

Tax expenditures as an investment recovery instrument: The Case of Algeria

النفقات الجبائية كوسيلة للإقلاع الاستثمار: حالة الجزائر

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ملخص:

في إطار تنفيذ سياسة مالية تهدف إلى إقلاع الاستثمار، قامت السلطات العمومية باستعمال الأداة الضريبية من أجل إطلاق مشاريع وخلق فرص للشغل. ولقد تجلت هذه السياسة الجبائية التحفيزية في جملة من الإعفاءات والتخفيضات الضريبية التي نستفيد منها المشاريع الاستثمارية. ومع ذلك تبقى هاته الأداة صعبة التطبيق في الواقع لأنها تتطلب تأطيرا قانونيا وماليا محكما من أجل استعمال مشروع , فعال وناجع للوسيلة الجبائية.

تهتم هذه الدراسة بتسليط الضوء على النفقات الجبائية المنصوص عليها في النظام المشترك للقانون الضريبي, كما تهتم أيضا بتحليل مدى توافق هذه الإعفاءات مع المبادئ الأساسية التي تحكم الاستخدام القانوني والمالي العقلاني للأداة الضريبية لاسيما ما تعلق منها مبدأ الموافقة على الضريبة، مبدأ العدالة الجبائية ، مبدأ بساطة وفعالية النظام الجبائي ومبدأ نجاعة النفقات الجبائية. إن الأخذ بهذه المعايير لا يكون إلا بإخضاع السياسة الجبائية لرقابة مجلس المحاسبة وفتح المجال للطعن في عدم دستورية بعض الضرائب عن طريق البرلمان وذلك عدم تطابقها مع المبادئ الدستورية . هذا يقتضي ترشيد النفقات الجبائية إخضاعها لتقدير سابق ولاحق حتى تكون هذه الأخير ذات فعالية وتجنبنا لتبذير المال العام.

الكلمات المفتاحية: ضريبة؛ نفقات؛ عامة؛ تمويل؛ عدالة.

Abstract:

As part of the implementation of a fiscal policy intended to stimulate investments, public authorities have mobilized the tax instrument to promote the launch of investment projects in addition to the creation of employment through tax expenditures resulting from tax exemptions. However, the use of taxation as a means of encouraging investment is difficult to implement in practice as it requires the application of strict legal and financial guidelines for the legitimate, rational, and efficient use of budgetary expenditures.

This study highlights tax expenditures under common tax law as well as the analysis of the compatibility of tax exemptions with the fundamental principles governing the proper

legal and financial use of the tax instrument. Adopting these standards requires subjecting the tax policy to the oversight of the court of auditors and allowing the possibility for parliament to challenge the constitutionality of certain taxes when they do not conform to the constitutional principles governing taxation. Moreover, rationalizing tax expenditures necessitates subjecting them to both prior and subsequent evaluation to ensure their effectiveness and to avoid the waste of public funds.

Keywords: Tax; expenditures; investment; public; finance; equity.

Introduction:

Economists have always had a great interest with regard to the relationship between taxation and the economy. This thought emerged explicitly with the studies of the English classics and the French physiocrats in the middle of the 17th century who called for economic freedom to counter the increased poverty in Europe¹. Moreover, these philosophers insisted on the neutrality of the intervention of the State, considering that any intervention in the economy, either by tax or any other means, is deemed negative as it generates distortions at the level of the market².

This thought is the very basis upon which progressive tax-averse conceptions of classical economists are based on. Never the less, these ideas have led to the establishment of the relevant principles on which current tax systems are grounded on. For instance³, the progenitor of classical economic theory: Adam Smith in his book, "The Wealth of Nations" published in 1776, he set forth the four relevant tax principles, also known as the four canons of taxation: equality, certainty, convenience, and the economy. These principles represent the principles of common sense and the key to the establishment of the current tax systems, which have become obvious and need not be revisited⁴.

In contrast to the classical liberal movement, KEYNES J.M developed the general theory of employment, interest, and money. According to which, the State must intervene in the economic field to compensate for market failures which do not necessarily lead to the economic optimum according to the law of spontaneous equilibrium as advocated by the classical liberal theory⁵. The theory of KEYNES was very successful in the face of the great depression of 1929, this, in turn, demonstrated the limits of classical liberal theory.

It turned out that the stock and banking market were unable to stabilize spontaneously, thus leading to the occurrence of the biggest known crisis in economic history affecting America and European countries in particular. For the afore-mentioned reasons, the Keynesian theory was put into practice during the period of end of the Second World War, and until the mid 1970⁶. During this period, States were forced to intervene gradually in economic life in order to stimulate its growth. Consequently, the State must play a role of a regulator; this notion of regulation appeared for the first time in the United States on the occasion of a "new deal". This theory attributed a significant role to the welfare State, the regulator of economic activity, namely the State that oversees the various economic objectives such as full employment, inflation, etc⁷. On the fiscal front, Keynes recommends the use of an expansionary fiscal policy or stimulus in the event of a recession with increased public

spending and lower taxes. In times of inflation, it recommends the adoption of a tight fiscal policy that manifests itself in an increase in tax levies paired with a decrease in spending. According to this theory, the tax is not a mere levy, but rather a driving instrument of economic regulation. The incremental and sectoral effects of taxation, public expenditure, and monetary policy are placed at the forefront of economic policy⁸.

After the Keynesian theory was widely disseminated during the post-World War II period, it was challenged in the middle of the 19th century both academically by the new classical school, and politically as most advanced countries recorded low growth with high inflation despite the Keynesian revival policy. The middle of the 19th century marked the rise of a new classical school called neoclassical, which is a modern liberal school of economic thought.

This school attempted to demonstrate that Keynesian politics had led to a stagnate growth accompanied by high inflation⁹. As a result, market self-regulation became again the dominant economic approach over the economic policies of Western countries. Despite the fact that the latter have marked many interventions during periods of economic crises, such as the financial crisis of 2007, and the COVID-19 pandemic, through which, the most affected sectors of the economy have benefited from many privileges, including tax relief. In 2003, Canada, France and the United States resorted to tax incentives, in such a way that 65% of tax expenditures were aimed at economic objectives versus 35% of social objectives¹⁰. Nonetheless, the non-interventionism of the State remains the fundamental principle of Western liberal thought.

In countries in transition to a market economy such as Algeria, the public authorities are helping to revive their fragile economies through various means, including tax expenditures.

This practice emerged with the structural adjustment reforms for the transition to the market economy in the 1990, however, it is worth noting that it was only until the 2000s that tax exemptions have grown in Algeria. As a result, an exorbitant number of tax privileges were introduced to boost investment.

Although the relationship between taxation and development is theoretically evident, it is still the subject of much controversy regarding its effectiveness in practice. This tax-development relationship is complex and difficult to implement especially for economies in transition as it depends on several economic and political factors¹¹. Many developing countries are using the tax instrument in a way that deviates from the economic logic underpinned by the objective criteria of effectiveness, efficiency and fairness of the tax system. The economic transition is a decisive phase that requires the judicious choice of economic and fiscal policies in order to ensure a smooth transition with the rational exploitation of the instruments of good governance.

In the implementation of this policy, public authorities are required to respect the fundamental principles governing the tax system and public finances, namely the principle of

equality before taxation, the principle of efficiency and effectiveness of the tax and financial system.

The present study attempts to define the main privileges provided in common tax law in favor of investment, while also trying to examine their compatibility with the common-sense principles governing the tax system and public finances.

1- The definition of tax expenditures

Tax expenditures represent a loss of tax revenues resulting from tax exemptions introduced by legislation. Tax expenditures are also referred to as “tax exemptions” or “tax niches”. However, when tax expenditures are intended to encourage behavior, it is preferable to use the term “tax incentives”¹².

In Algeria, the concept of tax expenditures lacked a clear legal definition, as indicated by the report of the Court of Auditors on the draft law on the budget regulation for the 2013 financial year (Appraisal report of the draft law regarding budgetary, 2013)¹³. The first definition is the one adopted by the 2011 Ministry of Finance report that defines tax expenditures as “the tax benefits granted by the State in order to encourage the activities of regions, companies or social categories by voluntarily renouncing part of its tax revenues”. The advantages granted in this framework are intended to encourage a class of taxpayer, a type of product, service, or economic, social, cultural or geographical activity. However, our study focuses solely on economic tax expenditures and particularly those aimed at stimulating investment. Algerian tax law provides a substantial number of tax exemptions in order to promote investment. These tax exemptions are covered by various legal texts, including tax codes, the law on investment, and the various free trade agreements. This study focuses solely on tax expenditures under common tax law, that is, “the set of legal rules applicable to all tax situations that are not the subject of special or particular rules”.

A considerable part of the derogations appeared with the 1992 tax reforms, but it was from the year 2000 that the tax derogations began to take on an exorbitant nature. These privileges can be divided into two categories: sectoral measures and privileged companies.

1.1- Sectoral measures

Sectoral measures can be grouped into two categories: privileged sectors and favoured activities.

A - The privileged sectors

Tax law favors four main sectors, the agricultural sector, the tourist sector, the craft sector and the cultural sector.

The agricultural sector benefits from an exemption in terms of global income tax, and in terms of Corporate Income Tax (CIT). Under the global income tax, the permanent exemption was introduced under the 1992 Supplementary Finance Act and was intended for income generated from cereals and pulses¹⁴. The scope of exemption was then extended

to include income from date cultivation under the 1999 Finance Law¹⁵. This derogation was further extended with article 6 of the 2011 finance law in favor of income from raw milk intended for consumption in the state¹⁶. Under corporate tax, the permanent exemption for activities relating to raw milk for consumption was also introduced in the 2011 Finance Act¹⁷.

As for the tourism industry, the preferential tax system was introduced with the Complementary Finance Act (CFA) for 2009 which grants to this sector privileges in terms of tax on professional activities (hereinafter "TPA"), registration fee, and corporate tax. The amount achieved in foreign currency by the tourist activities hotels, spas, restaurants classified and travel agents is deducted from the turnover for the calculation of the TPA¹⁸. Thus, the acts of construction and capital increase of tourist companies are exempted from the registration fee¹⁹. With regard to corporate tax, the temporary exemptions benefitting the tourism sector appeared with Article 10 of the 2011 Finance Law²⁰. The exemption period is 10 years for tourism enterprises other than tourist agencies, travel agencies as well as travel semi-public companies. Furthermore, tourist and travel agencies as well as hotel establishments benefit from a 3-year temporary exemption on the turnover achieved in foreign currency²¹.

The craft sector benefits from tax privileges pursuant to flat-rate tax, and income tax. Under the flat-rate tax, the permanent exemption was established with Article 13 of Complementary Finance Act (CFA) in 2008 for the benefit of traditional craftsmen as well as those engaged in the activity of fine craftsmanship²². For craftsmen subject to income tax, the duration of exemption is 10 years. This benefit goes back to the 1993 Finance Act, which, for the very first time, defined exemptions from income tax²³.

At the cultural sector level, the revenues generated by the theatre companies are subject to permanent exemption regardless of their tax regimes be it flat-rate, income or corporate tax. This privilege was created with respect to the income tax, and the corporate tax with the 1993 Finance Act, which determined for the first time the exemptions for these taxes²⁴. Moreover, the Finance Act 2015 instituted another cultural privilege in such a way that the sums generated on the occasion of scientific, artistic or cinematographic literary works are not included in the base of income tax²⁵. With regard to the flat-rate tax, the permanent exemption in favor of theatrical revenue was created with Article 13 of the Complementary Finance Act (CFA) for 2008 amending Article 282 octies DTC²⁶.

B- The privileged activities

Besides the sectoral measures, tax law also provides privileges in favor of certain activities, whether it be on flat-rate tax, income tax, or corporate tax. Since its establishment in 2007, the single flat-rate system has favored the production and sale of goods with the implementation of a reduced rate²⁷. This rate was first set at 6% of turnover, and then lowered to 5% in 2015. For the remainder of activities, in particular service provision, the rate is set at 12%²⁸.

The Flat Rate Scheme provides, since its establishment in 1991, a prerogative for

exclusivebakery activities with the application of a 50% reduction in profit achieved²⁹. This reductionwas changed to 35% with the 1998 Finance Act³⁰. Subsequently, the 2011 Finance Actmodified the structure of the arrangements relating to this privilege by applying a rebatesolely to the profit reinvested within the limit of 30%.

When the corporate tax system was introduced in 1991, it provided for a single rate of 42%which would apply equally to all activities without discrimination. This rate was, then, reduced to 30%, and then to 25%. This single rate system called flat tax is adopted by manycountries in Eastern Europe. In contrast, the majority of Organization for Economic Cooperation and Development OECD countries adopt the progressive income tax scale as afairer mean. For Algeria, the preferential rates were first introduced with the 2008Complementary Finance Act. The preferred rate was reduced to 19% exclusively for thebenefit of productive enterprises. It is worth noting that the trade and service activities werestill subject to the 25% rate³¹. Then, the scope of the preferential rate of 19% was extended tothe benefit of building activities and tourism³². In 2014, this privilege was further extended toinclude travel agencies³³. Following the extension of the preferential rate, the ComplementaryFinance Act 2015 has, yet again, restricted its scope exclusively to the benefit ofmanufacturing activities³⁴. Additionally, an intermediate rate of 23% was introduced for thebenefit of Building, Public works and Hydraulics (BPWH) activities, as well as tourist andspa activities excluding travel agencies. For trade and services activities, the rate wasincreased to 26%.

1.2- The privileged companies

Common tax law offers a wide range of tax incentives to certain enterprises. The term“enterprise” used here includes the various forms of enterprise permitted by law, whether it isthe sole proprietorship or the enterprise comprised of several partners. Two types of taxprivileges can be distinguished in this respect. On the one hand, there are privileges offered toemerging companies, and on the other hand, privileges offered to the group of firms.

A - Emerging companie

Common tax law provides a dual incentive plan for emerging companies. On the one hand,there is the tax incentive scheme for project leaders eligible for financial aid schemes such asNational Fund for Unemployment Insurance NFUI , National Agency Supporting YouthEmployment NASYE and National Micro Credit Agency NMCA , and on the other hand,there are tax privileges granted to startups.

Intermediation institutions in the labor market³⁵ such as NFUI³⁶ and NASYE³⁷ were created inAlgeria to absorb unemployment, which experienced an unprecedented rate in the 1990. Thisis the inevitable result of the adoption of the economic restructuring or structural adjustmentprograms (SAP) accompanied by redundancy measures (Mayoukou, Kertous and Ayoub,2020). Furthermore, the very favorable oil market condition, during the years 2001-2013,allowed the creation of NMCAas an intermediary institution led by the public

authorities to manage the malfunction at the level of the job market. These institutions, in coordination with the public banks, commit themselves to financing investment projects. In addition, project holders enjoy many tax privileges granted to them under tax law. The first incentive granted to investment as part of intermediation institutions in the labor market in Algeria refers to the 1997 Finance Act, which granted for the first time a temporary exemption of 3 years for the benefit of young entrepreneurs receiving financial assistance from NASYE. In 2009, a new permanent exemption was added in favor of project holders eligible for NMCA support. The preferential tax system was unified for investments benefiting from the three schemes NFUI, NASYE and NMCA with the Complementary finance law 2011.

During the implementation phase of the project, exemptions for registration and VAT are offered. In terms of registration fees, the benefits were created by the 1997 finance Act, which provided, in article 35, an exemption from transfer tax against a payment on property acquisitions with a view to creating an industrial activity³⁸. Furthermore, Article 37 of the same Law instituting Article 347 quinquies C.E, provided for the exemption from all registration fees for deeds of incorporation of companies³⁹. As far as VAT is concerned, Investment or extension project holders benefit from a VAT-free purchase for the acquisition of capital goods and services entering into the investment process. Benefitting from the aforementioned privilege are passenger vehicles which are also the main tool of this activity. It should be noted that this advantage was initially created solely for the benefit of project holders eligible for ANSEJ⁴⁰ aid, and then the scope was extended to also benefit projects that are eligible for assistance from the three ANSEJ institutions, ANGEM and CNAC with the Complementary Finance Act 2011⁴¹.

During the operational phase of the project, promoters may opt for either the flat-rate or the real regime. The flat-rate regime offers a three-year temporary exemption that can be extended to five years in the case of a recruiting at least three employees with a permanent contract. This privilege was established by the Finance Act 2015⁴². However, promoters remain subject to the payment of the minimum tax of 10,000 DA. Again in 2017, another benefit was created allowing for a split payment in three instalments: 50%, 25%, 25%⁴³. In addition to the favorable deduction scheme, taxation on actual earnings regime offers a 3-year temporary exemption to eligible promoters using these schemes⁴⁴.

For the second category of emerging companies that are startups, this concept emerged in Algeria with the economic and fiscal reforms introduced by the new government in the year 2020 with the creation of the Ministry of micro-enterprises of startups, and the knowledge-based economy. For the first time, the Finance Act for the year cited in Article 69 provided for an exemption from corporate tax and VAT regarding commercial transactions carried out by startups⁴⁵. A year later, the 2021 Finance Act developed the tax system for startups. These companies are now exempt from tax on professional activity (TPA), income tax or corporate tax for four years from the date of the company's approval as a startup. In case of a renewal, the tax holiday is extended for an additional year. To encourage the creation of this type of enterprise, the equipment directly linked to the creation of startups is exempt from VAT and subject to a 5% reduced rate of customs duty. The 2021 Finance Act also introduced tax privileges for start-up incubators. They benefit from a VAT exemption in respect

of equipment acquired for the construction of a business incubator. Accordingly, a tax holiday from the TPA, and the income tax, or the corporate tax is offered to these companies for two years⁴⁶.

B - Group companies

Tax law grants a myriad of tax privileges for the benefit of group of companies, in addition to the consolidation of results. Dividends received by the parent company in its shareholding in other group member companies are deducted from the taxable profit. Capital gains on the sale made in the context of exchanges of all alienable and transmissible elements owned by the company are thus deducted for the calculation of the same tax⁴⁷. Therefore, transactions between companies in the same group are exempt from TPA and VAT. This privilege was established by the 2007 Finance Act⁴⁸.

The system of consolidation of the results appeared in Algeria with article 14 of the 1997 Finance Act. It is a tax integration system that allows managers to present a single summary document covering all of the operations of the entire group. The option for the consolidation regime is binding for a duration of 4 years⁴⁹.

In order to benefit from this privilege, the group of companies must fulfil all formal and substantive requirements. Formal conditions as in the group of companies must have the status of joint-stock companies. As such, other types of companies are excluded from the consolidation of the results regime. With regard to substantive conditions, the purpose of companies must not fall within the field of hydrocarbons. This industry is specifically excluded from the rules governing the consolidation of results by Article 138a DTC. Art 138a also requires that relations between companies belonging to the group must be governed exclusively by the provisions of the Commercial Code in order to exclude public economic enterprises from the scope of consolidated results. Furthermore, the parent company must hold at least 90% of the capital of the member companies. The capital of the holding company must not be held directly or indirectly by its subsidiaries. It must also not be 90% owned by a third-party company. Previously, the legislator also imposed another condition requiring the achievement of a positive result during the last two fiscal years. This condition was repealed with the 2012 Finance Act⁵⁰.

After having defined the main tax expenditures provided for by common tax law, we now move on to analyzing their compliance with the fundamental principles governing the tax system and public finances, in particular the principles of fairness and efficiency as factors influencing the effectiveness of the fiscal and financial system.

2- Compatibility of tax expenditures with common sense principles

As part of the implementation of tax policy, in particular the investment incentive policy, public authorities are required to respect the fundamental principles governing the tax system and public finances under penalty of illegitimacy.

2.1 Principles governing the tax system

There are four fundamental principles that maintain the balance and legitimacy of the tax system: the principle of consent to taxation, the principle of equality before taxation, and the principle of simplicity and efficiency in the tax system. These principles are of economic genesis referring to the four maxims of Adam Smith: the principle of fairness, certainty, convenience and economy⁵¹. These principles are considered today as evidences upon which it is impractical to go back on. According to the principle of fairness, taxpayers must participate in the support of public authorities public burdens proportion to their ability to contribute, that is, in proportion to their income. According to the principle of certainty, the tax must be established according to stable rules and not arbitrary ones. This definition is close to the principle of consent to tax. According to the principle of convenience, the tax must be established on terms that are less inconvenient for the taxpayer, which is what is now called the simplicity-efficiency of the tax system⁵².

A - Breach of the principle of consent to taxation

Although the initiative of tax law belongs to the executive power, its discussion, its adoption, and its amendment still remain within the purview of parliament⁵³. The Constitution provides that the creation of the tax standard and its base is primarily a matter of parliamentary jurisdiction. According to this competence, only the parliament, that comprises of the elected representatives, has the authority to lay down the rules concerning the base, the rate, and the methods for collecting taxes of any kind⁵⁴. In the Algerian practice, however, parliament only plays a marginal role in the development of the tax standard. This means that taxpayers who are the recipients of tax texts do not participate in the development of tax texts, which, in turn, represents a breach of the principle of consent to taxation.

In order to avoid the debate that may call into question choices already established by the executive power, the latter uses the creation of the tax standard including tax exemption through the finance acts and the complementary finance laws. The use of these two methods is explained by the special adoption procedures. The finance act must be discussed and voted on within 75 days. In these circumstances, tax exemptions cannot be seriously discussed in terms of their impact on the rights of taxpayers. In Algeria, the three main tax codes (Direct Tax Code (DTC) and Equivalent Charges, Turnover Tax Code as well as Tax Procedures Code) have been adopted by finance laws. Moreover, the President of the Republic intervenes to legislate during the parliamentary recess through Complementary Finance Laws. The constitution allows this practice in exceptional cases for urgent matters, but in Algerian practice, the executive intervenes almost every year to supplement or amend the initial finance act. Noting that of the eleven Complementary finance laws established during the period 2000-2012, eight are of presidential ordinance.

B- Breach of the principle of tax equality

Taxation is an important lever for economic development. Tax revenues are essential

budgetary resources for financing economic and social policies, particularly for low-income countries such as Algeria. The increase in fiscal resources allows the developing country to avoid external loans which are uncertain and unpredictable. If the increase in fiscal levies is warranted by the extension of State intervention in economic and social life, then, the tax contribution must be distributed among all citizens at the rate of their capacity. This is referred to as 'the principle of tax equality'. The right to fair taxation is guaranteed by the constitution with article 82 which stipulates: "No tax may be instituted except by virtue of the law. Taxpayers are equal before taxes. The law determines the cases and conditions of total or partial tax exemption".

However, the Algerian tax system is essentially based on the collection of indirect taxes, in particular consumption taxes, which account for a preponderant share of all tax revenues. The preference of collection through indirect taxes instead of direct taxes has led to a very large imbalance in the Algerian fiscal system. Indirect taxes account for almost 68% of ordinary tax revenue compared to 32.19% for direct taxes (Djelil and Laaridji, 2019). This imbalance has caused the principle of tax fairness to be broken because taxpayers who do not have sufficient means to live have no choice but to go through all of their income. The share of consumption taxes they pay, compared to their income, is much higher than the share of the well-off taxpayers.

The Court of Auditors pointed out, in its appraisal report of the preliminary bill on the budgetary regulation for the financial year 2013, that there was a serious shortfall in the collection of direct taxes, in particular the total income tax, consisting of nearly all employees' contribution. These insufficiencies in tax collection are due to many factors including the extension of tax benefits granted to investment which have resulted in a tax shortfall for the State budget.

With the collapse of the oil price from 2014, and the complete depletion of the revenue regulation fund in 2017, the public authorities have resorted to a rigorous fiscal policy which is manifested by an increase of taxes indirectly affecting income. This policy has led to the breach of the principle of equality before taxation as a fundamental principle on which the legitimacy of tax levies is based upon. The only authorized body to exercise control over the conformity of tax legislation with the constitutional principle of equality before taxation is the Constitutional Council.

The Constitutional Council exerts such control by means of a referral. Except for the executive power, the power of referral is possible by 40 deputies of the nation's council. However, in practice, the parties of oppositions do not reach the legal quorum to carry out this power of referral.

On the other hand, the Constitution provides for the referral to the Constitutional Council by the Supreme Court or the State Council, where one of the parties at trial contends before a court that the legal or regulatory text, on which the outcome of the dispute depends, infringes the principle of equality before taxation. However, it is difficult to consider the feasibility of this process in practice.

C - Violation of the principle of simplicity and efficiency of the tax system

With the extension of tax exemptions, the Algerian tax system remains unstable, very complex and therefore inefficient. During the period 2009-2012, the number of amendments (notably in the form of exemptions or new taxation) made to the Finance Acts amounted to 278, an average of 70 amendments per year (Yelles Chaouche, 2014). Again, some of the changes, such as exemptions and new taxation, are not in the sections of the finance act, but in the section entitled “miscellaneous tax provisions” or “miscellaneous provision”. These changes do not appear in the tax codes in which they correspond to, thus, they are difficult to identify. Furthermore, the complexity of the tax system negatively affects its effectiveness. In the face of a complex tax system, taxpayers do not act in the direction intended by governments as the latter do not persuade them to make optimal decisions. This complexity does not allow them to understand the privileges they are offered.

2.2- Principles of Public Finance

Tax expenditures are considered to be budgetary expenditures translated into revenue losses to the State budget. To achieve this, tax expenditures must follow the principles of good governance in public finances, represented by the principle of efficiency, effectiveness and rationality. Adam Smith expresses these three principles simultaneously by the principle of economy according to which the costs of tax collection must be reduced as much as possible. The tax must have a positive return: the control costs must not exceed these revenues. Thus, J.B. SAY considers that the best financial plan consists of the minimization of expenditures as well as the reduction of taxes. The principle of efficiency is put forward as a relevant principle in current OECD studies to identify the optimal taxation of recent tax systems.

Efficiency means achieving the objectives at a low cost to the community. In order to achieve a rational use of tax expenditures, they will have to be the subject of an evaluation and impact assessment both *ex ante* and *ex post*. Tax expenditures must also be subject to audit by the Court of Auditors. This body is supposed to examine the quality of public financial management in terms of efficiency, performance and economy. In France, for example, the Court of Auditors plays an active role in assessing tax policy. This body automatically sends traditional evaluation reports to parliament. Furthermore, the Court of Auditors may be asked to evaluate a public policy by the President of the National Assembly or the President of the Senate, on their own initiative or on a proposal from a standing committee in their area of competence or from any permanent body set up within one of the two parliamentary assemblies. The purpose of this is to carry out the evaluation of public policy, the scope of which goes beyond the field of jurisdiction of a single standing committee. The role of the Court of Auditors in the evaluation of tax policy in Algeria is mainly limited to the assessment reports of the draft budget regulations. The Algerian constitution recognizes only a minimal role for the Court of Auditors in the evaluation of public expenditure policy. The role of the Court of Auditors remains limited both quantitatively and qualitatively. These reports and decisions remain undisclosed on their contents. The explanatory reasons are due to the lack of political determination in the implementation of this

type of control. The 2013 Court of Auditors assessment report noted that tax expenditures result in a shortfall in the State budget. The report also highlighted the mismanagement of tax expenditures, whether they be legal, organizational, or financial. From a fiscal perspective, tax expenditures are not subject to an evaluation mechanism. The tax authorities do not have an information system enabling them to assess the overall cost of the expenditure and its impact in terms of efficiency.

Conclusion:

Tax expenditures, as a stimulus to investment, are difficult to implement in practice, requiring a strict legal and financial framework under the influence of illegitimacy, inefficiency and imbalance in the fiscal and financial system. For a more rational and efficient use of public expenditure, tax exemptions will have to be assessed *ex ante* and *ex post*. For example, the assessment of the initial loss of revenue, the assessment of the final loss of revenue, and the evaluation of expenditure. It is also necessary to maximize the supervisory role of the Constitutional Council and the Court of Auditors as bodies responsible for verifying the conformity of legislative and regulatory action with the Constitution as well as verifying the conditions of use and management of public finances.⁵⁵ Adopting these standards requires subjecting the tax policy to the oversight of the court of auditors and allowing the possibility for parliament to challenge the constitutionality of certain taxes when they do not conform to the constitutional principles governing taxation. Moreover, rationalizing tax expenditures necessitates subjecting them to both prior and subsequent evaluation to ensure their effectiveness and to avoid the waste of public funds.

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