

The specificity of tax disputes under the Algerian tax law

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Abstract: The Collection Law is considered among the most important legislative texts regulating any legal system of countries, regardless of their strength. Economic. It represents an important aspect in framing the revenue structure that countries seek to achieve for the sake of the efficiency of their sector. The economic law, and what proves the validity of this statement is that the tax law is issued within the chapters of the finance law, which are included in the decrees. The presidential authority, which in turn is approved by the legislative authority, which determines the features of the general budget of the countries, and accordingly The tax law includes everything related to collection, from imposing it, determining its amount, how it is collected, all the way to disputes. related to it.

Keywords: disputes- tax-law-privacy

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Introduction:

The tax administration relies on several different methods to impose and collect tax, depending on its type. Transferring its value from the taxpayer to the public treasury, within the framework of performing these tasks, which are considered Technical operations based on the taxpayer's statements raise issues of dispute between the taxpayer and the tax administration About the amount of the tax base or the methods and mechanisms followed by the tax administration in forced collection and The Algerian tax system imposes on the taxpayer a number of obligations, whether related to... Control processes to ensure that there are no deviations. With the tax declarations or the documents and documents that must be kept, the tax administration accordingly conducts To protect the taxpayer from the arbitrariness of the tax administration, the legislator granted the right to appeal. before the tax administration that issued the decision, and he can also go to the administrative committees to appeal before them, where this is done Procedures at the level of the fiscal administration as a preliminary stage by following regulatory procedures and respecting the stages.

-What are the most important features Tax tendencies in Algerian legislation?

The first topic:

the concept of tax dispute and its types

The deadlines stipulated in the tax laws before resorting to the administrative judiciary. One is broad and the other is narrow, which we will present below.

In the context of its research into the subject of defining tax dispute, jurisprudence was divided into two basic directions:

1) The broad concept of tax dispute in the absence of a legislative text that defines tax dispute Bader Al-Fiqh By presenting several definitions that differed between the broad and narrow concept, as Professor Bakr Omar defines it in its concept. Al-Wasih said, "Dispute can be generally defined as a set of rules that enable a solution to an issue." "Contested," and Professor Andre Harty, advisor to the French Council of State, defines it by saying, "Disputes Tax includes the total disputes resulting from the application of the tax law," and Jean went/ Lamarque pointed out that what is meant by tax dispute in its broad sense is: "every dispute that coming from the activity of managing "1 Taxes And the set of legal procedures that were decided to resolve it. "As defined by Professor Zakaria Muhammad Bayoumi." 2 That she is They are those that dispute the validity or legitimacy of direct tax assessment." We conclude from these definitions that the tax dispute, in its broad sense, varies depending on the dispute in question. There is an argument between the taxpayer and the tax administration regarding imposing and collecting the taxes . This is what takes sides.

A major branch of jurisprudence, as tax dispute is considered everything that results from disagreement between those charged with the tax and the administration. "3 Tax, which can be resolved through administrative or judicial procedures. A conflict may arise between the taxpayer The tax administration has a dispute over assessing the tax and determining the tax base, such as benefiting from the provisions of Legislation that gives the right to reduce the value of tax, as well as various disputes related to In tax collection, it includes claims for cancellation of illegal administrative decisions, as well as claims for compensation.¹

¹ --Jean Lamarque; Repertoire du contentieux administratif-contentieux fiscal, Paris - Dalloz, 1995, p.03. (40) 2 - Yahya Legal Dispute Directorate to settle the tax dispute under Algerian legislation, a memorandum for obtaining a master's degree in administrative and legal sciences, , Faculty of Law and Political Sciences,

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The damage resulting from the error of the tax administration, as some jurists believe that the tax dispute in the broad sense Do not stop at the dispute that arises between the tax administration and taxpayers regarding determining the base.tax collection, and may even go beyond it to take into account those disputes arising between the taxpayer "4 With a tax similar to the case of insolvency or destitution that befalls him or the loss and damage of his funds. ,

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law 3 It makes him unable to pay the tax value to the tax administration, so he resorts to it in order to be kind to him in collecting it. Thus, the tax dispute, in its broad sense, is that which relates to the validity or legitimacy of the tax assessment. Or how to collect it, and it is limited to two important categories: tax base disputes and collection disputes.

The tax dispute is a dispute on the basis of the tax, that is, a dispute that gives the authority that decides it the authority to Researching whether the tax has been established in accordance with legislative and regulatory requirements or not, and in the event that If it becomes clear to it the opposite, it is within its authority to decide whether to waive this tax partially or completely. As for the collection dispute, it is a dispute. - Substantive collection disputes, as this obligation deals with the fulfillment of the tax in terms of the subject matter.

Collection procedure disputes. This type of dispute deals with the obligation to pay the tax on the one hand. Forced enforcement procedures, such as jurisdiction, form, and all the procedures followed in issuing the decision 5 The right to enforce, the money on which enforcement may be carried out, and the procedures for implementing it .

The first requirement: the narrow concept of tax dispute:

A tax dispute, according to the narrow concept, is every disagreement between two parties, namely the tax administration and the taxpayer. In tax, each party pays with a position conflicting with the position of the other party, and maybe the main motivating

-The driver of this conflict is represented in the following aspects : - The taxpayer's refusal to pay the amounts imposed and owed by him. - In the event that the taxpayer evades paying the tax value by using various methods and methods, such as:fraud

-The result of the claim to correct errors resulting from the tax administration's implementation of the processes of determining the base and liquidating it. If the tax payer commits material errors or exaggerates in estimating the value of the tax due, or does not take into account The taxpayer then requests the tax administration to review these errors. Considering the taxpayer's right to benefit from legislative provisions that exempt him or reduce the amount of tax on the taxpayer,

- The tax administration should review these errors. Considering the taxpayer's right to benefit from legislative provisions that exempt him or reduce the amount of tax on the taxpayer, Whether the concept is broad or narrow, we find that for a tax dispute to arise, three elements must be present: In: The tax administration must be a party to the dispute, and the tax legislation must be the law. The decisive factor in the existing dispute is that the subject of

University of Batna 2011/2012, p. 17 and the following. - Fareeja Hussein, Tax Dispute Procedures in Algeria, Dar Al-Ulum, 2008 edition, p. 7

the tax dispute is related to an act of taxation, and in that case the taxpayer seeks from the tax administration to review the errors.

- Whether the concept is broad or narrow, we find that for a tax dispute to arise, three elements must be present: In: The tax administration must be a party to the dispute, and the tax legislation must be the law. The decisive factor in the existing dispute is that the subject of the tax dispute is related to an act of imposing or collecting tax.

The first section: The Algerian legislator's definition of the tax dispute:

By referring to tax legislation, especially the tax procedures law, we find that the Algerian legislator did not It gives a definition of the tax dispute, but rather touches on its conditions and contents. In this context, Article 70 stipulates Of the Tax Procedures Law, it states that "the intervention of complaints related to taxes, fees, rights, or... Fines prepared by the Tax Authority in the jurisdiction of dispute appeal when their purpose is met."²

4 Obtaining either compensation for errors committed in the tax base or in its calculation, or benefiting from the right resulting from a legislative or regulatory ruling." According to this text, a tax dispute arises when its purpose is Obtaining either to correct errors committed in the tax base or in its calculation, or to benefit from a resulting right For a legislative or regulatory ruling or to correct errors committed in calculating tax. And in the same context It was stated in Circular No. 1 issued by the General Directorate of Taxes on 01/02/2017 that: "Concerning Ordering protests regarding the tax base either to correct errors resulting from a tax imposed without A right (cancellation request), excessive settlement (reduction request), or undue payments (request recovery), or benefiting from a right resulting from a legislative or regulatory provision (for example, recovery of the imposition of a tax on 8 Added value) The legislator has made it obligatory regarding the requests of taxpayers related to exemption from tax

The legislator has made it obligatory regarding the requests of taxpayers related to exemption from tax The amount imposed on them legally or its reduction as a result of their disability or distress must be through providing A prior administrative grievance to the state tax director who has the place of taxation, which must be attached. A copy of the notification issued by the tax administration or mentioning the number of the article under which the tax in question was registered with this such grievance

Section Two: Types of tax dispute:

Jurisprudence divides tax disputes into several categories, either according to the type of tax or according to the stage at which 10 T

First according to the type of tax :

With indirect taxes. According to this criterion, a tax dispute can be divided into a dispute related to direct taxes and another related to Direct taxes are considered taxes that

² - G: Tax disputes in Algerian legislation, Dar Al-Huda, Ain Melilla, Algeria 2005, p. 09 (42) 5 p. 08 - Khairy Othman, Fariz Farag Abdel-Aali: Ending the income tax dispute through agreement, Dar Al-Nahda Al-Arabiya, Cairo 2012/2013 4 - Zucchini Fadil: The tax claim and its proof, Dar Houma Algeria, 2010 edition, p. 09.6 - Fareeja Hussein, op. cit., p. 10. Abbas Abdel Razzaq, Accounting Investigation and Tax Dispute, Dar Al-Huda, 2012 edition, p. 172

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have an indicator that affects property, professions, and income. They consider all A deduction based directly on persons or property, which is collected by nominal lists so that the Directly from the taxpayer to the public treasury. As for indirect tax, it is a deduction imposed on consumption, including those related to taxes on spending, such as the value-added tax, which are On the components of consumption or service performed, and therefore it is paid indirectly by the person. Who wants to consume these things or use services subject to tax, such as taxes on imports of tge transportation ,registration rights, stamp, ect ,

Second: Depending on the stage the tax is going through:

A tax dispute can be divided according to this criterion into a dispute related to the tax base and a dispute related to In summary, tax disputes are those disputes that arise between the taxpayer and the tax administration. Concerning the value of the tax base taken as a basis for calculating the value of the tax due from the taxpayer, as for Collection disputes are everything related to forced tax collection methods³

. Third: In terms of the party before which the tax dispute:

is presented According to this standard, the tax dispute is divided into two types: an administrative dispute and a judicial dispute.

The administrative officer is the one who is presented before the tax administration issuing the decision, so that the taxpayer submits his grievance to The competent authority, whether on the occasion of determining and linking the tax base or on the occasion of its collection. As for the judicial dispute, it is That which is at the judicial level, represented in the administrative courts and the State Council, where the taxpayer who Tax cut-off in grievance. He disputes the decision to impose and collect the tax by submitting his dispute to the judiciary if he is not satisfied with the administration's decision.

The second requirement: causes of the tax dispute:

Referring to the characteristics that distinguish the tax, especially the characteristics of reparation and the absence of a financial compensation for requiring it. We find that many disputes arise regarding this matter between the taxpayer and the tax administration, and these disputes have multiple causes. Some of them are due to tax legislation per se, and some of them are related to tax administration or psychology. The taxpayer's view of the tax from its basis, and other reasons that jurisprudence has traditionally studied, we will suffice here. The most important of them, noting that these reasons are almost the same as those that constitute a direct cause of the phenomenon of tax evasion.

First: Reasons related to tax legislation:

Tax legislation, with its complexities, may lead to a tax dispute between the taxpayer and Tax administration. The negative characteristics that characterize tax legislation may lead to differences in understanding and interpretation. This constitutes an infringement or violation 13 between the taxpayers on the one hand and the tax administration on the other

³ - A - See Appendix No. 1 8 9 - Articles 92-93 of the Tax Procedures Law promulgated under Law 01/21 of 12/22/2001, amended and supplemented. 23-27 -10 Badariyya Yahya, previous note, p - Muhammad Abbas Mahrezi, The Economics of Public Finance, Office of University Publications, Algeria, 2003 edition, p. 205 11

hand. The rule of certainty previously explained, and the many amendments introduced to the tax system may lead to bad practices and understanding.

Second: Reasons related to management :

The tax administration itself may be one of the causes of the tax dispute, as the tax administration is the party in charge On the application of tax laws and its keenness on the taxpayers' commitment to the tax obligation, and therefore it must be A level of efficiency in order to reduce its mistakes that lead to the outbreak of a tax dispute, and this efficiency is not achieved Except by providing material and human resources, as well as taking care of the human element, which is the pillar. Tax. Essential for the tax administration to do its job perfectly and reduce errors that lead to disputes.

Also, one of the reasons that lead to the outbreak of tax disputes is the administrative authorities' exaggeration in Requesting high performance rates from tax administration agents, as part of motivating tax administration agents. Work has been done to allocate rewards for everyone who achieves high performance rates, and in light of the competition to obtain these... Concessions: Many mistakes are made in the field of accurately determining the tax base, which leads to... Violations occur against taxpayers that cause them to dispute the validity and legitimacy of the administration's decision. The administration level itself or the judiciary level⁴.

Third: Reasons related to the taxpayer

The taxpayer contributes a major role to the effectiveness of the tax system or not, because the scientific reality It confirms the existence of a hostile relationship between taxpayers and the administration that oversees the implementation of tax legislation.

He always tries to evade fulfilling his tax obligations towards the administration, believing that the tax administration She always tries to plunder his money and take high rates from it, which makes him shirk his duty to provide Credible statements or keeping transparent accounting documents, and he may deliberately evade paying tax. To use tricks and fraudulent maneuvers, as specified in the texts of the law, and all of these are reasons for 15 The tax dispute that arises through these actions . These reasons also include the lack of tax awareness among the taxpayer, which leads to This leads to failure to fulfill his tax obligations and lack of awareness. This is due to the lack of financial culture among the taxpayer. In particular and the citizen in general, although the competent authority has a share of responsibility in this regard and that Although the competent authority has a share of responsibility in this regard In light of the absence of a policy of publishing tax laws and simplifying them to the extent that accommodates all categories of taxpayers and their different levels.

The second section: Settlement of tax disputes before the Tax Administration and tax disputes:

As an exception to the general rules established in an administrative dispute, the taxpayer must, before resorting to The administrative judiciary must carry out an initial stage that takes place at the administration level, since the tax law stipulates Regardless of the type

⁴ - Alimat Clinic, Tax Evasion and Ways to Reduce It, Al-Manara Magazine, Volume 19, Number 2, Jordan, 2013, p. 116. 12 - Khairy Othman, Fariz Faraj Abdel-Aali: Ending the income tax dispute through agreement, previous reference, pp. 20-22 13 - Youssef Dalandeh, Tax Procedures Law, Dar Al-Houma, 2014 [edition.page](#) 5.

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of dispute 17, the validity of the lawsuit is a prior appeal before the tax administration issuing the decision. Whether it relates to establishing and assessing the tax, collecting it, or objecting to collection procedures, this The decision may include determining the tax base and notifying the taxpayer of this estimate based on the taxpayer's statements.

Or on the tax control to re-evaluate the tax base or through administrative or arbitrary determination, as may be Public treasury. The content of the decision is to issue follow-up and collection decisions for the tax debt from the taxpayer to the taxpayer.

The appellant in the tax dispute, as stated above, seeks from the tax administration either to correct errors Either to recover an amount paid unjustifiably 18 in the tax base, or to benefit from a legislative or regulatory text. A right resulting from an error committed by the taxpayer or an error by the tax administration. The complaint is submitted to the administration Taxes in tax imposition decisions through the Tax Procedures Law in Article 70 and the following. Taxes are the basis of the dispute at this stage, as the tax legislator has regulated administrative appeal provisions

The first requirement: the concept of tax base disputes and the conditions for conducting them:

The tax base is the economic element subject to tax, whether it is an activity, a labor commodity, or possession. . He was introduced to the Criminal Chamber of the Supreme Court on the occasion of its settlement of a tax dispute on the 19th, which constituted a source of tax. Her decision dated 07/23/2008 said: "Therefore, what is meant by the tax base is net income." For each fiscal year, on the basis of which the tax is imposed on the taxpayer. And therefore it was necessary The indictment chamber must determine the amount evaded for each fiscal year separately and without taking into account⁵

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7 The methods for estimating the tax base are divided between direct methods, such as the taxpayer's declaration or 20 criminal fines..." Acknowledgment issued by third parties and indirect methods such as arbitrary estimation and estimation based on appearances. This last mechanism is often the source of most tax disputes, as it is often seen The taxpayer is unfair to him, and he has The text on the method of estimation based on external appearances was mentioned again in Article 33 bis of External appearances again in Article 33 bis of The Finance Law of 2018 states: "If the tax is imposed automatically in the field of property tax, it shall be And the lifestyle elements stipulated in Article 98 of the Direct Taxes and Similar Fees Law. The tax authorities in restructuring the ownership status of taxpayers, according to their external appearance of the property.

Regarding the needs of restructuring the ownership status of taxpayers concerned with tax on... information, in accordance with the applicable tax law. Property and those who own property abroad, the tax authorities must submit a request within the framework of an exchange Information, in accordance with the tax law In order to apply the property tax, you must: For their customers who purchased tourist cars whose price exceeds 10,000,000 DZD,

⁵ - 15 Wasti Abdel Nour, previous message, p 13-16 Fares Al-Sabti, Tax Disputes in Algerian Legislation and Criminal Judiciary, previous reference, p. - Article 396 of the Law on Direct Taxes and Similar Fees issued pursuant to Order No. 76/101, dated 12/09/1976, Gazette 17 - Article 70 of the Tax Procedures Law, op. cit. 18, Official No. 101 of 12/22/1976, amended and supplemented. - Reda Khulaisi, The Modern Algerian Tax System - Collection of Natural and Legal Persons - Part One, Dar Home, 19th Edition. 2005, p. 16 (56)

car agents provide the regionally competent tax administration with a detailed list that includes names, titles and addresses.⁶

The issue of determining the tax base may generate many problems between the taxpayer and the administration. When the tax is established, the taxpayer challenges this estimate on the one hand, and on the other hand, the Assigned With the tax in this estimate on the one hand, and on the other hand, the The taxpayer may make false statements about his tax status, and this may appear to the tax administration It uses its right to re-evaluate the container based on external appearances, and this last mechanism is mostly The source of most tax disputes, as the taxpayer often sees them as unfair to him, and the text was stated in a way Estimation based on external appearances again in Article 33 bis of the Finance Law of 2018 by saying “If the tax is imposed automatically in the field of property tax, the tax authorities will begin to reconstitute The ownership status of taxpayers, according to the external appearance of the property and the elements of the stipulated lifestyle

It is stipulated in Article 98 of the Direct Taxes and Similar Fees Law. - Supreme Court

Regarding the needs of restructuring the ownership status of taxpayers concerned with tax on... information, in accordance with the applicable tax law. Property and those who own property abroad, the tax authorities must submit a request within the framework of an exchange In order to apply the property tax, you must: Car dealerships provide the relevant tax administration regionally with a detailed list that includes names and titles. And the addresses of their customers who purchased tourist cars whose price exceeds 10,000,000 DZD, Jewelry sellers provide the regionally competent tax administration with a detailed list that includes the names and titles of those who acquired luxury jewelry.

Sales supervisors provide the competent tax administration regionally with a detailed list that includes names and titles. Addresses of people who acquire valuable items by selling them at public auction. These statements must be attached to the monthly business number statements. If there are elements, it is proven If the above-mentioned parties do not disclose their clients, in-depth investigations are being initiated regarding Their activity.

Customs services periodically send to the competent tax administration regionally a detailed list of operations. Imports carried out by private individuals, which included: Cars whose value exceeds 10,000,000 DZD, yachts and pleasure ships, motorhomes, Horses, pleasure crafts, jewellery, gemstones, gold and precious metals, senior paintings 22 painters The issue of determining the tax base may generate many problems between the taxpayer and the administration.

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⁶ - Journal, Decision No. 543636, dated 07/23/2008, No. 2, p. 369. 20 21 - - Law No. 17/11, including the Finance Law of 2018 mentioned above.

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before submitting the previous request to the director, if the complainant did so, the court had to rule not This is the same as what the Algerian judiciary takes, as it stated in a decision issued on 25 October to accept the case. 02/25/2003 on behalf of the Algerian State Council Where it stated: "Every tax dispute requires a prior administrative grievance in accordance with the text of Article 337 of the Law." Direct taxes. This is a public order procedure that the judge must raise automatically. The appeal should not be filed. 26 "Advancement leads to the inadmissibility of the lawsuit filed directly before the court."

The complaint submitted by the taxpayer to the tax administration is considered a fundamental administrative procedure required by the legislator. It was required to be presented in a specific form and to contain specific information and data, to enable the tax administration to Reviewing it, just as the legislator required specific deadlines for submitting it and specific deadlines for considering it. These may be An individual complaint concerns only one taxpayer, or it may be a collective complaint, such as a case of inability to divide or members of a company. File a collective complaint as partners in the company. Persons who dispute the tax administration over a tax imposed on the company. These people can They can file a collective complaint as partners in the company The legal provisions under successive finance laws stipulated the requirement of a prior administrative grievance for acceptance. The tax lawsuit regarding direct taxes and similar fees and fees on turnover according to The law of direct taxes and similar fees, as well as the provisions of the law of tax procedures, while not A prior administrative grievance is considered a mandatory condition for filing a tax lawsuit regarding fees or registration rights. And stamp, as well as indirect taxes, and this is in accordance with Article 102 of the Registration Law and Article 48 of the Law Indirect taxes, or when the issue relates to the recovery of amounts submitted to the tax administration for no reason right.

Accordingly, the taxpayer must pay direct taxes and similar fees and fees on The business number must submit a prior grievance to the Tax Administration in accordance with the formal and objective conditions and compliance. Within the deadlines stipulated in the Tax Procedures Law, which are described below.

First: formal conditions

Article 73 of the Tax Procedures Law, amended by Law No. 11/16 containing the Finance Law, clarified For the year 2012, the formal rules relating to complaints and conditions for accepting them -The complaint must be an individual, as a general matter, except for taxpayers who are subject to a collective tax or members. Individual companies can file a collective complaint regarding the taxes imposed on their company. Complaints must be

⁷ -- Aglies Bouzid, Investigation into Administrative Judicial Cases - The Tax Case as an Example -, Dar Al-Amal, 2012 edition, p. 148

registered separately for each case. It is not possible to combine more than one tax or tax in one grievance. Two different types of requests, such as exemption in the event of a material error and reduction in the event of the taxpayer's indigence. The complaint must be related to a tax imposed on each municipality, and accordingly, the complaint related to a tax imposed on it 27 for several municipalities, which is not acceptable except for the first named municipality or the one mentioned first. This is to facilitate the study of the complaint. . Under penalty of inadmissibility, the complaint must include some basic information such as the type of tax objected⁸.

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⁸ - Selim, direct tax tax disputes in Algerian law, Master's thesis, Constantine University, 2007/2008 p. 25 .14 - - Youssef Dalandeh, previous reference, p. -79 80 26 - Zucchini Fadil: The tax case and its proof, previous reference, footnote, p. 123. , Aziz Amzian, tax disputes in Algerian legislation, previous reference page 15

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The number of the item listed in the table under which the tax was registered, in addition to the name, surname and address The complainant, and in the case of taxes that are not recorded in tables, the complaints shall be accompanied by a document proving the amount of the deduction or The tax in dispute. Payment, and it can also be attached to the collection voucher, notice of follow-up, and other documents that accurately indicate The complaint must be on plain paper. The tax legislator has contented himself with submitting the complaint to the tax administration on Plain, unstamped paper. He also exempted the complaint for stamp rights for the purpose of facilitating the task for the taxpayer. Without any expenses or payments

The complainant must accurately specify his domicile, just as every resident foreigner must have a domicile in Algeria. This is in accordance with Article 75/4 of the Tax Procedures Law, which stipulates that every resident complainant must take This is also confirmed by Article 332/6 of the Direct Taxes Law and 28 abroad, his domicile is in Algeria. Similar fees, as for foreign institutions that carry out operations in Algeria and are subject to the fee On the added value, it must appoint a legal representative in Algeria who is responsible for all obligations. The actions taken by the institution regarding the fee, and other taxes, are subject to recourse. To international agreements and treaties to avoid double taxation -Signature, as the legislator requires that the complaint be signed by the concerned party or his legal agent.

Provided they are legally registered with the National Bar Association. The agent presents an official power of attorney drawn up on a printout delivered by the tax administration, and is exempted from submitting the power of attorney.

Secondly, objective conditions:

In addition to the formal conditions mentioned above, the complainant must present the content of the complaint in detail. And to clarify the justifications for his objections, the burden of proving this falls on him, whether with regard to the issue of valuing the tax base or Material errors committed by tax administration officials. Therefore, the complaint must include the conditions : Mention of the disputed tax and financial value, statement of the article number in the registration table 29, the following topic. In the event that a copy of the warning is not provided, the tax authority must provide a summary of the nature of the dispute and the defenses it presents. Submit Document 30 to correct the administrative error and specify his requests for whether to reduce or completely cancel the withholding amount. The amount of deduction or payment is confirmed if the tax is not collected by the schedule

⁹ - Selim, direct tax tax disputes in Algerian law, Master's thesis, Constantine University, 2007/2008 p. 25 .14 - Youssef Dalandeh, previous reference, p. -79 80 26 - Zucchini Fadil: The tax case and its proof, previous reference, footnote, p. 123. , Aziz Amzian, tax disputes in Algerian legislation, previous reference page 15

Subject of complaint :

The complaint generally includes the complainant presenting his requests and defenses, as the content of the complaint varies depending on the type of complaint. :31 Its subject is as follows -The case of a simple error: In this case, the complaint can be in the form of a brief presentation of the reasons that appear. Through it, the error is requested to be corrected. -In the case of reconsidering the assessment of the amount of tax, we distinguish between two cases: In the event that the tax has been applied in accordance with administrative procedures or administrative assessment and the taxpayer rejects the proposal¹⁰ .

The administration, in this case, the complainant must provide evidence proving that there is an error in the administrative assessment. And in case Whether the assessment was prepared in light of material facts that have a permanent character, the complainant in this case determines The actual status of the property that was used as a basis for estimating the tax for the purpose of proving this to the administration. . As for the defenses, they are various realistic arguments and justifications. 32 Taking advantage of tax privileges - requesting to benefit from a right resulting from a legislative or regulatory text, such as legally prescribed reductions or... And the legal framework that supports the complaint, taking care to provide realistic evidence and present all means and arguments. Which would determine the type of grievance.

Therefore, committing any fundamental error in the content of the complaint results in the complaint being inadmissible. The tax legislator has specified in Articles 73, 74 and 75 of the Code the obligation for defects that cannot be remedied or remedied. Correction, which directly leads to the complaint not being accepted, namely: failure to present a summary of the means and conclusions Abroad is a home in Algeria for miscellaneous collective complaints and complaints related to several municipalities or activities. The complainant, the complainant did not sign the complaint

Therefore, committing any fundamental error in the content of the complaint results in the complaint being inadmissible. The tax legislator has specified in Articles 73, 74 and 75 of the Code the obligation for defects that cannot be remedied or remedied. Correction, which directly leads to the complaint not being accepted, namely: failure to present a summary of the means and conclusions Abroad is a home in Algeria for miscellaneous collective complaints and complaints related to several municipalities or activities , the complainant did not sign the complaint by hand, did not present a legal power of attorney, and the complainant did not take action.

complaint by hand, did not present a legal power of attorney, the complainant did not take the resident It is noted in the text of Article 73/4 of the Tax Code that the legislator gave the taxpayer a period of one month, effective From the date of receipt in order to complete the complaint file and submit every supporting document mentioned by the complainant and Or the head of the tax center or the head of the neighborhood tax center by informing him of the rejection decision due to non-acceptance. able to support his dispute, and in the event that the taxpayer does not complete the filing within the above-mentioned deadlines, the tax director

¹⁰ - Official Issue, Issue 82 of 2008: - Article 75 of Law No. 01/21 amended pursuant to Article 24 of Law No. 07/12 dated 12/31/2007 containing the Finance Law No. 28 29 - Al-Eid Salehi, Tax Dispute Procedures in Algeria, Dar Al-Ulum for Publishing and Distribution, Annaba, Algeria Edition, 2008, p. 19. - See Article 73/4 of the Tax Procedures Law, op. cit. 30 Aziz Amzian - Tax disputes in Algerian legislation, previous reference, page 16.

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or the responsible on tax center or any head of department Notifying the rejection decision of non-acceptance .

Fourth: Deadline for submitting a complaint :

The tax legislator has set deadlines 33. In order for a complaint to be accepted from the taxpayer, he must submit it within a specific period. The legal requirements for filing a complaint in Article 72 of the Code of Duty vary depending on the nature of the complaint as follows: 1 - General deadlines: As a general rule, the complaint is accepted until December 31 of the year following the year in which it was included. It contains the schedule for the collection or occurrence of the events that are the subject of the complaint. The schedule that was included for the collection For example, in February 2014, the deadline to file a complaint in this case is December ,31,2015

This is what the Supreme Court ruled June 15, 1985 Under No. 42780. 2015 Regarding the case (K.A.) against the Deputy Director of Taxes in Tlemcen, she said, “As is proven in the case, The tax debtor paid his debt On January 26, 1982, after the notification he received on December 28, 1981, while the reduction request was not submitted. Except on 08/23/1983, that is, after the expiry of the period stipulated by law and originally specified On December 31, 1982, the Supreme Court ratified the Judicial Council’s decision when it was issued not to accept . However, if the matter is related to deduction from the source of the tax in question, 34 the lawsuit will be filed after the specified deadline

.” The complaint will be accepted until December 31 of the year in which the deduction was made. -In the case where the disputed tax was paid and this was not preceded by notification of the tax to be paid, the The The complaint will be accepted until December 31 of the year following the year of payment.¹¹

-2 Exceptional deadlines: We are in the process of exceptional deadlines in the following cases:

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-In the event of a response to sending payment notices, he agrees to accept December 31 of the second year that follows Receipt of payment. Stars begin to be counted from the day you receive notifications of new payment. -In the event of double taxation or the presence of taxes in Baghdad, there is a legal basis for an error or discrepancy. Complaints will be accepted no later than December 31 of the year following the date of knowledge of double taxation or error. But it does not reach anything other than through tax. Taking into account the deadlines from the date of knowledge of double taxation, such as checking the tax rates and the tax payment schedule

But it does not reach the taxpayer.

In the case of reductions in the real estate fee due to the emergence of developments that require a review of the fees Real estate by reducing it, such as changing the allocation of the property by decision of the administrative authority for reasons related to the security of people. Money or the application of construction rules, and the case of complete or partial

¹¹ - - See Article 70 of the Tax Procedures Law, op. 32 21. - -33 Hussein Freija, Administrative and Judicial Procedures for Direct Tax Disputes, op. cit., p. 34 - a. Jamal Sais, the tax dispute in light of the jurisprudence of the Council of State, op. cit., p. 36

loss of use of the property as a result of an accident other than Ordinary or in the event of demolition of all or part of the property. In these cases, the complaint must be submitted before the 31st date. December of the year following the year the incident occurred that necessitated filing the complaint. 35 Automatic for the taxpayer - In the case of the value-added tax:

, the complaint will be accepted within four (4) months from the date of notification of the estimate for the assigned

The second requirement:

investigation and decision on the complaint. It was regulated by the legislator under Article 76 of the EGP, which was mentioned under Section Five, entitled Investigation In complaints - a decision deadline, as complaints are considered by the inspector who established the tax, when The complaint reaches the tax administration, and this complaint fulfills all procedures. Formal and legal matters, the state director of taxes orders, as the case may be, the regionally competent tax inspector.

Regionally and which He manages the complainant's tax file by conducting an investigation into the subject of the complaint, as the latter is responsible for determining The tax base, so he is most knowledgeable about everything related to the corporate tax and the subject of the complaint, and he can also To entrust the investigation to the tax control agents if the matter concerns an appeal against the estimates made by his departments. During the investigation into the taxpayer's accounting, and after the inspector has completed all the work, he submits a report to The state tax director. After submitting his suggestions on the subject of the complaint, the state tax director of state taxes will decide on the complaint .

Nor: investigating the complaint :

When the State Tax Directorate receives the taxpayer's complaint, it delivers a receipt for that in accordance with what is stipulated The tax collector is notified of the request to postpone Section 36 of Section 389 of the Direct Taxes and Represented Taxes Law. Payment, then the complaint is referred to the tax inspector or the direct tax controller who follows the place where the tax is imposed. In order to investigate it, the tax inspector can send a summary of the complaint.

To the President of the Municipal People's Council to express his opinion within 15 days, according to the text of Article 392 of the Law Direct taxes and similar fees. After expressing his opinion, the inspector studies the complaint and examines the means presented and answers every question posed therein accurately, taking into account all the attached evidence. The inspector can also summon the complainant in order to provide clarifications that contribute to resolving the matter. The dispute between the two parties, and he can also investigate the content of the complaint by traveling to the location. And review all existing documents, and he can also seek help from all parties that can provide information. In the file of the taxpayer, this is according to the text of Article 46 of the Tax Code, which gives the right of review to the right

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And review all existing documents, and he can also seek help from all parties that can provide information. In the file of the taxpayer, this is according to the text of Article 46 of the Tax Code, which gives the right of review to¹²

Public administrations and financial institutions, as well as various other institutions and taxpayers, have a relationship with 37 in charge . After the inspector completes all work related to the investigation, he prepares a detailed report on the case with Expressing his opinion, whether rejecting the complaint or accepting the demands in whole or in part, after which he re-sends the complaint with his report.

To the Complaints or Protests Office and record the date of their submission in the Complaints Register, so that one of the agents The Directorate re-examines the complaint, taking into account the report submitted by the tax inspector. The assistant He prepares his opinion, whether of rejection or partial or total reduction, and then the complaint is re-examined by the chief. The Protests Authority to express his opinion, then the Sub-Director of Disputes, and after expressing his opinion in the same document prepared by The state tax inspector, who notes it, sends the report to the state director of taxes or The director of major institutions, as the case may be, to make his final decision regarding the complaint.

Second: Deadlines for deciding on the complaint: In accordance with Article 76 of the Code, the deadlines for deciding on the complaint are always determined as follows: -The complaint may be decided immediately if it has a formal defect. Next: Heads of tax centers and heads of neighboring tax centers decide on complaints within their jurisdiction Each of them within a period of (4) months, starting from the date of receipt of the complaint. -The State Director of Taxes shall decide on the complaint within (6) months, the amount of which does not exceed the amount of the rights The penalties are one hundred and fifty million Algerian dinars. The deadline is extended to (08) months for pending cases Algerian. Disputes that require the opinion agreeing with the central administration whose value exceeds one hundred and fifty million dinars

The deadline is reduced to two (2) months for a complaint related to the single lump sum tax system

Third: Deciding on the complaint - The deadline is reduced to two (2) months for a complaint related to the single lump sum tax system. The powers to decide on complaints are determined by the head of the tax center and the head of the neighborhood tax center. :38 The state director of taxes is as follows -With regard to the head of the Neighborhood Tax Center, he has the authority to issue disputed decisions in the name of the tax director. The state regarding complaints filed by taxpayers under its jurisdiction, if the amount is The disputed rights (taxes and fees) are equal to or less than twenty million Algerian dinars.

As for the head of the tax center, he decides on behalf of the state's tax director on complaints and requests for refund of fees. on the added value raised by taxpayers who fall under the jurisdiction of their centre, and a It is equal to it, and the same amount is for decisions to recover value-added tax debts. His decision in cases whose amount is less than fifty million Algerian dinars (50,000,000 DZD) or If the value of the taxes that are the subject of the disputed complaint exceeds what falls within the jurisdiction of the chief The neighborhood tax center or the head of the tax center. In this case, the decision is issued by

¹² - Article 72, Part 2 of the Tax Procedures Law, op. cit. 35 -36 Hussein Freija, administrative and judicial procedures for direct tax disputes, previous reference, p. 23.

the state director. Taxes, in implementation of the text of Article 77/1 of the EGP, and the latter must also take the corresponding opinion¹³.

For the central administration regarding dispute complaints or requests to recover value added tax loans When its amounts exceed one hundred and fifty million Algerian dinars (150,000,000 DZD). After the end of the investigation and based on the legal and administrative data available to the competent tax director He issues his decision on the matter, and this decision includes either a complete rejection of the complainant's requests or a partial or all reduction of the tax in question.

1 - Case of total rejection of the complaint: In the event that the tax director issues a decision to reject the complaint against him. The reason for the rejection decision, which is a guarantee and protection for the tax director as he is the authority competent to issue a decision. Rejection also constitutes a guarantee on the other hand for the taxpayer, as he will be informed of the number of reasons that 40 This led to his grievance being rejected . 2 - The case of partial or total reduction: This is the case if the tax administration discovers errors during the investigation.

2- The case of partial or total reduction: This is the case if the tax administration discovers errors during the investigation. I fell into it, and this is what caused the tax director to issue a complete or partial rejection, depending on the case, and direct this The decision is sent to the competent tax collector so that he can review the collection and return the undue amount. The administration is obligated to inform the taxpayer of its decision, and a copy must be sent to the inspectorate and a copy to Tax collector. If the taxpayer accepts the decision issued by the state director of taxes, the dispute stops, otherwise he has the right to pursue 41 Al-Aj Otherwise, he has the right to continue 41 Procedures before administrative appeal committees or before the judiciary . -Guarantees granted to the taxpayer during the stage of determining the tax base: The Algerian legislator guaranteed and accordingly The judiciary provides a set of guarantees for the taxpayer who disputes the tax administration regarding the establishment of the tax or the extent of Its fairness towards him, which are fundamental guarantees whose violation or transgression would result in the invalidity of all subsequent procedures. To estimate the tax base, including canceling the tax imposed on the taxpayer (42), which is what we will explain from During the judicial decisions issued by the State Council on the occasion of resolving pot disputes. In a dated decision On September 16, 2003, the State Council annulled the Administrative Court's decision, along with the tax imposition decision issued by The Tax Directorate of the State of Guelma, saying: "The appellant once again raised, to justify his appeal, defenses that basically represent invalidity. In-depth investigation procedures, because he was not notified in advance by means of an investigation notice with acknowledgment of receipt and his statement. With the legal period estimated at 10 days to prepare his documents in accordance with Article 131 bis 3 of the Code of Justice, he was not granted General and renders the tax establishment based on it invalid. He has the right to seek assistance from an advisor of his choice in accordance with Article 320 of the Civil Code. Because the procedures are invalidated by the system Whereas it appears from the file papers that the Tax Administration did not prove that it notified the appellant that it had carried out the process of field investigation, and he was not given a deadline to prepare himself and the possibility of seeking assistance from an advisor from a party, and it was not proven Z M. Notifying him of the results of the investigation to enable him to respond to them by rejecting or accepting them in accordance with Article 131,

¹³ - Badariyya Yahya, previous note, p - See Article 79 of the Tax Procedures Law, previous reference

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paragraphs 3 and 5 of the Code.¹⁴ Whereas the appellant's argument that the procedures are invalid is then considered a justified defense for the aforementioned reasons, and since The appealed decision erred in applying the law when it rejected the appellant's claim, so it must be canceled and decided again.

43 His remarks before the reconciliation committee lead to the cancellation of the tax imposed on him" stipulated in Article 140, paragraph 4, and in a decision dated 11/12/2001 The Council ruled to cancel the decision to impose the tax by saying: "As this settlement was made by... A traffic notice whose subject was originally intended to review accounting documents at the company's headquarters It was not within the framework of the tax investigation, which is carried out according to tax procedures through a notification of the investigation. It is clear that the Tax Administration did not respect the legal texts regarding the guarantees legally granted to the taxpayer. Tax due to the fact that she amended the exhibitor's declarations based on a traffic notice and not pursuant to a notice. investigation, and thus you have prevented her from her right to defend herself, especially appointing an advisor to assist her during Monitoring process. As long as this was the case, it was necessary to cancel the returned decision and after the dismissal again the judiciary "By canceling the taxes imposed on the appellant, estimated at 823,001,284 DZD, to invalidate the procedures."

In addition to these judicial jurisprudences that were decided to protect the taxpayer, the legislator returned again He emphasized the same guarantees in accordance with Article 40, which amends Article 19 of the Code, by saying: "... it is possible 45 The inspector may correct the statements, but he must do so before that, under penalty of invalidation of the adverse subjugation procedures of taxation To send to the taxpayer the correction scheduled to be made, provided that it is clearly stated to him regarding each -The taxpayer should be informed of the possibility of using the services of a consultant of his choice. Re-evaluation, the reasons for this and the corresponding tax law articles.

The taxpayer should be informed of the possibility of using the services of a consultant of his choice. Re-evaluation, the reasons for this and the corresponding tax law articles. A response at this time constitutes an implicit acceptance. The notice of re-evaluation shall be sent with a notification of receipt." - To invite the taxpayer to announce his approval or submit his comments within a period of thirty days, and it is considered a failure.

In this case A response at this time constitutes an implicit acceptance. The notice of re-evaluation shall be sent with a notification of receipt." - To invite the taxpayer to announce his approval or submit his comments within a period of thirty days, and it is considered a failure.¹⁵

Conclusion

From what was previously detailed, we conclude that the subject of collection is of great importance within the framework of tax law. The Algerian legislator has given the utmost importance to this subject. All of this involves adding Legitimacy on the issue of tax and tax obligation, along with determining the number of persons concerned with the payments.

We also noticed during the preparation of this research that the nature of direct taxes did not

¹⁴ - Ammar Boudiaf, Reference on Administrative Dispute, Dar Al-Jusoor, Algeria 2013, p. 369 40 41-46 Hussein Freija, for administrative and judicial procedures for direct tax disputes, previous reference, p. - Koussa Fadil, The tax case and its proof in light of the jurisprudence of the State Council, Dar Houma, edition, 2015, p. 146

¹⁵ - 248 251 43 44 - Journal of the State Council, special issue 2003, p. 78 - Jamal Sayes, previous reference, p. 17

entail complications in The framework for imposing or collecting them, or determining their amounts, since the latter are predetermined, unlike taxes. Indirect, which is concerned with legal persons in the capacity of economic operators or merchants, as The latter opened a group of legal and judicial conflicts, between taxpayers on the one hand, and the tax administration. On the other hand, in the case of the tax collection process, and this is what prompted the Algerian legislator to prepare a chapter A complete, independent study, called tax disputes, in which he explains the most important rules followed, within the framework of the management dispute. Collection by the taxpayer or accountability of the tax collection body concerned in the event of default in payments tax .

-Among the most important results reachedFrom this study The issue of collection is of great importance In tax law, as the Algerian legislator He gave it great importance in order to establish transparency On the subject of tax assignment and the persons charged

It is among the most important recommendations presented in this field The necessity of stipulating special procedures in light of judicial follow-up related to tax disputes Along with it, a specialized judiciary was established to follow up on cases related to the tax aspect