

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

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

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- 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

2

- 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