A Comparative Study of the Principles of Fair Proceeding in Iran with Tax Litigation patterns in the United States, Britain, France and Germany

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(Received: Feb. 6, 2018 Accepted: May 7, 2018)

Abstract

One of the most important economic topics in every country is considering tax issues as a way of increasing the government's income through attracting public confidence by observing the principles of proceeding in the tax system of the country which might likely cause a national production boom, increase economic growth rate, reduce unemployment and the fair distribution of wealth. In this regard, since the majority of taxpayers in a country pay taxes and at the same time their rights might be threatened, it is therefore necessary to establish courts and tribunals for settlement of rights and resolving hostility, and because of the close connection of individuals with the issue of tax, they may refer to these authorities more than others. Accordingly, references must be made in accordance with a fair proceeding in order to best determine the rights of the modalities, which will not be achieved except through the adoption of fair trial principles that are endorsed and supported by international legal institutions and are accepted as the principles for the implementation of fair results in the global prosecution system. Today, there are several systems of tax proceedings in different countries, each of which has weaknesses and strengths in terms of affinity and fairness of fair proceeding principles. In this paper, by examining the tax jurisdiction of Iran, the United States, Britain, Germany and France, as well as the patterns of exploitation of each of these systems and comparing the tax systems of these countries with the accepted principles of fair proceeding, the degree of proximity or the distortion of the above tax systems into the principle of the implementation of justice, which should be the ultimate goal for lawmakers, will be studied.

Keywords: fair proceeding principles, France, Germany, tax council of Iran, tax dispute resolution boards, tax system, United Kingdom, United States.

Journal of **World Sociopolitical Studies**| Vol. 2| No. 3| July 2018| pp. 507-548
Web Page: https://wsps.ut.ac.ir// Email: wsps@ut.ac.ir
eISSN: 2588-3127 Print ISSN:2588-3119
DOI: 10.22059/WSPS.2018.69042

Journal of **World Sociopolitical Studies** | Volume 2|No. 3|July 2018

Introduction

Today, in many countries, the tax issue is one of the most important concerns of both the state and the people. From the point of view of the people of a society, as any tax system and its policies in any society directly or indirectly influences the various aspects of life for individuals and is one of the aspects of participation in determining their fate, so the tax is of high importance, especially in countries where much of the government's income comes from taxes. In fact, the tax system that governs how and in which way taxes are collected, is shaped depending on the type of the government's attitude and the people's view of tax. Moreover, it is also influenced by the thoughts of academics according to the needs and requirements of the time.

The usefulness and efficiency of any tax system depends on the proper design and operation of the components of that system. Consistent changes and evolution of the tax systems generated by various social changes create various and complex tax regulations that create numerous challenges for their execution, especially in terms of tax collection. Therefore, a solution should be provided to protect the rights of people, particularly individual freedoms including financial freedom, from violation or restriction by tax regulation. Considering that the purpose and philosophy of justice as a social value in order to reach human perfection and prosperity is to solve conflicts and disputes, and justice is the best criterion for balancing the rights of the individual and the community, thus the best way to support the people of a community against the exercise of power and the best basis for assessing the tax process, is the penetration of justice in the process of resolving disputes. On the same basis, the establishment of fair-based laws and regulations, as well as the existence of a fair proceeding in order to prevent the violation of the private rights of individuals against the state, as well as public rights against individuals is necessary.

Objectives of Research

Formulating tax laws and the establishment of tax authorities according to accepted principles of fair proceedings is important for two reasons: on the one hand, it plays an important role in the financing of the state; on the other hand, it protects the rights of individuals and increase their trust to the taxation system. Moreover it promotes a sound tax culture and provides a basis for the participation of taxpayers in the system. It also ensures fairness and the fair distribution of wealth in society, which requires the consideration of legal and legal guarantees in a proceeding. Therefore, the purpose of this research is to: 1. identify the principles of fair proceeding introduced in international treaties; 2. introduce reliable tax procedures by conducting a comparative study; 3. identify the weaknesses and strengths of the Iranian tax proceeding system in comparison with other tax systems.

Research Question

- Is the ruling system of tax proceedings in Iran in line with accepted principles of fair proceeding in the world's legal systems and domestic laws?
- Which of the templates presented in this article is more in line with the principles of fair hearing?

Definitions, Concepts and Foundations

Considering the importance of taxation as the financial tool for monitoring the income of a community, in this article we focus on the definition of taxation and the principles of fair proceeding and its related concepts.

i) Tax

Different economists and lawyers have presented different

definitions for taxes in order to fully describe the features and characteristics of taxation.

Some of them, including Louis Trotoba and Jean Marie Cotteret, by considering the relation between tax and budget suggest "the distribution of expenditures in the budget among individuals in terms of their ability to pay" (Trotabas & Cotteret, 1387 [2008 A.D]: 16). From this definition, they extract three main characteristics for taxes, that is: "being obligatory and compulsory" due to the necessity of collecting them in order to finance government costs, "justice" with regard to the ability of paying it by the individual, and "being legal and annual" because the regime considers it to be subject to budgetary laws. Others see taxation from the point of view of the tax payer, and explain that "according to the principle of national co-operation and in accordance with the regulations, every inhabitant of a country is obliged to use their wealth and income and give tax to the state based on their strength and ability in order to provide public expenditure and maintain economic resources or social politics of the country" (Jafari Langroudi, 1380 [2001 A.D]: 601).

Others, with regards to the role of government, "consider tax as a price that the state receives from individuals and institutions, in accordance with the law, for financially strengthening the regime and providing public expenditures and costs" (Trotabas & Cotteret, 1387 [2008 A.D]). Other thinkers look at taxes according to the social or political makeup of a community, such as John Locke who believes that the best kind of tax is property tax which must be collected from the landowners, or David Hume, who considers tax as the cost of compensating for the services the government provides for individuals, or Mirabo who defines tax as an amount the inhabitants of a country pay in order to be supported by the state (Azizi, 1385 [2006 A.D]: 72). The variety of tax definitions

reflects the constant flux of tax theories and the difficulty of presenting a comprehensive definition of tax that expresses all its features. What is obvious is that in defining taxation, we should consider the characteristics, goals, and duties of taxation and its effects on society, so that we can appropriately address the issue.

ii) Fair Hearing

Fair proceeding is the general guarantee that has been designed for respecting the rights of the parties in the process of hearing a variety of claims at competent, independent and impartial courts in the judicial system. These guarantees, if implemented, will restrict the authority of the state towards individuals and, consequently, protect the rights of individuals more appropriately. Divine religions, especially Islam, during history have been at the forefront of principles of fair proceedings, including the independence and impartiality of judges, supervision over a fair prosecution, the principle of the legality of crimes and punishment, the principle of justice, the principle of equality, as well as the principle of interpretation in favor of the owner of the right and so on.

However, the term "fair proceeding" as a human right was only introduced two centuries ago. Global and regional human rights documents such as the Universal Declaration of Human Rights of 1948 and the International Covenant on Civil and Political Rights (Article 14) have recognized the right of fair proceeding and have obliged governments to enforce and guarantee this right for all people (Gorji Azandariani, 1389 [2010 A.D]: 354).

iii) Fair Proceeding in the West

In the West, in the judicial systems of some countries including Germany, Ordeal was commonplace until the fourteenth

century. Ordeal was not a punishment, but it was the procedure of proceeding that led to the proof of crime or indulgence. Also in France, before the Great Revolution of 1789, torturing of the accused for confession was legitimate, search warrants were granted in secrecy, as a result of which defendants did not have the opportunity to defend themselves was widespread. In the late Middle Ages and after the emergence of the Renaissance, emphasis on individuals, and the recognition of his rights, including fair proceeding, took on an international image (Rostami et al., 1388 [2009 A.D]: 89). The Great Prism of 1215 of Britain, the British Declaration of 1688 regarding Rights, the 1789 Declaration of Human Rights and Citizenship of France, were the initial documents of the international community, which identified the right to a fair proceeding, freedom of expression, judicial security, and prohibition of arbitrary arrest (Rostami et al., 1388 [2009 A.D]: 89). Similarly, in the twentieth century, when the international community witnessed the adoption of international human rights conventions, the need to respect and recognize the right to a fair proceeding opened a new chapter. The Universal Declaration of Human Rights (Materials 11, 10, 9, 3) and the International Covenant on Civil and Political Rights (Articles 14 and 15), both adopted on the initiative of the United Nations in 1948 and 1966, emphasized the existence of fair trial principles, including the prohibition of arbitrary detention, charge, and consideration in independent institutions, and governments became obliged to abide by these principles.

At the same time, the right to a fair hearing has also been reflected in regional human rights conventions; the European Convention on Human Rights (Articles 5 and 6), the American Convention on Human Rights (Articles 7 and 8), and the African Prism on Human and Peoples' Rights (Materials 26,7,6) backed up these principles. Other documents, including the Basic Principles on the Independence of the Judiciary, 1985, the Basic

Principles for the Treatment of Prisoners adopted in 1990, and the Basic Principles on the Use of Force and Firearms by Law have also been based on the principles of fair trial (Rostami et al., 1388 [2009 A.D]: 89).

Principles of Fair Hearing

i) Principle of Presumed Innocence

This principle is one of the most important legal means for a fair trial.

The principle of freedom from suspicion in the law means that the foundation of the proceeding is that the individual has not committed a crime, unless by proper and fair examination, a person's crime is proved by a competent legal authority. The principle of freedom from suspicion is considered as one of the most essential principles which govern just and fair proceedings in the modern criminal justice system. The presumption of innocence is one of the fundamental principles of criminal justice that protects the rights of citizens against the authority of public institutions.

Before proving one's guilt in competent courts and in accordance with the law, any kind of commentary on his or her responsibility and criminal offense is considered to be a default offense. The right to enjoy the principle of innocence in Article 37 of the Constitution of Iran (Article 37 of the Constitution), Section 2 of the single article of the law on respect for legitimate freedoms, Article 149, paragraph 2, of the Criminal Procedure Code of the Iranian General and Revolutionary Courts, as well as Article 11 of the Declaration Universal of Human Rights (1948) has been explicitly approved.

Journal of **World Sociopolitical Studies** | Volume 2|No. 3|July 2018

ii) Principle of Proceedings by an Impartial Authority (Independence of the Magistrate)

Another important principle of proceedings is the principle of an impartial authority. The meaning of the principle of independence and impartiality of the supervisory authority is that, firstly, judges are duty-bound without their political, legal and religious advocacy and, secondly, judicial review must be reasoned, documented and governed by rules.

About the provision of this right and observance of this principle in article 21, paragraph 1, of the Universal Declaration of Human Rights (1948) it is mentioned that: "Everyone has the right of a fair proceeding in an independent and impartial tribunal." Despite the international rules and regulations that explicitly speak of the impartiality of the court, Iran's law has less explicitly called for impartiality in proceedings, and neutrality has to be inferred in the form of words and rule of law.

iii) Principle of Proceedings being Public

The principle of public access to courts is one of the basic principles of a fair proceeding. Public access to a hearing is a situation in which the hearings of the prosecution of the accused are established and managed without any hindrance to the presence of ordinary people and the media. Today this principle is one of the important components of a fair proceeding and a human right in criminal proceedings. Various human rights documents, including Article 14 of the International Covenant on Civil and Political Rights (ICCPR, 1966), and paragraph 1 of the Declaration of Human Rights (1948), have emphasized on proceedings being public.

In this regard, Article 165 of the Constitution provides that “Trials shall be conducted publically and the presence of

individuals is not prohibited unless it is distinguished by the court that public access to a trial is against the chastity or public order, or in private pleas, the parties to the dispute request a non-public proceeding."

iv) Principle of Having an Attorney

Another principle of fair proceeding is the right to hire a lawyer, which is predicted in article 35 of the Constitution, with the difference that the complainant's lawyer can fully interfere in the investigative stage and be notified about the file, but the lawyer of the accused, under article 128 of the Criminal Procedure Code, can only be designated and declared, accompany his or her client, and without interfering in the investigation can mention the defense after the termination of the investigation in non-confidential cases. In Iranian law, if a judge determines that the presence of others, beside the accused, will lead to corruption or is against national security, then the presence of a lawyer during the investigative stage can only be authorized by the court.

iiv) Principle of Charging the Accused

The principle of charging the defendant is one of the principles of fair proceedings and a defendant has the right to be charged by a judicial authority in a manner that is understandable to him or her considering the circumstances. This declaration should be provided by a judicial authority by mentioning a legal provision violated by the accused.

Article 9, paragraph 2, of the International Covenant on Civil and Political Rights states: "Anyone arrested shall be informed at the time of his/her arrest the reason for the arrest and shall be informed promptly of any charges attributable to him."

Tax Proceedings in the Iranian Tax System

i) Inquiries

The existence of references to the executive branch is, in fact, the sole exception to the separation of powers (Ghazi, 1380 [2001 A.D]: 325-325). However, due to the philosophy of establishing such references, which can be considered as the technical and specialized nature of most government actions and the speed of dealing with claims of the government and people (Zare Zavarehi, (1376 [1997 A.D]): 11-16), different countries with the two Anglo-Saxon and French legal systems, although under the supervision of the general courts and the judiciary, differ in their performance, but more or less have accepted the existence and establishment of such references in their legal systems (Tabatabayi Motameni, (1395 [2016 A.D]): 419-420).

The tax authorities in Iran can also be divided into quasi-judicial authorities and judicial supervision authorities, according to the type and manner of review and application of relevant laws, such as Article 13 of the Law on the Administrative Justice and Articles 238 and 244-260 of the Tax Code. Therefore, the next section examines the tax dispute settlement authorities in Iran according to existing rules and principles.

Quasi-Judicial Administrative Authorities

Referring to the 238, 244, 151 and 251 repeated articles, as well as the 261 amendment to the Tax Code of Direct, Tax Dispute Resolution Councils, the Supreme Tax Council, the Board of Directors of Article 251 of the Tax Code and the Directors and the Supreme Board of Financial Law are designated as the Quasi-judicial Administration Tax authorities in Iran. Quasi-judicial administrative authorities in Iran can be divided into two categories of intermediary tax authorities and agencies and agencies dealing with violations of tax authorities, including tax

identification and collection offenses established in accordance with Articles 261-262 of the Tax Code Directly within the jurisdiction of the Tax Enforcement Administration and the administrative violations of the tax officers who, in accordance with the provisions of Article 273 of the Direct Tax Code of 1345, are in the competence of the reviewing committees.

i) Initial Tax Dispute Resolution and Revision Boards

The Tax Dispute Resolution Board is an exclusive tax court that deals with all claims and tax complaints. Proceedings in the nature of tax cases are largely the responsibility of the Tax Dispute Resolution Board (Deputy for Tax Affairs, 1365 [1986 A.D]: 18). In order to resolve disputes between the person owing tax and the government, the case shall be referred to the Dispute Resolution Board as the first quasi-judicial and the only semi-judicial review authority. The most basic guarantee for a fair proceeding is to have access to these authorities and not to limit access to the dispute boards.

ii) Dispute Resolution Board of the Article 251 Frequent

The trilogy of the subject of Article 251 of the Direct Taxation Act is another type of tax dispute resolution panel that was envisaged in the 1992 amendment. This is an excellent source of complaints about tax votes.

There are two conditions for filing a complaint to this board:

1. The tax due, because of legal proceedings, namely the primary board, the dispute resolution body and the high tax council, or due to the expiration of the deadline, has become final and cannot be addressed to the reference authority.
2. Sufficient documentation and reasons for claiming unfairness of the tax are provided or submitted (Pourhossein Shaghlan, 1383 [2004 A.D]: 164).

Four points are worth mentioning about the structure and order of the panel:

First, the deployment of the delegation, in the Ministry of Economic Affairs and Finance and its members, are three members of the High Council of Taxes elected by the Minister of Economy.

Second, the claimant of complaint themselves must submit it to the Minister and attach the explanations and documents.

Third, in the 1371 amendment, unanimous decisions were made in areas where, under the Corrective Amendment Act of 1380, the decisions of the Board became unanimous in the majority of votes.

Fourth, according to the recent recital of Article 251, the provisions of this article will apply to the performance of the year 1368 until the adoption date of this amendment.

Fifth, the existence of a panel under the title of Article 251, repeatedly competent to deal with the general and relative claim of unfairness of a definitive tax on the part of the taxpayer and under the full influence of the Minister of Economic Affairs and Finance, is not consistent with any of the principles of fair trial.

Sixth, the establishment of the Board of Directors under Article 251 is repeatedly at the center and that it is difficult for the public to use this board, which contradicts the principle of the availability of the referral authority.

The Judicial Supervisory Authority (Administrative Court of Justice)

The Administrative Justice Court, as the sole judicial authority in the administration of justice in Iran, monitors the Office of Administrative Dispute Resolution. Here we will review tax proceedings and how to monitor them.

i) The Position of Organizations and Institutions

One of the exceptions of the principle of unity of the judicial reference is the system of administrative justice. In countries where ordinary lawsuits and administrative claims have been differentiated, that is, if the courts of justice are the relevant authority to handle all legal and criminal proceedings, cases that arise within or in connection with government agencies, are prosecuted by administrative courts. These courts can be the executor of justice only when they are run by specialized and unbiased judges and are subordinate to the judiciary and under no circumstances are influenced by the minister or head of the institution, and act according to the principles of justice, and based on impartiality and fairness.

In democratic and non-authoritarian political systems where the interactive relationship of public power and people is governed by the constitution, The Rule of Law takes precedence over the rule of individuals. The origin of the Rule of Law requires that political and administrative affairs and the implementation of the government's acts be according to general rules and regulations, which create a right and duty for everyone even the government, and non-enforcement of the law will create responsibility.

According to paragraph 2 of Article 13 (of the Law of Organization of the Administrative Court of Justice of Iran), one of the authorities of the Court is hearing the objections and complaints about the votes and definitive decisions of the administrative courts of inspection bodies and commissions such as the Tax Commissions of the Workers' Dispute Resolution Workers Council of the Commissioner's Employer and worker of Article 56 of the Law on Protection and Exploitation of Forests and Natural Resources. Therefore, by virtue of the ruling in paragraphs 2 and 13 of the Court's Justice Act, the way to revise the definitive opinions of tax commissions has been

opened to the Administrative Justice Court. With the explanation that prior to the establishment of the Administrative Justice Court, the decisions of the Tax Dispute Resolution Commissions are final after a preliminary examination, or after the final review stage, and there were no overseeing authorities to revise those rulings. Structurally, two points about the Court are worth mentioning. First of all, unfortunately, in the court law of 2007, the issue of provincial branches such as the High Tax Council and the Dispute Resolution Tribunal under Article 251 has been repeatedly ignored.

This is in obvious opposition to the right of access to independent judicial authorities. The second point is that, in the debate on the independence of the Supreme Court from the executive branch and the legislature, especially the government, the independence of the Supreme Court is considered as one of its strengths (Ghazi, 1380 [2001 A.D]: 325-325).

Taxation Patterns in the International System

i) The English System or the Pattern of Unity

In the English model of administrative proceedings, the system of unity of administrative and judicial courts is insisted upon However, administrative courts and tribunals are of particular importance in UK administrative law to resolve disputes or administrative decisions (Zoller, 1388 [2009 A.D]: 1-100). With attention to the superiority of the parliament (legislature) in the basic and administrative law of England, the administrative organizations of the government (executive branch) and its tax system (the Royal Revenue and Customs Administration) follow the rules and regulations which other individuals must follow (Rezaei Zadeh, 1389 [2010 A.D]: 25-50).

Therefore, the principle of legal and legal equality and the principle of separation of powers require that the Office of

Dispute and Administrative Disputes, except in exceptional cases, take public litigation. This court, more than Dacey's legal views, was rooted at the beginning of the nineteenth century in England, which was unthinkable for the English law. The reason is that, the rules of the private law and "Common Law" had a special privilege in this country (Cassese, 1392 [2013 A.D]: 41-49). Of course, in England there are also quasi-judicial administrative tribunals which in Composition and competence make up a diverse range. However, these administrative courts operate under the supervision of the public courts and the Supreme Court of Justice. In the UK, there is no hierarchy for administrative courts distinct from the hierarchy of ordinary courts and special tribunals to resolve disputes on one side of the state administration. The proposal to create an "administrative branch" within the Supreme Court of Justice is also confronted with the resistance of those who are afraid of the creation of a French law similar to France (Sadeghi Moghaddam & Mirzadeh Kuhshahi, 1392 [2013 A.D]: 3).

However, in the 19th century, Daisy believed in the worker's responsibilities and the lack of competence of the High Court in the field of state affairs, but the 1929 crisis in England and the aftermath of the Second World War, and the consequences of the intervention of the government, the central administrative power in the UK has made government employees and offices more empowered compared to the pre-war periods of the first and second World Wars. Hence, for the better implementation of the newly adopted laws, institutions were created that had administrative authority and even judicial powers.

On the basis of this, today the dependence of tax and administrative rights in the UK has decreased to private law (Novin, 1390 [2011 A.D]: 299-300).

However, it must still be said, "litigation and prosecution in the United Kingdom, like France, do not have specific courts

and people must use it in a variety of ways and in a variety of methods." Thus, "Special Administrative Courts", consisting of a board or persons performing outside the structure and the judicial hierarchy, deal with claims arising from the administration of public affairs and the administrative organization and administrative authorities. These administrative courts have the rights and powers of inspection, investigation and decision-making, and operate under the jurisdiction of the "Special Court Council." However, it should be mentioned that, since 1982 in the UK legal system, the distinction between public and private law is virtually accepted, and specialized administrative courts have had a special place in administrative and tax law.

ii) Tax Administration Court in the United Kingdom

In the common law system of England[5], because of the institutionalization of central government institutions in comparison with other European countries, the need for the formation of special tribunals for dealing with legal disputes related to the government had not been felt (Loughlin, 1388 [2009]: 85). Hence, for a long time, there was no possibility of litigation against the government and the establishment of special administrative agencies to deal with these claims. Dealing with such claims was in line with the jurisdiction of the UK General Court, because handling these cases in certain courts or administrations was a clear violation of the authority of the judiciary and constitutional violation of England. This view was rooted in an ancient belief among British lawyers, in which the king was the head of the executive branch of government and the "King's immunity" prevented prosecution against decisions and actions of government units and their agents, and handling of cases in special administrative agencies. On the other hand, many English lawyers, such as Albert Daisy, believed that the English Constitution (Javadi, 1390 [2011 A.D]:

20), focused more on citizenship rights; to the point that they even denied the existence of administrative rights, and that the establishment of such a system was not guaranteed to guarantee justice. Because they believed that the administrative courts at the same time are both parties to the dispute and on the verge of litigation, and this is in conflict with the principles of impartiality and independence of the proceedings.

However, over the time, British law, according to the needs of the day and growing domestic and international changes in various economic, social, cultural and political spheres, science and technology, legal perspectives changed among British lawyers about the "Principles of Immunity of the King", and they came to the conclusion that its generalization into the decisions and actions of government units and their agents would violate the principles of justice, fairness and democracy. Finally, under the influence of new legal values related to the principles of justice and democracy, and the positive experiences of the French government council, English lawyers also raised the need to litigate against the government.

The consequence of this new legal perspective was that in 1947, The British Parliament ratified the "Law on Proceedings against the Government" (Hadavand, 1389 [2010 A.D]: 611). According to this rule, complaints regarding decisions and actions of government units and claims for damages caused by violations of law are possible.

The judgments and decisions of the UK's special tax administration will ultimately be subject to review by the General Courts of Justice, which is called the "judicial review". Similarly, judicial review in American law is also different (Abraham, 1998: 289).

The English Courts of Justice have extensive authority in enforcing administrative codes and subordinate laws with

parliamentary decrees and general rules of general law. Accordingly, the rules of common law do not give rise to any right to violate one's jurisdiction, and public authority and the government cannot act more than what it has been given to it. Therefore, if public organizations and administrative and public authorities do not apply the customs and rules of common law and the rights derived from the courts of fairness (rules of fairness) and the decrees of the British Parliament in adopting their own decisions and administrative measures, as the source and origin of the principles and basic criteria of British law; the possibility of litigation against the decision of that administrative authority will be provided (Novin, 1390 [2011 A.D]: 297).

Therefore, the courts and administrative tribunals in the UK legal system could be the considered as the outcome of twentieth-century legal developments. Because before that, British lawyers, considered the involvement of administrative bodies in judicial affairs as violating the principle of separation of powers. In fact, the inevitable necessity of the contemporary era, especially since the second half of the twentieth century, has required the establishment of administrative courts in the UK legal system. But this does not mean that, until now, there has never been a history of proceedings in the form of administrative oversight or specialist and special administrative agencies, particularly in tax affairs. Instead, the legal history of England shows that it was the first time that it violated the general jurisdiction of public courts in dealing with administrative cases in 1660, which was then assigned to the "Customs and Tax Commission" a kind of judicial jurisdiction (Hadavand & Mashhadi, 1389 [2010 A.D]a: 169). However, at that time, the granting of such jurisdiction to a non-judicial institution was criticized by British lawyers. But, after that, the founding of such institutions was made in the administrative and tax laws of England. For example, the "General Commissioners

on Income Taxes" were established in 1799. In 1803 these general commissioners were the only UK tax law firm to deal with complaints and protests by tax collectors about qualifying tax assessments. In the nineteenth century, in 1805, to prevent the accumulation of tax records, "special commissioners" were also established to handle tax litigation protests and complaints. In the end, in order to establish the legality of how the General Commissioners are handled and reviewed, the "Income Tax Management Act" of 1964 was passed by the British Parliament (Hadavand & Mashhadi, 1389 [2010 A.D]b: 169-170). Today, in the British legal system, since the last decades of the twentieth century, by passing the "Law on Courts, Tribunals, and Execution of Sentences", approved in 2007, various administrative courts and tribunals have been expanded (Hadavand & and Mashhadi, 1389 [2010 A.D]b: 176-187) and they oversee the administrative work of the state in a legal way.

These administrative tribunals, sometimes in the form of a "parliamentary amnesty" (the Parliamentary Commissioner for Administration), deal with complaints about the issue of "Mal Administration" in various institutions of the central government, including: the "Royal Income and Customs", which may include unfair behaviors and decisions of these institutions (Hadavand & Mashhadi, 1389 [2010 A.D]b: 162-163). Today, in the United Kingdom, specialized tax courts have been established with regard to the type of tax, which deal with technical and professional tax complaints and protests, such as the "Industrial Training Levy Exemption Referees", "Betting Levy Appeal Tribunal", the "Value Added Tax (VAT) And Duties Tribunal", and the "Special Commissioners of Income Tax" (Hadavand & Mashhadi, 1389 [2010 A.D]b: 186-187).

All these courts, established under the "Laws of Courts, Tribunals, and Judgments", adopted in 2007, are ranked in a new and uniform structure that is ranked "Level One Court" and

"Level Two Court", and over the coming years, all these divisions are merged into this new structure. These two levels of courts will carry out and investigate the new administrative justice system in the UK.

The French System or the Pattern of Duality

As much as the English model and the legal system of Common law insisted on the unity and integrity between private law and public law (Ansari, 1377 [1998 A.D]: 22), in the French model, there was a distinction between these two branches of the law. The underlying reasons for this concern in the French legal system are that the nature of public rights lies in the inequality of relations between people and the state (Amir Arjmand, 1380-1381 [2001-2002 A.D]: 183), because public power and its means of action are in the hands of the government and its administrative, police and security apparatus. This imbalance and inequality in the relations between the people and the government require special legal rules, which, on the one hand, impede the long-standing state and administrative apparatus of its administration to rule the rights and freedoms of the people as citizens of the political state. On the other hand, the state apparatus is obliged to provide public services in the best possible manner, and to establish and maintain public order and security of society in relation to public power, and if the rights and freedoms of the people are undermined by government agencies and public administrative agencies, it is obliged to respond and compensate individuals.

The origins of this duality in French courts came up in the 1789 revolution in which reforming the judiciary was one of the ideals of the revolutionaries, which led to the duality of jurisdiction between the judiciary and the administrative courts. In other words, in the French model, the judicial system (law and order) is separate from the administrative system

(administrative courts). In particular, Montesquieu's views of the principle of separation of powers provided theoretical grounds for the separation of divisions of administrative and judicial trials beforehand in the French legal doctrine. However, English judges, using the "Rules of Judicial History", "Common Laws" and "Rules of Justice", tried to modernize the rights of England (Rodiere, 1371 [1992 A.D]: 80-95). In the light of what has been said, it must be mentioned that in the French model, there are two types of court, which deal with the specific legal rules of each general branch of public law and private law. Taxes and their offenses committed by agents and employees of the French tax system follow the rules of public law, administrative law, financial and tax law. Such disputes, claims and complaints are handled by the administrative courts. However, other lawsuits that relate to the rules of private law and criminal law in the particular sense (offenses), will be dealt with in the public courts which are under the jurisdiction of the judiciary. Hence, the French model, in dealing with the administrative misconduct of government employees in general and lawsuits arising from public rights, is called the system of duality.

i) The Office for Administrative Claims

Administrative cases are handled in French administrative courts. These courts have a special hierarchy and follow specific administrative rules (administrative law) (Bell et al., 1998: 41-45). In this hierarchy, French administrative courts from the bottom up are: primitive administrative tribunals, administrative appeal courts, and the French state council; the French state council is at the head of all administrative courts (Perrot, 1384 [2005 A.D]: 257-300), and the highest administrative authority for dealing with administrative and public rights claims (Hadavand, 1389 [2010 A.D]: 730-736), including tax law. The procedure of this council is not only one of the most important sources of French administrative law, but also the legal rules

created by the procedures of the French State Council, not only in European countries but also outside Europe, has played a guiding role in shaping the system of public rights in other countries. As for example the legal doctrine in Iran and the administrative and public administration system of Iran, has adopted much of the French public administration's policy.

In the administrative and tax law of Iran, in fact, the Tax Dispute Resolution Board, the High Tax Council, the Supreme Taxation Board and the Administrative Violations and Administrative Officers Board were also established in the same general principle of Administrative Law "Judicial Administration" which is a benchmarking of the French legal system and the system of duality of proceedings in this country (Taheri Tari, 1390 [2011 A.D]: 348).

"Despite the above separation, due to the extensive responsibilities of the administration and the government, administrative disputes and complaints have increased: and since the judicial courts are not able to respond to them, the number of commissions and specialized administrative courts is increasing. For this reason, in the United Kingdom, administrative courts and quasi-judicial commissions that deal with administrative complaints and disputes are under increasing jurisdiction."

The German System or the Mixed Pattern

In principle, the duality pattern, dealing with disputes and litigation, in the first place, is a form of administrative proceedings, which is handled by tax authorities. In the second place, judicial authorities exercise judicial review and supervision over the actions, functions and decisions of the authorities and administrative bodies. But in the unity pattern, this task is primarily up to judicial authorities.

Each country has accepted one of the two legal systems

mentioned earlier. However, some countries have foreseen legal and regulatory rules for combining the two patterns of unity and duality regarding disputes and tax claims in the administrative and tax law system (Taheri Tari, 1390 [2011 A.D]: 353).

In the administrative and tax law system of Germany, the two patterns are mixed together. In this country, which follows the Roman-Germanic law, public and private dual rights and the existence of independent courts for settling disputes and administrative cases are accepted. However, in this combined pattern, administrative courts are part of the German Judiciary. The structure of these administrative courts is completely separate from the structure of ordinary German courts. In this model, some of the positive rules and principles of the unity pattern and some of the positive rules and principles of the duality pattern have been picked. Hence, in Germany, according to the principle of specialization and efficiency in the legal system of French duality, administrative professionals are used in administrative courts to better understand the French sensitivity of administrative professionals, and to solve the litigation and administrative disputes faster and fairer. On the other hand, following the English version of unity, and according to the legal principle which says "nobody can be a judge in his own lawsuit", German administrative courts are headed by the Supreme Judicial Branch, so that the principle of separation of powers is also properly observed (Mousazadeh, 1391 [2012 A.D]: 276).

In fact, the legal system of administrative proceedings in Germany has been modeled on the merits of both the French and English legal systems. In Germany, judgments and administrative procedures have been added to the judiciary.

Judicial powers are exercised by the federal constitution and federal courts, so federal courts and administrative primary and appellate courts, based on the constitution, are part of the

German judiciary; and a public Senate ensures uniformity among all the federal courts. The independence of judges is protected by the fundamental law in the same way, regardless of which judge belongs to which judicial authority.

i) Categories of Courts

The courts in the German judiciary are in the following five categories:

1. Civil and Criminal Courts
2. Administrative Courts
3. Work Courts
4. Financial Courts
5. Social Courts.

These courts are completely separate from the executive branch, they are independent and have an equal position; none of these courts have superiority over others. In this country, there is a special law called the "Code of Administrative Procedure". In addition, the "Code of Administrative Procedure" also specifies the structure, authority, and form of administrative jurisdiction in administrative courts. These administrative proceedings have three degrees. In the first stage, the appeals of these courts are initially issued by the administrative court. In the second stage, in the Supreme Administrative Court, and in the third and final stage they are issued by the Federal Supreme Court (Cassese, 1392 [2013 A.D]: 159).

Each branch of the German administrative court consists of five members; three of whom are professional judges and two of them are supreme judges. The issuance of an interim order is possible by German courts for stopping action or administrative action. In the Iranian tax system, there has been a greater compliance with the French administrative procedure. In the first place, the protest and disagreement with the actions, functions, and decisions of the authorities and administrative

authorities of the state tax system, including the administrative authorities in the administrative and organizational structure within the executive branch (the organization of tax affairs of the country and Ministry of Economic Affairs and Finance) will be dealt with by the Supreme Court. This investigation, including administrative proceedings, is administered by the Tax Administration (Senior Tax Officer) and the Quasi-Judicial Review and Examination Division of the Tax Dispute Resolution Council, the High Tax Council, the Board of Directors (251), and the Supreme Tax and Tax Board and the Administrative Violations Committee. Such a pattern, like the unity system or the French model of administrative proceedings, is in line with the principle of separation and independence of powers. To this point, in line with Principles (57) to (61) of the constitution of Iran, any tax disputes is dealt with under the jurisdiction of the administrative authorities of the Tax Tribunal subject to Articles 170, 244 to 270 (a); and within the executive branch.

At a later stage, if the taxpayer or tax officer and the government employee were protesters and plaintiffs of the definitive decision of the administrative authorities to resolve the tax dispute or of the definitive votes of the High Tax and Extraordinary Board, and of the Board of Appeal of the administrative offenses of the employees of the government, they can submit their complaint to the judicial-administrative court which is the subcategory of the jurisdiction of the judiciary, that is, the Administrative Court of Justice. The Administrative Justice Court actually exercises judicial oversight, like the French state government, on the deliberations of the specialized administrative tax courts (Mosa Zadeh, 1391 [2012 A.D]: 276).

Being under the jurisdiction of the Administrative Justice Court, does not exclude it from the nature of a court of

administrative law and public law. Similarly, the "Law on the State Council", passed on June 1, 1960 A.D. was also approved by the authority of the State Council on Public and Administrative Law of France. However, the "Law on the State Council" was never executed, and it was in the category of abandoned laws until 1981 and the establishment of the Administrative Justice Court. But the "Law on the State Council" is, in fact, the historical basis for the establishment of the "Administrative Justice Court" in principle (173). U C. U and the adoption of the "Law of Administrative Justice Court" passed on February 3, 1982. Q.A.J.A.A. With the establishment of the Administrative Justice Tribunal for judicial oversight of the executive branch, including the State Tax Administration, it has, in fact, has established the above-mentioned Code of Conduct, complied with the French Constitution of 1958 to comply with the rule of law.

Thus, the Iranian administrative tax system in fact follows the duality system of the French model. Although the French government council, in comparison with Iranian Administrative Justice Court, has legal differences in the legal and regulatory context, the legal details of tax proceedings in Iran's tax law are derived from the duality system of the French model (Mousazadeh, 1391 [2012 A.D]: 276).

Taxation in the United States

In countries and legal systems that have a fundamental tribunal in the form of a court or a "constitutional court", the Office of Appeals for Claims arising from a claim that the tax laws are contrary to the Constitution, the Court, or the Constitutional Court of these countries is responsible (Favoreu, 1389 [2010 A.D]: 445). In the United States of America, the constitution has created special restrictions in the field of tax legislation for individuals and institutions that have prohibited the US

Congress from taxation of the activities of such individuals and institutions and, for example, the US Supreme Court's judicial procedure is so that it violates the tax on churches in contrast with the constitution and constitutes a violation of the law of separation of church from the state (Favoreu, 1389 [2010 A.D]: 445). This supremacy of the constitution, in particular, article (51) of the United States Constitution, comes from normal tax laws, which is according to Hans Kelsen's purely legal theory of the constitution, each country is in the highest hierarchy of rules and norms of law and is considered to be the highest level of so-called top-level law (Kelsen, 1387 [2008 A.D]: 108-105).

The US Tax Tribunal is a federal tribunal constituted by Congress in Article 1 of the US Constitution; Section 8 mentions that the Congress has the power to "establish lower courts than the Supreme Court." The tax court is specialized in resolving federal income tax disputes, which is generally the internal revenue service before the official tax assessment period. Although taxpayers may decide to prosecute tax matters in different legal settings outside of bankruptcy, the tax court is the only forum in which taxpayers may do so without paying a full tax. Parties that protest tax may apply to any US District Court or the US Federal Court; however, these places require tax for the first time, and parties have filed a lawsuit to recover the paid amount (Fulara's full payout law against the United States). Judges of the Tax Tribunal are appointed for 15 years, and for reasons such as ineffectiveness, neglect of duty or criminal mismanagement in office, etc. will be dethroned by the President (United States Tax Court, 2017).

The tax court consists of 19 judges who are appointed by the president and approved by the Senate. Former judges, whose responsibility is over, may become "senior judges", and they can return to court and help them when they are called. In addition, the court is supported by a number of "special proceeding

judges" who are the staff members of the court appointed by the chief judge of the tax court on behalf of the president. Special proceeding judges have similar appeals to US judges in district courts and may judge cases of alleged deficiencies or payments over $50,000. Retirement, if requested by a tax judge (IRC 7447 (b) (3)), is generally possible. Each active judge appointed by the president has two legal employees (advocates-attorneys), and each senior judge and special court judge has a legal employee (United States Tax Court, 2017).

All judges specialize in tax laws and are responsible for "applying this expertise in a manner that ensures the taxpayers will be evaluated for what they owe, not more." Although the Tribunal's main office is in the District of Columbia, tax court judges may be available "anywhere in the United States." Judges travel throughout the country to perform trials in different cities. The job of the Tax court has sometimes been interrupted by events. In 2001, a court hearing in New York was canceled due to the September 11 terrorist attacks. In 2005, trials in Miami and New Orleans were canceled[1] due to the impact of storms that occurred shortly before their visit to each city.

Judges of the tax court are appointed for 15 years, and for reasons such as inefficiency, neglect of duty, or delinquency in the administration, etc. are dethroned by the president. The salaries of judges are determined at the same rate as the US courts which is currently $169,300 per year (United States Tax Court, 2017). Due to the legal consequences of a legal assessment (in particular, on the right of confinement of property and Flora conditions, taxpayers otherwise will pay the full complained amount and claim compensation for reimbursement), it is often recommended that taxpayers fill in

1. Article 12 repealed by R&O.126/2005; former Article amended by L.35/1995. This article is part of a series on Taxation rules in the United states of America.

the tax filing in time. The law in the financial court is so that the taxpayers claims compensation from the "representative of domestic income" and, in this case, the taxpayers is the "litigator" and the representative is the "respondent".

The application must be filed in due time. The court cannot increase the length of time enrolled by the law. The request fee is $60 if the application is filed. When the application is registered, the basic tax payment is normally delayed until it is decided on the case. In some tax disputes of $50,000 or less (United States Tax Court, 2017), taxpayers may decide to file a case under a simplified tax proceeding. The trials in small tax cases are generally less formal and lead to a quicker assignment. However, decisions made under the small tax procedures are not revised.[1]

i) How to complain to the US Complaints Board

The Complaints Board has been created in the Law on Administrative Decisions, adopted in 1982, as an amendment to deal with complaints by public members of any form regarding the administration by the Minister or any person on their behalf. A group of individuals appointed by the states as the chairman, vice chairman or members of the board (of which the boards are composed) are not members of the state and all of them are independent and volunteer to provide their services. If the boss, the deputies or the other panel members find out that there is a conflict of interest, they will not attend the board. In this way, people can be sure that all members of the board are completely neutral and fair. This is related to the decision, action, or withdrawal of the act by the minister, the ministry or by anyone acting on their behalf. This should not take more than 12 months, unless there are certain conditions; in that case you will

1. Article 10 substituted by L.16/2006; former Article amended by L.35/1995. This article is part of a series on Taxation rules in the United states of America.

be asked to explain why you did not take action within 12 months (Amending the Law on Administrative Decisions of United States 1982, 2007).

Any relevant document and any item with similarity shall be mentioned. It is important that before any decision is made by the boss on the hearing, any complaint file, including any photograph or location map, technical reports, etc., is provided and the employee reviews the supporting documents of the complaint to verify that all documents are complete. If he thinks something is missing, he may ask for more documents from you. The employee sends the documents to the relevant minister and vice-president and sends a brief answer to the case that he has requested and to send a decision on whether the complaint should be considered by the board. This is a confidential answer.

The Minister / Ministry must provide this response within 2 weeks. The employee will also request the office to confirm the information it has encountered in the complaint. The chairman or vice president reviews the documents sent and the response / appeal submitted by the minister / ministry. Accordingly, he will decide whether the terms of the review by the council are relevant.

What happens after the hearing? The board reviews its findings. The findings are typed and the board may have a business meeting to review the findings of the draft before signing and issuing it. The findings will be sent to you, your representative, minister, department and committee of privileges and formalities. A copy of the findings will also be sent to the media, which may publish the abstract in the press. The court for requesting the Complaint: If the Board finds that the decision, action or withdrawal of action which is the subject of the complaint and:

(A) it is against the law;

(B) it is illicit, repressive or discriminatory, or in accordance with the provisions of any acts or actions that may be unlawful, cruel, or discriminatory;

(C) it is in whole or in part, based on a mistake in law or in fact;

(D) it is not done after careful examination of all facts by a reasonable person.

The Board shall request a review of this in the submission of its reports to the Minister, the Office or the person concerned, by the Minister, the Office or the person. If the Board requests a review decision, the Minister, the group or person concerned will request a timely notice of the steps taken to review the issue and the outcome of this review. The Board will receive copies of the Minister's review (Law on Administrative Decisions of United States 1982, 2007).

If the Review Board requests any subjects, if the Board considers that its findings are not sufficiently considered or implemented, it can prepare a different report on the subject, including the main findings of the board and the response of the ministry, the minister or the person concerned are for the first time to be communicated to the Minister, the ministry or the relevant person. The delegation should send this comprehensive report to the Contest Committee, after which a copy of the report must be sent to the States, which means it will publish it, and the copies will be sent to all members of the government. It is important for the committee or any member to make a plan for the States in relation to the decision, action or withdrawal of action that is the subject of the complaint.

The person may request the board to re-run the meeting within one month of submitting the information. Upon the request, the same delegation may again reopen the meeting by agreeing to, or following your request, if it considers this to be

justified. In that case, it may require more documents or auditions. Once the board has completed its findings, and if you are not satisfied, you can refer to a government member or legal representative to pursue alternative solutions.

Table 1. Tax and Taxation Framework for Iran, the United States, France, Germany and the United Kingdom

	Iran	**The US**	**France**	**Germany**	**Britain**
Compulsory investigation before judicial review	✖	✓	✓	✓	✖
Initial Research Required	One month	One month	✖	One month	One month
Duration of the sentence	Various	Various	6 months	Not available	Not available
The existence of a special tax court	✖	✓	✖	✓	✖
Travel ban of the debtors	✖	✓	✖	✖	✓
Seizure of assets of tax debtors	✓	✓	✓	✓	✓
Release of tax debtors	✖	✖	✖	✖	✖
Outsourcing nature	✓	✓	✓	✓	✖
Compliance with the Principle of Independence of the Tax Inspectorate	✓	✓	✓	✓	✖
Existence of special tax law	✓	✓	✓	✓	✓
The existence of quasi-judicial authorities	✓	✖	✓	✖	✓

	Iran	**The US**	**France**	**Germany**	**Britain**
The existence of a charter of the rights of taxpayers	Newly	✓	✓	✓	
Current rules for overseeing tax professionals	✖	✓ The law of the organization	✖	✓ Tax counseling rules	✖
Special Courts for Taxpayers Complaints	✓	✖	✓	✓	✓
The provisions are binding	✓	✓	✓	✓	✓
Possibility to agree with the tax office with a risk-based taxpayer	✓	✖	✓	✓	✖
Granting more time to pay	✓	✓	✓	✓	✓

Source: Iran's Tax Organization. (1392 [2013 A.D])

Conclusion

In this paper, we briefly reviewed some of the leading tax dispute settlement systems in some sample countries, including the United Kingdom's unique taxation system model and the duality proceeding model governing the French the tax system, as well as the mixed or integrated model which governs and enforces the tax system in Germany. We also examined the tax systems in Iran and the United States. The purpose of this paper, as mentioned above, is to examine the compliance of the system governing the tax system of Iran in comparison with the countries mentioned above, as well as introducing a model for fair proceeding principles, or fairness in the international legal system.

But before entering the nature of these cases, it is necessary

to look again at the meaning of a fair proceeding and the definitions of provided concepts in order to be able to identify the principles of fair proceeding, including the principle of innocence, the principle of the independence of the judiciary or the judge, etc., and avoid mistakes and deviations.

1. In the Declaration of Human Rights, 1948 and Article (10), the fair proceeding states that: "Everyone in full equality has the right to have his case heard by an independent, impartial, fair and public hearing."

2. In the United Nations International and Political Covenant, Article (14) of the Fair Hearing: "In a competent, independent and impartial tribunal" has been mentioned.

3. In the legal system of Islam and in many positions, the independence of the authorities has been taken into consideration, including the first commandment issued by the Prophet of Islam (PBUH) to Imam Ali (AS) after his election to the judiciary. The Prophet (PBUH) said. "In dealing with two parties, you must respect complete neutral impartiality" (al-Hurr al-'Amili, 1401 AH [1981 A.D]: 4 & 212), as well as the validity of judgments in regards to impartiality. Impartiality is vital in order to ensure independence, and a judge, in addition to being fair, must be neutral (Zoheili, 1415 AH [1995 A.D]: 119).

-The most important point which draws attention to a fair and just trial based on the principles of fair proceeding, is the principle of the independence of the judiciary or the independence and impartiality of the judge, which directly and indirectly affects the other principles.

The concept that, in particular, distinguishes among the above mentioned legal systems is the extent common principles of the proceedings and, especially, the principle of the judge's independence is observed.

In the US tax proceeding system, law enforcement agencies focus on the principle of the separation of powers and to impose restrictions called "checks and balances" that are used to prevent aggregation and the monopoly of power in a single body. By establishing the US Tax Court, it considered the jurisdiction of the court solely under the jurisdiction of the Justice Department. Considering the structure of the Supreme Tax Courts and the judges working in this special and exclusive court, we are well aware of the emergence and fair presentation of the principles of fair proceeding, including the principle of the independence of the judge or the prosecutor, as this institution is generally separate from the executive branch and due to the employment of judges and experts, other concerns over other principles of a fair trial have been addressed and the legislator has in fact identified a taxpayer's fee for referring to different authorities and has avoided wasting time, and the creation of parallel proceedings and judiciaries.

-In the United Kingdom's unique judiciary system, a merge in the administrative and judicial (Quasi-judicial) courts with a judicial review capability is seen, and it is more reliant on administrative proceedings. The dependence of this system on the legislature is apparent, so a lack of full compliance with the principle of separation of powers is notable.

- In the duality tax administration system of the French state, the hierarchy of proceedings consists of administrative authorities , judicial authorities, and finally, the French state council, which was in fact initially governed by administrative proceedings of the executive branch, and then, for judicial review and supervision, the judiciary and, finally, the French government council. In this way, the intervention of one of the parties to the dispute, that is, the executive branch, is evident in the design and establishment of the

Journal of **World Sociopolitical Studies** | Volume 2|No. 3|July 2018

primary verdict, and it is impossible to completely approve compliance with the principle of separation of powers and the principle of independence of the judiciary.

In the mixed (combined) pattern of the German tax system, two former patterns of conflict are mixed. In this country, which follows the Roman-German law, the existence of independent (administrative) courts to resolve disputes and claims has been accepted. In fact, the distinction between a mixed system or a dual (French) model is the autonomy of the administrative courts from the executive branch, so that in the dual model of the administrative courts, the quasi-judiciaries are the secretaries of the executive branch, but in the mixed system (of Germany), the Administrative courts are judicial, specialized and subordinate to the judiciary. In this system, administrative specialists in independent administrative courts are invited to provide quicker and more precise resolution of disputes.

- Each branch of the German administrative court consists of five members, three of whom are professional (specialist) judges and two others are supreme judges.

It can be said that in this model, the merits and advantages of the uniqueness and duality model are combined and in terms of respecting the principle of separation of powers and observance of the principle of neutrality of the reference judgment, it has a valid privilege.

- In the legal system of the Iranian Tax Tribunal, as noted above, with the disagreement between a taxpayer and the tax collector in the first stage, the taxpayer will have the right to protest against the tax authority, if there is no confirmation of the controversial opinion, the dispute shall be filed at the Primary Administrative Dispute Office in accordance with Articles 170, 244 and 246 of the Direct Tax Code, and he/she

has the right to review the decision of the Board of Directors in the tax review bodies in accordance with Article 248 of the Criminal Code. These two jurisdictions have a substantive jurisdiction and are administrative and quasi-judicial which, with a view to the composition of the members, is entirely subdivided into one of the dispute parties, that is, the tax administration.

In the next stage, by issuing a revised verdict of the Appeal Board, the claimant can refer to another administrative authority called the Tax Council or a judicial authority called the Administrative Justice Court. It should be clarified that the jurisdiction of these two authorities is merely procedural and, in case of a violation, its referral to Article 257 of the Code of Civil Procedure. It should be noted that this committee is also under the supervision and subordination of the Tax and Customs Board. In the end, in accordance with permission from Article 251 of the Criminal Code, the Registrar may submit a request for re-examination to a three-member delegation from the Minister of Economic Affairs and Finance in cases that have been subject to time-limits. By explaining the tax proceeding system in Iran we understand that, despite the efforts of legislators to respect the principles of prosecution and taxpayers' rights in the framework of designing multiple agencies, and to accept a request for objection or appeal, sometimes they have been designed with parallel competencies and similar functions. However, in some cases they have violated the principles of a fair proceeding and the violation of private law or public law. For example, the parallel jurisdiction of the Administrative Justice and Tax Council and the result of the violation of the judgments in these two cases is worthy of attention.

The design of multiple investigative authorities may at the beginning be deemed appropriate and a guarantor of the

rights of the parties to the lawsuit, but the prosecution and non-assignment of tax files that will cause irreparable damage to private and public rights will be explicitly contradictory to the principles of fair proceedings.

In spite of the acceptance of the principle of separation of powers in Article 57 of the Iranian Constitution, which explicitly states "...these powers (legislative, judicial, executive) are independent of each other ..." and also the beginning of Article 56 of the same law, which states that "the Judiciary is an independent organization that supports personal, social and legal rights in realizing the following duties...." Specifically, the provisions of this Act violate Level One and the substantive review of tax disputes has come under the exclusive jurisdiction of quasi-judicial authorities and, of course, the executive branch. By merely granting jurisdiction to the Administrative Justice Court we cannot guarantee the observance of the principles mentioned earlier, which exist in the constitution and guarantee the principles of fair proceeding, including the independence of the prosecuting authority from the parties to the dispute, in addition to the fact that one person is a judge in both primary and tax consultations, who are mainly retired judges, receive their salary and bonus from the Executive Branch. Since these retired judges have the necessary skills and knowledge in tax matters, which nowadays is one of the most complex concepts, it is dubious system, and it will not be a replacement for the principles of fair proceeding.

By comparing the tax system of Iran and the United States, the following are evident:

1. The number of investigative authorities with parallel and incumbent jurisdiction in Iran and the absence of multiple references in the United States.

2. In-company proceedings and the existence of quasi-judicial authorities in Iran and the jurisdiction of purely judicial authorities in the United States.

3. Lack of independence of substantive justice institutions in Iran and the full independence of the US Department of Justice.

4. The weakness of legal expertise in the review chambers of Iran and the integration of administrative and legal expertise in the United States through employing experienced judges with the necessary expertise and tax related education.

In the end, turning to the definitions and implementation of the systems mentioned in this article, we find that the tax proceeding system of Iran has weaknesses in the principle of the independence of the investigative agencies and the principle of separation of powers, and in order to observe the rights of individuals and also public rights, legislators must take proper action to reform the defined references of direct tax laws and to make them adaptable with other basic and top laws.

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