

# International Association of Tax Judges

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## Case Load Control

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## **Bundesfinanzhof: Court of Appeal**

- Last instance in tax and customs matters
- 11 specialised senates, 57 full-time judges
- 2015: 4.578 pending cases, 2.721 decisions
- Tendency of decreasing number of entries  
(3.430 in 2009 vs. 2.632 in 2015)

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## Adequate objection procedure

- Free administrative procedure: „Einspruchsverfahren“
- Against all tax assessment and other administrative decisions
- Complete legal review of the case by different department at Inland Revenue
- Decision for or against taxpayer („reformatio in peius“)
- Free application for suspensive effect

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## Court fees

- Overall medium burden
- Fees according to the amount in dispute; minimum amount in dispute for costs: 1.500 €; maximum amount: 30 Mio. €

Amount in dispute in €	Fee for appeal in €
1.500	355
50.000	2.730
500.000	17.680

- No free withdrawal of the claim/appeal any more
- Costs of proceedings borne by unsuccessful party
- Legal aid

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## Legal representation

- Mandatory: Lawyer, (chartered) accountant
- Both for submitting a claim and in hearings
- Fee according to value of lawsuit
- Basic fees for lawyers:

Value of lawsuit in €	Fee in €
1.500	Appr. 500
50.000	Appr. 5.000
500.000	Appr. 15.000

- Higher fee agreements most likely
- Right to legal counsel

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### Simplified procedures for petty/inadmissible/manifestly (un)founded cases

- In case of non-representation appeal can be rejected as inadmissible
- Written decision: Only tenor and short summary of arguments
- Important means for „troublemakers“/“Reichsbürger“
- In case of representation normal procedure even for manifestly (un)founded cases
- Possibility of letter to the parties to end proceedings before oral hearing/reduce court fees

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## Minimum financial interest thresholds

- Currently none (except for minimum amount in dispute for costs)
- Abolition of appeal depending on minimum amount in dispute (1.000 Deutsche Mark) in 1985

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## Funnel mechanism

- Bundesfinanzhof is bound by facts determined by the court of first instance
- In appeal the parties cannot be heard with new facts

Facts	Legal assessment
Interpretation of declaration of intent/contracts	
Interpretation of administrative acts	Infringement of principle of fairness and logic
Consideration of evidence	
Estimated tax base	



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## Leave to appeal

- Direct appeal only on permission by court of first instance
- Possibility of non-admission complaint at Bundesfinanzhof
- ✓ High formal and contextual requirements
- ✓ Fundamental significance of legal question
- ✓ Uniform administration of justice
- ✓ Judgment based on substantial procedural violation in first instance
- ✓ 75 % are dismissed (50 % of 75 % are inadmissible)