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**Italian tax judiciary and
part time judges**

I

The Italian tax Courts of first and second instance (Provincial tax Commissions and Regional tax Commissions) have exclusive competence on the merits of tax disputes (the third instance on legitimacy is entrusted to the Court of Cassation) and are composed both by ordinary (legal) judges and lay (technical) judges representatives of the legal professions (mainly qualified accountants and lawyers) and other categories (academics in law, engineers, surveyors, public servants after a number of years)

II

The ordinary judges and the lay judges are part-time judges in the sense that they are both career magistrates (who practice at the same time in civil, criminal, administrative Courts) and professionals or practitioners devoting part of their time off the private job or office for deciding tax disputes. Tax judges are fee paid judges, receive a monthly fixed fee and a variable one related to the number of claims decided. Tax judges must be distinguished by the full-time salaried judges and are honorary judges without any civil service and social security treatment.

III

Although not all the members of the Italian tax Courts belong to the ordinary judiciary they are all part of a special jurisdiction recognized by the Italian Constitution and consequently are subjected either to the rules of civil liability (in case of fraud or gross negligence in the exercise of judicial power) or to the disciplinary rules if the duties of a “good judge” (independence, impartiality, correctness, sensitivity to the public interest, diligence, laboriousness) are not observed.

IV

The disciplinary precepts are based on the ethical rules set out in the Codes of judicial ethics adopted by the Italian Association of the ordinary judges(2010)and by the Italian Association of the tax judges(2012) but the penalty enforcement requires a well-defined disciplinary offense provided for explicitly in the disciplinary Regulation which contains the list of the disciplinary sanctions (admonition, censure, suspension from the functions ,removal from office)

V

An important requirement for tax judges (controlled every year by the High Council for tax judiciary) is the absence of situations of incompatibility.

This happens when , the judge, his spouse or relatives within the second degree play activity of legal assistance or performing tax consulting in the place where the judicial functions are exercised. The judge must remove the impediment opting for the transfer to another Commission located in a different region or province not contiguous to that one of origin. Failure to comply with this ethical rule (that is part of the fundamental values of impartiality and duty of correctness) represents a disciplinary offense