Judicial review of tax matters in non-tax norms and fora

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25 May 2023

Draft
Strictly private and confidential
American Convention on Human Rights, “Pact of San José” and its relation to tax

- Rights within the Pact of San José: not related to tax directly
  - Judicial warranties: the right to a fair trial (Article 8)
  - Right property (Article 21)
  - Right to equal protection? (Article 24)

- Procedural aspects to apply the Pact of San José:
  - Exhausted all domestic remedies and instances
  - First before the Commission on Human Rights

- Tax cases before the Inter American Court on Human rights
  - Very few cases. Cantos v. Argentina: right to access to trial
  - Lack of a robust body of tax jurisprudence, why?

- Domestic application of the Pact of San José to tax cases:
  - Relation between human rights and constitutional rights
  - Chilean case law from the Supreme Court: “right to a hearing, with due guarantees and within a reasonable time”
Vienna Convention: conformity with the principle of systemic integration and its impact in taxation

- Vienna Convention:
  - Applicable to tax treaties: tax treaties are international treaties

- Interpretation of tax treaties v. interpretation of domestic tax provisions
  - Some similarities; key differences

- Interpretation rules of Vienna Convention:
  - Commentary: context (Article 31) or supplemental means of interpretation (Article 32)?

- Interpretation rules of tax treaties:
  - Article 3.2 and the application of domestic meaning

- Chilean domestic case law:
  - Chilean case law: Inversiones Capital Global S.A v. Servicio de Impuestos Internos