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Pathology of Iran's Tax Proceedings System and Its Governance Over Economic Activities

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Abstract

The existence of many ambiguities in tax laws and regulations, the lack of stability of laws and regulations in terms of legal changes caused by changes in tax policies, and the lack of quality in criminal policy are considered important legal challenges in the Iranian tax system. In this analytical-descriptive research, the pathology of Iran's tax judicial system has been examined. In Iran, the competence to investigate any dispute between the taxpayer and the tax affairs organization is the responsibility of the specialized judicial authorities dependent on the executive branch with the procedure defined in advance. In case of a dispute between the taxpayer and the tax authority, the case is referred to the tax dispute resolution board as a tax dispute resolution authority. The source of possible disputes is the weak information system of the tax and the ineffective tax arbitration procedures, and this dispute should be investigated in special courts with special procedures. Because only in this way will the number of cases referred to judicial authorities be reduced, the quality of tax diagnosis will be improved, and the preparation of the profit and loss statement and the way of obtaining taxable profit will be much more effective.

Keywords: Iranian national tax administration (INTA), pathology, taxpayers' economic activities, tax legislation, tax proceedings system

INTRODUCTION

The tax system, as a source of government revenue, has undergone several major reforms. The purpose of these amendments is to simplify the basic rules and prevent tax evasion tricks. Despite these fundamental changes over the decades, especially in the face of international sanctions, falling oil prices, and the outbreak of coronavirus (COVID-19) in 2020–2021, the system still faces many challenges. Therefore, the government's planned programs must be effective for the country's economic infrastructure through accountability, awareness and propaganda, and efficient implementation [1].

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On the other hand, the tax system as a means of generating income in Iran has faced many challenges including tax multiplication, poor management, database unavailability, tax advertising, minimum tax, accounting problems, and so on. The collection of these tax revenues is received by local, provincial, or national branches, which at times have faced major difficulties in enforcing tax laws. In order to increase the government's profit along with reducing taxpayers' expenses, it must improve the level of tax compliance and guarantee strict tax enforcement in a way that prevents any possibility of tax evasion. In this regard, tax evasion measures should have the lowest cost for taxpayers and the government. It is due to the fact that the fairness of the tax system increases public confidence in the tax system. However, tax evasion has its reasons; one of the main reasons is that the ability to do this work has been provided for taxpayers, and it is considered a kind of damage to the tax system.

In general, there are some challenges and problems in the tax system that require serious etiology and pathology, such as lack of independence of dispute resolution boards in terms of organization and finance, long time of tax proceedings (due to multiple authorities, non-compliance with legal deadlines for litigation, lack of scheduling for some litigation, traditional litigation, etc.), numerous cases of referrals to judicial authorities (due to low quality of tax assessment, taxpayers' lack of knowledge about tax laws and regulations, high volume of legal notifications, etc.), and low quality of votes issued by boards (due to the lack of expertise of some members of the dispute resolution boards over tax laws and regulations and knowledge of accounting and auditing). Moreover, ambiguity in the tax detection authority, lack of proper time and deadline in proceedings, the existence of numerous shortcomings in the observance of taxpayers' rights, including the lack of a proper legal position in guaranteeing the rights of taxpayers, disregard for taxpayers' education, and multiple shortcomings in protecting the rights of taxpayers against administrative and judicial institutions, including the right to choose a tax lawyer and advisor, are considered to be the most important challenge in the tax procedure.

Therefore, this research is focused on the many damages in the tax system of the country. Because identifying the harms and challenges is an aspect of this research, eliminating the identified and existing harms and improving the current situation of this system depend on examining the weaknesses, strengths, opportunities, and challenges. After this, appropriate strategies will be codified for achieving the desired situation of pathology.

LITERATURE REVIEW

First of all, we examine the key concepts of research that are relevant to every tax organization. Tax: It is the amount of money or asset that the citizens of a country pay to the government according to the law in order to be used for the administration of the country's affairs, the provision of public and necessary goods and services, and the guarantee of public security and defense, as well as development [2]. The definition of "tax" from a legal viewpoint is an irreversible amount that is compulsorily collected from citizens to cover public expenses, free of charge and without specific consumption [3]. Proceedings: The term "proceeding" in the word means defending the oppressed, handling the petition of the plaintiff, and trial of relevant defendant. Additionally, in legal terms, it is a set of regulations that are enacted and applied in order to handle pleadings or complaints (judicial or administrative), judicial requests, and the like [4]. Pathology: It refers to the process of using concepts and methods to define and describe the existing situation and ways to increase effectiveness [5]. Pathology is a systematic process of collecting data for effective and beneficial interaction in order to solve problems, challenges, and pressures [6]. Tax procedure system: In tax law, where there is a discussion of tax dispute resolution and some kind of proceeding, a special procedure should be used. The first half of this procedure is substantive and related to tax imposition, and the other half is related to formal issues and dispute resolution, in which the discussion of tax procedure is raised [7]. In fact, the tax litigation system is a set of measures or formalities that are foreseen in the law, and according to them, tax dispute resolution authorities resolve the tax issue referred to them [4]. Tax rights: It refers to the set of rules and regulations governing the way of tax recognition and collection. Some lawyers consider tax rights to be "fiscal rights" and define it as follows: the rules related to the imposition of taxes and duties that government officials can demand from individuals. Furthermore, the regulations governing the public budget and the duties of the court of accounts are called financial rights. Tax dispute: Any disagreement between taxpayers, whether natural or legal persons, on the one hand, and tax agents and authorities, on the other hand, regarding tax issues, including assessment papers, executive operations, opinions issued, etc., is a tax dispute if it involves the way of its collection and the definition of its special value, as well as if a special authority is foreseen to deal with it [8]. Tax evasion: It means hiding part or all of a taxpayer's income, or, in other words, it is the illegal adjustments that people make while paying taxes, which is different from tax avoidance [9].

Economic Analysis of Tax Proceedings in the Tax Affairs Organizations of Countries

Tax proceedings in most countries consist of two stages: Interorganizational tax proceedings (administrative proceedings) and specific administrative authorities (quasi-judicial) in the executive branch and under the supervision of judicial authorities. Developing countries mainly use tax holidays, preferential rates, exemptions from customs duties, and the creation of special export zones as tax incentives to achieve their goals. In the economies of poor countries, because the system and level of collection and realization of tax revenues are weaker, their economic development has been directly affected and even exposed to crisis [10–14]. Reducing the rate of tax evasion and, as a result, fighting discrimination and creating social justice, is one of the main goals of the drafters of the tax system transformation bills of each country [15]. In some countries, such as Japan, Spain, and the Netherlands, tax violations are classified as administrative and criminal violations. Administrative penalties are imposed by tax authorities and criminal penalties by courts of justice [5]. Also, in a number of countries, such as Germany, tax evasion is considered a crime, and punishments such as imprisonment and fines are considered for it. In most countries, in addition to administrative penalties, criminal penalties are also considered in some cases such as tax evasion, using false or fake documents, etc. [16]. On the contrary, in a country like England, the resolution of tax violations and crimes is generally through civil and administrative mechanisms as well as through negotiation, and the criminal justice system is less used [17]. In a few countries (such as Canada, Finland, Sweden, England, and the United States), governments have turned to establishing management advisory boards consisting of external representatives in order to control the fulfillment of tax operations. In addition, pre-filed declarations are gradually being developed and have become an important element of the electronic service provision of some tax authorities (for example, Chile, Denmark, Turkey, Finland, Spain, and Sweden). This is despite the fact that in Iran's tax system, more emphasis has been placed on the guarantee of legal executions [18] and the criminal penalties has not been carried out completely.

Economic Analysis of Tax Proceedings in INTA [19, 20]

INTA despite its great importance lacks a proper legal position in the tax laws. The general and public issues regarding the authorities for dealing with disputes and Articles 203 to 216 and 244 to 252 of the direct taxes law have been specified. However, several cases regarding objection, representation, determination of hearing time, hearing appointments, terms and conditions of issuing judgments are considered in a separate instruction which lacks legal value in terms of the necessary guarantees of tax proceedings. Economic analysis by Habibnejad and Izadis (2015) [18] shows that the application of the criminal execution guarantee in the current situation does not lead to any economic optimum. Since the government is facing severe financial problems and bottlenecks, it does not have the ability to provide the necessary infrastructure to deal with the crime of tax evasion. In addition, the problems in the country's tax system, such as the weakness of the tax culture, the lack of trust in the government, the lack of an efficient information system in the tax system, ambiguity of the laws and so on, prevent the application of any conflicting policies in the tax system. Despite these problems, except in one or two cases, the direct taxes reform law has not mentioned the rights of taxpayers and has not considered any solution to improve the tax culture and create trust among the taxpayers and the government. Therefore, it seems that solving such problems in the said law can increase the efficiency of the tax system. However, it is preferred that the implementation date of the articles related to the guarantee of criminal execution be postponed to the time after the establishment of the comprehensive information system of taxpayers in the INTA. In addition, including tax topics in textbooks from school to university can be effective in solving the problems of the tax system.

Applying similar punishments to the perpetrators of tax evasion, regardless of the amount of their tax debt, may harm justice and discriminate against tax debtors [21]. Regardless of the ambiguities such as the implementation of tax laws and regulations, applying the administrative enforcement guarantee in Iran's tax system probably does not cost much to the government, while strengthening this enforcement guarantee can increase the cost of tax evasion for the perpetrators. Since the cost of tax evasion has been very low based on Iran's tax laws, the desire for and tendency towards this action are very high. Nevertheless, the reforms in the law of direct taxes increase these costs greatly, and for this reason, it is expected that the rate of tax evasion will decrease in the future [18]. According to the conducted research in Iran, people's evasion of paying taxes is not considered as such a defect and almost this group of taxpayers does not feel ashamed. Rather, due to the prevailing atmosphere in society, people even feel smart and attribute this work to their intelligence [22]. In the recent decade, due to economic bottlenecks, in the reform law of direct taxes, the legislators have somewhat attended to this issue.

Economic Challenges of Tax Proceedings in INTA

Apart from these theoretical challenges of tax affairs, considering the existing problems in Iran's judicial system, the application of civil enforcement guarantees, i.e., compensation for damage and joint responsibility of taxpayers, although it has a favorable preventive aspect, but the long process of proceedings in the courts will impose costs on the government. Therefore, this type of performance guarantee will be less desirable in economic terms than the administrative performance guarantee [18]. Despite its great importance, the tax procedure does not have a proper legal position in the tax laws. The challenges in the tax proceedings system are the violations in the tax proceedings in terms of the dependence of the authorities on the government and the tax affairs organization, as well as the lack of sufficient expertise of the investigating authorities in the investigating board [23]. The communication and appointment of two out of three members of the dispute handling board by the tax affairs organization causes a fundamental problem and flaw in justice and fair proceedings. In addition, ambiguity in the authority to detect tax crimes, failure to determine the appropriate period and deadline in proceedings, and the existence of numerous deficiencies in respecting the rights of taxpayers, including the lack of a proper and clear legal position in guaranteeing the rights of taxpayers, neglecting the training of taxpayers, and the existence of numerous deficiencies in protecting the rights of taxpayers against administrative and judicial institutions, including the right to choose a lawyer and tax consultant, are considered important challenges in the tax procedure.

The effects of the disordered economy and unprincipled policies in the economy, the formation of a single-product economy based on non-tax revenues (including oil revenues), the formation of the informal and hidden economy, and the growth of inflation and the devaluation of the currency are also important challenges [24]. Moreover, the other important challenges and problems in this system that require serious etiology and pathology are the lack of independence of the dispute resolution boards in terms of organization and finance, long time of tax proceedings (caused by the multiplicity of authorities, non-observance of legal deadlines for the proceedings, lack of timing regarding some proceedings, the traditional nature of the proceedings, etc.), the high number of cases referred to judicial authorities (due to the low quality of tax assessments, the lack of awareness of tax laws and regulations, the high volume of legal notices, etc.) and the low quality of votes issued by the boards (due to the lack of expertise of some members of the boards regarding tax laws and regulations and knowledge of accounting and auditing).

PATHOLOGY OF TAX LAWS AND REGULATIONS

According to the research of Ahmadi Mousavi (2016) [24], the damage caused to the tax system, from the perspectives of law, criminal law, and criminology, with an emphasis on the pathology of the three axes of the law, the behavior of taxpayers, and administrative health, the deficiency and lack of quality of legislation, is one of the most important damages considered a threat to the tax system. In terms of the lack of stability and transparency of the laws and their undue inflation, the tax laws and regulations do not have the necessary legal quality, although this challenge has been tackled to some extent by setting new laws and applying new administrative policies based on the consolidation of regulations, such as the consolidation of circulars [24]. One of the most important factors that determine an efficient tax system is the awareness of tax authorities and taxpayers about their rights and duties. Due to the fact that taxes are examples of the exercise of power, therefore, special powers and authorities have been foreseen for the tax administration [16]. Changing the financial approaches of the government and financial institutions is also considered as an important and fundamental challenge. Fundamental changes in tax policies, including the improper removal of important tax bases such as the tax on total income and its revival or lack of attention to important tax bases such as green taxes, instability in predicting and implementing an appropriate response to tax evasion and order evasion in the length of the tax legislation is one of the important manifestations of instability and fundamental changes in the tax legislation policy [25]. Iran in its recent reforms (approved in 2012) has taken effective steps in order to improve the existing situation and strengthen criminal responses in order to achieve the goals of the tax system and develop its function, including criminalizing behaviors that violate tax obligations and requirements, strengthening criminal responses, explanation and extension of criminal liability to the partner, etc. [24].

Pathology is the diagnosis of the causes of damage to a specific system, which begins with the observation of complications and is implemented in the form of a systematic process. Tax laws and regulations are one of the main frameworks of the tax system. Inflation of tax laws especially tax regulations is in the form of tax instructions and directives, which due to the lack of organizational will to consolidate and also the lack of their accessibility to taxpayers and employees of the organization has caused many problems. Existence of numerous ambiguities in tax laws and regulations, the instability of laws and regulations in terms of changes in legal work due to changes in tax policies, and a lack of quality in criminal policy are other legal challenges in the tax system.

RESEARCH METHOD

Considering that the purpose of this research was to identify, describe, and explain the damages of the Iranian tax judicial system without changing them by focusing on the present conditions and attending to the process and cause of the problem situation (identifying the damages and presenting strategies), the suitable research method for this research was descriptive-analytical [26].

In this research, using theoretical literature and interviews with experts and specialists of Kerman Province Tax Affairs Organization in eastern Iran, the required information and data (without any initial changes) were collected and their damages identified. After categorizing and analyzing the content, the existing damages were prioritized. The present research was practical type because in this research, the researcher intended to study the pathology of the Iranian tax judicial system using scientific methods and to present strategies for improving this system in a practical way.

DISCUSSION AND RESULTS

The following studies have been conducted to investigate the tax litigation process. In these studies, in general, the influential factors in the occurrence of problems in this field are given, which are briefly mentioned here for some studies (Table 1).

In the given studies, in order to research the problems of the tax proceedings system, the authors did not enter the working space of the dispute resolution boards, and only the problems of this section have been enumerated based on legal materials. In this study, the challenges examined are based on all aspects of the tax dispute resolution boards and the executive solutions.

CONCLUSION

The tax system is based on administrative and supervisory quasi-judicial authorities. The many disadvantages of every country’s taxation system are largely based on the quality of its tax legislation. The main purpose of this study is to investigate the Iranian tax procedure system pathology using descriptive-analytical method.

Table 1. Factors influencing the problems of the Iranian tax system (2009–2015).

S.N.	Author	Subject	Year	Results
1.	Mohammad Javad Rezaeizadeh and Abolfazl Darvishvand	The role and position of the supreme tax council in the Iranian tax system and the supervision of the court of administrative justice over it	2009	Study of the tax procedure based on the high tax council and the supervisory role of the court of administrative justice
2.	Ahmad Khosravi and Naser Ali Mansoorian	The position of the principle of fair trial in resolving tax disputes	2009	Independence and neutrality, openness, principle of innocence, consideration within a reasonable time in improving effective tax litigation process
3.	Vali Rostami	Taxpayers' rights	2010	Review and observance of citizenship rights in the tax litigation process plays an important role
4.	Mohammad Sha'bani	A critical analysis of the tax procedure in Iran	2012	The tax procedure needs to be reformed; amendments on the law of direct taxes has not been effective in this regard
5.	Rasool Nikbakht	Tax investigation in Iranian and British law with reliance on fair trial	2013	Structure and organization of taxation dispute resolution boards and the tax litigation process in Iran is not according to a fair trial
6.	Abbas Ali Parvan	The position of substantive revision in the Iranian tax judicial system	2014	Objections on the composition and structure of taxation dispute resolution boards while reviewing is allowable, which can be an obstacle to a fair trial
7.	Cheshpiam	Comparative legal analysis of the tax proceedings authorities of Iran	2014	Lack of independence of tax dispute resolution boards is one of the major problems of the Iranian judicial system
8.	Mir Mohsen Taheri	Tax procedure	2015	Review and critique of the litigation process in the tax system of Iran based on the relevant laws

According to the results, instability of law, inflation of tax laws and regulations, lack of awareness of tax systems and taxpayers' duties and rights, and reluctance of taxpayers to pay tax are important challenges of the tax system. In order to create infrastructure for its citizens, the government has to enrich the tax culture of individuals, awareness of the main reasons for non-payment of taxes by individuals, the deficiency of empowerment programs, and the principle of tax justice to resolve disputes in the field of taxation and litigation. Tax organizations turn in the current situation, the Iranian government can resort to commercial taxes and direct and indirect taxes (i.e., with a greater focus on value added) due to the conditions of sanctions (which include not selling oil and its derivatives).

REFERENCES

1. Iranian National Tax Administration. (2020). Report on the review of the tax procedure. Article 27. pp. 22–23.
2. Ranjbari Abulfazl, Badamchi A. Direct taxes (approved 1988). Tehran: Majd Publications; 2012. pp. 330–335.
3. Karimi Abbas Ali. Factors affecting taxpayers' compliance. Master's Thesis in Financial Management. North Tehran Branch: Azad University; 2008.
4. Langroudi Mohammad Jaafar. Legal Terminology. 3rd edition. Tehran: Ganj Danesh Publications; 2001.
5. Afuah A. Business Models: Strategic Management Approach. McGraw Hill; 2004.
6. Manzini A. Organizational diagnosis: A practical to company problem solving and growth. AMACOM, American Management Association; 2006.
7. Abdul Hosseini, Abu al-Q. Tax Dispute Proceedings. [Master's Thesis]. University of Tehran; 1989.

8. Azizi, B. Rights and duties of taxpayers and tax authorities in Iranian law. [Master's Thesis]. Field of Public Law, Shiraz University; 2002.
9. Maclaren J. The distinction between tax avoidance and tax evasion has become blurred in Australia: Why has it happened? Journal of the Australasian Tax Association. 2008; 3(2): 141.
10. Bird MR. Improving Tax management in developing countries. Translated by Dr. Ali Akbar Arab Mazar and Ali Asghar Shayani. Tehran: Faculty of Economics Publishing; 1996.
11. Tax Administration 2013 [Internet]. Tax Administration. OECD; 2013 [cited 2023 Feb 7]. Available from: https://read.oecd-ilibrary.org/taxation/tax-administration-2013_9789264200814-en#page10.
12. Oyeyinka Ayodeji. Impact of ICT on tax administration in Nigeria. Computer Engineering and Intelligent Systems. 2014; 5(8).
13. RM Bird. The administrative dimension of tax reform in developing countries. M. Gillis, ed. Tax Reform in Developing Countries (Durham NC: Duke University Press; 1989.
14. Tax Administration 2013 [Internet]. Oecd-ilibrary.org. 2013 [cited 2023 Feb 7]. Available from: https://www.oecd-ilibrary.org/taxation/tax-administration-2013_9789264200814-en.
15. Rostami Vali, Ketabi Roudi. Legal review of Ali-Ras recognition and tax enforcement operations: Manifestations of general tax power in Iran's tax laws. Two Quarterly Journal of Economic Law Encyclopedia (former Knowledge and Development). 2011; 19(2).
16. Mojtaba Far MS. Analysis of mutual rights and duties of taxpayers and tax systems of Iran. Faculty of Law and Political Science. Allameh Tabatabaei University; 2009.
17. Habibnejad, A. and Izadi, S. (2015). Economic analysis of tax performance guarantees contained in the reform law of the Law of Direct Taxes, the approval of 2015. Ninth Conference on Fiscal and Tax Policies of Iran, 104–132.
18. Levi M. Civil and Criminal penalties for serious tax non-compliance: A review of impact evidence. Cardiff University Press. Weick, ed. (1993). Cost-benefit analysis and its possible application to the EARP Process. ESASINC. 2009, March 22. www.cyberus.ca.
19. Mousavi SY, Ebrahimi Kolahroudi A. A study of the problems and challenges of the Iranian tax proceedings system. Scholarly Quarterly of Iranian National Tax Administration (INTA). 2018; 26(37).
20. Mansoorian NA, Cheshmpiam B. Comparative and legal analysis of Iranian tax proceedings authorities. Scholarly Quarterly of Iranian National Tax Administration (INTA). 2013; 67(19).
21. Rostami Vali, Izadi Salman, Ranjber H. Criminalization of tax evasion (with an emphasis on the reform bill of the country's tax system). The 8th Conference of Financial and Tax Policies of Iran. Tehran. 2013.
22. Kozegar Koleji, Abdul M. Factors affecting tax evasion from the point of view of tax auditors. Public Administration [Master's Thesis], Qaemshahr Branch Azad University; 2013.
23. Askari Ali. An autopsy of the reforms of the tax system of the country: Challenges, programs and performance of the tax system. Quarterly Journal of Fiscal and Economic Policies, Special Issue of Government Economic Record. 2013; 2: 85–120.
24. Ahmadi Mousavi SM, Walidi MS, Najafi TA. Pathology of Iran's tax system and explanation of effective factors in the occurrence of damages. Law of Justice. 2016; 80(96).
25. Arabmazar Ali A. The experience of three countries in the field of simplifying tax laws. The second part. Tax Research Journal. 2017; 21: 15.
26. Rafi MR. Analytical study of the dispute resolution system of the tax system authorities with the taxpayers in the reform law of articles in the Law of Direct Taxes approved by 1412. [Master's Thesis of Public Law], Tehran Azad University; 2003.

