

## TAX COURTS IN BRAZIL

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### 1. Administrative Courts

Brazil is a Federation divided into the Union, States (26) and Municipalities (about 5500). Each Political Entity has the power to tax the taxes listed in the Constitution.

There are no specialized tax Judicial Courts. So the Union, some States and some Municipalities created Tax Administrative Courts in order to give the tax payers an opportunity to solve tax disputes in a faster way.

These Administrative Courts are part of the Administration itself. It's the Administration reviewing its own acts. But they are relatively independent (some more than others), since they are composed by members indicated by the Administration and members indicated by the tax payers (equal numbers).

The decisions enacted by the Administrative Courts are final for the Administration. But the tax payers can always submit the case before the Judicial Courts and begin the dispute all over again.

An important part of the Tax Legislation is in the Constitution and the interpretation of the Constitution is only attributed to the Federal Supreme Court. Therefore Administrative Courts may not interpret the Constitution. But they may – sometimes – apply the legislation in a particular case according to what they consider the best interpretation of the Constitution. But this is a hot issue in Brazil and still not completely defined.

### 2. Judicial Courts

There are no specialized Tax Judicial Courts. Courts are generally divided into chambers dealing with Public Law or Private Law. It is very difficult for tax payers to submit tax cases on income tax, when involving accounting procedures, and international taxation, when involving interpretation of tax treaties, because of the absence of specialized Judges. Most decisions are criticized.

The Superior Court of Justice deals with the interpretation and application of the norms in general (infra constitution). The Federal Supreme Court deals with the interpretation and application of the Constitution.