

# TAXPAYERS' RIGHTS IN RELATION TO AN ITALIAN TAX AUDIT

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**ABSTRACT:** *In this paper we will examine the meaning and the scope of the checks conducted by the tax authorities of Italy. In particular we will analyze the rights of the taxpayer during the tax audit governed by Law 212 of 27 July 2000, commonly called the "Status of the rights of the Taxpayer". In addition, we wish to clarify the Supreme Court's position with regard to the effects of the lack of contestation of the immediate tasks of tax audit by the taxpayer.*

**KEYWORD:** *taxpayers' rights, tax audit, personal freedom, tax authorities.*  
**JEL CODE:** K34

## 1. INTRODUCTION.

Under the mechanism of the tax burden, both the standards of taxation and those designed to ensure in practice their proper implementation assume fundamental importance.

In the past, the extent of the tax stemmed directly from the phase of investigation; only after the tax reform made by Presidential Decree no. 600 of 1973 have the contours of two aspects been outlined, which are now finally entirely independent, and form part of tax collection: liquidation and investigation.

The current tax system is characterized by one application scheme that is based on the cooperation of the taxpayer, who is expected to 'self-assess' and make known to the tax authorities, through their declaration, the items for which they can be taxed<sup>1</sup>.

With the development and improvement of the tax system towards mechanisms of self-assessment tax, the "assessment phase" then loses the idea of necessity that it had in the past, simply by punishing any violations committed by the taxpayer (V. Carbone, 2011).

In carrying out this control function, the financial administration is in a position of "foreignness" or "cognitive inferiority" compared to the legal position of the taxpayer, within which lie the facts that the law assumes a prerequisite imposition (A.Viotti, 2002).

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<sup>1</sup> An effect is thus produced on the participation of the private individual and the administrative activity on which mass taxation depends. For further information see G. Tinelli (2010).

To remedy this "deficiency" of knowledge, the tax authorities have adopted authoritative powers to investigate the legal rights of taxpayers in order to ensure the full knowledge of the actual economic situation of the same (G. Falsitta, 2014) (G. Porcaro, 2004).

The acquisition of evidence, in the search of the real ability to pay and the actual taxable entities, is of considerable importance. The investigative powers of the tax authorities are a pre-requisite for an independent legal assessment of the financial offices in the tax assessment (A.Lattanzio, 1995).

The preliminary investigation, and the findings resulting from it, enhance, therefore, a mismatch between the incumbent and the investigating entity, whose investigation can be limited by financial operators to gather information on a series of relationships and transactions, and the burden on the taxpayer, who is in the unenviable position of having to prove by producing documents thousands of operations, even small ones, carried out several years ago.

The relevant legislation<sup>2</sup>, in fact, requires that the data made available by financial operators can be "placed at the base of the adjustments and tests set out in articles 38, 39, 40 and 41 if the taxpayer does not demonstrate that it took into account for the determination of income subject to tax, or that have no relevance to the same end". It also requires that withdrawals or amounts collected are "placed like fees or revenues for the same adjustments and investigations, if the taxpayer does not indicate the beneficiary and unless it appears from the accounts".

The defence of the taxpayer is complicated by the rigidity with which the ruling has been interpreted by the Supreme Court, which claims that the burden of proof is acquitted analytically, giving evidence of each transaction, with generic forms of proof not being sufficient<sup>3</sup> from a setting that favours the principle of ability to pay at the expense of respect for the proceduralisation of tax law, and the rights and freedoms of the individual.

The exercise of the powers of investigation, therefore, inevitably impinges on the subjective circumstances of the taxpayer, restricting the rights and interests of the subject being tested (R. Schiavolin, 1995).

We should consider, in this regard, the inviolability of the home, inviolability of personal freedom, inviolability of correspondence, and other fundamental rights that are legitimately restricted by the activities of the tax authorities for tax reasons<sup>4</sup>. It must, however, strictly follow the rules which govern it. Any waivers in fundamental human rights, in fact, must be provided for by law, in order to avoid any form of arbitrariness that will result in unjustified injury of constitutionally protected interests (A.Viotti).

The exercise of the investigative, therefore, must take place in accordance with the principle of legality, impartiality and transparency. It falls within the discretion of the auditing bodies to determine which powers of investigation, in relation to the audit methodology are the most appropriate and effective to the case. This paper aims to

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<sup>2</sup> Art. 32, comma 1, number 2, of the D.P.R. 600/73 and art. 51, comma 2, number 2, of D.P.R. 633/72.

<sup>3</sup> See Supreme Court (Section. V Civ.), sentences: 26 may 2008, n. 13516; 5 june 2008, n. 14847; 29 july 2011, n. 16650; 4 may 2007, n. 16251. In addition, see the comment by G. Antico (2007); M. Strata (2011).

<sup>4</sup> The Constitutional Court has also been able to declare the invalidity of the question of the constitutionality of the provision. Please read the Constitutional Court, judgment of 8 June 2005, no. 225, adopted following the referral of the Regional Tax Commission of Piedmont, order of 4 November 2002 no. 689.

analyze the rights of the taxpayer during the tax audit governed by Law 212 of 27 July 2000<sup>5</sup>, commonly called the "Status of the rights of the Taxpayer".

## 2. THE BILL OF TAXPAYERS' RIGHTS AND THE RIGHTS AND GUARANTEES OF TAXPAYERS SUBJECTED TO TAX AUDIT.

The checks conducted by the tax authorities, is, often, concisely summarised by the word "*audit*", which, for the peculiarity of the intent of which is to pursue, is accompanied by the term "tax" (A. Palazzolo, 2000).

The tax audit consists of a police operation carried out for the protection of the fiscal interests of the state realized by financial and political-economic tax laws (G. Pezzuto and S. Screpanti, 2002). This, as expression of the control, is essentially aimed at finding and acquiring any useful element to quantify and qualify the ability to pay of the taxable person, as well as to prevent and punish violations of the tax and financial laws.

The tax audit unfolds in three different phases. In the first phase, as a result of access to such items, all the activities subject to further analysis to find and acquire books, records and documents are carried out. In the second phase, generally identified with the execution of the accounting inspection, all the activities of verification, detection and capture are conducted, as well as the acquiring of external data, information and news, deemed necessary for the pursuit of the objectives of the audit. In the third phase, which concludes and summarizes the results of the activities carried out by the auditors, it is written and signed by the tax audit report.

The power of the audit is certainly the most important of the powers of investigation attributed to the tax, because it has the greatest impact on the rights of freedom guaranteed by the Constitution, and that the person tested, are reflected in obligations *pati*, and that because of the particular *vis cogens*, they are subject to special restrictions (A. Lattanzio, 2012).

The bill of taxpayers' rights, issued by Law no. 212 from 27 July 2000, on the subject of tax audits, has introduced a number of obligations and limits for the Tax authority together with the recognition of certain financial rights and guarantees in favour of the taxpayer. It, as confirmed by the Court's legitimacy, "is an instrument of guarantee for the taxpayer" that "serves to curb the power of the Treasury in relation to the weakest relationship of tax"<sup>6</sup>.

The article 12, paragraph 2, of the aforementioned Law no. 212/2000 states that when "*an audit is initiated, the taxpayer has the right to be informed about the reasons that have justified and the object as it is concerned, the right to be assisted by a qualified professional to the defense before the bodies of justice tax, and the rights and obligations that must be recognized to the taxpayer during inspections*"<sup>7</sup>.

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<sup>5</sup>According to a well-established doctrinal guidance, inspectors are not equipped with a "general inquisitorial power", but of "inquisitorial powers" exhaustively covered in a "law for cases" contained in Articles 32 of the already mentioned Presidential Decree no.600 / 1973 and Article 51 of Presidential Decree no.633 / 1972. See, in this regard, R. Lupi (1998).

<sup>6</sup> See sentence no.5931 from 21 April 2001 of the Supreme Court, section V.

<sup>7</sup> Article. 12, paragraph 1, provides that "*all access, inspections and tax audits in the premises where the activities of commercial, industrial, agricultural, artistic or professional are made on the basis of actual need for investigation and control on the site. They are held, except in exceptional and urgent cases adequately documented, during the time the ordinary operating activities*

According to authoritative doctrine (L. Magistro, 2000), for justified reasons we mean the actual needs that have imposed the notice of control in relation to the taxpayer. These needs can be of different nature and to locate them is necessary to refer to the individual tax laws, in so far as lay down the tasks of the bodies responsible for the auditing.

The circular of the General Command of the Guardia di Finanza no. 250400/2000, also, in confirming the obligation of inspectors to inform on the object of control, its extension (if it is a general or partial audit or control of a single act of management), the tributes to protection of which is carried out, the reference period, the source (if initiative or centralized), and reiterate what was said in the previous circular no. 1/1998 about the need to maintain strict confidentiality on "intelligence", and state that the person has been informed about the types of "input" to activate the service, specifying what criteria has led to the selection of the particular taxpayer (in case of centralized checking) or body that triggered the investigation (in the case of verification of initiative).

In this regard, it is believed that the taxpayer who is selected for a general audit by a particular department of the Guardia di Finanza is entitled to know the criteria of its inclusion in the annual program of inspections, without which it can learn the names of other entities controlled by or controlling (information covered by professional secrecy), discuss the general criteria of scheduled audits or criticize the reasons which prompted the department to enter a specific taxpayer into the audit plan (G Fortuna, 2001) (R. Miceli, 2001) (M. Pisani, 2002).

As for the object of the audit that the taxpayer is entitled to know, it can coincide with the entire management of the business for one or more tax period, and in particular feedback.

The bill of taxpayers' rights notes that auditors have an obligation to inform the taxpayer about the right to:

- a) seek the assistance of a qualified professional to the defence before the bodies of the tax courts;
- b) require that the examination of the administrative and accounting documents is carried out in the office of the auditors or at the professional who assists or represents (Article 12, paragraph 3);
- c) consult the Guarantor of the taxpayer, in cases where it considers that the auditors are proceeding in a manner not conforming to the law (art. 12, paragraph 6);
- d) notify the Tax Office, within sixty days of notification of the tax audit report drawn up at the end of the intervention, comments and requests (art. 12, paragraph 7);
- e) request, consult, examine, take copies of each scanned document for verification, following adoption of appropriate precautionary measures.

Such rights are expressly granted only with respect to the checks at the places of business, whether it be publishing or artistic-professional - with no reference to those that take place at the offices of auditors. In the latter case, the need for these rights are safeguarded allows you to interpret the rule extensively (L. Magistro, 2000).

As for the right to request that the examination of the accounts can be made in the office of the auditors or at the professional who assists her, aimed at minimizing disruption through anthropogenic inspection may derive economic activity controlled, the Statute of taxpayers' rights *"is still the possibility for auditors to operate autonomously, in line with the specific needs of the*

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*and in such a way as to cause the least possible disruption to the activities themselves and to trade relations or business of the taxpayer".*

work organization, the choice to develop the control activities at the premises of the command which they depend"<sup>8</sup>.

This suggests that the request to continue the audit is left to the professional judgment of its auditors who may opt for control in their offices.

### 3. THE FORECAST OF DEBATE WITH REGARD TO THE RESULTS FROM THE INVESTIGATION

Article. 12, paragraph 7, of the bill of taxpayers' rights provides that "*in accordance with the principle of cooperation between the administration and the taxpayer, after the release of the copy of the minutes of the close of business on the part of the supervisory bodies, the taxpayer can communicate within sixty days observations and requests that are valued by the enforcers. The notice of assessment cannot be issued before the expiry of that period, except in cases of particular urgency.*"

The *innovatio legis* is the introduction of a real debate between taxpayer and tax authorities as to the results of the investigation. The importance of the provision is the obligation of the Office to evaluate the financial submissions and requests the taxpayer before issuing the notice of assessment which must, in the statement of reasons, to take into account the assessments and explain the reasons why the comments or requests were not accepted in whole or in part.

This is a significant change in the context of the tax system as the legislature intended the tax assessment as a tool for determining the *quantum* of tax, by imposing the financial Office to take account of the comments and requests of the taxpayer in consideration of randomness inherent in the possible introduction of a tax dispute.

The provision of a contradictory advance of the issuance of the assessment, in addition to providing greater protection for the taxpayer, it tends to give greater effectiveness ascertaining tax resulting deflation of the dispute through a new relationship based on principles of cooperation and transparency. "To give concrete meaning to the participation of the taxpayer to quantify the tax liability" Capolupo says, "we need to avoid that their contribution is extrinsic in a mere fulfilment of a formal nature, needed to give legitimacy to the process, the more so if we consider that in the methodology of assessment there is not much room for the testimonial evidence, because of founded suspicion that the ordinary legislator feeds, as always, in the fields of taxation for this instrument of proof." (S. Capolupo, 2004).

Consequently, through the contradictory, the Financial Office must necessarily take into account the criteria offered and relied upon by the taxpayer to verify, on the basis of the investigation results that emerged during the tax audit, the possible existence of unreported income, by re-determining in *quantum*.

No doubt, then, that with the contradictory the participation of private administrative action is strengthened, as part of an interpretation of Article. 53 of the Constitution, intended as a mere criterion of rationality and coherence of the tax system, which is fully implemented with the introduction of negotiable instruments and conventions on assessment.

That said, it is necessary to verify the legal significance to art. 12, paragraph 7, of Law no. 212/2000 in terms of effective protection of the taxpayer. The question is, in particular, whether the provision of the right to present their views and requests to the offices enforcers after the release of

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<sup>8</sup> See the circular from the General Command of the Financial Police no. 250400/2000.

the copy of the minutes of closing the tax audit, also involves the obligation to consider the same offices for the purposes of finding the evidence provided by the taxpayer.

In this connection it can identify three different subject positions:

- a) the taxpayer's right to their views and demands;
- b) the requirement for enforcers to assess submissions and requests submitted by the taxpayer;
- c) the obligation of the same offices to motivate the notice of assessment with specific reference to the observations and requests submitted by the taxpayer.

These situations, which are conceptually distinct, are closely connected to each other, as if the taxpayer's right to their views and demands does not match a specific legal obligation for enforcers to evaluate them, that right would remain an end in itself and deprive of legal meaning and every function the rule in art. 12, paragraph 7, of Law no. 212/2000. In other words, why the legislator would have introduced the previous provision cannot be understood, as nothing prevented the taxpayer from spontaneously submitting information to the financial office.

In essence, there seems no doubt about the fact that, now that the legislator introduced a specific provision that expressly gives the taxpayer the right "to communicate within sixty days observations and requests that are valued by the enforcers", there is an obligation of the same offices to evaluate wisely legal evidence offered by the taxpayer. In case of non-compliance of the assessments, the notice of assessment issued by the office, is voidable, at the trial stage, for lack of motivation.

This suggests that, once the taxpayer has exercised their right under Article. 12, paragraph 7, of Law no. 212/2000, take a clear obligation of financial offices, compliance with which is a necessary condition for the legitimacy of the assessment.

The procedural defect, formed from the omission of evaluation of the comments and requests of the taxpayer, is an essential defect of the process leading to the adoption of the assessment.

Including the obligation to evaluate the investigating office and the notice of assessment there is hypothecation procedural clearly laid down by Art. 12, paragraph 7, of Law no. 212/2000 which clarifies the timing and conditions of the notice of assessment, since the latter cannot be issued before the expiry of the period of sixty days of the issuance of the copy of the minutes of the close of business on the part of control bodies, except in cases of particular urgency and motivated.

It is clear that this procedural defect can only be claimed in the appeal of the assessment, being foreclosed all other means of immediate protection, subject to the possibility of the omission of the office of the Guarantor of the taxpayer<sup>9</sup>.

With regard to cases of particular urgency and motivated that enable it to issue the notice of assessment before the expiration of sixty days, it should be noted that the particular urgency should be fully represented and described in the statement of reasons of the assessment in relation to the circumstances of that make evident the impossibility to delay the enactment of the Act.

Part of the doctrine believes that if the report of findings is notified of imminence of limitation, which does not allow the office to be able to carry out a critical examination of the objections raised, the Office must still proceed with the issue of early assessment notice, stating the urgency and invoking the exemption in paragraph 7 of art. 12. In line with this, the use of existing tools deflationary litigation (membership, self-defense, judicial settlement) would ensure in any way a comprehensive protection to the taxpayer and spacious entrance to the ability to defend itself to the arguments of the Treasury, well before reaching the adversarial proceedings (G. Antico & V. Fusconi, 2004).

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<sup>9</sup> See the Supreme Court sentences nos. 5, 4 April 2014 n. 7960, and that of 13 October 2011 no.21103.

It considers that, in the absence of an explicit notice of nullity, the reasons for the urgency that prompted the auditors to notify the official report on the eve of the limitation and the financial office to issue the advance ' notice of assessment, must be fully and analytically exposed in the grounds of the same opinion. Consequently, these reasons will be evaluated case by case by the tax court (A. Lattanzio).

#### 4. THE DURATION OF THE TAX INSPECTION FOR THE TAXPAYER

One of the rules of particular importance introduced by the Statute of the rights of the taxpayer regarding tax audit is one that has established a limit on the stay of the inspectors at the headquarters of the taxpayer (G.Nanula, 2015), (M.Florea & A.Valente, 2013).

Article. 12, paragraph 5, of Law no. 212/2000 establishes, in fact, that *"the permanence of tax enforcers, due to inspections at the premises of the taxpayer, can not exceed thirty days, subject to extension for a further thirty days in the case of particularly complex survey identified and justified by the head office. Assessors can return to the taxpayer, after this period, to consider the submissions and requests which may have been presented by the taxpayer after the conclusion of the verification or, subject to the consent of the manager office, for specific reasons."*

According to the circular from the Guardia di Finanza n. 250400/2000 that period must be calculated in relation to the days of actual presence spent at the headquarters of the taxpayer, regardless of the account the individual contacts to notify acts or retrieve documents.

Since this provision that each item collected by auditing bodies, over the time limit established by art. 12, paragraph 5, of Law no. 212/2000, is the result of activity that took place in violation of the express provision. It follows the uselessness of the evidence collected over that time period.

Failure by explicit provision of preemptory character of the term referred to the provision in question, it can be assumed that if the verification activities is prolonged unjustifiably more than thirty days, i.e. in the absence of a satisfactory explanation in relation to the particular complexity of the verification, the taxpayer might well plead vice of violation of the law.

The provision making the tax inspection at the premises of the taxpayer only where there are real needs, during working hours and in such a way as to cause the least disruption possible, as well as those that tend to limit their stay on the premises and prescribing to examine the documents in places other than the taxpayer, if he so requests, they move with a view to implement the balance of opposing positions according to the criteria of necessity and proportionality that derive directly from the constitutional provisions of Articles. 2, 13, 14 and 15 of the Constitution. Pertaining to freedom inviolable. These policies derive directly from the principle of legality and impartiality and efficiency of Articles 23 and 97, paragraph 1 of the Constitution which are closely related to Art. 3:53. The implementation of this is headed the same statute of the rights of the taxpayer, by express provision of art. 1 in which it states that *"the provisions of this Act, pursuant to Articles 3, 23, 53 and 97 of the Constitution are general principles"*.

The Development Decree (Decree 70 of May 13, 2011) has introduced some significant changes in the durability of tax audits taking as a fact with reference to the total number of days spent on the basis of the "size" of the taxpayer occurred and, therefore, consequently, on the basis of a presumed greater or lesser complexity of the operations of verification (M.Florea & A.Valente).

The aforementioned decree ruled that the tax inspectors (tax office and financial police) cannot remain in the company for more than fifteen consecutive days when they enter into undertakings in simplified accounting and freelancers. As regards the other companies, and those in ordinary

accounting, the possibility to remain in the company stands, in order to perform checks and controls, and the 30 day period may be extended for another 30 days.

##### **5. THE POSITION OF THE SUPREME COURT ON THE EFFECTS OF NON-CONTESTATION OF THE IMMEDIATE TASKS OF TAX AUDIT BY THE TAXPAYER.**

As part of the provisions introduced by the bill of taxpayers' rights, it is particularly relevant to the ability of taxpayers to make comments or highlight points, which must be acknowledged in the auditing process.

The intention of the legislature is to ensure the right of defense of the taxpayer with regard to the tax audit, promoting the comparison with the auditors through a constructive and calm dialogue respecting the principles of transparency, legitimacy, fairness and, consequently, the financial viability of activities against tax evasion.

It seems clear that if on the one hand the legislature intended to protect the taxpayer during the course of the tax audit, on the other it tends to encourage the collaborative spirit of the same taxpayer.

In this way, the art. 10, paragraph 1, of Law no. 212/2000, which states that "*the relationship between taxpayers and tax authorities followed the principle of cooperation and good faith*", takes on a specific meaning in the implementation of tax laws. The good faith, then, must accompany the process of verification in all its phases. Hence the obligation to the taxpayer not to hire or obstructive attitudes, however, directed to hinder or divert activities of the auditing bodies and / or assessment; on the other hand, the prohibition of the latter to take advantage of mistakes, ignorance or shortcomings from the taxpayer taxed on wealth that does not exist.

That said, according to the position held by the Supreme Court, "*to participate in auditing processes without challenge is basically to accept them and their results,*"<sup>10</sup> so there is no need "*for this express acceptance, but only the lack of complaints.*" This conclusion recognizes character of *extrajudicial confession* to involvement in contradictory to carry out checks without challenge (G. Pezzuto, 2004), it is not therefore required express acceptance.

Relating to taxes we must exclude the possibility of attributing to the pure and simple behaviour of the taxpayer resulting from a report drawn up in its review of the character of a confession out of court because it lacks clear statement made by the representative of the taxpayer who is required for instance confessors outlined by art. 2730.

In this viewpoint, in the tax, the same Supreme Court has denied the possibility of putting a character confession also in this case far more significant than mere passive attitude held by the taxpayer at the time of verification. Moreover, characterized by the presence of formal initiatives or statements by hand, as the facilitated definition of the penalties be imposed performed with the payment of the sixth of the maximum penalty, the statement submitted to perfect a form of tax amnesty and the same tax declaration<sup>11</sup>.

It should be emphasized, finally, that even when the unfavourable explicit statements of the taxpayer, are conveyed they cannot be configured as a confession out of court with full probative value.

<sup>10</sup> See the Supreme Court reference, 26 January 2004, no. 1286.

<sup>11</sup> See Supreme Court reference, Section V, 8 March 2000, no. 2610; Supreme Court, Section V, 26 February 2002, n. 2810.

It is clear that in matters of taxation it is possible for the taxpayer's statement to be excluded if its details are completely worthless or the entire contents have not been faithfully transcribed or do not relate to the sheer materiality of the facts<sup>12</sup>. They, however, are freely assessable in terms of clues when adhere to precise facts without any evaluative aspect and there is absolute certainty about their integrity and loyalty.

If the office intends to assess these financial statements and should evaluate them in light of the tax assessment to determine the truth, in no case can they be held in recognition of the tax case. The result, inevitably, is the principle of their retractability, in the sense that these statements can be called into question at any time.

It's the duty of the tax authorities to prove, if necessary, the validity of the claims of the taxpayer, as exemplified in verification by further legally compelling evidence. The audited taxpayer has no power to affect neither the material execution of transactions through which the audit is expressed or on the minutes of the same processes and the resulting assessments, which are entrusted only to auditing bodies.

Taxpayers are granted only limited forms of participation in the individual steps or acts that comprise the tax audit, since there is no general right to be heard in that forum. With regard to the minutes of the activities carried out by the inspectors, the art. 12, paragraph 4, of Law no. 212/2000, only covers the right of the taxpayer (and the professional who assists him) to put their observations and findings in the minutes of the verification, while art. 12, paragraph 7 of the same law provides for the right to communicate, within sixty days from the "*release of the copy of the minutes of the close of business on the part of supervisory bodies*", comments and requests.

The obligation of verbalization is only to apply the principles of transparency, fairness, certainty, good performance of the financial authorities so that the non-documentation of any statements or remarks of the taxpayer determines serious legal consequences, not excluding those of a criminal or accounting nature.

Nothing obliges the taxpayer to immediately represent any complaints relating to the carrying out of checks or verbalization of such practice, which moreover is regulated almost exclusively by administrative practice.

The signing of the minutes are merely meant to assert that the taxpayer has been informed of the audit against them, and was given a copy of the minutes to which they are entitled. Ultimately, no provision requires the taxpayer duties or charges immediate objection of the audit and the content of the minutes drawn up against them, nor specific effects attributed to their "*participation*" in the activities of control or to its "*subscription*" of the minutes, which have only the purpose of documenting any statements or observations of the same taxpayer and to certify their knowledge of the transactions carried out and the content of the reports drawn up, as well as the receipt of a copy of them.

The tax authorities arrive at the same conclusion with the abovementioned circular no. 224/E/2000, which shows that "*the taxpayer's signing demonstrates a legal nature of*

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<sup>12</sup> The same tax authorities arrive at this conclusion and remark that "*the statements made by the taxpayer in the case of access, inspections and audits and given in the report on findings, taking the value of admission and not to confession*", admission, always in the opinion of the Administration, "*it has a simple evidentiary value and can be refuted by any evidence later*" (Circ. Dir. Centr. Assessment and programming, December 5, 2000, n. 224 / E.).

*acknowledgment, showing that the same has taken note of the report. The same does not have healing value of any defects of the act and not the legitimacy of the claims. It does, therefore, affect the possibility of challenging the notice of assessment or the imposition of sanctions based on the findings contained in the inspection report. "*

It seems clear, in other respects, that to deny the taxpayer the opportunity to contest before the tax court the tax claim citing the lack of objections in its tax audit, would violate Article. 24, paragraph 2 of the Constitution which states that "*defense is inviolable at every stage and level of the proceedings.*"

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