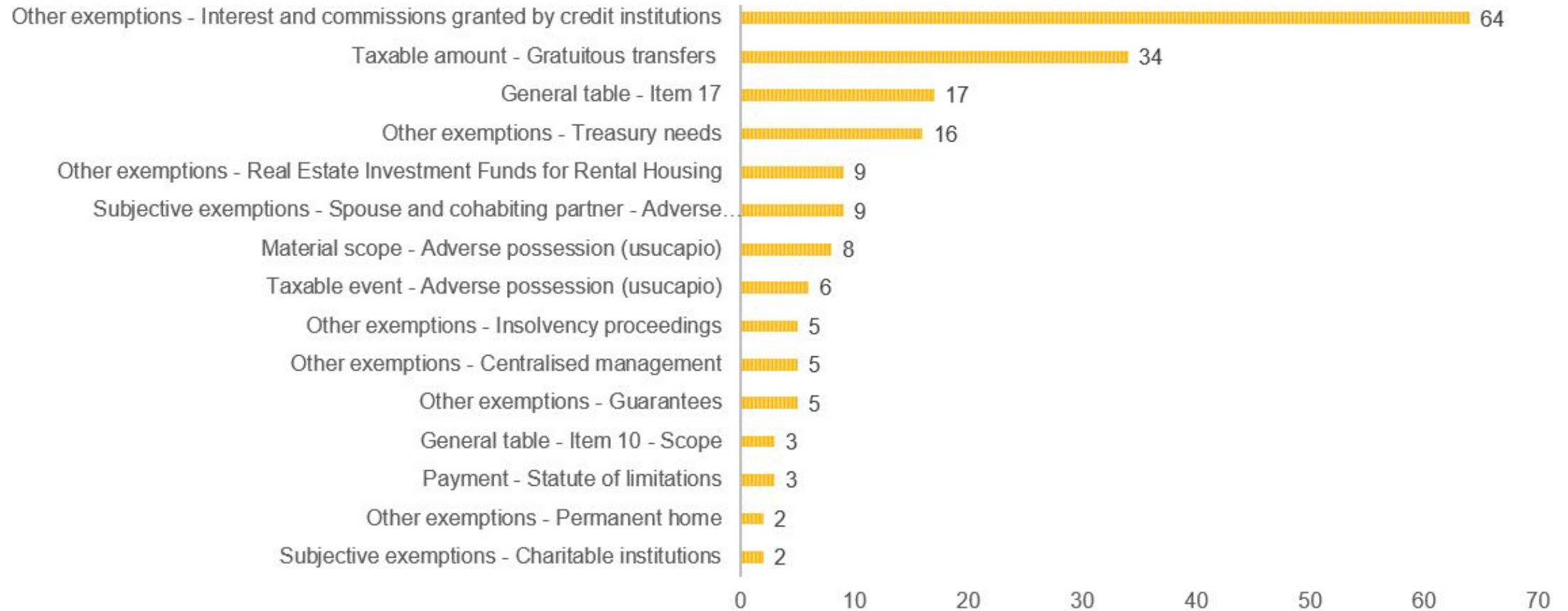
4. Main Trends

4.2 – Subjects – Municipal Property Tax (“IMI”)



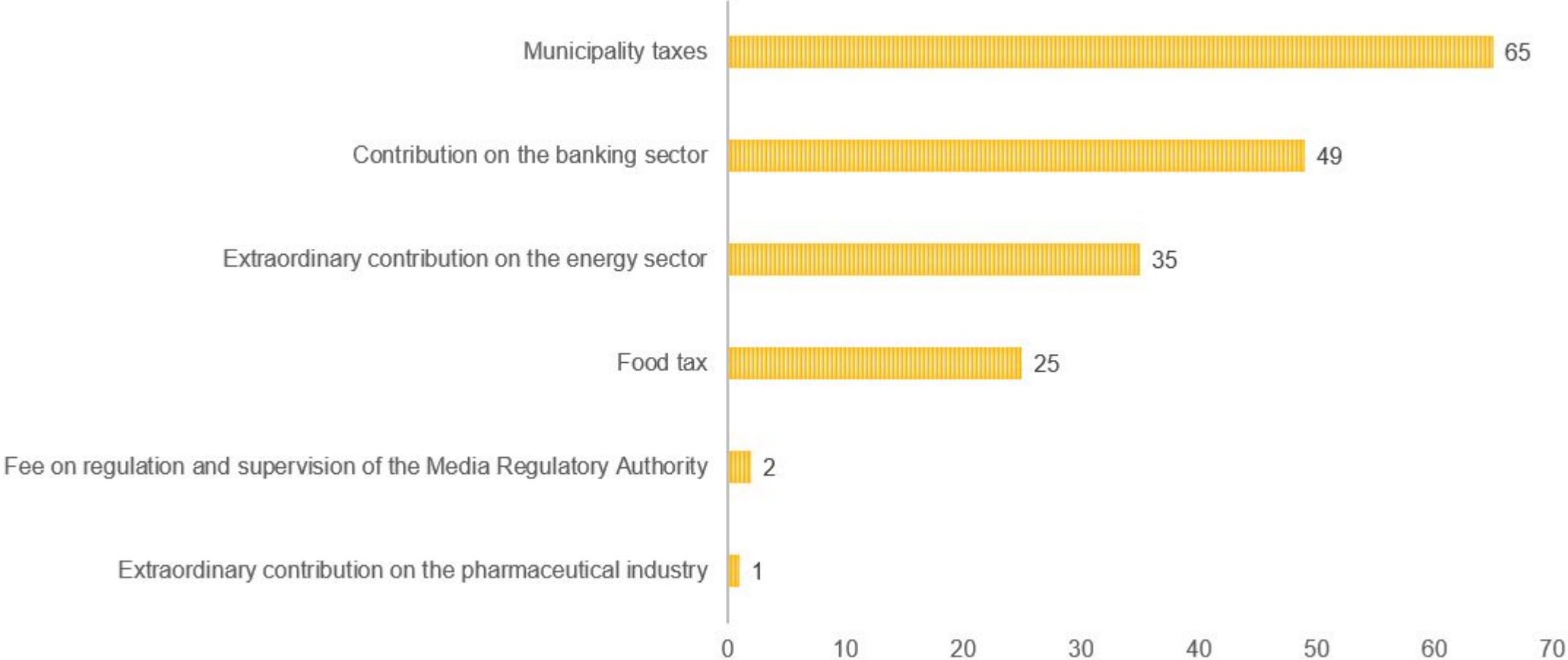
4. Main Trends

4.2 – Subjects – Stamp Duty (“IS”)



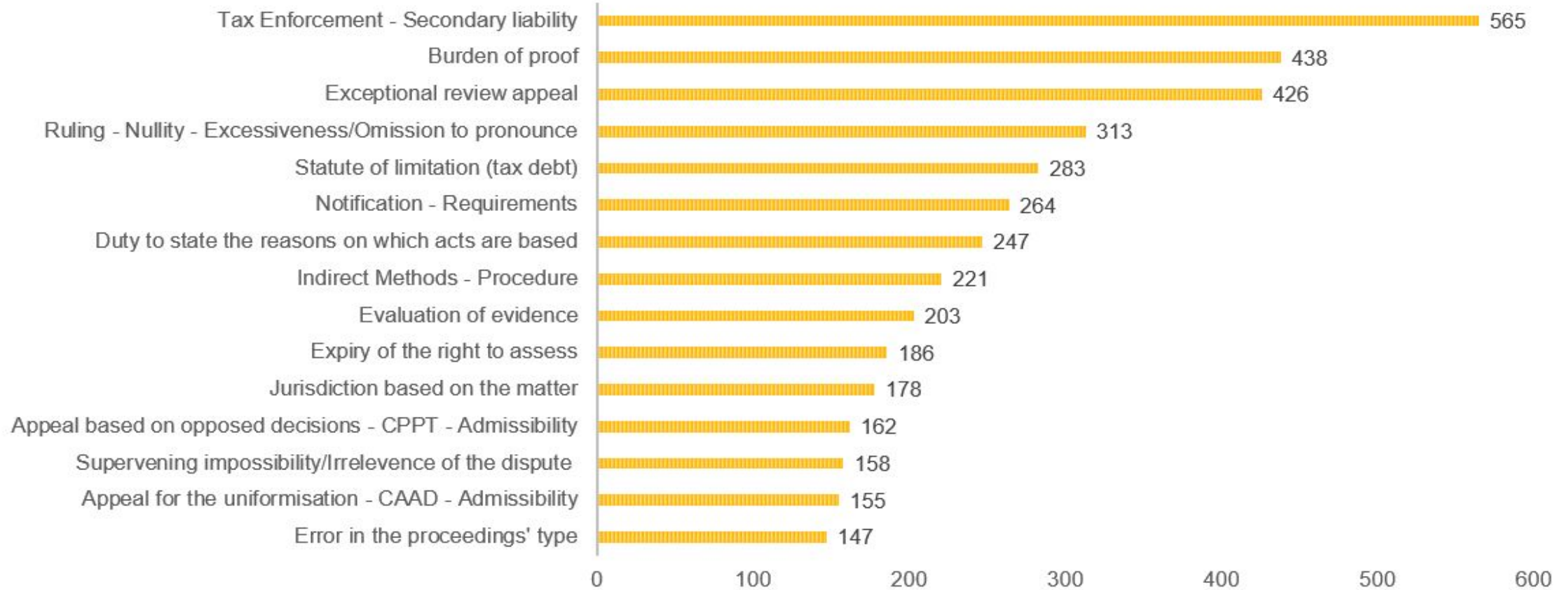
4. Main Trends

4.2 – Subjects – Charges and Financial Contributions



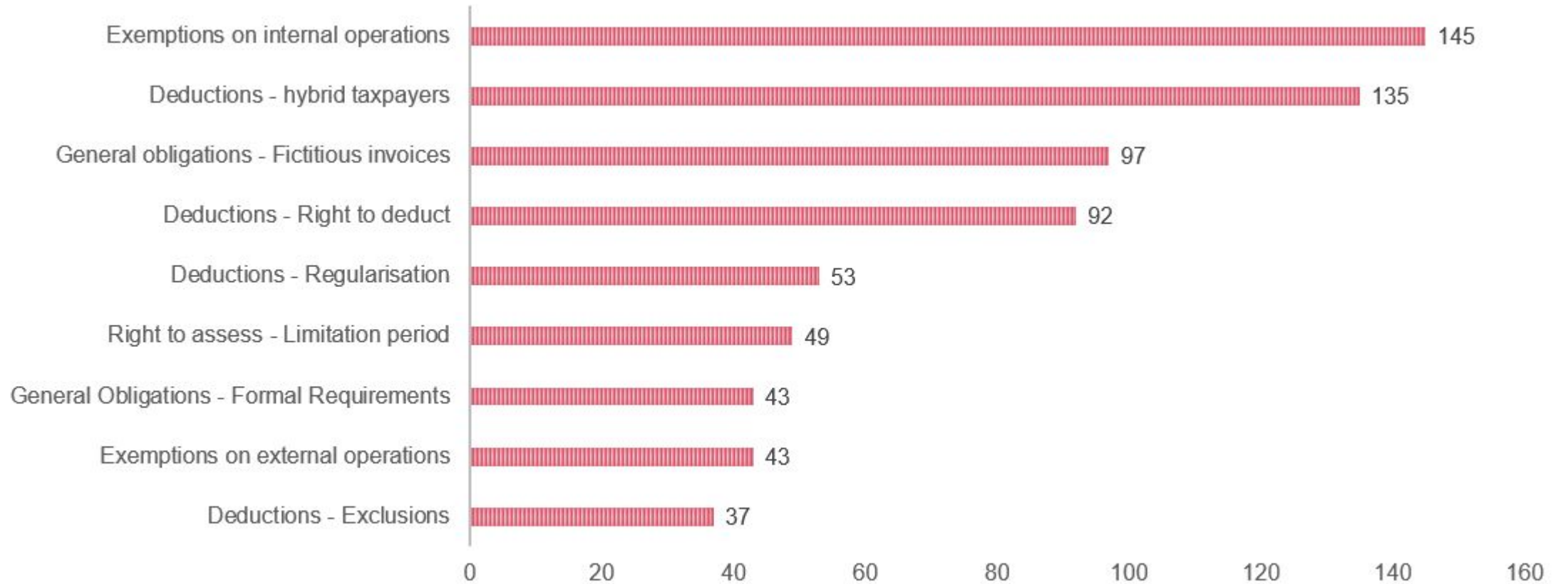
4. Main Trends

4.2 – Subjects – Procedural issues



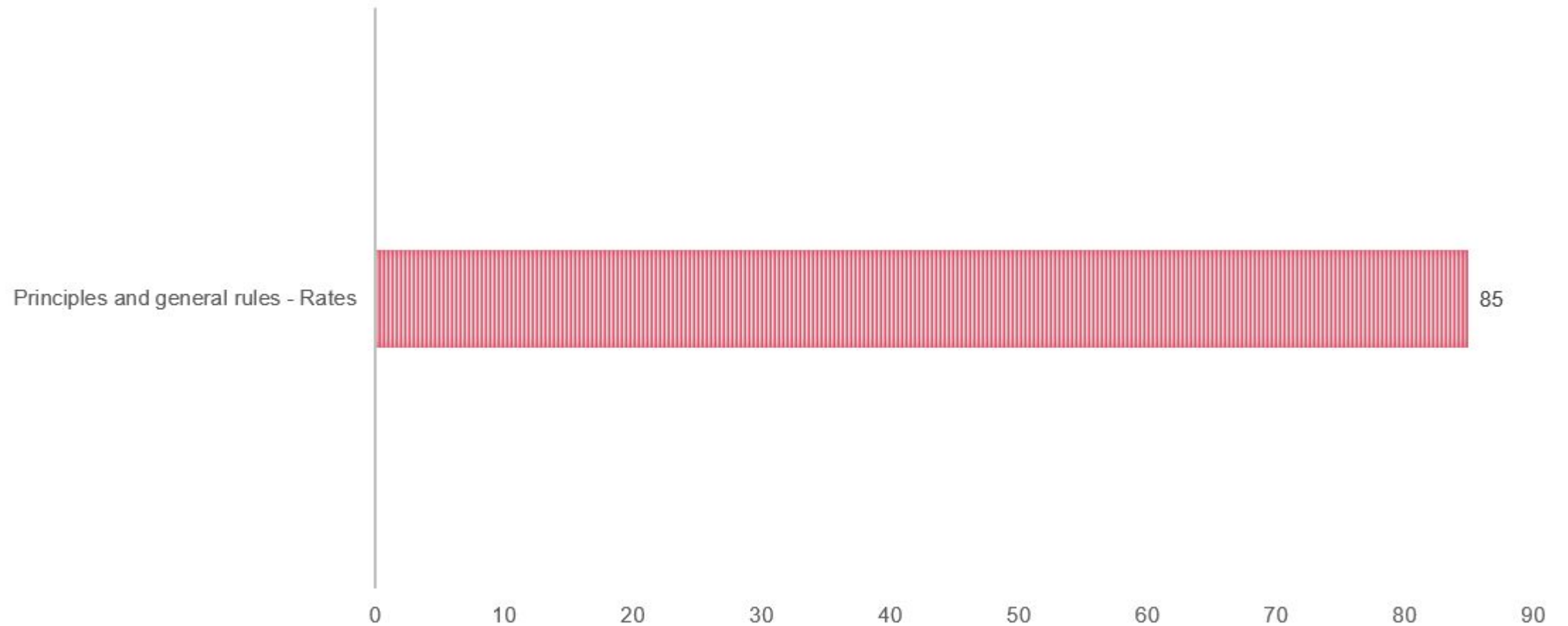
4. Main Trends

4.3 – Main Trends – Value Added Tax (“IVA”)



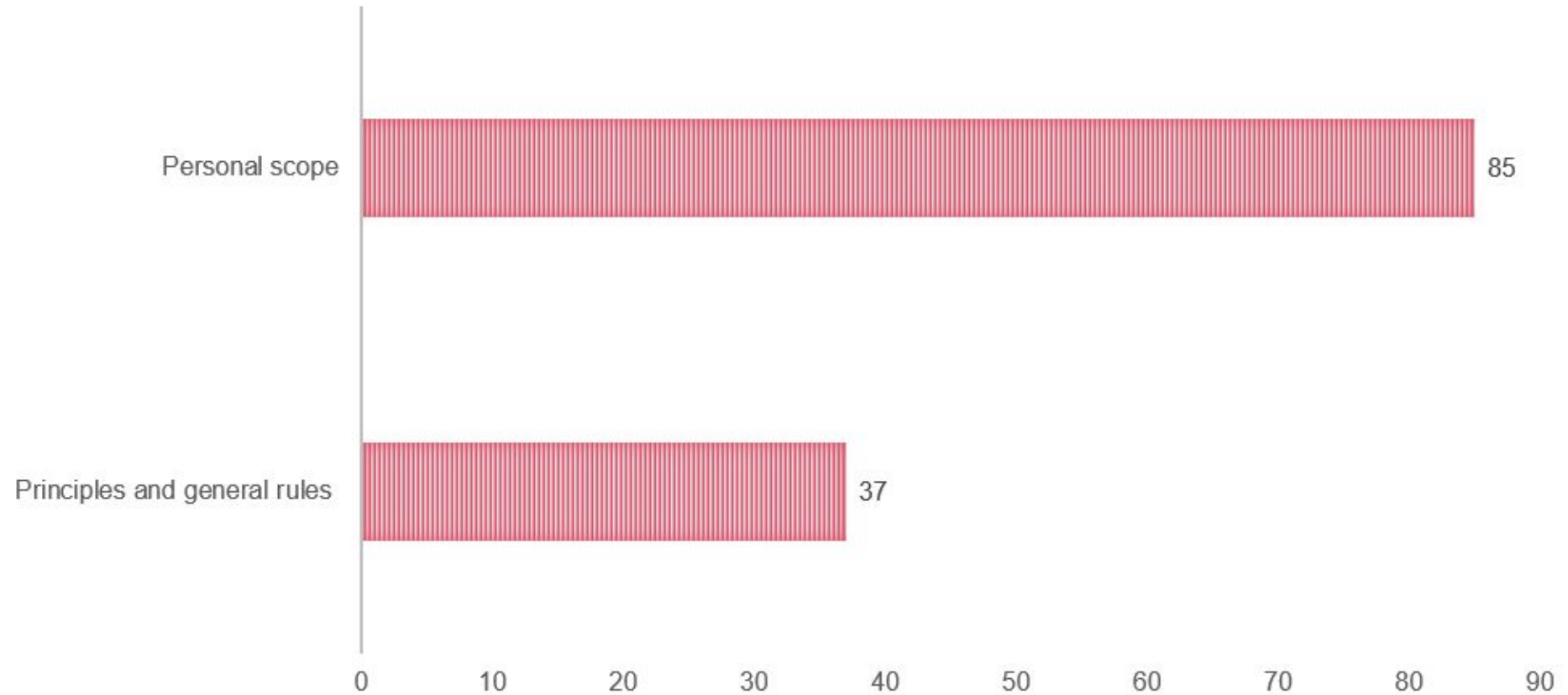
4. Main Trends

4.3 – Main Trends – Vehicle Tax (Registration) (“ISV”)



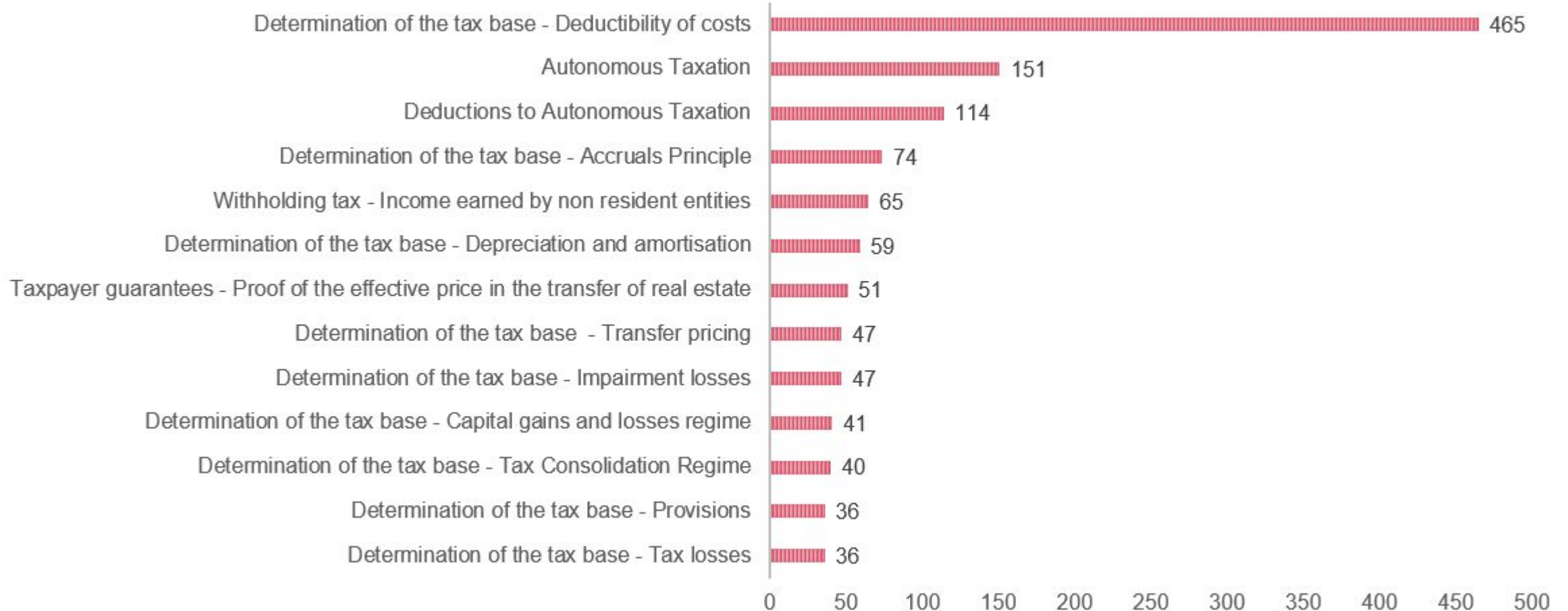
4. Main Trends

4.3 – Main Trends – Vehicle Tax (Circulation) (“IUC”)



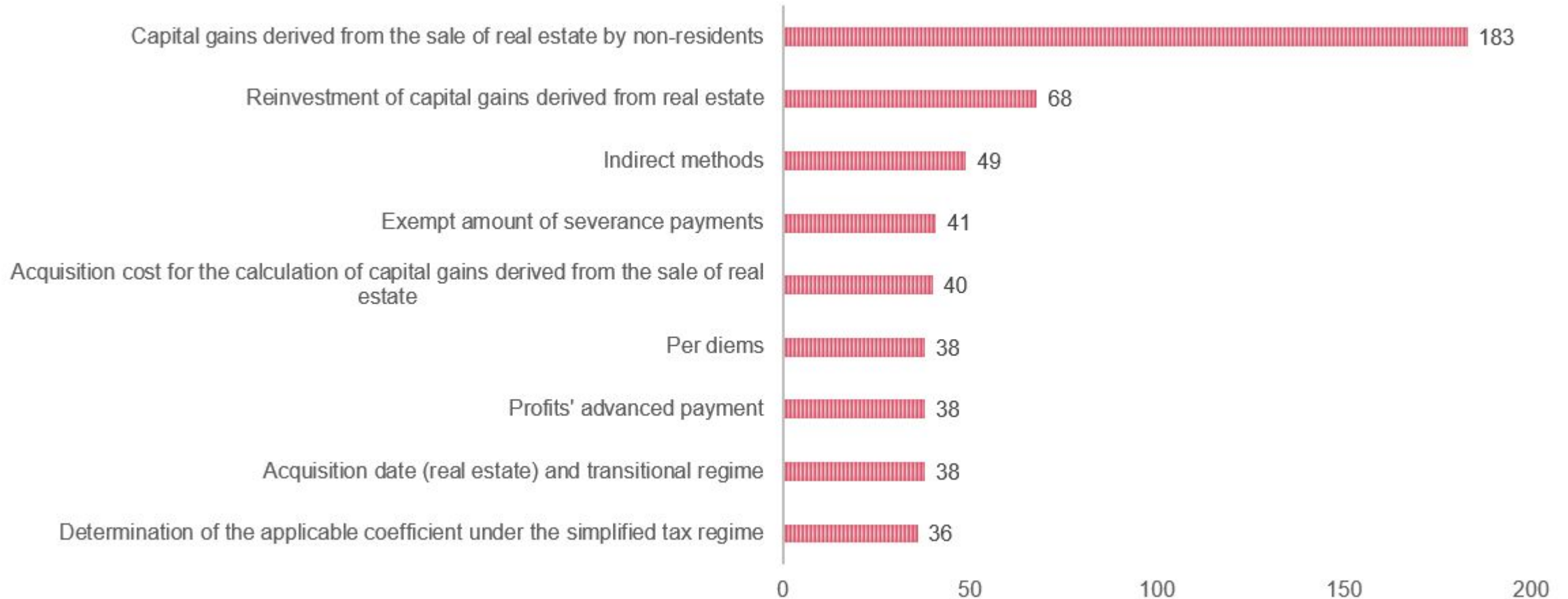
4. Main Trends

4.3 – Main Trends – Corporate Income Tax (“IRC”)



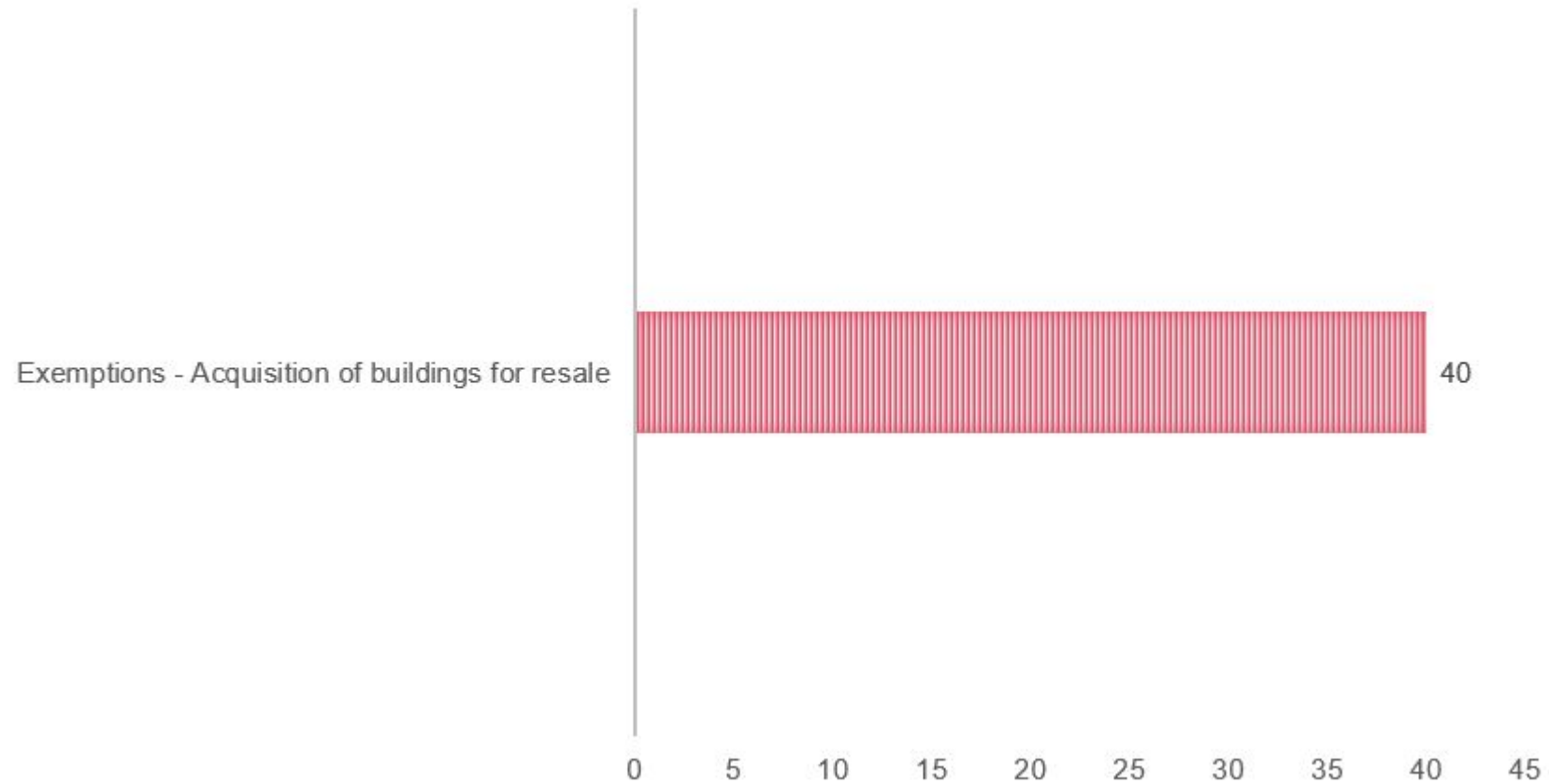
4. Main Trends

4.3 – Main Trends – Personal Income Tax (“IRS”)



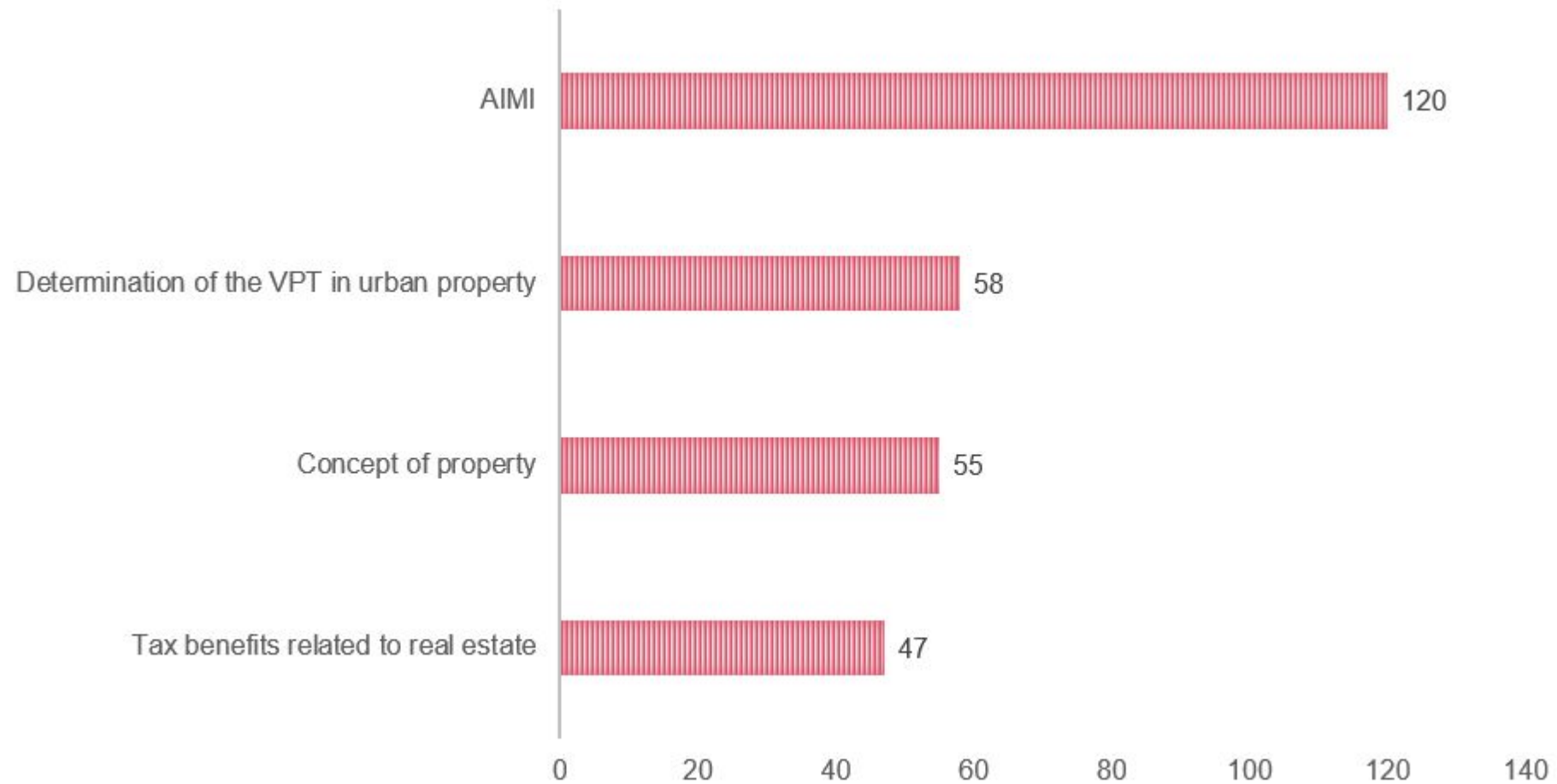
4. Main Trends

4.3 – Main Trends – Property Transfer Tax (“IMT”)



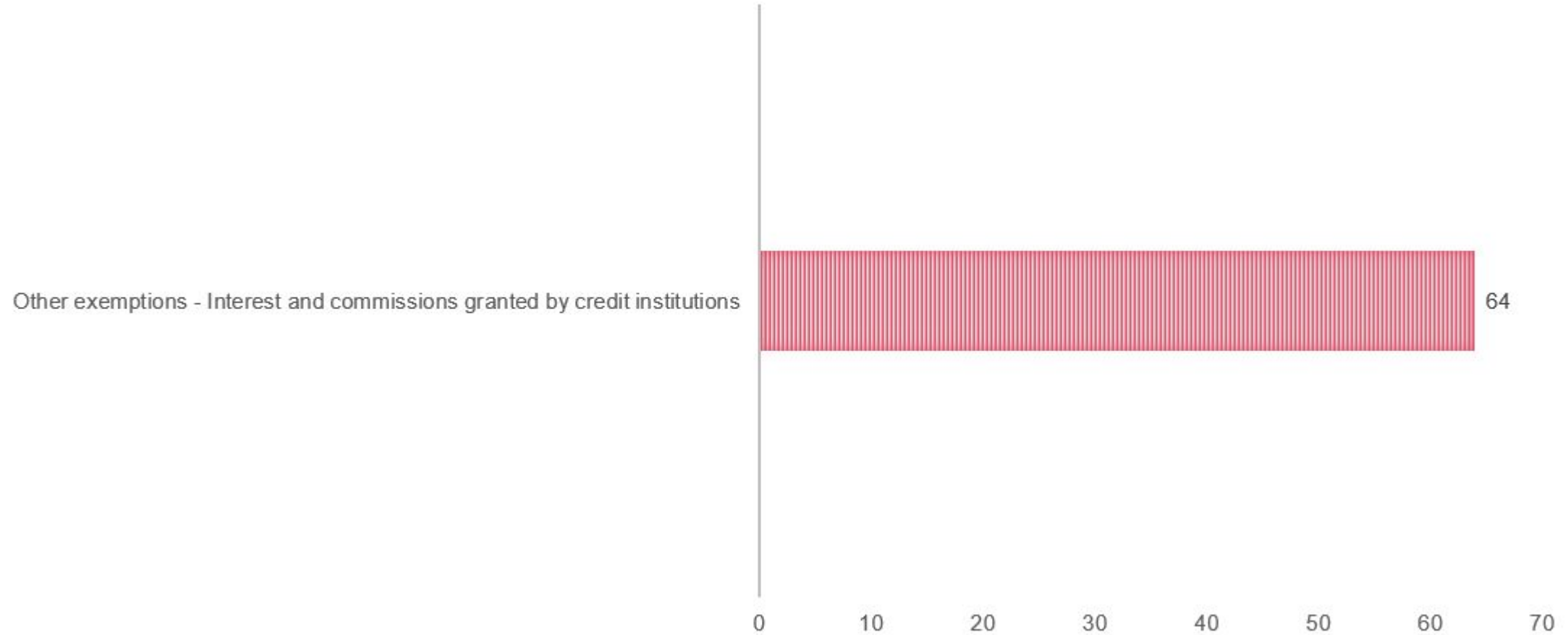
4. Main Trends

4.3 – Main Trends – Municipal Property Tax (“IMI”)



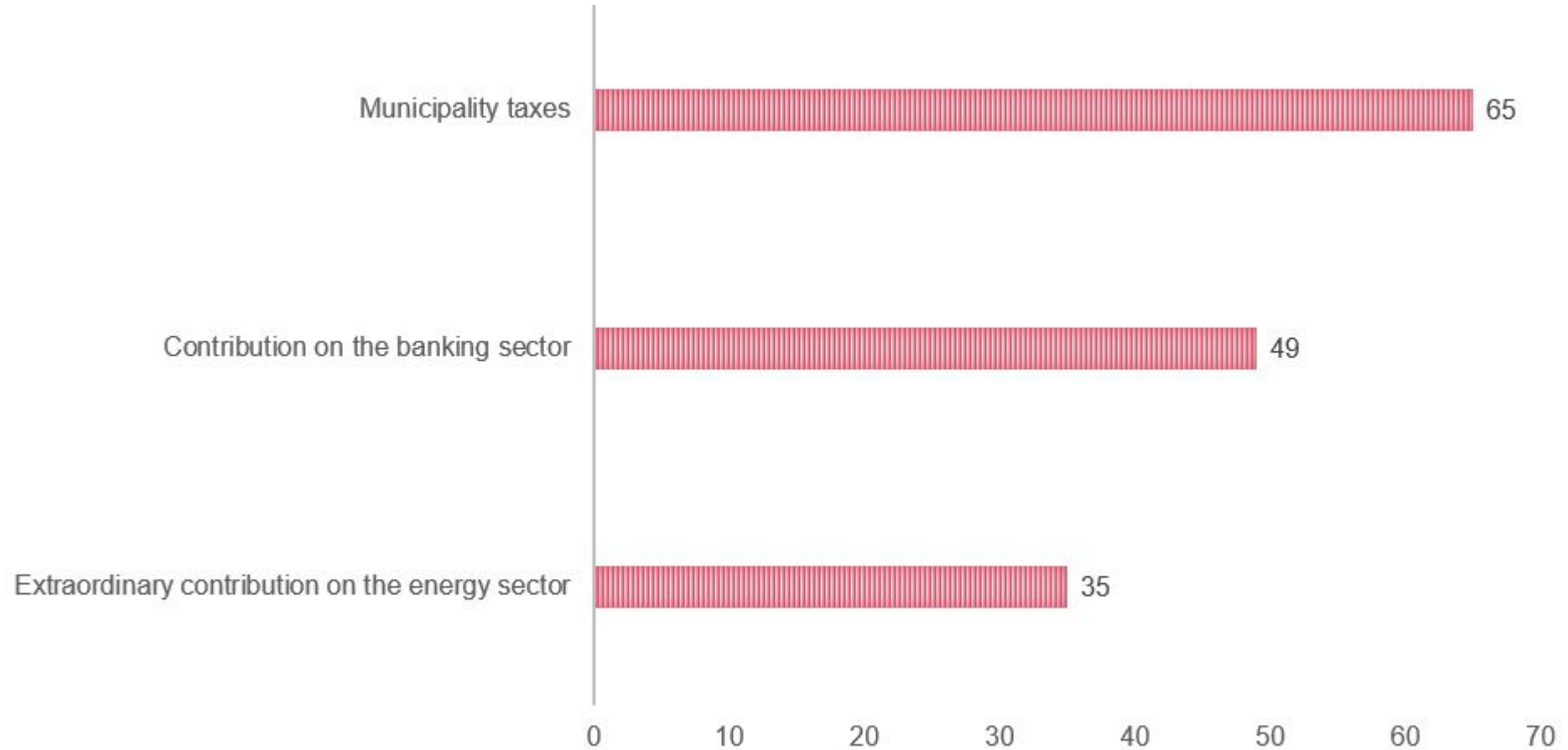
4. Main Trends

4.3 – Main Trends – Stamp Duty (“IS”)



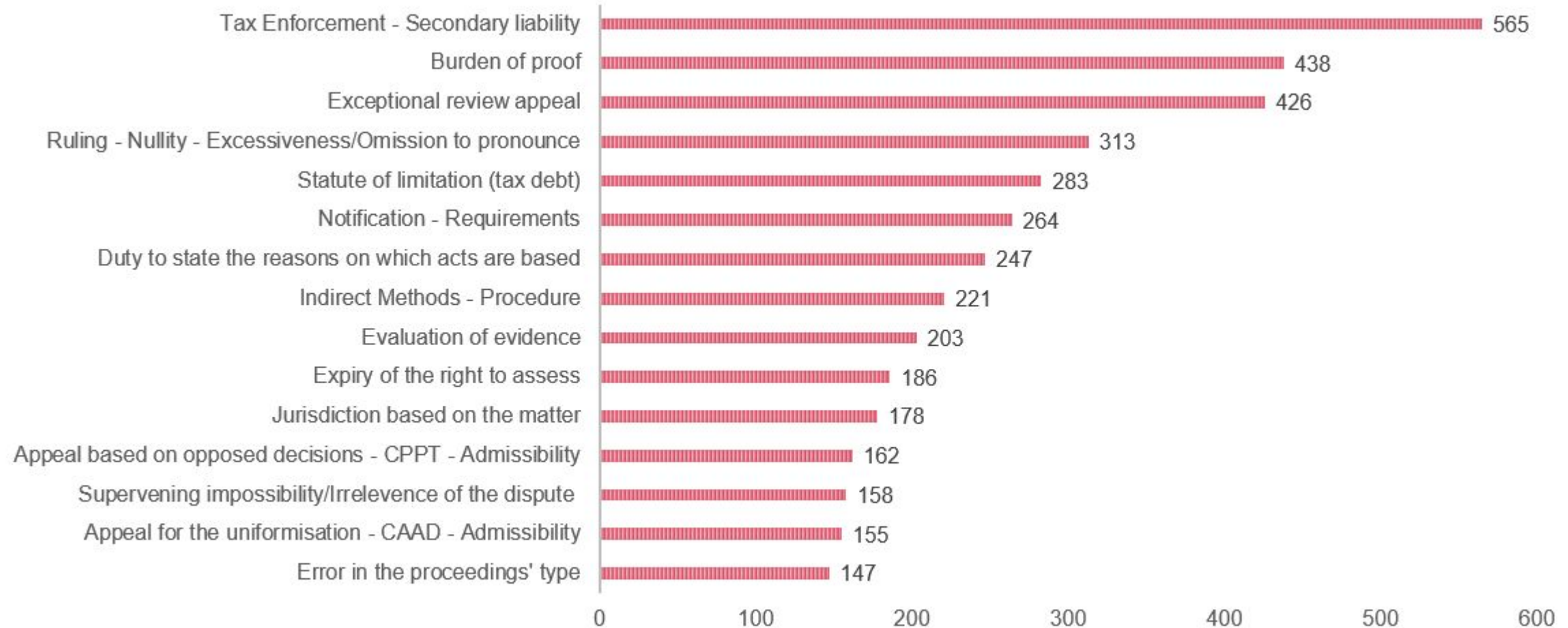
4. Main Trends

4.3 – Main Trends – Charges and Financial Contributions



4. Main Trends

4.3 – Main Trends – Procedural Issues



5

Identified risks

5. Identified risks

| Risk | Description | P | Mitigation plan |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Project management Delay in the project due to a large number of decisions under examination Inaccurate results, given the large number of decisions under examination | The universe of decisions under examination amounts to 11,660. | Medium | The use of a robot allowed to circumvent this risk. The use of several tests (both automated and manual) and specialised teams have mitigated this risk |
| Universe of decisions Different number of decisions against official data | Official statistics/data are not reflected in published decisions due to publication delays | Medium | The universe (number) of decisions considered in our analysis is sufficiently representative of the total decisions rendered by the Portuguese tax courts. |
| Decision identification Duplicate proceedings number | In some cases caad.org.pt publishes decisions with the wrong proceedings number and/or rennumbers the decisions | High | The Robot takes into account not the decision proceedings (when searching and extracting data) but rather the hyperlink to the decision. Therefore, even if a duplicate exists (process number) all the decisions are considered and duly analysed |

Legend – Probability (P)





CCR Legal
Sociedade de Advogados
An independent law firm member
of PwC's legal practices



**Funded by
the European Union**

Visit our website:



Find out more
about the Technical
Support Instrument:

