



Procedural and punitive mechanisms to combat tax evasion in Algerian legislation

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Abstract:

Tax is one of the most important sources of national income for many States, since it imposes various taxes on their citizens, often providing for the obligation of such taxes by means of the Constitution, in order to give them some importance, and suggesting to their citizens that it is an irrevocable duty.

Therefore, the taxpayer often resorts to tricks and actions in order to get rid of the tax payment, which is known as tax evasion. Tax evasion is an offence defined by most societies, considering that the tax itself exists, which is one of the legislators' most important concerns because it threatens and diminishes the existence of the tax system.

Keywords: Tax laws; tax evasion; tax system; cash; fraud; tradition.

Résumé :

La fiscalité est l'une des sources les plus importantes de revenu national pour de nombreux États, puisqu'elle impose à leurs citoyens divers impôts, prévoyant souvent l'obligation de tels impôts par le biais de la Constitution, afin de leur donner une certaine importance, et de faire comprendre à leurs citoyens que c'est un devoir irrévocable.

Par conséquent, le contribuable a souvent recours à des astuces et à des actions pour se débarrasser du paiement de l'impôt, ce qui est connu comme l'évasion fiscale. L'évasion fiscale est une infraction définie par la plupart des sociétés, considérant que la taxe elle-même existe, ce qui est l'une des préoccupations les plus importantes des législateurs car elle menace et diminue l'existence du système fiscal.

mots clés : Lois fiscales; évasion fiscale; système fiscal; trésorerie; fraude; Tradition.

Introduction:

Most countries, whether developing or developed, seek to achieve comprehensive economic development by relying on a set of economic and development programs that contribute to financing the public treasury. However, despite the differences in countries' economic capacity and the size of the investments they implement, they agree on the importance of taxes as a primary source of financing their public treasuries.

Tax is considered a major financial source and an effective tool for enhancing national economic growth and financing public projects, making it one of the most important means that contribute to covering the state's public burdens. The latter imposed on every natural or legal entity the requirement to pay it to the state under compulsion. This raised the tax system to a central priority within the economic policy framework of Algerian state officials.

Despite Algeria's great interest in taxes, those who are obligated to pay them consider them a heavy burden due to their lack of tax awareness.

The violation of tax responsibilities was evident in the taxpayer's evasion of their tax payments., prompted the Algerian legislator to enact legal measures aimed at reducing and combating tax crimes, through continuous monitoring aimed at enhancing tax awareness among taxpayers and strengthening their interaction with the tax authorities, while simultaneously imposing deterrent penalties for the duration of the violation.

Given the consequences of tax evasion, which negatively affect the national economy in general and the state treasury in particular, led the Algerian legislator to take a series of strict measures to limit this crime, which prompted us to pose a main question:

How effective is the what are the procedural and punitive measures adopted By the Algerian legislator to combat and eliminate the crime of tax evasion ?

To address the issue at hand, we chose to adopt an analytical approach by examining the content of legal texts and the mechanisms implemented by the legislator to combat tax evasion.

First requirement: Procedural mechanisms to combat tax evasion

Taxes are one of the financial pillars that contribute to covering the state's public burdens and financing its treasury. However, anyone who follows the economic system of any country, regardless of its level of progress, will find that It undoubtedly confronts the phenomenon of tax evasion, which represents one of the most significant challenges and obstacles facing the tax legislator who works to combat and limit this phenomenon.

that Proving and following up on tax crimes is one of the most important foundations that work to combat tax evasion, so the legislator paid special attention to it by emphasizing the procedures that must be followed by those charged with proving this crime, in addition to using tax reports as a means of proof, as well as the resulting judicial follow-ups.

Section One: Proving the crime of tax evasion

As a result of the negative impacts associated with this issue of tax evasion Then Tax legislation always seeks to surround this crime with solid procedural rules, proof The most important action taken by the administration against taxpayers is the identification of individuals authorized by law to establish proof of this crime, as well as to state the tax reports and their evidentiary force.

First: Persons qualified to prove a tax crime

Describe the tax legislation laws as inconsistent in identifying the persons responsible for proving tax crimes ,This prompted the legislator to identify some special categories to be researched and proven, although they differ from one text to another.

The Tax Law clearly designates the agents authorized to establish proof of the crime of tax evasion, which is what It included article 504 that All authorized and sworn tax administration agents are specifically charged with proving violations and infringements Of the laws and regulations pertaining to indirect taxes.” (Order 76-104, 1976).

Regarding the Business Tax Law, the legislator incorporated provisions in Article 112 of the text a group of persons who were given the authority to prove tax evasion ,Violations are proven either by evidence Under general law or through reports prepared by judicial police officers or agents from various tax administrations, including direct taxes and registration, as well as by customs services or bodies concerned with the suppression of fraud and economic violations (Article 112 Order 76-102).

As for the Direct Taxes and Similar Fees Law and the Registration Law, they did not refer to the persons qualified to prove tax crimes, We also find that the Tax Procedures Law did not detail this

precisely, as it sometimes referred to tax administration agents, and the financial agents once again to prove the tax crime. (Shabtata,2012, p141).

secondly. Tax records as a means of proof

The tax administration resorts to use various means of proof, but they are often. do not resort to tax records as a means of proof ?, Given. Because it has the evidentiary power to uncover and prove the crime have an agent.

1. Definition of tax report

The tax report is defined as the final document that represents the tax administration's conclusive stance on the errors identified by investigators during the monitoring process, through which the investigation process is closed, which must show all the information that enables an understanding of the degree to which taxpayers comply with the established procedures, as well as evaluating the results of the investigation.

2. Types of tax reports

It is The inspection and seizure report is a crucial tax report that the tax administration uses to demonstrate instances of tax evasion to the evidentiary value that they possess.

A- Inspection report:

The inspection report is a legal document issued after the tax administration has exercised its right to inspection, The tax authorities exercise this right when they know that there is evidence indicating that the taxpayer is using fraudulent manoeuvres of any kind with the objective of avoiding tax payment, as stated in Article 34 of the Tax Procedures Code (Oulad Salem Quraishi 2022, p 80), the tax administration is granted the right to exercise control when there is evidence indicating fraudulent practices. It may authorize legally qualified agents, who hold at least the rank of inspector, to carry out inspection procedures in various locations. The aim of these procedures is to search for, obtain and seize documents, papers, props or other material elements that may prove actions aimed at avoiding the tax base, tracking, and fulfilling tax obligations. (Article 34 of the Tax Procedures Law).

Accordingly, the inspection report is a document prepared by qualified employees and personnel, in which all data is recorded after the inspection process is completed.

B- Record of seizure

Seizure is also one of the most Important measures that the tax administration employs to address taxpayers who evade their tax obligations include the following legislator did not set a definition, The tax seizure report is defined as, a legal report prepared by tax administration agents and judicial police officers authorized to prove tax crimes to prove violations by seizing objects ,Or documents reserved in my written editor accurately ,In order to preserve these items and documents for use in the proof process before returning them to their owners. (Sherifawi, 2021, p234)

The Indirect Tax Law outlined both the formal and substantive procedures concerning tax seizures report in Articles 506, 507 and 508, which stipulated the essential formalities that must be available in the tax seizure report.

Section Two: Prosecution in the crime of tax evasion

Criminal prosecution for tax evasion The process starts with the Public Prosecution filing a public lawsuit before the appropriate judicial authority to address the tax offense. For the public tax lawsuit to expire, certain general conditions and specific reasons outlined by the Algerian legislator must be met.

Firstly :Initiating a public tax lawsuit

The Algerian legislator mentioned the term complaint in many texts without establishing a concept for it Specific ,It can be relied upon to define the complaint, and accordingly we are guided to define the complaint through the definitions provided by jurists, where it is defined as: the procedure by which the victim in some crimes expresses his desire to remove procedural obstacles that prevent the competent authorities from applying the provisions of the Penal Code, called "complaint."

It is also known as the grievance filed by the victim with the appropriate authorities, seeking the commencement of public action in specific situations crimes that cannot be initiated before the complaint is filed in accordance with what the legislator stipulates. (Hassouna, 2020, p 10).

With regard to tax evasion crimes, The legislator has limited the Public Prosecution's ability to initiate a public lawsuit., as the lawsuit can only be initiated based on a complaint submitted by the Tax Administration ,Specifically from the competent state tax director I Regionally ,This is what is

stipulated In Based on Article 104 of the Tax Procedures Law, which references Article 305 of the Direct Taxes Law, Article 534 of the Indirect Taxes Law, Article 119 of the Business Tax Law, Article 34 of the Stamp Law, and Article 119/02 of the Registration Law, it can be concluded that complaints related to all tax laws are governed by the provisions outlined in Article 104 of the Tax Procedures Law, This complaint is submitted by the competent state tax director I Regionally ,After consulting the competent regional tax committee, which is established by a decision of the Director General of Taxes.

Since this amendment, no one other than the state director can delegate someone else to file a complaint. Rather, it has become mandatory ,he must submit the complaint in person ,Provided that it is submitted in correspondence with the appropriate Public Prosecutor, following the initiation of a public lawsuit by the relevant authority, the validity of the complaint is affirmed. The prosecution is tasked with directly compiling the case file and arranging for it to be presented before the competent judicial authority, which is responsible for issuing summonses. the parties and submitting the necessary petitions according to the law, following other procedures as dictated According to Article 35 of the Code of Criminal Procedure, tax lawsuits are handled by criminal courts, with the Tax department responsible for enforcing penalties, tax fines, and confiscation. **(Ben Saleh , Kortobi , 2022, p 27).**

1. Conditions for the validity of the call

The legislator stipulated that initiation of a public lawsuit depends on the filing of a complaint or a report request for permission , flax crimes are among the most prominent crimes for which the legislator has stipulated that in order to initiate a public lawsuit, a request or permission must be issued by The Tax Administration, This requirement is due to the distinct characteristics of the relationship between the two parties engaged in the tax dispute, which must be based on dialogue and understanding ,not hate and punishmentIn addition to the discretionary authority held by the tax administration in adjusting the facts based on the specific circumstances and conditions of each tax violation ,therefore, the decision to file a complaint or not, I addition have the broad powers to conduct tax reconciliation ,Or exempt the taxable person and limit the penalties Administrative tax without penalties taxation.

Perhaps the purpose behind this is to provide a This provides a this serves as a safeguard for taxpayers, while the main objective of the tax administration is to gather financial resources for the public treasury rather than to impose tax penalties ,Therefore, the administration has full authority to I Whether or not to file a public lawsuit, because it is the most knowledgeable about the most successful means for it to collect its tax dues.

The Penal Code also allows the complainant to drop his complaint . the complaint is a condition Necessary, To be continued unless otherwise provided by law ,Since initiating a public lawsuit requires the presence of authorization from the tax administration as a mandatory condition for filing a lawsuit ,fi the administration may drop its complaint, imandatoryI for me The taxpayer was convicted of tax evasion ,Which results in the public lawsuit being dropped as a reason for its expiry. **(Tabti, 2019, p151)**

When talking about a complaint, we have to define its conditions to be valid and acceptable. The complaint must meet some conditions, which are:

- The complaint must be submitted by the person legally authorized to do so, such as the state tax director or the individual designated to issue it To be deemed official, the complaint must bear the stamp of the tax administration, White the tax laws and the Tax Procedures Law do not specify a particular definition of a complaint or how to submit, it is common practice to submit The complaint in writing is required to facilitate the process of identifying the parties engaged in a dispute in a thorough and precise manner.
- The complaint needs to be filed by the person who is legally responsible for submitting it, or by another person who is legally authorized to represent him in submitting it, and the presence of a public representative is sufficient in this context. Representatives are not required in all cases of crimes. If the complaint is submitted by an incompetent person, the procedure is considered invalid.

2. The fate of the case in the event of failure or withdrawal of the complaint

A- The fate of the lawsuit in the event of failure to file the complaint

If a complaint is not filed with the legally authorized tax administration, a distinction must be made during the various phases of the lawsuit. If the lawsuit is submitted to the court prior to the

issuance of the complaint, the process is considered absolutely invalid null and void because it relates to public order and is connected to an essential condition necessary to initiate public lawsuit.

If the case is currently in the investigation phase, the investigating judge is required to issue an order to dismiss the investigation because the follow-up procedures are invalid. Conversely, if the case has reached the trial phase, the court must declare the public action inadmissible in form due to the invalidity of the follow-up procedures. This plea regarding the failure to submit the complaint can be raised at any stage of the case and at all levels of litigation. (Azouz, 2019, p 266)

B- The fate of the case in case of withdrawal of the complaint

In general, withdrawing the complaint does not result in the termination of the public lawsuit. However, in cases involving tax fraud disputes, it is the opposite. That is, the Tax Department can grant a pardon to the accused once they pay all the owed taxes and fines that were subject to follow-up. The Public Prosecution cannot maintain the criminal lawsuit in tax evasion cases if the necessary conditions for pardon are met in evasion cases as is the case in some other cases subject to general law, such as issuing a check without a balance, even if the defendant settles the amount of the check. In cases of tax evasion, the Public Prosecution and its powers remain restricted, and are subject to what the Tax Directorate deems appropriate in this regard. (maeashu, 2009, p 27)

Secondly :The competent judicial authority to pursue tax crimes

The tax legislator has not specifically allocated tax evasion crimes, They are still governed by the Code of Criminal Procedure, which varies according to the seriousness of the tax offense. However, local jurisdiction is subject to specific regulations. The tax administration has the authority to select the appropriate regional court to handle the tax crime case. The court is chosen based on the location of the offense, specifically where the tax is levied, or where the establishment's headquarters is located, Therefore, we will later discuss the type of jurisdiction and regional jurisdiction

1. Specialization

The subject-matter jurisdiction of courts refers to their ability to adjudicate disputes based on their type and nature. In tax matters, subject-matter jurisdiction is to adjudicate criminal Cases are processed through different judicial bodies, such as the Violations Division, the Misdemeanors Division, and the Criminal Court, based on the nature and specifics of the offense. Article 05 of the Penal Code categorizes crimes according to the penalties assigned to them. (Azouz, 2019, p 268)

Regarding penalties, felonies are punishable by death, life imprisonment, or temporary imprisonment from 5 to 30 years. misdemeanors These offenses are punishable by imprisonment for a period not exceeding 5 years, with the possibility of a shorter sentence in certain cases according to what is stipulated in this law or special laws. As for violations, penalties range from imprisonment for a period of one day to two months, along with a fine ranging from 2,000 Algerian dinars to 20,000 Algerian dinars. (Article 05 of the Penal Code, 1966).

A- Tax violations : The Violations Department examines the actions that are considered tax violations, as stipulated in the various tax laws, which include:

- **Fraudulent Offence:** These offences are justified by using some fraudulent and deceptive methods whereby the offender can achieve his goal of evading paying taxes completely, or partially, This is what Articles 114 and 115 of the Tax Law on Business Law dealt with.
- With the exception of the general rule of subject-matter jurisdiction outlined in the Penal Code and Criminal Procedure, the Tax Procedure Code grants jurisdiction to the Administrative Court for certain violations, particularly with regard to penalties resulting from The refusal to grant the right of access as stipulated in the Tax Procedure Code. (Article 62 of the Tax Procedures Law and Article 63)

B- Tax offences: Tax legislation includes provisions that define acts considered as tax misdemeanors, which are considered by the misdemeanor court. The tax legislator mentioned fraudulent acts as an example, not an exhaustive one, because it is not possible to list all the acts and methods that fraudsters can invent. Among the acts that are classified as criminal misdemeanors, we find, for example:

- **Misdemeanor of forgery in tax returns:** The Direct Tax Law stipulates that, in addition to the applicable tax penalties, anyone who evades or attempts to evade by resorting to fraudulent acts in declaring the base of any tax, right or fee to which he is subject, whether in the total or partial investigation, shall be punished, (Article 303 of the Direct Taxes and Similar Fees, 1976)

– The Indirect Tax Law also states: “Anyone who employs fraudulent methods to evade or attempt to evade all or part of the tax base, liquidation, or payment of taxes or fees to which they are subject shall be penalized...” (**Article 532 of the Indirect Tax Law**)

C- Tax crimes It is represented in the following:

– **Tax evasion crime:** The Finance Law for the year 2003, No. 02/11 dated December 24, 2002, included a definition of the crime of tax evasion or attempted evasion by using fraudulent methods in declaring the base of any tax, right or fee subject to it, The crime of tax evasion is not considered before the criminal chamber unless it is classified as a felony, if the amount of the evaded tax exceeds 10,000,000 Algerian dinars, as this is considered a threat to the national economy and contributes to its destruction.

– **Crime of counterfeiting or forging state seals or stamps** The Penal Code stipulates that any imitation, forgery, use, manufacture or promotion of a state seal, national stamp, mark or stamp is considered a felony. (**Article 205 of the Penal Code**).

2. Specialization Regional

The jurisdiction for legal proceedings is typically established based Cases are handled by various judicial entities, including the Violations Division, the misdemeanours Division, and the Criminal Court, depending on the nature and details of the offense. Article 05 of the Penal Code classifies crimes based on the penalties associated with them, This could be the location where the penalty was imposed, where the assets were seized, or the main office of the organization in question. This authority is a unique privilege bestowed upon the Tax Administration, as no other entity possesses this right, and it must still adhere to the overarching principles set forth in the Code of Criminal Procedure.

In accordance with the regulations of the local jurisdiction, which are considered a matter of public order according to the general rules specified for misdemeanors, Territorial jurisdiction is determined by the location of the crime, the residence of one of the accused or their accomplices, or the location of their arrest. However, in tax evasion cases, the legislator has empowered the Tax Administration to designate the local jurisdiction, This allows the Tax Administration to select the court based on its jurisdiction, which may be determined by where the fine is imposed, the site of the seizure, or the headquarters of the institution. This provision serves as an exception to the general rules. (**Zerrouki, 2013, p 189**).

Most tax laws stipulate that if the individual responsible for the crime is in custody, they must be ordered to appear before the court within one month of the completion of the crime investigation report. (**Bousguia, 2018, p 425**).

Thirdly Expiry of the public tax lawsuit

Public action will terminate under the following conditions: upon the death of the accused, when the statute of limitations expires, through a general amnesty, due to the repeal of the Penal Code, or upon the issuance of a final judgment, However, if there have been proceedings resulting in a conviction that demonstrate the judgment declaring the expiration of public action was founded on forgery, then this may be contested, or fraudulent use, the action may be resumed, The statute of limitations will be considered suspended from the date the judgment or decision became final until the date the forgery occurred or fraudulent use was discovered, The public action shall also expire by implementing the mediation agreement, and by withdrawing the complaint if it is a necessary condition for the prosecution. The public action may also expire by reconciliation if the law explicitly permits it. Through this article, we conclude to The public criminal lawsuit can be dismissed for various reasons, some of which are general while others are specific.

1. General reasons for the expiry of a public action

According to Article 6 of the Code of Criminal Procedure, a public lawsuit concludes in the event of the accused's death, the expiration of the statute of limitations, the granting of a general pardon, the repeal of the Penal Code, or the issuance of a final and binding judgment.

A- Death of the accused

The right to initiate public action is forfeited upon the death of the offender, whether the penalty is classified as principal, accessory, or supplementary. If the death happens after the crime has been committed and no action has been taken, to initiate public action, any attempt to initiate it after that is considered a void action.

If the death occurs while the case is in the public prosecution stage, it is decided that it will lapse. However, The issuance of a preliminary ruling is regarded as the concluding step in the case,

and there is no possibility for appeal since the case is deemed lapsed due to the death. If the perpetrator passes away after a final ruling has been issued, the ruling will not be executed if the penalty has not yet begun to be carried out.

B- Obsolescence

The public action expires by prescription, and the application of this principle differs between criminal and tax laws.

Under Article 07 of the Code of Criminal Procedure, public prosecution for felony cases is subject to a statute of limitations after ten years from the date of the crime, provided no investigative measures or follow-up actions have taken place measures are taken during that period. If measures have been taken during this period, the limitation period does not apply until a complete decade from the date of the most recent measurement.

In the realm of taxation, the Algerian legislator has established a four-year The statute of limitations outlined in both the Indirect Tax Law and the Tax Procedures Law starts from the date the tax is owed, however, this period extends to six years in cases of direct taxes and fees on turnover, if the tax administration proves that the taxpayer used fraudulent methods to avoid paying the due rights.

C- General amnesty

A presidential pardon It is a personal measure enacted by the President of the Republic through a presidential decree, and aims to reduce or replace a sentence. This pardon requires a final and enforceable judgment that includes all or part of the sentence, but does not include the tax claim.

A general amnesty is only issued by a law issued by the legislative body, and eliminates the criminal classification of the offense, leading to the inability to commence or halt public proceedings. lawsuit at any stage it has reached, as long as a final judgment has not been issued. A general amnesty is characterized by comprehensiveness, as its effect applies to all participants in the crime, but it does not extend to the tax lawsuit by extension before the criminal judge, unless the law explicitly provides otherwise. (Azouz, 2019, p 278).

Referring to the tax laws, we find that they do not provide for a general amnesty, As a result, the effects of a general amnesty do not extend to tax-related legal disputes., unless the law explicitly provides otherwise, So far no general amnesty It was enacted by the Algerian legislature concerning the tax sector.

D- Abolish the Penal Code

The repeal of a penal code aims to implement the new legal provisions text due to a change in the facts that it was regulating. This may be done either by establishing a new legal text or without replacing any new rule. Repeal includes all legal rules related to The repealed law is annulled by the same authority that enacted it or by a higher authority.

The repeal of the Penal Code will lead to the termination of the public lawsuit if the new law is enacted before a final judgment is rendered. Additionally, if a final judgment has already been made under the repealed law, the execution of the penalty will be suspended.

E- Issuance of a judgment that has the force of res judicata

The purpose of initiating a public lawsuit is to issue a final judgment, which means that the lawsuit has achieved its goal. The judgment must be final and not subject To serve as a basis for the expiration of the public lawsuit, an appealable judgment must be final and conclusive, judicial, conclusive, and decisive judgment on the subject matter.

In order for a judgment to be valid, it must be raised In a case involving the same parties, based on the same grounds, and concerning the same subject and facts, in order to avoid multiple and diverse judgments that may be contradictory. This aims to preserve public freedoms and legal stability. ((Azouz, 2019, p 279).

2- Special reasons for the expiry of the public action

The Algerian legislator has followed the general principles established in the Algerian Code of Criminal Procedure concerning the expiration of public lawsuits. However, it has introduced specific exceptions related to the expiration of public lawsuits in cases of tax evasion, which is notable for its unique characteristics. economic and financial nature, Therefore, reconciliation came as a special reason resulting in the expiration of the public tax lawsuit, which occurs after the taxpayer, has paid the dues imposed on him and fulfilled his financial obligations towards the Reconciliation is a process that is solely conducted by the Tax Administration. (Bin Shahra- Bin Bada, 2018 , p 178).

For reconciliation to take place, Several conditions must be fulfilled, the most important of which are:

– The two parties agree to reconciliation, if they agree to settle matters amicably, The tax administration has the discretionary power to resort to Reconciliation results from scheduling the amounts due from the taxpayer and setting them in a calendar granted by the legislator to the taxpayer. In order to pay off his debts. For the difficulties they face while The dues must be paid, with a required advance payment of 50% of the outstanding debts. Additionally, the calendar grants the public prosecutor the right to request a postponement of the tax case or any investigating judge, Or before the competent judicial authorities, After this, the Public Prosecution is required to cease initiating the public lawsuit.

– Approval from the Director General of Taxes without his approval The procedure The reconciliation The procedure taken is invalid and incorrect; the approval of the director General of Taxes is mandatory and binding. (Bin Shahra- Bin Bada, 2018 , p 186)

The second requirement: punitive mechanisms to combat tax evasion

Taxes contribute significantly to financing the public treasury, which is why the state pays great attention to them. Their collection faces There are many obstacles, the most significant of which is the refusal of taxpayers to pay, using both legal and illegal methods.

Tax is a crucial source of funding for the state's public treasury. The evasion of legally obligated taxpayers from paying the required tax is a primary form of tax evasion, which poses a significant threat to the economies of many countries world wide the most important resource for the public treasury, so many penalties have been approved, Tax penalties usually include a deterrent punishment for persons who commit tax evasion crimes and are liable for a penalty.

Section One: Persons subject to punishment for the crime of tax evasion

Firstly:Taxpayer

We mean every debtor to the state treasury of amounts representing taxes, Fees or charges, whose evasion or attempted evasion, in whole or in part, constitutes a violation, This is done by submitting incomplete data to the Tax Authority, which makes it determine the tax at an amount lower than what is legally required. (Rahhal, 2007, p 31).

A debtor to the public treasury who evades or attempts to evade taxes or fees is the first to face criminal accountability, whether he is a natural or legal person, the are considered the primary perpetrator of the crime of tax evasion.

Under Article 41 of the Penal Code, the principal perpetrator is defined as anyone who directly participated in the execution of the crime, or who incited its commission through bribery, promises, threats, abuse of authority or mandate, or through fraud or criminal deception. (Article 41 of the Penal Code).

In a tax crime, only the person who is a passive party to the tax relationship is considered a principal perpetrator. There may be multiple principal perpetrators in a tax crime when there are multiple passive parties, This applies in cases of solidarity in fulfilling the obligation to pay a tax debt.

The principal can be a physical or moral agent. For instance, in the case of a company, the principal may be the owner if they direct their actions employees to submit false declarations or engage in fraudulent acts, which contributes to tax evasion. (Boudaâa, 2019, p 79)

Second: The partner

Participation is regarded as a form of criminal contribution, and the legislator defines the accomplice in the crime under Article 42 of the Penal Code, which states:

“An accomplice in the crime is someone who did not directly participate but provided assistance or support to the perpetrator(s) in carrying out preparatory, facilitating, or executing acts, with full knowledge of their actions.” (Article 42 of the Penal Code).

According to this text, the accomplice derives his criminality This liability stems from the criminal nature of the act to which the individual contributed, rather than from the criminality of the perpetrator the selves.

The accomplice is held equally liable as the principal in the crime of tax evasion. This approach is followed by most legislations the general rules set out in the Penal Code, which means that the accomplice bears full liability for the acts to which he contributed. Thus, The accomplice bears the same legal liability as the principal, depending on the extent of their contribution to the commission of the crime, whenever their actions are,linked to an original act described in the crime of tax evasion, he is punished.(Takharbit,2023, p 313), The definition of an accomplice in tax crimes This is referenced in Articles 303 of the Direct Tax Law and 120 of the Registration Law. (Article 303 of the Direct Taxes)

If the principal perpetrator of the tax evasion crime is the taxpayer who is obligated to fulfill the tax duties imposed by law, then The accomplice is the one who aided or assisted in the crime of evasion without directly committing the illegal act themselves being bound by it according to the law, Therefore, he derives his criminality from the criminal nature of the act he participated in, rather than the criminality of the perpetrator, As a result, it is not necessary for the accomplice to be punished that the punishable act occur and that it occur in one of the ways specified by law and that accomplice have the intent to participate or what is known as the moral element of criminal contribution. It is required for the accomplice to be punished that the crime in which he was stipulated occur with the taxpayer and that it be complete and It does not stop at the level of an attempt. **(Boudaâa, 2019, p 80)**

The provisions of Paragraph 02 of Article 303 of the Direct Taxes and Similar Fees Law stipulate identified some partners in the crime of tax evasion, for example, but not limited to, in its text:

“In particular, persons who illegally intervene in The trading of securities or the collection of coupons abroad, and those who have received coupons owned by others in their name, are considered as accomplices ,This is considered a form of assistance to evade special taxes in the field of income and profits from transferable securities or the process of opening undeclared bank accounts abroad.

Article 306 of the Direct Taxes and Similar Fees The law also includes other types of accomplices in the crime of tax evasion, such as business agents, experts, and accountants, The aforementioned article punishes anyone who participates in preparing or using incorrect documents Or information, whether the individual is a business agent, expert, or any other person or company that undertakes the task of keeping accounting records or assisting them for several clients, with a penalty of a tax fine. **(Boudaâa, 2019, p 82)**

Third: Legal person

This is what is stipulated in Article 51 of the Penal Code, Although the Algerian legislator has adopted the principle of criminal liability for legal entities, it specified a set of conditions that must be met in order To increase the latter's liability, it began with the requirement that the legal entity be subject to private law, i.e. excluding all This extends to public legal entities, with the obligation that the crime be committed by one of the natural persons authorized to express their will on behalf of the entity, and Algerian law has identified them in one of The liability of the legal entity is not established unless it involves the actions of its legal bodies or representatives the crime committed is in its interest. **(Wasti, 2017, p 188)**

And so The liability of a legal person is not absolute, The legislator has been keen to restrict it so that it includes only legal persons of private law, excluding the state, local groups, and public bodies of an administrative nature. As for other public bodies subject to private law, such as public economic institutions, they are subject to criminal accountability in the event that they commit the crime of tax evasion **(Bousquia,2018 , p 427)** ,Determining the legal persons subject to private law is considered one of the most important sensitive legal issues that the criminal judge must decide before pursuing the legal person from a criminal perspective, especially in light of the diversity of public and private legal persons.

Commercial companies are considered the most important of them subject to private law, which Under current Algerian law, it is subject to criminal liability, much like other the comparative legislation, including public economic institutions that take the form of commercial companies. However ,Then Public economic institutions are not only subject entirely to private law, but also It is subject to public law in its regulatory aspect and to private law in terms of organization and management. **(Sherifawi, 2021, p 122)**

Among the conditions for holding a legal entity criminally liable are:

- The offense is perpetrated by a legal entity.
- The offense must be carried out by the legal entity's representatives or its governing bodies.

Meaning That the crime was committed with the aim of achieving a material or moral interest for the legal person. This includes crimes committed by the manager or director to achieve his own personal interests during or in relation to the execution of his responsibilities, rather than in the interest of the legal entity itself.

The entities associated with the legal person governed by private law include the manager, president, director, board of directors, supervisory board, general assembly, office, and conference.

Representatives are individuals who possess the legal authority to act on behalf of a legal entity, either through legal designation or agreement, This includes roles such as manager, director, chairman

of the board, general manager, and liquidator in the case of company dissolution, as well as a temporary administrative manager appointed by a court to represent the legal entity. (Sherifawi, 2021, p 124)

Section Two: The mechanisms established for the crime of tax evasion

The Algerian lawmaker has acknowledged the criminal acts committed by taxpayers related to the violation of tax legislation and regulations. It has set penalties that the state must apply to reduce this crime..

To deter the crime of tax evasion, criminal and tax penalties were imposed (first), as well as professional and threatening penalties (second).

Firstly: Penal and tax sanctions to combat tax evasion

The legislator has implemented criminal and tax penalties to safeguard the national treasury and promote the effective functioning of the economy and the state's development programs.

1. Criminal sanctions to combat tax evasion It is of two types: original and complementary.

A- Original penalties

The criminal penalties that are applied once the crime of tax evasion The commitment varies based on the relevant tax laws, which depend on the type of evaded amount, The original penalties are clearly outlined in the tax regulations and can include both imprisonment and fines.

- For the law of direct taxes and similar fees: Article 303 of the Direct Taxes and Comparable Charges Law That he is Anyone who evades or attempts to evade by resorting to fraudulent acts in declaring the tax base, right or fee to which he is subject, or liquidating it in whole or in part, will be subject to penalties as outlined below: **(Article 303 of the Direct Taxes)**

- A fine of 50,000 Algerian dinars to 100,000 Algerian dinars when the amount evaded does not exceed 100,000 Algerian dinars.

- A prison sentence ranging from one month to six months, along with a fine between 100,000 and 500,000 Algerian dinars, or one of these two penalties, when the amount of the rights exceeds 100,000. Algerian Dinar

- A penalty of imprisonment ranging from six (6) months to two years, along with a fine between 500,000 and 2,000,000 Algerian dinars, or either of these penalties, will be imposed when the amount of evaded rights is more than 1,000,000 Algerian dinars but does not exceed 5,000,000 Algerian dinars.

- prison sentence ranging from two to ten years, along with a fine between 2,000,000 and. 5,000,000 Algerian dinars, or one of these two penalties, when the amount of the evaded rights exceeds 5,000,000 and does not exceed 1,000,000 Algerian dinar.

- Imprisonment from five (05) years to ten (10) years and a fine from 5,000,000 Algerian dinars to 10,000,000 Algerian dinars, or one of these two penalties, when the amount of the evaded rights exceeds 10,000,000 Algerian dinars.

- As for the Indirect Tax Law: Article 532 stipulates that Any individual who employs fraudulent tactics to avoid or attempt to avoid any portion of their tax obligations, liquidation, or payment of taxes or fees owed shall face a penalty of a fine ranging from 50,000 to 200,000 Algerian dinars, along with a prison sentence of one to five years or with one of these two penalties only. This provision shall not be applied to concealment unless it exceeds one tenth of the taxable amount or an amount of 10,000. Algerian dinar. **(Article 532 of the Indirect Tax Law).**

- For the tax law on business numbers: Article 303 of the Direct Taxes and Similar Fees Law stipulates the penalties imposed on anyone who avoids or tries to avoid, either fully or partially, the taxes, rights, or fees owed by using fraudulent methods.

- For the Registration Act and the Stamp Act: Article 119, in its opening paragraph, states that: Any individual who avoids or seeks to avoid, shall be punished with a fine ranging from 5,000 Algerian dinars to 20,000 Algerian dinars and imprisonment from one to five (05) years, or one of these two penalties.

This aligns with the provisions outlined in Article 34 of the Stamp Act. (**Article 34 of the Stamp**).

Tax texts stipulate that a legal person shall be criminally liable for the crime of tax evasion if it is committed by a company or a legal entity belonging to the private sector. (Zerrouki, 2013, p 163).

, through its legal bodies and representatives. This excludes public legal entities affiliated with the state or subject to public law. **(Article 51 bis of the Penal Code).**

A legal person who commits tax evasion shall be subject to a penalty that can reach up to five times the highest fine set for an individual under the law. Furthermore, additional penalties may be imposed, such as dissolving the legal person, closing the establishment or one of its branches, placing it under judicial custody for up to five years, or preventing it from engaging in certain professional activities or several activities. **(Article 18 bis of the Penal Code).**

Accordingly, we find that The tax regulations stipulate that a legal entity will be liable for the criminal fines imposed on the individual who committed the offense, in addition to any other penalties. **(Bousquia, 2018, p 431).**

B- Additional penalties

These penalties are divided according to the nature of the penalty imposed and in accordance with the general rules into mandatory and optional supplementary penalties, These are penalties subordinate to the original penalties stipulated by tax laws through the Direct Tax Law, the Indirect Tax Law, and the Business Tax Law. **(Takharbit, p 316).**

2- Tax penalties to combat tax evasion

Tax penalties are divided into two main types: tax fines and confiscation. These penalties vary from one legal text to another in terms of content and amount.

A- Tax fine

This penalty is outlined in several sections of the tax law, including:

- In the Direct Taxes and Similar Fees Law, the penalty for tax violations was estimated at 30,000 Algerian dinars, as stated in the first paragraph of Article 194, are imposed on every taxable person who has not submitted a declaration of existence for the activity he practices.
- As for the Stamp Law, the fine for evading fees is always equal to five times these fees, without being less than 2,000 Algerian dinars. Article 37 of the Stamp Law also sets the fine between 10,000 Algerian dinars and 100,000 Algerian dinars when the taxpayer hinders the tax oversight conducted by a representative of the tax authority.
- The Business Tax Law establishes the penalty for tax violations at a range of 500 to 2,500 Algerian dinars, applicable in cases of non-compliance with legal provisions and related regulatory texts. to the value added tax, and between 1,000 1 Algerian dinar and 5,000 Algerian dinars in case of using fraudulent methods. **(Article 114 of the Business Tax Law).**
- If qualified agents are placed in a situation where it is impossible for them to perform their duties, they will be punished with a tax fine ranging between 1,000 and 10,000 Algerian dinars. Algerian Dinar.**(Article 122 of the Business Tax Law).**

B- Increases

These are sums of money paid by the tax evader in addition to the aforementioned financial penalties as Compensation for the harm inflicted on the public treasury due to violations of tax law provisions is automatically assessed against taxpayers who fail to submit their annual declarations. This applies in cases of non-submission or when declarations are submitted after the designated deadlines ,Or in the event of an incomplete or incorrect declaration. **.(Article 193 of the Business Tax Law).**

C- Confiscation

Some scholars define it in jurisprudence as a ruling to transfer certain things from a person to the public treasury or to take the authority of someone else's money by force without compensation. However, the Algerian legislator defined it in the Penal Code as: the ultimate transfer of a specific sum of money or a collection of funds to the state or its equivalent value when necessary. **(Article 15 of the Penal Code).**

He acknowledged the seizure outlined in Article 525 of the Indirect Tax Law concerning the infractions specified in Articles 523 and 524 of that law, in accordance with the provisions of the Penal Code.

Second: Professional and threatening penalties to combat tax evasion

In addition to criminal and tax penalties, the tax legislator has established professional and threatening penalties in order to deter tax crimes. Professional penalties are defined as penalties that affect the activity of the taxpayer, while threatening penalties are financial penalties that the administration resorts to in order to pressure taxpayers to encourage compliance with tax obligations. They are also known as financial recourse. **(Shabtata, 2012, p 180).**

1. Professional sanctions to combat tax evasion

In addition to the criminal and tax penalties imposed in an effort to address tax evasion and safeguard the rights of the public treasury, the Algerian legislator also introduced measures with some methods to strengthen the deterrent system and to strengthen the framework for addressing tax evasion through penalties that impact the taxpayer's profession with tax.

– **Temporary closure of the taxpayer's business premises:** The Tax Administration imposes this penalty only after exhausting all amicable efforts to collect the tax. As a result, the taxpayer must choose between making the payment or facing a temporary closure. (Azouz, 2019, p 291). This procedure is stipulated in Article 146 of the Tax Procedures Code, as the closure period does not exceed six (06) months, and the closure decision is communicated by the legally appointed follow-up officer or the judicial officer. (Article 146 of the Tax Procedures Law)

– **Registering tax evaders in an information card:** It is a data bank card related to tax evaders, containing all information related to the evader, including the evader's first name, address, tax registration number, type of violation, date, type of penalty, tax debts... This is done by the General Tax Directorate. (Shabtata, 2012, p 186)

– **Prohibition from engaging in commercial activity:** In the event of recidivism or multiple crimes proven by a ruling or several rulings, the penalty stipulated by law leads to the prohibition of practicing the profession for every businessman, tax expert or accountant, and for everyone who has the capacity, or even if he is in the role of a manager or employee, and when required, the shutdown of the institution. This is what is stated in the Indirect Tax Law. (Article 544 of the Indirect Tax Law).

– **Excluding taxpayers from participating in public contracts:** Economic operators who do not meet their tax obligations, as well as those registered in the national card for perpetrators of fraud and individuals responsible for significant breaches of laws and regulations related to taxation, customs, and trade, are temporarily and permanently excluded from participating in public contracts. (Article 75 of Presidential Decree No 15/247).

2. Threatening sanctions to combat tax evasion

The threatening penalties came under the name of financial recourse, which is a tool used by the tax administration to exert pressure on the taxpayer and restricting him to quickly fulfill his obligations. It is a financial amount paid by the taxpayer for each day of delay in fulfilling his tax obligations. (Shabtata, 2012, p 186).

Referring to the Tax Procedures Law, we find that any person or company that refuses to grant the right to view books, documents and papers is punished with a financial penalty of 100 Algerian dinars as a minimum for each day of delay, and the financial penalty is pronounced by the regionally competent administrative court that decides on urgent cases. (Article 63 of the Tax Procedures Law).

conclusion

We find that the Algerian legislator has approved a number of Measures to reduce tax evasion crimes, including: Preventive measures are at the legislative level by simplifying the tax system and establishing a fair tax system, as well as the tax administration, is enhanced by improving both human and material resources and organizing the administrative structure, and finally at the taxpayer level by raising his awareness and alleviating the strain between him and the tax authorities.

Given the seriousness of the crime of tax evasion and the inadequacy of traditional methods to put an end to this crime have been put in place by tax legislation. Procedural procedures, based on proving the crime of tax evasion and knowing the persons qualified to prove it and focusing on tax reports as a means of proof. We also discussed the follow-up in the crime of tax evasion by initiating a public tax lawsuit and the reasons for its expiration, in addition to the procedural measures taken by the legislator. Punitive measures to suppress this crime, where we focused on the individuals subject to punishment, namely the taxpayer, the accomplice, and the legal entity, while outlining the prescribed penalties, which are tax, criminal, professional, and threatening penalties.

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