



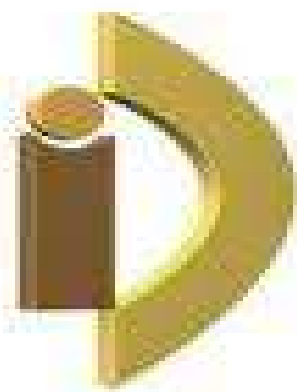
AFRICA TAX ACADEMY

CONDUCTING FINANCIAL INVESTIGATIONS


COUNTRY PRESENTATION/CASE OF SENEGAL



GENERAL TAX DIRECTION OF SENEGAL



**DIRECTION GENERALE
DES IMPOTS ET DES DOMAINES**



**SUBJECT: TAX FRAUD CASE
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INTRODUCTION

- ▶ Senegal is an emerging country where the coverage percentage of the informal sector is estimated around 93% according to the National Agency of Statistic and Demography (NASD)
- ▶ We are still struggling with the issue of assets recovering and tax enlargement. Only 7% of the active population are fiscalized which mean that recovering taxes is till very complicated. In addition to that, we are fighting against financial crimes and corruption and other money laundering crimes. Thus, our financial system is very challenged.
- ▶ What about tax fraud?

WHAT'S A TAX FRAUD?





Tax fraud occurs when an individual or business entity willfully and intentionally falsifies information on a tax return to limit the amount of tax liability. Tax fraud essentially entails cheating on a tax return in an attempt to avoid paying the entire tax obligation. Examples of tax fraud include claiming false deductions; claiming personal expenses as business expenses; using a false Social Security number; and not reporting income.

EXAMPLE: TAX EVASION, OR ILLEGALLY AVOIDING PAYMENT OF TAXES OWED, MAY BE CONSTRUED AS AN EXAMPLE OF TAX FRAUD.

FINANCIAL JURISDICTION STRUCTURE AND IMPLEMENTATION MECHANISM

- ▶ As far as financial Jurisdiction is concerned we can quote as legal dispositif the law N° 012-30 of 12/18/2012 refer to Fight against corruption. That law consisted in the creation of the National Agency For the Fight Against Corruption (OFNAC)
- ▶ The law N° 2012- 31 of 12/31/2012 on General Tax CODE.
- ▶ The COCC (the code of civil and trade obligations)
- ▶ The finance law
- ▶ the international conventions (ex: the double tax convention between Senegal and France)
- ▶ UN comity on tax fraud prevention
- ▶ The OECD convention

PROBLEMATIC

- ▶ TAX FRAUD IS OUR MAIN CONCERN AS FAR AS TAXES AND ASSETS RECOVERING ARE CONCERNED here in SENEGAL.
- ▶ It's a necessity for our country to eradicate this financial issue if we want to reach a significant fiscal pressure.
- ▶ In order to reach our goal, a legal dispositif is being implemented. In addition to that a specific mechanism of tax control has been foreseen just to take into account tax fraud and evasion cases
- ▶ LET'S TALK ABOUT THIS DISPOSITIF!

I- LEGAL DEVICE REFER TO TAX FRAUD PUNISHMENT AND ITS LIMITS



I- LEGAL DEVICE REFER TO TAX FRAUD PUNISHMENT AND ITS LIMITS

- ▶ as supra legislative standard, we have the OECD recommendation on evasion and tax fraud adopted by the OECD council in september 21st 1977 due to the proposal of fiscal affair comity.
- ▶ The fiscal affair comity recommends it members to reinforce their capacities of investigations in order to forsee evasion and tax fraud and to improve and encourage the exchange of informations between it members.
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I- LEGAL DEVICE REFER TO TAX FRAUD PUNISHMENT AND ITS LIMITS

- ▶ All these laws has been voted due to the critical context of financial crimes that are internationally spread and are dangerous for countries economic system. So far it's a necessity for governments to harshly fight against economic and financial crimes and money laundry phenomenon.
- ▶ Governments agree that those financial crimes are toxic for the economy and can delay financial progress and this can impact particularly the population development and countries in general.
- ▶ In our General tax code, there is a large dispositif which take in charge the issue of tax fraud. Indeed, it all start by tax control process. In Senegal, tax officers has been enabled to initiate tax control in some companies when needed.
- ▶ When a case of tax fraud occurs, threre are a list of sanctions and penalties foreseen by our jurisdiction in order to condemn these crimes.

I- LEGAL DEVICE REFER TO TAX FRAUD PUNISHMENT AND ITS LIMITS

- ▶ As example of sanctions, we have penalties that the amounts are fixed in the code. The penalties amount are between 200 000 CFA and 5 000 000 MILLIONS CFA.
- ▶ We must do the differentiation between administrative sanctions and penal sanctions.
- ▶ We have both of these devices in Senegal, but we commonly and frequently apply the administrative sanctions rather than the penal one. This can be considered as a limit because most of the time our administration prefers the frauder pays money rather than jailing him or her. But something we notice is that when frauders have been jailed, it is a good way to dissuade people from financial crimes.
- ▶ As another limit, we have the fact that our tax system is declarative so far our legislation cannot enquire on its own initiative.

II- TAX FRAUD CASE

- ▶ a- the process
- ▶ As far as tax fraud case are concerned, in our jurisdiction, we have different steps to handle it. Indeed, when the tax administration suspects an individu or a company to do tax fraud, an information request is sent to the suspect and he or it has 20 days maximum to answer. If the documents we asked for aren't completed, the contributor has to pay a penalty of an amount of 200 000 per document.
- ▶ after that we persue our control and in case where some expenses had been deducted but never exist because there is no accounting document, we reintegrate the amount and refuse the deduction.
- ▶ At last, a notification of tax ajustement is send to the company or the invidu. The control lats three months. But here it's the case of documents control and it is very limited.
- ▶ In a case of delocated control, it is more advantageous because we can ask any details such as expenses bills, bank statement etc...
- ▶ NB: Our principal technic is to follow the money and to ask other financial administration to exchange informations and data with us.
- ▶ REF: Articles 568, 569, 617, 630 etc

TAX FRAUD CASE

- ▶ b- THE RESULTS
- ▶ The tax payer most of the time cannot give us the accounting documents requested so they are obliged to pay the penalties. This can be considered as benefits for the tax administration because our main goal is to collect money;
- ▶ Apart from the penalties, the frauder pays the amount of the tax adjustement.
- ▶ NB: Sometimes the frauders try to negotiate but we refuse's because of the fact that tax fraud is criminal and even their are not jailed, there is no possibility of negociation for them.

III- CHALLENGES

- ▶ The lack of sophisticated infrastructures;
- ▶ The cultural context of the tax notion;
- ▶ The phenomenon of informal that is still going on;
- ▶ The difficulties of the emplementation of tax laws etc.

Thank
You!



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QUESTIONS?

