A Taxpayer Rights/Human Rights Framework for Tax Collection Practices

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1. TAX COLLECTION CASES
2. TAXPAYERS COMMITTEE
3. BEHAVIORAL INSIGHTS
4. STATUE OF LIMITATION
5. TAX COORDINATION
6. TAX JUSTICE SYSTEMS
1. ECHR ART. 1, PROT. 1: “PEACEFUL ENJOYMENT OF HIS POSSESSIONS”

- NO “ARBITRARY AND DISPROPORTINATE (IMPOSITION) AND ENFORCEMENT”:

- ECHR, 17/01/2012 (14902/04) Yukos v. Russia:
  - BAD FAITH; SHAM COMPANIES; TAX HEAVENS; FRAUDULENT TAX ARRANGEMENTS...
  - “NECESSARY TO SECURE THE PAYMENT OF TAXES...” “LACK OF FLEXIBILITY HAD A NEGATIVE OVERALL EFFECT ON THE CONDUCT OF THE ENFORCEMENT PROCEEDINGS AGAINST THE APPLICANT COMPANY” (656):
    - 7% ENFORCEMENT PROCEEDINGS FEE; DENIED DEFERRED PAYMENTS AND ALTERNATIVE GARANTEES; ASSETS SEIZED; SHARES SOLD; SPEED AUCTION (BANKRUPTCY) (5/2)
    - 100% PENALTIES (4/3)
1.- ECHR ART. 1, PROT. 1: “PEACEFUL ENJOYMENT OF HIS POSSESSIONS”

- ECHR (38785/18) Silvano Radobuljac v Croatia: OFFSETTING A TAX DEBT WITH A ENFORCEABLE CLAIM AGAINST THE STATE
- IT: ECJ, Case C-95-19, Agenzia delle Dogane v. Silcompa SpA: DOUBLE REQUESTING BY STATE OF DEPARTURE AND OF DESTINATION
- ECHR (48225/08) Beires C.rte-Real v. Portogal: INTERESTS FOR UNDUTY PAYMENTS
- IT: Case C-199/82 San Giorgio v Italy; ECHR (58364/10), Antonov v. Bulgaria: RIGHT TO REIMBURSMENT OF UNDUTY PAYMENTS
- ECHR (803/02), Intersplav v. Ukraine: TAX CREDIT FOR VAT; ECHR (3991/03), Bulves ad v. Bulgaria: NOT WITHOLDED AS A GARANTEE FOR LONG TIME
- ECHR (27183/04) Rousk v. Sweeden: SEIZURE OF HOUSEHOLD FOR TAX DEBTS
2. TAXPAYERS COMMITTEE

CONSEJO PARA LA DEFENSA DEL CONTRIBUYENTE
(Spanish Taxpayers Ombudsman Committee)

- COMMITTEE (4/4/8):
  - SECOND STAGE OF THE CLAIMS (3%/10.000)
  - REPORTS, PROPOSALS: 215; 9/Y; 23% (51)
  - SEMMINARS

- STAFF OFFICES (25)(97%)
  - INTERNAL AUDIT SERVICES OF THE TAX AGENCY
  - THREE UNITS
2. TAXPAYERS COMMITTEE

- REPORTS, PROPOSALS: 215; 9/Y; 23% (51)
- SEIZURE OF MINIMUM NECESSARY FOR LIVING (R7/20; ATS 9295/2019)
- THIRD PARTIES AND DOUBLE PAYMENTS (P1/2003; P8/2003; P26/00; R2/12; R1/18)
- REFUND OF PAYMENTS AND GUARANTEES (P1/99; P16/99; P20/99; P29/99; P43/99; P50/99; P5/02; P1/08; R2/10)
- INTERESTS AND SUSPENSION OF PAYMENTS (P8/97; P2/99; P12/99; P18/99; P10/00; P2/02)
3.- BEHAVIORAL INSIGHTS

- CLAIR LANGUAGE TAX COLLECTION NOTICES (LINGUISTIC) CERTAINTY "ACCESIBILITY AND FORESEEABILITY" (ECHR)
  - CORPUS OF NOTICES (SEIZURE)
  - ADI

- PUBLIC IMAGE OF TAX ADMINISTRATION (POLITICAL SCIENCES)
  - NAMING AND SHAMING
  - NEWSLETTER AND BLOG

- STRATEGIES FOR TAX SIMPLIFICATION (TAX LAW)
  - NUDGE LETTERS
  - APP (DEFERRAL AND INSTALMENTS)
  - ARRANGEMENTS AND VOLUNTARY DISCLOSURE
4.- STATUE OF LIMITATION

- PRESENT STATUS
  - 4 YEARS (INTERRUPTION); 5/10 (TAX OFFENCE)
  - LIABILITY CHANNEL (THIRD PARTIES); STS 673/2022

- C-788/19 (ECLI:EU:C:2022:55)
  - INFORMATION OVERSEAS ASSETS OR RIGHTS (FORM 720)

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<th>‘UNJUSTIFIED CAPITAL GAINS’ WITHOUT BENEFIF OF SOL</th>
<th>“EXTENDED LIMITATION PERIOD” (X and Passenheim-van Schoot, C-155/08)</th>
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<td>TAX DEBT, INTERESTS AND PENALTIES: 100%</td>
<td>LACK OF PROPORTIONALITY AND DISCRIMINATION</td>
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- ECHR (YUKOS; 574): “NO REASONABLE INTERPRETATION OF STATUTE OF LIMITATION RULES” (ART. 1.PR.1)
5.- TAX COORDINATION


- “LIMITATIONS ON THE PRINCIPLE OF MUTUAL TRUST MUST BE INTERPRETED STRICTLY” (IR: ECJ, C-34-17, Donnellan, 50)
- PRECAUTIONARY MEASURES: REASONS AND CIRCUMSTANCES (EE: C-420/19, Maksu- ja Tolliamet v Heavyinstall OÜ)
- UNIFORM INSTRUMENT (APPLICANT STATE); NOT TO REVIEW ENFORCEABILITY (CZ: ECJ, 14 Jan. 2010, Case C-233/08, Milan Kyrian v. Celní úřad Tábor, 50)
- ENFORCEMENT MEASURES (REQUESTED STATE); OFFICIAL LANGUAGE (KYRIAN, 60)

➢ OECD/EC: MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS (2010)

➢ SPECIFIC CLAUSE IN DOUBLE TAXATION TREATIES
6.- TAX JUSTICE STATUS

DOUBLE JUDICIAL CHECK

1881/1973

RECURSO POTESTATIVO DE REPOSICIÓN

1/3 YEARS


TRIBUNAL ECONÓMICO ADMINISTRATIVO CENTRAL (1980)

JUNTA DE TRIBUTS DE CATALUNYA (2017)


(AUDIENCIAS TERRITORIALES)
TRIBUNALES SUPERIORES DE JUSTICIA

AUDIENCIA NACIONAL (1977)

JUZGADOS CONTENCIOSO ADMINISTRATIVOS (1998) [TSJ]

1/3 YEARS

TRIBUNAL SUPREMO (2015)

1/3 YEARS

CONSEJO DEFENSA DEL CONTRIBUYENTE (1997)

JUNTAS ARBITRALES
6.- TAX JUSTICE BALANCE

ADMINISTRATIVE REVIEW, “FILTER” (“APPEAL OFFICES”) LOOKING FOR AN ARRANGEMENT/SETTLEMENT

ENFORCEMENT OF THE PAYMENT

REGIONAL TAX COURTS

NATIONAL TAX COURT

REGIONAL COURTS OF APPEALS

NATIONAL COURT OF APPEALS

SUPREME COURT

CONSEJO DEFENSA DEL CONTRIBUYENTE (1997)

JUNTAS ARBITRALES
Thank you!

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