MSW MANAGEMENT -Multidisciplinary, Scientific Work and Management Journal
ISSN: 1053-7899
Vol. 35 Issue 2, 2025, Pages: 231-242

Control Mechanisms to Combat Fraud and Tax Evasion in Algeria

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Received : 12/06/2025 ; Accepted : 23/10/2025 ; Published : 22/11/2025

Abstract:
The aim of the study is to identify the phenomena of fraud and tax evasion in Algeria, as it has become a phenomenon and constitutes a financial scourge that has reached record levels that cannot be overlooked. Therefore, control and preventive measures must be taken to combat it. To achieve the objectives of the study, we relied on the theoretical aspect related to the topic in several aspects related to fraud and tax evasion on the one hand and thestudy of control and preventive mechanisms onthe other hand. The study concluded that all procedures must be digitized in order to develop a sense of confidence and achieve justice and transparency, which leads the taxpayer to comply with and voluntarily pay his various tax dues. Thus, the rate of fraud and tax evasion decreases and reduces the burden on the tax administration frameworks, especially the tax control agents, which results in an increase in state revenues, and avoidance of the taxpayers and the tax administration of tax disputes.

Keywords: Tax system, Tax administration, Fraud and tax Evasion.

Introduction:

The Algerian tax system is an authoritative system based on the taxpayers' acknowledgment of their income and transactions subject to taxation, based on their sense of responsibility and tax awareness and thus bearing the tax burdens within the specified deadlines. However, the effectiveness and positives of this system are offset by the presence of a segment of taxpayers who use all methods that enable them not to pay the tax or partially evade it as much as possible. Since the responsibility for the validity of these statements lies with the tax administration, the latter has adopted the tax control method in order to verify with its various agencies and mechanisms to verify the validity of the statements submitted by taxpayers to combat the phenomena of fraud and tax evasion.

In light of the increasing population of Algeria and the high funding needs to meet the requirements of the state budget, which leads the state to search for different sources of funding, the most important of which is the regular revenues derived from taxation, but in light of the gaps in the tax policy, which results in fraud and tax evasion, which leads to the difficulty of tax collection and determining the interests of the tax base of the taxable material.

Therefore, the legislator has granted taxpayers and the tax administration rights and duties, and this is in order to give transparency to the relationship between them. One of the most important mechanisms for embodying this is tax control, which is one of the most important mechanisms assigned to the tax administration to ensure the validity and accuracy of tax declarations submitted by taxpayers, so that the administration, through its application of tax control, can collect its dues from taxpayers and correct the errors, violations and abuses they discover, and this is in order to reduce the spread of the phenomenon of fraud and tax evasion.

The main problem: Through this study, we are trying to make a modest contribution, as the features of the problem we are addressing appear in the following fundamental question:

What are the supervisory and preventive mechanisms to combat the phenomena of fraud and tax evasion in Algeria?

Within the general framework of this problem, we ask the following sub-questions:

- What is meant by evasion and tax fraud?

-What are the control and preventive mechanisms against fraud and tax evasion?

Objectives of the study: The above research aims to clarify the following points:

- Methods for the phenomena of fraud and tax evasion;

- Highlighting the control and preventive mechanisms to combat the phenomena of fraud and tax evasion.

The first axis : what is tax evasion and fraud

The taxpayer uses legal loopholes in order not to comply with the payment of taxes imposed on him, where he carries out procedures that are not punishable by law.

The first requirement: The concept of tax evasion and its types

Tax evasion is a global phenomenon that we find in most countries of the world in several concepts and forms and at different levels that result in several negative repercussions.

Section I: The Concept of Tax Evasion and Fraud

Tax evasion does not have a specific definition. There are those who mean that it is a behavior through which the taxpayer tries not to pay it in whole or in part, and this is in several ways and methods that may be legitimate and illegal

Delahey Thomas defined tax evasion as: “Every infraction or breach of tax law.”i

Tax fraud was further defined as: "The taxpayer's attempt to get rid of the tax, and the lack of legal obligation to pay it."[ii]

At the international level, tax fraud has been defined as: " Any tax evasion across the borders of States that would cause the State to lose an important resource of its revenue resources, equal to taking legitimate or illegal routes or having the will to evade or not, and whatever tax legislation it chooses to take advantage of the diversity of tax regulations and legislation of States in order to reach its goal towards reducing its tax burden or dropping it altogether.[iii]

Through these definitions, we conclude that tax evasion is depriving the public treasury of collecting taxes imposed on taxpayers by evading the obligation to pay them in different ways and methods in order to get rid of them. It is considered a global phenomenon and all countries suffer from it.

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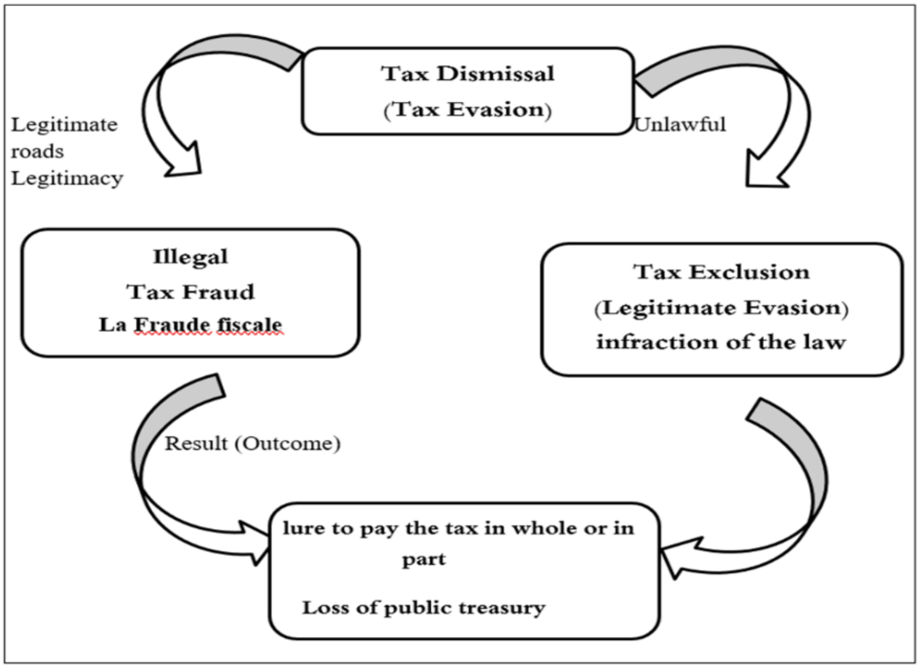
From the above, we can give a general concept of tax evasion, which is the use of fraudulent means to evade tax performance in whole or in penal terms by exploiting loopholes in legal texts in a technical and accurate manner, and ultimately leads to depriving the public treasury of its revenues.

The following figure shows us the distinction between fraud and tax evasion

Figure (01): Objective discrimination for tax evasion and fraud



Source: Muhammad Quraish, Study of the phenomenon of smuggling and tax fraud and its effects on state revenues, Master's thesis in development economics, University of Tlemcen Algeria, 2009, p. 47.

Section Two: Types of Tax Evasion

Tax evasion, as mentioned above, is a means used by the taxpayer in order to get rid of paying the tax imposed on him, so the types of tax avoidance or fraud vary and be local or international.

The disposal shall be in legitimate ways and is intended for the taxpayer to seek to get rid of the payment of the tax without prejudice to the tax legislative texts, which is known as "tax avoidance" and also uses illegal methods, including violating the provisions and tax legislation, so we are in front of what is known as "tax fraud".

Tax evasion is a phenomenon that the taxpayer tries not to pay in whole or in part after the realization of its established fact. It may be legal and called tax avoidance, and it does not include a legal violation, or illegal evasion, which guarantees a legal violation, and is intended to evade.[iv]

01- Tax avoidance: It is an act carried out by the taxpayer that allows him not to pay the tax in accordance with the law. It means that the taxpayer does not pay the tax without violating the provisions of the existing tax legislation.

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Three cases of tax avoidance can be distinguished:

- Tax avoidance resulting from a change in the taxpayer's behaviour;
- tax avoidance regulated by tax legislation;
- Tax avoidance resulting from negligence on the part of the tax legislator.

It is clear to us that tax avoidance is not considered a real tax evasion, but it is the result of loopholes in the tax law, and therefore the tax laws must be reviewed periodically and their effectiveness improved.

02- Tax Fraud: Defined by the legislator as "every tax to get rid of the tax to use all fraudulent methods in approving the basis of taxes and fees to which the taxpayer is subject or classifying them in whole or in part."[v]

He also defined it as:"It is a violation of tax law with the aim of eliminating withholding by lowering tax rates."[vi]

It also means those behaviors and practices aimed at violating the law, which are used by the taxpayer in order to evade the payment of the tax in whole or in part, and tax fraud in this sense assumes the realization of the established fact of the tax, and this type of evasion depends on the element of intent to violate the law.[vii]

Hence, tax fraud is the practice of methods and procedures contrary to the tax law in order to get rid of the tax and not pay it.

It is also known as willful evasion by the taxpayer as a result of his wilful explicit violation of the provisions of the tax law when paying the taxes due from him, by refraining from submitting the declaration of his income, or submitting an incomplete declaration.[viii]

03- Local evasion: It is every use of fraudulent methods and practices by the taxpayer and an attempt to illegally get rid of the tax obligations resulting from national tax legislation, that is, every fraud that takes place within the state, that is, the taxpayer is facing the authorities of his country, as he is subject to a single tax law.

04- International evasion: This is a form of evasion, if it consists in working to get rid of the payment of taxes in his country by illegally evading the revenues and profits that are supposed to be subject to the tax of the country that actually investigated it to another country characterized by its (low) tax pressure.[ix]

It is the non-payment of tax or taxes within the country and the transfer of revenues to a country characterized by tax attraction in order to reduce the amounts deducted, and this type of evasion is due to the great development of international exchanges.

From the above, it becomes clear to us that tax avoidance is a legitimate act that is not punishable by law, while tax fraud is punishable by law and addressed by legislation by all means because the goal of each of them is to evade the payment of tax and deprive the public treasury of it, and evasion[x] differs in being local or international.

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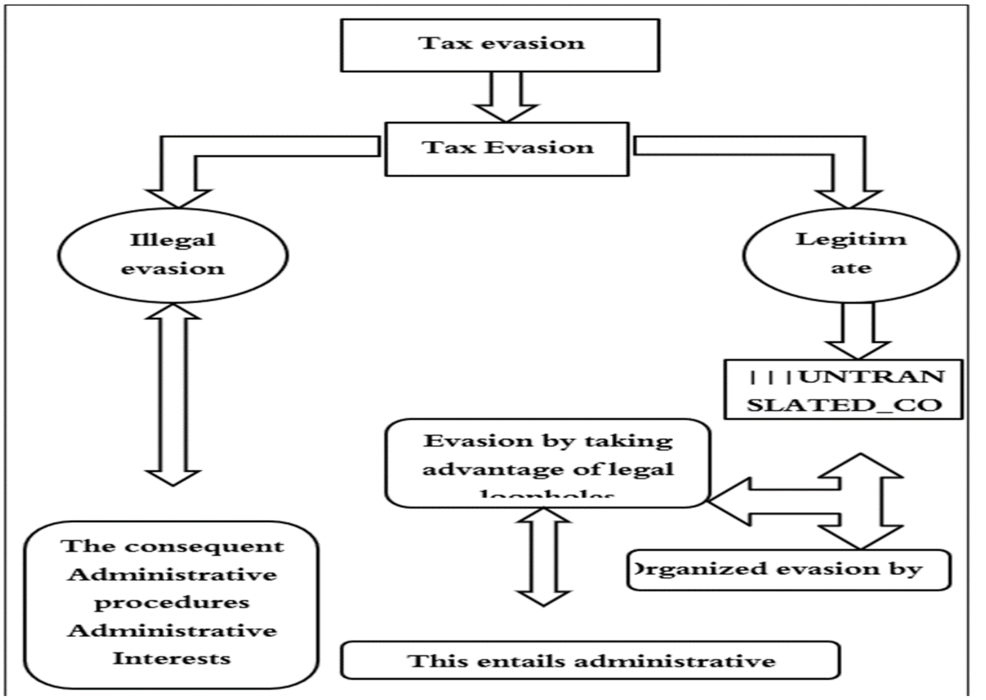
Figure (02): Forms of tax evasion



Source: Saadan Shabayki and Malak Qara, **Tax Evasion Field Study in the Wilaya of Constantine**, Journal of Economy and Society, Volume:02, Issue:02, 2004, p.:164.

Second Axis: Preventive and supervisory mechanisms for fraud and tax evasion

Due to the bad effects of evasion, various tax legislations try by various means to help reduce and combat tax evasion, so that the state works hard to combat tax evasion using several means.

In the first, we talk about preventive means, while the second, we leave it to the supervisory means.

First Requirement: Preventive Means

The crime of tax evasion is widespread, so it must be curbed, and on this basis the legislator has adopted a set of solutions that may help reduce this crime.

Section I: At the level of fiscal legislation

The efforts of the legislation in trying to prevent the crime of tax evasion are clear, in the ongoing tax reform, and because the higher the tax, the stronger the passion for tax evasion. If the tax is high, the penalty in turn will be more severe when violating tax obligations, especially for committing an act of fraud based on this basis. An objective position can be taken so that the realistic and low-tax tax that is collected must be offset by a certain degree of strictness in the penal system in order to ensure that the taxpayer is not harmed, and that the interests of the public treasury are not lost at the same time.

Tax legislation has the primary role in combating tax evasion. Administrative procedures related to tax imposition, calculation and collection must be simplified. [xi]

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01- Simplifying the tax system: Administrative procedures related to the assessment and collection of taxes should be simplified, as well as tax legislation should be drafted in a way that is easy for taxpayers to understand. Accordingly, the tax system must be transparent in the procedures for imposing taxes, and in evaluating the number of business, especially when it comes to the arbitrary system. Tax stability contributes to the clarity of legislation and the facilitation of administrative procedures related to assessment and collection, and the complexity of tax legislation due to the large number of amendments that occur to it.

02- Establishing a fair tax system**:** Taxation is one of the most prominent concerns of the tax legislator, through which the tax system gains its success and credibility with taxpayers. The new tax system seeks to achieve tax justice among taxpayers through the fair distribution of the tax burden, and this is evident by taking into account the following:

- Introducing the principle of tax personality;
- the inclusiveness of the tax;
- the moderation of the tax rate;
- Tax exemptions are ill-considered.

03- Improving the administrative apparatus: Good tax legislation alone is not enough to confront the phenomenon of evasion. There must be a highly efficient tax administration, whether in terms of application or regulation. An efficient tax apparatus can transfer a bad tax to a good one. An incompetent apparatus can transfer a good tax to a worse one, which requires attention to the tax administration.[xii]

Accordingly, the management must take the following actions:

- Improving human potential;
- Improving material capabilities;
- Organization of the tax administration: Directorate of major institutions, tax centers, neighboring tax centers.

Section II: At the level of tax administration

Since the tax administration is the executive body for all legislation and tax legal procedures, it is necessary to have an efficient and modern administrative structure in line with the requirements of the modern era, in order to be able to carry out its basic tasks of collecting the tax and monitoring its proper performance, and to declare the total real revenues to combat tax evasion in all its forms. Any failure or imbalance in the tax administration, whether human or material, leads to the failure of the administration to achieve its main goal of applying tax legal texts. Therefore, the reform of the tax administration has become necessary in order to block all outlets exploited by the taxpayer to evade his tax obligations.

The administrative tax system in Algeria is characterized by a small number of employees. It is necessary to strengthen the administration on the human side, because the continuous increase in the number of taxpayers necessarily requires an increase in the number of employees. The problem is not only in the number, but also in the technical level, the extent of control over information and tax laws, which make the employee more in control of his profession, and be more efficient and fair. In return, the appropriate climate must be provided to employees in order to perform their tasks well by improving human andmaterial capabilities.

01- Improving human potential: It has become necessary to take the necessary measures to upgrade the level of tax management through qualitative and quantitative improvement of human potential. The most important measures that must be taken are the following:[xiii]

- Opening specialized schools in the field of taxation across the various states of the country, with the aim of forming specialized frameworks as well as developing training programs in line with the changes taking place in thetax system;
- Improving the material and social conditions of employees, by improving their wages and allocating incentive bonuses, to fill the outlets of the temptations offered to them;
- Laying new foundations for the promotion of employees, and in return imposing strict penalties on those who engage in illegal and unethical behaviors such as bribery;
- Providing the necessary protection for the employees involved in the collection process or the tax control process and improving their returns.

02- Improving financial capabilities: To improve the performance of the human resources of the tax administration, it is necessary to provide headquarters equipped with the necessary facilities, and advanced material means that respond to the requirements of modernization, and to generalize the use of information and communication technology in the conduct of the various work of the tax administration to reduce any form of fraud and tax evasion.

Section Three: At the level of the taxpayer

The chances of success of the tax system depend on the extent of tax awareness of the taxpayer and the degree of his tax culture, as well as the extent to which he is convinced of the importance of tax in financing the public treasury, in order to implement government programs that benefit the collective interest, and the extent to which he is convinced of its fairness, because the dependence of evasion is not only on the financial legislator and the administration, but also on the taxpayer.

01- Awareness of the taxpayer: Tax reforms always seek to gain the trust and quality of the taxpayer and reduce the tension between him and the administration. There must be ways and means to educate the taxpayer, and this awareness is to develop tax awareness, which means sensitizing him to the role of tax in economic and social development, and in turn the direction of this development, that is, convincing him of his tax duty, and in order to spread and establish awareness among members of society, the following procedures must be observed:[xiv]

- Introducing the tax and its objectives by mainstreaming it in educational programs in order to establish a tax culture among citizens;
- Convincing the taxpayer of the need to perform his tax duty, because it is one of the most important qualities of citizenship and that it benefits him and his country, and that failure to perform these tax obligations leads to the burden of third party citizens;
- Conducting awareness campaigns through the participation of the tax administration in various events, forums and school days, as well as organizing seminars and open doors on the tax system, to inform the taxpayer of all the changes that have taken place;
- Conducting awareness-raising operations through the use of various written and audio media using all available methods.

02- Remove the tension between the administration and the taxpayer: Ignoring the taxpayer's tax administration leads to tension in the relationship that binds them, and that the lack of tax

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awareness of the taxpayer and the failure of the tax administration to sensitize the taxpayer to the situation resulting from it, and therefore special offices must be established to answer the questions of taxpayers and guide them.

The Second Requirement: Control Means

The Algerian tax system is mainly characterized by its declarative nature, as taxpayers themselves determine the amount of the tax base and automatically declare it to the tax administration. Therefore, it is assumed that taxpayers have integrity and are able to justify the authorized information in the event of a claim.

Fiscal control is a necessary measure to combat fraud and tax evasion, and it is also of great importance due to the nature of the tax system, which depends on declarations submitted by taxpayers that reflect the truth. Therefore, the tax administration carries out several forms of tax control in order to detect various violations committed.

Section I: Objectives and Causes of Fiscal Control

First: The concept of tax control The Algerian Code of Tax Procedures defines tax control as: the right of the tax administration to monitor the declarations and documents used to impose every tax, right, fee or royalty. It can also exercise the right of control over institutions and bodies that do not have the status of merchant and that pay wages, fees or salaries of any nature.xv

Second: Objectives of Fiscal Control

Through the previous definitions of tax control, we deduce some of the objectives that it seeks to achieve, which are:[xvi]

01- The legal objective**:** is to ensure the extent to which the various financial actions of taxpayers comply with the laws and regulations, so in the interest of the safety of the latter, tax control focuses on the principle of responsibility and accountability to punish taxpayers for any deviations or violations they practice to evade tax from paying their tax dues.

02- Administrative Objective: Fiscal control plays an important role for fiscal management through the services and information it provides that contribute vitally and significantly to increasing its effectiveness, which can be identified in the following points:

- Fiscal control helps to alert to deficiencies and flaws in the legislation in force, thus helping the fiscal administration to take corrective action;
- Identifying deviations as error detection, and this helps the tax administration to know and be aware of their causes, such as assessing the financial impact, and thus making appropriate decisions to face the problems that result from it;
- The tax control process allows for the preparation of statistics such as tax evasion ratios.

03- Financial and economic objective: Fiscal control aims to preserve public funds from manipulation such as theft, that is, to protect them from any loss in any way, and this is to ensure the entry of greater revenues to the public treasury, and thus increase the funds available for public spending, which leads to an increase in the level of economic well-being of society, as the economic objectives of fiscal control are within the complex relationship between the economy and collection.

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04- Social Objective: It is represented in the following:

- Combating deviations in their various forms, such as theft and neglect, or failure to perform and carry out their duties towards society.
- Achieving tax justice among taxpayers, by establishing the basic principle of deductions, which is that all taxpayers are equal before tax.

Third: Reasons for conducting tax control

There are two main reasons for conducting tax controls on taxpayers' declarations :xvii

- **Fiscal control as a means of following up on tax declarations:** The Algerian tax system is an authoritative system, which gives the taxpayer the right to determine for himself the basis for imposing the tax and the value of the tax paid to the tax administration and authorizes it to the tax administration. Through fiscal control, the validity of these written declarations is verified and their credibility is guaranteed. In addition, tax control allows the embodiment of the principle of justice before the tax.

- **Fiscal control as a means to combat fraud and tax evasion:** Some taxpayers may resort to illegal methods in order to reduce the tax burden, which is known as tax fraud. Therefore, combating these practices is one of the priorities of the tax administration, which has wide powers and powers to exercise through various and multiple techniques and on various types of taxpayers, including tax control, as it is a necessary means to combat the phenomenon of tax fraud and a means to ensure the interest of the public treasury.

Section II: Types and Forms of Fiscal Control

There are two forms of control: general control and in-depth control.

01- Public control: This type is in tax centers, which are:

- **Formal control**: This control is carried out at the level of the tax center in the Department of Specialization and follow-up of the place of practice of the taxable person, and is applied every year and examines the material errors committed inadvertently, which are found in the accounting and tax declarations submitted by the taxpayer.[xviii]

- **Document control:** This type monitors the annual declarations in particular more accurately, where the taxpayer, who is supposed to have a certain degree of accounting information, examines these declarations and compares them with the information available at the tax centers, and what can be approved about this type because it is stipulated in the Fiscal Procedures Law, where the administration monitors the business declarations used to determine each tax, right or fee, where the concerned institutions or bodies must submit to the Fiscal Administration upon its request the accounting books and documents that are available to them. However, the most important thing that prevents this type of control is the inefficiency of the tax administration agents assigned to this type of control on the one hand and the large number of declarations that must be examined on the other hand.[xix]

02- In-depth control: It is also called on-site control or external control. This type is a direct intervention to the places in which the duty bearers carry out their activities in order to ensure the validity of the authorized information through the field examination of accounting books and documents . Investigating agents can also conduct a field inspection of the material elements of

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exploitation within the workplaces according to the comparison of the elements and the authorized data and documents recorded in the accounting documents with those in the field.

The main objective of this type of control is to correct tax evasion. This method is considered more effective than others so that it allows accurate monitoring of the reality of the activity practiced by the institution that is subject to monitoring and investigation. This method is also used to monitor some revenues that cannot be identified through other forms of control, such as following up the use of industrial violations. This type of control includes three types of investigations:

- Accounting control: It is a set of operations aimed at monitoring tax declarations for closed fiscal years. Accounting books and documents are investigated on the spot, regardless of the document used to keep the information, except for accounting books maintained by virtue of the commercial law.[xx]

- Corrected control in accounting: It is the set of operations aimed at monitoring one or several types of taxes, for a full period or part of them that are not obsolete or for a set of accounting operations or data. Corrected control in accounting[xxi] is carried out on the spot except in the case of a request by the audited to conduct it at the headquarters of the tax administration with the reasons for this.

A corrected accounting investigation shall take a maximum of two months, under the condition of nullity, except in the case of the use of legally proven fraudulent taxpayers.

- Control of mixed teams: It is a group of operations applied by mixed teams consisting of agents of the tax administration, customs officers and agents of the Directorate of Commerce, and aims to monitor natural and legal persons who carry out import and marketing operations in wholesale or retail and in general, and this is in order to ensure that these operations comply with the tax, customs and commercial legislation in force.[xxii]

Conclusion

The Algerian government acknowledged that the phenomenon of fraud and tax evasion is the financial scourge, which has reached record levels that cannot be overlooked, and the return on tax expenditure has cost the state huge amounts annually, which should meet the creation of wealth and jobs, but in light of the weakness of revenues derived from ordinary revenues formed from the types of taxes imposed and this is due to the difficulties faced by the interests of the tax administration in determining the taxable material and gaps in the violation of the principle of tax justice and the absence in the exchange of information between financial institutions and fraud in the use of fraud and tax evasion methods.

Finally, the tax administration must follow modernization procedures by using the information and communication technology of the tax system and achieving justice among all taxpayers. The application of the electronic tax declaration system develops a sense of confidence and achieves justice and transparency, which leads the taxpayer to commit and pay voluntarily for various tax dues. Thus, the rate of fraud and tax evasion decreases, which in turn reduces the burden on tax control agents as a result of the reduction in the number of files subject to tax control and the increase in state revenues on the one hand, and avoids going to tax disputes on the other hand.

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