

CASE

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DENUNCIATION

It emerges from the complaint of , shareholder and co-founder of company Y, that the General Manager of company Y, assisted by his tax advisor, is author of the falsification of financial statements and acts of tax fraud and corruption following:

- By an act of corruption of 5 million FCFA at the place of a notary and the tax department of a foreign country in order to neutralize the command of the collection of taxes claimed by the Senegalese tax administration;
- By act of corruption of 20,000,000 FCFA at the place of the notary and the tax department of the foreign country; to erase more than 3.8 billion in taxes owed,
- Concealment of taxes on commissions paid in the amount of 2, 3 billion FCFA for the 2015 financial year.

Due diligence and data sources

- hearing of complainant;
- analysis of documents provided by (letters, emails, extract from financial reports ...)
- request for information addressed to the external auditor
- request for information addressed to tax authorities
- hearing of the Director's staff
- hearing of the Director's tax adviser
- hearing of the tax authorities
- the Director had not responded to the summons to be heard. he remained in France throughout the investigation

inter-agency cooperation

- in this case, we benefited collaboration of the tax authorities
- they provided us the tax returns of the company for the period concerned
- comparison of tax-reported data with data in financial statements of the company detected fraud

international co-operation

- the investigation team wished to have the collaboration of the corresponding anti-corruption agency to strengthen the evidence, in particular that relating to corruption and fraud on the financial statements contained in an extract from the report of the company's auditor based in the country hosting the company's new headquarters
- Finally, the request for collaboration has not been sent because the anti-corruption authorities of the two countries have not yet signed a cooperation agreement

CONCLUSION OF THE INVESTIGATION

- The General Manager of company Y and his legal and tax advisor can be prosecuted for acts of corruption. Indeed, the facts have shown that the legal and tax advice, prompted the CEO of company Y to "clean up the debt accounts with a gain of at least 2 billion" and to pay bribes of 22 million per the intermediary of a notary. Said sum was withdrawn and remitted to the notary in order not to pay the amount of taxes legally due in Senegal.
- These facts are likely to be qualified as active corruption, provided for and punished by article 159 of the Senegalese Penal Code

CONCLUSION OF THE INVESTIGATION (suite)

- **Fraud on 2014 tax returns**

It appears from the analysis of the financial statements provided by the auditor of company Y in Senegal that the latter achieved a turnover of 7,397,597,795 CFA francs in 2014, which is far higher than that of 2,944 182,825 CFA francs, recorded in the tax declarations extracted from the tax declarations provided by the DGID.

These facts are likely to be qualified as tax fraud, provided for and punished by Articles 679 and 680 of Law No. 2012-31 of December 31, 2012 on the General Tax Code.

CONCLUSION OF THE INVESTIGATION (end)

- / **Frauds on the financial statements of the years carried out in Senegal, prior to 2015**

It was therefore decided in 2015 to proceed with the regularization of these significant errors by integrating the total amount of said commissions into equity. This adjustment affects the equity accounts without any approval from the General Assembly.

According to the complainant, this is not a significant error as the General Manager seems to define it, but rather a deliberate and manifest desire to conceal income from the partners, and also justify the capital increase of three hundred million FCFA.

These facts are likely to be qualified as accounting fraud (682 of Law No. 2012-31 of December 31, 2012 on the General Tax Code) and tax fraud and abuse of corporate assets

offenses

- Abuse of corporate assets;
- Corruption and complicity;
- Tax fraud.

Prosecution

The investigation report was submitted to the public prosecutor to initiate legal proceedings

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