CONTRACTING SERVICES FROM THE PRIVATE SECTOR BY THE TAX ADMINISTRATION

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INTRODUCTION

The social systems are not only modified because the need for change is perceived, but also because the individual behavior of those who make up their basic component are modified, being them the "subjective" elements which move all other **"objective"** elements.

Each time are more numerous the occurrences and ways in which the public opinion demands a public administration more attentive to their "real" needs, both from the qualitative and quantitative viewpoint.

All the declarations and commitments assumed by public administrators, both political and technical, on the actions to be adopted for a renovation of the public administration, entail an "administrative action" built upon "what should be produced" and later presented to the public for judging the results obtained.

Additionally, from the normative viewpoint, the provisions that stress the objective of improving the "services" as their very theoretical basis are each time more frequent. These services must be viewed as specific and not formal responses to the public needs.

The improvements should be made by noting the difference between the ways of production and ways of supplying the same services.

Finally, from the scientific viewpoint, the quality of "enterprise" that must be recognized to public entities of any kind is being reaffirmed, or rather rediscovered, although they may operate based on "criteria" and "regulations" different from those typical of private sector production enterprises.

It is inevitable that the characterization of enterprise give more importance to outside relations, both from the acquisition of production factors and the granting of results of the administered activity. Indeed, the enterprise depicts "economic coordination of scarce resources," which is justified with regard to the quality of exchange relations that it is able to establish within the scope in which it operates.

The expectations of public opinion, the statements by public administrators, the normative guidelines are, on one hand, a sign of ongoing evolution and, on the other hand, an additional occasion to reflect on a "conceptual" decisive agreement that may perfect the adapting process of the Public Administration, if indeed, as it seems, conceptual changes necessarily precede the changes in behavior.

FUNCTION AND PUBLIC SERVICE

To better understand these expressions, it is necessary to remember the division of the administrative activity into "function" and "service."

Such activity can be subject to several considerations. It may appear in its entirety as a means whereby the goals established by the Administration are achieved, that is, as a public function.

"Function" can be defined as an activity that is accompanied by exercising a public authority identified with coercion, which is also a typical characteristic of the legislative and judicial functions. It is expressed by the possibility of unilaterally and immediately affecting the juridical position of third parties. "Function" is the satisfaction of the public need.

"Public service," on the contrary, can be defined as the appropriate instrument to face a public demand. Then, it can be argued again that the function satisfies a need and safeguards equality and the rights of citizens, being coupled with service, which is in correlation with different situations and, therefore, produces and distributes different "output."

Different conditions for users will result in different services and often nonstandardized services. This concept of "service" leads to the belief that the more the public entity explains the gradual conceptualization of right (which has always benefitted the uniformity of public services), the more it will state that the Public Administration must be provided with a portfolio of services in keeping with the typical aforementioned demand. In this dimension, one obtains the concept of adapting service which considers -- not so much the immateriality or the storage possibility -- the capacity to verify that the response of the public entity is ready to offer public services. Specifically, the basic element is the ability to provide a global, satisfactory and economically convenient response, thereby contributing in a very important manner to satisfying a collective need.

In other words, the public service can only exist in relation to activities that the public subject, through the use of his legislative or administrative powers,

fulfills and considers typical of the scope of institutional mandates; activities that do not imply the exercise of authoritarian powers, but of other powers, among which are the private right; activities that, on the other hand, may be closely related to public functions, that is, other activities involving the exercise of authoritarian powers in connection, although not completely, with "instrumentality" and "supplementarity."

Meanwhile, the positive juridical reality makes certain the possibility that individuals or private companies be called to participate -- not as alternates but on their own behalf and representation -- in the aforementioned activities, although fulfilled and considered typical of the public entity.

Consequently, in line with principles, the Public Administration carries out the functions and services that are inherent to it, as assigned by the law. When a private firm or individual takes part in the function of the Administration or a related function, it is generally empowered by the law, although other forms of participation are known. Regarding the services, the law also establishes that the Administration transfers the providing of the same.

PARTICIPATION, PRIVATE EXERCISE AND SUBSTITUTION

Individuals and private companies can, therefore, participate and in fact they participate, in a number of ways, in the life of Public Administration.

Certainly, the cases in which they participate in the development of administrative action are more frequent each time. This is in the interest of the administration and that of those participating. They can also be included in the administrative organization, taking on specific functions within the same. The Administration can use the resources of a company or the skill of a professional or also the occasional intervention of a private firm to pursue its own interest or to accentuate the "permeability" of its very structure to social groups.

The institutions in which the participation of private sector is secured are juridically very different. The private firms or individuals, although they remain as such when they are not part of the organic body of the Administration, render their services to fulfill public ends.

More than an atypical organization of the Administration, it has to be considered as a kind of cooperation, which is still rudimentary.

The Finance Ministry plays a key role in every modern state: To insure the collection of the income as established in the state's budget.

It is also a duty of the state treasury to comply with the legislative provisions on taxation matters: Only in recent years, in Italy more than 500 such provisions have been issued, a large part of which result in obligations on the part of taxpayers and the need to establish controls by the Administration.

The state treasury machinery is a very complex and delicate mechanism in its operation: It consists of 76,000 officials and 1,700 offices, which vary from the dimension and taxes administered; therefore, there are different kinds of professionals, ranging from the tax expert to the real estate analyst and the personnel of Tax Commissions, which are more similar to courts than to financial offices, involved in this operation.

In implementing the tax reform laws deriving from the mandate of Law No. 825 of 1971 and with the resulting introduction of the direct tax, replacing the old direct taxes and the I.G.E. (General Income Tax), the mandates of the Ministry of Finance were expanded and the duties of the Offices were overload.

In particular, it became necessary:

- to control the formal clarity of the Direct Tax returns and the IVA;
- to reimburse the excess tax payments;
- to carry out the calculations based on documented documents;
- to follow the behavior of fiscal income;
- to evaluate the effects of new regulations introduced or to be introduced by the Parliament, on the fiscal income.

All of the above would have to be accomplished with a set of taxpayers that went from 5 million in the early 1970s to more than 30 million in 1976 and using only manual, repetitive and registry procedures, which would at least have required hiring twice the working personnel.

The complexity of the administered procedures, the dimension of the problems faced and the high number of clerks involved in the data automation process have established, from the beginning, the need on the part of the financial Administration to acquire technical-administrative structures able to coordinate and control the effectiveness of all the fiscal "System."

On the other hand, the heterogeneity of the activities needed for the development and direction, the increasing number of individuals and outside entities that at the same time are directed to obtain useful elements for complying with institutional mandates, in addition to the need to act on certain occasions according to a logic of "market," have required -- to better face such problems

--the planning and the creation of structures characterized by specific experiences, as well as technical, organizational, and professional knowledge that do not belong institutionally to the Administration.

THE GRANTING OF PUBLIC SERVICE

In cases authorized by law, the Administration may choose to provide its services by offering the rendering of the same, as it is usually said, to third parties, namely individuals, commercial companies or public entities.

There are two possibilities: If the service falls under an economic activity regulated by competence among private entities, the private right is usually rescinded and it may be transferred to other entities according to the ways established for that right, although the procedure for reaching the contract be dominated by public law precepts.

If on the contrary, the service deals with activities attributed exclusively to the Administration, with the responsibility of the same to exercise it, the transfer has only an impact on publicity matters (for instance, the tax collection service).

The transfer is originated especially by the state, in its own interest, for reasons including both economic convenience and better technical and technological possibilities of a third party.

The transfer occurs by way of a "concession," an administrative provision whose limitations are not always rigorously defined and that have to be generally formed by other actions. If the notion of concession is broadened to include any action constituting powers or rights, making full use of the current term, the result will be a generic category of actions that increase the juridical influence of a third party. But internally, it will be later necessary to seek specific characteristics for each kind of action.

The typical element of the concession is rather the transfer of a right or the establishment of a right on the basis of a preexisting right, which will be affected.

Regarding the case in question, it is the right to render a service of the Administration.

On the relation between the Administration, which grants a right, and the private concessionaire, the Administration tried to incorporate private institutions such as the mandate without representation, given that the concessionaire acted on his own behalf. However, these selections do not seem very convincing, given that this matter is entirely regulated by particular norms of public law, which do

not justify the application, although solely for the purpose of analogy, of the principles of the Civil Code in each contract.

The "concessionaire" generally organizes the necessary resources for fulfilling the service, taking on the risk of directing and depositing a compensation or rate or bonus before the Administration, which grants the concession. In the cases in which the service must be rendered in the public's interest, even if losses are incurred, the concessionaire receives a contribution from the Administration to cover the economic losses.

Therefore, following acceptance of the figure of public law contract as done otherwise by the current predominating doctrine, it is necessary to find out if the administrative concession of a public service has in reality these characteristics, and to what degree.

A unilateral provision whereby the rendering of the service is assigned and a conventional or contractual action for regulating these reciprocal relations exists. The contents of this provision may be predisposed in fact by the sole Administration, but to the private entity will adhere to it. This provision cannot be imposed by the authorities. Despite their contractual origin, these relations must be qualified as public law relation, which pertains to this matter.

The obligations inherent to the concessionaire by law will be outside of the contents of the concession.

Between the concession provision and the contractual action, there is a bond, which subordinates the contract to the concession.

The Italian financial Administration makes use of services offered by private entities, mainly in two areas:

1) in the data systems sector. For this reason, a specialized company owned mostly by the state, the SOGET (General Computer Technology Corporation), was hired. A series of conventions were initially established with this company; given the provisions established by Art. 22, Paragraph 4 of Law No. 413 of 1991, the financial Administration has entirely changed the contractual relationship with the SOGET, granting the latter a concession.

2) in the tax collections sector.

Following, the service of tax collections will be illustrated, while the first point will be successively explained by a representative of SOGET.

THE TAX COLLECTION SERVICE

When one refers to collections, it is convenient to mentally differentiate between ordinary collection, which is reflected by the voluntary fulfillment with the obligation, and coercive collection. Traditionally, ordinary collection has been entrusted:

a) for direct and local taxes, to individuals and companies that assumed, under different denominations, the figure of tax collectors;

b) for direct taxes, each financial office (customs for customs dues, registry offices for registry and estate taxes, etc.) or also entities connected to the state by way of special relations (SIAE for the tax on performances, ACI for automobile taxes, etc.)

Traditionally, the coercive collections were similar to ordinary collections, so to speak, for it included:

a) collection by the tax collector. This kind of collection was basically based on the roll, namely a list of taxpayers who had the nature of executive title. This was followed by the mandatory tax collection, namely the forceful sale of the personal properties or, if necessary, the real estate of the debtor;

b) the collection by way of a court order, namely a payment notification, authorized and executed by the "pretore" (court judge). This was followed by the foreclosure of the personal property and fixed assets of the debtor.

By virtue of Law No. 657 issued on October 4, 1986, which went into effect on 16 October, the government was empowered to institute and oversee the tax collections service.

This authority was exercised by D.P.R. No. 43 of January 28, 1988, whose article 133 established the implementation of the service starting on January 1, 1989. This term was postponed until January 1, 1990, by way of article 1 of Decree-law No. 526 of December 12, 1988, which was converted, including its modification, into Law No. 44 of February 10, 1989.

With the new provisions, the system of tax collections disappears and the Central Collection Service is created.

This service:

1) continues to collect the income already collected by tax collectors;

2) concentrates the coercive collection of nearly all existing taxes and related penalties. This is the most important innovation introduced by the new law because, regarding the taxes that fall under the Service, it eliminates the traditional court order procedure.

Therefore, the aforesaid Law No. 657 of 1986 bases its directive principles on the reassessment of the eliminated system of tax collection, thereby recognizing the irreplaceability of a collection system, which for decades has proven valid and efficient in its structure and guidance technique.

This law also pursues the accomplishment of the following objectives:

- to insure the collection of taxes directly paid by taxpayers and by tax substitutes, at a minimum cost for the state and citizens;

- to guarantee quickness and efficiency in the coercive collection procedures, so as to reduce as much as possible the degree of delinquency of taxpayers;

- to confirm the public function of the collection service, with the addition end of insuring uniformity in dealing with tax debtors;

- to utilize, as much as possible, the professional experiences and the procedural aspects of the eliminated tax collection system;

In short, it then appears possible to devise the following general profile:

a) **Ordinary Collection.** Refers to the replacement of tax collectors by the new Central Collection Service. The authority of each office responsible for collecting the appropriate taxes paid voluntarily by obligers remains unchanged (registry tax, estate tax, etc.).

b) **Coercive Collection.** It is standardized for most direct and indirect taxes. The stamp tax and the tax on performances are excepted, for they are not included among the taxes that fall under the new service, in which case the procedure of court order is still applicable.

The Tax Collection Service is a essential office of the Ministry of Finance, which falls directly under the Minister. Its official denomination is "Servicio Centrale della Riscossione" ("Tax Collection Service").

The service is organized by territorial jurisdictions, in each jurisdiction the collection is granted as an administrative concession. The territorial jurisdiction is defined, in general, by the province, but in every case it must correspond to the most convenient organizational unity "for the sake of efficiency, economy and productivity of the administration."

The concession is granted on a 10-year term and it can be revoked or eliminated altogether. It can be granted to enterprises and credit institutions, stock companies and cooperative associations that have specific characteristics.

The concessionaire has a series of obligations and rights.

In particular, the concessionaire must provide a surety bond (in cash, securities, mortgages or guarantees), which will be subject to expropriation.

Generally, the concessionaire is obliged to repay what has been collected, that is to pay the sums originating from the rolls, whether the collection was made or not. But later, the concessionaire is entitled to the reimbursement of the sums generating the obligation, namely the refund of the sums canceling the obligation that could not be collected, and it is up to the concessionaire to demonstrate that he could not make such collections.

The concessionaires are tax collection agents and must appoint their own representatives, who can be: collectors, tax collection officials and court officers.

There are sanctions against the concessionaires for delays or omissions of deposits, for actions carried out by unqualified personnel, etc.

To better understand the choice made recently by legislators, let us examine the arguments in favor of the "nationalization" of the tax collection offices, to later review the stand of those who favored maintaining it.

One of the motives, if not the only one, which led to the elimination of the tax collection offices was the great differences between the premiums (earnings percentages) of different municipalities.

It is a known fact that the earnings should necessarily recover the administration costs in order to insure a small profit for the tax collector.

This occurred in rich areas, in which the collections were almost completed during the normal terms and without the need for executive action. The average amount for each operation was fairly high and the premium was less than the one that should be paid to the tax collectors in poor areas, where the exact opposite occurred.

It must be added that, being the tax collector forced to deposit the uncollected taxes -- except the right to reimbursement without interests and earnings, of the uncollectable taxes -- the collection difficulties originated large financial burdens, which had to be considered when assessing the premium.

In other words, it could happen, for instance, that in Luguria (rich area) the earnings was of 0.85%, while in Basilicata (poor area) it was of 4.5%.

Since the premium was added to the tax (as an external profit), two taxpayers with the same income paid two different amounts of taxes, in accordance with the municipality of residence.

The seriousness of this inconvenience, which could have influenced the very constitutional legitimacy of the system, could not be denied. Legislators realized about this, from the moment when Article 10, point 10, of the mandatory tax reform law (Law No. 825 of 1971) established expressly "the incorporation of the collection premiums in the rates established for each collection."

Therefore, in applying this provision, art. 3 of D.P.R. No. 602 of 1973, establishes that "for the collections made through direct deposits and tax collection rolls, the collection agent is remunerated with a premium chargeable to entities receiving the taxes.

As a result, currently two taxpayers who earn the same income have to pay the same amount of taxes, regardless of their fiscal domicile.

Following, we present the motivations that would have justified and made inevitable the "nationalization" of tax collection offices and the reasonable objections that could be made to such project.

1. The self-liquidation process has altered the economic equilibrium of collection offices, because it has deprived them of the premiums on all taxes deposited at the Treasury by banks, thereby turning the administration of tax collection offices passive.

There is no doubt that this circumstance, which cannot be denied, represents the negative aspect of the introduction of the tax collection system.

Certainly, the elimination of tax collection would have resulted in the elimination of the encumbrance that the state bears for the creation of the premium. However, it would have increased by far the costs the state would have undertaken to directly provide the collection service, without considering that by

directly assuming the collections, it would have seriously compromised the function of taxes, with a greater loss than the one incurred in instituting the premium.

2. The direct deposit is made at the tax collection office, where the taxpayer has his fiscal domicile. This results in concentrating a large volume of collections in few large tax collection offices operating in rich areas, and the ensuing weakening of those operating in poor or depressed areas of the country. Therefore, the right to institute the premium must be recognized in these areas.

The veracity and inevitability of the aforementioned statements is beyond the shadow of a doubt. This results in the progressive character of the IRPEF and the relationship between the ILOR and IRPEF.

However, the provisions of the law have resolved this reality by changing the tax collection districts and establishing the "association" of tax collection offices, in which the per capita charge is less than the average cost of the service.

3. The infiltration of members of organized crime in the private administration tax collection offices has reached the point of inducing the Antimafia Commission to recommend expressly assigning the service of income tax collection to public entities.

4. The cost of collection, made transparent by the transformation, as stated above, of the external premium into internal premium, would have revealed the amount and dynamics of the costs born by the national community for collection services.

In other words, the trend of the tax collection system of passing its costs onto the community became evident, along with the "exact roll," increased by large earnings, instead of seeking greater savings.

5. The credit enterprises that administered the tax collection offices reported, in an unequivocal manner, that they considered the duties of coercive collection unappealing and nearly incompatible with the image of institutions aimed at giving credits and receiving savings.

There is no doubt that the banks refuse to take on the coercive collection of taxes, given that they do not win the support of clients by selling the properties of delinquent taxpayers or, worse yet, evicting them from the homes they live in.

Additionally, this deterioration of image is ont compensated by the small profits that should ultimately be received by those who carry out the judicial action. Meanwhile, it cannot be denied that the personnel of banks do not have the "frame of mind" of a judicial officials.

However, it should be immediately pointed out that, although banks have shown since 1976 a marked trend toward administering collections, there is no doubt that they prefer to administer the taxes paid spontaneously by taxpayers, in the form of tax returns and deposit at the State Treasury, rather than the coercive collection.

It would be enough to remember the frequent and intense contacts with clients, deriving solely from the fact that they have to deposit their taxes; the availability of a network that allows them to enter the areas, which would otherwise, be outside of their competence; the availability, although in the short-term, of considerable liquidity and, finally, the possibility to grant financing to taxpayers with a good financial standing, but who are momentarily out of cash (the so-called "buffer" function of tax collection offices).

Consequently, while credit institutions declared themselves ready to administer the banking mandates necessary for self-liquidation, they in the past expressed their opposition to assume the administration of tax collection offices, strongly refusing to assume coercive collection.

Based on this logic, the legislators also entrusted tax collectors with collecting the sums deposited spontaneously.

Following the presentation of this premise, it would be appropriate to discuss briefly the reasons why the current tax collection system has permitted, although with some inconveniences that cannot be denied, a prompt and effective collection.

D.P.R. No. 858 of May 15, 1963, as modified by D.P.R. No. 603 of September 29, 1973 (both of which were engulfed by D.P.R. No. 43 of January 28, 1988), as well as all the preceding laws, are based on two fundamental points:

- the principle of "noncollections as collections," with the ensuing reimbursement of uncollectable rates;
- the reduction of costs.

These two points must be examined separately, because either they respond to completely different ends that are not interdependent or the results accomplished are not equally satisfactory.

The tax collector must, barring unimportant exceptions, deposit within 12 days after the deadline of his payment term 8/10 of each tax payment on income collectable through rolls, to include the obligation of "noncollections as collections," and the remaining 2/10 within the ninth day of the second month following the deadline of the tax payment (D.P.R. No. 603, art. 10, as modified by art. 72 of D.P.R. No. 43 of January 28, 1988)

Obviously, since the tax collector is the concession-holder of the collection service and not the purchaser of all taxes registered in the roll, the lack of solvency and the impossibility to locate taxpayers is the responsibility of the entity that ordered the tax and not the tax collector.

Hence, the latter is entitled to obtain a reimbursement of the tax portion paid by him, after demonstrating that he was unable to collect it from taxpayers.

This reimbursement, however, is subject to two conditions:

- that the judicial procedure has been regularly fulfilled so that the tax collector cannot be deemed responsible for the noncollection;
- that the procedure be completed within a very short term: six months from the expiration of the second delinquent payment for the property foreclosure, ten months from the expiration of the last roll payment for the real estate foreclosure.

This system presents the following advantages for the state:

1. insures the punctual collection of taxes recorded in the roll, regardless of the solvency of taxpayers;
2. limits, which is important, the state control over the procedures employed by the tax collector only to uncollected taxes, thereby making them uncollectable taxes, which are a very small percentage with regard to the number of parties recorded in the roll;
3. circumscribes the control to the presentation of tax collection notices, within which coercive procedures must be completed, in addition to the regularity of the actions carried out by the tax collectors with regard to insolvent taxpayers;
4. reports to the tax collector the time employed by the financial Administration to corroborate the impossibility to locate the taxpayer and force him to make the payment. This, during periods of currency devaluation and high interest rates, becomes an irrelevant revenue for the state.

5. puts a halt to the concession of tax payment suspensions, because the Income Administrator that grants such permission may be held liable for noncollection of the tax.

The principle of "noncollection as collections" entails the need for continuing and active controls for the tax collector over the actions of employees, in order to avoid that a mistake by them adversely affects the right to reimbursement for uncollectable taxes.

Regarding the financial encumbrance chargeable to the tax collector, which stems from the aforementioned principle of "noncollections as collections", it does not appear it may have excessive importance since the same is taken into consideration for assessing the premium, under which it would be economically unproductive to assume the duties of tax collections.

All things considered, it does not appear that with a cautious administration, the principle of "noncollections as collection" represents an excessive encumbrance for the tax collector.

On the other hand, without this principle, the collection, although entrusted to the most meticulous tax collectors or best organized bank, would become much slower and fortuitous. In other words, it would become a less safe collection system and with greater repercussions, because many taxpayers who today pay their taxes punctually -- precisely because they know that they would, otherwise, inevitably receive within a few days the delinquency notice and the attachment or sale of their properties -- in the future would wait to receive the attachment and delinquency notices, in hopes of being able to defer the payment for a few months or years.

And it would be a sign of great ingenuity to think that, after the danger of losing the reimbursement of the uncollectable tax rates passes, the tax collector was not subject to the most varied ways of pressure. Meanwhile, a confirmation of the importance of the principle of "noncollections as collections" is obtained from the results of Law. No. 46 of February 28, 1980.

Art. 2 of this law allows the Ministry of Finance to grant income tax payment extensions, when circumstances beyond the responsibility of the tax collector make difficult the tax collection process, or seriously affect the implementation of executive procedures.

This is, if one looks at it well, an indirect lessening of the principle of "noncollections as collections" and, above all, of the inevitability of the action by the tax collector.

Furthermore, the consequences of this law are very clear, since the amount of tax payment suspension granted is around 1 billion Liras (1,000,000,000,000) annually.

It can bee appreciated that a loophole in the principle of "noncollections as collections" is enough to reduce the amount of collections significantly.

It was objected that, as compared to the past, the difference of "noncollections as collections" is less significant, from the point of view of the treasury. Presently, the state finds in the financial market greater possibilities to protect itself, with short-term indebtedness, against the temporary lack of funds which may originate in the delay in collecting taxes.

Thus, by eliminating this principle, the greater risks faced by the tax collector may be eliminated, leading to a sensible reduction of the collections costs.

However, the aforementioned arguments do not appear convincing, since it would cost the state nearly 15% to find the money in the financial market and it would further complicate the recovery of funds for investments.

It is true that a lower risk for the tax collector and, above all, a lower financial burden would lead to a reduction of the premium. However, this advantage would be more than offset by the cost of using the credit, given the fact that, as we had stressed earlier, presently the state reimburses the tax collector the uncollectable tax rates without recognizing any interests.

In conclusion, it is precisely the obligation of the "noncollections as collections" that gives the tax collection system unparalleled efficiency. Therefore, this obligation represents a feature which cannot be eliminated from the present tax collection system, because the state bases on it its possibility to leave the fulfillment of the collection to the discretion of the tax collector, in accordance with the manners he deems convenient.

It has been already noted that if the state gave up such obligations, it should demand, as a guaranty, that the tax collector fully respects the terms and use of the most severe means of execution. This would limit the possibility of more flexible and more appropriate relations in specific cases, which are favored by the current system.

We can now address the other aspect of the collection system: the cost and earnings for the tax collector.

On this subject, it should be stated immediately that it is not easy to make definite and documented assertions. Only the figure allotted in the budget as premiums for tax collectors (approximately 1.2 billion for 1989) is known, but it is impossible to estimate the exact cost of the service, because only the amount of collected rolls is known, while the real collected amount, on which the premium is estimated, is not known.

It is known for sure that the cost of collection administrations has increased by less than those of other services.

It is true, however, that the changes occurred as a result of the tax reform of 1971 and, particularly, the enormous increase in direct deposits -- an increment thought to increase even further, given the possibility to also deposit the self-liquidated IRPEF and ILOR -- will justify a smaller cost increase or even its reduction.

But what called our attention the most was the great disequilibrium that was created between the different tax collection offices. Some, by the way not many, that made significant earnings were different from others, which had very limited profits and even incurred heavy losses.

Moreover, given the abandonment of the bid system to offer concessions and the implementation of the confirmations, premiums that did not have a justification were given because of the deep changes occurred in the economic and social life of various municipalities.

Thus, very high premiums were offered next to inadequate premiums, with the end result that when the premiums were too high, the profit ended up in the hands of the tax collectors, while when the premiums were insufficient, the losses were incurred by the state, thanks to the creation of the premium.

Logically, this situation could not be tolerated.

The aforesaid tax collection reform law has brought order to the compensations paid to tax collectors, establishing a mixed system of premiums and commissions.

In conclusion, on the basis of the aforementioned considerations, it can be argued that the problem of the "nationalization" of the collection has surfaced, particularly, because the absurd situations created by the system of remunerations and premiums were considered intolerable.

The tax collection system proposes, as its basic element, the maximum reduction of costs.

The profit of the tax collection office is nothing but the difference between the amount of the premiums, the delinquency compensations and the compensations by executive actions, on one hand, and the addition of the costs, on the other hand.

The revenues do not depend on the tax collector, but only on the amount of collectable taxes as pertains to the premiums, and the behavior of taxpayers as pertains to the fines and compensations.

Consequently, in order to maximize profits, the tax collector will be forced to act considering the costs, of which there are two kinds:

- financial costs, which cannot be practically reduced; and
- administrative costs, made up almost entirely by personnel expenses.

This explains the need to optimize the work in order to reduce the number of employees and increase productivity.

But since the premium or compensation of the tax collector is generally determined by recovering the costs and recognizing an adequate profit, the possibility to administer a tax collection office depends only on the ability to reduce the costs.

This has been the basic motivation for the selection between a tax collection system based on the reduction or cutback of the costs and a system -- the administration on the part of the state -- that institutionally ignores this problem and, on the contrary, tends to inflate costs and reduce the productivity of the system.

In sum, we hope to have demonstrated:

- how no specific reason existed to impose the elimination of tax collection offices and the nationalization of the tax collection service;
- how the tax collection system is more than never efficient;
- how this efficiency depends only and exclusively on the obligation of "noncollections as collections."

At this point, there is nothing but to examine whether the collection administered directly by the state could be more efficient and economical.

The following consideration contribute to justify renovated confidence in the tax collectors:

It should be primarily highlighted that if the outside offices of the financial Administration would have been entrusted with the collection of all taxes or only coercive collections, one thing is for sure: The obligation of "noncollections as collections" should have been eliminated, with the ensuing loss of all advantages derived from the application of such obligation.

Since the Administration is not encouraged by the fear of losing the right to the reimbursement of uncollectable rates, to induce the Administration to comply with the coercive action procedures frequently and timely, it would have been necessary to resort to the application of disciplinary sanctions against the Court of Accounts (State General Accounting Office) for possible damage inflicted upon the state.

Obviously, all of the above should have been done after organizing adequately an efficient control, which would have resulted in a large increase of work.

With the current collection system, the financial offices examine only the reimbursement requests of the uncollectable tax rates (taxes that the system was unable to collect), while with the other system, they examine all the executive procedure operations to separate those that were successfully carried out from those with a doubtful or partly negative outcome.

The justification for these concerns finds confirmation in the high percentage of uncollectable credits for direct taxes on businesses (Registry, IVA, Estate, etc.), which are not paid at the time of registration and whose collection is demanded by the Public Registry offices and other offices of the IVA.

In this regard, it is useless to state that the tax collection would be the valid conclusion of the attribution. Therefore, since it is an obligation of the Public Administration, the collections must also be entrusted to state entities.

This concept appeared to be clear from the Santaleo Commission Relation (Proposal for the Reform of Public Administration), in which the publicity principle was required. According to this principle, the Public Administration should carry out directly the administrative action of the attribution and imposition, even through coercive methods, in view of the primary public interest to achieve a quick tax collection process and the need to guarantee this collection with an expeditious and privileged procedure, given the quality and contents of tax credits worth monitoring closer for the sake of the community.

The logical vice of this reasoning consists of taking for sure and for granted what is left to be demonstrated: that the relationship between the phase of attribution and that of collection proposes, as a logical need, the granting of both to the Public Administration.

It is enough to confirm that the attribution requires the knowledge of norms, exercising powers and application of a procedure (that is concluded with the registration of a roll) very different from the norms, powers and procedures necessary for the collection. It is precisely this separation what for long has justified the granting of the attribution to the Tax Offices and the collection to tax collectors.

Given what has been explained so far, one can conclude that the basic demand has been to guarantee the publicity nature of the activity of the new tax collection service. Since the direct administration was changed by the Public Administration, given the difficulties created by the introduction of a new system, created ex-novo, it was decided to entrust tax collection to concessionaires, subject, on the other hand, to the powers of direction and control of the Financial Administration, and the protection of public interests.

With this, the excessive concentration of the functions demanded from the new service was avoided: it was indeed observed that one of the elements guaranteeing the efficiency of the tax collection administrations, was precisely the existence of a large number of tax collection centers. These centers were administered autonomously so as to avoid the bureaucratization, rigidity and lack of responsibility from outside administrations, which are inevitable in centralized organizations.

The solutions adopted by legislators and developed successively by mandatory Decree No. 43 of January 28, 1988, imply basically the maintaining of the efficiency typical of current tax collection administrations; avoid the relevant costs that would be incurred by the state in case a new tax collection system was adopted; tend to reduce the current costs of administering the system; establish the use of personnel and existing structures; resolve the "political" problem of private collection agencies.