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The role of regulatory bodies in combating tax evasion: A comparative study

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Abstract

Tax evasion has become a widespread phenomenon, exploiting legal loopholes in all countries around the world, whether developed or developing. These loopholes have ultimately affected the resources of states and have reflected negatively on their economic, administrative, social, and political performance. It is evident that the main motive behind tax evasion is the pursuit of more money through illegal means, which, in certain cases, constitutes a tax crime subject to appropriate penalties. This is due to the serious consequences of tax evasion, which harm society and hinder its progress. Although the methods of combating tax evasion vary from one country to another, the important goal remains to reduce the rate of tax evasion to the lowest possible level. In addition, anti-evasion policies should ultimately contribute to raising tax awareness.

Keywords: Tax, tax evasion, regulatory bodies

Introduction

Tax evasion is one of the most prominent challenges facing financial systems in Arab countries, as it leads to the loss of a large portion of public revenues, affecting governments' ability to finance public services and achieve sustainable development. Despite efforts to combat this phenomenon, weak tax oversight, inefficiency of some laws, and the spread of the informal economy are all factors that contribute to aggravating the problem.

Regulatory bodies play a pivotal role in reducing tax evasion by effectively enforcing financial laws, strengthening inspection and auditing mechanisms, and adopting modern technologies to detect tax violations. Many Arab countries have sought to develop their tax systems and enhance oversight; however, the level of success varies from one country to another depending on several factors, such as the adopted legislation, technological capabilities, and the level of taxpayers' compliance.

This research focuses on studying and comparing the role of regulatory bodies in combating tax evasion among three Arab countries: Iraq, Egypt, and Lebanon, through analyzing tax legislation, oversight mechanisms, and the challenges each country faces in this field. The research also seeks to provide recommendations for improving the efficiency of regulatory bodies and enhancing tax compliance in Arab countries.

First: Importance of the Research

This research holds significant importance due to the negative impact of tax evasion on the national economy, as it leads to a decrease in government revenues, hindering the financing of development projects and public services. Weak tax oversight also creates economic gaps between compliant taxpayers and evaders, which harms tax justice. Therefore, studying tax oversight mechanisms in Arab countries contributes to providing effective solutions to enhance tax compliance and reduce financial losses for states.

Second: Research Problem

The problem of tax evasion and ways to combat it remains one of the issues affecting the effectiveness of any tax system, regardless of its technological advancement or society's awareness of the importance of taxes in building civilized nations and achieving public welfare. It sometimes causes economic or political crises, due to the behaviors of tax administration members or incomplete legislation, among other factors. Accordingly, this research attempts to answer the following main question: What are the means used by regulatory bodies to confront and combat tax evasion?

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Several sub-questions emerge from this main question, including

1. How effective are regulatory bodies in detecting cases of tax evasion in Arab countries?
2. What are the similarities and differences between Arab experiences in combating tax evasion?
3. How can the performance of regulatory bodies be improved to enhance tax compliance and reduce cases of evasion?

Third: Research Objectives

1. Analyze the role of regulatory bodies in combating tax evasion in Arab countries.
2. Study the tax and regulatory legislations applied in Iraq, Egypt, and Lebanon, and compare them to identify similarities and differences.
3. Evaluate the effectiveness of current oversight procedures and their success in reducing tax evasion.
4. Provide recommendations to strengthen the role of regulatory bodies and improve tax compliance in Arab countries.

Fourth: Research Methodology

In order to address the problem posed within the scope of our study, we will attempt to highlight it and propose effective solutions. We found that the most appropriate approach for dealing with the topic of this study is the analytical method of the legal texts related to the subject, in addition to using the comparative method. This was adopted in our research to study the legal systems in Iraq, Egypt, and Lebanon, in order to highlight the similarities and differences between them and to demonstrate how each system addresses the role of regulatory bodies in combating tax evasion.

Fifth: Research Outline

In order to address the posed problem, we divided our study into two sections, each containing two subsections. In the first section, we discussed the legal framework of tax evasion, while in the second section, we examined the means used by regulatory bodies to reduce tax evasion.

First Section

The Legal Framework of Tax Evasion

Tax evasion has become a widespread phenomenon, taking advantage of legal loopholes in all countries around the world, whether developed or developing. These loopholes have ultimately affected the resources of states and have been reflected in their economic, administrative, social, and political performance. It is clear that the main motive behind tax evasion is the pursuit of more money through illegal means, which in certain cases is considered a tax crime subject to appropriate penalties, due to the serious effects that evasion has on society. To highlight the importance of this topic, we will divide this section into two subsections. In the first subsection, we will address the concept of tax evasion, while in the second subsection, we will discuss the causes and effects of tax evasion.

Subsection one

Definition of Tax Evasion

To clarify the topic further, we will divide this subsection into two parts. In the first part, we will define tax evasion, while in the second part, we will discuss the types of tax

evasion.

Subsection 1

Definition of Tax Evasion

Tax evasion, in economic terms, refers to the act of deceiving by concealing the true profits of taxpayers. Therefore, tax evasion is considered an infringement on public rights. Smuggling, on the other hand, refers to the illegal importation or exportation of prohibited goods, with the verb "smuggle" meaning to make prohibited goods "escape." A "smuggler" is the one who engages in the act of smuggling. Consequently, smuggling can only be conceptualized within the scope of customs law, as it involves any violation of this law aimed at evading or reducing the customs duties or burdens.

We observe that Arab tax legislations do not use a single term to refer to escaping from tax obligations. In Lebanon, the term "tax avoidance" is used, while in Egypt and Iraq, the term "tax relief" is used. In Jordan, both "tax avoidance" and "tax evasion" are used. These three terms tax avoidance, tax relief, and tax evasion refer to the concept of escaping from taxation.

Moreover, the tax legislation related to taxes has not provided a clear and comprehensive definition of tax evasion that can be relied upon. The legislation has adopted various positions on defining tax evasion, with some countries, such as Lebanon, opting for a specific definition.

As for the Iraqi legislator, it adopted the prevailing approach and refrained from providing a definition of tax evasion in the amended Income Tax Law No. 113 of 1982. Instead, it only mentioned some forms of tax evasion and prescribed various penalties for those who engage in such criminal behavior of tax evasion. Therefore, contemporary tax legislation has not resorted to providing an exact definition of tax evasion, but rather criminalized and penalized it, leaving the task of determining the presence or absence of tax evasion to the executive authority.

It is our view that the Iraqi legislator should provide a specific definition of tax evasion, rather than merely adopting the definition provided by legal scholars. This should be accompanied by penalties consistent with those of French and Lebanese legislators, by establishing a clear and comprehensive definition that aligns with societal developments. This would allow for a more transparent understanding of tax evasion, grounded in an awareness of the various financial, social, and economic phenomena, especially when these phenomena are difficult to define.

Subsection two

Types of Tax Evasion

The methods and types of fraud associated with tax evasion differ across various legislations. To shed light on the types of tax evasion in more detail, we will address the topic from several perspectives, as follows:

First: Evasion by Categories

The methods of evasion vary depending on the categories of individuals. The level of an individual's education, the resources they possess, their ability to influence, and the amount of wealth they own all significantly impact the methods they use to evade taxes.

This does not imply that one class is more patriotic than another, but rather reflects the differences in the potential for deception between different social classes. The class that

holds large amounts of capital is more likely to engage in tax evasion, as they have the influence and resources to resort to various means of avoiding taxes, the simplest of which is misrepresenting their accounts. On the other hand, small traders and craftsmen are also heavily involved in tax evasion, mainly because most of these individuals do not maintain regular commercial records that reveal the true nature of their activities. They often submit tax returns that represent only a small portion of their actual profits.

Second: Evasion by Type of Tax

While the multiplicity and diversity of taxes may assist in evading tax payments, it can also lead to the possibility of evading some taxes more easily than others. When the methods of tax assessment and collection are effective, it becomes difficult to evade taxes. However, if those methods are weak, tax evasion becomes easier. The reason for this is related to the type of tax and the tax base to which it applies. Some scholars have classified taxes based on the ease of evasion into three types: taxes with low evasion, taxes with medium evasion, and taxes with high evasion. The basis for this classification is the effectiveness of control and supervision methods.

Third: Evasion by Type of Base

Taxes vary depending on the base upon which they are imposed. There are taxes on commercial and industrial profits, income taxes, and inheritance taxes. Undoubtedly, the type and nature of the base subject to tax influence the ease with which evasion can occur, as evasion is more challenging in professions that depend on others than in independent professions where information about the former's activities can be easily obtained from other sources. Additionally, tax evasion is lower in industrial activities than in commercial activities due to the multiple stages of production in industrial activities, which are subject to continuous monitoring and supervision.

Section Two

Causes of Tax Evasion and Its Effects

To clarify the topic further, we will divide this section into two branches: in the first branch, we will discuss the causes of tax evasion, and in the second branch, we will address the effects of tax evasion.

Branch One

Causes of Tax Evasion

To shed more light on the causes of tax evasion in detail, we will address the topic from several angles consecutively, as follows:

First: Administrative Causes

Undoubtedly, tax law relies on its implementing authority to achieve its objectives. It cannot be said that the absence of flaws and gaps in tax legislation guarantees the proper application of the law in practice, because this assumption is tied to the tax administration, which is responsible for implementing this legislation, closing its gaps, and addressing any shortcomings. Despite the importance of the tax administration's role, it has not received sufficient attention globally, except in some major countries that have recognized its importance and provided it with the necessary attention.

For developing countries, raising the level of tax

administration is one of the most complex issues they face in creating a suitable tax environment. For example, in Egypt, the legislator did not properly focus on tax administration, which ultimately affected the performance of the tax authority in many aspects and led to a decline in tax revenue due to evasion. This is because the inefficiency of the tax administration, its inability to uncover the evasion methods used by taxpayers, and its failure to track evaded income in a given year encourage the taxpayer to continue evading in subsequent years. Some manifestations of the inefficiency of the tax administration include the lack of training, weak experience, and the lack of knowledge of tax laws among the employees responsible for tax affairs.

Second: Economic Causes

When a taxpayer feels the burden of taxes, they do not immediately resort to evasion. Instead, they first attempt to shift the tax burden onto another person without affecting the public treasury's rights, and in this case, there is no legal responsibility. However, if they are unable to do so, they will resort to evading the tax by avoiding payment.

Moreover, one of the key characteristics of developing economies is the low average real income per individual, which constitutes a significant obstacle to the tax system in these countries. The low income level of taxpayers leads to a weakened tax-paying capacity, on the one hand. On the other hand, the low income level reduces the taxpayer's willingness to give up part of their income. Therefore, imposing taxes on such incomes inevitably leads to an even greater reduction in the income, which pushes the taxpayer to evade paying taxes. This means that there is a direct relationship between the tax rate and tax evasion. The higher the tax rate on income in developing countries, the higher the rate of tax evasion, and vice versa.

Third: Legislative Causes

The provisions of tax laws have an impact on the phenomenon of tax evasion, as these laws are often issued with ambiguous wording, making them susceptible to multiple interpretations and leading to disagreements between the tax administration and the taxpayer. This is because the taxpayer will cling to the interpretation that exempts them from paying taxes, while the tax administration insists on the interpretation that allows them to impose the tax. If the dispute is brought before the judiciary, the matter may end with an interpretation that the legislator did not intend, which results in the loss of public treasury rights, especially if the court adopts an interpretation that favors the taxpayer. Developing countries often fail to give proper attention to these provisions, which could help reduce tax evasion.

When creating a specific piece of legislation, the legislator usually considers the current circumstances of society. However, these circumstances are characterized by instability and change, and over time, they are subject to change. As a result, the legislator is forced to make numerous amendments to align the law with the changes in society. At the same time, the law is supposed to exhibit relative stability, so that it can be easily applied by its enforcers on the one hand, and understood and familiarized by those subject to its provisions on the other.

However, multiple and successive legislative amendments, and the frequent changes made to them, raise many technical problems. One such issue is the inability of the

executing authority to fully grasp the changes due to the constant amendments issued by the tax legislator, which increases the likelihood of taxpayers evading taxes by exploiting the lack of knowledge the enforcing authority has regarding these amendments. Additionally, some amendments may undermine the principles of fairness and tax equality, such as those that exempt or reduce taxes for those who delay payment, which causes regular taxpayers to feel unjustly treated and unequal.

Section Two

Effects of Tax Evasion

Taxation is an essential tool used by the state to achieve financial, economic, and social objectives. Therefore, the failure to fulfill tax obligations negatively impacts the role taxes play, particularly in the absence of an effective tax system that ensures optimal collection of the prescribed tax resources. Consequently, tax evasion leads to several effects, which can be classified as follows:

First: Economic Effects of Tax Evasion

There is no doubt that tax evasion has long-term effects on economic aspects, making it difficult to achieve the intended objectives. The most prominent of these effects include:

1. Economic and social development are among the primary goals of countries, while tax evasion hinders the achievement of this goal. This is because taxes are one of the main tools for financing economic development. Any shortfall in tax revenue due to evasion weakens the government's ability to fund the necessary investments for development, diminishes the effectiveness of taxes as a tool for directing economic activity, and hampers efforts to control consumption and combat inflation associated with development.
2. Tax evasion disrupts the principle of fair competition among businesses. This is because a business that evades part or all of its tax obligations reduces its prices due to lower costs, gaining control of the market and outperforming businesses that comply with the law by paying their taxes.

The spread of tax evasion in certain industries encourages individuals and businesses to engage in these activities, even if they are not beneficial to society, due to the significant opportunities they offer for evading taxes.

Second: Financial Effects of Tax Evasion

Tax evasion results in a range of direct and indirect effects, which cause significant damage to the state's finances. The most important of these effects are as follows:

1. Taxes are one of the most important sources of revenue required to finance public expenditures. Therefore, the most serious consequence of tax evasion is the harm it causes to the public treasury, as actual government revenue falls short of expected revenue. This results in a decrease in the tax revenue collected by the state, which in turn leads to a reduction in the level of services provided by the government and disrupts spending policies. The reason for this is the state's weakened ability to carry out projects that benefit society, forcing it to find new resources, either by imposing new taxes or increasing existing tax rates. This increases the tax burden on the compliant taxpayers who have not evaded their obligations.

2. Tax evasion also damages the sovereignty of the state. Due to the deficit in the public budget, the state is forced to borrow to cover this shortfall, making it vulnerable to pressures that threaten its political and economic independence. Consequently, the state finds itself compelled to borrow again or adopt a policy of issuing new currency, a strategy fraught with risks, including inflation and a rise in the general price level. This particularly harms those with limited incomes.

Third: Social Effects of Tax Evasion

Tax evasion leaves serious and far-reaching consequences that hinder the state from achieving its objectives. The most significant of these effects are as follows

1. Taxes represent a form of social solidarity. Therefore, evading taxes undermines the principle of social solidarity, and its effects extend to undermining social justice, which is the basis for imposing taxes. Moreover, tax evasion weakens the bond of social solidarity between the members of society.
2. Tax evasion has a comprehensive nature, meaning that evading one type of tax leads to evading other taxes. For example, evading a specific type of tax can lead to evasion of the general income tax. The tax evasion committed by one taxpayer often leads to evasion by another, due to the interconnectedness of their activities.
3. Tax evasion causes the compliant taxpayers to lose trust in the tax system. This, in turn, encourages them to attempt to evade taxes just like others, which has a detrimental effect on social solidarity among society members. It also harms the state's ability to use taxes as a fundamental tool for distributing the national burdens among citizens in a way that ensures economic and social stability.

Chapter Two: The Role of Monitoring Agencies in Reducing Tax Evasion

Preventive and corrective measures to combat internal tax evasion are among the best and most effective practices, as countries typically implement them before actual evasion occurs. Undoubtedly, prevention is better than cure. These measures aim to eliminate the methods or means that taxpayers use to evade paying taxes by closing the loopholes that allow for complete or partial evasion. Although penalties are a natural response to tax crimes, tax administration officials should not remain passive in the face of tax evaders. To achieve this, the role of courts and oversight bodies is crucial by granting judicial powers to tax administration officials and strengthening and enforcing deterrent penalties for evasion.

To better understand the importance of the subject, we will divide this chapter into two sections. In the first section, we will discuss the preventive monitoring measures to reduce tax evasion. In the second section, we will focus on the corrective monitoring measures to reduce tax evasion.

Section One: Administrative Role in Inspection

The right of inspection is one of the key rights granted by the tax legislator to the financial authority. The essence of this right is the ability to investigate the taxpayer's income by calling them to the tax office and inquiring about all matters related to their activities and profits. This right may

extend to directly visiting income-generating sites and business operations.

The scope of the right to inspection can also include the examination of books, records, correspondence, and assessing their nature. The tax authority is allowed to seize what it deems necessary and can oblige the taxpayer or anyone associated with the income to provide the necessary facilitation for the task at hand. This may include answering all inquiries and auditing the financial accounts submitted by the taxpayer.

Such measures are designed to ensure the accuracy of reported income and prevent any potential tax evasion by offering full transparency of financial operations.

The right of the financial authority to inspect is stipulated in the effective Income Tax Law and in the Commercial Bookkeeping System No. (2) of 1985, which grants administrative authorities the ability to request information not only from the taxpayer but also from other individuals whom they believe may have useful information in assessing the taxpayer's income.

Furthermore, these authorities have the right to request such information from government departments, institutions, and establishments within the socialist and mixed sectors, and they are required to provide the financial authority with any data and information deemed necessary for applying the provisions of this law. Based on this, the Third Appeals Committee upheld the financial authority's decision to estimate the tax on the income of company (S), relying on the information sent to it by the Residency Department.

It has been customary to form specialized committees tasked with investigating taxpayers' income, visiting their places of business, and examining the relevant income-related documents and records. Some of these committees include

1. **Field Survey Committee:** This committee is responsible for estimating the income of well-known shop owners and those with a significant commercial reputation or some wholesale stores. In this regard, the Appeals Committee supported the financial authority's decision to estimate the tax on the income of taxpayer (S) – the owner of a well-known store – based on the assessment of the field survey committee, as it is an official document that can be used by the financial authority as the basis for tax assessment.
2. **Special Inspection Committees:** These committees include representatives from the financial authority, and are tasked with visiting the location where the activity, which generates taxable income, takes place. This can be initiated by the financial authority or upon the taxpayer's request, particularly when they claim to have made no profit or to have made less profit than what the financial authority has estimated.
3. **Surprise Committees:** These committees are formed secretly and unexpectedly visit the places of business to assess the taxpayer's true income by examining records and documents, taking them if necessary, and questioning individuals connected to the income source. They are granted various powers for this purpose. These committees typically begin their work after receiving information at the General Tax Authority's Internal Audit and Inspection Department about taxpayers who may have evaded or attempted to evade taxes. The First Appeals Committee decided to support

the financial authority in holding the taxpayer accountable based on information gathered through a surprise inspection of office (S) and the discovery of documents proving that the taxpayer (appellant) had a stake in that office.

As for Lebanon, the income tax currently imposed there is regulated by Decree No. (44) of 1959, along with its amendments. Concerning the right to inspect all documents related to income tax assessment, the Lebanese Income Tax Law authorizes the competent finance officials to inspect all documents related to the files of taxpayers, whether the taxpayer is an individual or a legal entity. This applies equally whether the entity is a private individual or a government body, and the latter cannot claim confidentiality over its official work. This is all aimed at reducing the phenomenon of tax evasion.

Section Two: The Role of Administrative Authorities in Monitoring Taxpayer Reports

The general principle established by the Iraqi legislator in this regard is that any person with income subject to tax is required to submit a report on their income before the first day of June of the assessment year. Additionally, the Commercial Bookkeeping System No. (2) of 1985 mandates certain categories of taxpayers to maintain commercial books and submit their accounts to the financial authority after auditing and certifying them by an auditor.

In cases other than these, the Iraqi tax legislator has required individuals other than the taxpayers to submit reports on behalf of the taxpayers, such as employees, senior partners in joint ventures, and individuals residing in Iraq on behalf of non-resident taxpayers. In these situations, the individual—whether the taxpayer or another—must submit reports within the time period stipulated by law, and the administration does not have discretionary power to deviate from the legislator's requirement in compelling taxpayers to comply.

In other instances, the Iraqi tax legislator has granted the administration discretionary authority in this matter, such as

1. The discretionary power granted to the financial authority, allowing it to request a report on income from someone it believes is subject to tax within 21 days of being notified, whether the notification was made via written notice or through other means of publication. Additionally, the financial authority may request a report on the income of an employee from the employer during the period specified in Article (27/1) mentioned earlier.

In all cases, the financial authority can request such reports without being bound by the assessment year. It has the authority to request them during the fiscal year, in contrast to the reports that the taxpayer is required to submit without a request from the financial authority, which must be submitted specifically within the assessment year and before the first of June.

2. The discretionary authority granted to the financial authority to request information and excerpts from government departments, institutions, and enterprises in the public and mixed sectors, as well as their

employees, means that whenever the financial authority decides to request such information, these entities are obligated to provide it without being restricted by a specific time period.

As for the Lebanese tax legislator, it has required that anyone with income subject to taxation must submit a report on their income during the accounting submission period, which ends before the first day of April each year, and before the first day of June for corporate entities.

It is worth mentioning that the revenue departments, in addition to receiving declarations, auditing them, preparing the primary, supplementary, and additional assessment tables, issuing payment orders, recording violations, imposing fines, keeping tax accounts, reviewing objections, and monitoring payments from oil companies and concessions, etc., perform these tasks. However, these activities are essentially considered self-regulation and not independent oversight, even though they may be escalated to the Director-General of Finance.

Section 2: Remedial Regulatory Procedures to Limit Tax Evasion

To explain the remedial regulatory procedures for limiting tax evasion, we will divide this section into two subsections. In the first subsection, we will discuss: Granting Tax Administration Employees Judicial Control Authority, while in the second subsection, we will examine: The Role of Regulatory Agencies in Establishing the Principle of Criminalizing Tax Evasion.

Subsection one: Granting Tax Administration Employees Judicial Control Authority

The administrative authorities have granted tax employees judicial control powers. The tax employee is authorized to verify any matters related to determining the tax base of the taxpayer, which includes inspecting their books and documents, examining the goods they store, production-related matters, and others. These can only be discovered through inspection and investigation.

This right, granted by law to the tax inspector, allows them to support their impartial judgment regarding the accuracy of the documents the taxpayer submits within the prescribed time. As a result, the taxpayer will not be subject to direct tax assessment. On the other hand, this authority enables the tax employee to gather decisive evidence or proof against the taxpayer, especially if the information provided for determining their tax base is inaccurate.

It is clear that the inspection process is carried out by one or more employees authorized by the Minister, Director-General, or anyone else delegated by them. The tax employee tasked with the inspection is not necessarily an individual employee; it could be a committee, a board, or other entities. It has been customary in the Iraqi General Tax Authority for specialized committees to carry out investigations into taxpayer payments, visit their places of business, and examine the information and data related to their activities.

The inherent jurisdiction of judicial control elements is limited to conducting investigations into crimes and gathering evidence. They do not have the authority to take investigative actions, as these may infringe on personal freedom and the sanctity of individuals more than investigative procedures. However, there are exceptional

cases that require them to undertake some necessary investigative actions dictated by urgency or to secure evidence of a crime. All of this is an exception to the general rules, and thus, it is noted that the needs of justice and the public interest justify departing from the general rules to expedite the seizure of what violates the law and, ultimately, to uncover the truth.

Furthermore, the powers granted by law to judicial control elements to carry out their duties are not absolute; they are constrained by specific limits set by the legislator. This is to prevent the misuse of power and to ensure the protection of individual freedoms. Therefore, the process of seizure cannot be carried out beyond these limits. These restrictions depend on whether the tax inspector is a person with specialized authority.

Section Two

The Role of Regulatory Bodies in Establishing the Principle of Criminalizing Tax Evasion

To elaborate on the role of regulatory bodies in establishing the principle of criminalizing tax evasion, we will first discuss the imposition of financial penalties, followed by the imposition of criminal penalties, as follows:

First: Imposing Financial Penalties

A fine is distinguished by its criminal nature, as it can only be imposed after a criminal judgment issued by a competent court. The penalty of a fine in tax law does not solely involve the idea of punishment, such as causing pain or harm to the offender and achieving deterrence, but rather combines the concepts of both punishment and compensation. This mixed nature of the fine stems from the specific nature of tax violations and the particular provisions of tax law, which directly affect the finances of the state.

The Iraqi legislator has imposed various financial penalties under different and varied names, which are as follows:

1. Penalties for Violating the Provisions of the Commercial Bookkeeping System

The Iraqi legislator granted the appeal committees the authority to consider violations committed in contravention of the Commercial Bookkeeping System, referred to them by the tax authority, and to impose the fines prescribed in the system. In cases of non-payment of the fine, the case is referred to the competent court to replace the fine with imprisonment. Upon reviewing the provisions of the Commercial Bookkeeping System, it is evident that this represents a serious flaw that the legislator should address.

On the other hand, the Iraqi Income Tax Law stipulates a penalty for anyone violating the provisions of the Commercial Bookkeeping System for income tax purposes. The fine ranges from 10% to 25% of the income determined before applying the legal deductions, with the fine amount not to be less than 500 dinars. This provision addresses the gap found in Article 39 of the aforementioned Income Tax Law, thus the judicial application now aligns with the enforcement of these penalties for anyone violating the provisions of the Commercial Bookkeeping System.

Additionally, the legislator has intensified the penalty imposed on a taxpayer who violates the Commercial Bookkeeping System in cases where the fine is not paid, stipulating the referral of the case to the competent court to replace the fine with imprisonment. Beyond the financial penalty of a judicial nature imposed by the appeal

committee, there is another financial penalty of a criminal nature, which imposes a fine of not less than 100 dinars and not more than 500 dinars if it is proven before the competent courts that a violation specified by the Income Tax Law, including violating the provisions of the Commercial Bookkeeping System, has occurred.

It is worth noting that the fine amount of 100-500 dinars, which was set for violations of the provisions of Article 56 of the Income Tax Law, remained unchanged for a long period of time, despite not aligning with the severity of the tax crimes specified in this article. This was amended by the decision of the Revolutionary Command Council No. (107) on 26/4/2001, where the fine amount was raised to not less than 50,000 dinars and not more than 250,000 dinars for misdemeanor offenses.

2. Tax Multiplication: Since the penalty carries both a deterrent and financial nature, the tax legislator ensures that these elements are present in the penalties imposed. This is evident from the requirement that the tax authority must double the income tax if the subject of the case, as outlined in Articles 57 and 58, becomes final after the judgment has gained its definitive legal status.

This means that if the taxpayer is convicted with a penalty under Articles (57 and 58), the tax authority must double the tax owed. For instance, if the tax is 100,000 dinars, it will be increased to 200,000 dinars.

Moreover, the legislator has intensified the penalty for taxpayers violating the Commercial Bookkeeping System in cases where the fine is not paid. The case is referred to the competent court to replace the fine with imprisonment. In addition to the judicial financial penalty imposed by the appeal committee, there is another financial penalty of a criminal nature. This imposes a fine of no less than 100 dinars and no more than 500 dinars if it is proven in the competent courts that one of the violations specified by the Income Tax Law has been committed, including violating the provisions of the Commercial Bookkeeping System.

Second: Imposing Criminal Penalties

The Iraqi legislator has considered tax evasion a misdemeanor, as the penalty imposed on those who commit this crime does not exceed the maximum penalty set for a misdemeanor, which ranges from more than three months to five years. This imprisonment penalty is classified under severe imprisonment, as defined by the Penal Code, which means the convict is placed in one of the legally designated correctional facilities for this purpose. The sentence cannot be less than three months and may exceed five years.

There are two observations on this penalty

First Observation: This penalty is of a criminal nature, meaning it can only be imposed through a criminal judgment issued by a criminal court of misdemeanors.

Second Observation: The Iraqi legislator has classified the severity of this penalty according to the seriousness of the offense committed and the risk it poses to the public treasury's rights.

The legislator has set the maximum prison sentence to one year for those found guilty by the competent courts of committing any of the acts outlined in Article (57) of the law, which include:

1. Knowingly providing false data or information.

2. Including false data or information in a report or account.
3. Concealing information that should have been disclosed.

The legislator clarified that the intention behind committing these acts is for the taxpayer to obtain a reduction, allowance, or deduction from the tax amount imposed on them or others, or to recover a sum already paid. From this, we can observe that the taxpayer's commission of fraudulent or deceitful acts involves deception, forgery, and material harm to the state's financial interests. In this case, the taxpayer does not merely engage in lying to mislead the tax authority with fictitious accounts; rather, they use external appearances to document and support their deception, such as forging official or unofficial documents.

Furthermore, the seriousness of the committed act necessitates, from the legislator's perspective, the provision of a deterrent tool for taxpayers, capable of eradicating the latent criminal danger within them. This explains the imprisonment penalty set forth in Article (58) of the law.

It is important to note that there has been controversy regarding the application of the imprisonment penalty on legal entities. The Income Tax Law does not specify how to handle this situation, requiring reference to the general rules set out in the Penal Code. The Penal Code stipulates that a legal entity cannot be sentenced to anything other than a fine, confiscation, or preventive measures prescribed for the crime by law. However, if the law stipulates a primary penalty other than a fine, it is substituted with a fine, but this does not prevent the personal punishment of the perpetrator with the penalties provided by law for the crime.

Conclusion

After completing the research on the subject of this study entitled "Tax Evasion," it is necessary to present the most important findings included in the study, and to provide a modest contribution through the recommendations we see fit. We suggest a set of solutions and opinions for legislators in comparable countries, and we hope that we have been successful in our conclusions, as follows:

First: Findings

1. The tax legislation in Iraq suffers from flaws that make its implementation and compliance difficult, if not impossible, in some cases. The reasons for these flaws in the Iraqi tax system are due to the complexity of the current system, the tabular nature of the system, and the ambiguity of the tax base. This is the result of tax policies that led to a series of random amendments made by the Coalition Provisional Authority in 2004.
2. The tax policy in Iraq has not played its required role in achieving economic and social balance. This is due to several reasons, including the abundance of oil revenues, as well as the conditions of war and economic blockade, which have led to the deterioration of the country's economic and social life.
3. Tax awareness requires that tax evasion should not be a subject of public approval or acceptance, as such an attitude encourages taxpayers to mimic one another in evading tax payments. It is important to promote awareness and instill confidence among taxpayers in the application of tax justice principles without favoritism, with a policy of public spending that makes

taxpayers feel that the taxes they pay return to them in significant benefits, thus fostering a sense of national duty to contribute to financing public expenses.

4. Combating domestic tax evasion is based on two pillars: the first requires taking the necessary punitive measures to prevent taxpayers from adopting criminal behavior, while the second is prevention and treatment, focusing on what punitive and supervisory policies can do to deter others.
5. Internal preventive measures, although they reduce tax evasion, are merely preventive and do not have the power to eradicate domestic tax evasion, but rather limit it. This does not mean that they should not be applied; on the contrary, they should continue to be implemented and developed to elevate the level of final effective remedial methods.

Second: Recommendations

1. The Iraqi and Lebanese legislators should unify the term "tax evasion" and place it within a simple and understandable framework through a group of scholars who can derive a clear and comprehensible term. This will make it easier to identify tax evasion and avoid linguistic errors that could lead to a misunderstanding of this crime, differentiating it from others in terms of meaning. This would facilitate combating it, rather than getting distracted by secondary issues.
2. Regarding the definition of tax evasion, the Iraqi legislator has not defined it, even in a simplified manner. Therefore, the Iraqi legislator should provide a specific definition for tax evasion, rather than relying solely on the definition of scholars. They should also introduce penalties to align with their counterparts in French and Lebanese legislation and include them in a comprehensive definition that keeps pace with societal developments. This should be done by defining tax evasion more transparently, considering various financial, social, and economic phenomena, especially if these phenomena are difficult to define.
3. We recommend that the Iraqi tax legislator and those in comparative legislations explicitly provide tax administration members with judicial police powers. The legislator should define the working hours for the exercise of this authority, which should align with the taxpayer's working hours. Additionally, the legislator should detail the scope of authority for tax administration members with specialized competence, outlining their central jurisdiction and the cases in which they cannot exercise this power outside of their central jurisdiction.
4. Promoting cultural awareness among tax administration members by helping them realize that taxation is governed by law and is regulated by multiple disciplines such as financial, administrative, and criminal law. Therefore, tax employees should be fully and accurately informed about all the laws and sciences relevant to their work and responsibilities.

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Fourth: Laws

1. Iraqi Income Tax Law No. 113 of 1982, as amended.
2. Iraqi Property Tax Law No. 162 of 1959, as amended.
3. Iraqi Commercial Regulation Law No. 20 of 1970, as amended.
4. Iraqi Penal Code No. 111 of 1969, as amended.
5. Lebanese Tax Procedures Law No. 44 of 2008.
6. Lebanese Penal Code No. 340 of 1943.
7. Egyptian Income Tax Law No. 91 of 2005.
8. Egyptian Income Tax Law No. 157 of 2005, as amended.
9. Egyptian Penal Code No. 58 of 1937